COMMISSION REGULATION (EC) No 1938/2001

of 2 October 2001

on the opening of a standing invitation to tender for the resale on the Community internal market of some 7 850 tonnes of rice held by the Spanish intervention agency for use in animal feed

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice [1], as last amended by Regulation (EC) No 1667/2000 [2], and in particular Article 8(b) thereof,

Whereas:

(1) Commission Regulation (EEC) No 75/91 of 11 January 1991 laying down the procedures and conditions for the disposal of paddy rice held by intervention agencies [3] provides among other things that rice held by intervention agencies is to be sold by tendering procedure at prices that allow market disturbances to be avoided.

(2) Spain has intervention stocks of paddy rice from harvests prior to 1998 whose quality is in danger of deteriorating as a result of prolonged storage.

(3) Disposing of this rice on traditional markets inside the Community would inevitably trigger off, in the present production situation and when concessions for rice imports are being granted under international agreements, the placing of an equivalent quantity in intervention, which must be avoided.

(4) This rice could be disposed of in the animal feed sector, on special conditions.

(5) The undertakings given by tenderers are regarded as primary requirements within the meaning of Commission Regulation (EEC) No 2220/85 of 22 July 1985 laying down common detailed rules for the application of the system of securities for agricultural products [4], as last amended by Regulation (EC) No 1932/1999 [5].

(6) In order to ensure that the rice is used for the purpose specified, provision should be made for special monitoring and for the successful tenderer to provide a security, the conditions for the release of which should be laid down.

(7) Commission Regulation (EEC) No 3002/92 [6], as last amended by Regulation (EC) No 770/96 [7], lays down common detailed rules for verifying the use of products from intervention. Procedures should also be laid down to ensure the traceability of the products used for animal feed.

(8) 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

The Spanish intervention agency shall offer for sale by standing invitation to tender on the Community internal market some 7 850 tonnes of rice as referred to in Annex I from the 1997 harvest, for use in preparations of a kind used in animal feeding (products falling within CN code 2309).

Article 2

1. The sale provided for in Article 1 shall take place in accordance with Regulation (EEC) No 75/91.

However, notwithstanding Article 5 of that Regulation:

(a) tenders shall be drawn up on the basis of the actual quality of the lot to which they apply;

(b) the minimum sale price shall be set at a level that does not disturb the market for cereals within the Community.

2. Tenderers shall give an undertaking:

(a) to use in animal feed, within three months of the date of the award of the contract, rice for which they are declared the successful tenderer, save in cases of *force majeure*;

(b) to carry out immediately, under the supervision of the competent authorities at a place determined by agreement with them, the treatments described in Annex II, designed to ensure verification of the use made of the rice and the traceability of the products;

(c) to bear the costs of the processing referred to in Annex II;

(d) to keep stock records so that checks may be made that they have respected their undertakings.

[1] OJ L 329, 30.12.1995, p. 18.
[2] OJ L 193, 29.7.2000, p. 3.
[3] OJ L 9, 12.1.1991, p. 15.
[4] OJ L 205, 3.8.1985, p. 5.
[5] OJ L 240, 10.9.1999, p. 11.
[6] OJ L 301, 17.10.1992, p. 17.
[7] OJ L 104, 27.4.1996, p. 13.

Article 3

1. The Spanish intervention agency shall publish, at least eight days before the final day of the first period for the submission of tenders, a notice of invitation to tender.

The notice, and any changes to it, shall be forwarded to the Commission before publication.

2. The notice of invitation to tender shall contain:

(a) the additional clauses and conditions of sale compatible with this Regulation;

(b) the places of storage and the name and address of the storer;

(c) particulars of the competent authorities responsible for monitoring the operation;

(d) the main physical and technological characteristics of the various lots established upon buying in by the intervention agency or during checks carried out subsequently.

3. The Spanish intervention agency shall take all additional steps necessary to enable the parties concerned to assess the quality of the rice put up for sale before submitting their tenders.

Article 4

1. Tenders shall be valid only if they are accompanied by:

(a) evidence that the tenderer has lodged a security of EUR 15 per tonne;

(b) a written undertaking by the tenderer that the rice for which he is the successful tenderer will be processed into compound feed at his premises within three months of the date of the award of the contract;

(c) evidence that the tenderer is an animal feed manufacturer;

(d) a written undertaking by the tenderer to lodge a security for an amount equivalent to the difference between the intervention price for paddy rice applicable on the tender date plus EUR 15 and the price tendered per tonne of rice not later than two working days after the date of receipt of the notice of award of contract.

2. Once submitted, a tender may not be altered or withdrawn.

Article 5

1. The closing date for the submission of tenders for the first partial invitation to tender shall be 17 October 2001 at 12.00 (Brussels time).

2. The closing dates for the submission of tenders for subsequent partial invitations to tender shall be each Wednesday at 12.00 (Brussels time), with the exception of Wednesday, 31 October 2001.

