COMMISSION REGULATION (EC) No 1251/94

of 31 May 1994

laying down detailed rules for the free supply of beef, butter and flour pursuant to Council Regulation (EEC) No 598/91 on action for the supply of agricultural products to the people of the USSR

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 598/91 of 5 March 1991, on an action for the supply of agricultural products to the people of the ex-USSR [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 rate to be applied for the purposes of the common agricultural policy [2], as amended by Regulation (EC) No 3528/93 [3] and in particular Article 6 (2) thereof,

Whereas Regulation (EEC) No 598/91 provides for the free supply of agricultural products to the people of the USSR ; whereas the delivery costs of these products are to be paid by the Community ; whereas, with a view to implementing that measure, detailed rules of application should be laid down for the beef, milk products and cereal sectors ;

Whereas, due to production faults, one part of the goods furnished to certain populations of the goods furnished to certain populations of the former Soviet Union turned out to be unfit for human consumption ; whereas it is therefore appropriate to provide for a new supply for the benefit of the people of Armenia, Azerbaidjan, Georgia, Turkmenistan and Uzbekistan and to adopt all of the measures and detailed rules necessary for its implementation ;

Whereas, it is important to be able to utilize the full amount intended to replace the goods in each republic ; whereas the transport costs represent an important part of this amount and the definitive quantities to be transported cannot therefore be determined until after the transport costs have been ascertained ;

Whereas, in view of the size and location of the Community intervention stocks, it is appropriate to release approximately 3 800 tonnes of boneless beef stored in Ireland and approximately 3 000 tonnes of butter stored in Spain for the purpose of this measure ; whereas the quantity of wheat necessary for the production of approximately 5 000 tonnes of flour has already been mobilized ;

Whereas, in view of the present difficulties in these republics and the sepcific problems of forwarding aid to these regions, it is appropriate to organize the supply of the abovementioned products as a single action, for which the invitation to tender shall determine a single award ;

Whereas, in the light of experience and the manifest difficulties previously encountered with the execution of operations of the same type, it is appropriate to provide that the award of the supply should not be determined systematically and uniquely on the basis of the lowest monetary offer, but may also take into consideration other fundamental elements proposed for the execution of the supply presenting guarantees, in particular, for the proper conservation and hygienic condition of the products and for the terms of their transport to the destination laid down ; whereas, for this purpose the offers must include all information necessary to evaluate the execution of the supply on the proposed terms ;

Whereas, it is appropriate to fix the additional terms and conditional necessary to ensure the proper execution of the operations and to define the obligations of the tenderer ;

Whereas, products held by intervention agencies and intended for export are subject to the provisions of Commission Regulation (EEC) No 3002/92 [4], as last amended by Regulation (EEC) No 1938/93 [5] ; whereas, furthermore, proof that the products concerned have been taken over by the authorities of Georgia, Armenia, Azerbaidjan, Turkmenistan and Uzebekistan is to be provided by way of a special certificate ;

Whereas, in order to minimize the transport costs, the goods should be removed from cold stores which are close to each other, and a minimum quantity to be removed from each cold store should be laid down ;

Whereas, in application of Article 2 (4) of Regulation (EEC) No 598/91 no export refund shall be granted in respect of the exported products which are the subject of the supply ;

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,

[1] OJ No L 67, 14. 3. 1991, p. 19.
[2] OJ No L 387, 31. 12. 1992, p. 1.
[3] OJ No L 320, 22. 12. 1993, p. 32.
[4] OJ No L 301, 17. 10. 1992, p. 17.
[5] OJ No L 176, 20. 7. 1993, p. 12.

HAS ADOPTED THIS REGULATION:

Article 1

1. A tender is hereby opened for the supply of approximately:

— 2 200 tonnes of boneless beef to Azerbaidjan,
— 1 000 tonnes of boneless beef to Turkmenistan,
— 600 tonnes of boneless beef to Uzebekistan,
— 3 000 tonnes of butter destinated for Georgia,
— 5 000 tonnes of flour destinated for Armenia.

The 5 000 tonnes of flour must be delivered to the port of Poti or Batumi before the 3 000 tonnes of butter.

The abovementioned deliveries constitute a single supply (refer to Annex I).

The precise quantity for each product and destination will be communicated to the successfull tenderer by the Commission at the same time as the notification of the award of the supply. This quantity may vary by a maximum of plus or minus 15 % of the quantities set down in this Regulation.

