COMMISSION DELEGATED REGULATION (EU) 2015/1852

of 15 October 2015

opening a temporary exceptional private storage aid scheme for certain cheeses and fixing in advance the amount of aid

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ([1]), and in particular Article 219(1) in conjunction with Article 228 thereof,

Whereas:

(1) Global demand for milk and milk products has generally deteriorated throughout year 2014 and in the first half of 2015, notably as a result of the slowdown in imports from China, the main world importer of milk products.

(2) Downward pressure on prices for dairy products had been registered due to increased supply both in the Union and in the main milk producing regions of the world.

(3) In addition, on 25 June 2015 the Russian government announced the prolongation of the ban on the import of agricultural products and foodstuffs originating in the Union for another year, up to 6 August 2016.

(4) The dairy sector is therefore confronted with a market disturbance situation due to a strong supply-demand imbalance.

(5) As a consequence, prices of raw milk and dairy products in the Union have further deteriorated and downward pressure is likely to carry on, reaching unsustainable levels for many farmers, which are experiencing cash-flow and treasury difficulties. Union average prices for the main cheeses had decreased by 17 % in 2015.

(6) The market intervention measures available under Regulation (EU) No 1308/2013 do not appear to be sufficient for the situation recently created, since they are targeted to other products such as butter and skimmed milk powder, or limited to cheeses with a geographical indication.

(7) The threat of a serious imbalance in the cheese market might be mitigated or eliminated by storage. It is therefore appropriate to grant aid for private storage of cheese and to fix the amount of aid in advance.

(8) It is appropriate to set a ceiling for the maximum volume to be covered by the scheme and a breakdown of the total volume per Member States based on their cheese production.

(9) Article 17 of Regulation (EU) No 1308/2013 provides for the granting of private storage aid only for cheeses benefiting from a protected designation of origin or from a protected geographical indication under Regulation (EU) No 1151/2012 of the European Parliament and of the Council ([2]). However, cheeses with protected designation of origin or protected geographical indication represent only a small share of the total Union cheese production. For reasons of operational and administrative efficiency it is appropriate to set up a single private storage aid scheme covering all types of cheeses.

(10) It is appropriate to exclude cheeses which are not suitable for storage.

(11) As a general rule, to facilitate management and control, private storage aid should be granted only to operators established and registered for VAT purposes in the Union.

([1]) OJ L 347, 20.12.2013, p. 671.
([2]) Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ L 343, 14.12.2012, p. 1).

(12) To ensure that the arrangements can be monitored properly, the information needed to conclude the storage contract should be specified in this Regulation as well as the obligations of the contracting parties.

(13) In order to make the scheme more effective, contracts should relate to a certain minimum quantity and to the obligations to be fulfilled by the contracting party, in particular those enabling the competent authority responsible for checking storage operations to make an effective inspection of the storage conditions.

(14) Storage of the contractual quantity during the contractual storage period is one of the requirements for the granting of private storage aid. To take account of commercial practice and practical reasons, a margin of tolerance in respect of the quantity subject to aid should be allowed.

(15) In order to guarantee the seriousness of the application and in order to ensure that the measure will have its desired effect on the market, a security is needed. Therefore, provisions should be adopted for the lodging, release and forfeit of the security.

(16) To ensure that the storage is properly managed, it is appropriate to adopt provisions for reducing the amount of aid to be paid when the quantity stored during the contractual storage period is less than the contractual quantity.

(17) The amount of aid should be fixed on the basis of storage costs and/or other relevant market elements. It is appropriate to set an aid for fixed storage costs for entry and exit of the products concerned and an aid per day of storage for costs for cold storage and financing.

(18) It is necessary to indicate the conditions under which an advance payment may be granted, the adjustment of the aid in cases where the contractual quantity is not entirely respected, the checks on compliance with entitlement to aid, the possible penalties and the information to be notified to the Commission by the Member States.

(19) The measure might not be used to the full extent by all Member States, it is appropriate to provide for the reallocation of quantities after three months of application of the measure. The Commission should be authorised to adopt where appropriate implementing act laying down the reallocation per Member States of unused quantities and the new period for lodging applications.

(20) Rules should also be laid down regarding documentation, accounting and frequency and nature of checks,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation provides for a temporary exceptional private storage aid scheme for cheeses falling under CN code 0406, except for cheeses which are not suitable for further storage beyond the period of maturation referred to in Article 3(1).

The maximum volume of product per Member States subject to this temporary scheme is set out in the Annex.

