REGULATION (EEC) No 761/75 OF THE COMMISSION

of 21 March 1975

opening an invitation to tender for the mobilization of common wheat flour as food aid for the Democratic Republic of Somalia

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 85/75 (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 17 February 1975 the Council of the European Communities declared that it proposed, by way of Community action, to grant the equivalent of 2 500 metric tons of common wheat (in other words 1 655 metric tons of common wheat flour) to the Democratic Republic of Somalia under its 1974/75 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 the proposed invitation to tender should be for supply of the products cif, that is to say actually placed on the quay at the port of unloading ;

Whereas tenders may be submitted by tenderers established in any Member State of the Community and may relate to products mobilized anywhere within those Member States ; whereas, in view of the currency situation in the Member States and in order to ensure that the tenders are as comparable as possible, account should be taken of the effect on each tender of the currency situation in the Member State in which the customs export formalities will be completed ;

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 Democratic Republic of Somalia 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 Monetary Committee will be consulted ; whereas, in view of the urgency, the measures envisaged should be adopted in accordance with the conditions laid down in Article 3 (2) of Council Regulation No 129 (4) on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy, as last amended by Regulation (EEC) No 2543/73 (5), and in particular Article 3 thereof ;

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 Democratic Republic of Somalia, by way of Community food-aid action, of 1 655 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 product shall be loaded for departure from any Community port.

(1) OJ No 117, 19. 6. 1967, p. 2269/67.
(2) OJ No L 11, 16. 1. 1975, p. 1.
(3) OJ No L 178, 5. 8. 1972, p. 3.
(4) OJ No 106, 30. 10. 1962, p. 2553/62.
(5) OJ No L 263, 19. 9. 1973, p. 1.

3. The invitation to tender provided for in paragraph 1 is for supply of products delivered cif that is to say, actually placed on the quay in the port of unloading.

4. The successful tenderer shall deliver the product specified in paragraph 1 cif to the port of Berbera in new double cotton sacks, having a net capacity of 50 kilogrammes.

The following shall be printed on the sacks :

'Wheat flour — gift of the European Community — to be distributed free of charge'.

Article 2

1. The decision on tenders received in response to the invitation provided for in Article 1 shall be taken on 8 April 1975.

2. The closing date for the receipt of tenders shall be 8 April 1975 at 12 noon.

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

Article 3

1. The prices offered must be expressed in the currency of the Member State in which the invitation to tender was issued.

2. Tenders must in particular mention the Member State in which the tenderer, in the event of his being declared successful, expects to complete the customs export formalities for the products concerned.

3. For the purpose of rendering the tenders comparable, the prices shall, where appropriate, be corrected by the monetary compensatory amount applicable on the closing date for submission of tenders to exports from the Member State mentioned in the tender pursuant to paragraph 2.

Such correction shall be made by :

— increasing prices which mention a Member State whose currency has depreciated,

— reducing prices which mention a Member State whose currency has been revalued.

Such monetary compensatory amount shall, where appropriate, be converted into the currency of the Member State in which the invitation to tender is issued using :

— in the case when the currencies concerned are kept at any given moment within a band of 2·25 %, a conversion rate resulting from their central rate,

— in the other cases, the average of the spot rates of the currencies concerned recorded in the Member State in which the invitation to tender is issued during a period from the Wednesday of one week to the Tuesday of the following week being the period immediately preceding the closing date for submission of tenders.

Article 4

The contract shall be awarded to the tenderer offering the best terms, taking into consideration the adjustment referred to in Article 3 (3).

However, if the tenders submitted do not appear to reflect normal market prices and costs, the intervention agency may cancel the invitation to tender.

Article 5

1. The tenderer shall give security in an amount of 10 units of account per metric ton of goods.

It shall be released :

— in the case of all tenderers whose tenders are unsuccessful or are not accepted,

— in the case of the successful tenderer, when the operations concerned have been carried out within the prescribed time limit and on submission of the original export licence duly granted and endorsed by the competent authorities of the Member State mentioned in the tender pursuant to Article 3 (2),

— in the case of the successful tenderer for quantities not supplied by reason of *force majeure.*

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

Article 6

1. The common wheat flour referred to in Article 1 to be supplied to the Democratic Republic of Somalia must meet the following requirements :

— moisture : 14 % 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 Democratic Republic of Somalia of the common wheat flour referred to in Article 1 must relate to a product with the following characteristics :

— moisture : 14 % 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 organizing 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. Where the customs export formalities for the mobilized product are completed in a Member State other than that in which the invitation to tender is issued, the intervention agency of the latter Member State shall be responsible for the operations following tendering, including payment to the successful tenderer.

In such 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.

Furthermore, the amount of the successful tender shall be paid after it has been converted using the average of the spot rates referred to in the second subparagraph of Article 3 (3) to the tenderer in the currency of the Member State in which the operations relating to the tendering are completed.

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 the type of packing ;
(b) the date of the departure of the ships, the estimated date of arrival of the products at their destination ;
(c) all possible contingencies which might occur during transportation of the products.

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

5. When the intervention agency responsible for the operations relating to tendering is not the intervention agency which appoints the successful tenderer, it shall send as soon as possible to the latter the information necessary for releasing the security.

Article 8

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, 21 March 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission