COMMISSION REGULATION (EEC) No 3105/87

of 16 October 1987

laying down detailed rules for the application of the special arrangements for imports of maize and sorghum into Spain from 1987 to 1990

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1799/87 of 25 June 1987 on special arrangements for imports of maize and sorghum into Spain from 1987 to 1990 (1), and in particular Article 8 thereof,

Whereas Regulation (EEC) No 1799/87 provides that imports of maize and sorghum into Spain under the agreement between the Community and the United States of America may be carried out either under a levy reduction system or by direct purchases of cereals on the world market;

Whereas Commission Regulation (EEC) No 2059/87 (2) lays down detailed rules for applying the abovementioned special arrangements for imports under a levy reduction system; whereas those arrangements should be supplemented by detailed rules applicable to direct purchases of cereals on the world market with a view to their being placed in Spain under the customs warehousing procedure provided for in Council Directive 69/74/EEC (3), as last amended by Directive 76/364/EEC (4), in accordance with Article 4 of Regulation (EEC) No 1799/87; whereas, for the sake of clarity, all the detailed rules for the application of the arrangements in question should be brought together in a singe text and Regulation (EEC) No 2059/87 should be repealed accordingly;

Whereas, with a view to enabling the operation to be carried out under optimum conditions and in particular at the lowest purchase and transport costs, an invitation to tender should be organized for supply with delivery to warehouses designated by the Spanish intervention agency; whereas provision should be made for tenders to be lodged for individual lots in line with storage capacities available in certain areas of Spain and published in the notice of invitation to tender;

Whereas on the one hand detailed rules should be adopted on the organization of the invitations to tender and on the other hand conditions should be defined for submitting tenders and lodging and releasing securities guaranteeing compliance with the successful tenderer's obligations;

Whereas, with a view to sound economic and financial management of the purchasing operation in question and in particular to avoid disproportionate and excessive risks for operators in view of foreseeable prices on the Spanish market, provision should be made for importing onto the market, subject to a reduced levy, cereals which do not meet the quality requirements laid down in the invitation to tender; whereas in that case the levy reduction may not, however, be greater than the last amount fixed pursuant to Article 3 of Regulation (EEC) No 1799/87;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

CHAPTER I

Imports with levy reduction

Article 1

The import levy reduction provided for in Article 3 of Regulation (EEC) No 1799/87 shall be granted on maize and sorghum falling within Common Customs Tariff subheadings 10.05 B and 10.07 C II respectively, imported into Spain under cover of a licence issued by the Spanish authorities as provided for in this Regulation.

Article 2

1. Licence applications shall be lodged on the first two working days of each week.

2. Licence applications and the licences themselves shall carry the following entry in section 12:

'levy reduction: licence valid only in Spain (Regulation (EEC) No 3105/87)'.

Article 3

1. Licence applications shall be accompanied by a written undertaking from the applicant to lodge, by the day of declaration of release for free circulation at the latest, a security of an amount equal to the reduction granted.

2. The security in connection with import licences issued under this Regulation shall, notwithstanding point (a) of Article 12 (1) of Commission Regulation (EEC) No 2042/75 (5), be 16 ECU per tonne.

(1) OJ No L 170, 30. 6. 1987, p. 1.
(2) OJ No L 193, 14. 7. 1987, p. 6.
(3) OJ No L 58, 8. 3. 1969, p. 7.
(4) OJ No L 223, 16. 8. 1976, p. 17.
(5) OJ No L 213, 11. 8. 1975, p. 5.

3. If the levy is fixed in advance the reduction granted shall be that applying on the day on which the licence application is lodged.

4. If the levy is fixed in advance :

— the net amount to be charged shall be shown in section 19 of the licence, and

— the reduction granted shall be shown in section 20a.

Article 4

1. Licences shall be issued within the limit of the quantities available at the latest on the third working day following the last day for submission as specified in Article 2.

Should the applications made in request of a week be for a quantity exceeding that still available for import under Regulation (EEC) No 1799/87 the quantities for which licences are issued shall be the quantities indicated in the applications reduced by a uniform percentage. The security for the quantities not covered by a licence shall be released immediately.

2. The Spanish authorities shall notify the Commission of the quantities for which licences have been issued each week by at the latest the third working day of the following week.

Article 5

1. The period of validity of licences shall be that specified in Article 8 of Regulation (EEC) No 2042/75.

2. The quantity released for free circulation may, notwithstanding Article 12 (2) of Regulation (EEC) No 2042/75, not be greater than that shown in sections 10 and 11 of the import licence. The figure 0 shall, to this end, be entered in section 22 of the licence.

Article 6

The security referred to in Article 3 (1) shall be released on production of evidence :

— of processing or utilization in Spain, or

— that the product has become unsuitable for any use whatsoever.

Evidence of incorporation in animal feed shall be acceptable as evidence of processing or utilization.

If the abovementioned evidence is not produced within 18 months of the date of acceptance of the declaration of release for free circulation the security shall be forfeit as levy.