Article 2

Definition

For the purposes of this Regulation 'the competent authorities of the Member States' shall mean the departments or bodies accredited by the Member States as paying agencies which fulfil the conditions laid down in Article 7 of Regulation (EU) No 1306/2013 of the European Parliament and of the Council ([1]).

([1]) Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ L 347, 20.12.2013, p. 549).

Article 3

Eligibility of products

1. In order to qualify for the private storage aid referred to in Article 1, hereinafter the 'aid', the cheese shall be of sound and fair marketable quality, of Union origin and have, on the day when the storage contract starts, a minimum age corresponding to the period of maturation laid down in the product specification for the cheeses benefitting from a protected designation of origin or from a protected geographical indication under Regulation (EU) No 1151/2012 and to a normal period of maturation set by Member States for the other cheeses.

2. The cheese shall comply with the following requirements:

(a) each lot weighs at least 0,5 tonnes;

(b) it is indelibly marked with an indication, which may be encoded, of the undertaking in which it was manufactured and with the date of manufacture;

(c) it bears the date of entry into storage;

(d) it has not been the subject of a previous storage aid contract;

(e) it is stored in the Member State in which the cheese is produced.

3. Member States may waive the obligation to indicate the date of entry into store referred to in point (c) of paragraph 2 on the cheese provided that the store manager undertakes to keep a register in which the particulars referred to in point (b) of paragraph 2 are entered on the date of entry into store.

Article 4

Applications for aid

1. An operator seeking aid shall lodge an application with the competent authorities of the Member States where the products are stored.

2. Operators applying for aid shall be established and registered for VAT purposes in the Union.

3. Applications for aid may be lodged as from the date of entry into force of this Regulation. The last date for the submission of applications shall be 15 January 2016.

4. Applications for aid shall relate to products which have been fully placed in storage.

5. Applications shall be lodged using the method made available to the operators by the Member State concerned.

The competent authorities of the Member States may require that electronic applications be accompanied by an advance electronic signature within the meaning of point 2 of Article 2 of Directive 1999/93/EC of the European Parliament and of the Council ([1]) or by an electronic signature offering equivalent assurances with regard to the functionalities attributed to a signature by applying the same rules and conditions as those defined in the Commission's provisions on electronic and digitised documents, set out in Commission Decision 2004/563/EC, Euratom ([2]), and in its implementing rules.

6. Application shall only be admissible if the following conditions are met:

(a) it indicates a reference to this Regulation;

(b) it indicates the identification data of the applicants name, address and the VAT registration number;

(c) it indicates the product with its relevant 6-digit CN code;

(d) it indicates the quantity of products at the time of the application;

([1]) Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures (OJ L 13, 19.1.2000, p. 12).
([2]) Commission Decision 2004/563/EC, Euratom of 7 July 2004 amending its Rules of Procedure (OJ L 251, 27.7.2004, p. 9).

(e) it indicates the name and address of the storage place, the storage lot number and the approval number identifying the factory;

(f) it does not include any additional conditions introduced by the applicant other than those laid down in this Regulation;

(g) it is presented in the official language, or one of the official languages of the Member State in which the application is lodged;

(h) the applicant has lodged a security amounting 20 EUR per tonne in favour of the relevant paying agency in accordance with Section 2 of Chapter IV of Commission Delegated Regulation (EU) No 907/2014 ([1]).

7. The content of the applications shall not be amended after their submission.

Article 5

Forfeiture and release of security

1. The security provided for in Article 4(6)(h) shall be forfeit where:

(a) a contract application is withdrawn;

(b) the quantity established at the checks under Article 16(2) is less than 95 % of the quantity in the application referred to in Article 4(6)(d). In such a case no contract shall be concluded;

(c) less than 95 % of the contractual quantity is placed and kept in storage for the contractual storage period, at the risk of the contracting party within the meaning of Article 6 and under the conditions referred to in Article 7(1)(a).

2. Securities shall be released immediately where contract applications are not accepted.

3. Securities shall be released in respect of quantities for which the contractual obligations have been fulfilled.

Article 6

Conclusion of contracts

1. Contracts shall be concluded between the competent authority of the Member State on whose territory the products are stored and the applicant, hereafter referred to as the 'contracting party'.

2. Contracts shall be concluded within 30 days of the date of receipt of the information referred to in Article 4(6)(e) subject, where appropriate, to subsequent confirmation of the eligibility of the products as referred to in the second subparagraph of Article 16(2). If eligibility is not confirmed, the contract concerned shall be considered as null and void.

