COMMISSION REGULATION (EEC) No 2871/93

of 20 October 1993

on the issue of a standing invitation to tender for the resale on the internal market of 400 000 tonnes of bread-making wheat held by the German intervention agency with a view to its processing in the other Member States

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals [1], as amended by Commission Regulation (EEC) No 2193/93 [2], and in particular Article 5 thereof,

Whereas Commission Regulation (EEC) No 2131/93 [3] lays down the procedure and conditions for the disposal of cereals held by intervention agencies;

Whereas, in the present market situation, a standing invitation to tender should be opened for the resale on the internal market of 400 000 tonnes of bread-making wheat held by the German intervention agency;

Whereas the market situation for bread-making wheat is characterized by a severely diminished 1993 harvest and, consequently, by abnormally high prices by comparison with the support prices; whereas no account should be taken therefore of the market price in the appraisal of tenders, and a minimum price should be fixed in excess of the intervention price;

Whereas, given the lengthy storage period for certain lots reoffered for sale on the market, potential buyers should be afforded a degree of security as regards quality;

Whereas, moreover, as regards verification, the provisions of Commission Regulation (EEC) No 3002/92 of 16 October 1992 laying down common detailed rules for verifying the use and/or destination of products from intervention [4], as last amended by Regulation (EEC) No 1938/93 [5], are applicable;

Whereas the Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

1. The German intervention agency shall issue a standing invitation to tender for the redisposal on the internal market of 400 000 tonnes of bread-making wheat with a view to its processing in the other Member States.

2. Without prejudice to the provisions of Regulation (EEC) No 2131/93 and in particular the second subparagraph of Article 13 (4) thereof, the following special rules shall apply to the present invitation to tender:

— tenderers shall undertake to process the quantities of bread-making wheat in the other Member States,

— processing must be carried out by 31 March 1994 at the latest, except in cases of *force majeure,*

— a security of ECU 20 per tonne shall be lodged by the successful tenderer with the German intervention agency to ensure that the conditions laid down in the first and second indents are complied with. The security shall be lodged at the latest two working days following the day on which the statement of the award of contract was received.

Article 2

1. The obligations referred to in the first and second indents of Article 1 (2) shall be considered as primary requirements within the meaning of Article 20 of Commission Regulation (EEC) No 2220/85 [6]. They shall be considered as having been fulfilled only if the successful tenderer provides proof to that effect.

2. Proof that the cereals referred to in this Regulation have been processed shall be furnished in accordance with Regulation (EEC) No 3002/92.

Processing shall be deemed to have taken place when the bread-making wheat is delivered to a storehouse located in another Member State.

Article 3

When the successful tenderer removes the cereals from intervention, the intervention agency shall, for cross-checking purposes, take a sample using the same method as that laid down in Commission Regulation (EEC) No 689/92 [7].

If the analysis shows a sizeable difference between the quality of the cereals removed and the quality as described in the notice of invitation to tender, referred to in Article 3 of Regulation (EEC) No 2131/93, the successful tenderer shall refuse the goods.

[1] OJ No L 181, 1. 7. 1992, p. 21.
[2] OJ No L 196, 5. 8. 1993, p. 22.
[3] OJ No L 191, 31. 7. 1993, p. 76.
[4] OJ No L 301, 17. 10. 1992, p. 17.
[5] OJ No L 176, 20. 7. 1993, p. 12.
[6] OJ No L 205, 3. 8. 1985, p. 5.
[7] OJ No L 74, 20. 3. 1992, p. 18.

A difference of more than one percentage point in respect of one of the impurities referred to in the Annex to Regulation (EEC) No 689/92, with the exception of broken grains or mottled grains, shall be considered a sizeable difference.

The successful tenderer may also refuse the goods if they do not correspond to the criteria set out in Sections A, C, E, F and G of the Annex to Regulation (EEC) No 689/92.

In the event of dispute, the intervention agency shall submit the sample in question for inspection and the costs incurred shall be borne by the losing party.

Article 4

Notwithstanding Article 5 (1) of Regulation (EEC) No 2131/93, the highest bid exceeding the minimum price of ECU 125 per tonne shall be accepted. The minimum price shall be raised by monthly increases, to be applied to the intervention price as laid down in Council Regulation (EEC) No 1542/93 (1).

Article 5

Apart from the endorsements provided for in Regulation (EEC) No 3002/92, box 104 of the T 5 control copy must contain one or more of the following:

— Destinados a la transformación [Reglamento (CEE) nº 2871/93],
— Til forarbejdning (forordning (EØF) nr. 2871/93)
— Zur Verarbeitung bestimmt (Verordnung (EWG) Nr. 2871/93),
— Προοριζόμενο για μεταποίηση [Κανονισμός (ΕΟΚ) αριθ. 2871/93],
— For processing (Regulation (EEC) No 2871/93),
— Destinées à la transformation [règlement (CEE) n° 2871/93],
— Destinate alla trasformazione [regolamento (CEE) n. 2871/93],
— Bestemd om te worden verwerkt (Verordening (EEG) nr. 2871/93),
— Destinadas à transformação [Regulamento (CEE) nº 2871/93].

Article 6

1. The closing date for the submission of tenders for the first partial invitation to tender is hereby fixed at 26 October 1993.

2. The final date for the submission of tenders for the last partial invitation to tender shall expire on 21 December 1993.

3. Tenders must be lodged with the German intervention agency:

Bundesanstalt für landwirtschaftliche Marktordnung (BALM),

Adickesalle 40,

D—60322 Frankfurt am Main,

(telex: 41 14 75, 41 60 44).

Article 7

The German intervention agency shall communicate to the Commission, at the latest by Tuesday of the week following the closing date for the submission of tenders, the quantity and the average prices of the various lots sold.

Article 8

This Regulation shall enter into force on the day of 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, 20 October 1993.

For the Commission

René STEICHEN

Member of the Commission

(1) OJ No L 154, 25. 6. 1993, p. 3.