COMMISSION REGULATION (EEC) No 1580/91

of 11 June 1991

laying down detailed rules for the application of Council Regulation (EEC) No 598/91 as regards the supply of whole-milk powder intended for the people of the Soviet Union

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 598/91 of 5 March 1991 on urgent action for the supply of agricultural products intended for the people of the Soviet Union [1], and in particular Article 5 (2) thereof,

Whereas Regulation (EEC) No 598/91 provides for urgent action for the supply of agricultural products intended for the people of the Soviet Union ; whereas that country has requested that it be supplied with whole-milk powder in 25 kg bags ;

Whereas, in view of the special requirements of the supply as regards transport to an distribution at the destination, the costs relating to the manufacture of the products should be determined separately, by invitation to tender, in order to organize subsequently the despatch of the products to the beneficiary institutions and bodies ;

Whereas detailed rules for the application of Regulation (EEC) No 598/91 must be laid down to determine the conditions governing participation in the invitation to tender, the conditions governing the award of the supply and the obligations relating to the manufacture of the whole-milk powder ;

Whereas, in order to ensure that the supplies are effected properly, the conditions governing the lodging of securities should be determined together with the necessary detailed rules for the implementation of Commission Regulation (EEC) No 2220/85 of 22 July 1985 laying down common detailed rules for the application of the system of securities for agricultural products [2], as last amended by Regulation (EEC) No 3745/89 [3] ;

Whereas the manufacture and packaging of the products must be monitored by the intervention agencies of the Member States ;

Whereas, pursuant to Article 2 (4) of Regulation (EEC) No 598/91, the products supplied are not eligible for export refunds and are not subject to the system of monetary compensatory amounts ;

Whereas provision should be made for suitable notifications to ensure the monitoring of operations as well as possible until takeover by the agency or the undertaking responsible for dispatch to the destination ;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee provided for in Article 5 (2) of Regulation (EEC) No 598/91,

HAS ADOPTED THIS REGULATION :

Article 1

1. An invitation to tender is hereby opened for the supply of 10 000 tonnes of whole-milk powder for the people of the Soviet Union pursuant to Regulation (EEC) No 598/91 and in accordance with the conditions laid down herein.

2. The supply shall comprise :

(a) the manufacture of whole-milk powder meeting the characteristics laid down in Annex II. The end product must be put up in packages of 25 kg net weight in new, clean, dry, undamaged bags in accordance with the provisions of the Annex to Commission Regulation (EEC) No 625/78 [4].

The words 'Regulation (EEC) No 1580/91 — Aid from the European Economic Community' must be marked on each of the packages in Russian and in one of the official languages of the Community. No other wording is permitted. The manufacture and packaging of the product covered by the supply must be carried out in the same plant and completed by 31 August 1991 at the latest ;

(b) the storage of the product for the body indicated by the Commission until 17 September 1991. Storage costs during that period shall be borne by the successful tenderer ;

(c) an undertaking, in so far as possible, to manufacture the product and make it available to the abovementioned body, before the end of the periods provided for in (a) and (b), at the request of the body indicated by the Commission.

[1] OJ No L 67, 14. 3. 1991, p. 19.
[2] OJ No L 205, 3. 8. 1985, p. 5.
[3] OJ No L 364, 14. 12. 1989, p. 54.
[4] OJ No L 84, 31. 3. 1978, p. 19.

Article 2

1. Tenders shall be forwarded by written telecommunication (telex or telefax) to the address indicated below.

In order to be deemed admissible, tenders must be complete and reach the following address by 12 noon (Brussels time) on 19 June 1991 :

Commission of the European Communities,
Milk Products Division,
Bâtiment Loi 120, Office 8/68,
200, rue de la Loi,
B-1049 Bruxelles ;
(telex AGREC 22037B or 25670B),
(telefax Bruxelles 235 33 10).

Where no supply contract is awarded, pursuant to Article 3 a second deadline for the submission of tenders shall expire at 12 noon (Brussels time) on 3 July.

2. Tenders shall be valid only if :

(a) they refer clearly to the supply provided for in Article 1 and this Regulation ;

(b) they indicate the name, address, telex and telefax numbers of the tenderer, who must be established in the Community ;

(c) each tender refers to one or more lots of 500 tonnes (net weight of goods). Tenders shall state the exact number of lots (net weight) to which they refer ;

(d) they specify an amount per tonne expressed in ecus covering the whole supply of one lot ; that amount shall include packaging costs ;

(e) they indicate the exact address of the place of manufacture and packaging and the store in which the products will be kept available to the agency to be indicated by the Commission. Each tender may indicate a single place of storage only ;

(f) they are accompanied by proof that the tenderer has lodged a tendering security of ECU 20 per tonne in favour of the Commission, in accordance with the provisions of Title III of Regulation (EEC) No 2220/85. Such proof shall consist of a document issued by the body granting the security.

Tenders not submitted in accordance with this Article or which contain terms other than those laid down in the invitation to tender shall be rejected.

Tenders shall not be modified or withdrawn.

Article 3

1. On the basis of the tenders received ;

— supply contracts shall be amended to tenderers whose tenders indicate the louest amounts, or, where appropriate,

— no contract shall be awarded, in particular where tenders submitted specify of prices in excess of those normally applying on the market.

2. For the purposes of comparing tenders only, the accession compensatory amounts shall be taken into account for products manufactured in the new Member States.