Article 7

Obligations of the contracting party

1. Contracts shall stipulate at least the following obligations for the contracting party:

(a) to place and to keep the contractual quantity in storage, during the contractual storage period, at his own risk and expense in conditions ensuring the maintenance of the characteristics of the products, without substituting the stored products or transferring them to another storage place. Where the contracting party submits a reasoned request, the competent authority may authorise a relocation of the stored products;

(b) to retain the weighting-in documents established at the time of entry into the storage place;

([1]) Commission Delegated Regulation (EU) No 907/2014 of 11 March 2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro (OJ L 255, 28.8.2014, p. 18).

(c) to allow the competent authority to check at any time that all the obligations laid down in the contract are being observed;

(d) to make the products stored easily accessible and individually identifiable: each unit individually stored shall be marked so that date of placing in storage, the contract number, the product and the weight are shown. However, Member States may waive the requirement to mark the contract number provided that the store manager undertakes to enter the contract number in the register referred to in Article 3(3).

2. The contracting party shall make available to the authority responsible for checking all documentation, for each contract, allowing in particular the following information on the products placed in private storage to be verified:

(a) the approval number identifying the factory and the Member State of production;

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

(c) the date of placing into storage;

(d) the weight and the number of pieces packaged;

(e) the presence in the store and the address of the store;

(f) the expected date of the end of the contractual storage period and completed by the actual date of removal.

3. The contracting party or, where applicable the operator of the storage place, shall keep stock accounts available at the warehouse covering, by contract number:

(a) the identification of the products placed in private storage by lot;

(b) the dates of placing in and removal from storage;

(c) the quantity indicated per storage in lot;

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

Article 8

Contractual storage period

1. The contractual storage period shall start on the day following that of receipt by the competent authorities of the information referred to in Article 4(6)(e).

2. Contractual storage shall end on the day preceding that of the removal from storage.

3. Aid may be granted only where the contractual storage period is between 60 and 210 days.

Article 9

Removal from storage

1. Removal from storage may start on the day following the last day of the contractual storage period.

2. Removal from store shall be in whole storage lots or, if the competent authority so authorises, in smaller quantities. However, in the case referred to in Article 16(5)(a), only a sealed quantity may be removed from store.

3. The contracting party shall notify the competent authority before it intends to begin removing products from storage, in accordance with the provisions laid down in Article 16(6).

4. Where the requirement laid down in paragraph 3 is not complied with but the competent authority is satisfied that sufficient evidence has been furnished, within 30 days following removal from the storage place, of the date of removal from storage and the quantities concerned, the aid shall be reduced by 15 % and shall only be paid in respect of the period for which the contracting party supplies to the competent authority satisfactory proof that the product has been maintained in contractual storage.

5. Where the requirement laid down in paragraph 3 is not complied with and the competent authority is not satisfied that sufficient evidence has been furnished, within 30 days following removal from the storage place, of the date of removal from storage and the quantities concerned, no aid shall be paid in respect of the contract concerned, and where applicable, the whole of the security shall be forfeit in respect of the contract concerned.

Article 10

Aid amounts

The aid shall be:

— 15,57 EUR per tonne of storage for fixed storage costs,

— 0,40 EUR per tonne per day of contractual storage.

Article 11

Advance payment of aid

1. After 60 days of storage, a single advance payment of the aid may be made, at the contracting party's request, provided that he lodges a security equal to the advance payment plus 10 %.

2. The advance payment shall not exceed the amount of aid corresponding to a storage period of 90 days. The security referred to in paragraph 1 shall be released as soon as the balance of aid has been paid.

Article 12

Payment of aid

1. The aid, or, where an advance payment has been granted pursuant to Article 11, the balance of aid, shall be paid on the basis of an application for payment lodged by the contracting party within three months after the end of the contractual storage period.

2. Where the contracting party was unable to produce supporting documents within the time limit of three months despite acting promptly to obtain them on time, he may be given extensions, which may not exceed a total of three months.

3. Payment of the aid or of the balance of aid shall be carried out within 120 days following the day when an application for the payment of aid has been lodged provided that the obligations of the contract have been met and the final check has been carried out. However, if an administrative inquiry is under way, payment shall not be made until entitlement has been recognised.

