COMMISSION REGULATION (EC) No 2010/1999

of 20 September 1999

opening an invitation to tender for the refund or the tax for the export of common wheat to certain ACP States

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ([1]), as last amended by Commission Regulation (EC) No 1253/1999 ([2]),

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ([3]), as last amended by Regulation (EC) No 2513/98 ([4]), and in particular Article 4 thereof,

(1) Whereas, with a view to supplying the markets of the ACP countries, favoured partners of the Community, significant quantities of common wheat are required for the 1999/2000 marketing year; whereas these markets are usually supplied on the basis of regular contracts to ensure stable prices for the ACP countries over a certain period; whereas it is therefore necessary to issue a specific invitation to tender to ensure that users in certain ACP States have access to common wheat under conditions appropriate to the highly competitive situation on the world market;

(2) Whereas the detailed procedural rules governing invitations to tender are as regards the fixing of the export refund, or export tax in Regulation (EC) No 1501/95; whereas the commitments on the part of the tenderer include an obligation to lodge an application for an export licence; whereas compliance with this obligation may be ensured by requiring tenderers to lodge a tendering security of EUR 12 per tonne when they submit their tenders;

(3) Whereas, in order to ensure the smooth operation of the export tendering procedure it is appropriate to prescribe a minimum quantity to be tendered for and a time limit and form for the communication of tenders submitted to the competent authorities;

(4) Whereas provision should be made for a security lodgement scheme which ensures that the aims are met while avoiding excessive costs for the operators;

(5) Whereas, in addition to the conditions laid down in Article 30 of Commission Regulation (EEC) No 3719/88 ([5]), as last amended by Regulation (EC) No 1127/1999 ([6]), provision should be made for the release for consumption in the ACP State(s) laid down in this Regulation;

(6) 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 shall be invited for the export refund and/or export tax concerning common wheat, as provided for in Article 4 of Regulation (EC) No 1501/95.

2. The common wheat must be exported to an ACP State or to several States within one of the groups of ACP States listed in Annex I.

3. The invitation shall remain open until 25 May 2000. During this period weekly awards shall be made, for which the quantities and the time limits for the submission of tenders shall be as prescribed in the notice of invitation to tender.

Article 2

A tender shall be valid only if it relates to an amount of not less than 1 000 tonnes for the ACP States listed in Annex I.

Article 3

The security referred to in Article 5(3a) of Regulation (EC) No 1501/95 shall be EUR 12 per tonne.

Article 4

1. Tenders shall only be admissible if:

— the tenderer provides written proof from an official body in the ACP country of destination or a company having its overseas subsidiary in the said country, that he has concluded for the quantity in question a commercial supply contract for common wheat for export to an ACP State or to several States within one of the groups of ACP states listed in Annex I. That contract may cover only those deliveries to be made during the 1999/2000 marketing year for quantities traditionally supplied; such proof shall be lodged with the competent authorities at least two working days before the date of the partial invitation to tender against which the tender is to be submitted,

— they are accompanied by an application for an export licence for the destination in question.

([1]) OJ L 181, 1.7.1992, p. 21.
([2]) OJ L 160, 26.6.1999, p. 18.
([3]) OJ L 147, 30.6.1995, p. 7.
([4]) OJ L 313, 21.11.1998, p. 16.
([5]) OJ L 331, 2.12.1988, p. 1.
([6]) OJ L 135, 29.5.1999, p. 48.

The proof provided for in the first indent shall also indicate the quality provided for in the contract, the time limit for delivery and the price terms.

The Member State shall send the Commission a copy of the said proof forthwith, for information.

2. Tenders may not exceed the quantity laid down in the commercial contract submitted. The tenderers may not submit simultaneously several bids on the basis of the same contract.

When transmitting the tenders submitted, the Member States shall inform the Commission of the above, mentioning if necessary the names of the tenderers involved.