3. The closing date for the submission of tenders for the last partial invitation to tender shall be 19 December 2001 at 12.00 (Brussels time).

Tenders must be lodged with the Spanish intervention agency:

Fondo Español de Garantía Agraria FEGA
C/Beneficencia 8
E-28004 Madrid
(Telex 23427 FEGA E;
Fax: (34) 915 21 98 32, (34) 915 22 43 87).

Article 6

Not later than 10.00 (Brussels time) on the Thursday following the expiry of the deadline for the submission of tenders, the Spanish intervention agency shall notify the Commission of the tenders received. The information shall be forwarded using the form given in Annex III and the fax and telex numbers shown in Annex IV.

Details of inadmissible tenders shall be notified separately. The reasons for their rejection shall also be given.

Article 7

The Commission shall set the minimum sale price or decide not to accept the tenders. The decision shall be taken in accordance with the procedure laid down in Article 22 of Commission Regulation (EC) No 3072/95.

Article 8

The intervention agency shall immediately notify all tenderers of the outcome of their participation in the tendering procedure.

Within three working days of the notification referred to in the first paragraph, it shall send notices of award of contract to successful tenderers by registered letter or written telecommunication.

Article 9

Successful tenderers shall pay for the rice before it is removed, and at the latest within one month of the date of dispatch of the notice referred to in the second paragraph of Article 8. The risks and costs of storing rice that is not removed within the payment period shall be borne by the successful tenderers.

Following the expiry of the payment period, rice for which a contract is awarded and which is not removed shall be regarded for all purposes as having been removed from storage.

Where a successful tenderer fails to pay for the rice within the period referred to in the first paragraph, the contract shall be terminated by the intervention agency, where appropriate in respect of the quantity not paid for.

Article 10

1. The security referred to in Article 4(1)(a) shall be released in respect of quantities for which:

(a) no award is made;

(b) payment of the sale price is made within the period set and the security referred to in Article 4(1)(d) has been lodged.

2. The security referred to in Article 4(1)(d) shall be released in proportion to the quantities used only if the intervention agency has carried out all the checks necessary to ensure that the product is used in accordance with the provisions laid down in this Regulation.

However, if proof of the treatments referred to in Annex II is provided and not less than 95 % of the fine broken grains and/or fragments obtained are used in feed, the security shall be released in full.

3. Proof that the rice has been used in feed as referred to in this Regulation shall be provided in accordance with Regulation (EEC) No 3002/92.

Article 11

The obligation set out in Article 2(2) shall be regarded as a primary requirement within the meaning of Article 20 of Regulation (EEC) No 2220/85.

Article 12

In addition to the particulars provided for in Regulation (EEC) No 3002/92, box 104 of control copy T5 shall bear one or more of the following entries:

— Destinados a la transformación [Reglamento (CE) nº 1938/2001]
— Til forarbejdning (forordning (EF) nr. 1938/2001)
— Zur Verarbeitung bestimmt (Verordnung (EG) Nr. 1938/2001)
— Προορίζονται για μεταποίηση [Κανονισμός (ΕΚ) αριθ. 1938/2001]
— For processing (Regulation (EC) No 1938/2001)
— Destinées à la transformation [règlement (CE) nº 1938/2001]
— Destinate alla trasformazione [regolamento (CE) n. 1938/2001]
— Bestemd om te worden verwerkt (Verordening (EG) nr. 1938/2001)
— Para transformação [Regulamento (CE) n.º 1938/2001]
— Tarkoitettu jalostukseen (Asetus (EY) N:o 1938/2001)
— För bearbetning (förordning (EG) nr 1938/2001).

Article 13

This Regulation shall enter into force on the third day following 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, 2 October 2001.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX I

(in tonnes)

Place of storage	Quantity
Zuera-Zaragoza	7 850

ANNEX II

Treatments provided for in Article 2(2)(b)

At the time of being taken over, the rice must undergo the following treatments:

1. The paddy rice must be husked and broken in such a way as to produce not less than 77 %, by weight of paddy rice, of fine broken grains and/or fragments of husked rice as defined in the Annex to Regulation (EC) No 3073/95.
2. The product obtained afer processing (not including the husk) must be marked using the colourant E131 patent blue V or E142 acid brilliant green BS (lissamine green) to enable it to be identified.

ANNEX III

Standing invitation to tender for the resale of 7 850 tonnes of rice by the Spanish intervention agency for use in animal feed

(Regulation (EC) No 1938/2001)

1	2	3	4
Serial number of tenderers	Lot No	Quantity	Tender price (EUR/t)
1			
2			
3			
etc.			

ANNEX IV

The form given in Annex III is to be sent to the DG for Agriculture in Brussels:

— by fax:	(32-2) 296 60 21 (32-2) 295 25 15
— by telex:	22037 AGREC B 22070 AGREC B (Greek characters)