COMMISSION REGULATION (EC) No 402/96

of 5 March 1996

laying down detailed rules for the granting of private storage aid for long-keeping cheeses

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European 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 Comission Regulation (EC) No 2931/95 [2], and in particular Articles 9 (3) and 28 thereof,

Whereas Council Regulation (EEC) No 508/71 [3] provides that private storage aid may be granted for certain long-keeping cheeses where there is a serious imbalance of the market which may be eliminated or reduced by seasonal storage;

Whereas the seasonal nature of Emmental and Gruyère cheese production is aggravated by the fact that the seasonal trend in consumption of such cheeses is the opposite of their production; whereas, therefore, provision should be made for recourse to such storage in respect of a quantity corresponding to the difference between summer and winter production;

Whereas the detailed rules of this measure should determine the maximum quantity to benefit from it as well as the duration of the contracts in relation to the real requirements of the market and the keeping qualities of the cheeses in question; whereas it is necessary to specify the terms of the storage contract so as to enable the identification of the cheese and to maintain checks on the stock in respect of which aid is granted; whereas the aid should be fixed taking into account storage costs and the foreseeable trend of market prices;

Whereas, in view of experience in controls, the provisions relating thereto should be specified, in particular as regards the documents to be presented and the on-the-spot checks to be conducted; whereas these new requirements on the subject make it necessary to stipulate that the Member States may provide that the costs of controls be fully or in part charged to the contractor;

Whereas Article 1 (1) of 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 [4], as last amended by Regulation (EC) No 315/96 [5], fixes the conversion rate to be applied in the framework of private storage aid schemes in the milk products sector;

Whereas it is appropriate to guarantee the continuation of the storage operations in question;

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

Aid shall be granted in respect of the private storage of 21 600 tonnes of Emmental and Gruyère cheeses manufactured in the Community which satisfy the requirements of Articles 2 and 3 hereof.

Article 2

1. The intervention agency may conclude storage contracts only if the following conditions are satisfied:

(a) the batch of cheeses to which a contract relates must comprise at least five tonnes;

(b) the cheeses shall be indelibly marked with an indication (which may take the form of a number) of the undertaking in which they were manufactured and of the day and month of manufacture;

(c) the cheeses must have been manufactured at least 10 days before the date specified in the contract as being the date of commencement of storage;

(d) the cheeses must have undergone quality tests which establish that their classification after maturing could be expected to be:

— 'Premier choix' in France,
— 'Markenkäse' or 'Klasse fein' in Germany,
— 'Special grade' in Ireland,
— 'I luokkka' in Finland,
— '1. Güteklasse Emmentaler / Bergkäse / Alpkäse' in Austria,
— 'Västerbotten' in Sweden;

(e) the storer shall undertake:

— to keep the cheese during the entire period of storage in premises where the maximum temperature is as indicated under paragraph 2,

[1] OJ No L 148, 28. 6. 1968, p. 13.
[2] OJ No L 307, 20. 12. 1995, p. 10.
[3] OJ No L 58, 11. 3. 1971, p. 1.
[4] OJ No L 161, 2. 7. 1993, p. 48.
[5] OJ No L 44, 22. 2. 1996, p. 12.

— not, during the term of the contract, to alter the composition of the batch covered by the contract without authorization from the intervention agency. If the condition concerning the minimum quantity fixed for each batch continues to be met, the intervention agency may authorize an alteration which is limited to the removal or replacement of cheeses which are found to have deteriorated to such an extent that they can no longer be stored.

In the event of release from store of certain quantities:

(i) if the aforesaid quantities are replaced with the authorization of the intervention agency, the contract is deemed not to have undergone any alteration;

(ii) if the aforesaid quantities are not replaced, the contract is deemed to have been concluded *ab initio* for the quantity permanently retained.

Any costs of controls arising from an alteration shall be met by the storer,

— to keep stock records and to inform the intervention agency each week of the cheeses put into storage during the previous week and of scheduled withdrawals.

2. The maximum temperature in the storage premises shall be +6 °C for Emmental and +10 °C for Gruyère. In the case of Emmental which has already been matured, Member States may permit a maximum temperature of +10 °C.

