REGULATION (EEC) No 602/75 OF THE COMMISSION

of 7 March 1975

laying down detailed rules for the sale of skimmed-milk powder in public storage for supply to developing countries

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 465/75 (2), and in particular Articles 7 (5) and 28 thereof;

Whereas Council Regulation (EEC) No 155/75(3) of 21 January 1975 provides that skimmed-milk powder in public storage may be sold for delivery to developing countries; whereas, in view of the situation on the Community market for skimmed-milk powder and of the interest shown by certain of the organizations concerned, this provision should be put into effect and detailed rules as referred to in Article 2 of Regulation (EEC) No 155/75 adopted for the purpose;

Whereas by reason of their reputation some international agencies which have been participating for a number of years in Community food aid action may be regarded as possessing sufficient experience in this field; whereas provision should be made for other non-profit-making bodies and associations to apply for approval as prospective purchasers under Regulation (EEC) No 155/75 and in particular to furnish proof of previous activities of a kind having enabled them to acquire appropriate experience;

Whereas the recipient countries must be required to give an undertaking not to use the product in a manner likely to disturb normal trading relations;

Whereas, in order to prevent the goods from being diverted from their intended destination, provision should be made for the giving of a security and for the product to be placed from the time it is removed from storage until it leaves the Community under customs control or under a form of administrative control offering equivalent safeguards;

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

International organizations, bodies and associations as referred to in Article 1 of Regulation (EEC) No 155/75 may benefit from the provisions of that Regulation only if they meet the following criteria:

(a) international organizations must have as their object the implementation of food aid programmes in developing countries and must furnish proof of previous activities of a kind having enabled them to acquire experience in this field;

(b) non-profit-making bodies and associations must have their head office in a Member State, have as their object the provisions of aid to the under-privileged and must furnish proof of previous activities of a kind having enabled them to acquire experience in supplying food aid to developing countries.

Article 2

The following international organizations shall be regarded as meeting the conditions laid down in Article 1:

— World Food Programme (WFP),
— International Committee of the Red Cross (ICRC),
— United Nations Children's Fund (UNICEF),
— United Nations Relief and Work Agency (UNRWA),
— United Nations Disaster Relief Organization (UNDRO),
— United Nations High Commission for Refugees (UNHCR),
— CARITAS,
— World Council of Churches.

Article 3

International organizations not listed in Article 2 wishing to benefit from the provisions of Regulation (EEC) No 155/75 must submit to the Commission an application for approval and supply, together with supporting documents establishing that they fulfil the requirements laid down in Article 1 (a).

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 52, 28. 2. 1975, p. 8.
(3) OJ No L 19, 14. 1. 1975, p. 3.

Article 4

1. Non-profit-making bodies and associations wishing to benefit from the provisions of Regulation (EEC) No 155/75 must submit to the intervention agency concerned an application for approval, together with supporting documents establishing that they fulfil the requirements laid down in Article 1 (b), in particular as regards :

— their legal status, their field of activity and their object ;

— their previous experience as regards food aid.

2. The intervention agency shall forthwith forward the application and supporting documents to the Commission.

Article 5

1. International organizations and non-profit-making bodies and associations (hereinafter called 'recipient agencies') shall together with their applications for skimmed-milk powder also submit a detailed plan for the use of the skimmed-milk powder which they wish to purchase.

They shall in particular specify the amount to be allocated to each recipient country and the form in which the product is to be used in that country.

2. The Commission, acting in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68, shall decide on applications for approval and supply and, having regard to the economic situation in the recipient country or countries proposed, to their actual needs and to the amounts already allocated or to be allocated as food aid, shall determine the quantities to be made available, designate the intervention agency which is to conclude the contract of sale and supply the skimmed-milk powder and lay down any special arrangements required for the taking over of the goods.

Article 6

The skimmed-milk powder shall be sold :

(a) in quantities of not less than 10 metric tons ;

(b) at a price of 44·35 units of account per 100 kilogrammes ex-intervention agency store, this amount 'being multiplied in the case of the Benelux countries by the factor 1·00725 ;

(c) to purchasers :

— who submit a certificate as specified in Article 7 (2),

— who undertake to distribute it, free of charge and within not more than four months from the date on which they take delivery of the quantity purchased, in the non-member recipient country or countries named in their application ;

(d) in packing bearing in letters not less than 1 cm high one or more of the following inscriptions :

'Skimmed-milk powder for free distribution under Regulation (EEC) No 155/75',
Lait écrémé en poudre destiné à une livraison gratuite au titre du règlement (CEE) nº 155/75',
Magermilchpulver zur kostenlosen Lieferung gemäß der Verordnung (EWG) Nr. 155/75',
Latte scremato in polvere destinato ad una fornitura gratuita conformemente al regolamento (CEE) n. 155/75',
'Magere-melkpoeder bestemd voor gratis levering, volgens Verordening (EEG) nr. 155/75',
'Skummetmælkspulver bestemt for gratis levering i overensstemmelse med forordning (EØF) nr. 155/75'.

Article 7

1. Every recipient country shall give an undertaking to use for human consumption the product received as aid and to take all measures necessary to ensure that :

— deliveries of food aid do not replace normal commercial transactions ;

— products received as aid or products derived therefrom are not re-exported ;

— for a period of six months from the date of delivery of the final consignment of aid, no product produced locally of the same nature as that received as aid or derived from such local product is exported whether by way of trade or otherwise.

2. This undertaking shall be conformed by a certificate issued to the recipient agency in question by the competent authorities of the recipient country.

Article 8

1. The recipient agency shall take delivery of the skimmed-milk powder not later than three months from the end of the month in which the contract of sale is concluded. Delivery may be taken by instalments.

Except in case of *force majeure*, the contract of sale shall be terminated in respect of any quantity of skimmed-milk powder of which the purchaser fails to take delivery within the above period.

2. Prior to taking delivery of each amount the recipient agency shall :

— pay the intervention agency for the amount in question ;

— furnish security equal to the price paid.

Article 9

1. The security referred to in Article 8 (2) shall at the option of the Member State concerned be in the form of a cheque made out in favour of the intervention agency or in the form of a guarantee fulfilling the requirements laid down by that Member State.

2. Except in a case of *force majeure*, the security shall be released only in respect of those quantities as to which recipient agency furnishes proof establishing that they have left the geographical territory of the Community and been put into free circulation in the recipient country.

3. The proof referred to in paragraph 2 shall be furnished as prescribed in the case of export refunds.

4. In a case of *force majeure*, the intervention agency shall decide on the measures to be taken having regard to the circumstances invoked and shall forthwith inform the Commission thereof.

Article 10

1. The skimmed-milk powder shall from the time it is taken over until it is removed from the geographical territory of the Community be placed under customs control or under a form of administrative control offering equivalent safeguards.

2. Customs export formalities shall be completed in the Member State in which the powder is sold.

Article 11

No refund may be granted in respect of products exported pursuant to this Regulation. The monetary compensatory amounts fixed pursuant to Regulation (EEC) No 974/71 shall be multiplied by the factor 0·5.

Article 12

This Regulation shall enter into force on 10 March 1975.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 7 March 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission