COMMISSION REGULATION (EEC) No 2839/93

of 18 October 1993

on the special sale of intervention butter for export to the Republics of the former Soviet Union

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products (1), as last amended by Regulation (EEC) No 2071/92 (2), and in particular Articles 6 (7) and 28 thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purpose of the common agricultural policy (3), and in particular Article 4 thereof,

Whereas Article 6 of Council Regulation (EEC) No 985/68 of 15 July 1968 laying down general rules for intervention on the market in butter and cream (4), as last amended by Regulation (EEC) No 2045/91 (5), provides that, when butter is put on sale for export, special conditions may be laid down to take account of the special requirements for such sales and to guarantee that the product is not diverted from its destination;

Whereas on 22 June 1993 the Committee of the Protocol relating to milk fat, acting within the framework of the General Agreement on Tariffs and Trade (GATT), granted a derogation from Article 3 of the Protocol relating to milk fat in order to allow sales of butter to the Republics created after the dissolution of the Soviet Union at prices lower than the minimum GATT price;

Whereas the quantities of butter at present in storage are such that they should be used for such sales; whereas, therefore, it seems desirable to make certain quantities of butter in public of storage available to operators, using the tendering procedure in order to fix the minimum selling price;

Whereas, in order to ensure that the butter is not diverted from its destination, a system of supervision should operate from the time the butter is removed from storage until it has reached its destination in the third country concerned; whereas, for reasons of clarity, it should be specified that the provisions on supervision laid down by Commission Regulation (EEC) No 3002/92 of 16 October 1992 laying down common detailed rules for verifying the use and/or destination of products from intervention (6), as last amened by Regulation (EEC) No 1938/93 (7) are applicable; whereas, moreover, in view of the specific nature of this operation, additional conditions should be introduced;

Whereas Commission Regulation (EEC) No 1756/93 of 30 June 1993 fixing the operative events for the agricultural conversion rate applicable to milk and milk products (8) lays down the detailed rules for the conversion into national currencies of minimum prices and selling prices similar to those referred to in this Regulation; whereas the same rules should be applied to the conversion of those prices into national currencies;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

1. Under the conditions laid down in this Regulation, a maximum quantity of 50 000 tonnes of butter with a fat content greater than or equal to 82 % and purchased in accordance with Article 6 (1) of Regulation (EEC) No 804/68 shall be sold. The allocation by Member State of the quantities of butter sold shall be that set out in the Annex.

2. The butter sold pursuant to this Regulation shall be exported in the unaltered state to the Republics created after the dissolution of the Soviet Union (Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgzystan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan, Ukraine, Estonia, Latvia and Lithuania).

Article 2

1. The butter shall be sold ex-cold storage plant by standing invitation to tender until 14 December 1993. The tendering procedure shall be organized by each intervention agency for the relevant quantities of butter it holds.

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 215, 30. 7. 1992, p. 64.
(3) OJ No L 387, 31. 12. 1992, p. 1.
(4) OJ No L 169, 18. 7. 1968, p. 1.
(5) OJ No L 187, 13. 7. 1991, p. 1.
(6) OJ No L 301, 17. 10. 1992, p. 17.
(7) OJ No L 176, 20. 7. 1993, p. 12.
(8) OJ No L 161, 2. 7. 1993, p. 48.

2. The Annex shall serve as notice of invitation to tender. The information concerning quantities and places where the butter is stored may be obtained by prospective tenderers at the addresses indicated in the Annex. In addition, intervention agencies may display notices and publish additional information.

3. During the term of validity of the standing invitation to tender, the intervention agencies shall organize special invitations to tender. Each of the latter shall cover any of the butter referred to in Article 1 remaining available.

4. Tenderers shall submit their tenders to one of the intervention agencies referred to in the Annex not later than 12 noon on the second and fourth Tuesdays of each month. Where the Tuesday is a public holiday, the deadline shall be extended until 12 noon on the first subsequent working day. After expiry of the abovementioned time limit and before the following Thursday, the intervention agencies shall notify the Commission of tenders received. However, the deadline for the first submission of tenders shall be 12 noon on 26 October 1993 and the deadline for the last submission shall be 12 noon on 14 December 1993.

Article 3

1. Intervention agencies shall update and make available to the Commission and to prospective tenderers on request the list of the cold stores where the butter for sale is stored and the qquantities available.

2. Intervention agencies shall take the measures necessary to enable prospective tenderers to examine at their own expense, before tendering, samples of the butter for sale.

Article 4

1. Interested parties shall participate in special invitations to tender either by lodging their written tenders with the intervention agency against an acknowledgment of receipt or by forwarding a registered letter to the intervention agency or by any other means of written telecommunication.