2. The products are to be delivered to the destinations indicated in Annex III.

3. The intervention agencies holding the products shall organize the removal of a minimum of 100 tonnes of product from each cold store, selecting cold stores conveniently located with regard to the final destination. The list of cold stores and the respective quantities are indicated in Annex II.

4. Regulation (EEC) No 3002/92 is applicable to this supply.

Article 2

1. Tender shall be presented in writing to the Commission before 5 : 00 p.m. (Brussels time) on 6 June 1994 to the following address:

Commission of the European Communities
Division VI/G.2 (Office 10/05)
Rue de la Loi 120
B-1049 Brussels

Tenders must be submitted in two sealed envelopes, one inside the other. The inner envelope shall, in addition to indicating the abovementioned address, bear the words:

'Regulation (EEC) No 1251/94 — Tender from (name of firm) — this envelope must not be opened by the internal mail department.'

2. To be valid the tender must:

(a) indicate the name and address of the tenderer;

(b) relate to the complete supply defined in Article 1 (1)

(c) furnish the original of a document proving the constitution of a security of 1 000 000 ECU in favour of the Commission of the European Communities;

(d) be accompanied by a written declaration from the tenderer in which he undertakes to deliver, by at the latest, the dates laid down in Annex I for each destination, to the places referred to in Annex III, the total goods taken over, in the same condition as that in which they were taken over from the cold store of the intervention agency or for the flour, at the stage fob at the maritime port of Port-la-Nouvelle or Livourno;

(e) specify the means of transport to be used indicating all technical details (capacity, type of refrigeration equipment, age, etc.);

(f) indicate the names and addresses of all forwarding agents and subcontractors to be used in the operation, on national territory as well as in third countries;

(g) specify the route to be followed, including the frontier crossing post and the possible points of transhipment from one means of transport to another; in this case the tenderer undertakes, in writing, to communicate the dates on which these transhipments will take place at least 10 days before the transhipment;

(h) include a detailed calculation showing the composition of the price offered;

(i) specify the financial institution which will give the guarantee referred to at Article 4 (2);

(j) specify the total amount in ecus required, based on the quantities appearing in Article 1 (1), for the delivery from the loading bay of the Community stores to the places of delivery in question, to the stage laid down in Annex III, the amount for Baku via Mineralnyj-Wody and the amount required via Krasnovodsk;

(k) specify for each destination and product the unitary amount in ECU/t gross which will be applied in the case of a variation in quantitites, taking into account for Azerbaidjan of the two possibilities of forwarding;

(l) indicate in which community currency the payment for the total transport costs should be effected;

(m) indicate if similar operations were carried out to these destinations and if so the tonnage and products delivered.

The amount in ecus referred to at (j) and (k) shall include any veterinary charges directly related to the destocking operations as well as the handling costs for loading on to the means of transport used.

3. The amounts in ecus referred to in paragraph 2, in Article 4 (2) and in Article 5 shall be converted into national currencies using the agricultural rate applicable on the final date for submission of tenders.

4. Except in cases of *force majeure*, the successful tenderer shall bear all risks related to the transport and delivery of the lot in question and particularly in respect of loss and deterioration of the products.

Article 3

1. On the basis of the tenders received, the Commission may decide:

— not to proceed with the award, or

— to award it on the bais of the price offered and the other elements of the offer which present the best guarantee of delivery in good technical and hygienic conditions and within the prescribed deadlines.

2. As soon as possible after the adoption of the Decision taken in accordance with paragraph 1, the Commission shall inform all tenderers, by written telecommunication if necessary, of the outcome of their participation in the tendering procedure, and shall notify the successful tenderers of the supply which has been awarded to them.

3. The Commission shall inform the intervention agencies concerned of the results of the tender.

Article 4

1. The security referred to in Article 2 (2) (c) shall be released forthwith if the tender is not accepted. The primary requirements within the meaning of Article 20 of Commission Regulation (EEC) No 2220/85 [1] shall be:

(a) a requirement not to withdraw the tender;

(b) lodging of the delivery security referred to in paragraph 2, for the quantity provided for in Article 1 (1) adjusted following the results of the tender, in accordance with the precise quantities to be supplied.

(c) taking over of the quantities for which the security at (b) has been lodged.

2. Before the products are taken over the successful tenderer shall lodge, with the Commission, in respect of each quantity taken over, a security of an amount equal to ECU 6 000 per tonne for beef, ECU 2 800 per tonne for butter and EU 200 per tonne for flour.

