COMMISSION REGULATION (EEC) No 2662/76

of 29 October 1976

on the putting up for sale of olive oil held by the Italian intervention agency

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats (1), as last amended by Regulation (EEC) No 1707/73 (2), and in particular Article 11 (5) thereof,

Whereas, pursuant to Article 11 (1) of Regulation No 136/66/EEC, the Italian intervention agency bought in large quantities of olive oil during the 1975/76 marketing year; whereas the state of the Italian market in olive oil is at present favourable for the resale of the said oil; whereas, in view of the characteristics of the market, the sale should be carried out as soon as possible;

Whereas Commission Regulation (EEC) No 589/68 of 14 May 1968 on detailed rules for the sale of olive oil held by intervention agencies (3) laid down the conditions for the sale by tender on the Community market of oil held by intervention agencies; whereas the procedure laid down therein involves time limits which are incompatible with the need to offer the said oil for sale as quickly as possible;

Whereas, moreover, experience has shown that the said procedure involves delivery periods which are incompatible with commercial practices and requirements; whereas special measures should therefore be laid down to counteract those drawbacks; whereas this may be achieved by providing for the sale of the oil to the purchaser who, subject to a minimum price, makes the highest offer;

Whereas Article 11 (3) of Regulation No 136/66/EEC specifies the terms on which oil bought in by the intervention agencies must be offered for sale; whereas, in order to ensure observance of those terms, minimum selling prices should be fixed at the levels shown in the Annex hereto;

Whereas in order to ensure that the selling operations are properly carried out, certain information should be provided in the application for purchase, in particular as regards the exact definition of the product to which it relates;

Whereas, in order to guarantee performance of the obligations resulting from the submission of an application, provision should be made for the lodging of a security;

Whereas, since the quantity of oil sold may be different from that actually withdrawn, the final selling price cannot be calculated until the end of the withdrawal operation; whereas, in order to ensure that the sale is properly conducted, the provisional price should be paid before withdrawal;

Whereas, in order to ensure the rapid disposal of the oil sold, the time at which the oil must be placed at the purchaser's disposal and the final date for completion of the withdrawal of the oil should be laid down; whereas it should also be provided that any consequences of delay in the withdrawal should be borne by the purchaser;

Whereas there is a considerable imbalance between supply and demand on the Community market in olive oil; whereas, in order to alleviate these difficulties, the oil sold by the Italian intervention agency should be placed on the market in the near future;

Whereas, in order to ensure a fair distribution among the various purchasers of the quantities put up for sale, it is necessary to lay down for each quality, the maximum quantities which may be allocated to each tenderer;

Whereas Commission Regulation (EEC) No 2197/76 of 8 September 1976 (4), as last amended by Regulation (EEC) No 2489/76 (5), provided for a series of sales of the olive oil held by the Italian intervention agency; whereas the last sale, scheduled for 30 October 1976, will relate to a very small quantity; whereas, consequently, pending the commencement of the selling operations provided for in this Regulation, the sale scheduled for 30 October 1976 should be cancelled;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Oils and Fats,

(1) OJ No 172, 30. 9. 1966, p. 3025/66.
(2) OJ No L 175, 29. 6. 1973, p. 5.
(3) OJ No L 112, 15. 5. 1968, p. 6.
(4) OJ No L 247, 9. 9. 1976, p. 11.
(5) OJ No L 283, 14. 10. 1976, p. 11.

HAS ADOPTED THIS REGULATION :

Article 1

The Italian intervention agency, 'Azienda di Stato per gli interventi nel mercato agricolo', hereinafter referred to as 'AIMA', shall offer for sale, out of the intervention purchases of the 1975/76 oil marketing year, and in accordance with the provisions of this Regulation, the following quantities and qualities of olive oil :

(a) approximately 10 000 metric tons of extra virgin olive oil ;

(b) approximately 3 600 metric tons of fine virgin olive oil ;

(c) approximately 4 000 metric tons of lampante olive oil ;

(d) approximately 12 400 metric tons of olive-residue oil.

Article 2

Particulars of the lots of olive oil offered for sale and the place where they are stored shall be displayed at the central office of AIMA, Via Palestro 81, Rome, Italy. Particulars of the lots covered :

— by the first sale provided for in Article 4, shall be displayed from 3 November 1976 onwards ;

— by the second sale provided for in Article 4, shall be displayed from 11 November 1976 onwards.

Article 3

The minimum selling prices shall be as laid down in the Annex hereto. These prices are net of tax and relate to 100 kilogrammes of olive oil delivered ex storage depot, either in the purchaser's own drums loaded on a vehicle provided by him or in the purchaser's tank vehicle.

Article 4

1. The first sale of approximately 18 000 metric tons of oil shall take place on 9 November 1976. Any quantities not put up for sale or sold on 9 November shall be put up for sale on 24 November 1976. After each sale, AIMA shall immediately supply those responsible for storage with a list of the lots or parts of lots remaining unsold.

2. Prospective purchasers may examine at the storage depot the oil offered for sale and may obtain a sample thereof, in containers supplied by them for that purpose, on payment of a price determined on the basis of the minimum prices laid down in the Annex hereto. This sample shall be put into two labelled bottles which shall be sealed in the presence of both the vendor and the prospective purchaser or his duly authorized agent. One bottle shall be given to the prospective purchaser and the other to the storer, so that, in the event that oil is sold to the party concerned, a check may be made to ensure that the oil applied for by him corresponds to that actually delivered.

Article 5

1. Applications for purchase shall reach AIMA, Via Palestro 81, Rome, Italy, not later than 2 p.m. (Italian time) on the day preceding that of the sale.

