COMMISSION REGULATION (EC) No 202/2004

of 5 February 2004

opening a standing invitation to tender for the resale on the Community market of rice from the 1999 harvest held by the Spanish intervention agency

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], 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 [2] provides among other things that rice held by intervention agencies is to be sold by tendering procedure at prices avoiding market disturbance.

(2) Spain still has intervention stocks of paddy rice from the 1999 harvest, the quality of which is in danger of deteriorating if kept in prolonged storage.

(3) In the present production situation and in view of the concessions for rice imports granted under international agreements and the restrictions on subsidised exports, disposing of this rice on traditional markets inside the Community would inevitably result in the placing of an equivalent quantity in intervention, which should be avoided.

(4) This rice can be disposed of by processing it into either broken rice or products derived therefrom, or into some other form suitable for use in animal feed, on certain conditions.

(5) In order to ensure that the rice really is processed, the procedure should be specially monitored and the successful tenderer should provide a security, to be released on conditions to be laid down.

(6) The undertakings given by tenderers must be 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 [3].

(7) Commission Regulation (EEC) No 3002/92 [4] 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) So that the quantities awarded can be managed accurately, an allocation coefficient should be fixed for tenders offering the minimum selling price, while allowing tenderers to specify a minimum quantity awarded below which they do not wish their tender to stand.

(9) When the Spanish intervention agency notifies the Commission, the tenderers should remain anonymous.

(10) While respecting the tenderers' anonymity, they should be identified by numbers so that it is evident which have submitted several tenders and what prices they have offered.

(11) For control purposes, tenders must be traceable by their reference numbers, while safeguarding anonymity.

(12) With a view to modernising management, the information required by the Commission should be sent by electronic mail.

(13) 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 launch a standing invitation to tender for the sale on the internal market of the Community of quantities of rice from the 1999 harvest held by it and previously notified to the Commission under Regulation (EEC) No 75/91, as set out in Annex I hereto, with a view to its processing into either broken rice within the meaning of Annex A.3 to Regulation (EC) No 3072/95 or products derived therefrom, or into some other form suitable for use in animal feed (CN code 2309).

[1] OJ L 329, 30.12.1995, p. 18. Regulation as last amended by Commission Regulation (EC) No 411/2002 (OJ L 62, 5.3.2002, p. 27).
[2] OJ L 9, 12.1.1991, p. 15.
[3] OJ L 205, 3.8.1985, p. 5. Regulation as last amended by Regulation (EC) No 1932/1999 (OJ L 240, 10.9.1999, p. 11).
[4] OJ L 301, 17.10.1992, p. 17. Regulation as last amended by Regulation (EC) No 770/96 (OJ L 104, 27.4.1996, p. 13).

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 which does not disturb the cereals or rice market.

2. Tenderers shall give the following undertakings:

(a) where the rice is to be processed into broken rice or products derived therefrom:

(i) that they will carry out the treatment provided for in Annex II within three months of the date of the notice of award of contract referred to in the second paragraph of Article 8, under the supervision of the competent authorities and at a place determined in agreement with them;

(ii) that they will use the awarded products solely in the form of broken rice or products derived therefrom either without further processing or by incorporating them into another product or by processing them, within six months of the date of the notice of award of contract referred to in the second paragraph of Article 8, except in cases of *force majeure* or on the specific instructions of the intervention agency authorising a change in the deadline on account of exceptional circumstances;

(iii) if they sell the products on, that they will have the purchaser give the above undertaking;

(b) where the rice is to be processed into a form suitable for use in animal feed,

(i) where they are feed manufacturers:

— that they will carry out the treatments described in Annex III or IV within three months of the date of the notice of award of contract referred to in the second paragraph of Article 8, under the supervision of the competent authorities and at a place determined in agreement with them, with a view to verifying the use made of the rice and ensuring the traceability of the products;

— that they will ensure that this product is incorporated in feed within four months of the date of the notice of award of contract referred to in the second paragraph of Article 8, except in cases of *force majeure* or on the specific instructions of the intervention agency authorising a change in the deadline on account of exceptional circumstances;

