REGULATION (EEC) No 3336/75 OF THE COMMISSION

of 22 December 1975

on an invitation to tender for the levy and/or the refund for the export of barley to the countries of Zones I, II, III, IV and VI

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation (EEC) No 2727/75 (1) of 29 October 1975 on the common organization of the market in cereals;

Having regard to Council Regulation (EEC) No 2747/75 (2) of 29 October 1975 laying down general rules to be applied in the event of the cereals market being disturbed, and in particular Article 4 (2) thereof;

Having regard to Council Regulation (EEC) No 2746/75 (3) of 29 October 1975 laying down general rules for granting export refunds on cereals and criteria for fixing the amount of such refunds, and in particular Article 5 thereof;

Whereas, having regard to the current situation on the cereals market, there should be opened in respect of barley an invitation to tender for the export levy provided for in the first indent of Article 2 (1) of Regulation (EEC) No 2747/75 and for the export refund provided for in Article 5 of Regulation (EEC) No 2746/75; whereas, in order to safeguard Community supplies whilst at the same time participating in the supply of certain markets, the invitation to tender for export should be limited to the markets concerned, which are situated in Zones I, II, III, IV and VI as defined in the Annex to Commission Regulation (EEC) No 941/72 (4) of 5 May 1972 redefining the destination zones for export refunds on cereals and rice;

Whereas the detailed rules governing invitations to tender are as regards the export levy contained in Commission Regulation (EEC) No 3130/73 (5) of 16 November 1973 establishing the conditions for the application of the system of tendering for export levies on cereals, as last amended by Regulation (EEC) No 771/75 (6), and as regards the export refund in Commission Regulation (EEC) No 279/75 (7) of 4 February 1975 laying down detailed rules for the application of the system of tendering for export refunds on cereals;

Whereas the objective of the tendering procedure can be attained only if every successful tenderer fulfils all the commitments entered into by him when submitting his tender; whereas these commitments include an obligation to lodge an application for an export licence; whereas compliance with this obligation may be ensured by requiring the tenderer to give security when submitting his tender;

Whereas, in order to ensure equal treatment to all concerned, it is necessary to make provision such that the effective period of validity of licences issued to successful tenderers in connection with the invitation to tender is identical;

Whereas provision must be made to ensure the smooth operation of the procedure for tendering for export levies and refunds; whereas to this end 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;

Whereas the Management Committee for Cereals has not delivered an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

Article 1

1. Tenders shall be invited for the export levy provided for in the first indent of Article 2 (1) of Council Regulation (EEC) No 2747/75 and/or the export refund provided for in Article 5 of Regulation (EEC) No 2746/75.

2. The invitation to tender shall relate to barley for export to countries of Zones I, II, III, IV and VI as defined in the Annex to Regulation (EEC) No 941/72.

3. The invitation shall remain open until 20 May 1976. During this period weekly awards shall be made, the time limits for the submission of tenders to 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 metric tons.

(1) OJ No L 281, 1. 11. 1975, p. 1.
(2) OJ No L 281, 1. 11. 1975, p. 82.
(3) OJ No L 281, 1. 11. 1975, p. 78.
(4) OJ No L 107, 6. 5. 1972, p. 10.
(5) OJ No L 319, 20. 11. 1973, p. 10.
(6) OJ No L 77, 26. 3. 1975, p. 13.
(7) OJ No L 31, 5. 2. 1975, p. 8.

Article 3

1. The security referred to in Article 3 of Regulation (EEC) No 3130/73 and of Regulation (EEC) No 279/75 shall be 20 units of account per metric ton.

2. By way of derogation from Article 7 (1) of Regulations (EEC) No 3130/73 and (EEC) No 279/75, the security provided for in paragraph 1 shall subject to *force majeure* be released only in respect of any quantity for which the tender was not accepted or for which the tenderer furnishes proof of arrival at its destination, such proof to be furnished as provided in the second, third and fourth subparagraphs of Article 11 (1) of Regulation (EEC) No 192/75 [1].

Article 4

The zone of destination as specified in Article 1 (2) shall be indicated in section 13 of the licence application and of the licence itself. The issue of a licence shall carry with it the obligation to export to that destination.

Article 5

If a tenderer fails to comply with the undertaking given by him pursuant to Article 2 (3) (b) of Regulations (EEC) No 3130/73 and (EEC) No 279/75, no export licence shall be issued and the security lodged pursuant to Article 3 of those Regulations shall accordingly be forfeit.

Article 6

1. By way of derogation from the provisions of Article 9 (1) of Regulation (EEC) No 193/75 [2], export licences issued under Article 8 (1) of Regulation (EEC) No 3130/73 or under the like provision of Regulation (EEC) No 279/75 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 invitation to tender pursuant to this Regulation shall be valid from their date of issue, as defined in the previous paragraph until the end of the fourth month following that of issue.

Article 7

1. If the obligation to export is not fulfilled, the security mentioned in Article 3 of Regulations (EEC) No 3130/73 and (EEC) No 279/75 shall be forfeit in respect of a quantity equal to the difference between 93 % of the net quantity indicated on the export licence and the net quantity actually exported.

2. However, if the quantity exported is less than 7 % of the net quantity indicated on the licence, the security shall be forfeit in its entirety.

3. On request by the titular holder of the licence, Member States may release the security by instalments in proportion to the quantities of product for which proof of exportation as referred to in Article 7 (1) of Regulations (EEC) No 3130/73 and (EEC) No 279/75 has been furnished, provided that such proof establishes that a quantity equal to at least 7 % of the net quantity indicated on the licence has been exported.

Article 8

The tenders submitted must reach the Commission through the intermediary of 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 the Annex.

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

Article 9

During the period in which summer time applies in Italy, the times fixed for the submission of tenders shall be regarded in that Member State as extended by one hour. During the period during which summer time does not apply in the United Kingdom and in Ireland, the times fixed for the submission of tenders shall be regarded in those Member States as brought forward by one hour.

Article 10

1. By way of derogation from Article 5 of Regulations (EEC) No 3130/73 and (EEC) No 279/75, the Commission shall decide, under the procedure laid down in Article 26 of Regulation (EEC) No 2727/75 :

— to fix a maximum export refund, taking account in particular of the criteria laid down in Articles 2 and 3 of Regulation (EEC) No 2746/75,

— to fix a minimum export levy, taking account in particular of the criteria laid down in Article 3 (1) (b) and (d) of Regulation (EEC) No 2747/75,

— to make no award.

2. Where a maximum export refund is fixed a contract shall be awarded to any tenderer whose tender indicates a rate of refund equal to or less than such maximum export refund and to any tenderer who has tendered for an export levy.

(1) OJ No L 25, 31. 1. 1975, p. 1.
(2) OJ No L 25, 31. 1. 1975, p. 10.

Where a minimum export levy is fixed a contract shall be awarded to any tenderer whose tender indicates a rate of levy equal to or greater than such minimum export levy.

Article 11

This Regulation shall enter into force on the 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, 22 December 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission

ANNEX

Weekly tender for the levy/refund for the export of barley to the countries of Zones I, II, III, IV and VI

Expiry of the period for the submission of tenders (date/time)

I

1	2	3
Number of tender	Quantity in metric tons	Amount of export levy in national currency per metric ton
1		
2		
3		
4		
5		
etc.		

II

1	2	3
Number of tender	Quantity in metric tons	Amount of export refund in national currency per metric ton
1		
2		
3		
4		
5		
etc.		