COMMISSION REGULATION (EC) No 2250/2004

of 27 December 2004

amending Regulations (EEC) No 429/90, (EC) No 2571/97, (EC) No 174/1999, (EC) No 2771/1999, (EC) No 2799/1999, (EC) No 214/2001, (EC) No 580/2004, (EC) No 581/2004 and (EC) No 582/2004 as regards the time limits for the submission of tenders and for the communication to the Commission

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products [1], and in particular Articles 10, 15 and 31 thereof,

Whereas:

(1) The following Regulations set provisions on tendering procedures concerning time limits both for tenderers to present their offers to the competent authorities and for the Member States to communicate the offers to the Commission:

— Commission Regulation (EEC) No 429/90 of 20 February 1990 on the granting by invitation to tender of an aid for concentrated butter intended for direct consumption in the Community [2],

— Commission Regulation (EC) No 2571/97 of 15 December 1997 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs [3],

— Commission Regulation (EC) No 2771/1999 of 16 December 1999 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in butter and cream [4],

— Commission Regulation (EC) No 2799/1999 of 17 December 1999 laying down detailed rules for applying Regulation (EC) No 1255/1999 as regards the grant of aid for skimmed milk and skimmed-milk powder intended for animal feed and the sale of such skimmed-milk powder [5],

— Commission Regulation (EC) No 214/2001 of 12 January 2001 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in skimmed-milk powder [6],

— Commission Regulation (EC) No 580/2004 of 26 March 2004 establishing a tender procedure concerning export refunds for certain milk products [7],

— Commission Regulation (EC) No 581/2004 of 26 March 2004 opening a standing invitation to tender for export refunds concerning certain types of butter [8], and

— Commission Regulation (EC) No 582/2004 of 26 March 2004 opening a standing invitation to tender for export refunds concerning skimmed milk powder [9].

(2) In order to ensure a smooth functioning of the tender systems, notably allowing the relevant competent authorities and the Commission services sufficient time to deal with the data related to each tender, it is appropriate to advance the time limits for the operators to lodge the bids and for competent authorities to communicate the data to the Commission.

[1] OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).
[2] OJ L 45, 21.2.1990, p. 8. Regulation as last amended by Regulation (EC) No 921/2004 (OJ L 163, 30.4.2004, p. 94).
[3] OJ L 350, 20.12.1997, p. 3. Regulation as last amended by Regulation (EC) No 921/2004.
[4] OJ L 333, 24.12.1999, p. 11. Regulation as last amended by Regulation (EC) No 1932/2004 (OJ L 333, 9.11.2004, p. 4).
[5] OJ L 340, 31.12.1999, p. 3. Regulation as last amended by Regulation (EC) No 1992/2004 (OJ L 344, 20.11.2004, p. 11).
[6] OJ L 37, 7.2.2001, p. 100. Regulation as last amended by Regulation (EC) No 1838/2004 (OJ L 322, 23.10.2004, p. 3).
[7] OJ L 90, 27.3.2004, p. 58.
[8] OJ L 90, 27.3.2004, p. 64.
[9] OJ L 90, 27.3.2004, p. 67.

(3) In order to minimise the risk for speculation created by the anticipation of the submission of the bids in respect of the tender procedure as provided for in Regulations (EC) No 581/2004 and (EC) No 582/2004, prefixation of export refunds as provided for in Commission Regulation (EC) No 174/1999 of 26 January 1999 laying down special detailed rules for application of Council Regulation (EEC) No 804/68 as regards export licences and export refunds in the case of milk and milk products [1] should not be possible after the closing date for submission of tenders.

(4) Regulations (EEC) No 429/90, (EC) No 2571/97, (EC) No 174/1999, (EC) No 2771/1999, (EC) No 2799/1999, (EC) No 214/2001, (EC) No 580/2004, (EC) No 581/2004 and (EC) No 582/2004 should therefore be amended accordingly.

(5) 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

Article 3 of Regulation (EEC) No 429/90 is amended as follows:

1. Paragraph 2 is replaced by the following:

'2. The time limit for the submission of tenders in response to the individual invitations to tender shall be 11.00 (Brussels time) on the second and fourth Tuesday of the month except for the second Tuesday of August and the fourth Tuesday of December. If Tuesday is a public holiday the time limit shall be 11.00 (Brussels time) on the previous working day.'

2. The following paragraph 4 is added:

'4. On the closing date referred to in Article 3(2), the Member States shall inform the Commission of the quantities and prices offered by tenderers.

If no offers have been submitted Member States communicate this to the Commission within the same delay.'

Article 2

Article 14 of Regulation (EC) No 2571/97 is amended as follows:

1. Paragraph 2 is replaced by the following:

'2. The time limit for the submission of tenders in response to the individual invitations to tender shall be 11.00 (Brussels time) on the second and fourth Tuesday of the month except for the second Tuesday of August and the fourth Tuesday of December. If Tuesday is a public holiday the time limit shall be 11.00 (Brussels time) on the previous working day.'

2. The following paragraph 3 is added:

'3. On the closing date referred to in Article 14(2), the Member States shall inform the Commission of the quantities and prices offered by tenderers.

If no offers have been submitted Member States communicate this to the Commission within the same delay if butter is available for sale in the Member State concerned.'

Article 3

In Article 1 of Regulation (EC) No 174/1999, the third paragraph is replaced by the following:

'3. Licence applications for all the products referred to in Article 1(1) of Council Regulation (EC) No 1255/1999 (*) which, within the meaning of Article 17 of Commission Regulation (EC) No 1291/2000 (**), were lodged on the Wednesday and the Thursday following the end of each tendering period referred to in Article 2(2) of Commission Regulation (EC) No 581/2004 (***) and in Article 2(2) of Commission Regulation (EC) No 582/2004 (****) shall be deemed to have been submitted on the working day following that Thursday.