(ii) where they are rice mills:

— that they will carry out the treatments described in Annex IV within no more than three months of the date of the notice of award of contract referred to in the second paragraph of Article 8, under the supervision of the competent authorities and at a place determined in agreement with them, with a view to verifying the use made of the rice and ensuring the traceability of the products;

— that they will ensure that this product is incorporated in feed within four months of the date of the notice of award of contract referred to in the second paragraph of Article 8, except in cases of *force majeure* or on the specific instructions of the intervention agency authorising a change in the deadline on account of exceptional circumstances;

(c) that they will bear the costs of the processing and treatment of the products;

(d) that they will keep stock records demonstrating that they have respected their undertakings.

Article 3

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

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

(d) the number of each lot;

(e) particulars of the competent authorities responsible for monitoring the operation.

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 indicate whether they relate to processing into broken rice or products derived therefrom or into a form suitable for animal feed.

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) evidence that the tenderer is an animal feed manufacturer or a rice mill;

(c) a written undertaking by the tenderer to lodge a security, not later than two working days after the date of receipt of the notice of award of contract, 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.

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

3. In case the Commission is required to fix an award coefficient for the quantities offered for sale as provided for in the second paragraph of Article 7, tenderers should indicate any minimum awarded quantity below which they do not wish their tender to stand.

Article 5

1. The period for the submission of tenders for the first partial invitation to tender shall commence on 11 February 2004 and end on 17 February at 12.00 (Brussels time).

2. The time limit for submission of tenders under subsequent partial invitations to tender shall be 12.00 (Brussels time) each Tuesday thereafter: 2 March 2004, 16 March 2004, 30 March 2004 and 13 April 2004. The period for the submission of tenders shall commence on the Wednesday before the closing date in each case.

3. The period for the submission of tenders for the last partial invitation to tender shall commence on 21 April 2004 and end on 27 April 2004 at 12.00 (Brussels time).

Tenders must be lodged with the Spanish intervention agency:

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

Article 6

1. Not later than 09.00 (Brussels time) on the Thursday following the closing date for the submission of tenders, the Spanish intervention agency shall notify the Commission of the information provided for in Annex V hereto, broken down by type of processing.

2. For each type of processing and for each partial tendering procedure, the Spanish intervention agency shall identify the tenderers by an individual number, starting at 1.

To ensure anonymity, the numbers shall be allocated randomly and separately for each type of processing and each partial tendering procedure.

The Spanish intervention agency shall give each tender a reference number in such a way as to ensure that the tenderers remain anonymous. For the entire standing tendering procedure, each tender shall be identified by its own reference number.

3. The notification referred to in paragraph 1 shall be made by electronic mail to the address given in Annex V using the form provided to the Spanish intervention agency by the Commission for that purpose.

The notification must be made even if no tenders are submitted. In that case, it must state that no tenders have been received within the deadline laid down.

4. The Spanish intervention agency shall also notify the Commission of the information specified in Annex V for rejected tenders, stating why they were rejected.

Article 7

For each type of processing, the Commission shall set the minimum sale price or decide not to award any quantities. In the event that tenders are submitted for the same lot and for a quantity larger than that available, the Commission may fix this price separately for each lot.

Where tenders are offering the minimum sale price, the Commission may fix an award coefficient for the quantities offered at the same time as it fixes the minimum sale price.

This decision shall be taken in accordance with the procedure laid down in Article 22 of 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 the notice of award of contract 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

(a) in full for the quantities for which:
   (i) no award is made;
   (ii) the tender does not stand, in accordance with Article 4(3);
   (iii) the sale price is paid within the period set and the security referred to in Article 4(1)(c) has been lodged;

(b) proportionately to the quantity not awarded where an award coefficient is set for the quantities offered in accordance with the second paragraph of Article 7.

2. The security referred to in Article 4(1)(c) 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 processed in accordance with this Regulation.

