COMMISSION REGULATION (EEC) No 2433/91

of 8 August 1991

laying down detailed rules for the supply of pasta as urgent aid for the people of the Soviet Union provided for by Council Regulation (EEC) No 598/91

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 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 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 the supply of pasta ; whereas this request should be granted ;

Whereas, taking into consideration the particular requirements of the supply as regards transport and distribution to the destination, the costs concerning the manufacture of the products should be determined separately, by tender, in order to organize subsequently the dispatch of the products to the institutions and organizations beneficiary ;

Whereas it is necessary to determine the conditions for tendering the attribution of the supply 'contract' and the obligations of the tenderers responsible for the manufacture of the products ;

Whereas pursuant to Article 2 (4) of Regulation (EEC) No 598/91 the goods delivered 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 [4], as last amended by Regulation (EEC) No 3237/90 [5] ;

Whereas, the appropriate communications to assure the best monitoring of operations until the taking-over by the agency or enterprise charged with the dispatch to the destination should be provided for ;

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

HAS ADOPTED THIS REGULATION :

Article 1

1. Pursuant to Regulation (EEC) No 598/91, a procedure is hereby initiated for invitations to tender for the manufacture of 19 separate lots of pasta, each lot being 500 tonnes, in accordance with the conditions laid down in this Regulation.

2. Each delivery shall comprise :

(a) the manufacture in the Community of one 500 tonne lot of pasta in accordance with point 1 of Annex I.

The goods are to be packed and labelled in conformity with the provisions of Annex I.

The manufacture and packaging of the goods covered by the tender has to be accomplished by the date indicated in Annex III ;

(b) the storage, at the manufacturers expense, of goods at the disposal of the organization designated by the Commission until

(c) the undertaking to expedite as far as possible the manufacture of the amounts of goods tendered with a view to completing its manufacture and take-over by dates before those specified above, at the request of the organization designated by the Commission.

3. The goods referred to in paragraph 2 shall not be delivered under the inward processing arrangements.

[1] OJ No L 67, 14. 3. 1991, p. 19.
[2] OJ No L 164, 24. 6. 1985, p. 1.
[3] OJ No L 201, 31. 7. 1990, p. 9.
[4] OJ No L 310, 21. 11. 1985, p. 1.
[5] OJ No L 310, 9. 11. 1990, p. 18.

Article 2

1. Tenders shall be sent by written telecommunication to the following address:

Commission of the European Communities,
DG VI-H-2, Bilateral matters,
200, rue de la Loi,
Loi 130 6/77,
B-1040 Brussels;
(telex: 22037 AGREC B; fax: 32 2 235 93 06)

2. Tenders must be lodged in their entirety before 12.00 noon (Brussels time) on 19 August 1991.

Article 3

1. Each tender shall refer to one lot of 500 tonnes (net weight of goods).

2. Tenders shall be valid only if they indicate the following:

(a) the precise reference to the invitation to tender;

(b) the name and address and in particular telex/telefax numbers of the tenderer established in the Community;

(c) the number of the lots tendered for and the net weight tendered;

(d) the amount in ecus per tonne of goods offered;

(e) the exact address of the place of manufacture and packaging;

(f) the exact address of the storehouse at which the goods are to be placed at disposal in conformity with Article 1 (2) (b); tenders should indicate only one storage facility.

Tenders shall be accompanied by:

(g) proof that the tenderer has lodged the tendering security referred to in Article 4 before the expiry of the deadline for submission of tenders. This proof shall be furnished by means of a document issued by the guarantor.

3. A tender which contains conditions other than those laid down by this Regulation shall not be valid.

4. No tender may be changed or withdrawn.

Article 4

1. The tendering security shall be fixed at ECU 15 per tonne of goods.

2. The tendering security shall take the form of sureties in favour of the Commission issued by a credit institution approved by a Member State.

The tendering security must be provided for a period of at least one month.

The tendering security can be released solely at the initiative of the Commission. It shall be released or payable in conformity with Article 6.

Article 5

1. On the basis of the tenders received:

— the delivery shall be awarded to the tenderer whose tender quotes the lowest amounts,

— or, where necessary, no award shall be made, in particular where the tenders submitted exceed the prices normally obtaining on the market,

Where several tenders specify the same amount adjusted according to paragraph 2, lots shall be drawn to determine the tender to be accepted.

2. For the comparison of the tenders, the accession compensatory amounts shall be deducted.

3. Within five working days following the closing date for submission of tenders, the Commission shall inform all tenderers by written telecommunication of the outcome of the tendering procedure. Where an award is made the successful tenderer shall be informed thereof immediately by written telecommunication.

Article 6

The tendering security provided for in Article 3 (2) (g) shall be released without delay:

— if a tender is not accepted or if no award is made,

— for the successful tenderer when proof is provided of the lodging of delivery security in accordance with Article 7.

Article 7

Within five working days of being notified that he has been awarded the delivery contract, the successful tenderer shall provide the organization indicated in Article 8 with proof that a delivery security amounting to ECU 50 000 has been lodged for each lot.

