REGULATION (EEC) No 2402/74 OF THE COMMISSION

of 20 September 1974

opening an invitation to tender for the mobilization of common wheat flour as food aid for the United Nations High Commission for Refugees

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 1996/74 [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;

Having regard to Council Regulation (EEC) No 974/71 [4] of 12 May 1971 covering certain measures of conjunctural policy to be taken in the agricultural sector following the temporary widening of the margins of fluctuation in the currencies of certain Member States, as last amended by Regulation (EEC) No 3450/73 [5], and in particular Article 6 (1) thereof;

Whereas on 21 March 1974 the Council of the European Communities declared that it proposed, by way of Community action, to grant the equivalent of 2 565 metric tons of common wheat (in other words, 1 699 metric tons of common wheat flour) to the United Nations High Commission for Refugees under its 1973/74 food aid programme;

Whereas pursuant to Article 3 (3) of Council Regulation (EEC) No 1693/72 the goods may be purchased anywhere on the Community market;

Whereas tenders should be invited for the supply of the product to the port of shipment in the vicinity of the vessel, the goods to be set down at the place nominated by the recipient or its agent;

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 time limits specified, 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 United Nations High Commission for Refugees will be fulfilled;

Whereas the Italian intervention agency should be made responsible for the tendering procedure;

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 prices of soft wheat flour on the world market exceed at this time to a marked extent the prices ruling in the Community for that product; whereas on the basis of data currently available no immediate change in this position is to be foreseen; whereas under these conditions tenderers can reasonably expect that at the time of delivery of the products in the tender no monetary compensatory amount will be applied to the export by virtue of Article 4a (2) of Regulation (EEC) No 974/71; whereas however the Commission has proposed to the Council the suppression of Article 4a (2) aforesaid; whereas this measure will have the effect of applying under all circumstances the monetary compensatory amount for transactions with Member States with depreciated currencies and in particular the levying of this amount on exports; whereas in order not to hinder the execution of this present food aid it is expedient to provide that any compensatory amount that might be applied following the suppression of Article 4a (2) aforesaid shall not be levied for the products to be delivered by virtue of this present invitation to tender;

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

(1) OJ No 117, 19. 6. 1967, p. 2269/67.
(2) OJ No L 209, 31. 7. 1974, p. 1.
(3) OJ No L 178, 5. 8. 1972, p. 3.
(4) OJ No L 106, 12. 5. 1971, p. 1.
(5) OJ No L 353, 22. 12. 1973, p. 25.

HAS ADOPTED THIS REGULATION :

Article 1

1. Tenders are hereby invited for the supply to the United Nations High Commission for Refugees by way of a Community action of 1 698 metric tons of common wheat flour.

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

3. The product referred to in paragraph 1 is to be delivered in new cotton sacks of a net capacity of 50 kilogrammes to the port of shipment in the vicinity of the vessel. The goods must be set down at the place nominated by the recipient country or its agent, the timing of delivery being settled by the tenderer and the recipient country's agent.

The following shall be printed on the sacks :

'Wheat flour — gift of the European Community to the UNHCR for free distribution to Cyprus population.'

Article 2

1. The decision on tenders received in response to the invitation provided for in Article 1 shall be taken on 30 September 1974.

2. The closing date for the submission of tenders shall be 30 September 1974 at 12 noon.

3. The notice of invitation to tender shall be published in the *Official Journal of the European Communities* not less than six days before the closing date for the submission of tenders.

Article 3

The contract shall be awarded to the tenderer offering the best terms. 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

If the tenderer is unable to deliver the goods in compliance with Article 1 (3) on the date given in the notice of invitation to tender as a result of the late availability of the vessels to be used for sea transportation, the resulting costs shall be borne by the intervention agency.

Article 5

1. The successful tenderer shall give security of a value of 10 units of account per metric ton ; 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 regards quantities not delivered owing to *force majeure*.

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

Article 6

1. The common wheat flour referred to in Article 1 to be supplied to the United Nations High Commission for Refugees must meet the following requirements :

— moisture : 12 % maximum ;

— protein content : 10·5 % minimum (N × 6·25 on dry matter) ;

— ash content : 0·52 % maximum referred to dry matter.

Flour not meeting these requirements shall be refused.

2. Tenders for supply to the United Nations High Commission for Refugees of the common wheat flour referred to in Article 1 must relate to a product with the following characteristics :

— moisture : 12 % maximum ;

— protein content : 10·5 % minimum (N × 6·25 on dry matter) ;

— ash content : 0·52 % maximum referred to dry matter.

Article 7

1. The Italian 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. On the other hand, if the successful tenderer is established in a Member State other than the one collecting the tenders, and if the product is dispatched through a frontier post of the Member State where the successful tenderer is established, the intervention agency of thé latter Member State shall be responsible for the operations relating to the tendering.

In this case, the intervention agency choosing the successful tenderer shall immediately inform the intervention agency of the Member State concerned and shall supply it with all the information which it may require.

4. The intervention agency shall ask that the tenderer specifies the following information :

(a) after each shipment, a statement giving details of the quantities loaded, the quality of the products and their packaging ;

(b) the date of the departure of the ships, the expected date of arrival of the products at their destination.

The intervention agency shall transmit the information provided for to the Commission as soon as it is received.

Article 8

On delivery of the goods at the port of shipment, a handing-over certificate shall be supplied to the successful tenderer, acting as agent for the Community, by the agent of the recipient country or, in the absence of the latter, by the intervention agency of the Member State in whose territory the port of shipment is situated.

Article 9

The monetary compensatory amount shall not be levied for the products to be delivered under this Regulation.

Article 10

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, 20 September 1974.

For the Commission

The President

François-Xavier ORTOLI