However, the security shall be released in full:

(a) on presentation of proof that the treatment referred to in Annex II has been carried out and that the undertakings provided for in Article 2(2)(a)(ii) and (iii) have been made;

(b) on presentation of proof that the treatment referred to in Annex III has been carried out, provided that not less than 95 % of the fine broken grains and/or fragments obtained has been used in compound feed;

(c) on presentation of proof that the treatment referred to in Annex IV has been carried out, provided that not less than 95 % of the milled rice obtained has been used in compound feed.

3. Proof that the rice has been incorporated in animal 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 the control copy T5 shall contain the following entries.

(a) Where processing takes place in a Member State other than Spain, in accordance with Annex II to this Regulation, one or more of the following entries supplemented by reference to the undertaking provided for in Article 2(2)(a)(ii) and (iii):

— Destinados a la transformación prevista en el anexo II del Reglamento (CE) nº 202/2004 y a la utilización de conformidad con el compromiso previsto en los incisos ii) y iii) de la letra a) del apartado 2 del artículo 2 de dicho Reglamento

— Til forarbejdning som fastsat i bilag II til forordning (EF) nr. 202/2004 og til anvendelse ifølge forpligtelsen i artikel 2, stk. 2, litra a), nr. ii) og iii), i nævnte forordning

— Zur Verarbeitung gemäß Anhang II der Verordnung (EG) Nr. 202/2004 und zur Verwendung gemäß Artikel 2 Absatz 2 Buchstabe a) Ziffern ii) und iii) der genannten Verordnung bestimmt

— Προορίζονται για τη μεταποίηση που προβλέπεται στο παράρτημα ΙΙ του κανονισμού (ΕΚ) αριθ. 202/2004 και για χρήση σύμφωνα με τη δέσμευση που προβλέπεται στο άρθρο 2 παράγραφος 2 στοιχείο α) σημεία ii) και iii) του ίδιου κανονισμού

— Intended for processing as provided for in Annex II to Regulation (EC) No 202/2004 and use in accordance with the undertaking provided for in Article 2(2)(a)(ii) and (iii) of that Regulation

— Destinés à la transformation prévue à l'annexe II du règlement (CE) nº 202/2004 et à l'utilisation conformément à l'engagement prévu à l'article 2, paragraphe 2, points a) ii) et iii), dudit règlement

— Destinati alla trasformazione prevista all'allegato II del regolamento (CE) n. 202/2004 e all'utilizzazione conformemente all'impegno di cui all'articolo 2, paragrafo 2, lettera a), punti ii) e iii), del suddetto regolamento

— Bestemd om te worden verwerkt overeenkomstig bijlage II bij Verordening (EG) nr. 202/2004 en om te worden gebruikt met inachtneming van de in artikel 2, lid 2, onder a), ii) en iii), van die verordening vastgestelde verbintenis

— Para a transformação prevista no anexo II do Regulamento (CE) n.º 202/2004 e para utilização em conformidade com o compromisso previsto no n.º 2, subalíneas ii) e iii) da alínea a), do artigo 2.º do referido regulamento

— Tarkoitettu asetuksen (EY) N:o 202/2004 liitteessä II tarkoitettuun jalostukseen ja kyseisen asetuksen 2 artiklan 2 kohdan a alakohdan ii ja iii alakohdassa säädetyn sitoumuksen mukaiseen käyttöön

— Avsedda för bearbetning i enlighet med bilaga II till förordning (EG) nr 202/2004 och för användning i enlighet med det åtagande som föreskrivs i samma förordning i artikel 2.2 a ii och iii

(b) Where the rice is to be used as broken rice or derived products in a Member State other than that of processing, after processing in accordance with Annex II, one or more of the following entries:

— Arroz transformado en partidos de arroz o productos derivados de conformidad con las disposiciones del anexo II del Reglamento (CE) nº 202/2004, destinado a ser utilizado exclusivamente en forma de partidos de arroz o productos derivados, de conformidad con el compromiso previsto en los incisos ii) y iii) de la letra a) del apartado 2 del artículo 2 del mismo Reglamento

— Ris forarbejdet til brudris eller afledte produkter efter bestemmelserne i bilag II i forordning (EF) nr. 202/2004, udelukkende bestemt til anvendelse i form af brudris eller afledte produkter ifølge forpligtelsen i artikel 2, stk. 2, litra a), nr. ii) og iii), i samme forordning