3. Within five working days following the closing date for the submission of tenders, the Commission shall inform all tenderers of the outcome of their tenders by written telecommunication. Where appropriate, the successful tenderer shall be notified forthwith of the award by written telecommunication.

Article 4

1. The tendering security provided for in Article 2 (2) (f) shall be released immediately where tenders are not accepted or where no supply contract is awarded.

2. The primary requirements within the meaning of Article 20 of Regulation (EEC) No 2220/85 shall be :

(a) for tenderers : the maintenance of their tenders until the decision provided for in Article 3 (1) is adopted ;

(b) for the successful tenderer : the lodging of the supply security in accordance with Article 5.

Article 5

Within five working days following notification of award of a supply contract, the successful tenderer shall forward to the body indicated in Article 6 proof of lodging of a supply security in favour of the latter, amounting to 10 % of the price quoted in the tender, in accordance with Title III of Regulation (EEC) No 2220/85. Proof shall consist of a document issued by the body granting the security.

Article 6

1. The successful tenderer shall submit an application for payment of the supply of the intervention agency of the Member State in which the place mentioned in Article 1 (2) (b) at which the products are kept available is located before 28 September 1991.

Such application shall be accompanied by :

— the original of the certificate of take-over drawn up in accordance with the specimen set out in the Annex and issued by the body designated by the Commission,

— the attestation drawn up by the body mentioned in Article 7 on completion of checks conducted.

Payment shall be made for the quantities (net weight) mentioned in the certificate of take-over.

2. If the goods are not taken over at the date indicated in Article 1 (2) (b), the successful tenderer shall have the body responsible for checks ascertain the fact that the goods have been made available in accordance with that Article. He shall obtain payment of the price he tendered for the quantities in respect of which the body responsible for checks certifies that he has met his obligations.

The body responsible for payment shall, after consulting the Commission, take appropriate measures concerning the disposal of the goods.

Article 7

The manufacture, presentation and packaging of the product shall be monitored by the body designated by the Member State in which the place of manufacture and packaging is located.

The successful tenderer shall submit to the checks carried out by that body. He shall notify the latter for that purpose of the places and period of manufacture and packaging of the product to be supplied at least five days in advance and of the address of the store mentioned in Article 1 (2) (b) at which the goods are made available.

On completion of the checks, the body shall issue a certificate of conformity certifying that the whole-milk powder has been processed from the milk of healthy animals, free of foot-and-mouth disease and any other infectious or contagious disease.

Article 8

1. The primary requirements relating to the supply within the meaning of Article 20 of Regulation (EEC) No 2220/85 shall be the execution of this supply under the conditions laid down. The quantity delivered shall be considered satisfactory where the difference between the net weight recorded on takeover and that of the quantity laid down is not more than 1 %.

2. The supply security shall be released when the successful tenderer provides the intervention agency concerned with the documents mentioned in Article 6.

The supply security shall also be released forthwith in cases of *force majeure.*

Article 9

The conversion rates to be used for the payment of prices tendered and for the tendering and supply securities shall be the agricultural conversion rates applying on the closing date for the submission of tenders.

Article 10

1. The Commission shall notify the bodies referred to in Articles 6 and 7 of the names of the successful tenderers and of any information necessary for executing the supplies.

2. The bodies referred to in paragraph 1 shall notify the Commission of any information relating to the supplies, and in particular of the outcome of checks and the conditions of takeover of the goods.

Article 11

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, 11 June 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX I

CERTIFICATE OF TAKEOVER

I, the undersigned :

.....

(family name, first name, business name)

acting in the name of ..... on behalf of ..... certify that the goods listed below, delivered pursuant to Commission Regulation (EEC) No 1580/91, have been taken over :

— Place and date of takeover : .....

.....

— Type of product : .....

.....

— Tonnage, weight taken over (net) : .....

.....

— Packaging : .....

.....

.....

.....

.....

Remarks :

.....

.....

.....

.....

.....

.....

Signature : .....

ANNEX II

Whole-milk powder with a minimum fat content of 26 % must be produced using the spray method and must be manufactured no more than one month before the date on which it is made available at the port of shipment. The quality must be 'extra grade' and must meet the following characteristics :

(a) fat content :	minimum of 26,0 % ;
(b) water content :	maximum of 3 %
(c) titratable acidity (as a percentage of non-fat dry matter) ADMI :	
— in millilitres of decinormal sodium hydroxide solution :	maximum of 3,0 % ;
— in lactic acid :	maximum of 0,15 %
(d) lactate content (in relation to non-fat dry matter) :	maximum of 150 mg/100g ;
(e) additives :	none ;
(f) phosphatase test :	negative, i.e. equal to or less than four micrograms of phenol per gram of reconstituted milk ;
(g) solubility index :	maximum of 0,5 ml ;
(h) burnt-particles index :	maximum of 15,0 mg, i.e. at least disc B ;
(i) micro-organism count :	maximum of 50 000 per gram ;
(k) coli-aerogenes-organisms :	negative in 0,1 g ;
(l) whey test :	negative ;
(m) taste and smell :	clean ;
(n) appearance :	white or slightly yellow colour, absence of impurities and coloured particles.

The control methods will be those specified in Annex I (2) (a) and (b) to Regulation (EEC) No 625/78. However, reference will be made to IDF International Standard 109 (1982) for the micro-organism count, and to international Standard 73A (1985) for the identification of coli-aerogones-organisms.