3. The Commission shall immediately inform, by written telecommunication, the intervention agencies of the lodging of these guarantees.

The primary requirement within the meaning of Article 20 of Regulation (EEC) No 2220/85 shall be the supply of all the products in accordance with the prescribed terms.

4. These successful tenderer shall take over the goods in accordance with the rules of the intervention agency for release from storage.

5. The security referred at paragraph 2, and that provided for at Article 5, shall be released, on presentation of the proof of the partial or total delivery to a destination of the products referred to in Article 1 (1) in accordance with the conditions of this Regulation, to the delivery points referred to in Article 1 (2), in the same condition as that in which they were taken over from the intervention cold stores or the place designated for the flour. They shall be forfeited in proportion to the quantities for which proof of delivery has not been presented.

6. When delays in delivery occur, the security referred to at Article 5 shall be forfeited in respect of the quantities delivered late, at a rate of ECU 1 per tonne for each day of delay. From the 11th day of delay onwards, the amount forfeit shall be increased to ECU 1,5 per tonne for each additional day. These provisions to shall apply where the delay in delivery is attributable to the successful tenderer.

7. The transport document, the certificate of conformity referred to at Article 6 (2) and the take-over certificate in Annex IV, duly completed, stamped and signed by a person representing the authorities of the republics concerned, shall constitute the proof referred to in paragraph 5.

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

Article 5

An amount up to one third of the offer, adjusted in accordance with Article 2 (2) (k), shall be paid to the successful tenderer on the date of the complete take-over of a product upon presentation of proof of the constitution of a security for an equivalent amount in favour of the Commission. This security may be lodged in addition to that provided for at Article 4 (2).

Article 6

1. Successful tenderers shall undergo any controls conducted by or on behalf of the intervention agency of the Member State in which the place of storage is located. Such controls shall relate to the quantity, hygienic condition, quality and identity of the products.

On completion of the controls, this agency shall issue a certificate of conformity. It is responsible if the quality delivered does not conform to the norms prescribed for intervention or to the description laid down in the call for tenders for the supply of flour.

2. A verification of the conformity of the supply as regards quantity, hygienic condition, quality and identity shall be carried out in the country of destination by an control agency or company designated by the Commission. A certificate of conformity specifying the details and results of the controls carried out shall be delivered to the successful tenderer on completion of this verification and shall be communicated directly to the Commission.

3. In the case of transport by land, the agency referred to in paragraph 1 shall affix seals to the means of transport at the time of loading. In the case of transhipment, a control agency or company shall carry out a verification on the integrity of the seals on the means of transport arriving at the points of transhipment, and shall seal the means of transport used after the transhipment.

4. The costs of the controls referred to in paragraph 1 shall be borne by the successful tenderer.

Article 7

The removal order referred to in Article 3 of Regulation (EEC) No 3002/92, the export declaration and any document issued for these purposes shall bear the following additional word :

'Action in favour of Georgia, Armenia, Azerbaidjan, Turkmenistan and Uzbekistan. Intervention products on which no refund is payable (Regulation (EEC) No 1251/94'.

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, 31 May 1994.

For the Commission

René STEICHEN

Member of the Commission

ANNEX I

Lot :

2 200 tonnes of boneless beef
Final date for delivery to Azerbaidjan : 31 August 1994

1 000 tonnes of boneless beef
Final date for delivery to Turkmenistan : 31 August 1994

600 tonnes of boneless beef
Final date for delivery to Uzbekistan : 31 August 1994

3 000 tonnes of butter
Final date for delivery to Georgia : 31 August 1994

5 000 tonnes of flour
Final date for delivery to Armenia : 31 July 1994

The final quantities to be transported may be increased or decreased by 15 %.

The tenders must include a price in the case the forwarding towards Azerbaidjan will be done vai Mineralnyj-Wody, and a price in the case the forwarding towards Azerbaidjan will be done via Krasnovodsk.

Addresses of the intervention agencies :

IRELAND : Department of Agriculture Food and Forestry,
Agriculture House,
Kildare Street,
IRL-Dublin 2
Tel. : (353-1) 678 90 11
Fax : (353-1) 661 62 63
(353-1) 661 28 90

SPAIN : S.E.N.P.A.
Beneficienca 8
E-28004 Madrid
Tel. : (34-1) 347 65 00
Fax : (34-1) 521 98 32
(34-1) 522 43 87

Take-over of the flour : fob maritime port of Port la Nouvelle or Livourno.

