COMMISSION REGULATION (EC) No 1066/2003

of 20 June 2003

opening a standing invitation to tender for the export of sorghum held by the French intervention agency

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 Regulation (EC) No 1666/2000 ([2]), and in particular Article 5 thereof,

Whereas:

(1) Commission Regulation (EEC) No 2131/93 ([3]), as last amended by Regulation (EC) No 1630/2000 ([4]), lays down the procedure and conditions for the disposal of cereals held by intervention agencies.

(2) Commission Regulation (EEC) No 3002/92 ([5]), as last amended by Regulation (EC) No 770/96 ([6]), lays down common detailed rules for verifying the use and/or destination of products from intervention.

(3) Given the current market situation, a standing invitation to tender should be opened for the export of 6 575 tonnes of sorghum held by the French intervention agency.

(4) Special rules must be laid down to ensure that the operations are properly carried out and monitored. To that end, securities should be lodged to ensure that the goals of the operation are achieved without excessive cost to the operators. Derogations should accordingly be made to certain rules, in particular those laid down in Regulation (EEC) No 2131/93.

(5) Where removal of the sorghum is delayed by more than five days or the release of one of the securities required is delayed for reasons imputable to the intervention agency, the Member State concerned should pay compensation.

(6) 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 French intervention agency shall issue a standing invitation to tender for the export of sorghum held by it in accordance with Regulation (EEC) No 2131/93, save as otherwise provided in this Regulation.

Article 2

1. The invitation to tender shall cover a maximum of 6 575 tonnes of sorghum for export to third countries.

2. The quantity of sorghum referred to in paragraph 1 shall be stored in the regions listed in Annex I.

Article 3

1. No export refund or tax or monthly increase shall be granted on exports carried out under this Regulation.

2. Article 8(2) of Regulation (EEC) No 2131/93 shall not apply.

3. Notwithstanding the third paragraph of Article 16 of Regulation (EEC) No 2131/93, the price to be paid for the export shall be that quoted in the tender, with no monthly increase.

Article 4

1. Export licences shall be valid from their date of issue within the meaning of Article 9 of Regulation (EEC) No 2131/93 until the end of the fourth month thereafter.

2. Tenders submitted in response to the invitation to tender opened by this Regulation may not be accompanied by export licence applications submitted under Article 49 of Commission Regulation (EC) No 1291/2000 ([7]).

Article 5

1. Notwithstanding Article 7(1) of Regulation (EEC) No 2131/93, the time limit for submission of tenders under the first partial invitation to tender shall be 9.00 (Brussels time) on 3 July 2003.

2. The time limit for submission of tenders under subsequent partial invitations to tender shall be 9.00 (Brussels time) each Thursday thereafter.

3. The last partial invitation to tender shall expire at 9.00 (Brussels time) on 27 May 2004.

4. Tenders shall be lodged with the French intervention agency.

([1]) OJ L 181, 1.7.1992, p. 21.
([2]) OJ L 193, 29.7.2000, p. 1.
([3]) OJ L 191, 31.7.1993, p. 76.
([4]) OJ L 187, 26.7.2000, p. 24.
([5]) OJ L 301, 17.10.1992, p. 17.
([6]) OJ L 104, 27.4.1996, p. 13.
([7]) OJ L 152, 24.6.2000, p. 1.

Article 6

1. The intervention agency, the storer and a successful tenderer shall, at the request of the latter and by common agreement, either before or at the time of removal from storage as the tenderer chooses, take reference samples for counter-analysis at the rate of at least one sample for every 500 tonnes and shall analyse the samples. The intervention agency may be represented by a proxy, provided this is not the storer.

Reference samples for counter-analysis shall be taken and analysed within seven working days of the date of the successful tenderer's request or within three working days if the samples are taken on removal from storage.

In the event of a dispute, the analysis results shall be forwarded to the Commission.

2. The successful tenderer must accept the lot as established where the final result of sample analyses indicates a quality:

(a) higher than that specified in the notice of invitation to tender;

(b) higher than the minimum characteristics laid down for intervention but below the quality described in the notice of invitation to tender, providing that the differences do not exceed the following limits:

— a quarter of a percentage point as regards maximum tannin content,

— one percentage point as regards moisture content,

— half a percentage point as regards the impurities specified in points B.2 and B.4 of the Annex to Commission Regulation (EC) No 824/2000 ([1]), and

— half a percentage point as regards the impurities specified in point B.5 of the Annex to Regulation (EC) No 824/2000, the percentages admissible for noxious grains and ergot, however, remaining unchanged.

Where the final result of sample analyses indicates a quality higher than the minimum characteristics laid down for intervention but below the quality described in the notice of invitation to tender, and a difference exceeding the limits set out in point (b), the successful tenderer may:

— accept the lot as established, or

— refuse to take over the lot concerned.

In the case provided for in the second indent of the second subparagraph, the successful tenderer shall be discharged of all obligations relating to the lot in question and the securities shall be released provided the Commission and the intervention agency are immediately notified using the form set out in Annex II.

Where the final result of sample analyses indicates a quality below the minimum characteristics laid down for intervention, the successful tenderer may not remove the lot in question. The successful tenderer shall be discharged of all obligations relating to the lot in question and the securities shall be released provided the Commission and the intervention agency are immediately notified using the form set out in Annex II.

([1]) OJ L 100, 20.4.2000, p. 31.

3. In the cases provided for in the second indent of the second subparagraph of paragraph 2 and in the third subparagraph thereof, the successful tenderer may request the intervention agency to supply another lot of intervention sorghum of the quality laid down at no additional charge. In that case, the security shall not be released. The lot must be replaced within three days of the date of the successful tenderer's request. The successful tenderer shall immediately inform the Commission thereof using the form set out in Annex II.

