

Research and analysis study from the viewpoint of EC Treaty provisions relating to the free movement of goods, national regulations, administrative practices and possible jurisprudence as regards the use of languages for marketing industrial products not harmonized at Community level

Contract notice (reference No: XV/95/118B)

Open procedure

(95/C 188/13)

1. **Awarding authority:** European Commission, Directorate-Generale XV, Internal Market and Financial Services, B/2 Unit, Free movement of goods: application of Articles 30-36 of the EC Treaty and elimination of exchange restrictions, rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel.

Tel. (02) 295 11 11. Telex COMEUB 21877.
Facsimile (02) 295 47 80. Telegraphic address: COMEUR Bruxelles.

2. **Description of the study/skills required:** Research works involving an analytical and comparative review of national provisions, administrative practices and jurisprudence of appeal organizations (administrative and judicial jurisdictions) in the field of language use for marketing industrial products which are not harmonized at Community level.

The study will cover at least 6 Member States.

The horizontal review shall lead to a description and critical analysis of existing situations in the different Member States. This implies, after identification of the categories of industrial products not covered by a Community harmonization legislative act, research of relevant statutory texts as well as the grounds upon which these laws and/or national administrative practices are based, together with an evaluation thereof (laws, practices) from the Community law viewpoint and, more specifically, the regulations governing the free movement of goods.

The ultimate aim of the study involves enabling the Commission services responsible for monitoring the application of EC Treaty regulations relating to the free movement of goods, as well as the jurisprudence of the Court of Justice pertaining thereto, to evaluate the necessary and/or proportional nature of these laws and administrative practices, possibly restricting, for exchanges of industrial products for which no harmonization has taken place at Community level with regard to the language to be used for their marketing (on the labels, accom-

panying documents, instructions, etc.). It also involves checking, where appropriate, whether these procedures have not been unduly used by national authorities to hinder the marketing of products from other Member States.

Clearly, information from Member States alone cannot be considered sufficient with a view to having complete and valid information.

In order to evaluate the grounds which justify the restricting regulations and/or national practices vis-à-vis the possible obligation to use a certain language, research as regards the reasons which have had the effect of imposing such a statutory obligation or the monitoring of a line of administrative practice is also necessary.

More detailed explanations on the skills required of tenderers are defined in the tender documents.

3. **Place of delivery:** Awarding authority's address.

4. a) Not applicable.

- b) Not applicable.

- c) Legal persons tendering are bound to mention the names and professional qualifications of the personnel responsible for conducting the study.

5. Tenders will cover at least 6 European Union Member States.

6. **Variants:** Not applicable.

7. **Contract duration:** 9 months from the date of contract signature.

8. a) Service from which the necessary documents may be requested: specifications may be obtained free of charge by writing to the Secretariat of Unit XV/B-2, avenue de Cortenberg 100, B-1040 Brussels, tel. 295 08 18, facsimile 295 47 80.

- b) Final date for submitting requests: 15 days before the final date for receipt of tenders, at the latest.

- c) Where applicable, cost and conditions for obtaining such documents: free of charge.

9. a) 52 days from the date of dispatch to the Publications Office.

- b) Tenderers may elect to send their tenders either by registered post by the last day of the date in 9 (a), at the latest, to the Secretariat of Unit XV.01 (Resources - Budget), C 107, 6/39, rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel, or by delivering them by hand to the Secretariat of Unit XV.01 (Resources - Budget), avenue de Cortenbergh 107, 6/39 (on working days only, 10.00-12.00 or 14.30-17.00). Tenders must be sent in 2 sealed envelopes marked, apart from the abovementioned address, with the following: 'Appel d'offre ouvert n° ...', 'offre de l'entreprise' and 'Ne doit pas être ouvert par le service du courrier de la Commission'. Self-adhesive envelopes that can be opened and resealed without leaving a trace cannot be used.

- c) An official European Union language.

10. Persons authorized to participate in the opening of tenders: 1 representative per tenderer.

Date, time and place of the opening: tenders will be opened in public at 10.30 on the 10th working day as of the day after the closing date for submitting tenders, at the following address:

European Commission, avenue de Cortenbergh 107, salle 0/52, B-1040 Brussels.

11. Not applicable.

12. **Main financing/payment procedures:** Defined in the tender documents.

13. Groups of companies, whatever their legal form, may apply. Candidates will, after having formed a group, be able to submit a joint tender, subject to the competition regulations being adhered to.

14. **Information necessary for an appraisal of the economic and technical capacity required of the tenderer:** The contracting party's economic and financial capacity will be established by producing the following supporting documents:

- 1) the contracting party shall set up a deposit or bank guarantee equal to the total tender value, to cover satisfactory contract completion.

The tenderer's technical capacity will be established in the following way:

tenders may be sent by legal or natural persons, whatever their form may be.

For natural persons:

- 1) a detailed curriculum vitae with exact details of the various qualifications obtained (copies of which are to be enclosed) as well as details of professional experience related to the previously mentioned requirements; a list of studies conducted over the past 3 years in the field of research in respect of law.

For legal persons:

- 1) the list of studies conducted over the past 3 years in the field of research in respect of law;
- 2) a complete and individualized list of natural persons called upon to participate in the study, with a detailed curriculum vitae for each of them, as well as a description of their professional experience in respect of the previously mentioned requirements.

The tenderer shall, where applicable, indicate the proportion of the contract he may intend to subcontract. Should the tenderer decide to assign part or all of the study to subcontractors, he is required to give details as to who they are, and indicate their academic qualifications, or those of their personnel, and their professional experience in the field of the subject of the study. In this case, he is required to describe the work method according to which the study will be established, for instance per product or per product group, in accordance with the subcontractors' qualifications. Furthermore, it is advisable to specify how the tenderer intends to monitor the various persons involved and how he intends to reunite the various parts in a single and coherent study.

Selection criteria

Considering the specificity of the contract subject, a university education in legal matters, culminating in a university degree, for natural persons or for the legal person's personnel responsible for drawing up the study will be required. Research and analysis experience of 4 years, following completion of the university studies, in the sector concerned is also required. Considering the ultimate aim of the study, in particular, informing the Commission of the necessary criteria enabling a more liberal position vis-à-vis the products concerned to be upheld, favouring, notably, their free movement, a good notion of Community law (evidenced by post-university qualifications on the subject or equivalent professional experience) and particularly of Articles 30-36 of the EC Treaty and the jurisprudence of the Court of Justice pertaining thereto is required.

-
15. The tenderer is bound to keep open his tender for a period of 9 months after the closing date for invitations to tender.
16. The tenderer will describe concisely and in detail the way in which the research will be carried out and the technical means which will be implemented (for instance, documentation sources, etc.). He will explain in his tender the extent of the analyses he proposes to carry out and propose details enabling judgments to be made on the topicality, authority and accuracy of data or scientific studies upon which he proposes to base his analyses.
17. **Contract award criteria:** The contract will be awarded by making a choice on the basis of the criteria of the economically most advantageous tender which will be assessed on the basis of the following, listed in descending order of importance:
- reliability and coherence of the proposed methodology. This criterion is the deciding factor considering the necessity for the Commission to be able to use non-disputable analysis criteria which may possibly be used before the European Court of Justice on the occasion of possible recourse,
 - the extent of geographical cover proposed and the industrial areas covered,
 - price.
18. Not applicable.
19. **Date of dispatch of the notice:** 11. 7. 1995.
20. **Date of receipt of the notice:** 11. 7. 1995.
-