This delivery security shall be constituted in the form of sureties issued by a credit institution approved by a Member State. It must be provided for a period of at least four months. The proof shall be furnished by means of a document issued by the guarantor.

The delivery security shall be released in conformity with Article 10 (4).

Article 8

1. Before the date specified in Annex III for the lot concerned, the successful tenderer shall present a demand for payment for the supply to the organization designated by the Member State in which the storehouse of supply referred to in Article 3 (2) (f) is situated, accompanied by the following:

(a) proof of lodgement of a payment security in the form of sureties in favour of the forementioned organization issued by a credit institution approved by a Member

State, provided for a period of at least two months. The proof shall be furnished by means of a document issued by the guarantor;

(b) certification made by the organization referred to in Article 9, on completion of the checks carried out;

(c) certification that the products were available by the production deadline referred to in Annex III. Payment shall be made for the quantity of product (net weight) referred to in the certificate.

2. The payment security provided for in paragraph 1 shall be 110 % of the amount of the offer for the relevant lot.

Article 9

The manufacture and packaging of the goods shall be the subject of a control to be carried out by the organization designated by the Member State within which lies the place of manufacture and packaging.

For this purpose the successful tenderer shall inform this organization and the Commission of the places and period of manufacture and of packaging of the goods, at least five days in advance as well as the address of the storehouse mentioned in Article 3 (2) (f) at which goods are kept at disposal.

Following controls, the organization shall provide a certificate based on the model in Annex II to this Regulation, establishing that the products had been manufactured according to the terms of this Regulation.

Article 10

1. The payment security referred to in Article 8 (1) shall be released without delay when the successful tenderer presents the take-over certificate in accordance with the model in Annex II and provided by the body indicated by the Commission.

2. If the product is not taken over by the date indicated in Annex III, the successful tenderer shall ask the organization responsible for payment to certify that the product was made available in accordance with his obligations and will obtain release of the payment security on foot of this certification. Similarly, the organization responsible for payment shall, after consultation with the Commission, make appropriate measures as regards the destination of the goods.

3. The payment security shall be released for quantities for which the tenderer's obligations have been fulfilled. The quantities supplied shall be deemed satisfactory where the net weight is not less than by more than 1 % of the intended quantity.

4. The supply security foreseen in Article 5 shall be released on provision of proof of the establishment of the payment security in accordance with Article 8.

5. Securities shall be released at once in the case of *force majeure.*

Article 11

The conversion rates to be used for payment of tenders and for tendering and delivery securities shall be the representative market rates referred to in Article 3a of Regulation (EEC) No 3152/85, valid on the final date for submission of tenders.

Article 12

1. The Commission shall communicate to the organizations mentioned in Articles 8 and 9 the name of the successful tenderer and all other necessary information for carrying out delivery.

2. The organizations referred to in paragraph 1 shall communicate to the Commission all information concerning the carrying out of the delivery, in particular the results of the checks and the conditions of take-over of the goods.

Article 13

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, 8 August 1991.

For the Commission

Jean DONDELINGER

Member of the Commission

ANNEX I

1. *Characteristics of goods to be delivered as urgent aid*

   Pasta made from durum wheat semolina with an ash content less than or equal to 1,1 % and a protein content not less than 10 %, falling within CN codes 1902 19, 1902 20 or 1902 30. For control purposes a tolerance of 3 % of common wheat in the totality of wheat used is permissible.

2. *Additional requirements concerning packaging and labelling*

   (a) the goods must be packaged in packs of minimum 500 grams net weight and maximum 1 kilogram net weight;

   (b) the goods in packets shall be packed in cartons conforming to the usual standards for exportation and the cartons assembled on pallets;

   (c) every single package shall be labelled 'ПОМОЩЬ ЕС СССР 598/91' as well as the designation 'Food aid of the Community to Soviet Union — Commission Regulation (EEC) No 2433/91' in one of the official languages of the Member States of the manufacture of the goods.

This last designation is also appended in block letters in indelible lettering on the cartons in which goods are packaged.

ANNEX II

CERTIFICATE OF TAKE OVER

The undersigned :

.....

(surname, name, organization)

acting for ....., for the account of

..... certify that the goods described below, delivered pursuant to Commission Regulation (EEC) No 2433/91 have been taken over :

by :

— Place and date of taking over : .....

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— Type of goods : .....

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

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— Packaging : .....

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Observations :

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Signature : .....

Date : .....

ANNEX III

Lot numbers	Final date for manufacture as mentioned in Article 1 (2), point 1	Final date for goods to be stored for disposal as mentioned in Article 1 (2), point 2	Final date for the introduction of the demand for payment as mentioned in Article 8 (1)
1 2 3 4 5 6	16. 9. 1991	30. 9. 1991	20. 9. 1991
7 8 9 10 11 12 13	30. 9. 1991	15. 10. 1991	4. 10. 1991
14 15 16 17 18 19	7. 10. 1991	22. 10. 1991	11. 10. 1991