COMMISSION DECISION

of 17 March 1977

relating to the urgent supply to the Democratic Republic of Sao Tome and Principe of vitaminized skimmed-milk powder to be bought on the Community market for use as food aid

(Only the French text is authentic)

(77/246/EEC)

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 559/76 (2), and in particular Articles 7 (5) and 28 thereof,

Having regard to Council Regulation (EEC) No 1298/76 of 1 June 1976 laying down general rules for the supply of skimmed-milk powder as food aid to certain developing countries and international organizations under the 1976 programme (3), as amended by Regulation (EEC) No 2017/76 (4), and in particular Article 6 thereof,

Whereas Council Regulation (EEC) No 1299/76 of 1 June 1976 on the supply of skimmed-milk powder as food aid to certain developing countries and international organizations under the 1976 programme (5), provides *inter alia* for 100 tonnes of skimmed-milk powder to be made available to the Democratic Republic of Sao Tome and Principe; whereas Council Regulation (EEC) No 2018/76 of 27 July 1976 on the additional organizations and non-governmental organizations under the 1976 programme (6), provides *inter alia* for 50 tonnes of skimmed-milk powder to be made available to the same country; whereas this country has requested 150 tonnes of vitaminized skimmed-milk powder;

Whereas Regulation (EEC) No 1298/76 provides in Article 2 (2) that, if the amounts of skimmed-milk powder in public stocks do not have the characteristics necessary for their particular destination where this requires, in particular, the addition of vitamins, supply shall be ensured by the buying-in of skimmed-milk powder on the Community market;

Whereas Article 5 of Regulation (EEC) No 1298/76 provides that, for the purpose of determining the forwarding costs, in case of emergency, a private contract may be concluded;

Whereas, in view of the need to provide immediate aid, it is apparent that mutual agreement must be sought in respect of this supply;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS DECISION:

Article 1

1. In accordance with the provisions of Regulations (EEC) No 1298/76, (EEC) No 1299/76 and (EEC) No 2018/76, the French intervention agency shall arrange delivery to the Democratic Republic of Sao Tome and Principe of one lot of 150 tonnes of vitaminized skimmed-milk powder bought on the Community market.

2. The skimmed-milk powder shall meet:

— as to quality, the requirements set out in the Annex to this Decision,

— as to packaging, the requirements set out in Annex I to Commission Regulation (EEC) No 1108/68 of 27 July 1968 on detailed rules for public storage of skimmed-milk powder (7), as last amended by Regulation (EEC) No 1457/75 (8).

3. In addition, the supplier, designated by the private contract referred to in Article 3, shall supply 5 % empty bags identical to those containing the goods. He shall undertake to have these bags mentioned on the bill of lading.

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 67, 15. 3. 1976, p. 9.
(3) OJ No L 146, 4. 6. 1976, p. 3.
(4) OJ No L 224, 16. 8. 1976, p. 1.
(5) OJ No L 146, 4. 6. 1976, p. 5.
(6) OJ No L 224, 16. 8. 1976, p. 2.
(7) OJ No L 184, 29. 7. 1968, p. 34.
(8) OJ No L 145, 6. 6. 1975, p. 17.

4. The packaging of the skimmed-milk powder shall bear the following inscription in letters at least one centimetre high :

'Leite desnatado em po com vitaminas A y D / Dom da Comunidade Economica Europeia a São Tome y Principe'.

Article 2

1. Delivery shall be effected to the port of unloading of Sao Tome (Sao Tome and Principe).

2. Embarkation shall take place as soon as possible on 15 April 1977 at the latest.

3. Delivery at the port of unloading shall be completed when the goods are actually deposited on the quayside at the port of unloading or on board a lighter, as the case may be.

4. The recipient country shall bear all costs incurred after delivery including the costs of taking delivery of the goods. Any demurrage costs at the port of unloading attributable to the recipient country shall be borne by it. The rates and other details concerning such costs shall be laid down in the contract between the Community agent (designated by the mutual agreement contract specified in Article 3) and the carrier and must have been previously agreed upon by the former and the recipient countries' delivery agent.

5. A delivery certificate shall be issued on delivery by the receiving agent nominated by the recipient country.

Article 3

1. The amount to cover delivery costs to the port of unloading referred to in Article 2 (1) including the insurance costs shall be determined by the intervention agency concerned by mutual agreement on the least onerous terms possible. This shall only result in the payment of this amount on presentation of the delivery certificate provided for in Article 2 (5).

2. The intervention agency shall send immediately to the Commission a copy of the private contract or contracts.

3. If, owing to circumstances beyond the control of the undertaking responsible for the delivery, the submission of the attestation of delivery referred to in Article 2 (5) is delayed, the competent agency may grant an advance.

Such an advance may not, however, exceed 80 % of the sum agreed for the delivery and shall be paid only subject to the undertaking concerned lodging a security for the skimmed-milk powder shipped in accordance with the conditions laid down in Article 1 (2) to (4) and having left the geographical territory of the Community and if the undertaking furnished a surety to the sum of the advance, raised by 10 %.

Article 4

The French Government :

1. shall ensure that the agent designated by the mutual agreement contract :

   (a) notifies the recipient country as soon as possible after the goods have been loaded on board ship, of details of the ship, the loading date, the quantity and quality of the goods as recorded on shipment,

   (b) inform the recipient country, at least 10 clear days before arrival at the port of unloading of the expected date of arrival,

   (c) has included in the terms of the charter-party a provision stipulating that the ship's captain shall, at least 72 hours in advance, notify the recipient country of the ship's probable date of arrival in port ;

2. send to the Commission as soon as possible the information specified in paragraph 1 (a) and (b).

Article 5

No refund or compensatory amount (whether monetary or accession) may be granted in respect of skimmed-milk powder supplied pursuant to this Decision.

Article 6

This Decision is addressed to the French Republic.

Done at Brussels, 17 March 1977.

For the Commission

Finn GUNDELACH

Vice-President

ANNEX

Skimmed-milk powder requirements

(a) fat content :	1·5 % maximum
(b) water content :	4·0 % maximum
(c) total acidity in lactic acid :	0·15 % maximum (18° Dornic)
(d) test for neutralization agents :	negative
(e) authorized additives :	none
(f) phosphatase test :	negative
(g) solubility :	0·5 ml maximum (99 % minimum)
(h) degree of purity :	disc B (15·0 mg minimum)
(i) germ content :	50 000 per g maximum
(k) colon bacillus titer :	negative in 0·1 g
(l) taste and smell :	clean
(m) appearance :	white or slightly yellowish colour, free from impurities or coloured particles
(n) vitamin content :	
(aa) vitamin A :	5 000 i.u. per 100 g minimum
(bb) vitamin D :	500 i.u. per 100 g minimum