COMMISSION REGULATION (EEC) No 1022/92

of 24 April 1992

on the supply of white sugar as urgent aid for the people of St Petersburg, Saratov, Chellabinsk and Nizhny-Novgorod pursuant to Council Regulation (EEC) No 330/92

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 330/92 of 10 February 1992 on urgent action for the supply of agricultural products to the people of Moscow and St Petersburg [1], and in particular Article 5 (2) 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 5 (3) thereof,

Whereas Regulation (EEC) No 330/92 provides for urgent action for the free supply of agricultural products intended for the people of Moscow and St Petersburg and possibly other towns and cities; whereas those cities have also requested the supply of white sugar; whereas this request should be granted; whereas pursuant to Article 2 of that Regulation suppliers are to be chosen by tendering procedure;

Whereas it is necessary to determine the conditions for participating in the tendering procedure for the award of supply contracts and the obligations of the successful tenderers;

Whereas, as regards the securities to be lodged by suppliers, 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 [4], as last amended by Regulation (EEC) No 3745/89 [5], should apply;

Whereas the goods delivered do not qualify for export refunds and are not subject to compensatory amounts;

Whereas the appropriate communications to ensure the optimal monitoring of operations until the taking over at destination should be provided for;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. A tendering procedure is hereby initiated for the award of contracts for the supply pursuant to Council Regulation (EEC) No 330/92 of 7 000 tonnes of white C sugar in accordance with the conditions laid down in this Regulation.

The definition of the supplies given in Annex I, as regards the geographical allocation of quantities, shall be subject to amendment on the basis of the tenders submitted within the framework of the different invitations to tender.

2. Each delivery shall cover:

(a) the mobilization of white C sugar produced in the Community within the meaning of point (c) of the sixth subparagraph of Article 24 (1a) of Council Regulation (EEC) No 1785/81 [6];

(b) the sugar to be supplied must satisfy the quality and characteristic requirements laid down in Annex II. The product must be packed and labelled in accordance with the instructions in that Annex;

(c) transport to the destination provided for in Annex I at the expense of the successful tenderer, by 6 June 1992 at the latest. Delivery shall include unloading and storing in the storehouse at destination.

Where the last subparagraph of Article 2 (2) applies, transport must be effected by 16 June 1992 at the latest.

Tenderers shall take out at their own expense the appropriate insurance to cover the goods up to the delivery stage fixed.

Article 2

1. Tenders shall be transmitted by written telecommunication to the intervention agency of the Member State in which the goods are packed and stored prior to shipment.

2. Tenders must be lodged in their entirety before 12.00 noon (Brussels time) on 29 April 1992.

[1] OJ No L 36, 13. 2. 1992, p. 1.
[2] OJ No L 164, 24. 6. 1985, p. 1.
[3] OJ No L 201, 31. 7. 1990, p. 9.
[4] OJ No L 205, 3. 8. 1985, p. 5.
[5] OJ No L 364, 14. 12. 1989, p. 54.
[6] OJ No L 177, 1. 7. 1981, p. 4.

Where no award is made under Article 5 (1), tenders must be lodged for a second submission before 12.00 noon (Brussels time) on 15 May 1992.

Article 3

1. Tenders shall be valid only if they:

(a) indicate the precise reference to this Regulation and a specific supply referred to in Annex I;

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

(c) cover the entire lot (net weight) scheduled for the specific supply defined in Annex I;

(d) indicate the total amount of the tender, expressed in ecus per tonne of goods. In addition, the amount shall be broken down to show separately the price offered for the manufacture and packaging of the goods, and the transport costs (including insurance) from the storehouse to the destination;

(e) indicate, for transport by sea, the port of shipment in the Community;

(f) indicate the exact address of the packaging plant and storehouse at which the goods are kept prior to dispatch;

(g) are accompanied by proof that the tenderer has lodged a tendering security of ECU 20 per tonne in the name of the intervention agency in accordance with Title III of Regulation (EEC) No 2220/85. This proof shall be furnished by means of a document issued by the guarantor.

2. A tender which is not presented in accordance with this Article or which contains conditions other than those laid down in this Regulation shall not be valid.

3. No tender may be changed or withdrawn.

Article 4

The competent agencies referred to in Article 2 shall transmit to the Commission, by written telecommunication, not later than 24 hours following the closing date fixed for the submission of tenders and separately for each of the supplies defined in Annex I, the following information:

(a) the number of tenders submitted within the deadline referred to in Article 2 and in accordance with Article 3;

(b) separately and clearly for each tender:

— the total ecu price offered, and the breakdown provided for in Article 3 (1) (d),

— the places of packing and storage prior to dispatch,

— the business name of the tenderer established in the Community.

Article 5

1. On the basis of the tenders received:

— the delivery shall be awarded to the tenderer(s) whose tender(s) quote the lowest amounts; in the event of equal quotes, awards will be made by drawing lots,

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

2. Within five working days following the closing date for submission of tenders, the Commission shall inform each Member State of the tenders which have been accepted and of the awards which have not been made.

3. Within seven working days following the closing date for submission of tenders, the agency referred to in Article 2 (1) 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 (1) (g) shall be released without delay:

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

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

Article 7

Within five working days of being notified of the award of the delivery contract, the successful tenderer shall provide the agency indicated in Article 2 with proof that a delivery security amounting to 10 % of the tender amount, in accordance with Title III of Regulation (EEC) No 2220/85, has been lodged in its name. The proof shall be furnished by means of a document issued by the guarantor.

