REGULATION (EEC) No 2609/74 OF THE COMMISSION

of 14 October 1974

on the sale for export of skimmed-milk powder held by intervention agencies

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 Articles 7 (5) and 28 thereof;

Whereas large quantities of skimmed-milk powder are currently held in public storage in the Community; whereas steps should be taken to sell these stocks where outlets for this product exist;

Whereas there are outlets for the exportation of skimmed-milk powder to third countries under long-term contracts; whereas in order to relieve the Community from the cost of prolonged storage, exporters should be allowed to obtain supplies from the intervention agencies;

Whereas Article 5 (2) of Council Regulation (EEC) No 1014/68 [3] of 20 July 1968 laying down general rules for the public storage of skimmed-milk powder, as last amended by Regulation (EEC) No 1211/69 [4], provides that the selling price of skimmed-milk powder held in public storage must be higher than the intervention price by an amount to be determined by reference to the market situation and to storage costs; whereas on the basis of those criteria the selling price for the month of October 1974 should be fixed at the level of the intervention price applicable with effect from 7 October 1974; whereas the selling prices applicable after this month should be fixed having regard in particular to the trend of the market;

Whereas the terms of sale, and in particular time limits for payment and taking delivery in respect of skimmed-milk powder purchased, must be specified; having regard to the special conditions governing long-term contracts and to the need to ensure to purchasers a continuous supply; whereas provision should also be made for the giving of security calculated to ensure that exportation takes place as prescribed;

Whereas, in order that it may keep the operation of these arrangements under observation, the Commission must be informed at regular intervals of the quantities sold;

Whereas the Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The intervention agencies shall offer for sale, on the terms hereinafter set out, skimmed-milk powder bought in under Article 7 of Regulation (EEC) No 804/68 and placed in storage after 31 March 1974 but before the date on which the contract of sale is conducted.

Article 2

1. The skimmed-milk powder shall be sold:

(a) ex-storage depot at a price which in the case of contracts concluded during the month of October 1974 shall be equal to the buying-in price applied by the relevant intervention agency at the time when the contract is concluded;

(b) in lots of 2 000 metric tons or more;

(c) to purchasers who

— can produce evidence of a contract concluded on or after 7 October 1974 whereby they have undertaken to deliver to a third country over a period of not less than five months a quantity of at least 2 000 metric tons of skimmed-milk powder,

— give an undertaking that they will, within a period not exceeding twelve months calculated from the date on which the contract with the intervention agency is concluded, export to the country of destination specified in the contract referred to in the preceding indent the quantity purchased for the purposes of that contract;

(d) in packaging marked, in letters at least 2 cm high, with one or more of the following expressions:

— 'Lait écrémé en poudre destiné à l'exportation conformément au règlement (CEE) n° 2609/74',

— 'Magermilchpulver für die Ausfuhr gemäß der Verordnung (EWG) Nr. 2609/74',

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 85, 29. 3. 1974, p. 51.
(3) OJ No L 173, 22. 7. 1968, p. 4.
(4) OJ No L 155, 28. 6. 1969, p. 13.

— 'Latte scremato in polvere destinato all'esportazione conformemente al regolamento (CEE) n. 2609/74',

— 'Magere-melkpoeder bestemd voor uitvoer, volgens Verordening (EEG) nr. 2609/74',

— 'Skimmed-milk powder for export pursuant to Regulation (EEC) No 2609/74',

— 'Skummetmælkspulver bestemt for eksport i overensstemmelse med forordning (EØF) nr. 2609/74'.

2. The sale by the intervention agency of the skimmed-milk powder shall be subject to provision by the purchases, on or before conclusion of the contract of sale, of security for export in an amount of 10 units of account per 100 kilogrammes.

Such security shall be given at the option of the Member State either in the form of a cheque made out in favour of the intervention agency, or in the form of a guarantee satisfying the requirements laid down by the Member State concerned.

Article 3

1. The purchaser shall, before the end of the seventh month following that in which the contract of purchase is concluded, take delivery of all the skimmed-milk powder purchased by him. This operation may be effected by instalments.

2. Costs in respect of storage for the period running from the end of the month following that in which the contract of purchase is concluded until the date when the purchaser takes delivery shall be reimbursed by him to the intervention agency at the rate of 0·021 unit of account per 100 kilogrammes per day.

3. Before taking delivery of any quantity, the purchaser shall

— reimburse to the intervention agency the costs of storage as referred to in paragraph 2 in respect of the quantity concerned,

— provide security in the amount of 83 units of account per 100 kilogrammes as a guarantee that he will make payment for the skimmed-milk powder in accordance with paragraph 6. Such security shall be in one of the forms provided for in the second subparagraph of 2 (2). It shall not be discharged until payment has been made in accordance with paragraph 6.

4. When the conditions laid down in paragraph 3 have been fulfilled, the intervention agency shall issue a removal order indicating :

— the quantity in respect of which the security referred to in the second indent of paragraph 3 has been given,

— the storage depot where the quantity concerned is stored,

— the final date pursuant to paragraph 1 for taking delivery of the skimmed-milk powder,

— the date up to which storage costs as referred to in paragraph 2 have been reimbursed for the quantity concerned.

5. Except in case of *force majeure*, if the buyer fails to take over the skimmed-milk powder within the period specified in paragraph 1, the contract shall be terminated in respect of the quantities outstanding.

In such cases, the security for export provided pursuant to Article 2 (2) shall in respect of those quantities be forfeit in an amount equal to the amount of the storage costs as referred to in paragraph 2 incurred up to the date of termination of the contract.

6. The purchaser shall in respect of any instalment of skimmed-milk powder of which he takes delivery pursuant to paragraph 1 make payment to the intervention agency within four months of so taking delivery.

This period shall be calculated as follows :

— if delivery is taken between the 1st and 15th inclusive of the month ; from the 15th of that month,

— if delivery is taken between the 16th and the last day of the month ; from the last day of that month.

Article 4

1. From the time of its removal from store until it leaves the geographical territory of the Community the skimmed-milk powder shall be placed under customs control or under an administrative control offering equivalent safeguards.

2. The customs formalities on exportation shall be completed in the Member State of sale.

Article 5

1. Save as provided in the second subparagraph of Article 3 (5) or in case of *force majeure*, the security for export provided pursuant to Article 2 (2) shall be discharged only in respect of those quantities as to which the purchaser furnishes proof that they have been exported as prescribed in the second indent of Article 2 (1) (c).

2. This proof shall be furnished as follows :

— where the product leaves the geographical territory of the Community from the territory of the Member State of sale, by production of a customs document certifying that the product has so left and stating that exportation has taken place in accordance with this Regulation,

— where the product leaves the geographical territory of the Community from the territory of a Member State other than the Member State of sale, by production of the control copy provided for in Article 1 of Regulation (EEC) No 2315/69.

Sections 101, 103 and 104 of the control copy shall be completed. Section 104 shall be completed by deleting as necessary and entering against the second indent one of the endorsements set out in Article 2 (1) (d) of the present Regulation.

The provisions of Article 3 with the exception of the second indent of the first subparagraph of paragraph 1 thereof and Article 4 of Regulation No 1041/67/EEC shall apply *mutatis mutandis*.

Article 6

The Member States shall inform the Commission by the Tuesday of each week of the quantities of skimmed-milk powder in respect of which contracts of sale have been concluded under this Regulation during the proceeding week, indicating for each quantity the country of destination and the delivery period prescribed by the contract referred to in Article 2 (1) (c).

Article 7

This Regulation shall enter into force on the 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, 14 October 1974.

For the Commission

The President

François-Xavier ORTOLI