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COMMISSION REGULATION (EEC) No 1354/83

of 17 May 1983

laying down general rules for the mobilization and supply of skimmed-milk powder, butter and butteroil as food aid

(OJ L 142, 1.6.1983, p. 1)

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►**M1**	Commission Regulation (EEC) No 1886/83 of 11 July 1983	L 187	29	12.7.1983
►**M2**	Commission Regulation (EEC) No 3812/85 of 20 December 1985	L 368	3	31.12.1985

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laying down general rules for the mobilization and supply of skimmed-milk powder, butter and butteroil 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 of 27 June 1968 on the common organization of the market in milk and milk products ([1]), as last amended by Regulation (EEC) No 1183/82 ([2]), and in particular Articles 6 (7), 7 (5) and 28 thereof,

Having regard to Council Regulation No 129 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy ([3]), as last amended by Regulation (EEC) No 2543/73 ([4]), and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas Council Regulation (EEC) No 3331/82 of 3 December 1982 on food aid policy and food-aid management and amending Regulation (EEC) No 2750/75 ([5]) lays down rules for the implementation of food aid; whereas the said Regulation does not affect the general rules for the mobilization of agricultural products which have to be adopted for the purposes of the common organization of markets;

Whereas, in the light of experience gained during the implementation of food-aid programmes, amendments should be made to the general implementing rules laid down in Commission Regulation (EEC) No 303/77 of 14 February 1977 laying down general rules for the supply of skimmed-milk powder and butteroil as food-aid ([6]), as last amended by Regulation (EEC) No 3474/80 ([7]);

Whereas, to the extent compatible with the commitments entered into by the Community *vis-à-vis* the recipients of Community food-aid, these rules should in particular be more closely aligned on international trading practice as regards deliveries fob and cif;

Whereas, in view of the special requirements relating to Community food-aid supplies and of the characteristics of the milk products supplied to recipients, it would seem justified, in the light of the experience acquired, to provide that responsibility for deliveries should be entrusted only to undertakings approved by the Member State in which they have established their registered office; whereas such approval should be granted to any undertaking engaged in business in the milk products sector; whereas such approval should be withdrawn either temporarily or permanently from any undertaking which commits a serious infringement of any obligation arising from this Regulation;

Whereas Community food-aid programmes provide for the supply of large quantities of skimmed-milk powder, butter and butteroil to certain developing countries and specialist organizations; whereas skimmed-milk powder, butter and the butter from which the butteroil to be supplied has to be manufactured should, as a general rule, be drawn from intervention agency stocks; whereas, however, account being taken of the situation on the market, provision may be made for the purchase of goods on the Community market, particularly in cases where the intervention stocks of skimmed-milk powder or butter do

([1]) OJ No L 148, 28. 6. 1968, p. 13.
([2]) OJ No L 140, 20. 5. 1982, p. 1.
([3]) OJ No 106, 30. 12. 1962, p. 2553/62.
([4]) OJ No L 263, 19. 9. 1973, p. 1.
([5]) OJ No L 352, 14. 12. 1982, p. 1.
([6]) OJ No L 43, 15. 2. 1977, p. 1.
([7]) OJ No L 363, 31. 12. 1980, p. 50.

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not possess the characteristics required for the particular destination concerned;

Whereas the requirements to be met by the products to be supplied as regards quality, composition and packaging should be defined; whereas provision should be made for the appropriate checks to ensure that such requirements are met;

Whereas the general rules provide that, normally, in the case of special deliveries, a tendering procedure should be used to determine the transport costs and, where appropriate, the purchase price; whereas, exceptional cases, notably emergencies, a decision may be taken to use a direct-award procedure; whereas rules should be laid down for the conduct of the said procedures;

Whereas provision should be made, in the event of a change in the intervention prices taking effect after the final date for the submission of tenders, for the amount tendered to be corrected to take account of this change; whereas this correction should be made only on production of proof that the products in question were manufactured after the date on which the new intervention prices took effect;

Whereas Commission Regulation (EEC) No 1687/76 of 30 June 1976 laying down common detailed rules for verifying the use and/or destination of products from intervention ([1]), as last amended by Regulation (EEC) No 775/83 ([2]), should apply where products drawn from intervention stocks are to be supplied as food aid in accordance with this Regulation; whereas, consequently, the adoption of this Regulation entails amendments to the Annex to Regulation (EEC) No 1687/76;

Whereas, in the case of operations involving the supply of products which are not drawn from intervention stocks or goods, manufactured therefrom, proof of the destination of the goods until they left the geographical territory of the Community should continue to be furnished by the production of the control copy referred to in Article 10 of Commission Regulation (EEC) No 223/77 ([3]);

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

HAS ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1

1. Where a decision is taken on Community action to supply skimmed-milk powder, butter or butteroil as food aid, the general rules for mobilization and supply laid down in this Regulation shall apply, without prejudice to the special provisions laid down, where appropriate, for specific cases.

2. Unless there are any provisions to the contrary the general rules laid down in this Regulation shall apply to operations to be carried out at the fob, cif or free-at-destination stage.

3. For the purposes of this Regulation, the countries of the Belgo-Luxembourg Economic Union shall be considered as a single Member State.

4. For the purposes of this Regulation, the recipient may appoint a representative.

The Commission shall publish in the 'C' series of the *Official Journal of the European Communities*, a list of the recipients' representatives in the Community notified to it.

([1]) OJ No L 190, 14. 7. 1976, p. 1.
([2]) OJ No L 86, 31. 3. 1983, p. 8.
([3]) OJ No L 38, 9. 2. 1977, p. 20.

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Article 2

1. Supply shall be effected by an undertaking approved by the competent body in the Member State where the registered office of the undertaking is established. The undertaking, hereinafter referred to as 'the successful tenderer', shall be selected in accordance with one of the procedures laid down in Article 9.

2. Approval shall be granted, on request, to any undertaking:

— which has its registered office in one of the Member States of the Community,

— which is engaged in the manufacture or processing of or trade in milk products or the transport of foodstuffs.

3. Approval shall be withdrawn temporarily or permanently where it is established that an undertaking has committed a serious infringement of any obligation arising from this Regulation.

4. Member States shall notify the Commission of the undertakings to which approval has been granted, together with cases in which approval has been temporarily or permanently withdrawn and the reasons for such withdrawal. The Commission shall notify the Member States accordingly.

TITLE II

PROVISIONS RELATING TO THE PRODUCTS TO BE MOBILIZED

Chapter 1

Special provisions for supplies of skimmed-milk powder and butter

Article 3

1. The skimmed-milk powder or butter to be supplied shall, as appropriate:

(a) be placed at the disposal of the successful tenderer by the intervention agency specified in the notice of invitation to tender, or

(b) come from the Community market and have been produced in the Community.

2. As regards composition, quality and packaging:

(a) the skimmed-milk powder must meet the requirements laid down in Annex I. If the skimmed-milk powder for delivery is to contain vitamin additives, the notice of invitation to tender shall contain a reference to Annex I (B);

(b) the butter must meet the requirements laid down in Annex II;

(c) in special cases, specific requirements as regards composition, quality and packaging may be laid down in the notice of invitation to tender.

3. Where the skimmed-milk powder and butter are to be purchased on the Community market, only products manufactured by undertakings approved by the competent body of the Member State on whose territory the manufacturing or processing took place may be delivered.