— Gemäß Anhang II der Verordnung (EG) Nr. 202/2004 zu Bruchreis oder Nebenerzeugnissen von Bruchreis verarbeiteter Reis, nach der Verpflichtung gemäß Artikel 2 Absatz 2 Buchstabe a) Ziffern ii) und iii) der genannten Verordnung ausschließlich zur Verwendung in Form von Bruchreis oder Nebenerzeugnissen von Bruchreis bestimmt

— Ρύζι που έχει μεταποιηθεί σε θραύσματα ή παράγωγα προϊόντα σύμφωνα με τις διατάξεις του παραρτήματος ΙΙ του κανονισμού (ΕΚ) αριθ. 202/2004 και προορίζεται να χρησιμοποιηθεί αποκλειστικά με τη μορφή θραυσμάτων ή παράγωγων προϊόντων σύμφωνα με τη δέσμευση που προβλέπεται στο άρθρο 2 παράγραφος 2 στοιχείο α) σημεία ii) και iii) του ίδιου κανονισμού

— Rice processed into broken rice or derived products in accordance with Annex II to Regulation (EC) No 202/2004 for use solely in the form of broken rice or derived products in accordance with the undertaking provided for in Article 2(2)(a)(ii) and (iii) of that Regulation

— Riz transformé en brisures ou produits dérivés conformément aux dispositions de l'annexe II du règlement (CE) nº 202/2004, destiné à être utilisé exclusivement sous forme de brisures ou produits dérivés, conformément à l'engagement prévu à l'article 2, paragraphe 2, points a) ii) et iii), dudit règlement

— Riso trasformato in rotture di riso o prodotti derivati conformemente alle disposizioni dell'allegato II del regolamento (CE) n. 202/2004, destinato ad essere utilizzato esclusivamente sotto forma di rotture di riso o prodotti derivati, conformemente all'impegno di cui all'articolo 2, paragrafo 2, lettera a), punti ii) e iii), del suddetto regolamento

— Overeenkomstig bijlage II van Verordening (EG) nr. 202/2004 tot breukrijst of van breukrijst afgeleide producten verwerkte rijst, bestemd om uitsluitend als breukrijst of van breukrijst afgeleide producten te worden gebruikt met inachtneming van de in artikel 2, lid 2, onder a), ii) en iii), van die verordening vastgestelde verbintenis

— Arroz transformado em trincas ou produtos derivados de acordo com as disposições do anexo II do Regulamento (CE) n.º 202/2004, destinado exclusivamente a utilização sob a forma de trincas ou de produtos derivados, em conformidade com o compromisso previsto no n.º 2, subalíneas ii) e iii) da alínea a), do artigo 2.º desse mesmo regulamento

— Asetuksen (EY) N:o 202/2004 liitteen II säännösten mukaisesti rikkoutuneiksi riisinjyviksi tai niistä johdetuiksi tuotteiksi jalostettu riisi, joka on tarkoitettu käytettäväksi yksinomaan rikkoutuneina riisinjyvinä tai niistä johdettuina tuotteina saman asetuksen 2 artiklan 2 kohdan a alakohdan ii ja iii alakohdassa säädetyn sitoumuksen mukaisesti

— Ris bearbetat till brutet ris eller härledda produkter i enlighet med bestämmelserna i bilaga II till förordning (EG) nr 202/2004 och avsett att uteslutande användas i form av brutet ris eller härledda produkter därav i enlighet med det åtagande som föreskrivs i samma förordning i artikel 2.2 a ii och iii

(c) Where processing takes place in a Member State other than Spain, in accordance with Annex III or IV to this Regulation, one or more of the following entries, together with the number of the Annex to this Regulation corresponding to the treatment required:

— Destinados a la transformación prevista en el anexo … del Reglamento (CE) nº 202/2004

