Commission Implementing Regulation (EU) No 562/2011 of 10 June 2011 adopting the plan allocating to the Member States resources to be charged to the 2012 budget year for the supply of food from intervention stocks for the benefit of the most deprived persons in the European Union and derogating from certain provisions of Regulation (EU) No 807/2010

COMMISSION IMPLEMENTING REGULATION (EU) No 562/2011

of 10 June 2011

adopting the plan allocating to the Member States resources to be charged to the 2012 budget year for the supply of food from intervention stocks for the benefit of the most deprived persons in the European Union and derogating from certain provisions of Regulation (EU) No 807/2010

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 points (f) and (g) of Article 43, in conjunction with Article 4 thereof,

Having regard to Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro[(2)], and in particular Article 3(2) thereof,

Whereas:

(1) In accordance with Article 2 of Commission Regulation (EU) No 807/2010 of 14 September 2010 laying down detailed rules for the supply of food from intervention stocks for the benefit of the most deprived persons in the Union[(3)], the Commission has to adopt a distribution plan to be financed from resources available in the 2012 budget year. That plan has to lay down, in particular, for each of the Member States applying the measure, the maximum financial resources available to carry out its part of the plan, and the quantity of each type of product to be withdrawn from the stocks held by the intervention agencies.

(2) The Member States involved in the distribution plan for the 2012 budget year have supplied the Commission with the information required in accordance with Article 1 of Regulation (EU) No 807/2010.

(3) For the purposes of resource allocation, account must be taken of experience and of the degree to which the Member States used the resources allocated to them in previous years.

(4) Taking into account the fact that availability of intervention stocks for the supply of the scheme for food distribution to the most deprived persons is substantially reduced in relation to the previous year, it is appropriate that the 2012 annual plan is adopted as soon as the Member States supplied the Commission with the information required in

Article 1 of Regulation (EU) No 807/2010. The fast adoption aims to allow the Member States additional time to organize the implementation of the Union annual plan with a view to giving a chance to national authorities and charities to find alternative sources of food.

(5) Article 4 of Regulation (EU) No 807/2010 provides that, where no rice is available in intervention stocks, the Commission may authorise the removal of cereals from the intervention stocks as payment for the supply of rice or rice products mobilised on the market. Accordingly, given that there are currently no intervention stocks of rice, the removal of cereals from intervention stocks as payment for mobilising rice products in the market should be authorised.

(6) Article 8(1) of Regulation (EU) No 807/2010 provides for the transfer between Member States of products unavailable in the intervention stocks of the Member State in which such products are required to implement the annual distribution plan. Accordingly, the intra-Union transfers necessary to implement that plan for 2012 should be authorised, subject to the conditions laid down in Article 8 of Regulation (EU) No 807/2010.

(7) Due to the current market situation in the cereals sector, which is marked by high market price levels, it is appropriate, in order to secure the Union's financial interests, to increase the security, which is to be lodged by the contractor undertaking the supply operation of cereals as provided for in Articles 4(3) and 8(4) of Regulation (EU) No 807/2010.

(8) To implement the annual distribution plan, the operative event within the meaning of Article 3 of Regulation (EC) No 2799/98 should be the date on which the financial year for administration of stocks in public storage starts.

(9) In accordance with Article 2(2) of Regulation (EU) No 807/2010, the Commission has consulted the major organisations familiar with the problems of the most deprived persons in the Union when drawing up the annual distribution plan.

(10) The Management Committee for the Common Organisation of Agricultural Markets has not delivered an opinion within the time limit set by its Chair,

HAS ADOPTED THIS REGULATION:

[F1 Article 1

1 In 2012, the distribution of food to the most deprived persons in the Union under Article 27 of Regulation (EC) No 1234/2007 shall be implemented in accordance with the annual distribution plan set out in Annex I to this Regulation.

Financial resources available to implement the 2012 plan can be used by Member States within the limits set out in point (a) of Annex I.

The quantities of each type of product to be withdrawn from intervention stocks are set out in point (b) of that Annex.

Indicative allocations to Member States for the purchase of food products on the Union market are set out in point (c) of that Annex.

2 The use of cereals as payment for mobilising rice products on the market is authorised, as referred to in Article 4(2) of Regulation (EU) No 807/2010.

Textual Amendments

F1 Substituted by Commission Implementing Regulation (EU) No 208/2012 of 9 March 2012 amending Implementing Regulation (EU) No 562/2011 adopting the plan allocating to the Member States resources to be charged to the 2012 budget year for the supply of food from intervention stocks for the benefit of the most deprived persons in the European Union and derogating from certain provisions of Regulation (EU) No 807/2010.

Article 2

The intra-Union transfer of products listed in Annex II to this Regulation shall be authorised, subject to the conditions laid down in Article 8 of Regulation (EU) No 807/2010. Indicative allocations to Member States for the reimbursement of the cost of intra-Union transfers, as required under the annual distribution plan referred to in Article 1, are set out in point (d) of Annex I.**]**

Textual Amendments

F1 Substituted by Commission Implementing Regulation (EU) No 208/2012 of 9 March 2012 amending Implementing Regulation (EU) No 562/2011 adopting the plan allocating to the Member States resources to be charged to the 2012 budget year for the supply of food from intervention stocks for the benefit of the most deprived persons in the European Union and derogating from certain provisions of Regulation (EU) No 807/2010.

***[F2** Article 2a*

By way of derogation from Article 3(1) of Regulation (EU) No 807/2010, the implementation period of the 2012 distribution plan shall end on 28 February 2013.

Textual Amendments

F2 Inserted by Commission Implementing Regulation (EU) No 208/2012 of 9 March 2012 amending Implementing Regulation (EU) No 562/2011 adopting the plan allocating to the Member States resources to be charged to the 2012 budget year for the supply of food from intervention stocks for the benefit of the most deprived persons in the European Union and derogating from certain provisions of Regulation (EU) No 807/2010.