Only undertakings which have the appropriate technical facilities for meeting the requirements laid down in this Regulation may be approved. Undertakings which have already obtained the approval provided for in Article 1 of Regulation (EEC) No 985/68 ([1]) and Articles 1 and 3 of Regulation (EEC) No 625/78 ([2]) shall be approved.

Approval shall be withdrawn where the undertakings no longer satisfies the technical requirements laid down. Where a serious infringement of

([1]) OJ No L 169, 18. 7. 1968, p. 1.
([2]) OJ No L 84, 31. 3. 1978, p. 19.

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this Regulation has been committed, approval shall be temporarily or permanently withdrawn.

Article 4

1. If the skimmed-milk powder or butter to be supplied comes from intervention stocks, it shall not be removed from the intervention agency unless a security for delivery has been lodged in accordance with Article 13 (1) and (2) of Regulation (EEC) No 1687/76; the amount of this security shall be equal to the intervention price applicable to the product in question on the closing date for the submission of tenders, plus 10 %. In the event of a subsequent adjustment of intervention prices in national currency, the successful tenderer shall make up the amount of the security accordingly as promptly as possible.

2. The successful tenderer shall check to his own satisfaction that the quantity of skimmed-milk powder or butter made available by the intervention agency corresponds to the quantity to be supplied, and that the packaging of the product is dry, clean and undamaged. The successful tenderer shall waive the right to make any subsequent claim concerning the quantity and packaging.

3. The intervention agency shall immediately make the skimmed-milk powder or butter available to the successful tenderer as follows:

— in the case of a lorry or a railway wagon, loaded on the means of transport at the loading platform of the warehouse, the loading costs shall be borne by the intervention agency; any stowage costs shall be borne by the successful tenderer,

— in the case of any other means of transport, and in particular a container, on the loading platform of the warehouse, the loading costs and, where appropriate, the stowage costs shall be borne by the successful tenderer.

Chapter 2

Special provisions for supplies of butteroil

Article 5

1. The butteroil to be supplied be manufactured, as appropriate, from:

(a) butter placed at the disposal of the successful tenderer by the intervention agency specified in the notice of invitation to tenderer, or

(b) cream or butter which comes from the Community market and has been produced in the Community.

2. The butteroil to be supplied must meet the requirements laid down as regards composition, quality and packaging in Annex III. In special cases, specific requirements as regards composition, quality and packaging may be laid down in the notice of invitation to tender.

3. Only undertakings approved by the competent body of the Member State on whose territory the processing is to take place may be entrusted with the manufacture of the butteroil.

Approval may be granted only to undertakings which have the appropriate technical facilities for meeting the requirements laid down in this Regulation and have premises where any stocks of non-butter fats may be kept separately and identified.

Approval shall be withdrawn where the undertaking no longer meets the technical requirements laid down. Where a serious infringement of this Regulation has been committed, approval shall be temporarily or permanently withdrawn.

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Article 6

1. If the butteroil to be supplied is to be manufactured from butter held by the intervention agency:

(a) the intervention agency shall take the necessary measures to enable interested parties to examine samples of the butter at their own expense before tenders are submitted or directly-awarded contracts are concluded;

(b) the butter shall not be removed from the intervention agency unless a security for delivery has been lodged in accordance with Article 13 (1) and (2) of Regulation (EEC) No 1687/76; the amount of this security shall be equal to the intervention price applicable on the closing date for the submission of tenders, plus 10 %. In the event of a subsequent adjustment of the intervention price in national currency, the successful tenderer shall make up the amount of the security accordingly as promptly as possible.

2. The successful tenderer shall check to his own satisfaction that the quantity of butter made available by the intervention agency corresponds to the quantity of butteroil to be supplied, account being taken of the provisions of paragraph 5, and that the packaging is dry, clean and undamaged.

The successful tenderer shall waive the right to make any subsequent claim concerning the quantity, packaging quality or nature of the butter made available by the intervention agency.

3. The successful tenderer shall undertake to manufacture the butteroil to be supplied only from the butter removed from the intervention agency for that purpose.

4. The intervention agency shall make the butter available to the successful tenderer without delay, in accordance with the provisions of Article 4 (3).

5. The quantities of butter made available to the successful tenderer by the intervention agency must be processed into butteroil with a minimum fat content of 99,8 % and must yield at least 100 kilograms of butteroil per:

— 122 kilograms of butter used where the fat content of the butter is 82 % or more,

— 125 kilograms of butter used where the fat content of the butter is less than 82 %.

Chapter 3

Common provisions for supplies of skimmed-milk powder, butter and butteroil

Article 7

Member States shall take the measures necessary to ensure that the health standards in force on their territory are met and that there is no fat other than butterfat in the products supplied under this Regulation.

Article 8

1. If the skimmed-milk powder or butter to be supplied is purchased on the Community market, the competent body of the Member State in which the tender was lodged shall check that the composition, quality and packaging of the products comply with the conditions laid down in Chapter 1 of this Title.

2. Where the skimmed-milk powder is to contain vitamin additives, or where the butter is to be processed into butteroil, the competent body of the Member State concerned shall check that the provisions laid down in Chapters 1 and 2 of this Title have been complied with during the manufacturing process.

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3. The competent body of the Member State shall issue a certificate on completion of the checks referred to in paragraphs 1 and 2. The cost of these checks shall be borne by the successful tenderer.

4. For the purposes of the check referred to in paragraph 2, the successful tenderer shall notify the competent control body, in writing, of the date when manufacture is to begin, at least three working days before that date. The lots to be supplied may be dispatched from the place of manufacture and packaging only after authorization by the competent body.

5. From the time when the checks referred to in paragraphs 1 and 2 are completed, the products shall be subject to customs control, or to a form of administrative control offering equivalent guarantees, up to the time when they have left the geographical territory of the Community.

6. The quantities supplied shall be checked when subjected to the control referred to in paragraph 5.

TITLE III

TENDERING AND DIRECT AWARD PROCEDURES

Article 9

1. In order to determine the costs of supply including, where appropriate, the price for the purchase or the manufacture and packaging of the skimmed-milk powder, butter or butteroil, a tendering procedure shall be held in accordance with the rules laid down in Articles 10 to 14.

2. In cases of emergency action, however, or when the amounts involved are relatively small, it may be decided to instruct an intervention agency to adopt a direct-award procedure which shall be subject to the rules laid down in Article 15.

3. The party to whom the contract is awarded under a direct-award procedure shall be deemed to be the successful tenderer within the meaning of this Regulation with effect from conclusion of the contract. In such a case the provisions of the contract shall be binding upon the contracting party in the same manner as the provisions of the tendering procedure are binding upon the successful tenderer.

Article 10

Where a decision is taken to hold a tendering procedure, a notice of invitation to tender, drawn up in accordance with Annex IV, shall be published in the *Official Journal of the European Communities*, as an Annex to the Regulation opening the tendering procedure, at least 12 days before the closing date for the submission of tenders.

The intervention agencies may publish notices elsewhere.

Article 11

1. Interested undertakings which have been approved in accordance with Article 2 shall participate in the tendering procedure either by lodging tenders in writing, against acknowledgement of receipt, with the intervention agency concerned, or by sending tenders to the intervention agency by registered letter or telex.

Tenders must reach the intervention agency concerned before 12 noon, local time, on the closing date for the submission of tenders specified in the notice of invitation to tender.

2. If the goods to be supplied are drawn from intervention stocks or manufactured therefrom, tenders shall be submitted to the intervention agency specified in the notice of invitation to tender.

