COMMISSION REGULATION (EEC) No 468/88

of 17 February 1988

opening an invitation to tender for the levy reduction on sorghum imported from third countries

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 3 (2) and (8) thereof,

Whereas as part of an agreement with the United States of America the Community has undertaken for the years 1987 to 1990 to import a certain quantity of sorghum into Spain ; whereas so this commitment can be met, and in order to encourage the import before 30 June 1988 of the specified quantities, full use should be made of the provision in Regulation (EEC) No 1799/87 for setting the import levy reduction on the product in question by tender ; whereas to that end provision should be made for the Commission, on the basis of tenders received, to fix a reduction for a given quantity and for tenderers who accept the conditions so fixed to be awarded contracts ;

Whereas, pursuant to Article 3 (3) of Regulation (EEC) No 1799/87, the levy reduction is to be applied to maize imported into Spain under cover of a licence valid in that Member State alone ;

Whereas Council Regulation (EEC) No 486/85 of 26 February 1985 on the arrangemets applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States or in the overseas countries and territories [2], as last amended by Regulation (EEC) No 1821/87 [3], reduces the levy on sorghum by 50 % ; whereas accumulation of that reduction with the reduction provided for in this Regulation would result in disturbance to the Spanish cereals market ; whereas for the sake of the satisfactory functioning of the tendering procedure such accumulation should therefore be excluded ;

Whereas the specific additional rules required for administering the tendering procedure should be laid down, in particular rules on the lodging by operators and release of the security against fulfilment of their obligations, in particular the obligation to process or use the imported product in Spain ;

Whereas the Management Committee for Cereals has not issued an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION :

Article 1

1. A tendering procedure is hereby opened for the reduction in the import levy on sorghum to be imported into Spain.

2. Levies reduced as a result of operating this procedure shall not be reduced as provided for in Article 9 (2) of Council Regulation (EEC) No 486/85.

3. The invitation shall be open until 26 February 1988. During that period weekly invitations shall be issued with quantities and closing dates as shown in the notice of invitation to tender.

Article 2

1. Tenders shall be lodged in writing with the competent authority against a receipt or sent to that authority by telex or telegram.

2. Tenders shall indicate :

— the weekly invitation in response to which they are made,

— the name and exact address of the tenderer, with telex or telephone number,

— the nature and quantity of the product to be imported,

— the import levy reduction proposed, in ECU per tonne,

— the origin of the sorghum to be imported.

3. Tenders shall be valid only if :

(a) evidence, provided before expiry of the time limit for submission that the tenderer has lodged a security for an amount per tonne equal to that of the reduction proposed in the tender ;

[1] OJ No L 170, 30. 6. 1987, p. 1.
[2] OJ No L 61, 1. 3. 1985, p. 4.
[3] OJ No L 172, 30. 6. 1987, p. 102.

(b) they are accompanied by a written undertaking to lodge with the competent authority within two days of receipt of notification of award as mentioned in Article 4 (3) an application for an import licence for the quantities awarded together with an application for advance fixing of the levy at the reduced rate proposed in the tender and an application for advance fixing of the Spanish monetary compensatory amount;

(c) they are for at least 50 000 tonnes.

4. Tenders not meeting the requirements set out in paragraphs 1 to 3 or incorporating terms other than those provided for in the notice of invitation to tender shall not be valid.

5. Once submitted, tenders may not be withdrawn.

Article 3

1. Notwithstanding Article 21 (1) of Commission Regulation (EEC) No 3183/80 [1] import licences shall, for the purpose of determination of the period of validity, be deemed to have been issued on the last day of the period set for the submission of tenders.

2. Import licences issued in connection with awards made under this procedure shall be valid from the date on which they are issued, as indicated in paragraph 1, until 30 June 1988.

3. Notwithstanding Article 9 of Regulation (EEC) No 3183/80, rights conferred by import licences as mentioned in this Article shall not be transferable.

Article 4

1. On the basis of the tender submitted and forwarded, the Commission shall decide in accordance with the procedure laid down in Article 26 of Commission Regulation (EEC) No 2727/75 [2]:

— either to set a maximum reduction in the import levy, or

— to make no award.

If a maximum reduction on import is set, awards shall be made to tenderers offering the maximum or a smaller reduction.

2. The Commission may also, on the basis of the tenders submitted and forwarded, fix in accordance with the procedure indicated in paragraph 1 a reduction applicable to importation of a specified quantity. The award shall be made to the tenderer notifying by telex, at the latest by 17.00 on the Friday following fixing of the reduction, his willingness to import the said quantity from the country of origin indicated in his tender at the levy reduction fixed. Should a number of tenderers indicate acceptance the quantity shall be divided among them.

3. The competent Spanish authority shall, as soon as the Commission has reached a decision as indicated in paragraphs 1 and 2, notify all tenderers in writing of the outcome of their response to the invitation to tender.

Article 5

1. Where a successful tenderer lodges an application for an import licence as mentioned in Article 2 (3) (b) within the time limit set, a licence shall be issued for the quantities for which he has been awarded a contract.

Should the contract be awarded under Article 4 (2), the successful tenderer must within two working days following receipt of notification of award as mentioned in Article 4 (3):

(a) lodge an application for an import licence together with an application for advance fixing of the import levy reduced by the amount fixed under Article 4 (2) and an application for advance fixing of the Spanish monetary compensatory amount;

(b) provide evidence that the security mentioned in Article 2 (3) (a) has been supplemented by an amount corresponding to the difference between the levy reduction tendered and that fixed under Article 4 (2).

2. If the undertaking specified in Article 2 (3) (b) and/or the obligations set out in paragraph 1 above are not fulfilled, the tendering security shall be forfeit.

Article 6

1. The tendering security shall be released:

(a) where the tender is not accepted;

(b) where the tenderer provides evidence by means of a sales invoice to a processor or consumer in Spain that the products imported have been processed or used in Spain. An amount of 20 ECU per tonne shall however be released on production of proof by the tenderer, following unloading, that the product has been imported from the country of origin indicated in the tender;

(c) where the successful tenderer provides evidence that the product imported has become unfit for any use or where import cannot be effected for reasons of *force majeure*.

[1] OJ No L 338, 13. 12. 1980, p. 1.
[2] OJ No L 281, 1. 11. 1975, p. 1.

2. Article 33 of Regulation (EEC) No 3183/80 shall apply to the security.

Article 7

Tenders lodged must be transmitted by the competent Spanish authority to the Commission to arrive not more than one-and-a-half hours after the time limit set in the notice of invitation to tender for the lodging of tenders under the weekly invitations. They must be transmitted in the form shown in the Annex.

Should no tenders be received, Spain shall inform the Commission within the same period.

Article 8

The times laid down in this Regulation shall be Brussels time.

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, 17 February 1988.

For the Commission
Frans ANDRIESSEN
Vice-President

ANNEX

Weekly invitation to tender for the import levy reduction on sorghum from third countries

Deadline for submission of tenders (date/time)

1	2	3	4	5
Numbering of tenders	Quantity (tonnes)	Amount of import levy reduction (ECU/tonne)	MCA fixed in advance	Origin of the goods
1				
2				
3				
4				
5				
etc.				