COMMISSION REGULATION (EEC) No 2221/78

of 22 September 1978

laying down conditions for invitations to tender for colza and rape seed held by the German and Danish intervention agencies

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 1562/78 (2), and in particular Article 26 (3) thereof,

Whereas during the 1977/78 marketing year the German and Danish intervention agencies bought in certain quantities of colza and rape seed pursuant to Article 26 of Regulation No 136/66/EEC;

Whereas Commission Regulation (EEC) No 189/68 of 16 February 1968 on certain detailed rules for the disposal of oilseeds bought in by intervention agencies (3), as last amended by Regulation (EEC) No 1687/76 (4), laid down the conditions for sale by tender on the Community market of seeds held by intervention agencies; whereas, in view of the present situation of the market for seeds in the Community, it is unlikely that the quantities held by the German and Danish intervention agencies can be sold in accordance with the price conditions laid down in Article 5 of Regulation (EEC) No 189/68; whereas, therefore, special measures must be taken to dispose of these oilseeds;

Whereas colza and rapeseed can at present be marketed in the Community at a price which accords more closely with the actual market situation than the price fixed in accordance with the said Article 5;

Whereas, in order to ensure favourable selling conditions, the seeds should be put up for sale in lots;

Whereas a security should be provided to ensure the observance of the obligations involved in the submission of a tender; whereas, moreover, that security should be such as to prevent the seeds for which a tender is accepted from being offered for intervention a second time; whereas the security should therefore be forfeited unless the successful tenderer provides proof that the seeds have been placed under control at an oil mill pursuant to Article 2 of Council Regulation (EEC) No 2114/71 of 28 September 1971 on the subsidy for oilseeds (5), as last amended by Regulation (EEC) No 851/78 (6), or have been exported;

Whereas the minimum selling price that most nearly corresponds to the actual market situation may be determined on the basis of the tenders received;

Whereas the contract should be awarded to the tenderer offering the highest price; whereas, moreover, there should be rules concerning the award of the contract in the event of several tenders being made at the same price;

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

1. There shall be put up for sale by tender on the Community market two lots of a total quantity of approximately 1 092 tonnes of colza and rapeseed held by the German intervention agency and two lots of a total quantity of approximately 963 tonnes of colza and rapeseed held by the Danish intervention agency, which were bought in during the 1977/78 marketing year.

2. The provisions of Regulation (EEC) No 189/68 shall apply, subject to those of this Regulation.

(1) OJ No 172, 30. 9. 1966, p. 3025/66.
(2) OJ No L 185, 7. 7. 1978, p. 1.
(3) OJ No L 43, 17. 2. 1968, p. 7.
(4) OJ No L 190, 14. 7. 1976, p. 1.
(5) OJ No L 222, 2. 10. 1971, p. 2.
(6) OJ No L 116, 28. 4. 1978, p. 4.

Article 2

The notice of invitation to tender shall be published in the *Official Journal of the European Communities* not less than 10 days before the final date for the submission of tenders. This date shall be 6 October 1978, not later than 2 p.m.

Article 3

1. No tender shall be accepted unless it states a price per lot, delivery ex storage depot.

The costs of weighing, sampling and analysis shall be borne by the intervention agency. Any other exit costs arising shall be borne by the purchaser.

2. Tenders shall be valid only if accompanied by a security of two units of account per 100 kilograms.

The security may be provided in cash or in the form of a guarantee satisfying the criteria laid down in the Federal Republic of Germany and in the Kingdom of Denmark.

Article 4

The security referred to in Article 3 (2) shall be released where :

(a) the tenderer has not withdrawn his tender before the award of the contract and the tender has been unsuccessful ;

(b) the successful tenderer, save in cases of *force majeure,* has paid to the intervention agency the amount corresponding to his tender, has taken over the oilseeds awarded to him under the tender and has given proof that the oilseeds have been placed under control at an oil mill pursuant to Article 2 of Regulation (EEC) No 2114/71 or have been exported.

Article 5

In the light of the tenders submitted, there shall be fixed in accordance with the procedure laid down in Article 38 of Regulation No 136/66/EEC a minimum price for the seeds held by the German intervention agency and a minimum price for those held by the Danish intervention agency.

The prices shall be fixed, ex storage depot, for oilseeds of the standard quality for which intervention prices are fixed. Where the oilseeds offered for sale are not of the said standard quality, their weight shall be determined by the method described in the Annex to Commission Regulation (EEC) No 1204/72 of 7 June 1972 laying down detailed rules for the application of the subsidy system for oilseeds (1), as last amended by Regulation (EEC) No 1856/78 (2), and the selling price shall be increased or reduced as specified in the Annex to Commission Regulation No 282/67/EEC of 11 July 1967 on detailed rules for intervention for oilseeds (3), as last amended by Regulation (EEC) No 1512/78 (4).

Article 6

Subject to the minimum prices referred to in Article 5, the contract shall in each case be awarded to the highest bidder.

If two or more tenderers tender at the same price, the successful tenderer shall be chosen by lot.

Article 7

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 September 1978.

For the Commission

Finn GUNDELACH

Vice-President

(1) OJ No L 133, 10. 6. 1972, p. 1.
(2) OJ No L 212, 2. 8. 1978, p. 8.
(3) OJ No 151, 13. 7. 1967, p. 1.
(4) OJ No L 178, 1. 7. 1978, p. 58.