If the goods to be supplied are manufactured from products coming from the Community market, tenders shall be submitted to the intervention agency of the Member State in which the goods are to be manufactured and packaged.

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In other cases, tenders shall be submitted to the intervention agency of the Member State in which the customs export formalities are to be completed.

3. Where the invitation to tender is in respect of several lots, each tender shall relate to one lot only.

A tender shall be valid only if it relates to the whole of a lot.

The notice of invitation to tender may, however, provide that tenders are still valid if they relate only to a partial quantity amounting to 500 tonnes or a multiple of 500 tonnes from the total lot concerned. In this case, a tenderer whose tender relates to a multiple of 500 tonnes shall state the minimum partial quantity which may be awarded to him.

4. A tender shall be valid only if it states:

(a) the reference number of the tendering procedure;

(b) the name and address of the tenderer;

(c) the description and the net weight of the lot to which the tender relates;

(d) a single Community port of shipment, accessible to ocean-going vessels.

In the case of supply fob this port shall be selected because of the existence of a connection with the country of destination during the shipment period specified in the notice of invitation to tender. This connection may involve one transhipment in another European Community port, which must also be indicated in the tender;

(e) the amount tendered, exclusive of taxes, including the transport costs referred to at (f), expressed in the currency of the Member State to which the tender is submitted and to which the tenderer gives an undertaking to make the supply concerned on the terms laid down;

(f) as a separate item:

— the transport costs to the port of shipment designated in accordance with the conditions set out at (d) above and the loading costs,

— in the case of supplies cif and free-at-destination, the costs relating to sea transport and unloading and, if necessary, inland transport to the final place of destination.

5. A tender which is not submitted in accordance with the provisions of this Article or which contains conditions other than those laid down in respect of the tendering procedure shall not be accepted.

6. No tender shall be valid unless it is also accompanied by:

(a) proof of the approval referred to in Article 2 (1);

(b) proof that the tendering security referred to in Article 12 has been lodged before the final date for submission of tenders;

(c) an undertaking from the tenderer that he will abide by the provisions of this Regulation and the conditions of the tendering procedure;

(d) in the case of a delivery of butteroil, the document certifying the approval referred to in Article 5 (3) and, where appropriate, the undertaking referred to in Article 6 (3);

(e) an undertaking by the tenderer to apply as promptly as possible for an export licence as provided for in Article 4 (2) of Regulation (EEC) No 2729/81 in respect of any quantities for which he is awarded a contract;

(f) an undertaking by the tenderer that he will comply with the obligations set out in Article 18, and in particular paragraphs 1 and 2 thereof, in the case of supply cif, or in Article 19, and in particular paragraph 1 thereof, in the case of delivery free-at-destination;

(g) in the case referred to in the second subparagraph of paragraph 4 (d), evidence of the existence of a connection with the country of

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destination during the shipment period specified in the notice of invitation to tender.

7. Tenders may not be withdrawn.

Article 12

1. The tendering security shall be:

— in the case of goods drawn from intervention stocks or goods manufactured therefrom, 1 % of the intervention price,

— in the case of goods purchased on the Community market or goods manufactured therefrom, 3 % of the intervention price,

for skimmed-milk powder or butter, as the case may be, applicable to the quantity to which the tender relates or, in the case of butteroil, to the quantity of butter which corresponds to the quantity to which the tender relates, account being of the provisions of Article 6 (5), on the final date for the submission of tenders.

2. The tendering security shall be lodged, at the option of the tenderer, either in cash or in the form of a guarantee given by a credit establishment which satisfies the criteria laid down by the Member State with which the security is lodged.

Each Member State shall communicate the criteria referred to in the preceding subparagraph to the Commission, which shall inform the other Member States thereof.

Article 13

1. 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 shall be fixed in ECU for each lot or part thereof or a decision shall be taken to make no award. Tenders higher than the maximum amount shall be excluded.

2. For the purpose of comparing tenders in the case of a tendering procedure relating to the supply of goods purchased on the Community market or goods manufactured therefrom:

(a) each tender shall be corrected by the monetary compensatory amount applicable in the Member State concerned on the final day for the submission of tenders. The correction shall take the form:

— either of an increase in the amount of the tenders submitted in a Member State with a negative monetary compensatory amount,

— or of a reduction in the amount of the tenders submitted in a Member State with a positive monetary compensatory amount.

(b) The rate of exchange to be used for the conversion into ECU of tenders in national currencies thus corrected shall be:

— in the case of currencies maintained at all times within a maximum spread of 2,25 %, the central rate for the currency in question,

— in all other cases, the average of the spot exchange rates for the currency in question over the period from a given Wednesday to the following Tuesday directly preceding the final day for the submission of tenders. The Commission shall notify the Member States of the said average.

3. In the case of a tendering procedure relating to the supply of goods drawn from intervention stocks or goods manufactured therefrom, the rate to be used for the conversion into ECU of tenders submitted in national currencies shall be the rate referred to in paragraph 2 (b).

Article 14

1. Where the maximum amount referred to in Article 13 (1) has been fixed, the contract shall be awarded to the tenderer whose tender is the lowest, or in the case referred to in the third subparagraph of

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Article 11 (3), to the tenderers whose tenders are the lowest, when converted into ECU in accordance with Article 13.

Where several tenders propose the same amount for one lot when converted into ECU, the contract shall be awarded by the drawing of lots.

2. Where a decision is taken to make no award, a second period for the submission of tenders shall begin. This period shall expire on the date set for this purpose in the original notice of invitation to tender.

3. Each tenderer shall immediately be informed by the intervention agency of the outcome of his participation in the tendering procedure.

4. The intervention agency shall immediately notify the Commission of the name and address of the successful tenderer and the port of shipment specified in his tender.

Article 15

1. Where a decision is taken to instruct an intervention agency to determine the costs of supply by a direct-award procedure, the intervention agency appointed for the purpose shall, after inviting tenders from several tenderers, conclude the contracts which specify the most favourable terms in relation to the prices obtaining on the market.

2. The provisions laid down in Articles 11 and 12 as regards the tendering procedure shall also apply to the direct-award procedure.

3. The intervention agency shall immediately forward to the Commission a copy of the contract(s) concluded under the direct-award procedure.

TITLE IV

OBLIGATIONS OF THE SUCCESSFUL TENDERER AND CONDITIONS RELATING TO THE SUPPLY OF PRODUCTS

Article 16

1. The successful tenderer must fulfil his obligations in accordance with the conditions laid down in the notice of invitation to tender and comply with the undertakings referred to in this Regulation, including those arising from his tender.

He shall ensure that the said undertakings are properly implemented and shall grant all possible assistance to this end.

2. The successful tenderer may not unilaterally cancel the operation for which he has been awarded the contract.

3. The rights and obligations arising from the award shall not be transferable.

4. The successful tenderer shall provide the competent bodies concerned with the necessary information as promptly as possible for immediate transmission to the Commission.

Article 17

In the case of supplies fob, the following provisions shall apply:

1. The successful tenderer shall duly reach agreement with the recipient, within the shipment period specified in the notice of invitation to tender, on the place of loading and the date on which the loading of goods is to begin at the port of shipment specified in his tender. He shall immediately communicate these particulars to the body responsible for payment, which shall inform the Commission accordingly, and shall state the name of the vessel notified to him by the recipient.
2. Where the product is drawn from intervention stocks, the successful tenderer shall determine the schedule for the removal of the goods in agreement with the intervention agency concerned.

