COMMISSION REGULATION (EEC) No 2211/91

of 25 July 1991

laying down detailed rules for the application of Council Regulation (EEC) No 598/91 as regards the supply of various lots of tomato concentrate intended for the people of the Soviet Union

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 598/91 of 5 March 1991 on urgent action for the supply of agricultural products intended for the people of the Soviet Union [1], and in particular Article 5 (2) thereof,

Whereas Regulation (EEC) No 598/91 provides for urgent action for the supply of agricultural products intended for the people of the Soviet Union ; whereas that country has requested that it be supplied with tomato concentrate in medium packages ;

Whereas, in view of the special requirements of the supply as regards transport to and distribution at the destination, the costs relating to the manufacture of the products should be determined separately, by invitation to tender, in order to organize subsequently the despatch of the products to the beneficiary institutions and bodies ;

Whereas detailed rules for the application of Regulation (EEC) No 598/91 must be laid down to determine the conditions governing participation in the invitation to tender, the conditions governing the award of the supply and the obligations relating to the manufacture of the tomato concentrate ;

Whereas, in order to ensure that the 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 [2], as last amended by Regulation (EEC) No 3745/89 [3] ;

Whereas the manufacture and packaging of the products must be monitored by the intervention agencies of the Member States ;

Whereas, pursuant to Article 2 (4) of Regulation (EEC) No 598/91, the products supplied are not eligible for export refunds and are not subject to the system of monetary compensatory amounts ;

Whereas provision should be made for suitable notifications to ensure the monitoring of operations as well as possible until takeover by the agency or the undertaking responsible for despatch to the destination ;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee provided for in Article 5 (2) of Regulation (EEC) No 598/91,

HAS ADOPTED THIS REGULATION :

Article 1

1. An invitation to tender is hereby opened for the supply of 3 000 tonnes of tomato concentrate for the people of the Soviet Union pursuant to Regulation (EEC) No 598/91 and in accordance with the conditions laid down herein.

2. The supply shall comprise :

(a) the manufacture of tomato concentrate meeting the characteristics laid down in Annex II.

The end product must be put up in metal canisters of a net weight less than 3 kilograms (1 500 tonnes) and between 3 and 5 kilograms (1 500 tonnes) grouped in cartons mounted on palettes in accordance with normal export practice and in with Annex II.

The manufacture and packaging of the product covered by the supply must be carried out in the same plant and completed by 20 September 1991 at the latest ;

(b) the storage of the product for the body indicated by the Commission until 2 October 1991. Storage costs during that period shall be born by the successful tenderer ;

(c) an undertaking, in so far as possible, to manufacture the product and make it available to the abovementioned body, before the end of the periods provided for in (a) and (b), at the request of the body indicated by the Commission.

[1] OJ No L 67, 14. 3. 1991, p. 19.
[2] OJ No L 205, 3. 8. 1985, p. 5.
[3] OJ No L 364, 14. 12. 1989, p. 54.

Article 2

1. Tenders shall be forwarded by written telecommunication (telex or telefax) to the address indicated below.

In order to be deemed admissible, tenders must be complete and reach the following address by 12 noon (Brussels time) on 31 July 1991 :

Commission of the European Communities,
Fruit and Vegetable Division,
Bâtiment Loi 120, Office 9/29,
200 rue de la Loi,
B-1049 Bruxelles ;
(telex AGREC 22037B or AGREC 25670B),
(telefax Bruxelles 235 21 95).

Where no supply contract is awarded, pursuant to Article 3 a second deadline for the submission of tenders shall expire at 12 noon (Brussels time) on 19 August 1991.

2. Tenders shall be valid only if :

(a) they refer clearly to the supply provided for in Article 1 and this Regulation ;

(b) they indicate the name, address, telex and telefax numbers of the tenderer, who must be established in the Community ;

(c) each tender refers to one or more lots of 500 tonnes (net weight of goods). Tenders shall state the exact number of lots (net weight and net content of the metal canisters) to which they refer ;

(d) they specify an amount per tonne expressed in ecus covering the whole supply of one lot ; that amount shall include packaging costs ;

(e) they indicate the exact address of the place of manufacture and packaging and the store in which the products will be kept available to the agency to be indicated by the Commission. Each tender may indicate a single place of storage only ;

(f) they are accompanied by proof that the tenderer has lodged a tendering security of ECU 20 per tonne in favour of the Commission, in accordance with the provisions of Title III of Regulation (EEC) No 2220/85. Such proof shall consist of a document issued by the body granting the security.

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.

Tenders shall not be modified or withdrawn.