2. Tenders shall state:

(a) the name and address of the tenderer;

(b) the quantity applied for;

(c) the price tendered per tonne of butter, not including domestic taxes, ex-cold storage depot, expressed in ecus;

(d) the cold storage depots where the butter is held.

3. Tenders shall be valid only if:

(a) they cover a minimum of 500 tonnes;

(b) they are accompanied by a written undertaking by the tenderer waiwing any rights to legal action in respect of the quality and characteristics of the butter sold and a written undertaking to export the butter awarded, in an unaltered state, within the time limit laid down in Article 8 (3) to the destinations indicated in Article 1;

(c) proof is furnished that the tenderer has lodged, before the expiry of the deadline for the submission of tenders, the tendering security referred to in Article 5 for the special invitation to tender concerned.

4. Tenders may not be withdrawn after the expiry of the deadline referred to in Article 2 (4) for the submission of tenders relating to the special invitation to tender concerned.

Article 5

1. Pursuant to this Regulation the maintenance of tenders after the expiry of the deadline for the submission of tenders, the payment of the price within the time limit referred to in the first subparagraph of Article 7 (1) and the payment of any storage costs due shall constitute primary requirements whose fulfilment shall be ensured by the lodging of a security of ECU 25 per tonne.

2. Tendering securities shall be lodged in the Member States in which tenders are submitted.

Article 6

1. A minimum selling price for butter to be exported in the unaltered state shall be fixed for each special invitation to tender in the light of the tenders received and in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68. Tender shall be rejected if the proposed price is lower than the minimum price. Where two or more tenders under consideration relating to the same store and offering the same prices or the same difference from the minimum price relate to a total quantity exceeding the quantity available, the quantity available shall be allocated proportionately to the quantities tendered for.

A decision may be taken to make no award in respect of the invitation to tender.

2. At the same time as the minimum selling price is fixed and in accordance with the same procedure, the amount of the security to guarantee the fulfilment of the primary requirements concerning import of the butter in the unaltered state into the Republics created after the dissolution of the Soviet Union within the time limit laid down in Article 8 (3) shall also be fixed.

3. The prices to be paid by successful tenderers shall be converted into national currency using the agricultural conversion rate applicable on the date of payment of the price referred to in Article 7 (2).

4. Obligations arising under the invitation to tender shall not be transferable.

5. Tenderers shall be informed individually fortwith by the intervention agency of the outcome of their tenders.

6. The intervention agencies shall issue removal orders showing :

(a) the quantity in respect of which the price has been paid and the security referred to in Article 7 (2) has been lodged ;

(b) the cold storage depot in which it is stored ;

(c) the closing date for removal.

Article 7

1. The successful tenderers shall remove the butter which has been sold to them within 21 days following the closing date for the submission of tenders under the special invitation to tender concerned.

The butter may be removed in batches, each of which may not be less than 15 tonnes.

Except in cases of *force majeure*, where the butter is not removed within the time limit referred to in the first subparagraph, storage shall be at the expense of the successful tenderer with effect from the first day following the expiry of that time limit.

2. The successful tenderers shall pay the intervention agency the price shown in their tenders within the time limit referred to in paragraph 1, before removal of the butter, and in respect of each quantity they remove, and shall lodge the security referred to in Article 6 (2). Securities shall be lodged in the Member State where the tender is submitted.

Except in cases of *force majeure*, where the successful tenderer has failed to paid the price or lodged the security referred to in the first subparagraph within the time limit laid down, in addition to the loss of the security referred to in Article 5 (1) the sale shall be cancelled for the remaining quantities.

Article 8

1. The butter shall be supplied by the intervention agency in packaging bearing the following description in clearly visible and legible letters in the language or languages of the exporting country and in Russian :

'— Regulation (EEC) No 2839/93 : Butter for the ex-Soviet Union'.

2. The butter referred to in paragraph 1 may be exported in its original packaging or after havin been repackaged in another packaging in the Member State where the butter has been removed from storage. The competent authority of the Member State in whose territory the repackaging takes place shall supervise such operations.

The cost of such supervision shall be borne by the operator concerned.

If the butter is repackaged, the packaging shall bear the description in paragraph 1 in clearly visible, legible letters.

3. The customs formalities for release for consumption in the Republics created after the dissolution of the Soviet Union have to be completed by 31 March 1994 at the latest.

Article 9

1. Except in cases of *force majeure*, the security referred to in Article 6 (2) shall be forfeit in proportion to those quantities for which the proof referred to in Article 15 of Reguation (EEC) No 3002/92 has not been produced within the time limit of 12 months as from the date on which the export declaration is accepted.

