COMMISSION REGULATION (EEC) No 3421/91

of 25 November 1991

laying down detailed rules for the application of Council Regulation (EEC) No 597/91 as regards the supply of infant milk and whole-milk powder to Romania

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 597/91 of 5 March 1991 on urgent action for the supply of agricultural and medical products intended for the people of Romania and Bulgaria [1], and in particular Article 5 (2) thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy [2] as last amended by Regulation (EEC) No 2205/90 [3], and in particular Article 2 (4) thereof,

Whereas Council Regulation (EEC) No 597/91 provides for urgent action for the supply of agricultural products to Bulgarian and Romania free of charge; whereas the cost of supplying these products are to be borne by the European Community;

Whereas Romania has requested the supply of 1 500 tonnes of infant milk; whereas this request should be granted; whereas those products are not available from intervention stocks and must be mobilized on the Community market;

Whereas, pursuant to Regulation (EEC) No 597/91, supply shall be made by means of an invitation to tender; whereas that procedure must permit the determination, under the best conditions, of the supply costs and in particular the price of the product and the transport costs for delivery to the place of destination in indicated in Romania;

Whereas, in order to ensure that 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 [4], as last amended by Regulation (EEC) No 3745/89 [5];

Whereas, pursuant to Article 2 (4) of Regulation (EEC) No 597/91, the products supplied do not qualify for export refunds and are not subject to monetary compensatory amounts;

Whereas, for the purposes of determining the supply costs and the securities to be lodged, and in order to avoid market distortions as a result of monetary factors, provision should be made for the use of the representative market rates referred to in Article 3a of Commission Regulation (EEC) No 3152/85 of 11 November 1985 laying down detailed rules for the application of Council Regulation (EEC) No 1676/85 on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy [6], as last amended by Regulation (EEC) No 3237/90 [7];

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

HAS ADOPTED THIS REGULATION:

Article 1

1. An invitation to tender is hereby opened for the supply of four lots of infant milk and whole-milk powder pursuant to Regulation (EEC) No 597/91 and in accordance with the conditions laid down in this Regulation.

2. The supply shall comprise:

(a) the manufacture of:

— lot A: 525 tonnes of infant formulae referred to in point 1A of Annex I,

— lot B: 825 tonnes of follow-on formulae for infants and young children referred to in point 1B of Annex I,

— lot C: 150 tonnes of delactosed formulae for infants and young children referred to in point 1C of Annex I,

— lot D: 2 000 tonnes of whole-milk powder referred to in point 1 of Annex II.

[1] OJ No L 67, 14. 3. 1991, p. 17.
[2] OJ No L 164, 24. 6. 1985, p. 1.
[3] OJ No L 201, 31. 7. 1990, p. 9.
[4] OJ No L 205, 3. 8. 1985, p. 5.
[5] OJ No L 364, 14. 12. 1989, p. 54.
[6] OJ No L 310, 21. 11. 1985, p. 1.
[7] OJ No L 310, 9. 11. 1990, p. 18.

The goods shall be packed as laid down in Annexes I or II as appropriate;

(b) delivery and unloading of the products at the relevant addresses given in Annex III before 31 January 1992.

Article 2

1. The tendering procedure shall be as follows:

Written tenders shall be lodged with one of the intervention agencies listed in Annex VI against a receipt or forwarded by registered post to arrive by 12 noon on 28 November 1991. Tenders may also be submitted by written telecommunication.

Where tenders are not accepted for the total supply pursuant to Article 3 (1), tenders may be submitted in response to a second invitation to tender by 12 noon on 10 December 1991.

2. The intervention agencies shall forward to the Commission (1) the tenders submitted, which must reach it by no later than 12 noon on the working day following the closing date for the submission of tenders. The details specified in paragraph 3 (a), (b), (c) and (d) must be indicated for each tender. If no tender is submitted, the Member State shall so inform the Commission within the time limit indicated.