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3. The successful tenderer shall deliver the goods on board the vessel designated by the recipient in accordance with a loading schedule adopted in agreement with the latter, having regard to the customary practice at the port. Stowage costs, if any, shall not be charged to the successful tenderer.

   Supply must be completed by the end of the shipment period specified in the notice of invitation to tender.

4. The successful tenderer shall, having regard to the customary practice at the port, bear all the risks, and in particular those of loss or deterioration, to which the goods are subject until they have effectively passed the ship's rail at the port of shipment or, in the case of transport by liner service, until the taking-over certificate has been issued by the recipient.

5. Where the recipient is unable to take delivery of the goods at the port of shipment either on the date agreed pursuant to point 1 or on any other date within the shipment period specified in the notice of invitation to tender, the body responsible for payment shall extend the shipment period, by a maximum of 30 days. Where such an extension is not sufficient, the said body shall, upon agreement by the Commission, allow a further extension not exceeding 30 days.

   The successful tenderer shall be required to accept any extension which does not exceed 60 days from the end of the shipment period as specified in the notice of invitation to tender.

   At the end of a 60-day extension, the successful tenderer shall, at his request, be released from his obligations by the body concerned, which shall so inform the Commission immediately. In such cases the Commission shall take appropriate action.

   The costs arising from any extension to the shipment period shall be determined and paid in accordance with Article 24 (1).

Article 18

In the case of supplies cif, the following shall apply:

1. The successful tenderer shall arrange for transport by the fastest usual sea route to the port of destination specified in the notice of invitation to tender and shall conclude a contract at his own expense, on the usual terms, for the carriage of the goods.

   Marine transport shall be in vessels meeting all the technical and health requirements for the transport of milk products. Vessels shall be not more than 15 years old in the case of transport by charter service and not more than 25 years old in the case of transport by liner service.

   In the event of default or of unsatisfactory transportation the successful tenderer shall, at the recipient's request, make all the necessary transport arrangements, including charter reservations.

2. The successful tenderer shall insure the goods and shall provide at his own expense a marine insurance policy endorsed to the order of the recipient. With the exception of cases of *force majeure* this policy shall cover all risks associated with carriage, transhipment, where appropriate, and unloading, including all cases of non-delivery and loss, without exclusion of particular average.

   The goods shall be insured for at least the amount of the tender increased by the amount of the security referred to, as the case may be, in Articles 4 (1) or 6 (1) (b), in the case of goods drawn from intervention stocks or goods manufactured therefrom, minus the refund applicable on the day when the insurance policy was taken out.

3. Where the goods are drawn from intervention stocks, the successful tenderer shall determine the schedule for their removal in agreement with the intervention agency concerned.

4. The successful tenderer shall communicate to the recipient and to the body responsible for payment the name of the vessel, the loading

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date and the expected date of arrival at the port of unloading, as soon as these particulars come to his knowledge.

The body concerned shall immediately inform the Commission accordingly. In the case of transport by charter, the successful tenderer shall stipulate in the transport document that the captain must advise the recipient at least 72 hours in advance of the date of arrival at the port of unloading.

5. The successful tenderer shall bear the cost of loading the goods on board the vessel. He shall bear the freight and unloading charges, including wharfage and any lighterage charges. Where the goods are supplied in containers, the cost of unloading the goods from the containers shall not be charged to the successful tenderer.

6. Any demurrage at the port of unloading shall be charged to the successful tenderer. In exceptional circumstances these costs may be settled by the body concerned at its request, with the agreement of the Commission.

7. The successful tenderer shall furnish the recipient, immediately after shipment of the goods, with:

   — the clean, non-negotiable bill of lading, made out to the order of the recipient, for the port of destination specified,

   — a copy of the insurance policy referred to in point 2,

   — where appropriate, the charter party.

   If the recipient is not present at the time of shipment, the second subparagraph of Article 21 (2) shall apply.

8. The successful tenderer shall bear all the risks, in particular those of loss or deterioration, to which the goods are subject, until they have effectively passed the ship's rail at the port of shipment.

Article 19

In the case of supplies free-at-destination, the following provisions shall apply:

1. The successful tenderer shall arrange for transport to the final destination by the fastest route and shall conclude the requisite contracts for the carriage of the goods. He shall bear all the costs relating thereto and the costs of unloading and placing them in a warehouse at the destination. He shall accordingly take out appropriate insurance cover.

2. Where the goods are drawn from intervention stocks, the successful tenderer shall determine the schedule for their removal in agreement with the intervention agency concerned.

3. The successful tenderer shall bear all the risks, and in particular those of loss or deterioration, to which the goods are subject until they have effectively been delivered and unloaded at the warehouse at their destination.

4. The successful tenderer shall, as soon as possible, notify the recipient of the date of loading, the means of transport used for forwarding the goods to their final destination and the expected date of arrival of the goods. He shall also communicate to the recipient the particulars specified in Article 20 (1) (a), (b) and (c). He shall send this information immediately to the body responsible for payment, which shall inform the Commission accordingly.

   The successful tenderer shall notify the recipient of the probable date of arrival of the goods at their final destination, at least three days before this date.

Article 20

1. The successful tenderer shall submit, before the loading of the goods at the port of shipment, to any checks requested in good time and paid for by the recipient concerning the quality, quantity and

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packaging of the goods supplied. For that purpose the successful tenderer shall hand over a list containing the following particulars:

(a) the quantity, type, markings and numbers of the packages;

(b) the gross and net weight of the goods;

(c) where appropriate, the serial number of the control copy T No 5 referred to in Article 22 (2);

(d) where appropriate, a copy of the control certificate referred to in Article 8 (3).

2. If, as a result of the checks referred to in paragraph 1, the recipient disputes the quality, quantity or packaging of the goods, the intervention agency of the country of shipment, in conjunction with the intervention agency or agencies concerned, shall arrange for a second check to be made before the loading of the goods at the port of shipment, and the results of this check shall be final. Any costs arising therefrom shall be borne by the losing party, including the costs entailed by failure to observe the period of shipment as specified in the notice of invitation to tenderer or as extended in accordance with Article 17 (5).

3. Where the decisive check reveals that the goods do not satisfy the requirements, the goods must be replaced by the successful tenderer. Where the quantity is deficient the successful tenderer shall make up the deficiency.

Where the goods are drawn from intervention stocks or manufactured therefrom, the Commission shall, if necessary, take appropriate measures.

Article 21

1. In the case of supplies fob and cif, a taking-over certificate shall be issued to the successful tenderer by the recipient immediately after the goods have been loaded at the port of shipment and, in the case of delivery cif, after the successful tenderer has furnished the bill of lading, the copy of the marine insurance policy and, where appropriate, the charter-party, in accordance with Article 18 (7).

The taking-over certificate shall contain the details listed in Annex V.

2. Where the recipient fails to issue the certificate and provided that there is no dispute concerning the goods, the intervention agency of the country of shipment shall issue the successful tenderer with a certificate drawn up in accordance with Annex V, upon presentation of the supporting documents referred to in Article 20 (1) plus, in the case of supply cif, the bill of lading, the marine insurance policy and, where appropriate, the charter-party.

In such cases, the intervention agency shall immediately forward the bill of lading, the marine insurance policy and, where appropriate, the charter-party to the Commission. These documents shall be sent by the Commission to the recipient.

