COMMISSION REGULATION (EEC) No 944/92

of 14 April 1992

on the supply of food for infants in Moscow and St Petersburg as urgent aid under 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 for the people of Moscow and St Petersburg; whereas those cities have also requested to be supplied with infant food; whereas that request should be granted; whereas pursuant to Article 2 of that Regulation suppliers are to be selected by invitation to tender;

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 infant food may be produced using various agricultural raw materials; whereas the rules concerning price support for such raw materials vary according to the product group concerned; whereas as a consequence. In order to ensure comparability of tenders, account must be taken of the differences in the prices of the agricultural raw materials; whereas this may be accomplished by deducting the refund granted when such products are exported on commercial terms, in accordance with Council Regulation (EEC) No 3035/80 of 11 November 1980 laying down general rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex II to the Treaty and the criteria for fixing such refunds [4], as last amended by Regulation (EEC) No 3381/90 [5];

Whereas, pursuant to Article 2 (5) of Regulation (EEC) No 330/92, the goods delivered do not qualify for export refunds and are not subject to compensatory amounts;

Whereas, for the purposes of determining the supply costs and the securities to be lodged and in order to avoid market distortions 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 provision should be made for the necessary notifications to ensure the optimal monitoring of operations until take-over at 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 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 infant food as specified in Annex I and in accordance with the conditions laid down herein.

The definition of the supplies as specified in the aforementioned Annex shall be subject to amendment on the basis of the tenders submitted in response to individual invitations to tender.

2. Each delivery shall comprise:

(a) the manufacture of the goods indicated in Annex II,

(b) packaging and marking in accordance with the instructions in Annex II. Packing and market presentation shall take place in the manufacturing plant;

[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 323, 29. 11. 1980, p. 27.
[5] OJ No L 327, 27. 11. 1990, p. 4.
[6] OJ No L 310, 21. 11. 1985, p. 1.
[7] OJ No L 310, 9. 11. 1990, p. 18.

(c) transport to the destination laid down in Annex I at the expense of the successful tenderer, by 30 June 1992 at the latest. Supply shall include unloading the goods and placing them at the store entrance at destination.

Where the second subparagraph of Article 2 (2) is applied, transport must be effected by 14 July 1992 at the latest.

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

3. The goods to be supplied may not be manufactured under inward processing arrangements.

Article 2

1. Tenders shall be forwarded by written telecommunication to the competent body designated by the Member State in which the goods are manufactured, as listed in Annex III.

2. Tenders must be lodged in full by 12 noon (Brussels time) on 23 April 1992.

Where no award is made under Article 6 (1), tenders may be lodged by a second deadline expiring at 12 noon (Brussels time) on 7 May 1992.

Article 3

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

(a) the precise reference to a supply referred to in Annex I, specifying the destination, the goods to which the tender relates and the method of packaging used;

(b) the name and address and in particular the telex/telefax number of a tenderer, who must be established in the Community;

(c) the number of lots and the net weight to which the tender relates; tenders shall relate to one or more lots of 50 tonnes (net weight) of one of the goods indicated in Annex I;

(d) the total amount of the supply, 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 manufacturing plant or storehouse to the destination;

(e) the information concerning the quantities of agricultural products used, which is needed to calculate the refund that would have been granted in the case of export on commercial terms, in accordance with Articles 3 and 8 of Regulation (EEC) No 3035/80;

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

and are accompanied by:

(g) proof that the tenderer has lodged the tendering security referred to in Article 4 before the closing date for submission of tenders. This proof shall entail a document issued by the guarantor.

2. Tenders not submitted in accordance with this Article or which set out conditions other than those laid down herein shall not be accepted.

3. Tenders may not be changed or withdrawn.

Article 4

1. The tendering security shall be ECU 30 per tonne.

2. Tendering securities shall take the form of a surety bond in the name of the body referred to in Article 2 (1) issued by a credit institution approved by a Member State.

Tendering securities must be provided for a period of at least one month.

Securities can be released solely on the initiative of the abovementioned body. They shall be released or forfeited in accordance with Article 7.

Article 5

Within 48 hours of the closing date for the submission of tenders the competent bodies referred to in Article 2 shall forward the following information separately in respect of each supply defined in Annex I to the Commission by written telecommunication:

(a) the number of tenders submitted by the deadline laid down in Article 2 and complying with Article 3 and the total quantity (net weight) of the goods to which they relate;

(b) separately and clearly for each tender:

— the number of lots tendered for,

— the total price offered in ecus, broken down as provided for in Article 3 (1) (d),

— the place of manufacture and packaging,

— the export refund which would be applicable in the case of export on commercial terms,

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

Article 6

1. For a given product, on the basis of the tenders received:

— the supply shall be awarded to the tenderer(s) whose tender(s) quote the lowest amounts:

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

2. Solely for the purpose of comparison, the refunds granted on the goods in the case of export on commercial terms, adjusted where necessary by the (accession and monetary) compensatory amounts in force, shall be deducted from tenders.

3. 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 supplies for which no award has been made.