For the purposes of this Article the obligation to process or utilize referred to in the first subparagraph shall be considered to have been fulfilled if 96 % of the quantity released for free circulation has been processed or used.

Article 7

1. Maize and sorghum released for free circulation at a reduced levy rate shall remain under customs surveillance or under administrative surveillance of equivalent effect until the time when it is used or processed.

2. Spain shall take all necessary measures to ensure that the surveillance referred to in paragraph 1 is carried out. These measures shall include requiring interested parties to submit to any check considered necessary by the competent authorities and to keep specific records enabling the authorities to make such checks.

3. Spain shall immediately notify the Commission of the measures adopted pursuant to paragraph 2.

CHAPTER II

Direct purchases on the world market

Article 8

1. Where Article 4 (1) of Regulation (EEC) No 1799/87 is applied, the Spanish intervention agency shall organize an invitation to tender for the award of the supply contract. The supply shall comprise purchase of the maize and sorghum on the world market and delivery, not unloaded, to the warehouses designated by the abovementioned intervention agency for placing under the customs warehousing procedure provided for in Directive 69/74/EEC.

The decision provided for in the said Article 4 shall concern in particular the quantity of cereals to be imported, the dates of opening and closing of the invitation to tender and the final date for delivery of the goods.

2. A notice of invitation to tender drawn up in accordance with the Annex shall be published in the 'C' series of the *Official Journal of the European Communities*. The invitation to tender shall relate to one or more lots. 'Lot' shall be understood as meaning the quantities to be delivered to a warehouse or to a set of warehouses depending on the terms of the invitation to tender.

3. The Spanish intervention agency shall lay down, as required, additional measures for implementing the purchasing operations in question. The agency shall notify the Commission immediately of those measures and shall inform operators thereof by displaying notices.

Article 9

1. Interested parties shall reply to the invitation to tender either by lodging a written tender in exchange for an acknowledgement of receipt at the Spanish intervention agency indicated in the notice of invitation to tender, or by forwarding the same to the latter by registered letter,

written telecommunication or telegram. Tenders must reach the Spanish intervention agency before 12 noon (local time) on the day on which the deadline for the submission of tenders indicated in the notice of invitation to tender expires.

2. Tenders may only be submitted in respect of whole lots. They shall give :

(a) the reference of the invitation to tender ;

(b) the tenderer's name and address ;

(c) details of the lot concerned ;

(d) the tender price offered in pesetas per tonne of product ;

(e) separately, the cif price.

3. Tenders must be accompanied by evidence that the security referred to in Article 10 (1) has been lodged before expiry of the deadline for the submission of tenders.

4. Tenders not submitted in accordance with this Article or containing conditions other than those laid down in the invitation to tender shall not be considered.

5. Tenders may not be withdrawn.

Article 10

1. Tenders submitted shall be considered only where there is evidence that a security of 20 ECU/tonne has been lodged.

2. Securities shall be lodged, at the tenderer's discretion, in cash or in the form of a security from a credit institution meeting the criteria laid down by Spain.

3. Securities shall be relased immediately after the award for the contract in the case of unsuccessful tenders and after performance of the supply contract in accordance with the conditions laid down in the case of the successful tender.

Article 11

Tenders shall be opened and read in public. This shall be done by the intervention agency immediately after the expiry of the deadline for the submission of tenders.

Article 12

1. Without prejudice to the application of paragraphs 2 and 3, the contract shall be awarded within 24 hours to the tenderer submitting the most favourable tender.

2. Where the tender judged most favourable is submitted simultaneously by more than one tenderer the intervention agency shall draw lots to decide which tenderer is to be selected.

3. If the tenders submitted seem not to reflect the conditions normally applying on the markets, the intervention agency may decide to make no award. Invitations to tender shall be renewed within one week until all the lots are awarded.

4. The intervention agency shall notify all tenderers of the outcome of their tenders by letter or telex forwarded no later than the first working day following the award of the contract.

Article 13

1. At the time of supply the intervention agency shall check the quantity and quality of the goods.

Subject to the application of the price reductions provided for in the notice of invitation to tender, the goods shall be rejected if the quality is below the minimum quality laid down. However, the goods may be imported with a reduction in the levy in accordance with Chapter I. The reduction may not exceed the last reduction fixed pursuant to Chapter I.

2. Where delivery does not take place within the time limit laid down or where the goods are rejected pursuant to paragraph 1, the security referred to in Article 10 shall be forfeit without prejudice to any other financial consequences of the breach of the supply contract.

CHAPTER III

Final provisions

Article 14

Regulation (EEC) No 2059/87 is hereby repealed.

Article 15.

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 October 1987.

For the Commission

Frans ANDRIESSEN

Vice-President

ANNEX

MODEL FOR NOTICE OF INVITATION TO TENDER

1. Product to be mobilized : .....

2. Total quantity : .....

3. List of warehouses to which a lot relates : .....

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4. Characteristics of the goods (including definition of the quality required, the minimum quality and the price reductions) : .....

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5. Packaging (bulk) : .....

6. Delivery period : .....

7. Date of expiry of deadline for submission of tenders : .....