COMMISSION REGULATION (EC) No 11/94

of 5 January 1994

opening an invitation to tender for the reduction in the levy on grain sorghum imported into Spain from third countries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3640/93 of 17 December 1993 on special arrangements for imports of maize and sorghum into Spain for the year 1993 [1], and in particular Articles 3 (2) and 8 thereof,

Whereas, as part of an agreement with the United States of America, the Community has undertaken to import a certain quantity of maize and grain sorghum into Spain in the years 1987 to 1992; whereas by Regulation (EEC) No 991/93 [2] extending the measures taken under the above-mentioned agreement, the Council approved the extension of that agreement to 1993, that extension being without prejudice to the rights and obligations arising from the original agreement;

Whereas, pursuant to Article 3 (3) of Regulation (EC) No 3640/93, the levy reduction is to be applied to grain sorghum imported into Spain under cover of a licence valid in that Member State alone;

Whereas Council Regulation (EEC) No 715/90 of 5 March 1990 on the arrangements applicable to agriculture products and certain goods resulting from the processing of agriculture products originating in the ACP States or in the overseas countries and territories (OCT) [3], as last amended by Regulation (EEC) No 444/92 [4], provides in particular for a reduction of 60 % in the levy applicable to grain sorghum up to a quota of 100 000 tonnes per calendar year and of 50 % in excess of that quota;

Whereas, if that benefit is combined with the reduction provided for under this Regulation, this is likely to disturb the Spanish market for cereals; whereas such combined benefits should be ruled out for the sake of the satisfactory functioning of the invitation to tender;

Whereas specific additional rules required for administrating the invitation to tender should be laid down, including in particular rules on the lodging by operators and the release of securities against fulfilment of their obligations, and in particular the obligation to process or use the imported product in Spain;

Whereas it is impossible for all the quantities of maize and grain sorghum concerned to be imported into Spain by 28 February 1992 as provided for in the Agreement; whereas Article 6 of Regulation (EC) No 3640/93 should therefore be applied and the quantities for 1993 should be imported during the period 1 January to 30 April 1994;

Whereas, with a view to avoiding any disturbances on the Spanish market, the staggering of imports until the month of April should be facilitated; whereas the reduction in the levy should, for that purpose, be increased by the amount of the monthly increases;

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. An invitation to tender is hereby opened for the reduction in the import levy referred to in Article 10 of Council Regulation (EEC) No 1766/92 [5] on grain sorghum to be imported into Spain.

2. Under this invitation to tender, the reduction in the import levy on grain sorghum provided for in Article 11 of Regulation (EEC) No 715/90 shall not apply.

3. The invitation to tender shall be open until 7 April 1994. 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 Spanish authority against a receipt or forwarded to that authority by telex, telegram or telefax.

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 telefax number,

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

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

— the origin of the grain sorghum to be imported.

[1] OJ No L 333, 31. 12. 1993, p. 13.
[2] OJ No L 104, 29. 4. 1993, p. 1.
[3] OJ No L 84, 30. 3. 1990, p. 85.
[4] OJ No L 52, 27. 2. 1992, p. 7.
[5] OJ No L 181, 1. 7. 1992, p. 21.

3. Tenders shall be valid only if:

(a) they do not exceed the maximum quantity available for each closing date for the submission of applications;

(b) evidence is 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;

(c) they are accompanied by a written undertaking to lodge with the competent Spanish authority within two days of receipt of notification of award as mentioned in Article 4 (2) 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 advancefixing of the Spanish monetary compensatory amounts;

(d) they are for at least 10 000 tonnes.

4. Tenders not meeting the requirements set out in paragraph 1, 2 and 3 or incorporating terms other than those provided for in the 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 3719/88 [1] import licences shall, for the purposes of determining their term of validity, be deemed to have been issued on the closing date for the submission of tenders.

2. Import licences issued in connection with awards made under this invitation to tender shall be valid from the date on which they are issued within the meaning of paragraph 1, until 30 April 1994.

3. Import licences issued in connection with awards made under these invitations to tender shall be subject to the provisions of Regulation (EC) No 3640/93.

4. Notwithstanding Article 2 (2) of Commission Regulation (EEC) No 891/89 [2], the quantity released for free circulation may 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.

5. Notwithstanding Article 9 of Regulation (EEC) No 3719/88, rights conferred by import licences shall not be transferable.

Article 4

1. On the basis of tenders submitted and forwarded, the Commission shall decide in accordance with the procedure laid down in Article 23 of Council Regulation (EEC) No 1766/93:

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

— to make no awards.

Where a maximum reduction in the import levy is set, awards shall be made to the tenderer or tenderers offering the maximum or a smaller reduction.

2. The amount of the reduction in the levy awarded in accordance with paragraph 1 is increased by the difference between the threshold price applicable during the month of import and the threshold price applicable during the month of delivery of the licence.

3. As soon as the Commission has reached a decision as referred to in paragraph 1, the competent Spanish authority shall notify all tenderers in writing of the outcome of their tenders.

Article 5

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

2. Where the undertaking referred to in Article 2 (3) (c) is 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;

(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 331, 2. 12. 1988, p. 1.
[2] OJ No L 94, 7. 4. 1989, p. 13.

2. Article 33 of Regulation (EEC) No 3719/88 shall apply to securities.

Article 7

Tenders lodged must be forwarded by the competent Spanish authority to the Commission to arrive not more than two hours after the time limit laid down in the notice of invitation to tender. They must be forwarded in the form shown in the Annex.

Should no tenders be received, Spain shall inform the Commission within the same period as that referred to in the first paragraph.

Article 8

The times for the purposes of 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, 5 January 1994.

For the Commission
René STEICHEN
Member of the Commission

ANNEX

Weekly invitation to tender for the reduction in the levy on grain sorghum imported from third countries

(Regulation (EC) No 11/94)

Deadline for submission of tenders (date/time)

1	2	3	4	5
Numbering of tenderers	Quantity (tonnes)	Reduction in import levy	MCA fixed in advance	Origin of the cereals
1				
2				
3				
4				
5				
etc.				