REGULATION (EEC) No 2560/74 OF THE COMMISSION

of 7 October 1974

concerning invitations to tender for the costs of delivering butter for distribution in India as food aid

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 [1] of 27 June 1968 on the common organization of the market in milk and milk products, as last amended by Regulation (EEC) No 662/74 [2], and in particular Article 6 (7) thereof;

Whereas Council Regulation (EEC) No 530/74 [3] of 4 March 1974 laying down general rules for the supply of milk fats as food aid to certain developing countries and certain international organizations provides *inter alia* for 3 000 metric tons of butteroil to be made available to India; whereas Article 1 of the said Regulation allows this quantity to be delivered in the form of butter or butteroil; whereas India has requested that 500 metric tons of butter, equal to 410 metric tons of butteroil, be delivered; whereas tenders must be invited for the costs of delivering the said quantity of butter;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. In accordance with the provisions of Regulation (EEC) No 530/74, tenders shall be invited for the costs of delivering 500 metric tons of butter for distribution in India.

2. The butter shall satisfy the conditions as to quality and packaging laid down in the Annex.

Article 2

1. The butter shall be collected from the French intervention agency.

2. The butter shall be delivered to the port of Le Havre on a date fixed by the French intervention agency which must be later than 30 October and earlier than 15 November 1974.

Article 3

1. Tenders shall be invited for the cost of delivering the goods from the time when they are collected from the cold storage depots where they are held until the time when they are set down at the port of loading alongside the ship, in a place designated by the beneficiary country or its agent.

2. When the goods are received at the port of loading, the temperature of the butter must not exceed 10 °C in the centre of the blocks.

Article 4

1. Tenders shall be submitted either by hand, against receipt, to the French intervention agency or by registered letter.

2. The tender shall state:

(a) the name and address of the tenderer,

(b) the amount, expressed in French francs, at which the tenderer undertakes to deliver the butter, including the costs of insuring the value of the goods,

(c) the storage depots at which the butter is to be collected,

(d) the port of loading.

3. A tender shall not be valid unless:

(a) it relates to the entire quantity of butter to be transported;

(b) it is accompanied by an undertaking by the tenderer that he will transport the butter in accordance with the provisions of Article 3 (2);

(c) proof is furnished, before the time limit for the submission of tenders expires, that the deposit referred to in Article 5 has been lodged.

4. A tender may not be withdrawn.

Article 5

1. The tendering deposit shall be 10 units of account per metric ton of butter.

2. It shall be paid either in the form of a cheque made out to the French intervention agency, or in the form of a bank guarantee complying with criteria laid down by that body.

[1] OJ No L 148, 28. 6. 1968, p. 13.
[2] OJ No L 85, 29. 3. 1974, p. 51.
[3] OJ No L 65, 7. 3. 1974, p. 1.

Article 6

The time limit for the submission of tenders shall expire at 1200 hours on 22 October 1974.

Article 7

In the light of the tenders received and in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68, a maximum amount, expressed in units of account, shall be fixed or a decision shall be taken not to proceed with the invitation to tender.

Article 8

1. The tender shall be rejected if the amount proposed, expressed in units of account, is higher than the maximum amount fixed for the delivery in question.

2. Without prejudice to paragraph 1, the contract shall be awarded to the tenderer proposing the lowest amount in this tender. Where a number of tenders quoting the same amount must be considered, the contract shall be awarded by drawing lots.

3. The intervention agency shall immediately inform each tenderer of the result of his participation in the invitation to tender.

It shall communicate to the Commission without delay the name of the successful tenderer.

4. Rights and obligations arising out of the invitation to tender shall not be transferable.

Article 9

When accepting delivery, the successful tenderer shall satisfy himself that the quantity of butter actually delivered is equal to the quantity to be delivered.

In addition, he shall make sure that the packaging of the butter satisfies the conditions laid down in the Annex.

Article 10

1. When the goods are delivered at the port of loading a certificate confirming acceptance of delivery shall be issued to the tenderer acting as the agent of the Community by the receiving agent designated by the beneficiary country or, if there is no such receiving agent, by the French intervention agency.

2. At the same time, the intervention agency shall check whether the provisions of Article 3 (2) have been complied with and, if so, shall issue a certificate to that effect.

Article 11

Except in cases of *force majeure*, the tenderer shall assume responsibility for any financial consequences which failure to deliver the butter at the time and place specified might have for the Community, delivery at the time and having been made possible by the beneficiary country.

The demurrage resulting from such delays shall not be payable by the tenderer unless the rates and terms thereof were agreed in advance between himself and the beneficiary country. The other costs resulting from the delays shall not be payable by the tenderer unless they were paid by the beneficiary country in agreement with the French intervention agency.

Where the butter is not delivered for reasons of *force majeure*, the resultant costs shall be borne by the French intervention agency.

Where the beneficiary country is unable to effect loading on the date fixed and the tenderer is not able to get the beneficiary country to pay the resultant costs, the French intervention agency shall take the steps necessary to ensure that such costs are not borne by the tenderer.

Article 12

1. Except in cases of *force majeure*, the tendering deposit provided for in Article 5 shall be released only :

— if the tender is not taken into consideration ;

— if the tenderer has not withdrawn his tender before a decision on the award of contracts has been taken and if he has supplied the intervention agency with the certificate confirming acceptance of delivery referred to in Article 10 (1) and the certificate referred to in Article 10 (2) ;

2. The deposit shall be released immediately.

3. In cases of *force majeure*, the French intervention agency shall determine the measures judged to be necessary in view of the circumstances invoked.

Article 13

No refund or compensatory amount (whether monetary or accession shall be applied to the butter covered by this Regulation.

Article 14

This Regulation shall enter into force on the third 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, 7 October 1974.

For the Commission

The President

François-Xavier ORTOLI

ANNEX

I. **Quality**

Unsalted butter

(a) Minimum fat content of the milk : 82 %

(b) Maximum water content : 16 %

(c) Produced from pasteurized acid cream.

II. **Packaging**

(a) In blocks of 25 kg.

(b) The packaging must be of resistant materials to protect the butter throughout transport, storage and disposal.

(c) Marking on the packaging :

'BUTTER

Gift of the European Economic Community to the Republic of India'.