COMMISSION REGULATION (EEC) No 1145/92

of 5 May 1992

on the supply of refined rapeseed oil to the people of Moscow and St Petersburg as urgent aid 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 in particular 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 2 (4) thereof,

Whereas Regulation (EEC) No 330/92 provides for urgent action for the free supply of agricultural products to the people of Moscow and St Petersburg and possibly other towns and cities; whereas those cities have also requested to be supplied with refined rapeseed oil; whereas that request should be granted; whereas suppliers are to be selected by invitation to tender pursuant to Article 2 of that Regulation;

Whereas the conditions governing the submission of tenders for the award of supply contracts and the obligations of the successful tenderers should be determined;

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 provision should be made for the necessary notifications to ensure the optimal monitoring of operations until take-over at destination;

Whereas, for the purposes of determining the supply costs and the securities to be lodged and in order to avoid market distortion of monetary origin, 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 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 (6), as last amended by Regulation (EEC) No 3237/90 (7), should be used;

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. Pursuant to Regulation (EEC) No 330/92, invitations to tender are hereby opened for the award of contracts for the supply of refined rapeseed oil in accordance with the conditions laid down herein.

The definition of the supplies in Annex I as regards the geographical breakdown of quantities shall be subject to amendment on the basis of the tenders submitted in response to individual invitations to tender.

2. In each case, supply shall cover:

(a) the mobilization of refined rapeseed oil produced in the Community. Mobilization may not involve a product manufactured and/or packaged under inward-processing arrangements;

(b) compliance of the product to be supplied with the quality requirements and characteristics laid down in Annex II. The product must be packaged and marked in accordance with the instructions in that Annex;

(c) transport to the destination laid down in Annex I at the expense of the successful tenderer by the date indicated therein. Supply shall include unloading the goods and placing them at the store entrance at destination.

Where the second subparagraph of Article 2 (2) applies, transport must be completed by the date indicated for such an eventuality.

(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 310, 21. 11. 1985, p. 1.
(7) OJ No L 310, 9. 11. 1990, p. 18.

Successful tenderers shall take out at their own expense the relevant insurance to cover the goods up to the delivery stage specified.

Article 2

1. Tenders shall be forwarded by written telecommunication to the intervention agency of the Member State in which the goods are packaged.

2. Tenders must be lodged in full by 12 noon (Brussels time) on 13 May 1992.

Where no award is made in accordance with Article 5 (1), tenders may be lodged by a second deadline expiring at 12 noon (Brussels time) on 27 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 the tenderer, who must be established in the Community;

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

(d) quote an amount, expressed in ecus per tonne of goods, for the whole supply concerned. In addition, the amount shall be broken down to show separately the price offered for the manufacture and packaging of the goods, and for the transport costs (including insurance) to destination;

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

(f) indicate, the exact address of the places of packaging and storage of the goods prior to dispatch;

(g) are accompanied by proof that the tenderer has lodged the tendering security of ECU 15 per tonne in the name of the intervention agency in accordance with Title III of Regulation (EEC) No 2220/85. This proof shall entail a document issued by the guarantor.

2. Tenders not submitted in accordance with this Article or containing conditions other than those laid down in this Regulation shall not be accepted.

3. Tenders may not be altered or withdrawn.

Article 4

The competent agencies referred to in Article 2 shall forward the following information separately for each supply as defined in Annex I to the Commission by written telecommunication within 24 hours of the closing date set for the submission of tenders:

(a) the number of tenders submitted by the deadline laid down in Article 2 and in accordance with Article 3;

(b) separately and clearly for each tender:

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

— the places of packaging and storage prior to dispatch,

— the business name of the tenderer, who must be established in the Community.

Article 5

1. On the basis of the tenders received:

— the supply contract shall be awarded to the tenderer(s) whose tender(s) is/are the lowest; should the same price be quoted by more than one tender, award shall be made by drawing lots, or

— where applicable, no award shall be made, in particular where the tenders submitted quote prices in excess of those normally obtaining on the market.

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

3. Within seven working days following the closing date for the submission of tenders, the agency referred to in Article 2 (1) shall inform all tenderers by written telecommunication of the outcome of their tenders. Where a contract is awarded, the successful tenderer shall be informed thereof immediately by written telecommunication by that agency.

Article 6

The tendering security provided for in Article 3 (1) (g) shall be released without delay:

— where the tender is not accepted or where no contract is awarded,

— to the successful tenderer when proof is provided of the lodging of the supply security provided for in Article 7.

