COMMISSION REGULATION (EEC) No 3277/91

of 8 November 1991

laying down detailed rules for the sale of skimmed milk powder from intervention stock for export to Albania and amending Regulation (EEC) No 569/88

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 1630/91 (2), and in particular Article 7 (5) thereof,

Having regard to Council Regulation (EEC) No 1678/85 of 11 June 1985 on the exchange rates to be applied in agriculture (3), as last amended by Regulation (EEC) No 1640/91 (4), and in particular Article 4 thereof,

Whereas Council Regulation (EEC) No 1014/68 of 20 July 1968 laying down general rules for the public storage of skimmed milk powder (5), as last amended by Regulation (EEC) No 3577/90 (6), lays down the conditions for the return to the market of skimmed milk powder held by the intervention agencies;

Whereas the quantities of skimmed milk powder now in public storage are such that a major effort should be made to make use of opportunities for disposing of it on the market of certain third countries without in any way interfering with the world market; whereas the supply situation in Albania is such that it is desirable to sell part of this stock for export to Albania and to conduct an invitation to tender in order, *inter alia,* to determine the minimum selling price;

Whereas, in view of the urgency and specific nature of this operation and the need for controls, special provisions should be laid down as regards the minimum quantity which may be bought, its origin and the date by which it must be exported; whereas measures should be adopted to ensure that skimmed milk powder sold under this Regulation is not released in the Community;

Whereas, in order to ensure that the skimmed milk powder is not diverted from its intended destination, a control system should be applied from the time the skimmed milk powder is removed from stock until it arrives at its destination in the third country concerned; whereas for reasons of clarity it should be recalled that the control provisions laid down in Commission Regulation (EEC) No 569/88 (7), as last amended by Regulation (EEC) No 3147/91 (8), apply; whereas, moreover, in view of the specific nature of the transaction, additional conditions must be laid down;

Whereas the measures provided for in this Reuglation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

1. The sale shall take place, under the conditions laid down in this Regulation, of 3 000 tonnes of skimmed milk powder bought in pursuant to Article 7 (1) of Regulation (EEC) No 804/68 which entered into stock in Germany before 1 June 1991.

2. Skimmed milk powder sold pursuant to this Regulation shall be imported into Albania.

Article 2

1. The skimmed milk powder shall be sold ex-storage depot in accordance with the tendering procedure conducted by the German intervention agency, hereinafter referred to as 'the intervention agency'.

2. This Regulation shall take the place of an invitation to tender.

3. The address of the intervention agency is:

Bundesanstalt für landwirtschaftliche Marktordnung (BALM), Adickesallee 40, 6000 Frankfurt-am-Main, Germany. Telephone: 49 691 56 40; telex: 411 727 and 411 156; fax: 1564651; teletex 6990732.

4. The closing date for the submission of tenders shall be midday on 12 November 1991.

Article 3

1. The intervention agency shall make available to interested parties, at their request, a list of the storage depots in which the skimmed milk powder put up for sale by tender is stored and of the corresponding quantities.

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 150, 15. 6. 1991, p. 19.
(3) OJ No L 164, 24. 6. 1985, p. 11.
(4) OJ No L 150, 15. 6. 1991, p. 38.
(5) OJ No L 173, 22. 7. 1968, p. 4.
(6) OJ No L 353, 17. 12. 1990, p. 23.
(7) OJ No L 55, 1. 3. 1988, p. 1.
(8) OJ No L 299, 30. 10. 1991, p. 17.

2. The intervention agency shall take the necessary measures to enable interested parties to examine at their expense, before submitting their tenders, samples of the skimmed milk powder put up for sale.

Article 4

1. Interested parties shall participate in the invitation to tender either by lodging their written tender with the intervention agency against an acknowledgement of receipt or by registered letter sent to the intervention agency. The intervention agency may authorize the use of telex.

2. Tenders shall contain :

(a) the name and address of the participant in the tendering procedure ;

(b) the total quantity applied for ;

(c) the price tendered per tonne of skimmed milk powder, not including domestic taxes, ex-storage depot, expressed in ecus ;

(d) the storage depot or depots where the skimmed milk powder is held.

3. A tender shall be valid only if :

(a) it is in respect of a minimum quantity of 1 000 tonnes ;

(b) it is accompanied by a written undertaking by the tenderer to export the skimed milk powder allocated to him to Albania within the period laid down in Article 8 (3) ;

(c) proof is furnished that the tenderer has lodged, before the expiry of the deadline for the submission of tenders, the security referred to in Article 5 .

4. Tenders may not be withdrawn after the expiry of the deadline referred to in Article 2 (4) for the submission of tenders.

Article 5

1. Under this Regulation the maintenance of the tender after the expiry of the deadline for the submission of tenders and the payment of the price within the time limit referred to in the first subparagraph of Article 7 (1) shall constitute principal requirements whose fulfilment shall be ensured by the lodging of a security of ECU 10 per tonne.

2. The security shall be established in Germany.

Article 6

1. A minimum selling price shall be fixed, taking account of the tenders received and in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68. Tenders shall be rejected if the proposed price is lower than the minimum price. Where two or more tenders under consideration offering the same prices or the same difference from the minimum price relate to a total quantity exceeding the quantity available, the quantity available shall be allocated proportionately to the quantities tendered for.

A decision may be taken to make no award in respect of the invitation to tender.

2. Simultaneously with the fixing of the minimum selling price and in accordance with the same procedure, the amount of the security to guarantee the fulfilment of the principal requirements concerning export of the skimmed milk powder to Albania within the period laid down in Article 8 (3) shall be fixed.

