COMMISSION REGULATION (EEC) No 309/93

of 10 February 1993

laying down detailed rules for the free supply of agricultural products held in intervention stocks to the people of Albania pursuant to Council Regulation (EEC) No 3106/92

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3106/92 of 26 October 1992 on an emergency measure for the three supply of agricultural products to the people of Albania [1], and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy [2], and in particular Article 6 (2) thereof,

Whereas Regulation (EEC) No 3106/92 provided for an emergency measure for the supply of agricultural products to the people of Albania ; whereas, with a view to implementing that measure, the provisions applicable and in particular the common detailed rules on participation in invitations to tender, the execution of supplies and the obligations to be met by successful tenderers should be laid down ;

Whereas the free supplies are envisaged in that Regulation in the form of agricultural products supplied from intervention stocks without further processing and of products not available from intervention stocks but belonging to the same group of products ; whereas, therefore, provision should be made for the specific detailed rules applicable to supplies of processed products ; whereas provision should be made in particular for these supplies to be paid for in raw materials from intervention stocks ;

Whereas such detailed implementing rules of application must also provide for arrangements on controls and securities to ensure that the supply operation is properly conducted ;

Whereas, in the case of a tendering procedure which relates to the determination of the costs of packaging and transport of products made available from public intervention stocks, it is appropriate to use the closing date for the submission of tenders as the operative event for the agricultural conversion rate ;

HAS ADOPTED THIS REGULATION :

Article 1

The provisions of this Regulation shall apply for the purpose of the free supply of agricultural products held in intervention stocks or of foodstuffs belonging to the same group of products to the people of Albania, pursuant to Regulation (EEC) No 3106/92, without prejudice to further provisions adopted, where appropriate, for particular supplies.

Article 2

1. The costs of supply from the intervention stores to the appointed destination laid down shall be determined by invitation to tender.

2. Such costs shall cover the supply of goods loaded into conveyances ex-store of the intervention agency, to the maritime port of unloading or to a point of reception by the Albanian authorities, to be determined.

3. The invitations to tender may cover the quantity of products to be removed from intervention stocks as payment for the supply of processed products from the same group of products.

Article 3

Participation in tendering procedures shall be open on equal terms both to any natural person who is a national of a Member State and established in the Community and to any company which is established in accordance with the laws of a Member State of which the registered office, central administration or main establishment is in a Member State.

Article 4

Tenders shall be forwarded to the intervention agency concerned by letter or any other written means of telecommunication specified in the notice of invitation to tender.

Article 5

1. Tenders submitted in response to invitations to tender for supplies as referred to in Article 2 (2) shall cover all the costs of transport and, where applicable, packaging, labelling and marking of a lot or group of lots specified in the notice of invitation to tender. They shall be expressed in ecus per tonne.

[1] OJ No L 312, 29. 10. 1992, p. 2.
[2] OJ No L 387, 31. 12. 1992, p. 1.

2. Tenders in response to invitations to tender for supplies as referred to in Article 2 (3) shall cover the quantities of products to be removed from intervention stocks as payment for the supply.

Article 6

1. Tenders shall be valid only where they:

(a) quote the precise reference to the regulation announcing the individual invitation to tender;

(b) give the same and addreess and in particular the telex and/or telefax number of the tenderer;

(c) cover an entire lot (net weight);

(d) state, where Article 5 (1) applies, an amount per tonne expressed in ecus for the whole supply;

(e) state, where Article 5 (2) applies, the proposed quantities of products expressed in tonnes (net weight);

(f) state the port of shipment in the Community in the case of transport by sea;

(g) state the exact address of the packaging plant (where applicable) and store at which the goods are to be kept prior to despatch;

(h) are accompanied by proof that the tenderer has lodged a tendering security in favour of the intervention agency in accordance with Title III of Commission Regulation (EEC) No 2220/85 [1]. Such proof shall be furnished by means of a document issued by the guarantor.

2. Tenders not submitted in accordance with this Article or stating terms other than those laid down in this Regulation shall be rejected.

3. Once submitted, tenders may be neither changed nor withdrawn.

Article 7

1. The intervention agency concerned shall notify the Commission of tenders received within 24 hours of the expiry of the time limit laid down for the submission of tenders.

2. On the basis of the tenders received:

— either the supply contract shall be awarded to the tenderer submitting the tender quoting either the lowest amount or the smallest quantity; in the event of the contract of a tie the contract shall be awarded by drawing lots, or

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

3. Within seven working days of the closing date for the submission of tenders, the Commission shall inform the Member States individually which tenders have been accepted and which supply contracts have been awarded.

Article 8

The intervention agencies concerned shall inform all tenderers of the outcome of their tenders at the earliest opportunity. They shall forward declarations of award by written telecommunication immediately to the successful tenderers.

Article 9

Within five working days of notification of the award pursuant to Article 8, successful tenderers shall lodge supply securities in favour of the intervention agency concerned in accordance with Title III of Regulation (EEC) No 2220/85. Proof of the lodging of a security shall be furnished by a document issued by the guarantor.

Securities shall be equal to the intervention buying-in price for the whole product to be removed, adjusted (where appropriate) in accordance with the monthly increases applicable on the closing date for the submission of tenders, plus 10 %.

Article 10

1. Except in cases of *force majeure*, sucessfull tenderers shall bear all risks to which the goods may be subject, and in particular their loss or deterioration, up to the appointed supply stage.

2. The successful tenderer shall apply to the recipient's representative referred to in the notice of invitation to tender for a certificate in accordance with the model in the Annex, to the effect that the quantity delivered has been taken over.