[1] OJ L 20, 27.1.1999, p. 8. Regulation as last amended by Regulation (EC) No 1846/2004 (OJ L 322, 23.10.2004, p. 16).

(*) OJ L 160, 26.6.1999, p. 48.
(**) OJ L 152, 24.6.2000, p. 1.
(***) OJ L 90, 27.3.2004, p. 64.
(****) OJ L 90, 27.3.2004, p. 67.'.

Article 4

Regulation (EC) No 2771/1999 is amended as follows:

1. In Article 16, paragraph 3 is replaced by the following:

'3. The time limit for the submission of tenders in response to the individual invitations to tender shall be 11.00 (Brussels time) on the second and fourth Tuesday of the month except for the second Tuesday of August. If Tuesday is a public holiday the time limit shall be 11.00 (Brussels time) on the previous working day.'

2. In Article 17b, paragraph 1 is replaced by the following:

'1. On the closing date referred to in Article 16(3), the Member States shall inform the Commission of the quantities and prices offered by tenderers.

If no offers have been submitted Member States communicate this to the Commission within the same delay.'

3. In Article 22, paragraph 2 is replaced by the following:

'2. The time limit for the submission of tenders in response to the individual invitations to tender shall be 11.00 (Brussels time) on the second and fourth Tuesday of the month except for the second Tuesday of August and the fourth Tuesday of December. If Tuesday is a public holiday the time limit shall be 11.00 (Brussels time) on the previous working day.'

4. In Article 24a, paragraph 1 is replaced by the following:

'1. On the closing date referred to in Article 22(2), the Member States shall inform the Commission of the quantities and prices offered by tenderers and the quantity of butter offered for sale.

If no offers have been submitted Member States communicate this to the Commission within the same delay if butter is available for sale in the Member State concerned.'

Article 5

Regulation (EC) No 2799/1999 is amended as follows:

1. In Article 27, paragraph 2 is replaced by the following:

'2. The time limit for the submission of tenders in response to the individual invitations to tender shall be 11.00 (Brussels time) on the second and fourth Tuesday of the month except for the second Tuesday of August and the fourth Tuesday of December. If Tuesday is a public holiday the time limit shall be 11.00 (Brussels time) on the previous working day.'

2. In Article 30(1), the following subparagraph is added:

'If no offers have been submitted Member States communicate this to the Commission within the same delay if skimmed-milk powder is available for sale in the Member State concerned.'

Article 6

Regulation (EC) No 214/2001 is amended as follows:

1. In Article 14, paragraph 2 is replaced by the following:

'2. The time limit for the submission of tenders in response to the individual invitations to tender shall be 11.00 (Brussels time) on the second and fourth Tuesday of the month except for the second Tuesday of August. If Tuesday is a public holiday the time limit shall be 11.00 (Brussels time) on the previous working day.'

2. In Article 17, paragraph 1 is replaced by the following:

'1. On the closing date referred to in Article 14(2), the Member States shall inform the Commission of the quantities and prices offered by tenderers.

If no offers have been submitted Member States communicate this to the Commission within the same delay.'

3. In Article 22, paragraph 2 is replaced by the following:

'2. The time limit for the submission of tenders in response to the individual invitations to tender shall be 11.00 (Brussels time) on the second and fourth Tuesday of the month except for the second Tuesday of August and the fourth Tuesday of December. If Tuesday is a public holiday the time limit shall be 11.00 (Brussels time) on the previous working day.'

4. In Article 24a(1), the third subparagraph is replaced by the following:

'If no offers have been submitted Member States communicate this to the Commission within the same delay if skimmed-milk powder is available for sale in the Member State concerned.'

Article 7

The first subparagraph of Article 4(2) of Regulation (EC) No 580/2004 is replaced by the following:

'All valid tenders shall be communicated to the Commission by the Member States in the form specified in the Annex, without mentioning the tenderers by name, within three hours of the end of each tendering period.'

Article 8

In Article 2 of Regulation (EC) No 581/2004, paragraph 2 is replaced by the following:

'2. Each tendering period shall begin at 13.00 (Brussels time) on the first and third Tuesday of the month except the first Tuesday in August and the third Tuesday in December. If Tuesday is a public holiday, the period shall begin at 13.00 (Brussels time) on the following working day.

Each tendering period shall end at 13.00 (Brussels time) on the second and the fourth Tuesday of the month, except on the second Tuesday in August and on the fourth Tuesday in December. If Tuesday is a public holiday the period shall end at 13.00 (Brussels time) on the previous working day.'

Article 9

In Article 2 of Regulation (EC) No 582/2004, paragraph 2 is replaced by the following:

'2. Each tendering period shall begin at 13.00 (Brussels time) on the first and third Tuesday of the month except the first Tuesday in August and the third Tuesday in December. If Tuesday is a public holiday, the period shall begin at 13.00 (Brussels time) on the following working day.

Each tendering period shall end at 13.00 (Brussels time) on the second and the fourth Tuesday of the month, except on the second Tuesday in August and on the fourth Tuesday in December. If Tuesday is a public holiday the period shall end at 13.00 (Brussels time) on the previous working day.'

Article 10

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

It shall apply from 1 January 2005.

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

Done at Brussels, 27 December 2004.

For the Commission
Mariann FISCHER BOEL
Member of the Commission