COMMISSION REGULATION (EEC) No 3376/85

of 29 November 1985

amending Regulation (EEC) No 262/79 on the sale of butter at reduced prices for use in the manufacture of pastry products, ice-cream and other foodstuffs

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 1298/85 (2), and in particular Article 6 (7) thereof,

Whereas under Commission Regulation (EEC) No 262/79 of 17 February 1979 on the sale of butter at reduced prices for use in the manufacture of pastry products, ice-cream and other foodstuffs (3), as last amended by Regulation (EEC) No 3021/85 (4), the whole of the butter purchased must be processed into concentrated butter; whereas, however, provision is made for a derogation from this rule in respect of undertakings which use at least five tonnes of butter per month; whereas, in view of experience gained, the other undertakings should be eligible for this derogation, subject to certain conditions to ensure that the butter is used as stated;

Whereas the Annex to Commission Regulation (EEC) No 1687/76 of 30 June 1976 laying down common detailed rules for verifying the use and/or destination of products from intervention (5), as last amended by Regulation (EEC) No 3143/85 (6) should be amended accordingly;

Whereas the Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 262/79 is hereby amended as follows:

1. Article 3 is replaced by the following:

'*Article 3*

The tenderer may not take part in the tendering procedure unless he gives a written undertaking to have the butter referred to in Article 1 processed only into the products listed in Article 4, in accordance with the provisions of Articles 5, 6, 7, 8, 9 and 10 and Article 10 a.'

2. Article 6 is replaced by the following:

'*Article 6*

If the operations provided for in Article 5 (1) or Article 10 a and the processing provided for in Article 4 are not carried out in the same place, the concentrated butter or the butter which has undergone the incorporation provided for in Article 10 a (1) (a) shall be put up in bags or cartons of a minimum net weight of 10 kg.

The packages shall indicate, in letters at least 1 cm high, the use (formula A and/or C or formula B or formula D) to which the butter is to be put, and

— in the case of concentrated butter, one or more of the following:

  — "Koncentreret smør udelukkende bestemt til forarbejdning til et af de produkter, som er nævnt i artikel 4 i forordning (EØF) nr. 262/79",

  — "Butterfett, ausschließlich zur Verarbeitung zu einem der in Artikel 4 der Verordnung (EWG) Nr. 262/79 genannten Erzeugnisse",

  — "Συμπυκνωμένο βούτυρο που προορίζεται αποκλειστικά για τη μεταποίηση σε ένα από τα προϊόντα που αναφέρονται στο άρθρο 4 του κανονισμού (ΕΟΚ) αριθ. 262/79",

  — "Concentrated butter for processing exclusively into one of the products listed in Article 4 of Regulation (EEC) No 262/79",

  — "Beurre concentré destiné exclusivement à la transformation en un des produits visés à l'article 4 du règlement (CEE) n° 262/79",

  — "Burro concentrato destinato esclusivamente alla trasformazione in uno dei prodotti di cui all'articolo 4 del regolamento (CEE) n. 262/79",

  — "Boterconcentraat uitsluitend bestemd voor verwerking tot één van de bij artikel 4 van Verordening (EEG) nr. 262/79 bedoelde produkten";

— in the case of butter which has undergone the incorporation provided for in Article 10 a (1) (b), one or more of the following:

  — "Smør udelukkende bestemt til forarbejdning til et af de produkter, som er nævnt i artikel 4 i forordning (EØF) nr. 262/79",

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 137, 27. 5. 1985, p. 5.
(3) OJ No L 41, 16. 2. 1979, p. 1.
(4) OJ No L 289, 31. 10. 1985, p. 14.
(5) OJ No L 190, 14. 7. 1976, p. 1.
(6) OJ No L 298, 12. 11. 1985, p. 9.

— "Butter, ausschließlich zur Verarbeitung zu einem der in Artikel 4 der Verordnung (EWG) Nr. 262/79 genannten Erzeugnisse",

— "Βούτυρο που προορίζεται αποκλειστικά για τη μεταποίηση σε ένα από τα προϊόντα που αναφέρονται στο άρθρο 4 του κανονισμού (ΕΟΚ) αριθ. 262/79",

— "Butter for processing exclusively into one of the products listed in Article 4 of Regulation (EEC) No 262/79",

— "Beurre destiné exclusivement à la transformation en un des produits visés à l'article 4 du règlement (CEE) n° 262/79",

— "Burro destinato esclusivamente alla trasformazione in uno dei prodotti di cui all'articolo 4 del regolamento (CEE) n. 262/79",

— "Boter uitsluitend bestemd voor verwerking tot één van de bij artikel 4 van Verordening (EEG) nr. 262/79 bedoelde produkten".