Article 7

Within five working days of receipt of notification of award of the supply contract, the successful tenderer shall send the intervention agency referred to in Article 2 proof that a supply security amounting to 10 % of the price tendered in accordance with Title III of Regulation (EEC) No 2220/85 has been lodged in its name. Such proof shall entail a document issued by the guarantor.

Article 8

1. The successful tenderer shall present an application for payment of the supply 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 recipient or his representative,

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

Where none is issued by the recipient, a certificate shall be issued by the body designated by the Commission, in accordance with the specimen referred to above.

2. Payment shall be made for the supply of 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 body designated by the Member State in which the places of packaging and storage are located. The inspection shall cover the quality, packaging and marking of the goods supplied.

Following inspection, the body 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 body indicated by it. For this purpose the successful tenderer shall forward all information requested which is relevant to the supply.

Article 10

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

The quantity delivered shall be considered satisfactory where the net weight recorded on take-over by the recipient is not more than 1 % less than the quantity laid down.

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

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

4. In the event of particular difficulties on take-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 necessary measures after consulting the Commission.

Article 12

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

Article 13

1. Member States shall forward all information to the Commission concerning the execution of the supply, and in particular the results of the inspection referred to in Article 9 (1), actual delivery schedules and reports of any incidents occurring during delivery.

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

Article 14

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, 5 May 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX I

SUPPLIES PROVIDED FOR IN THIS REGULATION

	Delivery schedule
LOT A	
Supply of 2 000 tonnes of rapeseed oil to St Petersburg	1st invitation to tender: 24. 6. 1992 2nd invitation to tender: 8. 7. 1992
Recipient's representative: Mr Sergei Prokovsky, Chairman of Foodstuffs Committee of St Petersburg, Gertzena Str. 59, 190 000 St Petersburg	
LOT B	
Supply of 2 000 tonnes of rapeseed oil to St Petersburg	1st invitation to tender: 3. 7. 1992 2nd invitation to tender: 17. 7. 1992
Recipient's representative: as for Lot A	
LOT C	
Supply of 1 500 tonnes of rapeseed oil to St Petersburg	1st invitation to tender: 10. 7. 1992 2nd invitation to tender: 24. 7. 1992
Recipient's representative: as for Lot A	
LOT D	
Supply of 3 000 tonnes of rapeseed oil to Moscow	as for Lot A
Recipient's representative: Sergei Borison, Deputy Prime Minister of Moscow Government, Shatenty Pereulok 4, Moscow Tel. 290 06 65 or 200 22 65	
LOT E	
Supply of 3 000 tonnes of rapeseed oil to Moscow	as for Lot B
Recipient's representative: as for Lot D	
LOT F	
Supply of 3 000 tonnes of rapeseed oil to Moscow	as for Lot B
Recipient's representative: as for Lot D	
LOT G	
Supply of 3 000 tonnes of rapeseed oil to Moscow	as for Lot C
Recipient's representative: for Lot D	

ANNEX II

1. **Composition and quality requirements**

Refined rape seed oil (HColz)

The refined rapeseed oil must be of sound, fair and marketable quality and must meet the following criteria :

— water and impurity content : 0,2 % maximum,
— free fatty acids : 0,15 % maximum, expressed as oleic acid,
— erucic acid : not more than 5 % of total fatty acids present,
— brassicasterol : not more than 5 % of total sterol content,
— absence of soap,
— absence of foreign odours and flavours,
— peroxide number : less than 10 milliequivalents of active oxygen per kilogram of oil,
— authorized additives : 100 mg of butylated hydroxytoluene (BHT-E-321) per kilogram of oil.

2. **Packaging**

The vegetable oil must be put up in one-litre PET bottles suitable for foodstuffs and hermetically sealed.

The bottles must have stoppers which are fitted with non-reusable closing devices.

The one-litre bottles are to be packed in cartons containing 12 to 15 bottles.

If glue is used for making up or sealing the cartons, it must be water-resistant. If adhesive tape is used, it must not become unstuck in a damp atmosphere.

Complete packages must be capable of surviving the following vertical-shock tests :

first test : dropping flat on the base,
second test : dropping flat on the top,
third test : dropping flat on the longer side,
fourth test : dropping flat on the shorter side,
fifth test : dropping on an upper corner.
(One sample for each vertical-shock test.)

Height of drop : 1,20 metres.

3. **Marking**

The European flag (see Annexes I and II in Official Journal No C 114 of 29 April 1991, page 1).

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 1145/92 have been taken over :

— Date and place of take-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 : .....