If, as a result of successive replacements, the successful tenderer has not received a replacement lot of the quality laid down within one month of the date of the first request for a replacement, the successful tenderer shall be discharged of all obligations and the securities shall be released, provided the Commission and the intervention agency have been immediately informed using the form set out in Annex II.

4. If the sorghum is removed from storage before the results of the analyses are known, all risks shall be borne by the successful tenderer from the time the lot is removed, without prejudice to any means of redress against the storer.

5. Except where the final results of analyses indicate a quality below the minimum characteristics laid down for intervention, as referred to in the third subparagraph of paragraph 2, the costs of taking the samples and conducting the analyses provided for in paragraph 1 but not of inter-bin transfers shall be borne by the European Agricultural Guidance and Guarantee Fund (EAGGF) in respect of up to one analysis per 500 tonnes. The costs of inter-bin transfers and any additional analyses requested by the successful tenderer shall be borne by that tenderer.

Article 7

Notwithstanding Article 12 of Regulation (EEC) No 3002/92, the documents relating to the sale of sorghum under this Regulation, and in particular the export licence, the removal order referred to in Article 3(1)(b) of Regulation (EEC) No 3002/92, the export declaration and, where applicable, the T5 copy shall carry the following entry:

— Sorgo de intervención sin aplicación de restitución ni gravamen, Reglamento (CE) nº 1066/2003

— Sorghum fra intervention uden restitutionsydelse eller -afgift, forordning (EF) nr. 1066/2003

— Interventionssorghum ohne Anwendung von Ausfuhrerstattungen oder Ausfuhrabgaben, Verordnung (EG) Nr. 1066/2003

— Σόργος παρέμβασης χωρίς εφαρμογή επιστροφής ή φόρου, κανονισμός (ΕΚ) αριθ. 1066/2003

— Intervention sorghum without application of refund or tax, Regulation (EC) No 1066/2003

— Sorgho d'intervention ne donnant pas lieu à restitution ni taxe, règlement (CE) nº 1066/2003

— Sorgo d'intervento senza applicazione di restituzione né di tassa, regolamento (CE) n. 1066/2003

— Sorghum uit interventie, zonder toepassing van restitutie of belasting, Verordening (EG) nr. 1066/2003

— Sorgo de intervenção sem aplicação de uma restituição ou imposição, Regulamento (CE) n.º 1066/2003

— Interventiodurraa, johon ei sovelleta vientitukea eikä vientimaksua, asetus (EY) N:o 1066/2003

— Interventionssorghum, utan tillämpning av bidrag eller avgift, förordning (EG) nr 1066/2003.

Article 8

1. The security lodged under Article 13(4) of Regulation (EEC) No 2131/93 shall be released once the export licences have been issued to the successful tenderers.

2. Notwithstanding Article 17(1) of Regulation (EEC) No 2131/93, the obligation to export shall be covered by a security equal to the difference between the intervention price applying on the day of the award and the price awarded but not less than EUR 10 per tonne. Half of this security shall be lodged when the licence is issued and the remaining half shall be lodged before the cereals are removed.

3. Notwithstanding Article 15(2) of Regulation (EEC) No 3002/92, the part of the security lodged when the licence is issued shall be released within 20 working days of the date on which the successful tenderer provides proof that the cereals removed have left the customs territory of the Community.

4. Notwithstanding the second indent of Article 17(3) of Regulation (EEC) No 2131/93, the remainder of the security shall be released within 15 working days of the date on which the successful tenderer provides the proof referred to in Article 16 of Commission Regulation (EC) No 800/1999 [1].

5. Except in duly substantiated exceptional cases, in particular the opening of an administrative enquiry, where the securities provided for in paragraphs 1, 3 and 4 are released after the time limits specified in those paragraphs, the Member State shall be required to pay compensation amounting to EUR 0,015 per 10 tonnes for each day's delay.

This compensation shall not be charged to the EAGGF.

Article 9

Within two hours of the expiry of the time limit for the submission of tenders, the French intervention agency shall notify the Commission of tenders received. Such notification shall be made using the form set out in Annex III.

Article 10

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

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

Done at Brussels, 20 June 2003.

For the Commission
Franz FISCHLER
Member of the Commission

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

ANNEX I

(in tonnes)

Place of storage	Quantity
Lyon	6 575

ANNEX II

Communication of refusal and possible replacement of lots under the standing invitation to tender for the export of sorghum held by the French intervention agency

(Article 6(1) of Regulation (EC) No 1066/2003)

— Name of successful tenderer:

— Date of award:

— Date of refusal of the lot by the successful tenderer:

Number of lot	Quantity in tonnes	Address of the silo	Reason for refusal to take over
			— tannin content — % of sprouted grains — % of miscellaneous impurities (Schwarzbesatz) — % of matter other than basic cereals of unimpaired quality — Other

ANNEX III

Form (*)

Standing invitation to tender for the export of sorghum held by the French intervention agency

(Regulation (EC) No 1066/2003)

1	2	3	4	5	6	7
Serial numbers of tenderers	Number of lot	Quantity in tonnes	Tender price (EUR/tonne) (1)	Increases (+) Reductions (–) (EUR/tonne) (for the record)	Commercial costs (EUR/tonne)	Destination
1						
2						
3						
etc.						

(1) This price includes the increases and reductions relating to the lot covered by the tender.

(*) please send to DG AGRI-C.1:

— fax:	(+) 32 2 296 49 56
	(+) 32 2 295 25 15