Article 3

1. On the basis of the tenders received :

— supply contracts shall be awarded to tenderers whose tenders indicate the lowest amounts, or, where appropriate, in case of equal tenders, the awarding is done by drawing of lots,

— no contract shall be awarded, in particular where tenders submitted specify prices in excess of those normally applying on the market.

2. Within five working days following the closing date for the submission of tenders, the Commission shall inform all tenderers of the outcome of their tenders by written telecommuniciation. Where appropriate, the successful tenderer shall be notified forthwith of the award by written telecommunication.

Article 4

1. The tendering security provided for in Article 2 (2) (f) shall be released immediately where tenders are not accepted or where no supply contract 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 decision provided for in Article 3 (1) is adopted ;

(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 body indicated in Article 6 proof of lodging of a supply security in favour of the latter, amounting to 10 % of the price quoted in 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.

Article 6

1. The successful tenderer shall submit an application for payment of the supply to the intervention agency of the Member State in which the place mentioned in Article 1 (2) (b) at which the products are kept available is located before 9 October 1991.

Such application shall be accompanied by :

— the original of the certificate of takeover drawn up in accordance with the specimen set out in the Annex and issued by the body designated by the Commission,

— the attestation drawn up by the body mentioned in Article 7 on completion of checks conducted.

Payment shall be made for the quantities (net weight) mentioned in the certificate of takeover.

2. If the goods are not taken over at the date indicated in Article 1 (2) (b), the successful tenderer shall have the body responsible for checks ascertain the fact that the goods have been made available in accordance with that Article. He shall obtain payment of the price he tendered for the quantities in respect of which the body responsible for checks certifies that he has met his obligations.

The body responsible for payment shall, after consulting the Commission, take appropriate measures concerning the disposal of the goods.

Article 7

The manufacture, presentation and packaging of the product shall be monitored by the body designated by the Member State in which the place of manufacture and packaging is located.

The successful tenderer shall submit to the checks carried out by that body. He shall notify the latter for that purpose of the places and period of manufacture and packaging of the product to be supplied at least five days in advance and of the address of the store mentioned in Article 1 (2) (b) at which the goods are made available.

On completion of the checks, the body shall issue a certificate of conformity certifying that the tomato concentrate is processed from fresh tomatoes of the 1990 or 1991 harvest.

Article 8

1. The primary requirements relating to the supply within the meaning of Article 20 of Regulation (EEC) No 2220/85 shall be the execution of this supply under the conditions laid down. The quantity delivered shall be considered satisfactory where the difference between the net weight recorded on takeover and that of the quantity laid down is not more than 1 %.

2. The supply security shall be released when the sucessful tenderer provides the intervention agency concerned with the documents mentioned in Article 6 (1).

The supply security shall also be released forthwith in cases of *force majeure.*

Article 9

The conversion rates to be used for the payment of prices tendered and for the tendering and supply securities shall be the agricultural conversion rates applying on the closing date for the submission of tenders.

Article 10

1. The Commission shall notify the bodies referred to in Articles 6 and 7 of the names of the successful tenders and of any information necessary for executing the supplies.

2. The bodies referred to in paragraph 1 shall notify the Commission of any information relating to the supplies, and in particular of the outcome of checks and the conditions of takeover of the goods.

Article 11

This Regulation shall enter into force on the day following 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 July 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX I

CERTIFICATE OF TAKEOVER

I, the undersigned :

.....

(family name, first name, business name)

acting in the name of ..... on behalf of

..... certify that the goods listed below, delivered pursuant to Commission Regulation (EEC) No 2211/91, have been taken over :

— Place and date of takeover : .....

.....

— Type of product : .....

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— Tonnage, weight taken over (net) : .....

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— Packaging : .....

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Remarks :

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Signature : .....

ANNEX II

1. **Characteristics and quality of the goods :**

total solids 29-31 %, soluble solids (tomato) 26-28 %, salt contents (as NaCl) 1,3 %, acidity (acitric acid) 2-3 % and shall be of 1990 or 1991 crop. The tomato concentrate must with the minimum quality standards provided for in Article 10 of Commission Regulation (EEC) No 1764/86 (OJ No L 153, 7. 6. 1986, p. 1)

2. **Packaging and marking :**

tins of net weight each less than 3 kilograms (three lots of 500 tonnes each) and between 3 and 5 kilograms (three lots of 500 tonnes each) hermetically sealed with no corrosion on the seams or internal parts, labelled by means of lithography or paper label. The label shall detail/show the following :

(i) a list of ingredients

(ii) net tin contents in grams

(iii) name and address of manufacturer (code)

(iv) country of origin

(v) production date (code)

The packaging of tins is to be affected in new cartons, suitable for road or sea transport, each containing six tins. Each carton should be sealed with adhesive tape.