2. Applications for purchase shall include at least the following :

(a) the name and full postal address of the applicant ;

(b) the container number or numbers, together with the corresponding lot number and the place of storage ;

(c) an acknowledgement of the accuracy of the quality description under which the oil concerned is offered for sale ;

(d) the offer price per 100 kilogrammes ;

(e) an undertaking to make any quantities awarded available to the retail trade within not more than :

— one month following withdrawal of the product, in the case of extra virgin and fine olive oil ;

— two months following withdrawal of the product, in the case of lampante olive oil and olive-residue oil.

3. Any application which does not offer at least the minimum price set for the product concerned shall be refused.

4. Every application for purchase shall relate to all the oil in at least one container.

5. No application may be withdrawn.

Article 6

1. No application for purchase shall be valid unless it is accompanied by a security of Lit 12 000 per 100 kilogrammes.

2. The security shall be in cash or by way of a guarantee issued by a credit institution satisfying the criteria laid down by the Member State in which it is situated.

3. The security shall be released if no sale is made to the party concerned. It shall also be released when the purchaser pays the final price as referred to in Article 12 and shows the competent authorities that he has fulfilled the undertaking laid down in Article 5 (2) (e).

Article 7

The competent authorities of the Member State concerned shall take the necessary measures to monitor fulfilment of the undertaking laid down in Article 5 (2) (e).

Article 8

1. The oil in each particular container shall be sold to the applicant having made a valid application for purchase offering the highest price. Where the same highest offer is made by more than one applicant, the purchaser shall be chosen by lot by AIMA.

2. However, if the total quantity for which a tenderer has offered the highest price exceeds

— 150 metric tons, in the case of extra or fine oil,

— 500 metric tons, in the case of lampante oil,

— 1 000 metric tons, in the case of olive-residue oil,

a contract shall be awarded to that tenderer only in respect of the container or containers the total contents of which do not exceed, for each quality, the limit as above.

Contracts for the quantities exceeding these limits shall be awarded to the other tenderers, in descending order of tender and subject to the said limits.

3. When determining the container or containers in respect of which no contract can be awarded pursuant to the preceding paragraph, the Italian intervention agency shall choose :

(a) the container or containers which have the lowest quantity ;

(b) where containers have identical quantities, the container or containers for which the tenderer has offered the lowest price. However, if certain of the containers in question are the subject of other orders, these shall not be awarded to the tenderer concerned.

Article 9

1. Immediately after the sale has been concluded, seals shall be placed in the presence of both parties upon the container or containers to which the application for purchase relates. The container or containers concerned shall remain sealed until the withdrawal of the oil by the purchaser.

2. Where the oil is of the lampante variety, an analysis shall be carried out in the presence of both parties before the placing of the seals referred to in paragraph 1. If the degree of acidity of such oil does not correspond to that specified in point 3 of the Annex hereto, the selling price shall be adjusted in accordance with the said Annex.

Article 10

1. The purchaser shall pay to AIMA, before withdrawing the oil and in any event not later than the 15th day following that of sale, the provisional amount of the selling price. Without prejudice to any domestic taxes applicable, such amount shall be calculated by multiplying the quantity indicated as being contained in the lot by the price offered for that lot.

2. If the provisional amount is not paid to AIMA within the period laid down in paragraph 1, AIMA may, without any special formality or invocation of legal process, regard the sale as cancelled. In this event, the security referred to in Article 6 shall be forfeit.

Article 11

1. Withdrawal of the oil by purchasers may begin as soon as the provisional amount referred to in Article 10 (1) has been paid and shall be completed not later than the 30th day following that of sale.

2. The quantity of oil delivered may differ from the quantity applied for by the purchaser, depending on the actual quantity in the containers at the time of delivery.

Article 12

1. When the withdrawal of the oil is complete, AIMA shall draw up an invoice for the final amount of the selling price.

Without prejudice to any domestic taxes applicable, the final amount shall be calculated by multiplying the quantity actually withdrawn by the price offered for the lot concerned.

2. The invoice shall show the debit or credit balance, which shall be equal to the difference between :

— the provisional amount,

— the final amount of the selling price plus any storage charge payable pursuant to Article 13 (b).

The balance shall be paid within 30 days following completion of the withdrawal of the oil.

Article 13

If withdrawal of the oil is not completed by the date laid down in Article 10 (1) :

(a) the oil remaining in storage shall be held at the purchaser's own risk ;

(b) the purchaser shall pay to AIMA a storage charge calculated on the basis of the quantity still to be withdrawn at the rate of Lit 1 000 per 100 kilogrammes for each period of 30 days of additional storage or part thereof.

Article 14

Regulation (EEC) No 2197/76 is hereby repealed.

Article 15

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, 29 October 1976.

For the Commission

P. J. LARDINOIS

Member of the Commission

ANNEX

Minimum selling prices for olive oil held by the Italian intervention agency

1. Extra 1° virgin olive oil : Lit 152 000 per 100 kg.
2. Fine 1·5° virgin olive oil : Lit 144 000 per 100 kg.
3. 3° lampante olive oil : Lit 129 000 per 100 kg.
4. 5° olive-residue oil : Lit 92 000 per 100 kg.
5. In the case of lampante olive oil with a different degree of acidity, there shall be added or deducted as the case may be Lit 1 000 per 100 kg for each degree of acidity or fraction thereof less or more than 3°.
6. In the case of olive-residue oil with a different degree of acidity, these shall be added or deducted as the case may be Lit 900 per 100 kg for each degree of acidity of fraction thereof less or more than 5°.