4. Within seven working days following the closing date for submission of tenders, the body referred to in Article 2 (1) shall inform all tenderers by written telecommunication of the outcome of their tenders. Where an award is made, the successful tenderer shall be informed thereof immediately by written telecommunication.

Article 7

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

— where the tender is not accepted or if no award is made;

— as regards the successful tenderer, when proof is provided of the lodging of the delivery security provided for in Article 8.

Article 8

Within five working days of receipt of notification of award of the supply contract, the successful tenderer shall send the body indicated in Article 2 proof that a delivery security amounting to ECU 200 per tonne of goods of types D and E and ECU 150 per tonne of goods of types A, B and C as referred to in Annex II has been lodged in its name.

The delivery security shall take the form of a surety bond issued by a credit institution approved by a Member State. It must be provided for a period of at least four months. Proof shall entail a document issued by the guarantor.

The delivery security can be released only on the initiative of the body indicated above. It shall be released or forfeited in accordance with Article 11.

Article 9

1. The successful tenderer shall present an application for payment of the supply to the body to which the tender was submitted pursuant to Article 2 (1).

The application shall be accompanied by:

— the original of the take-over certificate drawn up in accordance with the specimen in Annex IV and issued by the recipient or his representative;

— the certificates drawn up on completion of the checks carried out pursuant to Article 10.

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 mentioned in the take-over certificate.

Article 10

1. The goods shall be inspected at the request of the body designated by the Member State in which manufacture and packaging are carried out. The inspection shall concern, in particular, particle size and consistency as provided for in the standards referred to in the Annex and general conditions of hygiene in the manufacturing plant. In accordance with WHO/FAO code CAC/RCP 21-1979 and the goods manufactured in accordance with the standards laid down in point 1 of Annex II and the special conditions laid down therein.

For this purpose the successful tenderer shall inform that body forthwith of the places and period of manufacture and packaging of the goods and the address of the storehouse where the goods are stored prior to dispatch.

Following the inspection, the body shall issue a certificate of conformity certifying, in the case of milk-based products, that the milk used for the manufacture of the goods comes from healthy animals, free from foot-and-mouth disease or any other infectious or contagious diseases.

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 the information requested which is relevant to the supply (in particular concerning transport).

Article 11

The delivery security shall be released without delay in proportion to the quantities for which the successful tenderer fulfils his obligations and on presentation of the documents referred to in Article 8.

The quantity supplied shall be considered satisfactory where the net weight taken over is not more than 1 % less than the quantity specified.

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

Except in cases of *force majeure*, 0,5 % of the delivery security shall be forfeited for each day by which the time limit referred to in Article 1 (2) (c) is exceeded.

Article 12

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

Article 13

Section 20 (Special particulars) of the export document shall bear the words :

'Urgent aid — Regulation (EEC) No 944/92. Export refunds and (monetary and compensatory) amounts not applicable.'

Article 14

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 3 a of Regulation (EEC) No 3152/85 in force on the closing date for submission of tenders.

Article 15

1. Member States shall forward all information to the Commission concerning the carrying-out of the supply, in particular the results of the inspections, actual delivery schedules and any incidents occurring during delivery.

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

Article 16

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, 14 April 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX I

Invitations to tender referred to in Article 1

1. Supply to Moscow of:

— 500 tonnes of goods as specified in point 1 (B) of Annex II;
— 500 tonnes of goods as specified in point 1 (C) of Annex II;
— 1 000 tonnes of goods as specified in point 1 (D) of Annex II.

Address of recipient:

J. Borisov,
Deputy Prime Minister of the Moscow Government,
Skatertny Pereulok 4,
Moscow;
Tel.: 290 06 65.

2. Supply to St Petersburg of:

— 400 tonnes of goods as specified in part 1 (B) of Annex II;
— 600 tonnes of goods as specified in part 1 (D) of Annex II.

Address of recipient:

Serguey Prokovsky,
Chairman of St Petersburg Foodstuffs Committee,
Gertzena st., 59,
190000 St Petersburg;
Tel.: 519 90 82.

3. Supply to Saratov of:

— 100 tonnes of goods as specified in part 1 (A) of Annex II;
— 150 tonnes of goods as specified in part 1 (B) of Annex II;
— 150 tonnes of goods as specified in part 1 (D) of Annex II;
— 100 tonnes of goods as specified in part 1 (E) of Annex II.

Address of recipient:

Yuri Vasilieviek Belykh,
Head of Regional Administration,
Ulltsa Lenina 72,
Region of Saratov;
Tel.: 8452 24 22 21.

4. Supply to Cheliabinsk of:

— 100 tonnes of goods as specified in part 1 (A) of Annex II;
— 150 tonnes of goods as specified in part 1 (B) of Annex II;
— 150 tonnes of goods as specified in part 1 (D) of Annex II;
— 100 tonnes of goods as specified in part 1 (E) of Annex II.

Address of recipient:

V. Nikitin,
Deputy Chairman,
Commission for Humanitarian and Technical Aid,
Directorate of Cheliabinsk Region;
Tel.: 33 66 04 and 33 85 67.

