REGULATION (EEC) No 2445/74 OF THE COMMISSION

of 27 September 1974

opening an invitation to tender for the mobilization of grain sorghum as food aid for the Republic of Niger

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 Regulation (EEC) No 1996/74 [2];

Having regard to Council Regulation (EEC) No 1693/72 [3] of 3 August 1972 laying down the conditions for the mobilization of cereals as food aid, and in particular Article 6 thereof;

Having regard to Council Regulation (EEC) No 974/71 [4] of 12 May 1971 covering certain measures of conjunctural policy to be taken in the agricultural sector following the temporary widening of the margins of fluctuation in the currencies of certain Member States, as last amended by Regulation (EEC) No 3450/73 [5], and in particular Article 6 (1) thereof;

Whereas on 21 March 1974 the Council of the European Communities declared that by way of Community action it proposed to grant the Republic of Niger 5 000 metric tons of grain sorghum under its 1973/74 food-aid programme;

Whereas pursuant to Article 3 (3) of Council Regulation (EEC) No 1693/72 the goods may be purchased anywhere on the Community market;

Whereas the proposed invitation to tender should be for supply of the products delivered cif, that is at the moment when the goods are actually placed on the dock at the port of unloading;

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 should be made clear who is to bear the liability for any resulting costs;

Whereas provisions 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 Niger will be fulfilled;

Whereas the intervention agency of France should 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 prices of grain sorghum on the world market exceed at this time to a marked extent the prices ruling in the Community for that product; whereas on the basis of data currently available no immediate change in this position is to be foreseen; whereas under these conditions tenderers can reasonably expect that at the time of delivery of the products in the tender no monetary compensatory amount will be applied to the export by virtue of Article 4a (2) of Regulation (EEC) No 974/71; whereas however the Commission has proposed to the Council the suppression of Article 4a (2) aforesaid; whereas this measure will have the effect of applying under all circumstances the monetary compensatory amount for transactions with Member States with depreciated currencies and in particular the levying of this amount on exports; whereas in order not to hinder the execution of this present food aid it is expedient to provide that any compensatory amount that might be applied following the suppression of Article 4a (2) aforesaid shall not be levied for the products to be delivered by virtue of this present invitation to tender;

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 Niger by way of Community food aid action of 5 000 metric tons of grain sorghum.

2. The tendering procedure shall take place in France in two lots. The product shall be mobilized on the Community market. The product shall be loaded for departure from a Community port.

3. The invitation to tender provided for in paragraph 1 is for supply of products delivered cif, that is

[1] OJ No 117, 19. 6. 1967, p. 2269/67.
[2] OJ No L 209, 31. 7. 1974, p. 1.
[3] OJ No L 178, 5. 8. 1972, p. 3.
[4] OJ No L 106, 12. 5. 1971, p. 1.
[5] OJ No L 353, 22. 12. 1973, p. 25.

at the moment when the goods are actually placed on the dock at the port listed in the Annex.

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

'Sorgho — Don de la Communauté économique européenne — Distribution gratuite.'

Article 2

1. The decision on tenders received in response to the invitation provided for in Article 1 shall be taken on 11 October 1974.

2. The closing date for submission of tenders shall be 11 October 1974 at 12 noon.

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

Article 3

The contract shall be awarded to the tenderer who offers the most favourable terms. If it appears, however, that the tenders submitted do not reflect normal market prices and rates, the intervention agency may cancel the invitation to tender.

Article 4

1. The successful tenderer shall give security in an amount of five units of account per metric ton of goods ; the purpose of such security is to guarantee performance of the operations specified in Article 1. The security shall be forfeit if those operations are not carried out within the time stipulated, save as regards quantities not delivered for reasons of *force majeure*.

2. The security referred to 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 product referred to in Article 1 which is to be supplied for human consumption to Niger must be of fair and sound merchantable quality, be free from odour, and with a moisture content not exceeding 14 %.

2. Tenders for supply to Niger of the product specified in Article 1 must relate to grain sorghum of fair and sound merchantable quality, free from odour, and with a moisture content not exceeding 14 %.

Article 6

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

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

3. On the other hand, if the successful tenderer is established in a Member State other than the one collecting the tenders, and if the product is dispatched through a frontier post of the Member State where the successful tenderer is established, the intervention agency of the latter Member State shall be responsible for the operations relating to the tendering.

In this case, the intervention agency choosing the successful tenderer shall immediately inform the intervention agency of the Member State concerned and shall supply it with all the information which it may require.

4. The intervention agency shall request the successful tenderer to supply the following information :

(a) after each shipment a certificate showing the quantities dispatched and the quality of the products ;

(b) the date of departure of the vessels ;

(c) all possible contingencies which might occur during transportation of the products.

The information indicated above shall be forwarded by the intervention agency to the Commission immediately upon receipt.

Article 7

On delivery of the goods at the port of shipment, a handing-over certificate shall be supplied to the successful tenderer, acting as agent for the Community, by the agent of the recipient country or, in the absence of the latter, by the intervention agency of the Member State in whose territory the port of shipment is situated.

Article 8

The monetary compensatory amount shall not be levied for the products to be delivered under this Regulation.

Article 9

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, 27 September 1974.

For the Commission

The President

François-Xavier ORTOLI

ANNEX

Number of lot	Port of unloading	Minimum rate of unloading	Metric tonnage cif
1	Cotonou	Customs of the port	3 000
2	Apapa		2 000