3. The minimum selling price referred to in paragraph 1, the price to be paid by successful tenderers and the amount of the securities referred to in Article 5 and in paragraph 2 shall be converted into national currency using the agricultural conversion rate applicable on the closing date for the submission of tenders.

4. Obligations arising under the tendering procedure shall not be transferable.

5. Tenderers shall be informed forthwith by the intervention ageny of the outcome of their participation in the tendering procedure.

6. The intervention agency shall issue a removal order showing :

(a) the quantity in respect of which the security has been lodged ;

(b) the storage depot in which it is stored ;

(c) the closing date for removal.

Article 7

1. The successful tenderer shall remove the skimmed milk powder which has been sold to him within 45 days following the closing date for the submission of tenders.

The skimmed milk powder may be removed in batches, each of which may not be less than 15 tonnes.

Except in cases of *force majeure,* where the skimmed milk powder is not removed within the period referred to in the first subparagraph, storage shall be at the expense of the successful tenderer with effect from the first day following the expiry of that period.

2. The successful tenderer shall pay the intervention agency within the period referred to in paragraph 1, before removal of the skimmed milk powder, and in respect of each quantity he removes, the price shown in his tender and shall lodge the security referred to in Article 6 (2).

Except in cases of *force majeure,* where the successful tenderer has failed to make the payment referred to in the first subparagraph within the prescribed period, in addition to the loss of the security referred to in Article 5 (1), the sale shall be cancelled for the remaining quantities.

Article 8

1. The skimmed milk powder shall be supplied by the intervention agency in packaging bearing at least one of the following descriptions in clearly visible and legible letters :

— Leche desnatada en polvo destinada a la exportación a Albania en virtud del Reglamento (CEE) nº 3277/91 ;

— Skummetmælkspulver bestemt til udførsel til Albanien i henhold til forordning (EØF) nr. 3277/91 ;

— Magermilchpulver zur Ausfuhr nach Albanien — Verordnung (EWG) Nr. 3277/91 ;
— Αποκορυφωμένο γάλα σε σκόνη που προορίζεται να εξαχθεί στην Αλβανία βάσει του κανονισμού (ΕΟΚ) αριθ. 3277/91;
— Skimmed milk powder for export to Albania under Regulation (EEC) No 3277/91 ;
— Lait écrémé en poudre destiné à être exporté en Albanie au titre du règlement (CEE) n° 3277/91 ;
— Latte scremato in polvere destinato ad essere esportato in Albania nel quadro del regolamento (CEE) n. 3277/91 ;
— Magere-melkpoeder voor uitvoer naar Albanië in het kader van Verordening (EEG) nr. 3277/91 ;
— Leite em pó desnatado destinado a ser exportado para a Albânia no âmbito do Regulamento (CEE) nº 3277/91.

2. The skimmed milk powder referred to in paragraph 1 may be exported in its original packaging or after having been repackaged in another packaging.

3. The acceptance by the customs service of the export declaration for the skimmed milk powder referred to in this Article must take place in the Member State where the skimmed milk powder has been removed from store, within 90 days following the closing date for the submission of tenders.

Article 9

1. Except in cases of *force majeure,* the security referred to in Article 6 (2) shall be forfeit in proportion to the quantities for which the proof referred to in Article 18 of Regulation (EEC) No 569/88 has not been furnished within 12 months of the date of acceptance of the export declaration.

However, if the proof is furnished within the 18 months following the abovementioned period, 85 % of the security shall be reimbursed.

2. The provisions of Commission Regulation (EEC) No 569/88 and (EEC) No 2220/85 [1] shall apply except where there is a provision to the contrary under this Regulation.

The special entries to be made in Sections 104 and 106 of the control copy shall be those set out in Part I, point 00 of the Annex to Regulation (EEC) No 569/88.

Article 10

The following point and the relevant footnote shall be added to Part I of the Annex to Regulation (EEC) No 569/88 entitled 'Products to be exported in the same state as that in which they were when removed from intervention stock' :

'111. Commission Regulation (EEC) No 3277/91 of 8 November 1991 laying down detailed rules for the sale of skimmed milk powder from intervention stock for export to Albania [111];

[111] OJ No L 308, 9. 11. 1991, p. 46.'

Article 11

No export refund shall be granted in respect of the skimmed milk powder sold under this Regulation.

The removal order referred to in Article 3 of Regulation (EEC) No 569/88, the export declaration and, where applicable, the control copy T5 shall bear the following entry :

„Sin restitución [Reglamento (CEE) n° 3277/91];
Uden restitution [Forordning (EØF) nr. 3277/91];
Keine Erstattung [Verordnung (EWG) Nr. 3277/91];
Χωρίς επιστροφή [Κανονισμός (ΕΟΚ) αριθ. 3277/91];
Without refund [Regulation (EEC) No 3277/91];
Sans restitution [Règlement (CEE) n° 3277/91];
Senza restituzione [Regolamento (CEE) n. 3277/91];
Zonder restitutie [Verordening (EEG) nr. 3277/91];
Sem restituição [Regulamento (CEE) nº 3277/91].".

Article 12

The intervention agency shall notify the Commission forthwith of the quantities of skimmed milk powder which are the subject of a sales contract and removal under this Regulation.

Article 13

This Regulation shall enter into force on the day of 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, 8 November 1991.

For the Commission
Ray MAC SHARRY
Member of the Commission

[1] OJ No L 205, 3. 8. 1985, p. 5.