5. Supply to Nizhni Novgorod of:

— 100 tonnes of goods as specified in point 1 (A) of Annex II;
— 150 tonnes of goods as specified in point 1 (B) of Annex II;
— 150 tonnes of goods as specified in point 1 (D) of Annex II;
— 100 tonnes of goods as specified in point 1 (E) of Annex II.

Address of recipient:

V.N. Yeviamplev,
Deputy Governor,
Department for Trade and Foreign Economic Relations,
Administration of Nizhni Novgorod Region;
Fax: 83 12 35 04 50.

ANNEX II

1. Characteristics of goods to be delivered as food aid:

(a) flour based on milk and cereals and/or rice for nurslings and infants:

The flour must comply with point 2.2 (straight or complex precooked cereal flours) or 2.3 (enzyme treated cereal flours) of Codex standard STAN 74-1981 concerning processed cereal-based foods for infants and children (world-wide standard) and point 4 to 9 of the same standard; at least 24 % by weight of the product must consist of cow's milk;

(b) powdered mixtures based on fruit and vegetables for nurslings and infants:

The mixtures must be in powder form and comply either with Codex standard STAN 74-1981 with the addition of fruit or vegetables or with Codex standard STAN 73-1981 concerning various baby foods (world-wide standard); at least 5 % by weight of the product must consist of fruit or vegetables;

(c) other flours based on cereals and/or rice for nurslings and infants (original wording of point (a) from 'flours must comply with point 2.2...' to 'points 4 to 9 of the same standard');

(d) milk-based preparations for nurslings:

The preparations for nurslings must be in powder form and comply at least with Codex standard STAN 72-1981 concerning infant formulae (world-wide standard).

They must be suitable for nurslings up to six months old and comply with point 10.1.3 of the same standard;

(e) weaning preparations for nurslings and infants:

The weaning preparations for nurslings and infants must be in powder form and comply at least with Codex standard STAN 156-1987 concerning follow-up formulae (world-wide standard); at least 90 % of the protein must come from cow's milk.

2. Requirements concerning packaging and marking

(a) The goods described under A, B and C must be made up in packs of not less than 200 grams net weight and not more than 1 kilogram net weight; the goods described under D and E must be made up in packs of net less than 400 grams net weight and not more than 1 kilogram net weight.

(b) The goods must be packed in cardboard cartons in accordance withj the usual standards for export and grouped on palettes.

(c) The information concerning preparation and instructions for use must be given in Russian in Cyrillic characters; instructions regarding preparation must also be given in descriptive pictograms; notwithstanding the standards referred to in point 1, other information may be given in one of the languages of the Community.

(d) Individual packages must be marked with the Community's emblem in 4 × 6 cm format or 3 × 4 cm format on boxes of less than 400 gm in accordance with the model in *Official Journal of the European Communities* No C 114 of 24 April 1991 and 'ПОМОЩЬ Е. С. РОССИИ' and must bear the words 'EC aid to Russia — Regulation (EEC) No 330/92' in indelible characters in (one of) the language(s) of the Member State of production of the goods.

Each carton and all external packaging must show the same emblem in 10 × 15 cm format.

In the case of metallic containers. labelling may involve a superimposed label in accordance with Codex standard STAN 1-1985. In that case, the words 'EC Aid — Regulation (EEC) No 330/92' must be printed in raised letters on the bottom of each container and the date of manufacture may be mentioned on the label.

ANNEX III

List of intervention agencies to which tenders are to be submitted

Belgique — België

OBEA / BDBL
Rue de Trèves / Trierstraat 80/82
B-1040 Bruxelles / Brussel
[tél. (32-2) 230 17 40]

Denmark

EF-Direktoratet
Fredericksborggade 18
DK-1360 København K
(tlf. (45) 33 92 70 00)

Deutschland

BALM
Adickesallee 40
Postfach 180107
D-6000 Frankfurt am Main 8
(Tel. (49) 691 56 40)

Ελλάδα

ΔΥΔΑΓΕΠ,
Αχαρνών 241,
GR-Αθήνα 10438
Τηλ. (30-1) 862 22 48

España

SENPA
Beneficencia 8
E-28004 Madrid
(tel. (34-1) 347 65 00)

France

ONILAIT
2, rue Saint-Charles
F-75740 Paris Cedex 15
[tél.: (33-1) 40 58 70 00]

Ireland

Department of Agriculture and Food
Floor 6C
Agriculture House
Kildare Street
IRL-Dublin 2
(tel. (351-1) 78 90 11)

Italia

AIMA
Via Palestro 81
I-00198 Roma
(tel. (39-6) 47 49 91)

Luxembourg

Ministère de l'agriculture, de la viticulture et du développement rural
Rue de la Congrégation 1
L-2913 Luxembourg
[tél.: (352) 47 85 97]

Nederland

VIB
Burg Kessenplein 3
NL-6431-KM Hoensbroek
(tel. (31-45) 23 83 83)

Portugal

INGA
Rua Camilo Castelo Branco 45-1º, 2º e 3º
P-1000 Lisboa
[tel. (351-1) 53 88 12]

United Kingdom

Intervention Board
Fountain House
Queen's Walk 2
UK-Reading RG1 7QW
(tel. (44-734) 58 36 26)

ANNEX IV

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 944/92, 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 : .....