— Til forarbejdning som fastsat i bilag … til forordning (EF) nr. 202/2004

— Zur Verarbeitung gemäß Anhang … der Verordnung (EG) Nr. 202/2004 bestimmt

— Προορίζονται για μεταποίηση που προβλέπεται στο παράρτημα … του κανονισμού (ΕΚ) αριθ. 202/2004

— For processing provided for in Annex … to Regulation (EC) No 202/2004

— Destinés à la transformation prévue à l'annexe … du règlement (CE) nº 202/2004

— Destinati alla trasformazione prevista all'allegato … del regolamento (CE) n. 202/2004

— Bestemd om te worden verwerkt overeenkomstig bijlage … bij Verordening (EG) nr. 202/2004

— Para a transformação prevista no anexo … do Regulamento (CE) n.º 202/2004

— Tarkoitettu asetuksen (EY) N:o 202/2004 liitteessä … tarkoitettuun jalostukseen

— För bearbetning enligt bilaga … till förordning (EG) nr 202/2004.

Article 13

This Regulation shall enter into force on the third day following 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, 5 February 2004.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

(in tonnes)

1	2	3
Place of storage (address)	Place of storage (identification code) (1)	Available quantities
Silo FEGA – 06920 Azuaga (Badajoz)	ES06010	2 586,560
Silo FEGA – 41749 El Cuervo (Sevilla)	ES11011	7 413,440
Total		10 000,000

(1) The national identification code shall be preceded by the ISO code for Spain.

ANNEX II

Treatment provided for in Article 2(2)(a)(i)

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

1. the awarded paddy rice must be milled to give the overall minimum yield and whole grain yield previously determined by the laboratory on a sample removed when the rice for which the contract is awarded was taken over, with a tolerance of plus or minus 1 % applicable to the overall minimum yield and whole grain yield;
2. all the wholly milled rice obtained must be broken in such a way as to produce at least 95 % broken rice within the meaning of Annex A to Regulation (EC) No 3072/95. It may also be processed directly into products derived from broken rice.

ANNEX III

Treatment provided for in the first indent of Article 2(2)(b)(i)

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

1. the awarded 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 point C of the Annex to Regulation (EC) No 3073/95;
2. the product obtained after processing (not including the husk) must be marked using the colorant E131 patent blue V or E142 acid brilliant green BS (lissamine green) to enable it to be identified.

ANNEX IV

Treatment indicated in the first indent of Article 2(2)(b)(i) and in the first indent of Article 2(2)(b)(ii)

1. The awarded paddy rice must be milled to give the overall minimum yield and whole grain yield previously determined by the laboratory on a sample removed when the rice for which the contract is awarded was taken over, with a tolerance of plus or minus 1 % applicable to the overall minimum yield and whole grain yield.
2. The product obtained after processing must be marked using the colorant E131 patent blue V or E142 acid brilliant green BS (lissamine green) to enable it to be identified.

ANNEX V

Information referred to in Article 6

1	2	3	4	5	6	7	8
Type of processing	Tender's identification number	Tender price (EUR/t)	Quantity (t)	Minimum quantity (t)	Place of storage	Lot No	Reference number
(A) broken rice or products derived therefrom							
(B) form suitable for use in animal feed							
Address for electronic transmission of information in accordance with Article 6: AGRI-C2-RICE-STOCKS@CEC.EU.INT							

Explanatory Notes

Column 1: type of processing: (A): processing into broken rice within the meaning of Annex A to Regulation (EC) No 3072/95 or product derived therefrom or (B): processing into a form suitable for use in preparations of a kind used in animal feeding (CN code 2309).

Column 2: tenderers shall be assigned an individual number, starting at 1. To ensure anonymity, the numbers shall be allocated randomly and separately for each type of processing and each partial tendering procedure.

Column 3: purchase price offered, expressed in EUR per tonne.

Column 4: quantity, expressed in tonnes.

Column 5: minimum awarded quantity as referred to in Article 4(3), below which the tenderer does not wish the tender to stand.

Column 6: place of storage, identified by the 'identification code' indicated in Annex I.

Column 7: lot number at the place of storage indicated in column 6.

Column 8: reference number of the tender, unique to each tender for the entire standing tendering procedure.