COMMISSION REGULATION (EU) No 826/2010

of 20 September 2010

derogating from Regulation (EU) No 1272/2009 as regards buying-in and sales of butter and skimmed milk powder

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) [1], and in particular Article 43(f) and (j) in conjunction with Article 4 thereof,

Whereas:

(1) In accordance with Article 4(1)(b) of Commission Regulation (EC) No 884/2006 of 21 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the financing by the European Agricultural Guarantee Fund (EAGF) of intervention measures in the form of public storage operations and the accounting of public storage operations by the paying agencies of the Member States [2], the EAGF finances expenditure on the physical operations referred to in Annex V to that Regulation on the basis of standard amounts, provided the corresponding expenditure has not been fixed under the applicable sectoral agricultural legislation.

(2) The standard amounts set and notified to the Member States for 2010 were calculated on the basis of the rules applicable before 1 March 2010. On that date the rules regarding the buying-in and the sales of products for and from intervention, including the costs to be borne by intervention agencies and operators, laid down in Commission Regulation (EU) No 1272/2009 of 11 December 2009 laying down common detailed rules for the implementation of Council Regulation (EC) No 1234/2007 as regards buying-in and selling of agricultural products under public intervention [3] became applicable for the dairy sector.

(3) In order to take account of this situation regarding sales, Commission Regulation (EU) No 569/2010 [4] introduced a derogation from Regulation (EU) No 1272/2009 on the relevant rules for the sales by tender of butter and skimmed milk powder for tenders submitted until 21 September 2010 at 11:00 (Brussels time).

(4) In order to ensure a harmonised calculation of the standard amounts, it is necessary to provide the time Member States need to determine the costs related to unloading/loading and to communicate them to the Commission. Furthermore, the uniform application of the rules regarding the costs to be borne by the intervention agencies and operators regarding the buying-in and the sales of butter and skimmed milk powder for and from intervention should be further examined and finalised. Due to the time limits and the procedural requirements these additional elements will not be available on time in order to be taken into account in the decision for fixing the standard amounts for the accounting year 2011. Therefore, the derogation from Regulation (EU) No 1272/2009 should be provided for until the end of the accounting year 2011.

(5) In order to react swiftly and to apply without interruption the derogation from Regulation (EU) No 1272/2009 until the end of the accounting year 2011, this Regulation should enter into force on the date of its publication.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

1. By way of derogation from the third subparagraph of Article 28(3) of Regulation (EU) No 1272/2009, the cost incurred in unloading the butter and the skimmed milk powder at the loading bay of the storage place shall be borne by the paying agency.

2. By way of derogation from Article 42(1)(e) of Regulation (EU) No 1272/2009, the price in euro shall be tendered for the product, supplied on pallets at the loading bay for the place of storage or, if necessary, supplied on pallets loaded onto the means of transport, where this concerns a lorry or a railway wagon.

[1] OJ L 299, 16.11.2007, p. 1.
[2] OJ L 171, 23.6.2006, p. 35.
[3] OJ L 349, 29.12.2009, p. 1.
[4] OJ L 163, 30.6.2010, p. 32.

3. By way of derogation from Article 52(1) of Regulation (EU) No 1272/2009, the product shall be made available to operators on pallets at the loading bay for the place of storage or, if necessary, supplied on pallets loaded onto the means of transport, where this concerns a lorry or a railway wagon.

4. By way of derogation from Article 52(3) of Regulation (EU) No 1272/2009, the costs, depending on the case, for the movement of the products to the loading bay or onto the means of transport shall be borne by the paying agency and any stowage or depalettising charges shall be borne by the purchaser.

Article 2

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

Paragraphs 2, 3 and 4 of Article 1 shall apply to special invitations to tender for butter and skimmed milk powder opened in accordance with Article 40 of Regulation (EU) No 1272/2009, for tenders submitted from 21 September 2010 at 11:00 (Brussels time) until 20 September 2011 at 11:00 (Brussels time).

It shall expire on 30 September 2011.

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

Done at Brussels, 20 September 2010.

For the Commission
The President
José Manuel BARROSO