Article 2b

By way of derogation from Article 3(3) of Regulation (EU) No 807/2010, for the 2012 distribution plan, payment operations for products to be supplied by the operator shall, in case of products to be mobilised on the market under Article 2(3)(a)(iii) and (iv) of Regulation (EU) No 807/2010, be effected before 15 October 2012.

Textual Amendments

F2 Inserted by Commission Implementing Regulation (EU) No 208/2012 of 9 March 2012 amending Implementing Regulation (EU) No 562/2011 adopting the plan allocating to the Member States resources to be charged to the 2012 budget year for the supply of food from intervention stocks for the

benefit of the most deprived persons in the European Union and derogating from certain provisions of Regulation (EU) No 807/2010.

Article 2c

For the 2012 distribution plan, the first sentence of the second subparagraph and the third subparagraph of Article 3(2) of Regulation (EU) No 807/2010, where relevant, shall not apply to the following quantities of intervention stocks:

(a) 5,46 tonnes of cereals stored in the United Kingdom and allocated to Bulgaria;

(b) 0,651 tonne of cereals stored in Finland and allocated to Bulgaria;

(c) 249,04 tonnes of cereals stored in France and allocated to France;

(d) 635,325 tonnes of skimmed milk powder stored in Estonia and allocated to Estonia.

Textual Amendments

F2 Inserted by Commission Implementing Regulation (EU) No 208/2012 of 9 March 2012 amending Implementing Regulation (EU) No 562/2011 adopting the plan allocating to the Member States resources to be charged to the 2012 budget year for the supply of food from intervention stocks for the benefit of the most deprived persons in the European Union and derogating from certain provisions of Regulation (EU) No 807/2010.

Article 2d

By way of derogation from Article 9 of Regulation (EU) No 807/2010, for the 2012 distribution plan, requests for payment shall be submitted to the competent authorities of each Member State by 30 September 2012. Except in cases of *force majeure*, requests submitted after that date shall not be accepted.

Expenditure, within the limits set out in point (a) of Annex I, shall only be eligible for Union financing if it has been paid by the Member State to the beneficiary by 15 October 2012 at the latest.**]**

Textual Amendments

F2 Inserted by Commission Implementing Regulation (EU) No 208/2012 of 9 March 2012 amending Implementing Regulation (EU) No 562/2011 adopting the plan allocating to the Member States resources to be charged to the 2012 budget year for the supply of food from intervention stocks for the benefit of the most deprived persons in the European Union and derogating from certain provisions of Regulation (EU) No 807/2010.

Article 3

By way of derogation from the fifth subparagraph of Article 4(3) and from the first subparagraph of Article 8(4) of Regulation (EU) No 807/2010, for the 2012 distribution plan, before cereals are removed from intervention, the contractor undertaking the supply operation shall lodge a security equal to EUR 150 per tonne.

Article 4

For the purpose of implementing the annual distribution plan referred to in Article 1 of this Regulation, the date of the operative event within the meaning of Article 3 of Regulation (EC) No 2799/98 shall be 1 October 2011.

[F3 Article 4a

1 For the purpose of implementing the annual distribution plan referred to in Article 1 of this Regulation, the operators selected in accordance with Article 4(4) and (6) of Regulation (EU) No 807/2010 and the designated organisations referred to in Article 27(1) of Regulation (EC) No 1234/2007 may submit to the competent authority of the Member State concerned an application for advance payments relating to the cost of transport of products to the storage depots of the designated organisations referred to in point (a) of the second subparagraph of Article 27(7) of Regulation (EC) No 1234/2007 and the administrative, transport and storage costs referred to in point (b) of the second subparagraph of that Article. In duly justified cases the Member States may also provide advance payments relating to the cost of the supply of the products to operators selected in accordance with Article 4(4) of Regulation (EU) No 807/2010 provided that, to the satisfaction of the Member States concerned, those operators have demonstrated that prior to 15 October 2012:

a they have taken legally binding commitments to implement the operation;

b they have significantly progressed with the implementation of the operation; and

c they have taken all measures necessary to ensure that the implementation shall be completed no later than 28 February 2013.

2 The competent authority may grant an advance payment up to 100 % of the amount applied for, subject to the establishment of a security equal to 110 % of the advance referred to in paragraph 1. In the case of operators selected in accordance with Article 4(4) of Regulation (EU) No 807/2010, the security referred to in that Article shall be deemed sufficient for the purposes of this Article.

3 For the purposes of paragraph 2, Commission Implementing Regulation (EU) No 282/2012[(4)] shall apply.

4 In the case of designated organisations referred to in paragraph 1, the paying agency may accept a written guarantee from a public authority, in accordance with provisions applied in the Member States, covering an amount equal to the percentage referred to in paragraph 2, provided that that public authority undertakes to pay the amount covered by that guarantee in case the entitlement to the advance paid is not established. Member States may also provide for an instrument of equivalent effect, in accordance with the provisions applied in the Member States, on condition that it ensures the repayment of the advance granted in case the entitlement to it is not established.

5 No later than 15 January 2013, Member States shall notify the Commission of the total amount of the advance payments made by 15 October 2012 in accordance with paragraph 2 which have not been cleared and which relate to operations that have not yet been completed by the final beneficiaries.*]*

Textual Amendments

F3 Inserted by Commission Implementing Regulation (EU) No 419/2012 of 16 May 2012 amending Implementing Regulation (EU) No 562/2011 adopting the plan allocating to the Member States resources to be charged to the 2012 budget year for the supply of food from intervention stocks for the benefit of the most deprived persons in the European Union.