

COMMISSION REGULATION (EEC) No 2826/93

of 15 October 1993

amending Regulation (EEC) No 3149/92 laying down detailed rules for the supply of food from intervention stocks for the benefit of the most deprived persons in the Community

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3730/87 of 10 December 1987 laying down the general rules for the supply of food from intervention stocks to designated organizations for distribution to the most deprived persons in the Community ⁽¹⁾, and in particular Article 6 thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy ⁽²⁾, and in particular Article 6 (2) thereof,

Whereas Commission Regulation (EEC) No 3149/92 ⁽³⁾, amended by Regulation (EEC) No 3550/92 ⁽⁴⁾, lays down detailed rules of Regulation (EEC) No 3730/87;

Whereas Regulation (EEC) No 3813/92 provides for application of the agricultural conversion rate to express in national currencies agricultural prices and amounts fixed in ecus; whereas, because of the existence of financial limits laid down for the implementation of the annual plan for the supplies based on conversion rates on 1 October, the agricultural conversion rate applicable on that date should in order to preserve the resources allocated to each Member State, be used to determine the volumes of products made available from intervention and to convert costs relating to supplies under the scheme in question;

Whereas, in the light of experience and in order to ensure improved utilization of the available resources, it should be specified that in no circumstance may product carriage costs give rise to payments in the form of products;

Whereas, for the purposes of sound management of the system, provision should also be made that where products are not available in the Member State in which they are required, an invitation to tender is to be organized to determine the most favourable conditions under which their supply, and intra-Community transport in particular, may be undertaken; whereas it is likewise necessary in such cases to permit the mobilization of

products and their supply to charitable organizations without first operating transfers between intervention stocks located in different Member States;

Whereas, lastly, it is necessary to specify, on the one hand, the obligations of the persons contracted to supply the products and, on the other, as regards the lodging and release of the securities, the terms applicable to communication between Member States concerning the implementation of the annual plan;

Whereas provision should be made for this Regulation to apply at the beginning of the period of execution of the distribution plan; namely 1 October 1993;

Whereas the measures provided for in this Regulation are in accordance with the opinion of all the relevant management committees,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3149/92 is hereby amended as follows:

1. The following sentence is added to the first subparagraph of Article 4 (2):

'The call for tenders shall specify the nature and characteristics of the product to be supplied.'

2. In Article 4, paragraph 3 is replaced by the following:

'3. The Member States may make provision for the supply to entail in addition the carriage of the products to the warehouses of the charitable organization and, where appropriate, their distribution to the recipients. However, in such cases the carriage shall be the subject of a specific provision in the call for tenders mentioned in paragraph 2 and shall constitute a separate part of the tenderer's bid involving payment in cash. Furthermore, the carriage costs may not be the subject of payment in the form of products.'

3. The second subparagraph of Article 5 (1) is replaced by the following:

'Conversion into national currency of the accounting value of the products made available from intervention shall be carried out using the agricultural conversion rate applicable on the 1 October of the year of implementation of the plan.'

⁽¹⁾ OJ No L 352, 15. 12. 1987, p. 1.

⁽²⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽³⁾ OJ No L 313, 30. 10. 1992, p. 50.

⁽⁴⁾ OJ No L 361, 10. 12. 1992, p. 19.

4. In Article 6, paragraph 2 is replaced by the following :

'2. Where Article 4 (3) is applied, the Member State shall obtain reimbursement of the carriage costs on the basis of the rates fixed in Annex II.'

5. Article 6 (4) is replaced by the following :

'4. The costs referred to in paragraphs 1, 2 and 3 shall be reimbursed to the Member States within the limits of the financial resources available to implement the plan in each Member State.

The costs referred to in paragraphs 1, 2 and 3 may not be the subject of a payment in the form of products.'

6. Article 7 is replaced by the following :

Article 7

1. When products included in the plan are not available from intervention in the Member State where such products are required, the Member State in question shall submit an application to the Commission to take over stocks available at the supplying intervention agency. That application shall provide all the information required for carrying out the supply operation, including information on the products, on the location of the stocks and on the quantities involved. The Commission may reject the operation or request amendments.

The requesting Member State to which the products are to be supplied shall issue or have issued a call for tenders to determine the least expensive supply terms. At least three bidders shall tender. Intra-Community transport costs shall be the subject of a bid involving payment in cash and may not be the subject of payment in the form of products.

