REGULATION (EEC) No 437/73 OF THE COMMISSION

of 16 February 1973

opening a new invitation to tender for the mobilization of common wheat flour as food aid for the Republic of Mali

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community ;

Having regard to Council Regulation No 120/67/EEC (1) of 13 June 1967 on the common organization of the market in cereals, as last amended by the Act (2) annexed to the Treaty (3) on the Accession of new Member States to the European Economic Community and the European Atomic Energy Community, signed at Brussels on 22 January 1972 ;

Having regard to Council Regulation (EEC) No 169/372 (4) of 3 August 1972 laying down the conditions for the mobilization of cereals as food aid, and in particular Article 6 thereof ;

Whereas on 23 May 1972 the Council of the European Communities declared that by way of Community action it proposed to grant the Republic of Mali 5 000 metric tons of grain sorghum and 5 000 metric tons of common wheat flour under its 1971/72 food aid programme ;

Whereas the invitation to tender opened in the Community under Commission Regulation (EEC) No 2620/72 (5) of 11 December 1972 opening an invitation to tender for the mobilization of grain sorghum and common wheat flour as food aid for the Republic of Mali did not enable the quantity of 3 311 metric tons of flour to be purchased on the Community market ; whereas a new invitation to tender should therefore be opened, for this quantity of the product which was provided for but not allocated ;

Whereas analysis of the state of the French cereals market indicates that the criteria of Article 3 (3) of Council Regulation (EEC) No 1693/72 must be applied, and that the products should be purchased on the Community market ;

Whereas the proposed invitation to tender should be for supply of the products free, at frontier, not unloaded, to Kidira via Dakar ;

Whereas the award under the invitation to tender must be made in favour of the tenderer offering the best terms ;

Whereas, should *force majeure* make it impossible to complete the operation in question within the set time limits, it must be made clear who is to bear the liability for any resulting costs ;

Whereas provision should be made for security to be given for the purpose of guaranteeing that the obligations arising by virtue of participation in the invitation to tender for supplies to the Republic of Mali will be fulfilled ;

Whereas the intervention agency of the Member State should, in any event, be made responsible for the tendering procedure in question ;

Whereas the Commission must be informed quickly of the tenders submitted in response to the invitation and of those accepted by the intervention agency ;

Whereas the measures provided for in this Regulation are in accordance with the Opinion of the Management Committee for Cereals ;

HAS ADOPTED THIS REGULATION :

Article 1

1. Tenders are hereby invited for the supply to the Republic of Mali, by way of Community food aid action, of
— 3 311 metric tons of common wheat flour.

2. The tendering procedure shall take place in France in one lot. The products shall be mobilized on the Community market. The products shall be loaded for departure from the Community ports.

3. The invitation to tender provided for in paragraph 1 is for delivery free at frontier, not unloaded, to Kidira via Dakar.

4. The successful tenderer shall deliver the products specified in paragraph 1 in new jute sacks of a net capacity of 50 kilogrammes. The following shall be printed on the sacks :

'Farine de froment tendre — Don de la Communauté économique européenne".

Article 2

1. The decision on tenders received in response to the invitation provided for in Article 1 shall be taken on 5 March 1973.

(1) OJ No 117, 19. 6. 1967, p. 2269/67.
(2) OJ No L 73, 27. 3. 1972, p. 14.
(3) OJ No L 73, 27. 3. 1972, p. 5.
(4) OJ No L 178, 5. 8. 1972, p. 3.
(5) OJ No L 277, 12 .12. 1972, p. 15.

2. The closing date for submission of tenders shall be 5 March 1973 at 12 noon.

3. The notice of invitation to tender shall be published in the *Official Journal of the European Communities* not less than 10 days before the closing date for submission of tenders.

Article 3

The contract shall be awarded to the tenderer who makes the most favourable offer.

However, if the tenders submitted do not correspond to normal market prices and costs, the intervention agency may cancel the invitation to tender.

Article 4

1. The successful tenderer shall give security of a value of 10 units of account per metric ton of the product ; the security is intended to guarantee that the operations specified in Article 1 are duly completed. The security shall be forfeit if those operations are not carried out within the prescribed time limit, save as regards quantities not delivered owing to *force majeure*.

2. The security provided for in paragraph 1 may be given in the form of a cash deposit or of a guarantee issued by a credit institution conforming to the criteria laid down by the Member State.

Article 5

1. The products specified in Article 1 to be supplied to the Republic of Mali must meet the following requirements :

— humidity : not more than 14 %,

— protein content : not less than 10·5 % (N × 625 referred to dry matter) ;

— ash content : not more than 0·52 % referred to dry matter.

A product not meeting these requirements shall be rejected.

2. Tenders for supply to the Republic of Mali of the products specified in Article 1 must relate to products of the following characteristics :

— humidity : not more than 14 %,

— protein content : not less than 10·5 % (N × 625 referred to dry matter) ;

— ash content : not more than 0·52 % referred to dry matter.

Article 6

1. The French intervention agency shall be responsible for the operations relating to the invitation to tender provided for by this Regulation.

2. It shall forthwith communicate to the Commission the list of firms which respond to the invitation to tender, specifying the terms of each tender, together with the name and business name of the successful tenderer.

Article 7

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, 16 February 1973.

For the Commission

The President

François-Xavier ORTOLI