However, if the proof is furnished within the 18 months following the abovementioned period, 85 % of the security shall be reimbursed.

2. If the butter has been exported and released for consumption in a third country other than the destinations laid down and if proof is furnished that the product has left the Community's customs territory, only that part of the security referred to in Article 6 (2) shall be forfeit which corresponds to the difference between the security and the lowest export refund rate applicable on the day on which the export declaration was accepted for the product concerned.

3. The provisions of Commission Regulations (EEC) No 3002/92 and (EEC) No 2220/85 [1] shall apply except where this Regulation provides otherwise.

Article 10

1. No export refund shall be granted in respect of the butter sold pursuant to this Regulation.

2. The removal orders referred to in Article 3 (1) (b) of Regulation (EEC) No 3002/92, export declarations and, where applicable, T 5 control copies shall bear the following :

— Sin restitución [Reglamento (CEE) nº 2839/93]
— Uden restitution [Forordning (EØF) nr. 2839/93]
— Keine Erstattung [Verordnung (EWG) Nr. 2839/093]
— Άνευ επιστροφής [Κανονισμός (ΕΟΚ) αριθ. 2839/93]
— Without refund [Regulation (EEC) No 2839/93]
— Sans restitution [Règlement (CEE) nº 2839/93]
— Senza restituzione [Regolamento (CEE) n. 2839/93]
— Zonder restitutie [Verordening (EEG) nr. 2839/93]
— Sem restituição [Regulamento (CEE) nº 2839/93].

[1] OJ No L 205, 3. 8. 1985, p. 5.

3. In addition to the statements provided for in Regulation (EEC) No 3002/92, box 104 of T 5 control copis shall contain one or more of the following:

— Destinado a la exportación hacia las Repúblicas de la ex-Unión Soviética
— Skal udføres til republikkerne i det tidligere Sovjetunionen
— Zur Ausfuhr in die Republikken der ehemaligen Sowjetunion
— Προς εξαγωγή στις Δημοκρατίες της πρώην Σοβιετικής Ενώσεως
— To be exported to the Republics of the ex-Soviet Union
— Destiné à l'exportation vers les Republiques de l'ex-Union soviétique
— Da esportare nelle Repubbliche dell'ex Unione Sovietica
— Voor uitvoer naar de Republieken van de voormalige Sowjetunie
— Destinada à exportação para às Repúblicas da ex-União Soviética.

Article 11

The Member States shall notify the Commission every Tuesday of the quantities of butter which were the subject, the previous week, of a sales contract and/or removal pursuant to this Regulation.

Article 12

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities.*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 18 October 1993.

For the Commission
René STEICHEN
Member of the Commission

ANNEX

Notice of invitation to tender for the sale of butter held by the following intervention agencies in accordance with Regulation (EEC) No 2839/93

I. Allocation of the quantities of butter referred to in Article 1 :

(tonnes)

	Maximum quantities
Germany	8 000
Spain	12 000
Ireland	22 000
Netherlands	6 000
United Kingdom	2 000
Total	50 000

II. Addresses of the intervention agencies concerned :

— Bundesanstalt für landwirtschaftliche Marktordnung (BALM),
Adickesale 40,
Postfach 180107
D-60 322 Frankfurt am Main
[tel. : (49) 69/1 56 40 ; telex : 411 727 ; telefax : (49) 69/1 56 47 90/7 91 ;
teletex : 699 76 24/33]

— Department of Agriculture, Food and Forestry,
Intervention Unit,
Agriculture House,
Kildare Street,
IRL-Dublin,
[tel. : (353 1) 678 90 11 ; telex : 93 607 agri-ei ; telefax : (353 1) 661 62 63]

— Voedselvoorzienings In- en Verkoopbureau,
Burgemeester Kessenplein 3, Postbus 960,
NL-6430 AZ Hoensbroek
[tel. : (31-45) 23 83 83 ; telex : 56 396 ; telefax : (31-45) 22 27 35]

— Intervention Board for Agricultural Produce
Fountain House
2 Queens Walk
UK-Reading Berks RG1 7QW
[tel. : (44) 734 58 36 26 ; telex : 848 302 ;
telefax : (44) 734 58 36 26 — 2370]

— Servicio Nacional de Productos Agrarios (SENPA)
Calle de la Beneficencia 8
E-28004 Madrid
[tel. : (34) 1 522 29 61 ; telex : 41818 SENPA E — 234 27 ;
telefax : (34) 1 521 98 32].