REGULATION (EEC) No 3189/73 OF THE COMMISSION

of 23 November 1973

opening an invitation to tender for the mobilization of common wheat as food aid for the Arabian Republic of Yemen

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation No 120/67/EEC (1) of 13 June 1967 on the common organization of the market in cereals, as last amended by Regulation (EEC) No 1346/73 (2);

Having regard to Council Regulation (EEC) No 1693/72 (3) of 3 August 1972 laying down the conditions for the mobilization of cereals as food aid, and in particular Article 6 thereof;

Whereas on 23 May 1973 the Council of the European Communities declared that by way of Community action it proposed to grant the Arabian Republic of Yemen 4 000 metric tons of common wheat under its 1971/72 food aid programme;

Whereas analysis of the state of the Community cereals market indicates that the criteria of Article 3 (3) of Council Regulation (EEC) No 1693/72 should be applied, and that the products should be purchased on the Community market;

Whereas the proposed invitation to tender should be for supply of the products delivered cif; that is at the moment when the goods are actually removed from the ship's hold at the port of unloading;

Whereas the award under the invitation to tender must be made in favour of the tenderer offering the best terms;

Whereas, should *force majeure* make it impossible to complete the operation in question within the set time limit, it must be made clear who is to bear the liability for any resulting costs;

Whereas provision should be made for security to be given for the purpose of guaranteeing that the obligations arising by virtue of participation in the invitation to tender for supplies to the Arabian Republic of Yemen will be fulfilled;

Whereas the French intervention agency should, in any event, be made responsible for the tendering procedure in question;

Whereas the Commission must be informed quickly of the tenders submitted in response to the invitation and of those accepted by the intervention agency;

Whereas the measures provided for in this Regulation are in accordance with the Opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

1. Tenders are hereby invited for the supply to the Arabian Republic of Yemen by way of Community food aid action:

— of 4 000 metric tons of common wheat.

2. The tendering procedure shall take place in France in one lot. The product shall be mobilized on the Community market. The products shall be loaded for departure from a Community port.

3. The invitation to tender provided for in paragraph 1 is for supply of products delivered cif, that is at the moment when the goods are actually removed from the ship's hold in bulk at the port of unloading.

The recipient country shall bear all costs subsequent to delivery of the goods, including unloading costs (such as unstowing, hoisting and reception) and any lighterage costs.

Any demurrage costs or dispatch money at the port of unloading shall be a charge on or for the benefit of the recipient country. The rates and detailed arrangements relating thereto laid down in the contract between the authorized agent of the Community and the carrier must have been agreed upon in advance by the authorized agent and the receiving agent of the recipient country.

Article 2

1. The decision on tenders received in response to the invitation provided for in Article 1 shall be taken on 7 December 1973.

2. The closing date for submission of tenders shall be 7 December 1973 at 12 noon.

3. The notice of invitation to tender shall be published in the *Official Journal of the European Communities* ten days before the closing date for submission of tenders.

(1) OJ No 117, 19. 6. 1967, p. 2269/67.
(2) OJ No L 141, 28. 5. 1973, p. 8.
(3) OJ No L 178, 5. 8. 1972, p. 3.

Article 3

The contract shall be awarded to the tenderer who makes the most favourable offer. However, if the tenders submitted do not appear to correspond to normal market prices and costs, the intervention agency may cancel the invitation to tender.

Article 4

1. The successful tenderer shall give security of a value of five units of account per metric ton of the product ; the security is intended to guarantee that the operations specified in Article 1 are duly completed.

The security shall be forfeit if those operations are not carried out within the prescribed time limit, save as regard quantities not delivered owing to *force majeure.*

2. The security provided for in paragraph 1 may be given in form of a cash deposit or of a guarantee issued by a credit institution conforming to the criteria laid down by the Member State.

Article 5

1. The products specified in Article 1 to be supplied for human consumption to the Arabian Republic of Yemen must be of fair and sound merchantable quality, be free from odour, and correspond at least to the standard quality for which the intervention price is fixed, except that the humidity shall not exceed 15·5 % and that a maximum tolerance of 3 % of sprouted grains and 1 % of miscellaneous impurities shall be allowed.

2. Tenders for supply to the Arabian Republic of Yemen of the products specified in Article 1 must relate to products of common wheat of fair and sound merchantable quality, free from odour, and correspond at least to the standard quality for which the intervention price is fixed, except that the humidity shall not exceed 15·5 % and that a maximum tolerance of 3 % of sprouted grains and 1 % of miscellaneous impurities shall be allowed.

Article 6

1. The French intervention agency shall be responsible for the operations relating to the invitation to tender provided for by this Regulation.

2. It shall forthwith communicate to the Commission the list of firms which have responded to the invitation to tender, specifying the terms of each tender, together with the name and business name of the successful tenderer.

3. The intervention agency shall request the successful tenderer to supply the following information :

(a) after each shipment, a certificate showing the quantities dispatched, the quality of the products and the type of packing ;

(b) the date of departure of the ships, the estimated date of arrival of the products at their destination ;

(c) incidents likely to occur during transport of the products.

The information indicated above shall be forwarded by the intervention agency to the Commission immediately upon receipt.

Article 7

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, 23 November 1973.

For the Commission

The President

François-Xavier ORTOLI

ANNEX

Number of lot	Port of unloading	Minimum rate of unloading	Tonnage cif
1	Hodeidah	Customs of the port	4 000 metric tons