4. Except in cases of *force majeure*, if the quantity actually stored during the contractual storage period is less than the contractual quantity and not less than 95 % of that quantity, the aid shall be paid for the quantity actually stored. However, if the competent authority finds that the contracting party acted deliberately or negligently, it may decide to further reduce or not to pay the aid.

5. Except in cases of *force majeure*, if the quantity actually stored during the contractual storage period is less than the percentage indicated in paragraph 4, but not less than 80 % of the contractual quantity, the aid for the quantity actually stored shall be reduced by half. However, if the competent authority finds that the contracting party acted deliberately or negligently, it may decide to further reduce or not to pay the aid.

6. Except in cases of *force majeure*, if the quantity actually stored during the contractual storage period is less than 80 % of the contracted quantity, no aid shall be paid.

7. If checks during storage or on removal reveal defective products, no aid shall be paid for those quantities. The remainder of the storage lot which is still eligible for aid shall be not less than the minimum quantity as laid down in Article 3(2). The same rule shall apply where part of a storage lot is removed for that reason before the minimum storage period.

Defective products shall not be included in the calculation of the quantity actually stored referred to in paragraphs 4, 5 and 6.

Article 13

Notifications

1. Member States shall notify the Commission, by each Tuesday for the previous week, of the quantities for which contracts have been concluded, as well as of the quantities of products for which applications for aid have been submitted.

2. Member States shall notify the Commission not later than the end of each month for the previous month:

(a) the quantities of products placed into and leaving storage during the month concerned;

(b) the quantities of products in storage at the end of the month concerned;

(c) the quantities of products in respect of which the contractual storage period has ended.

3. The notifications by the Member States referred to in paragraphs 1 and 2 shall be made in accordance with Commission Regulation (EC) No 792/2009 ([1]).

Article 14

Measures for respecting the maximum quantity

Member States shall ensure that a system based on objective and non-discriminative criteria is in place, so that the maximum quantities per Member States referred to in the Annex are not exceeded.

Article 15

Measures for unused quantities

Where appropriate, any remaining unused allocations after 15 January 2016 shall be made available to Member States which by 31 December 2015 at the latest notify the Commission of their wish to make a greater use of the private storage aid scheme. The allocation per Member State, which shall be done by taking into account the quantities applied for by Member States until 15 January 2016 and the period for lodging applications shall be decided by means of an implementing act to be adopted without applying the examination procedure referred to in Article 229(2) and (3) of Regulation (EU) No 1308/2013.

Article 16

Checks

1. Member States shall take all necessary measures to ensure compliance with this Regulation. Those measures shall include full administrative checking of aid applications, which shall be supplemented by on-the-spot checks as specified in paragraphs 2 to 9.

2. The authority responsible for checking shall conduct checks on the products entering storage within 30 days from the date of receipt of the information referred to in Article 4(6)(e).

Without prejudice to point (a) of the first subparagraph of paragraph 5 of this Article in order to ensure that the products stored are eligible for aid, a representative sample of at least 5 % of the quantities placed in storage shall be physically checked to ensure that, as regards, inter alia, the weight, identification and nature of products, storage lots conform to the particulars in the application for concluding a contract.

The weight of the products as determined at the start of the contractual period shall be used to determine the payment of the aid. However, aid shall not be paid for a quantity exceeding the one applied for as specified in Article 4(6)(d).

3. Where the Member State can offer duly justified reasons, the 30-day limit laid down in paragraph 2 may be extended by 15 days.

4. If the checks show that the products stored do not correspond with the eligibility criteria laid down in Article 3 and as specified in Article 4(6)(c), the security referred to in Article 4(6)(h) shall be forfeit.

([1]) Commission Regulation (EC) No 792/2009 of 31 August 2009 laying down detailed rules for the Member States' notification to the Commission of information and documents in implementation of the common organisation of the markets, the direct payments' regime, the promotion of agricultural products and the regimes applicable to the outermost regions and the smaller Aegean islands (OJ L 228, 1.9.2009, p. 3).

5. The authority responsible for checking shall:

(a) seal the products by contract, storage lot or a smaller quantity at the time of the check provided for in paragraph 2; or

(b) make an unannounced check to ensure that the contractual quantity is present in the storage place.

The check referred to in point (b) of the first subparagraph shall correspond to at least 10 % of the total quantity under the contract and shall be representative. Such checks shall include an examination of the stock records as referred to in Article 7(3) and supporting documents, such as weigh tickets and delivery dockets, and a verification of the presence of the products in store, type of products and their identification relating to at least 5 % of the quantity subject to the unannounced check.