The concentrated butter may also be transported by tanker or container; in that case, the above inscriptions shall be marked on the tank or the container in letters at least 5 cm high'.

3. The introductory phrase of Article 9 (1) is replaced by the following:

'1. An establishment may be approved for the purposes of Article 4 (3) (b) (bb), Article 5 (1) and Article 10 a (1) (b) only if:'.

4. The first subparagraph of Article 10 (1) (a) is replaced by the following:

'(a) keep stock records showing, for each delivery, the names and addresses of the purchasers of the products obtained from the operations provided for in Article 5 (1) and (2) and Article 10 a and the corresponding quantities, and specifying their use (formula A and/or C or formula B or formula D);'

5. The following Article 10 a is inserted:

'Article 10 a

1. An undertaking may take part in the tendering procedure without fulfilling the conditions provided for in Article 5 (1), if it gives a written undertaking to fulfil the following conditions:

(a) the products mentioned in one of the alternatives I, II or III as set out in Annex I shall be added, in accordance with the quantities laid down per tonne and excluding any other products, to the whole of the butter purchased so as to ensure homogeneous distribution.

Homogeneous distribution of the tracers shall be required for samples of a maximum weight of 1 kg, the permitted tolerance for the results obtained on samples taken at random from the batch concerned not exceeding 5 %;

(b) the incorporation referred to in (a) shall be carried out:

— in the Member State in whose territory the whole of the butter purchased is to be processed into products referred to in Article 4,

— in an establishment approved in accordance with Article 9,

— within two months of the closing date for the submission of tenders as referred to in Article 12 (2).

2. The Member State concerned shall, in accordance with rules which it shall lay down, carry out frequent on-the-spot inspections without advance warning, organized on the basis of the production schedule, in respect at least of the composition of each batch. Depending on the quantities produced, such inspections shall be supplemented periodically by a thorough verification to ensure that all the conditions for the approval of the establishment are met.

"Batch" shall be understood to mean a quantity of butter which has undergone the incorporation as referred to in 1 (a), produced continuously in one and the same processing plant.

3. For the purposes of this Article, the Belgo-Luxembourg Economic Union shall be considered as a single Member State.'

6. Article 22 (3) is replaced by the following:

'3. As regards the products referred to in Article 5 (1) and (2) and Article 10 a, the Member States may make provision for the control referred to in Article 2 (1) of Regulation (EEC) No 1687/76 to be considered as having been carried out if the seller submits a declaration by the final user to the effect that he:

— confirms his undertaking, as set out in the sales contract, to process the products referred to in Articles 5 (1) and (2) or Article 10 a into one of the products referred to in Article 4 (1) to (4) as stated in the tender (formula A or formula B or formula C or formula D),

and

— states that he is aware of the penalties laid down by the Member State concerned which he may incur if the obligations entered into by him prove not to have been met.

The Member States shall determine the maximum quantity of products, which may not exceed 400 kg per month, in respect of which they shall decide that that declaration may be made and shall inform the Commission of that maximum quantity immediately upon making use of the abovementioned power'.

Article 2

Item 13. B. in part II of the Annex to Regulation (EEC) No 1687/76 is hereby replaced by the following :

'B. Butter intended for processing direct into pastry products, ice-cream and other foodstuffs :

— section 104 :

— "Smør til forarbejdning [forordning (EØF) nr. 262/79]",

— "Butter zur Verarbeitung [Verordnung (EWG) Nr. 262/79]",

— "Βούτυρο προοριζόμενο για μεταποίηση [κανονισμός (ΕΟΚ) αριθ. 262/79]",

— "Butter for processing [Regulation (EEC) No 262/79]",

— "Beurre destiné à la transformation [règlement (CEE) n° 262/79]",

— "Burro destinato alla trasformazione [regolamento (CEE) n. 262/79]",

— "Boter bestemd voor verwerking [Verordening (EEG) nr. 262/79]";

— section 106 :

1. the closing date for the submission of tenders in response to the individual invitation to tender under which the butter was sold ;

2. The terms "formula A" or "formula B" or "formula C" or "formula D" depending on the use as stated in the tender'.

Article 3

This Regulation shall enter into force on the seventh 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, 29 November 1985.

For the Commission

Frans ANDRIESSEN

Vice-President