COMMISSION REGULATION (EEC) No 2263/91

of 26 July 1991

laying down detailed rules of 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 ;

Whereas, in view of the special requirements of the supply as regards transport to and distribution of the destination, the cost relating to the manufacture of the products should be determined separately, by invitation to tender, with a view to the subsequent organization of the dispatch of the products to the recipient 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 supplies are effected properly, the conditions governing the lodging of securities should be determined together with the necessary detailes 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 30 000 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 products must be put up :

— in the case of lots A to U as defined in Annex III, in packages of 25 kg net weight in new, clean, dry, intact bags meeting the specifications laid down in the Annex to Commission Regulation (EEC) No 625/78 [4], grouped on palettes in accordance with normal export practice,

— in the case of lots AA to UU as defined in Annex III, in aluminium-based paper bags or in metal canisters of a maximum net weight of 2 kg, grouped in cartons mounted on palettes in accordance with normal export practice.

The words 'Regulation (EEC) No 2263/91 — Aid from the European Economic Community' must be marked on each individual package and each carton in Russian and in one of the official languages of the Community.

The manufacture and packaging of the product covered by the supply must be completed in accordance with Annex III ;

[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.

(b) the storage of the product for the body indicated by the Commission until the date indicated in Annex III. 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.

Article 2

1. The tendering procedure shall be as follows:

Written tenders shall be lodged with one of the intervention agencies listed in Annex IV against a receipt or forwarded by registered post to arrive by 12 noon on 29 July 1991. Tenders may also be submitted by written telecommunication.

Where no tender is accepted for one or more lots in accordance with Article 3 (1), tenders may be submitted in response to a second invitation to tender for the lots concerned by 12 noon on 8 August 1991.

2. The intervention agencies shall forward to the Commission (1) the tendesa submitted, which must reach it by no later than the second working day following the closing date for the submission of tenders. The details specified in Article 2 (3) (b) to (e) must be indicated in respect of each tender at the time it is forwarded. If no tender is submitted, the Member States shall so inform the Commission within the time limit indicated.

3. 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/or telefax numbers of the tenderer, who must be established in the Community;

(c) each tender refers to one or more lots as defined in Annex III;

(d) they specify an amount expressed in ecus per tonne 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 are to 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 intervention agency concerned, in accordance with Title III of Regulation (EEC) No 2220/86. 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, the Commission shall decide in respect of each lot, not later than four working days following the closing date for the submission of tenders, to fix a maximum amount for the supply or to take no action in respect of tenders, in particular where the prices quoted are higher than those normally applying on the market.

Where a maximum amount is fixed for a lot, the supply shall be awarded to the tenderer who submits a lower or equal price for that lot.

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 three working days following the date on which the Member States are notified of the Commission's decision, the intervention agency concerned shall inform all tenderers of that decision by registered letter, telex or other form of written telecommunication.

Article 4

1. Tendering securities as 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 notification provided for in Article 3 (3);

(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.

(1) Commission of the European Communities,
Division VI.D,
Rue de la Loi 120, office 8/68,
B-1049 Brussels;
(telex: 22037 AGREC B; telefax: (32-2) 235 33 10).

Article 6

1. Before the date indicated in Annex III the successful tenderer shall submit an application for payment of the supply in respect of the lot concerned to 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.

2. The successful tenderer shall obtain payment for the supply, after lodging a payment security equaling 110 % of the price he has tendered, in favour of the body referred to in paragraph 1 in accordance with Title III of Regulation (EEC) No 2220/85, on presentation of the following documents :

(a) an attestation drawn up on completition of the checks referred to in Article 7 ;

(b) a statement by the body referred to in paragraph 1 to the effect that the products were available at the final date for manufacture and packaging mentioned in Annex III.

3. The payment security mentioned in paragraph 1 shall be released forthwith when the successful tenderer submits the certificate of takeover drawn up in accordance with the model in Annex I and issued by the body indicated by the Commission.

If the goods are not taken over at the date indicated in Annex III, the successful tenderer shall have the body responsible for payment ascertain the fact that the goods were made available in accordance with his obligations and shall obtain on the basis of such a statement the release of the payment security.

4. The supply security provided for in Article 5 shall be released on presentation of proof that the payment security referred to in paragraph 2 has been lodged.

5. Securities shall also be released forthwith in cases of *force majeure.*

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 dates of manufacture and packaging of the product to be supplied at least five days in advance together with 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

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

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 forward to the bodies referred to in Articles 6 and 7 all information useful for executing supplies.

2. The bodies referred to in paragraph 1 shall forward to the Commission all information relating to supplies, and in particular the results of checks and the conditions for the 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, 26 July 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 hereby that the goods listed below, delivered pursuant to Commission Regulation (EEC) No 2263/91, have been taken over :

— Place and date of takeover : .....

.....

— Type of product : .....

.....

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

.....

— Packaging : .....