ANNEX II

Cold stores referred to at Article 1 (3) and quantities of boneless beef (striploins) to be taken over

IRELAND :

Stores referred to at Article 1 (3)	Total quantity in stock
Cork Colso	248 tonnes
Nordic	150 tonnes
Agra	121 tonnes
Limerick	103 tonnes
Tipperary AIBP Cahir	287 tonnes
Freezomatic	199 tonnes
Waterford QK Carroll's	217 tonnes
QK Grannagh	282 tonnes
Waterford	242 tonnes
Wexford Slaney	115 tonnes
Kildare Sallins	290 tonnes
Chilling	219 tonnes
Irish Ropes	188 tonnes
QK Naas	437 tonnes
Laois Lyonara	254 tonnes
Kilkenny Norish	160 tonnes
QK Naas	500 tonnes
Tallaght	450 tonnes

The beef removed from stock should be entered into stock after 1 September 1992.

SPAIN :

Stores referred to at Article 1 (3)	Total quantity in stock
Compañia Frigorífica, La Coruña	2 900 tonnes
Arilca, Pontevedra	1 200 tonnes

The butter removed from stock should be entered into stock after 1 January 1993.

ANNEX III

(a) **Place of take-over in Azerbaidjan :**

(1) Goods not unloaded :

Optovaya Baza 'Azerbmiasomoltorg'
Bakgorholodilnik
Baku 370029
6 Poperrecnaya, dom 2
Tel. : (7-8922) 66 22 46/66 48 36
Railway station : Stanciya Kishly
Azerbaïjan Jelesnaya Doroga
Station 547001.

(2) Authority entitled to deliver the take-over certificate

Azintrade
Baku, center
Dom Pravitelstva, 1st floor
Tel. : (7-8922) 93 19 80/93 97 13.

(b) **Place of take-over in Turkmenistan :**

(1) Ashkhabad
Republiskanskaya Kantora 'Turkmenmiasomoltorg'
Ulitza Storsa No 1
Railway station code 757503
Receiver's code 6161.

(2) Authority entitled to deliver the take-over certificate

Republiskanskaya Kantora 'Turkmenmiasomoltorg'
744015 Ashkhabad
Ulitza Storsa No 1
Mr. Mashurian, Deputy Director-General
Tel. : (7-3632) 22 40 50/22 48 79.

(c) **Place of take-over in Uzbekistan :**

(1) Station of arrival in Tashkent — Goods not unloaded

Central Asia Railways
Khamza station
Railway station code : 726702
Receiver's code : 6160

However, the delivery certificate may only be issued following unloading and quantitative and qualitative control of the goods.

(2) Authority entitled to deliver the take-over certificate :

RAO 'Gusht-Sut'
700072 Tashkent
115 Ukitza Altinkulskaya, 2 proezd
Mr Masamedov, Director-General
Tel. : (7-3712) 91 40 11.

(d) **Place of take-over in Georgia :**

(1) Port of Poti — Goods not unloaded.

However, the delivery certificate may only be issued following unloading and quantitative and qualitative control of the goods.

(2) Authority entitled to deliver the take-over certificate :

Hladokombinat No 4
Tbilisi
Ponichala
Mr Mandjavidze, Director
Tel. : (7-8832) 72 10 25.

(e) **Place of take-over in Armenia :**

(1) Alaverdi — Gods not unloaded.

The quantitative and qualitative controls will be carried out at the time of sealing the rail-wagons at Poti or Batumi. The take-over certificate will be issued on arrival at the abovementioned station after verification of the integrity of the seals.

(2) Authority entitled to deliver the take-over certificate :

Ministery of Food and Provision
375010 Yerevan
Dom Pravitelstva
Ploshchad Respubliki 1
Mr. Stepanian, Deputy Minister
Tel. : (7-8852) 52 03 21.

ANNEX IV

Take-over certificate

I, the undersigned .....
(name / Christian name / position)

acting on behalf of .....

certify the following goods have been taken over :

Product :	
Packaging :	
Total quantity in tonnes (net) : (gross) :	
No of sacks (flour) : cartons (butter) (meat) (1)	
Place and date of take-over :	
Rail wagon numbers/name of boat/heavy goods vehicle registration numbers (1) :	
Numbers of seals on arrival :	
Name and address of transport company :	

Name of control firm :

.....

.....

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

.....

.....

Observations or remarks .....

.....

Signature and stamp

(1) Delete as appropriate