COMMISSION REGULATION (EEC) No 955/77

of 4 May 1977

on the putting up for sale of olive-residue 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 part 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), as last amended by Regulation (EEC) No 782/77 (4), laid down the conditions for 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 these 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, the minimum selling price should be fixed at the level 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 this problem, 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 in recent months olive-residue oil held by the Italian intervention agency has been put up for sale three times;

Whereas only a very small quantity of this olive-residue oil has been sold; whereas, taking into account the present market situation, it appears opportune to put up for sale again a part of the oil that remains unsold;

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 95, 19. 4. 1977, p. 13.

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, 4 000 tonnes of olive-residue oil.

Article 2

Particulars of the lots of olive-residue 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 shall be displayed from 6 May 1977.

Article 3

The minumum selling price shall be as laid down in the Annex hereto. This price is net of tax and relates to 100 kilograms of olive-residue 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 award of contracts shall be made by AIMA on 17 and 18 May 1977. Where lots or parts of lots are not sold, the award of contracts in respect thereof shall take place on 1 and 2 June 1977. In this case, the display provided for in Article 2 shall take place on 24 May 1977.

AIMA shall forthwith inform successful bidders of its decision and shall 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 price 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, subject always as provided in the last sentence of Article 11 (2) hereof.

Article 5

1. Applications for purchase shall reach AIMA, Via Palestro 81, Rome, Italy, not later than 2 p.m. (Italian time) on 16 and 31 May 1977 respectively.

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 description under which the oil concerned is offered for sale ;

(d) the offer price per 100 kilograms ;

(e) an undertaking to make any quantities awarded available to the retail trade within two months following withdrawal of the product.

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 kilograms.

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 likewise be released when the purchaser pays the final amount of the price as referred to in Article 12 and establishes to the satisfaction of the competent authorities that he has fulfilled the undertaking provided for in Article 5 (2) (e).

Article 7

The competent authorities of the Member State concerned shall take the necessary measures to check performance of the undertaking provided for 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 an applicant has offered the highest price exceeds 1 000 tonnes, a contract shall be awarded to that applicant only in respect of the container or containers the total contents of which do not exceed that limit.

Contracts for the quantities in excess of that limit shall be awarded to the other applicants, in descending order of offer price and subject to the said limit.

3. When determining the container or containers to be excluded from a particular award 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 applicant has offered the lowest price.

However, if other offers have been received in respect of certain of the containers in question, these shall be excluded from the award 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. In addition, 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 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 the award of the contract, the provisional amount of the selling price. Without prejudice to any domestic taxes applicable, such amount shall be calculated by multiplying the quantity ir licated 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 cancélled. 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 40th day following that of acceptance of tender.

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. The determination of the weight of water and impurities shall be made 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, after the weight of water and impurities above 0·5 % has been deducted, by the price offered to 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 11 (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 kilograms for each period of 30 days of additional storage or part thereof.

Article 14

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, 4 May 1977.

For the Commission

Finn GUNDELACH

Vice-President

ANNEX

Minimum selling price for olive-residue oil held by the Italian intervention agency

1.5° olive-residue oil : Lit 84 000 per 100 kg.

In the case of olive-residue oil with a different degree of acidity, there shall be added or deducted as the case may be Lit 900 per 100 kilograms for each degree of acidity or fraction thereof less or more than 1.5°.