3. Storage contracts shall be concluded:

(a) in writing, stating the date when storage covered by the contract begins; this date may not be earlier than the day following that on which the operations connected with putting the batch of cheese covered by the contract into storage are completed;

(b) after completion of the operations connected with putting the batch of cheese covered by the contract into storage and at the latest 40 days after the date when storage by the contract begins.

Article 3

1. Aid shall be granted only for such cheeses as are put into storage during the storage period. This period shall begin on 1 April 1996 and end on or before 30 September of the same year.

2. Stored cheese may be withdrawn from storage only during the period for withdrawal. This period shall begin on 1 October 1996 and end on 31 March of the following year.

Article 4

1. The aid shall be as follows:

(a) ECU 100 per tonne for the fixed costs;

(b) ECU 0,35 per tonne per day of storage under contract for the warehousing costs;

(c) ECU 0,75 per tonne per day of storage under contract for the financial costs.

2. No aid shall be granted in respect of storage under contract for less than 90 days. The maximum aid payable shall not exceed an amount corresponding to 180 days' storage under contract.

By way of derogation from the second indent of Article 2 (1) (e), when the period of 90 days specified in the first subparagraph has elapsed and the period for withdrawal referred to in Article 3 (2) has begun, the storer may remove all or part of the batch under contract. The minimum quantity that may be removed shall be 500 kilograms. The Member States may, however, increase this quantity to two tonnes.

The date of the start of operations to remove the batch of cheese covered by the contract shall not be included in the period of storage under contract.

Article 5

1. The Member States shall ensure that the conditions granting entitlement to payment of the aid are fulfilled.

2. The contractor shall make available to the national authorities responsible for verifying execution of the measure any documentation permitting in particular the following particulars of products placed in private storage to be verified:

(a) ownership at the time of entry into storage;

(b) the origin and the date of manufacture of the cheeses;

(c) the date of entry into storage;

(d) presence in the store;

(e) the date of removal from storage.

3. The contractor or, where applicable, the operator of the store shall keep stock accounts available at the store, covering:

(a) identification, by contract number, of the products placed in private storage;

(b) the dates of entry into and removal from storage;

(c) the number of cheeses and their weight by batch;

(d) the location of the products in the store.

4. Products stored must be easily identifiable and must be identified individually by contract. A special mark shall be affixed to cheeses covered by the contract.

5. On entry into storage, the competent agencies shall conduct checks in particular to ensure that products stored are eligible for the aid and to prevent any possibility of substitution of products during storage under contract, without prejudice to the application of Article 2 (1) (e).

6. The national authorities responsible for controls shall undertake:

(a) an unannounced check to see that the products are present in the store. The sample concerned must be representative and must correspond to at least 10 % of the overall quantity under contract for a private storage aid measure. Such checks must include, in addition to an examination of the accounts referred to in paragraph 3, a physical check of the weight and type of products and their identification. Such physical checks must relate to at least 5 % of the quantity subject to the unannounced check;

(b) a check to see that the products are present at the end of the storage period under contact.

7. Checks conducted pursuant to paragraphs 5 and 6 must be the subject of a report stating:

— the date of the check,

— its duration,

— the operations conducted.

The report on checks must be signed by the official responsible and countersigned by the contractor or, where applicable, by the store operator.

8. In the case of irregularities affecting at least 5 % of the quantities of products subject to the checks the latter shall be extended to a larger sample to be determined by the competent agency.

The Member States shall notify such cases to the Commission within four weeks.

9. The Member States may provide that the costs of controls are to be fully or in part charged to the contractor.

Article 6

The Member States shall forward to the Commission on or before the Tuesday of each week particulars as to the following:

(a) the quantities of cheese for which storage contracts have been concluded during the preceding week;

(b) any quantities in respect of which the authorization referred to in the second indent of Article 2 (1) (e) has been given.

Article 7

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

It shall apply from 1 April 1996.

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

Done at Brussels, 5 March 1996.

For the Commission

Franz FISCHLER

Member of the Commission