2. The intra-Community transport costs shall be defrayed by the Community and reimbursed to the Member State on the basis of the rates fixed in Annex II. The application for reimbursement shall include all necessary supporting documents, particularly those concerning transport and the distances covered. The expenditure shall be set off against the appropriations referred to in Article 2 (3) (c). Where the appropriations have been fully allocated, any additional Community financing to cover intra-Community transport costs shall be provided in accordance with Article 6 (4).

3. The call for tenders shall mention the option whereby an operator may submit a bid for placement on the Community market of the agricultural products or foodstuffs to be supplied and for takeover of the products from the supplying intervention agency, without transfer to the applicant Member State. In these circumstances, no intra-Community transport costs shall be paid to the person awarded the supply contract.

The applicant Member State shall provide the supplier Member State with the name of the person contracted to supply the products.

4. Before the goods are removed, the contractor undertaking the supply operation shall lodge a security equal to the intervention buying-in price applicable on the day fixed for taking over the products, plus 10 %.

The security shall be lodged in accordance with Title III of Commission Regulation (EEC) No 2220/85 (*).

For the purposes of Title V of that Regulation, the primary requirement shall be completion of the supply operation in the Member State of destination.

Presentation of a takeover document issued by the intervention agency of destination shall constitute proof of supply of the products.

5. In the case of transfer, the Member State of destination shall provide the supplier Member State with the name of the person contracted to carry out the operation.

The responsible authority shall ensure that the goods have been insured appropriately.

Dispatch declarations issued by the supplier intervention agency shall include one of the following inscriptions :

- Transferencia de productos de intervención — aplicación del apartado 5 del artículo 7 del Reglamento (CEE) n° 3149/92.
- Overførsel af interventionsprodukter — Anvendelse af artikel 7, stk. 5, i forordning (EØF) nr. 3149/92.
- Transfer von Interventionserzeugnissen — Anwendung von Artikel 7 Absatz 5 der Verordnung (EWG) Nr. 3149/92.
- Μεταφορά προϊόντων παρεμβάσεως — εφαρμογή του άρθρου 7 παράγραφος 5 του κανονισμού (ΕΟΚ) αριθ. 3149/92.
- Transfer of intervention products — Application of Article 7 (5) of Regulation (EEC) No 3149/92.
- Transfert de produits d'intervention — Application de l'article 7 paragraphe 5 du règlement (CEE) n° 3149/92.
- Trasferimento di prodotti di intervento — Applicazione dell'articolo 7, paragrafo 5 del regolamento (CEE) n. 3149/92.
- Overdracht van interventieprodukten — toepassing van artikel 7, lid 5, van Verordening (EEG) nr. 3149/92.
- Transferência de produtos de intervenção — aplicação do n° 5 do artigo 7° do Regulamento (CEE) n° 3149/92.

6. The calculation of any losses shall be entered in the accounts in accordance with the provisions of Article 2 (2) of Commission Regulation (EEC) No 3597/90 (**).

(*) OJ No L 205, 3. 8. 1985, p. 5.

(**) OJ No L 350, 14. 12. 1990, p. 43.'

7. Article 8 is replaced by the following :

Article 8

The amounts laid down in Articles 6 (1) and 7 (2) shall be converted into national currency using the agricultural conversion rate applicable on 1 October of the year in which the plan is carried out.'

8. The following Article is added :

Article 8a

Requests for payment shall be submitted to the competent authorities of each Member State within a period of four months following the completion of the operation in question. A 20 % reduction shall be made in the case of requests submitted beyond the time limit, except in the case of force majeure. Requests made more than ten months after the completion of the operation shall not be accepted.

The competent authorities shall make the payment within a period of two months following receipt of the payment request.'

9. The following sentence is added at the end of the third indent of Article 9 :

'The checks carried out on the premises of the designated organizations shall be concerned with a minimum of 5 % of the expenditure incurred under the annual plan.'

10. Article 10 is replaced by the following :

Article 10

No later than 31 March each year, the Member States shall send the Commission a report on the implementation of the plan on their territory during the previous year. The progress report shall include :

- the amounts of the various products withdrawn from intervention stocks,
- the type, quantity and value of goods distributed to the recipients, specifying separately unprocessed goods, processed goods and goods obtained by substitution together with the processing coefficients,
- the transport and transfer costs,
- administrative costs,
- the number of recipients over the course of the year.

The report shall specify the verification measures that have been applied to ensure that the goods have achieved their intended objective. This report shall mention the type and the number of checks carried out on the premises of the final beneficiaries of the plan.'

Article 2

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

It shall apply with effect from 1 October 1993.

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

Done at Brussels, 15 October 1993.

For the Commission

René STEICHEN

Member of the Commission