3. In the case of supply free-at-destination, a taking-over certificate shall be issued by the recipient in accordance with the specimen in Annex V, immediately after the goods have been unloaded at the warehouse at their final destination.

Where the recipient fails to issue the taking-over certificate and provided that there is no dispute concerning the goods, proof of supply may be furnished by means of a certificate drawn up in accordance with Annex V, endorsed by the Community delegate in the country of destination, or, failing this, by the embassy of one of the Member States of the Community.

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TITLE V

SPECIAL RULES ON THE USE OF THE CONTROL COPY

Article 22

Where the goods to be supplied are neither drawn from nor to be manufactured from products coming from intervention agency stocks, the following provisions shall apply:

1. The customs export formalities shall be completed in the Member State in which the tender was submitted.

2. Where the goods leave the geographical territory of the Community from a Member State other than that in which the customs export formalities were completed, the goods shall, from the time of completion of the said formalities until termination of the checks referred to in Article 8 (5), be accompanied by the control copy T No 5 referred to in Article 10 of Regulation (EEC) No 223/77.

3. The control copy T No 5 shall be issued only on production of the certificate referred to in Article 8 (3); this certificate shall be numbered and shall contain the following details:

   — a description of the goods as it should appear in box 41 of the control copy T No 5 and, where appropriate, any other information necessary for control purposes,

   — the quantity, type, markings and numbers of the packages,

   — the gross weight and the net weight of the goods,

   — a reference to this Regulation.

   A copy of this certificate shall be kept the customs office which issues the control copy T No 5.

4. The 'additional information' section of the control copy T No 5 shall be completed as follows:

   box 101: by entering the Common Customs Tariff heading or subheading within which the goods fall;

   box 104: by deleting the word 'others' in the second indent and adding one of the following entries:

   — 'For export as food aid (Regulation (EEC) No 1354/83)',
   — »Bestemt til udførsel som fødevarehjælp (forordning (EØF) nr. 1354/83)«,
   — „Zur Ausfuhr als Nahrungsmittelhilfe (Verordnung (EWG) Nr. 1354/83)“,
   — «Προς εξαγωγή στο πλαίσιο της επισιτιστικής βοήθειας (κανονισμός (ΕΟΚ) αριθ. 1354/83)»
   — «Destiné à être exporté au titre de l'aide alimentaire (règlement (CEE) nº 1354/83)»,
   — «Destinato ad essere esportato a titolo di aiuto alimentare (regolamento (CEE) n. 1354/83)»,
   — „Bestemd om te worden uitgevoerd als voedselhulp (Verordening (EEG) nr. 1354/83)”,
   ►M2 — «Destinado a ser exportado como ayuda alimentaria (Reglamento (CEE) nº 1354/83)». ◄

   box 106: by indicating the number of the certificate referred to in point 3.

5. As regards the use of the control copy T No 5, Articles 8 and 14 of Regulation (EEC) No 1687/76 shall apply *mutatis mutandis* to goods purchased on the Community market or goods manufactured therefrom.

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TITLE VI

CONDITIONS FOR PAYMENT AND RELEASE OF SECURITIES

Article 23

1. Payment to the successful tenderer shall be made in accordance with Article 3 of Regulation (EEC) No 249/77 by the intervention agency to which the tenderer was submitted.

2. The amount to be paid shall be the amount tendered. However, in the case of goods purchased on the Community market or goods manufactured therefrom, the amount of the tender shall be corrected, where appropriate, to reflect the increase in the intervention price applicable to butter or skimmed-milk powder, expressed in the currency of the Member State in which the tender was submitted, between the final date for the submission of tenders and the date of issue of the certificate referred to in Article 8 (3). In the case of butteroil, the correction shall be calculated on the basis of the change in the intervention price for butter multiplied by a coefficient of 1,22 or 1,25, depending on whether the fat content of the butter used was at least 82 % or was less than 82 %. The successful tenderer may not claim payment under this provision until the seventh day after the entry into force of the new intervention prices and only if he furnishes proof that the basic product, whether butter or skimmed-milk powder, was manufactured after the entry into force of the new intervention prices.

3. The amount due shall be paid only on production of the following supporting documents:

(a) the original of the taking-over certificate referred to in Article 21, drawn up by the recipient or by the intervention agency pursuant to Article 21 (2), or the certificate referred to in the second subparagraph of Article 21 (3);

(b) where appropriate, the quality control certificate referred to in Article 8 (3);

(c) in the case of goods drawn from intervention stocks or goods manufactured therefrom, the proof referred to in Article 12 of Regulation (EEC) No 1687/76;

(d) in the case of goods purchased on the Community market or goods manufactured therefrom, the control copy T No 5 referred to in Article 22 (2) to (5) or, if the destination has been checked only by the authorities of a single Member State, the proof of exportation required by that Member State;

(e) in the case of supply cif, a copy of the bill of lading, the marine insurance policy, and, where appropriate, the charter party.

4. At the request of the successful tenderer, the body concerned may make payment proportional to the quantities of goods in respect of which the supporting documents listed above have been provided.

5. In the case of supply free-at-destination of goods bought on the Community market or goods manufactured therefrom, the body responsible for payment shall, at the request of the successful tenderer and on production of the supporting documents referred to in paragraph 3 (b) and (d), make a payment on account.

However, such payment on account may not exceed 90 % of the sum payable. The payment on account shall be made only if the successful tenderer lodges, under the terms of Article 12 (2), a security equal to the payment on account plus 10 %.

6. In the case of supply fob or cif, the supporting documents referred to in paragraph 3 shall be submitted to the body responsible for payment within six months of the expiry date of the shipment period as specified in the notice of invitation to tender or as extended in accordance with Article 17 (5).

In the case of supply free-at-destination, the supporting documents shall be submitted within nine months of the said expiry date.

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7. If the supporting documents referred to in paragraph 3 are produced after the time limits laid down in paragraph 6, payment shall be made in full. Moreover, the provisions of Article 26 (4) shall apply.

Article 24

1. In the case of supply fob, any costs arising as a result of the recipient's making the vessel available at a date which makes it impossible to observe the shipment period as specified in the notice of invitation to tender, having regard to the requirements laid down in Article 17 (3), or arising as a result of an extension of the shipment period in accordance with Article 17 (5), or arising from the fact that the vessel is unsuitable for the cargo, shall be determined by the body concerned and paid by the latter, upon agreement by the Commission, to the successful tenderer on production of supporting documents.

Such additional costs shall be the following, excluding any administrative costs:

— storage and insurance costs,

— financing costs, on the basis of the rate obtaining in the Member State responsible for payment.

Such costs shall be calculated for the period beginning on the day following the last day of the shipment period as specified in the notice of invitation to tender and ending either on the date on which loading is effectively commenced, or at the end of the period referred to in Article 17 (5) in the event that the successful tenderer is released from his obligations.

2. In the case of supply free-at-destination, the additional storage, insurance and financing costs entailed by delays not attributable to the successful tenderer of more than 15 days between delivery of the goods to the warehouse at their destination and the issue of the taking-over certificate by the recipient shall be reimbursed to the successful tenderer, on production of supporting documents, by the body responsible for payment, upon agreement by the Commission; the additional financing costs shall be assessed on the basis of the rates obtaining in the Member State responsible for payment.