3. Tenders shall only be valid if:

(a) they indicate clearly the reference of one of the four supplies provided for in Article 1;

(b) they indicate the name, address and in particular telex and/or fax numbers of the tenderer established in the Community;

(c) they refer to one or more consignments of:

— 75 tonnes for the formulae referred to in Annex I,

— 250 tonnes for the whole-milk powder referred to in Annex II;

(d) they indicate for each consignment an amount in ecus per tonne;

(e) they indicate, for each consignment referred to in paragraph (c), the exact address of the place of manufacture and packaging and the warehouse in which the goods are to be stored at the point of departure; the addresses must be within the same Member State;

(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 2220/85. Such proof shall consist of a document issued by the body granting the security.

4. 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.

5. Tenders shall not be changed or withdrawn.

Article 3

1. On the basis of the tenders received, the Commission shall decide in respect of each of the four lots, not more than five working days following the closing date for the submission of tenders, upon a maximum amount for the supply or to take no action in respect of the tenders, in particular where the prices quoted are higher than those normally obtaining 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 purpose 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 the decision taken with regard to their tender by registered letter, telex or letter against a written acknowledgement of receipt.

Article 4

1. Tendering securities as provided for in Article 2 (3) (f) shall be released immediately where tenders are not accepted or where no supply 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 agency indicated in Article 6 proof of the lodging of a supply security in favour of the latter, amounting to 10 % of the value of 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) Commmision of the European Communities,
Division VI.D
Rue de Loi 120, office 8/68,
B-1049 Brussels,
(telex 22037 AGREC B; fax: (2) 235 33 10/235 01 30/235 01 31).

Article 6

The successful tenderer shall submit an application for payment for the supply to the intervention agency of the Member State in which the storage warehouse referred to in Article 2 (3) (e) is located.

The application shall be accompanied by:

— the original of the certificate of take-over drawn up on the specimen in Annex IV and issued by the representative of the organization indicated in Annex V for the product in question,

— the certificate drawn up by the body referred to in Article 7 on completion of the checks carried out.

Payment shall be made for the supply of the net quantity stipulated in the above certificate of takeover.

Article 7

1. The manufacture and packaging of the products referred to in Annexes I and II shall be the subject of checks carried out by the body designated by the Member State within which the place of manufacture and packaging is located.

The successful tenderer shall submit to the checks carried out by that body. For this purpose, he shall inform that body 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 storage warehouse.

2. On completion of the checks referred to in paragraph 1, the body shall issue a certificate certifying:

— that the products conform to the requirements of this Regulation,

— that the milk used for manufacture of the products originated from healthy animals, free from foot-and-mouth disease and any other infectious or contagious diseases.

Article 8

1. The primary requirements regarding 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 taken over by the beneficiary is not more than 1 % less than the quantity laid down.

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

Article 9

The conversion rates to be used for the payment of tenders and for tendering and supply securities shall be the agricultural conversion rates valid on the final date for the submission of tenders.

Article 10

1. The Commission shall communicate to the organizations referred to in Articles 6 and 7 all the information necessary for the supply.

2. The organizations referred to in paragraph 1 shall communicate to the Commission all information concerning the supplies, in particular the results of the checks on the conditions of takeover of the goods.

Article 11

Commission Regulation (EEC) No 2220/85 shall apply for the purposes of this Regulation.

Article 12

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, 25 November 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX I

1. **Characteristics of goods to be delivered as emergency aid to the people of Romania — humanized milk**

A. *Infant formulae made exclusively from cow's milk*

Infant formulae must be supplied in powder form and at least conform to the standard Codex STAN 72-1981 concerning infant formulae (world-wide standard).

They must be suitable for infants (0 to 6 months) and be prepared exclusively from milk, with the addition of vitamin D and, per 100 ml of reconstituted milk must provide :

— 1.5 to 1.8 g of proteins,
— 3.0 to 3.6 g of fat,
— 6.7 to 7.9 g of glucids.

