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

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.

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2015/1852. (See end of Document for details)*

(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.

(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

***Changes to legislation:** There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2015/1852. (See end of Document for details)*

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[(3)].

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

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2015/1852. (See end of Document for details)*

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[(4)] 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[(5)], 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;

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[(6)].

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;

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;