3. If, after the award has been made, the Commission designates a port of shipment, transhipment or unloading or a final destination other than those originally scheduled, the successful tenderer shall deliver the goods to the new port or new place of destination. The body concerned shall reach agreement with the successful tenderer, upon agreement by the Commission, on the decrease or increase in the amount to be paid as compared with the amount specified in the successful tender.

By submitting a duly reasoned request, however, the successful tenderer may be released from his obligations by the body responsible for payment, which shall so inform the Commission immediately. In such cases, the Commission shall take appropriate action.

4. If the successful tenderer has had to bear, in respect of supply made pursuant to this Regulation, unforeseeable costs which could not be covered by insurance, he may have them taken over by the body responsible for payment on production of supporting documents and upon agreement by the Commission.

Article 25

1. The successful tenderer shall bear all the financial consequences of a failure to supply some or all of the goods on the terms stipulated, if the recipient has made supply possible on such terms.

If, for reasons attributable to the successful tenderer, shipment has not been made within three months of the expiry date of the shipment period as specified in the notice of invitation to tender or as extended in accordance with Article 17 (5), the body responsible for payment shall release the successful tenderer from his obligations. In such cases the Commission shall take appropriate action.

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2. The costs arising from a failure to supply the goods as a result of a case of *force majeure* shall be borne by the body responsible for payment.

Article 26

1. The tendering security referred to in Article 12 shall be released only where:

(a) the tenderer did not withdraw his tender before the contract was awarded and where:

— in the case referred to in the first indent of Article 12 (1), the delivery security provided for, as the case may be, in Article 4 (1) or 6 (1) (b) has been lodged in accordance with Article 13 of Regulation (EEC) No 1687/76,

— in the case referred to in the second indent of Article 12 (1), the supporting documents referred to in Article 23 (3) have been forwarded to the body concerned;

(b) the tender is not valid or has not been accepted, or where no contract has been awarded.

2. The delivery security referred to in Article 4 (1) and 6 (1) (b) shall be released as provided for in paragraph 4 only where the supporting documents referred to in Article 23 (3) have been forwarded to the body concerned.

3. The security referred to in the second subparagraph of Article 23 (5) shall be released as provided for in paragraph 4 only on production of a certificate as referred to in Article 23 (3) (a).

4. All securities shall be released as soon as the requisite supporting documents have been produced. The securities shall be forfeit if the supporting documents have not been produced within the time limits specified in Article 23 (6), subject to paragraphs 5 and 6. If, however, the supporting documents are produced after the prescribed time limits and within 24 months of the expiry date of the shipment period as specified in the notice of invitation to tender or as extended in accordance with Article 17 (5), 80 % of the securities in question shall be returned to the successful tenderer.

5. Where, for reasons attributable to the successful tenderer, the shipment period as specified in the notice of invitation to tender or as extended in accordance with Article 17 (5) has not been observed, the body concerned shall withhold, for each day's delay, in proportion to the quantities not shipped:

— 1 % of the amount of the tendering security in the case of goods purchased on the Community market or goods manufactured therefrom,

— 0,03 % of the amount of the delivery security in the case of goods drawn from intervention stocks or goods manufactured therefrom.

6. All the securities shall be forfeit in the event of the successful tenderer's being released from his obligations in accordance with the second subparagraph of Article 25 (1).

7. At the request of the successful tenderer, the bodies concerned shall release the securities in proportion to the quantities of goods in respect of which the requisite supporting documents have been provided.

8. All the securities shall be released as soon as the successful tenderer is released from his obligations in accordance with Article 17 (5) or the second subparagraph of Article 24 (3).

9. Where the successful tenderer has been unable to fulfil his obligations because of circumstances recognized as a case of *force majeure* by the body responsible for payment, the securities shall be released immediately.

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Article 27

1. Where a case of *force majeure* occurs during the control period referred to in Article 8 (5), Article 11 of Regulation (EEC) No 1687/76 shall apply.

2. In any other case of *force majeure,* the body concerned shall decide on the measures which it considers necessary in the light of the circumstances involved and shall inform the Commission thereof without delay.

TITLE VII

FINAL PROVISIONS

Article 28

No refund or compensatory amount, whether monetary or accession, shall be applied to skimmed-milk powder, butter or butteroil supplied as food aid.

Article 29

1. Where a single food-aid operation involves several bodies in different Member States, the latter shall communicate to each other with the minimum delay all the information necessary for carrying out their respective tasks and for the successful conclusion of the operation.

2. The bodies which take part in a food-aid operation shall communicate without delay to the Commission the information relating to the implementation of the operations for which they are responsible.

Article 30

1. Regulation (EEC) No 303/77 is hereby repealed. It shall, however, continue to apply to operations for which the notice of invitation to tender is published before this Regulation applies.

2. The Annex to Regulation (EEC) No 1687/76 is hereby amended in accordance with Annex VI. Article 3 (2) of Regulation (EEC) No 1687/76 shall not apply to deliveries carried out under this Regulation.

Article 31

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Communities*.

It shall apply from ►**M1** 1 August 1983 ◄.

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

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ANNEX I

MILK POWDER

A. SKIMMED-MILK POWDER

1. **Composition and quality requirements**

The composition and the quality must conform to the specifications laid down in Annex I (1) to Commission Regulation (EEC) No 625/78 of 30 March 1978.

2. **Control methods**

The control methods must conform to the specifications laid down in Annex I (2) (a) and (b) to Commission Regulation (EEC) No 625/78 of 30 March 1978.

3. **Packaging and storage requirements**

The packaging must conform to the specifications laid down in Annex II to Commission Regulation (EEC) No 625/78 of 30 March 1978.

4. **Marking requirements**

The bags shall bear, the following information in the language(s) specified in the notice of invitation to tender:

(a) the description 'spray skimmed-milk powder';

(b) the words 'Gift of the European Economic Community', plus the particulars given in the notice of invitation to tender;

(c) the net weight;

(d) the month and year of manufacture;

(e) the processing undertaking either in code or in clear;

(f) the number of the Regulation authorizing the tendering procedure and the description of the lot as given in the notice of invitation to tender.

This information must appear on at least one side of the bag and cover at least one-third of the surface area. If glue is used for labelling, it must be water-resistant.

B. VITAMINIZED SKIMMED-MILK POWDER

1. **Composition and quality requirements**

The composition and quality must conform to the specifications laid down in Annex I (1) to Commission Regulation (EEC) No 625/78 of 30 March 1978.

The following requirements must also be met:

— vitamin A content in IU/100 grams: 5 000 to 10 000,

— vitamin D content in IU/100 grams: 500 to 1 000,

— the vitamin mixture incorporated into the milk must be guaranteed to contain 10 times as much vitamin A as vitamin D. The vitamins incorporated in the milk must be of pharmaceutical quality and produced for human consumption. The vitamin A must be in the form of palmitate and/or acetate.

2. **Age requirements**

Vitaminized skimmed-milk powder must have been manufactured not more than one month (counting from the first day of the first full week following manufacture) before the control certificate referred to in Article 8 (3) is issued.

3. **Control methods**

The control methods shall be those specified in Annex I (2) (a) and (b) to Commission Regulation (EEC) No 625/78 of 30 March 1978.

In addition, the 10:1 ratio between the vitamin A and vitamin D concentrations and also the actual content of these vitamins in the preparation to be

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added to the skimmed-milk powder shall be guaranteed by the producer and/or by the supplier in writing.