Article 8

1. The successful tenderer shall present the application for payment of the delivery to the intervention agency referred to in Article 2.

The application shall be accompanied by:

— the original of the take-over certificate drawn up in accordance with the specimen in Annex III and issued by the beneficiary or his representative,

— the certificates drawn up on completion of the checks carried out pursuant to Article 9.

Where the certificate is not issued by the beneficiary, one shall be issued by the agency appointed by the Commission, in accordance with the specimen referred to above.

2. The payment shall be made for the quantity of goods (net weight) mentioned in the take-over certificate.

Article 9

1. The goods shall be inspected at the request of the agency appointed by the Member State in which packing and storage are carried out. The inspection shall concern the quality, packaging and labelling of the delivery, the costs relating to the inspection shall be borne by the successful tenderer.

Following inspection, the agency shall issue a certificate of conformity.

2. In addition, the successful tenderer shall submit to checks requested by the Commission and carried out by inspectors authorized by it or by the agency indicated by it. For this purpose the successful tenderer shall communicate all the information requested which is relevant to the delivery.

Article 10

1. For the purposes of releasing the delivery security, the primary requirement within the meaning of Article 20 of Regulation (EEC) No 2220/85 shall be completion of the delivery in accordance with the conditions laid down.

The quantity delivered shall be considered satisfactory where the net weight when taken over by the beneficiary is not more than 1 % less than the quantity provided for.

2. Proof of fulfilment of the obligations relating to the supply shall be given to the agency concerned by presenting the documents referred to in Article 8.

3. The security shall be released at once in cases of *force majeure.*

4. In the event of particular difficulties on taking over, the Commission shall take the appropriate measures.

Article 11

In cases of *force majeure,* the successful tenderer shall be freed from all or part of his obligations. In such cases, the competent agency responsible for payment shall take the appropriate measures after consulting the Commission.

Article 12

Box 20 (special conditions) of licence applications and export licences for C sugar shall indicate : 'Urgent aid — Regulation (EEC) No 1022/92. Export refunds and monetary and accession compensatory amounts are not applicable'.

Article 13

The conversion rates to be used for payment of tenders and for the tendering and delivery securities shall be the agricultural conversion rates in force on the closing date for submission of tenders.

Article 14

1. Member States shall communicate to the Commission all information concerning the carrying out of a delivery, in particular the results of the inspection referred to in Article 9 (1), actual delivery schedules and any incidents occurring during delivery.

2. The Commission shall communicate in good time to the competent agencies of the Member States all the information necessary to facilitate the proper execution of deliveries. In particular, the Commission delegation in Moscow shall communicate the instructions necessary to facilitate deliveries and taking-over of goods.

Article 15

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, 24 April 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX I

DETERMINATION OF SUPPLIES PROVIDED FOR IN THIS REGULATION

A. **Supply of 4 000 tonnes of white sugar to St Petersburg**

Beneficiary's representative :

Mr Sergly Pokrovsky,
Chairman of Foodstuffs,
Committee of St Petersburg,
Gertzena St 59,
190 000 St Petersburg.

B. **Supply of 1 000 tonnes of white sugar to Saratov**

Beneficiary's respresentative :

Mr Yuri Vasilievich Belykh,
Head of Regional Administration,
Ulitsa Lenina 72,
Saratov Region,
(Tel. : 8452 24 22 21 ; fax 8452 24 20 89).

C. **Supply of 1 000 tonnes of white sugar to Nizhni-Novgorod**

Beneficiary's representative :

V. N. Yevlampiev,
Deputy Governor,
Department of Trade and Foreign Economic Relations,
Administration of NN Region,
603019 Nizhni-Novgorod
(fax : 83 12 35 04 50).

D. **Supply of 1 000 tonnes of white sugar to Chellabinsk**

Beneficiary's representive :

Sr. V. Nikitin
Deputy Chairman
Comission for Humanitarian & Technical Aid,
Directorate for Social Defence of Population
Administration of Cheliabinsk Region
(Tel. : 33 66 04 - 34 85 67 ; fax 34 33 57).

ANNEX II

1. Characteristics and quality of the goods : white sugar of category 2 standard quality (Council Regulation (EEC) No 793/72 (OJ No L 94, 21. 4. 1972, p. 1)) meeting the requirements set out in Article 3 (3) of Commission Regulation (EEC) No 2103/77 (OJ No L 246, 27. 9. 1977, p. 12).

   The rules provided at the second indent of Article 18 (2) (a) of Regulation (EEC) No 2103/77 is binding for determination of the sugar category.

2. Packaging and marking : new jute bags, with innerpolythene bag at least 0,05 mm thick, minimum weight of jute and polythene 420 g, net capacity 50 kilograms.

   Marking : the European flag (see Annexes I and II to OJ No C 114, 29. 4. 1991, p. 1).

3. Since the goods may be rebagged, the successful tenderer must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.

ANNEX III

TAKE-OVER CERTIFICATE

I, the undersigned :

.....

(surname, name, business name)

acting for ....., for the account of ..... hereby certify that the goods described below, delivered pursuant to Commission Regulation (EEC) No 1022/92 have been taken over :

— Date and place of take-over : .....

.....

— Type of goods : .....

.....

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

.....

— Packaging : .....

.....

.....

.....

.....

Observations :

.....

.....

.....

.....

.....

.....

Signature : .....

Date : .....