Article 5

1. The licence obliges the operator to export to the ACP State or States for which the licence application was submitted. However, for ACP States and up to a limit of 30 % of the quantity for which the licence was issued, the operator may effect his contract at another destination on condition that it belongs to the same group of countries listed in Annex I.

2. The export licences shall be issued as soon as the successful tenderers have been selected.

3. Article 9 of Regulation (EEC) No 3719/88 notwithstanding, the rights deriving from the licence referred to in this Article shall not be transferable.

Article 6

The obligation to export and import into one of the countries of destination listed in Annex I shall be covered by a security amounting to EUR 20 per tonne, lodged upon issue of the export licence.

The amount of EUR 20 per tonne must be released within 15 working days of the date on which the successful tenderer supplies proof of entry for consumption into the ACP State or States referred to in Article 1(2). This proof shall be supplied in accordance with Articles 16 and 49 of Commission Regulation (EC) No 800/1999 ([1]).

Article 7

1. Notwithstanding Article 21(1) of Regulation (EEC) No 3719/88, export licences issued under Article 8(1) of Regulation (EC) No 1501/95 shall, for the purpose of determining their period of validity, be deemed to have been issued on the day on which the tender was submitted.

2. Export licences issued in connection with the invitations to tender pursuant to this Regulation shall be valid from their date of issue, as defined in paragraph 1, until the end of the sixth month following that of issue.

Article 8

1. The Commission shall decide, pursuant to the procedures laid down in Article 23 of Regulation (EEC) No 1766/92:

— to fix a maximum export refund, taking account in particular of the criteria laid down in Article 1 of Regulation (EC) No 1501/95, or

— to fix a minimum export tax, taking into account in particular the criteria laid down in Article 1 of Regulation (EC) No 1501/95, or

— to make no award.

2. Where a maximum export refund is fixed, the contract shall be awarded to the tenderer or tenderers whose bids are equal to or lower than the maximum refund, as well as to the tenderer or tenderers whose bid relates to an export tax.

3. Where a minimum export tax is fixed, a contract shall be awarded to any tenderer whose tender indicates a rate of tax equal to or more than such minimum export tax.

Article 9

Tenders submitted must reach the Commission through the intermediary Member States, at the latest one and a half hours after expiry of the period for the weekly submission of tenders as specified in the notice of invitation to tender. They must be communicated in the form indicated in Annex II, to the telex or fax numbers in Annex III.

If no tenders are received, Member States shall inform the Commission of this within the time limit indicated in the preceding paragraph.

Article 10

The time limits fixed for the submission of tenders shall correspond to Belgian time.

Article 11

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

([1]) OJ L 102, 17.4.1999, p. 11.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 20 September 1999.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX I

Groups of ACP States signatories to the Lomé Convention

Group I	Group II	Group III
Mauritania	Chad	Seychelles
Mali	Central African Republic	Comoros
Niger	Benin	Madagascar
Senegal	Cameroon	Mauritius
Gambia	Equatorial Guinea	Angola
Guinea-Bissau	São Tomé and Principe	Zambia
Guinea	Gabon	Malawi
Cape Verde	Congo	Mozambique
Sierra Leone	Democratie Republic of Congo	Namibia
Liberia	Rwanda	Botswana
Côte-d'Ivoire	Burundi	Zimbabwe
Ghana	Burkina Faso	Lesotho
Togo		Swaziland
		Djibouti
		Ethiopia
		Eritrea

ANNEX II

Weekly tender for the refund or the tax for the export of common wheat to certain ACP States

(Regulation (EC) No 2010/1999)

Closing date for the submission of tenders (date/time)

1	2	3	
		A	B
Number of tenderer	Quantity in tonnes	Amount of export tax in EUR per tonne	Amount of export refund in EUR per tonne
1			
2			
3			
etc.			

ANNEX III

The only numbers to use to call Brussels [DG VI/C/1] are:

— Fax: — 295 25 15,
— 296 49 56.

— Telex: — 22037 AGREC B,
— 22070 AGREC B (Greek characters).