The competent agency of the Member State concerned shall scrutinize the supporting documents for the guarantee in order to check on the manufacture, the standardization of the vitamin A and D content and the packaging of the preparation. It may also take samples for laboratory analysis.

Only products meeting the above requirements may be added to skimmed-milk powder to enrich it with vitamins A and D. The information on the preparations of vitamins A and D used allowing the following to be identified:

— materials in and materials out and quantities used,

— the name and the address of the producer and/or of the supplier,

— the enrichment procedure used,

— the date of utilization,

must be entered in a register that the manufacturer of vitaminized skimmed-milk powder shall be obliged to keep.

The competent agency of the Member State concerned shall be responsible for checking that the obligations set out above are met.

In order to check the vitamin A and D contents required under paragraph 1, the competent intervention agency of the Member State concerned shall:

— determine the vitamin A content by laboratory analysis,

— calculate the vitamin D content using the results of the analysis mentioned in the preceding indent, on the basis of a 10:1 ratio between the concentrations of the said vitamins.

The reference method used to determine the vitamin A content shall be that given in Commission Directive 73/46/EEC of 5 December 1972 or in IDF working paper E 46 Vitamin A — Doc. 11 (October 1981).

The reference method used to determine the vitamin D content in the preparation to be added to the skimmed-milk powder shall be that given in AOAC Methods (1980) 43 079, page 751.

4. **Packaging and storage requirements**

The conformity of the packaging with the requirements set out below shall be certified by a packaging body approved by the Member State concerned which shall provide a detailed report together with a description of the technical characteristics of the packaging materials. The certificates of conformity shall be valid for 12 months only.

4.1. *Packages with a net content of 1 000 and 2 000 grams*

The vitaminized skimmed-milk powder shall be packed in closed sachets heat-sealed at both ends, of sufficient length, provided with a clip so that they can be closed again after opening, and meeting the criteria set out in (a) below.

For transportation, the filled sachets shall be packed by 20-kilogram lots in cartons or other outer packaging meeting the criteria set out in (b) below.

(a) Characteristics of sachets

(aa) Polyethylene film suitable for contact with foodstuffs:

— tensile strength in accordance with ISO Standard No 1184 (speed of traction 500 mm/minute), minimum: 15 N/mm,

— resistance to a dart impact test in accordance with ASTM Standard No D 1709, minimum: 120 grams.

(ab) the resistance of heat-seals undergoing tensile strength tests determined under the same conditions as that of the film must be at least 11 N/mm.

The above characteristics shall be tested on 20 empty sachets which have been heat-sealed.

(b) Packaging of sachets for transportation

The outer packaging must provide the best possible fit, leaving minimum space between the sachets. If glue is used for making up or sealing the outer packaging, it must be water-resistant. If adhesive tape is used, it must not become unstuck in a damp atmosphere.

Complete packages prepared for shipment and stored prior to testing in accordance with ISO Standard No 2233 for one week at 20 ºC and a

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relative humidity of 90 % must be capable of surviving the following tests:

(ba) Three vertical drops from a height of 1,5 metres

This test must be carried out in accordance with ISO Standard No 2248, on three different edges relating to different axes in the case of parallelipiped packages or on each of the three smallest cross-sections in the case of other packages within the meaning of ISO Standard No 2206, with the package suspended in such a way that its centre of gravity is vertical to the point of release.

(bb) Minimum resistance to compression: 10 000 N

This test shall be carried out in accordance with ISO Standards No 2872 and No 2874, with the package placed in the normal transportation position.

Both tests shall be carried out on five complete packages; after the tests:

— the packages may be deformed but they must remain whole and may not be torn,

— the sachets must not leak.

4.2. *Packages with a net content of 25 kilograms plus 25 empty sachets*

The vitaminized skimmed-milk powder shall be packed in new, clean, dry and intact bags meeting the requirements laid down in Annex II (1) (c) to Commission Regulation (EEC) No 625/78.

The 25 empty sachets supplied with the vitaminized skimmed-milk powder must have the characteristics described in paragraph 4 (1) (a). They must have general dimensions allowing them to be filled manually with 1 000 grams of vitaminized skimmed-milk powder and to be sealed without difficulty using clips which shall also be supplied.

The 25 empty sachets with their sealing clips shall be inserted together between the four-ply bag and the internal polyethylene liner bag such that they are positioned near the top of the bag; the top of the bag shall be defined by the orientation of the lettering on the package.

The inner polyethylene liner bag must not develop a leak after the package has been sealed.

4.3. *Packages with a net content of 25 kilograms*

The vitaminized skimmed-milk powder shall be packed in new, clean, dry and intact bags meeting the requirements laid down in Annex II (1) (c) to Commission Regulation (EEC) No 625/78.

The inner polyethylene liner bag must not develop a leak after the package has been sealed.

5. **Marking requirements**

The marking requirements shall be the same as those given under A (4), except for the following: (a) the description, which shall be ‘vitaminized spray skimmed-milk powder’.

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ANNEX II

BUTTER

1. **Composition and quality requirements**

1.1. *Composition requirements:*

(a) milk-fat content, not less than:	82,0 %
(b) solids-non-fat content, not more than:	2,0 %
(c) water content, not more than:	16,0 %

1.2. *Quality requirements:*

As specified in the notice of invitation to tender.

2. **Control methods**

Without prejudice to the measures concerning the harmonization of analytical methods, the following reference methods are compulsory for the application of this Regulation:

(a) water, solids-non-fat and fat content (same test sample):	IDF International Standard 80 (1977)
(b) water content:	IDF International Standard 10 (1960)
(c) solids-non-fat content:	IDF International Standard 11 (1960)
(d) free fatty acids content:	IDF International Standard 6A (1969)
(e) determination of peroxide value:	IDF International Standard 74 (1974)

3. **Packaging and storage requirements**

The packaging must conform to the specifications laid down in Article 5 (2) and (3) of Regulation (EEC) No 685/69.

Butter must be transported at a temperature of − 10 ºC or lower.

4. **Marking requirements**

The packaging shall bear, in the language(s) specified in the notice of invitation to tender, the following information, of which the particulars under (f) shall be obligatory only for cartons:

(a) the description ‘butter’, plus the particulars given in the notice of invitation to tender, where appropriate;

(b) the words ‘Gift of the European Economic Community’, plus the particulars given in the notice of invitation to tender;

(c) the net weight;

(d) the month and year of manufacture;

(e) the processing undertaking, in code;

(f) the number of the Regulation authorizing the tendering procedure and the description of the lot as given in the notice of invitation to tender.

This information must appear on at least one side of the carton and cover at least one-third of the surface area. If glue is used for labelling, it must be water-resistant

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ANNEX III

BUTTEROIL

1. **Composition and quality requirements**

1.1. *Composition requirements:*

(a) milk-fat content, not less than:	99,8 %
(b) solids-non-fat and water content not more than:	0,2 %

1.2. *Quality requirements:*

(a) free fatty acids content expressed as oleic acid, not more than:	0,35 %
(b) peroxide value expressed in milliequivalents of activated oxygen per kilogram not more than:	0,5 %
(c) neutralizers, preservatives, antioxydants:	none [1]
(d) taste and smell:	clean, absence of off-taste and off-smell

[1] Or documents showing equivalent checks have been made.

