COMMISSION REGULATION (EEC) No 358/76

of 19 February 1976

on an invitation to tender for the levy and/or the refund for the export of wholly milled long grain rice to certain third countries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 359/67/EEC of 25 July 1967 on the common organization of the market in rice (1), as last amended by Regulation (EEC) No 668/75 (2),

Having regard to Council Regulation (EEC) No 2737/73 of 8 October 1973 laying down general rules to be applied in the event of the rice market being disturbed (3), as last amended by Regulation (EEC) No 477/75 (4), and in particular Article 4 (2) thereof,

Having regard to Council Regulation No 366/67/EEC of 25 July 1967 laying down general rules for granting export refunds on rice and criteria for fixing the amount of such refunds (5), as last amended by Regulation (EEC) No 478/75 (6), and in particular Article 3a thereof,

Whereas, having regard to the current situation on the rice market, there should be opened in respect of wholly milled long grain rice an invitation to tender for the export levy provided for in the first indent of Article 2 (1) of Regulation (EEC) No 2737/73 and for the export refund provided for in Article 3a of Regulation No 366/67/EEC;

Whereas those countries close to the rice growing regions of the Community such as Austria, Liechtenstein and Switzerland are able to supply themselves with Community rice within the framework of general refund specifically fixed for these countries; whereas these countries should therefore be excluded from the present tender;

Whereas the detailed rules governing invitations to tender are as regards the export levy contained in Commission Regulation (EEC) No 3197/73 of 23 November 1973 establishing the conditions for the application of the system of tendering for export levies on rice (7), as last amended by Regulation (EEC) No 583/75 (8), and as regards the export refund in Commission Regulation (EEC) No 584/75 of 6 March 1975 laying down detailed rules for the application of the system of tendering for export refunds on rice (9);

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 second subparagraph of Article 1 (1) of respectively Commission Regulations (EEC) No 3197/73 and (EEC) No 584/75 provides that invitations to tender for the export levy and/or refund shall be open on equal terms to all persons established within the Community; whereas by reason of the differing monetary circumstances in the various Member States, the satisfaction of this condition cannot be ensured by the application of the exchange rates applicable for the purposes of the common agricultural policy, since monetary compensatory amounts do not apply in the rice sector; whereas it is therefore advisable to take provision for the effects of the monetary situation to be taken into account in respect of each tender;

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

(1) OJ No 174, 31. 7. 1967, p. 1.
(2) OJ No L 72, 20. 3. 1975, p. 18.
(3) OJ No L 282, 9. 10. 1973, p. 13.
(4) OJ No L 52, 28. 2. 1975, p. 33.
(5) OJ No 174, 31. 7. 1967, p. 34.
(6) OJ No L 52, 28. 2. 1975, p. 34.
(7) OJ No L 326, 27. 11. 1973, p. 10.
(8) OJ No L 61, 7. 3. 1975, p. 24.
(9) OJ No L 61, 7. 3. 1975, p. 25.

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 2737/73 and/or the export refund provided for in Article 3a of Regulation No 366/67/EEC.

2. The invitation to tender shall relate to wholly milled long grain rice for exports to all third countries except Austria, Liechtenstein and Switzerland.

3. The invitation shall remain open until 25 June 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 20 metric tons.

Article 3

1. The security referred to in Article 3 of Regulation (EEC) No 3197/73 and of Regulation (EEC) No 584/75 shall be 10 units of account per metric ton.

2. By way of derogation from Article 7 (1) of Regulation (EEC) No 3197/73 and (EEC) No 584/75, 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 fifth subparagraphs of Article 11 (1) of Regulation (EEC) No 192/75 [1].

Article 4

Section 12 of the licence application and of the licence itself shall bear one of the following endorsements, preceded by an asterisk corresponding to the asterisk entered in section 13 :

'valid for countries other than Austria, Liechtenstein and Switzerland' ;

'gældende for alle lande undtagen Østrig, Liechtenstein og Schweiz' ;

'gültig für alle Länder außer Österreich, Liechtenstein und der Schweiz' ;

'valable pour les pays autres que l'Autriche, le Liechtenstein et la Suisse' ;

'valida per i paesi terzi tranne l'Austria, il Liechtenstein e la Svizzera' ;

'geldig voor de landen andere dan Oostenrijk, Liechtenstein en Zwitserland'.

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 the Regulations referred to in Article 3, no export licence shall be issued and the security lodged pursuant to Article 3 of those Regulations shall accordingly be forfeit.

Article 6

By way of derogation from the provisions of Article 9 (1) and (2) of Regulation (EEC) No 193/75 [2], export licences issued under Article 8 (1) of Regulation (EEC) No 3197/73 or under the like provision of Regulation (EEC) No 584/75 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.

Article 7

1. If the obligation to export is not fulfilled, the security mentioned in Article 3 of Regulations (EEC) No 3197/73 and (EEC) No 584/75 shall be forfeit in respect of a quantity equal to the difference between :

(a) 93 % of the net quantity indicated on the export licence, and

(b) 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 3197/73 and (EEC) No 584/75 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 weekly submission of tenders as specified in the notice of invitation to tender. They must be communicated in the form indicated in the Annex hereto.

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.

[1] OJ No L 25, 31. 1. 1975, p. 1.

[2] OJ No L 25, 31. 1. 1975, p. 10.

Article 10

1. By way of derogation from Article 5 of Regulations (EEC) No 3197/73 and (EEC) No 584/75, the Commission shall decide, under the procedure laid down in Article 26 of Regulation No 359/67/EEC:

— to fix a maximum export refund, taking account in particular of the criteria laid down in Articles 2 and 3 of Regulation No 366/67/EEC, or

— 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 2737/73, or

— 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.

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

The rates used for converting into units of account those offers made in national currencies and for converting into national currencies the maximum refund or minimum levy as fixed in units of account shall be:

— in the case of currencies held at any given moment within a band of 2·25 %, the central rate,

— in all other cases the average spot exchange rate during a week ending on the Tuesday immediately preceding the final date for the submission of tenders.

Article 12

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, 19 February 1976.

For the Commission

P. J. LARDINOIS

Member of the Commission

ANNEX

Weekly tender for the levy/refund for the export of wholly milled long grain rice to certain third countries

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.		