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Remarks :

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.....

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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 Commission Regulation (CEE) No 625/78 [1]. 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.

[1] OJ No L 84, 31. 3. 1978, p. 19.

ANNEX III

	I	II	III	IV
Lot	Quantity (net weight of goods in tonnes)	Final date of manufacture and packaging	Final date for making the goods available	Final date for submitting the payment application
A	1 000	16. 9. 1991	30. 9. 1991	20. 9. 1991
B	1 000			
C	1 000			
D	1 000			
E	1 000			
F	1 000			
G	1 000			
H	1 000			
I	1 000			
K	1 000			
L	1 000	30. 9. 1991	15. 10. 1991	4. 10. 1991
M	1 000			
N	1 000			
O	1 000			
P	1 000			
Q	1 000			
R	1 000			
S	1 000			
T	1 000			
U	1 000			
AA	500	7. 10. 1991	22. 10. 1991	11. 10. 1991
BB	500			
CC	500			
DD	500			
EE	500			
FF	500			
GG	500			
HH	500			
II	500			
KK	500			
LL	500			
MM	500			
NN	500			
OO	500			
PP	500			
QQ	500			
RR	500			
SS	500			
TT	500			
UU	500			

ANEXO IV — BILAG IV — ANHANG IV — ΠΑΡΑΡΤΗΜΑ IV — ANNEX IV — ANNEXE IV — ALLEGATO IV — BIJLAGE IV — ANEXO IV

— Office belge de l'économie et de l'agriculture,
secteur « produits et industries agricoles et alimentaires »,
rue de Trèves 82,
B-1040 Bruxelles
[tél. : (2) 230 17 40, télex : 24076/65567, téléfax : (2) 230 25 33];

Belgische dienst voor bedrijfsleven en landbouw,
sector „landbouw- en voedingsprodukten en industrieën",
Trierstraat 82,
B-1040 Brussel
(tel. : (32-2) 230 17 40, telex : 24076/65567, telefax : (32-2) 230 25 33);

— EF-direktoratet,
Frederiksborggade 18,
DK-1360 København K
(tel. : (45) 33 92 70 00, telex : 15137 EFDIR DK, telefax : (45) 33 92 69 48);

— Bundesanstalt für landwirtschaftliche Marktordnung (BALM),
Adickesallee 40,
D-6000 Frankfurt am Main 18
(Tel. : 49 691 56 40, Telex : 411727/411156, Telefax : 49 691 56 47 90, Teletex : 699 07 32);

— Υπηρεσία Διαχειρίσεως Γεωργικών Προϊόντων,
(ΥΔΑΓΕΠ),
οδός Αχαρνών 241,
GR-Αθήνα
[Τηλ.: (30-1) 862 64 15/865 64 39, Τέλεξ: 221738];

— Servicio nacional de productos agrarios (SENPA),
calle Beneficencia 8,
E-28004 Madrid
[tel. : (34-1) 347 65 00/347 63 10, télex : 41818/23427 SENPA E, telefax : (34-1) 521 98 32/522 43 87];

— Office national interprofessionnel du lait et des produits laitiers (ONILAIT),
division « Marchés »,
2, rue Saint-Charles,
F-75740 Paris Cedex 15
[tél : (33-1) 40 58 70 00, télex : 200745, téléfax : (33-1) 40 59 04 58];

— Department of Agriculture and Food, Intervention Unit,
Agriculture House,
Kildare Street,
IRL-Dublin 2
(tel. : (353-1) 78 90 11, telex : 93607 agri-el, telefax : (353-1) 61 62 63);

— Azienda di Stato per gli interventi nel mercato agricolo (AIMA),
Via Palestro 81,
I-00198 Roma,
[tel. : (39-6) 647 49 91, telex : 613003/620331 AIMA (I), telefax : (39-6) 445 39 40];

— Service d'économie rurale,
section de l'économie laitière,
115, rue de Hollerich,
L-1741 Luxembourg
[tél. : (352) 47 84 17, télex : 2537 AGRIM LU, téléfax : (352) 49 16 19];

— Voedselvoorzienings In- en Verkoopbureau,
Burgemeester Kessenplein 3,
NL-6431 KM Hoensbroek
(tel. : (31-45) 23 83 83, telex : 56396, telefax : (31-45) 22 27 35);

— Instituto Nacional de Intervenção e Garantia Agrícola (INGA)
Rua Camilo Castelo Branco, 45-2º
P-1000 Lisboa
[telefone : (351-1) 53 71 72, telex : 66209 INGA P, telefax : (351-1) 53 32 51];

— Intervention Board, Lifestock Products Division,
Branch A,
PO Box 69,
Fountain House,
2 Queens Walk,
UK-Reading Berks, RG1 7QW
(tel : (44-734) 58 36 26, telex : 848302 (IBAPRG G), telefax : (44-734) 56 67 50, ext. 2370).