6. At the end of the contractual storage period, the authority responsible for checking shall, in respect of at least one half of the number of contracts, by sampling, verify weight and identification of the products in storage. For the purposes of this check, the contracting party shall inform the competent body, indicating the storage lots involved, at least five working days before:

(a) the end of the maximum contractual storage period; or

(b) the start of removal operations where the products are removed before the expiry of the maximum contractual storage period.

The Member States may accept a shorter time limit than five working days.

7. When verifying the weight of the products during and at the end of the contractual storage for the sake of verifying the presence of the products in store, possible natural loss of weight shall not lead to a reduction of the aid and the forfeiture of the security.

8. Where the option in paragraph 5(a) applies, the presence and integrity of the seals applied shall be verified at the end of the contractual storage period. Sealing and handling costs shall be borne by the contracting party.

9. Any samples taken for verification of the quality and composition of the products shall be taken by the officials of the authority responsible for checking or in their presence.

A physical check or verification of weight shall be conducted in the presence of those officials at the weighing procedure.

For the purposes of audit trail, all stock and financial records and documents checked by those officials shall be stamped or initialled during the control visit. Where computer records are verified, a copy shall be printed and retained on the inspection file.

Article 17

Audit reporting

1. The authority responsible for checking shall draw up a control report on each on-the-spot check. The report shall describe precisely the different items checked.

The report shall set out:

(a) the date and time of commencement of the check;

(b) details of advance notice given;

(c) the duration of the check;

(d) the responsible persons present;

(e) the nature and extent of the checks carried out, providing, in particular, details of the documents and products examined;

(f) the findings and conclusions;

(g) whether any follow-up is required.

The report shall be signed by the official responsible and countersigned by the contracting party or, where applicable, by the operator of the warehouse and shall be included in the payment file.

2. In case of significant irregularities affecting at least 5 % of the quantities of products covered by a single contract subject to the check, the verification shall be extended to a larger sample to be determined by the authority responsible for the checking.

3. The authority responsible for checking shall record any case of non-compliance on the basis of the criteria of gravity, extent, duration and repetition that may result in exclusion in accordance with Article 18(1), and/or in the repayment of an unduly paid aid, including interests where applicable, in accordance with paragraph 4 of that Article.

Article 18

Penalties

1. Where the competent authority of a Member State finds that a document presented by an applicant for the attribution of the rights deriving from this Regulation provides incorrect information and where the incorrect information concerned is decisive for the attribution of that right, the competent authority shall exclude the applicant from the procedure of granting aid for the same product for which the incorrect information has been given for a period of one year from the moment when a final administrative decision establishing the irregularity has been taken.

2. The exclusion provided for in paragraph 1 shall not apply if the applicant proves, to the satisfaction of the competent authority, that the situation referred to in that paragraph is due to *force majeure* or obvious error.

3. Unduly paid aid shall be recovered, with interest from the operators concerned. The rules laid down in Article 7 of Commission Implementing Regulation (EU) No 809/2014 ([1]) shall apply *mutatis mutandis*.

4. Implementation of administrative penalties and recovery of unduly paid amounts, as provided for in this Article, are without prejudice to communication of irregularities to the Commission pursuant to Commission Regulation (EC) No 1848/2006 ([2]).

Article 19

Entry into force

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

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

Done at Brussels, 15 October 2015.

For the Commission
The President
Jean-Claude JUNCKER

([1]) Commission Implementing Regulation (EU) No 809/2014 of 17 July 2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross compliance (OJ L 227, 31.7.2014, p. 69).

([2]) Commission Regulation (EC) No 1848/2006 of 14 December 2006 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the common agricultural policy and the organisation of an information system in this field and repealing Council Regulation (EEC) No 595/91 (OJ L 355, 15.12.2006, p. 56).

ANNEX

Member State	Maximum quantities (tonnes)
Belgium	1 243
Bulgaria	696
Czech Republic	1 421
Denmark	3 334
Germany	23 626
Estonia	454
Ireland	1 835
Greece	1 880
Spain	3 635
France	20 830
Croatia	348
Italy	12 015
Cyprus	199
Latvia	348
Lithuania	1 163
Luxembourg	33
Hungary	827
Malta	30
Netherlands	8 156
Austria	1 968
Poland	7 859
Portugal	704
Romania	797
Slovenia	164
Slovakia	426
Finland	1 210
Sweden	945
United Kingdom	3 854
Total	100 000