B. *Milk-based follow-on formulae for infants and young children*

Milk-based follow-on formulae for infants and small children must be supplied in powder form and at least conform to the standard Codex STAN 156-1987 concerning follow-on formulae (world-wide standard).

They must, in particular, comply with point 9.1.2 of the above standard, be prepared with the addition of vitamin D and per 100 ml of reconstituted milk must provide :

— 1.9 to 3.0 g of proteins,
— 2.5 to 3.4 g of fat,
— 7.0 to 9.0 g of glucids.

C. *Delactosed formulae for infants and young children*

Delactosed humanized milk must conform to one of the above standards (the relevant age must be specified) and, in addition, provide a maximum of 1 g of lactose per 100 ml of reconstituted milk.

2. **Additional packaging requirements**

The goods described under point 1 must be packaged in packs of a minimum of 400 g net weight and a maximum of 1 kg net weight and stacked on palettes in accordance with the normal export standards.

3. **Labelling**

The packs must carry the words : 'Regulation (EEC) No 3421/91 — EEC aid for Romania' in Romanian and in one of the official languages of the Community.

ANNEX II

1. **Characteristics of goods to be delivered as emergency aid to the people of Romania — whole-milk powder**

Whole-milk powder with a minimum fat content of 26 % must be produced using the spray method. 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 3,0 ;
— in lactid acid :	maximum of 0,15 % ;
(d) lactate content (in relation to non-fat dry matter) :	maximum of 150 mg/100 g ;
(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 ;
(j) coli-aerogenes-organisms :	negative in 0,1 ;
(k) whey test :	negative ;
(l) taste and smell :	clean ;
(m) appearance :	white or slightly yellow colour, absence of impurities and coloured particles.

The control methods will be those specified in Annex 1 (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-aerogenes-organisms.

2. **Additional packaging requirements**

The goods must be packaged in packs of 25 kg net weight in new, clean, dry, intact bags in accordance with the Annex to Commission Regulation (EEC) No 625/78 [1] and stacked on palettes according to the usual export standards.

3. **Labelling**

The packs must bear the words : 'Regulation (EEC) No 3421/91 — EEC aid to Romania' in Romanian and in one of the official languages of the Community.

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

ANNEX III

DELIVERY ADDRESSES

A. **Infant formulae :**

Exhibition Hall
Exhibition Square
Bucarest

B. **Whole-milk powder :**

Destination	Quantity (tonnes)	Department	Town	Address
Bucuresti Dairy Industry	1 000	Bucuresti	Bucuresti	19, Armata Bd. Poporului
Industria Dairy Industry	250	Prahova	Ploiesti	1, Sos Vestului
Bacău Dairy Industry	250	Bacău	Bacău	156, Bacovia St.
Ialomita Dairy Industry	500	Ialomita	Slobozia	3, Filaturü St.

ANNEX IV

CERTIFICATE OF TAKEOVER

I, the undersigned :

.....

(family name, first name, business name)

acting in the name of ....., on behalf of ..... hereby certify that the goods listed below, delivered pursuant to Commission Regulation (EEC) No 3421/91, have been taken over :

— Place and date of takeover : .....

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— Type of product : .....

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— Net weight taken over (in tonnes) : .....

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— Packaging : .....

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— Observations :

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Firm :

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ANNEX V

BODIES RESPONSIBLE FOR THE TAKEOVER OF GOODS

A. Infant formulae :

'Unifarm Independent Authority', Bucharest, 48 Aviator Sanatescu Street,
Tel. : 66 41 85 ; telex : 11.595

B. Whole-milk powder :

'Prodexport Limited', Bucharest, 1 Walter Marcineanu Square,
Tel. : 15 55 95

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

— 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, Milk policy division,
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, RGI 7QW
(tel. : (44-734) 58 36 26, telex : 848302 (IBAPRG G), telefax : (44-734) 56 67 50, ext. 2370).