

Commission Regulation (EC) No 1296/2008 of 18 December 2008 laying down detailed rules for the application of tariff quotas for imports of maize and sorghum into Spain and imports of maize into Portugal (Codified version)

CHAPTER III

DIRECT PURCHASE ON THE WORLD MARKET

Article 15

1 With a view to effecting the imports referred to in Article 1, it may be decided, in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007, that the Spanish or Portuguese paying or intervention agency (both hereinafter referred to as ‘intervention agency’) shall purchase on the world market quantities of maize and/or sorghum to be determined, and shall place in the Member State concerned under customs warehousing procedure as provided for in Articles 98 to 113 of Council Regulation (EEC) No 2913/92⁽¹⁾ and by the provisions of Regulation (EEC) No 2454/93 laying down provisions for the implementation of Regulation (EEC) No 2913/92.

2 Quantities purchased pursuant to paragraph 1 shall be put up for sale on the domestic market of the Member State concerned, in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007, on terms enabling market disturbance to be avoided and in accordance with Article 14 of this Regulation.

When the goods are put up for sale on the domestic market, the buyer shall lodge with the intervention agency of the Member State concerned on payment of the goods a security of EUR 15 per tonne. The security shall be released when the evidence referred to in Article 13(3) is produced. For the purposes of the release of the security, the provisions of the second and third subparagraphs of Article 13(3) and those of Article 13(4) shall apply.

3 When the goods are placed in free circulation, an import duty shall be charged, equal to the average of the duties fixed pursuant to Regulation (EC) No 1249/96 for the cereals concerned during the month preceding the date of acceptance of the declaration of release for free circulation, minus an amount equal to 55 % of the intervention price for the same month.

Entry into free circulation shall be effected by the intervention agency of the Member State concerned.

When the purchasers of the goods make payment to the intervention agency, the selling prices, minus the duty referred to in the first subparagraph, shall correspond to amounts collected within the meaning of Article 5(2)(f) of Commission Regulation (EC) No 884/2006⁽²⁾.

4 The purchasing operation provided for in paragraph 1 shall rank as intervention for the purpose of stabilising the agricultural markets within the meaning of Article 3(1)(b) of Regulation (EC) No 1290/2005.

5 Payments by the intervention agency for purchases as provided for in paragraph 1 shall be borne by the Community as they arise and shall be considered as interventions within the meaning of Article 3(1)(b) of Regulation (EC) No 1290/2005. The intervention agency of the Member State concerned shall record the value of the goods purchased at a price of ‘zero’ in the account referred to in Article 5 of Regulation (EC) No 884/2006.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1296/2008, CHAPTER III. (See end of Document for details)

Article 16

1 The Spanish or Portuguese intervention agency shall arrange for the product to be bought on the world market by the award of a supply contract under a tendering procedure. The supply shall consist in the purchase of the product on the world market and the delivery, not unloaded, to warehouses designated by the abovementioned intervention agency for placing under the customs warehousing procedure provided for in Articles 98 to 113 of Regulation (EEC) No 2913/92.

The decision to purchase on the world market referred to in Article 15(1) shall specify in particular the quantity and quality of cereals to be imported, the dates of opening and closing of the tendering procedure and the final date for delivery of the goods.

2 A notice of invitation to tender drawn up in accordance with Annex IV shall be published in the 'C' series of the *Official Journal of the European Union*. The invitation shall relate to one or more lots. 'Lot' shall be understood as meaning the quantities to be delivered as specified in the invitation.

3 The intervention agency of the Member State concerned shall adopt, as required, additional measures for implementing the purchasing operations on the world market in question.

The intervention agency shall notify the Commission immediately of such measures and shall inform operators thereof.

Article 17

1 Interested parties shall reply to the invitation to tender either by lodging a written tender in exchange for an acknowledgment of receipt with the intervention agency indicated in the notice of invitation to tender, or by forwarding the same to the latter by registered letter, telex, telefax or telegram.

Tenders must reach the intervention agency before 12 noon (Brussels time) on the day on which the deadline for the submission of tenders indicated in the notice of invitation to tender expires.

2 Tenders may only be submitted in respect of whole lots. They shall give:

- a the reference of the invitation to tender;
- b the tenderer's name and exact address, together with the telex or telefax number;
- c details of the lot concerned;
- d the tender price proposed, per tonne of product, in euros;
- e the country of origin of the cereals to be imported;
- f separately, the cif price, per tonne of product, in euros, corresponding to the tender.

3 Tenders must be accompanied by evidence that the security referred to in Article 18(1) has been lodged before expiry of the deadline for the submission of tenders.

4 Tenders not submitted in accordance with the provisions of this Article or containing conditions other than those laid down in the invitation to tender shall not be considered.

5 Tenders may not be withdrawn.

Article 18

1 Tenders submitted shall be considered only where there is evidence that a security of EUR 20 per tonne has been lodged.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1296/2008, CHAPTER III. (See end of Document for details)

2 Securities shall be lodged in accordance with the criteria laid down in the invitation to tender referred to in Article 16(2) by the Member State concerned, in accordance with Commission Regulation (EEC) No 2220/85⁽³⁾.

3 Securities shall be released immediately in the following cases:

- a where the tender is not accepted;
- b where the tenderer provides evidence that the supply contract has been performed in accordance with the conditions laid down in Article 16 for the accepted tender;
- c where the tenderer provides evidence that the goods could not be imported for reasons of *force majeure*.

Article 19

Tenders shall be opened and read in public. This shall be done by the intervention agency immediately after the expiry of the deadline for the submission of tenders.

Article 20

1 Without prejudice to the application of paragraphs 2 and 3, the decision to award the contract to the tenderer submitting the most favourable tender shall be notified in writing to all the tenderers not later than the second working day following the day on which the tenders are opened and read.

2 Where the tender judged most favourable is submitted simultaneously by more than one tenderer, the intervention agency shall draw lots to decide which tenderer is to be selected.

3 If the tenders submitted seem not to reflect the conditions normally applying on the markets, the intervention agency may decide to make no award. Invitations to tender shall be renewed within one week until all the lots are awarded.

Article 21

1 At the time of supply the intervention agency shall check the quantity and quality of the goods.

Subject to the application of the price reductions provided for in the notice of invitation to tender, the goods shall be rejected if the quality is below the minimum quality laid down. However the goods may be imported with a reduced duty, obtained by applying a flat-rate reduction in accordance with Chapter II.

2 Where, pursuant to paragraph 1, delivery does not take place, the security referred to in Article 18 shall be forfeit without prejudice to any other financial consequences for breach of the supply contract.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 1296/2008, CHAPTER III. (See end of Document for details)

- (1) OJ L 302, 19.10.1992, p. 1.
- (2) OJ L 171, 23.6.2006, p. 35.
- (3) OJ L 205, 3.8.1985, p. 5.

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