2. **Control methods**

Without prejudice to the measures concerning the harmonization of analytical methods, the following reference methods are compulsory for the application of this Regulation:

(a) fat content:	IDF International Standard 24 (1964)
(b) water content:	IDF International Standard 23 (1964)
(c) free fatty acids content:	IDF International Standard 6A (1969)
(d) determination of peroxide value:	IDF International Standard 74 (1974)

3. **Packaging and storage requirements**

3.1. Butteroil shall be packed in metal canisters which have been internally coated with edible varnish or have undergone a treatment offering equivalent guarantees and which have been completely filled and hermetically sealed in an atmosphere of nitrogen.

The metal canisters shall be packed in cartons containing:

— eight 2,5-kilogram canisters,

— four five-kilogram canisters, or

— one 20-kilogram canister

If glue is used for making up or sealing the cartons, it must be water-resistant. If adhesive tape is used, it must not become unstuck in a damp atmosphere.

Complete packages, as prepared for shipment, containing either one 20-kilogram metal canister, four five-kilogram canisters or eight 2,5-kilogram canisters all 95 % full of water and stored prior to testing in accordance with ISO Standard No 2233 for one week at 20 ºC and a relative humidity of 90 %, must be capable of surviving the following tests:

(a) Three vertical drops from a height of one metre

This test must be carried out in accordance with ISO Standard No 2248 on three different edges relating to different axes with the package suspended in such a way that its centre of gravity is vertical to the point of release;

(b) Minimum resistance to compression: 6 000 N

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This test shall be carried out in accordance with ISO Standards No 2872 and No 2874; with the package placed in the normal transportation position.

Both tests shall be carried out on five complete packages. After the tests:

— the cartons may be deformed but they must remain whole and may not be torn,

— the metal canisters must not leak once the vacuum seal has been broken.

3.2. The conformity of the packaging with the requirements set out above shall be certified by a testing agency approved by the Member State concerned which shall provide a detailed report together with a description of the technical characteristics of the packaging materials.

The certificate of conformity shall be valid for a period of 12 months only.

4. **Marking requirements**

The lithographed metal canisters and the printed cartons shall bear the following information in the language(s) specified in the notice of invitation to tender:

(a) the description ‘butteroil’;

(b) the words ‘Gift of the European Economic Community’ plus the particulars given in the notice of invitation to tender;

(c) the net weight;

(d) the month and year of manufacture;

(e) the processing undertaking, in code;

(f) the number of the Regulation authorizing the tendering procedure and the description of the lot as given in the notice of invitation to tender.

This information must appear on at least on side of the packaging and cover at least one-third of the surface area.

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ANNEX IV

NOTICE OF INVITATION TO TENDER

ANNEX I [1]

Description of the lot: .....

1. Programme, Council Regulations (EEC):

   (a) legal basis: .....

   (b) purpose: .....

2. Recipient: .....

3. Country of destination: .....

4. Stage and place of delivery: .....

5. Representative of the recipient (to be stated in the case of delivery cif free-at-destination): ....

   .....

6. Total quantity: .....

7. Origin of the goods:

   — intervention stocks or to be manufactured from intervention butter

   — purchased on the Community market or to be manufactured from products so purchased

8. Intervention agency holding the stocks: .....

9. Specific characteristics: .....

10. Packaging: .....

11. Markings on the packaging: .....

12. Shipment period: .....

13. Closing date for the submission of tenders: .....

14. In the case of a second invitation to tender pursuant to Article 14 (2) of Regulation (EEC) No 1354/83:

    (a) shipment period: .....

    (b) closing date for the submission of tenders: .....

15. Miscellaneous: .....

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[1] This Annex, together with the notice published in the *Official Journal of the European Communities* No C ... of ..., p.. shall serve as notice of invitation to tender.

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ANNEX V

TAKING OVER CERTIFICATE

in accordance with Regulation (EEC) No 1354/83

I the undersigned: .....
(family name, forename, business name)

on behalf of the beneficiary: .....

hereby certify that the goods listed below have been taken over:

— place and date of taking over: .....

— products: .....

— tonnage (net weight) taken over: .....

— packaging: .....

— number of items: ..... weighed at ..... kilograms net

marked (endorsement): .....

— port of shipment: .....

— name of vessel: .....

— date of shipment: .....

The goods delivered are of the quality specified.

Observations: .....

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ANNEX VI

AMENDMENTS TO THE ANNEX TO REGULATION (EEC) No 1687/76

1. Part I ‘Products to be exported in the same state as that in which they were when removed from intervention stock’:

   (a) point 6 is deleted; these provisions shall still apply, however, to deliveries to which Regulation (EEC) No 303/77 is applicable under individual Regulations;

   (b) point 31, and the footnote relating thereto are inserted:

   ‘31. Commission Regulation (EEC) No 1354/83 of 17 May 1983 laying down general rules for the mobilization and supply of skimmed-milk powder, butter and butteroil as food aid ([1]).

   ([1]) OJ No L 142, 1. 6. 1983, p. 1.’

2. Part II ‘Products subject to a use and/or destination other than that mentioned under I’:

   (a) point 6 is deleted; these provisions shall still apply, however, to deliveries to which Regulation (EEC) No 303/77 is applicable under individual Regulations;

   (b) the following point is inserted:

   ‘17. Commission Regulation (EEC) No 1354/83 of 17 May 1983 laying down general rules for the mobilization and supply of skimmed-milk powder, butter and butteroil as food aid ([17]):

      (a) on the release of butter for processing into butteroil:

         — box 104: ‘for processing and subsequent delivery as food aid (Regulation (EEC) No 1354/83)’,

         »til forarbejdning og efterfølgende levering som fødevarehjælp (forordning (EØF) nr. 1354/83)«,

         „zur Verarbeitung und anschließenden Lieferung im Rahmen der Nahrungsmittelhilfe (Verordnung (EWG) Nr. 1354/83)“,

         «Προοριζόμενο για μεταποίηση και εν συνεχεία για παράδοση υπό μορφή επισιτιστικής βοήθειας (κανονισμός (ΕΟΚ) αριθ. 1354/83)»,

         «destiné à la transformation et à la livraison ultérieure au titre de l'aide alimentaire (règlement (CEE) nº 1354/83)»,

         «destinado alla trasformazione e successivamente alla fornitura a titolo di aiuto alimentare (regolamento (CEE) n. 1354/83)»,

         „bestemd om te worden verwerkt en vervolgens als voedselhulp te worden geleverd (Verordening (EEG) nr. 1354/83)”;

      (b) on the dispatch of butteroil to the port of loading in the case of delivery fob or unloading in the case of delivery cif or free-at-destination:

▼B

— box 104: ‘for export as food aid (Regulation (EEC) No 1354/83)’,

»bestemt til udførsel som fødevarehjælp (forordning (EØF) nr. 1354/83)«,

„als Nahrungsmittelhilfe auszuführen (Verordnung (EWG) Nr. 1354/83)“,

«προοριζόμενο να εξαχθεί υπό μορφή επισιτιστικής βοήθειας (κανονισμός) (ΕΟΚ) αριθ. 1354/83)»

«destiné à être exporté au titre de l'aide alimentaire (règlement (CEE) nº 1354/83)»,

«destinato ad essere esportato a titolo di aiuto alimentare (regolamento (CEE) n. 1354/83)»,

„bestemd om te worden uitgevoerd als voedselhulp (Verordening (EEG) nr. 1354/83)”;

— box 106: the weight of the butter used for the manufacture of the quantity of butteroil shown in box 103.’

(17) OJ No L 142, 1. 6. 1983, p. 1.