REGULATION (EEC) No 521/74 OF THE COMMISSION

of 4 March 1974

on the opening of an invitation to tender for skimmed-milk powder held by intervention agencies and intended for export

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 419/74 (2), and in particular Article 7 (5) thereof;

Whereas large quantities of skimmed-milk powder are at present held in public stocks within the Community; whereas, to the extent that appropriate outlets are available, steps should be taken to sell that powder;

Whereas there is a temporary shortage of skimmed-milk powder meeting export requirements; whereas exporters should be authorized to obtain supplies from intervention agencies;

Whereas, in order to ensure equal access to all interested parties, the skimmed-milk powder in question should be sold by tender; whereas the provisions required for this purpose can in the main be taken from Commission Regulation (EEC) No 1108/68 (3) of 27 July 1968 on detailed rules of application for public storage of skimmed-milk powder, as last amended by Regulation (EEC) No 77/74 (4); whereas, however, certain points concerning participation in tenders and the award of contracts should be specified in greater detail;

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. Tenders shall be invited for the purchase for export of 15 000 metric tons of skimmed-milk powder, of which

— 1 800 metric tons from stocks held by the Belgian intervention agency and

— 13 200 metric tons from stocks held by the French intervention agency.

2. The skimmed-milk powder referred to in paragraph 1 shall be purchased from stocks bought in before 1 July 1973; it shall be packaged as stipulated in the Annex to this Regulation.

Article 2

1. As regards the procedure for tenders, Article 4 and the subsequent Article of Regulation (EEC) No 1108/68 shall apply, with the exception of Articles 7 and 10.

2. The following provisions shall apply in place of those of Article 7 of Regulation (EEC) No 1108/68:

(a) Tenders, which shall be in writing, shall be submitted either by delivery by hand to the intervention agency against acknowledgement of receipt or by registered letter or telex addressed to the intervention agency.

(b) The tender shall specify:

— the name and address of the tenderer;

— the price offered per metric ton ex storage depot exclusive of internal taxes, expressed in the currency of the Member State in which the invitation to tender is organized;

— the name of the depot where the quantity tendered for is stored.

A tender indicating more than one depot shall be regarded as comprising a number of separate tenders equal to the number of depots indicated.

(c) A tender shall not be valid unless:

— it relates to a minimum of 100 metric tons;

— it is accompanied by a declaration whereby the tenderer agrees to forgo any claim as to the quality or characteristics of the skimmed-milk powder which may be assigned to him;

— it is accompanied by the undertaking required under Article 3;

— proof is given before expiry of the period set for the submission of tenders that the security referred to in Article 8 of Regulation (EEC) No 1108/68 has been provided.

3. The following provisions shall apply in place of those of Article 10 of Regulation (EEC) No 1108/68:

(a) any tender quoting a price lower than the minimum price shall be refused;

(b) subject to subparagraph (a) above, the contract shall be awarded to the highest tender;

(c) if two or more tenders relating to the same quantity offer the same price contracts shall be awarded by drawing lots;

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 49, 21. 2. 1974, p. 2.
(3) OJ No L 184, 29. 7. 1968, p. 34.
(4) OJ No L 9, 11. 1. 1974, p. 38.

(d) the rights and obligations arising by virtue of participation in the invitation to tender shall not be transferable ;

(e) a tender may indicate that it should be regarded as submitted only if a contract is awarded for the whole quantity indicated in the tender or for a quantity in respect of which specific requirements are stipulated in the tender.

4. The time limit for the submission of tenders shall be Tuesday 19 March 1974 at 12 noon.

Article 3

Every tenderer shall undertake to export to third countries before 1 May 1974 the entire quantity of skimmed-milk powder assigned to him.

Article 4

1. Every successful tenderer shall, before taking over the quantity assigned to him, provide an export security which shall be fixed, for each 100 kg of skimmed-milk powder, at the same time as the minimum selling price, by reference to the difference between the market price of skimmed-milk powder and the minimum price.

2. Such security shall be provided in one or other of the forms specified in Article 8 (2) of Regulation (EEC) No 1108/68.

Article 5

1. From the time of its removal from store the skimmed-milk powder shall be subject to customs control or to an administrative control providing equivalent guarantees until it leaves the geographical territory of the Community.

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

Article 6

1. Where the product leaves the geographical territory of the Community from a Member State other than the Member State of sale, proof that the product has so left shall be furnished by production of the control copy referred to in Article 1 of Regulation (EEC) No 2315/69.

2. Sections 101, 103 and 104 of the control copy shall be completed. Section 104 shall be completed by deleting as necessary and entering under the second indent one of the following endorsements :

— 'Lait écrémé en poudre destiné à l'exportation conformément au règlement (CEE) n° 521/74',

— 'Magermilchpulver für die Ausfuhr gemäß der Verordnung (EWG) Nr. 521/74',

— 'Latte scremato in polvere destinato all'esportazione, conformemente al regolamento (CEE) n. 521/74',

— 'Magere-melkpoeder bestemd voor uitvoer, volgens Verordening (EEG) nr. 521/74',

— 'Skimmed-milk powder for export in accordance with Regulation (EEC) No 521/74',

— 'Skummetmælkspulveret bestemt for export i overensstemmelse med forordning (EØF) nr. 521/74'.

Article 7

1. The tendering security shall be released in accordance with the provisions of Article 13 of Regulation (EEC) No 1108/68.

2. Except in cases of *force majeure*, the export security shall be released only in respect of quantities for which the purchaser can prove that the skimmed-milk powder has left the geographical territory of the Community before 1 May 1974.

3. Such proof shall be furnished as follows :

— where the product leaves the geographical territory of the Community from the 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 Regulation (EEC) No 521/74 ;

— 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 referred to in Article 6.

Article 8

The Member State shall on the Tuesday of each week inform the Commission of the quantities of skimmed-milk powder removed from store during the previous week under this Regulation.

Article 9

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, 4 March 1974.

For the Commission

The President

François-Xavier ORTOLI

ANNEX

Packaging of skimmed-milk powder

4 Kraft paper bags of a strength of at least 70 g/m^2,

1 interposed tar-lined paper bag of a strength of at least 140 g/m^2,

1 separate inner bag of polyethylene of at least 0·06 mm thickness, closed by double binding.