COMMISSION REGULATION (EEC) No 2375/77

of 28 October 1977

amending Regulation (EEC) No 1226/77 laying down rules for the sale of olive oil held by the intervention agencies and Regulation (EEC) No 1687/76 laying down common detailed rules for verifying the use and/or destination of products from intervention

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,

Having regard to Council Regulation No 171/67/EEC of 27 June 1967 on export refunds and levies on olive oil (3), as last amended by Regulation (EEC) No 2429/72 (4), and in particular Article 11 thereof,

Whereas Commission Regulation (EEC) No 1226/77 of 8 June 1977 laying down rules for the sale of olive oil held by the intervention agencies (5) specified the conditions for the sale by tender on the Community market of oil held by the intervention agencies;

Whereas Regulation (EEC) No 1226/77 makes no provision for sale by tender for export when intervention agencies need to dispose of the stocks which they hold; whereas provisions should be made in that Regulation for possible recourse to such tendering procedures;

Whereas, since the purpose of a sale by tender is to obtain the most favourable price, contracts must be awarded to the tenderers offering the highest prices, provided that a minimum price established in the light of the market situation is observed; whereas, however, more than one minimum price may be fixed, by reference in each case to the distance of the Community market from the country of destination and to the specific conditions of import in certain countries of destination;

Whereas the minimum contract price for export is fixed on the basis of the world market price; whereas no export refund should therefore be granted in respect of oil purchased by tender;

Whereas olive oil thus exported is in a situation comparable to that of oil having qualified for an export refund; whereas such oil may therefore not be re-imported into the Community under the conditions set out in Article 3 (1) of Council Regulation (EEC) No 754/76 of 25 March 1976 on the customs treatment applicable to goods returned to the customs territory of the Community (6);

Whereas oils in respect of which contracts have been awarded for export must be governed by Commission Regulation (EEC) No 1687/76 of 30 June 1976 laying down common detailed rules for verifying the use and/or destination of products from intervention (7), as last amended by Regulation (EEC) No 2311/77 (8); whereas the Annex to that Regulation should therefore be supplemented accordingly;

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

HAS ADOPTED THIS REGULATION:

Article 1

In the second paragraph of Article 1 of Regulation (EEC) No 1226/77 an indent as follows is inserted before the first indent:

'— the offering of olive oil for sale on the Community market for export.'

Article 2

Article 3 of Regulation (EEC) No 1226/77 is amended to read as follows:

'*Article 3*

1. "Sale by tender" means a procedure whereby all interested parties are invited to submit tenders, the contract for each lot being awarded to the person offering the highest price, provided that a minimum price is observed.

(1) OJ No 172, 30. 9. 1966, p. 3025/66.
(2) OJ No L 175, 29. 6. 1973, p. 5.
(3) OJ No 130, 28. 6. 1967, p. 2600/67.
(4) OJ No L 264, 23. 11. 1972, p. 1.
(5) OJ No L 141, 9. 6. 1977, p. 20.
(6) OJ No L 89, 2. 4. 1976, p. 1.
(7) OJ No L 190, 14. 7. 1976, p. 1.
(8) OJ No L 269, 21. 10. 1977, p. 26.

2. In the case of sale for export, where required by the world market situation or the specific needs of certain markets, the minimum prices may be varied according to the destination.

3. The minimum price shall be fixed in accordance with the procedure laid down in Article 8 of Regulation No 136/66/EEC :

— either in the decision providing for the issuing of the invitation to tender,

or

— on the basis of the tenders received.

Where, however, no minimum price has been fixed by the decision providing for the invitation to tender, a decision may be taken, in accordance with the aforesaid procedure and in the light of the tenders received, to make no award.'

Article 3

Article 8 (2) of Regulation (EEC) No 1226/77 is amended to read as follows :

'2. The security shall be released :

— where the tenderers have not been awarded a contract, or

— where the purchaser has paid the final amount of the price referred to in Article 14 and in the case of sale for export has furnished the proof required under Article 13 (4) of Regulation (EEC) No 1687/76, and proof that exportation has been effected under the licence issued in accordance with Article 15a (2).

Moreover, in the case of a sale by tender with no specified destination, where serious doubts exist as to the actual destination of the product, release of the security shall be subject to proof that the product has been imported into a non-member country, unless lost en route as as a result of *force majeure*. Such proof shall be furnished in the same way as for export refunds.

3. Where the proof referred to in paragraph 2 has not been furnished within six months of the date of expiry of the licence, the security shall, save in a case of *force majeure*, be forfeited.

Where the security is forfeited, it shall be deducted from intervention expenditure in the olive oil sector, the sums and quantities concerned being entered separately in the accounts.'

Article 4

An Article 15a as follows is added to Regulation (EEC) No 1226/77 :

'Article 15a

1. In the case of a sale for export, the exported oil shall not qualify for the export refund fixed in accordance with the provisions of Regulation No 171/67 EEC. However, for purposes of Regulation (EEC) No 754/76, such oil shall be considered as having complied with Article 2 (1) of the aforesaid Regulation upon completion of the customs export formalities.

2. The application for the licence to be issued following the sale by tender for export and the licence itself shall contain in section 12 one of the following endorsements :

"Export under Regulation (EEC) No 1226/77",

"Exportation dans le cadre du règlement (EEC) n° 1226/77" ;

"Ausfuhr im Rahmen der Verordnung (EWG) Nr. 1226/77" ;

"Esportazione nell'ambito del regolamento (CEE) n. 1226/77" ;

"Uitvoer in het kader van Verordening (EEG) nr. 1226/77" ;

"Udførsel i henhold til forordning (EØF) nr. 1226/77".'

Article 5

In the Annex to Regulation (EEC) No 1687/76, under 'I. Products to be exported in the same state as that in which they were when removed from intervention stock', the following paragraph and relevant footnote ([12]) are inserted after paragraph 11 :

'12. Commission Regulation (EEC) No 1226/77 of 8 June 1977 laying down rules for the sale of olive oil held by the intervention agencies ([12]).

([12]) OJ No L 141, 9. 6. 1977, p. 20.'

Article 6

This Regulation shall enter into force on the day of 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, 28 October 1977.

For the Commission

Finn GUNDELACH

Vice-President