Where the recipient issues no such certificate, the Commission shall designate the body authorized to issue such certificates in accordance with the abovementioned model.

Article 11

1. Successful tenderers shall submit applications for payment of the supply to the intervention agency referred to in Article 4.

Such applications shall be accompanied by:

— export licences referred to in Article 14,

— single administrative documents,

— where applicable, T 5 control copies,

— transport documents,

— the originals take over certificates.

[1] OJ No L 205, 3. 8. 1985, p. 5.

2. In the case of invitations to tender pursuant to Article 5 (1), the supply costs shall be paid in respect of the quantity stated in the take over certificate and certified by the body responsible for verification at destination on the certificate of conformity provided for in Article 12 (2).

3. In the case of invitations to tender pursuant to Article 5 (2), the basic product for which a contract is awarded shall be made available to the successful tenderer on presentation of proof of lodging of the security provided for in Article 9.

4. If takeover at the delivery stage is delayed owing to circumstances beyond the control of the successful tenderer, the additional costs may be reimbursed by the Commission on the basis of supporting documents.

5. The agricultural conversion rate to be applied for the purpose of this Regulation is that in force on the closing date for the submission of offers in the tendering procedure.

Article 12

1. Successful tenderers shall undergo any verifications conducted by or on behalf of the intervention agency of the Member State in which where applicable the place of packaging, labelling and storage before despatch is located, as that place has been designated by the successful tenderer in his tender. Such verification shall relate to the quantity, quality, packaging, labelling and marking of the supplies.

On competition of verification, the agency shall issue a certificate of conformity.

2. Verification of conformity of the supply as regards quantity, quality, packaging, labelling and marking shall be carried out in the country of destination by a control agency or company designated by the agency mentioned in paragraph 1 in agreement with the successful tenderer. A certificate of conformity shall be issued on completion of such verification and shall be forwarded direct to the intervention agency.

3. The control agencies or companies entrusted with verification shall take representative samples before loading in the Community and at destination, and shall keep them for the Commission.

4. In the case of inland transport, the agency referred to in paragraph 1 shall ensure that seals are affixed to the means of transport at the time of loading.

5. The costs of inspection and sampling shall be borne by the successful tenderer.

Article 13

1. The primary requirement within the meaning of Article 20 of Regulation (EEC) No 2220/85 shall entail the following:

(a) in the case of the tendering security, maintenance of the tender and the lodging of the supply security provided for in Article 9 hereof;

(b) in the case of the supply security, actual delivery of the lots up to the supply stage in a state substantially unchanged as compared with:

— the quality at the time of removal from the intervention store (supplies as provided for in Article 2 (2) hereof or with

— the quality specified in the notice of invitation to tender (supplies as provided for in Article 2 (3).

2. Tendering securities shall be released where:

— the tender has been rejected,

— the supply security has been lodged.

3. Supply securities shall be released once the successful tenderers have provided proof of compliance with their obligations by presenting the documents referred to in Article 11 (1) and this compliance has been confirmed by the certificate provided for in Article 12 (2) received by the intervention agency.

4. When delays in delivery occur, for each day of delay 0,05 % of the security specified in Article 9 shall be forfeit in respect of the quantities delivered late. If such delays exceed a period of five days, the percentage forfeit shall amount to 0,1 % for each day of delay.

These provisions shall apply where delivery delay is attributable to the successful tenderer.

Article 14

1. Section 20 of the export licences shall contain the remark: 'Humanitarian aid — Council Regulation (EEC) No 3106/92. Not eligible for export refunds.'

2. The single administrative document and the control document or T 5 control copy issued pursuant to Article 3 of Regulation (EEC) No 3002/92 [1] shall include the following remarks:

— 'Commission Regulation (EEC) No 309/93 of 10 February 1993 laying down detailed rules for the free supply of agricultural products held in intervention stocks to the people of Albania pursuant to Council Regulation (EEC) No 3106/92',

— 'Not eligible for export refunds'.

Article 15

1. The intervention agency or agencies holding the products shall publish a notice of invitation to tender specifying in particular:

— the additional clauses and conditions,

— the lots and names and addresses of stores,

[1] OJ No L 301, 17. 10. 1992, p. 17.

— the main physical and technical characteristics of the various lots,

— the places and precise delivery stages laid down for supply at destination,

— the time limits laid down for supply.

2. In the case of invitations to tender as provided for in Article 2 (3), notices of invitation to tender shall also specify :

— the lot or groups of lots to be taken over in payment for the supply,

— the characteristics of the processed product to be supplied, namely type, quantity, quality, packaging and labelling requirements, etc.

Such notices, together with any amendments, shall be forwarded to the Commission before the expiry of the first closing date for the submission of tenders.

Article 16

This Regulation shall enter into force on the third 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, 10 February 1993.

For the Commission

René STEICHEN

Member of the Commission

ANNEX

TAKEOVER CERTIFICATE

I, the undersigned, ...
(name, first name, position of authority)

acting on behalf of: .....

hereby certify that the following goods have been taken over:

Product:	
Packaging:	
Total quantity in tonnes (net):	
Place and date of takeover:	
Rail wagon numbers / name of boat / registration numbers of heavy goods vehicles (1):	
Name and address of transport company:	

Name of monitoring agency:

.....

.....

Name and signature of its on-the-spot representative:

.....

.....

Observations or reservations:

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.....

.....

.....

Signature
(Stamp)

(1) Delete where inapplicable.