# REGULATION (EEC) No 2869/74 OF THE COMMISSION

## of 15 November 1974

## opening an invitation to tender for the mobilization of common wheat flour as food aid for the Malagasy Republic

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;

Whereas on 23 May 1972 the Council of the European Communities declared that it proposed, by way of Community action, to grant the equivalent of 4 000 metric tons of common wheat (in other words 2 649 metric tons of common wheat flour) to the Malagasy Republic under its 1971/72 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 relate to supply of the goods fob, up to the point at which they are placed in the hold of the ship at the port of shipment;

Whereas the contract should be awarded to the tenderer who makes the best offer;

Whereas it must be made clear who is to bear any costs which arise in the event that for reasons of *force majeure* the operation in question is not completed within the time stipulated;

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 Malagasy Republic will be fulfilled;

Whereas the Dutch intervention agency should be made responsible for organizing the invitation to tender;

Whereas it is important that the Commission be informed without delay 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 Malagasy Republic, by way of Community action, of 2 649 metric tons of common wheat flour.

2. The tendering procedure shall take place in the Kingdom of the Netherlands and shall be in respect of a single lot.

3. The goods shall be mobilized on the Community market.

4. Shipment shall be from Rotterdam, Antwerp, Dunkerque or Rouen.

5. The goods referred to in paragraph 1 shall be supplied fob (that is to say the successful tenderer shall place them in the hold of the ship at the port of shipment) in new polyester sacks lined with Kraft paper with three pleats, having a net capacity of 50 kilogrammes.

The following shall be printed on the sacks:

'FARINE DE FROMENT — 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 29 November 1974.

2. The closing date for the submission of tenders shall be 29 November 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 the submission of tenders.

*Article 3*

The contract shall be awarded to the tenderer offering the best terms. However, if the tenders submitted do not appear to correspond to normal market prices and

(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.

costs, the intervention agency may cancel the invitation to tender.

*Article 4*

If, because of delay in the provision of ships for effecting transport by sea, the successful tenderer is unable to deliver the goods fob on the date fixed in the notice of invitation to tender, the costs resulting from such delay shall be borne by the intervention agency.

*Article 5*

1. The successful tenderer shall give security in an amount of 10 units of account per metric ton of goods; the purpose of such security is to guarantee performance of the operations specified in Articles 1 and 6. 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 which satisfies the criteria laid down by each Member State.

*Article 6*

1. The common wheat flour referred to in Article 1 to be supplied to the Malagasy Republic must meet the following requirements:

— moisture: 12 % maximum;

— protein content: 10·5 % minimum (N × 6·25 on dry matter);

— ash content: 0·52 % maximum referred to dry matter.

Flour not meeting these requirements shall be refused.

2. Tenders for supply to the Malagasy Republic of the common wheat flour referred to in Article 1 must relate to a product with the following characteristics:

— moisture: 12 % maximum;

— protein content: 10·5 % minimum (N × 6·25 on dry matter);

— ash content: 0·52 % maximum referred to dry matter.

*Article 7*

1. The intervention agency of the Kingdom of the Netherlands 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 invitations 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.

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

*Article 8*

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 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, 15 November 1974.

*For the Commission*

*The President*

François-Xavier ORTOLI