COMMISSION REGULATION (EEC) No 2944/78

of 14 December 1978

amending Regulation (EEC) No 279/75 laying down detailed rules for the application of the system of tendering for export refunds on cereals

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals (1), as last amended by Regulation (EEC) No 1254/78 (2),

Having regard to Council Regulation (EEC) No 2746/75 of 29 October 1975 laying down general rules for granting export refunds on cereals and criteria for fixing the amount of such refunds (3), and in particular Article 5 (2) thereof,

Whereas by Commission Regulation (EEC) No 279/75 (4) detailed rules were established for the application of the system of tendering for export refunds on cereals ;

Whereas it has become apparent that it would be desirable to make the procedure less rigid by withdrawing the obligation to state in the invitation to tender the total quantity for which a maximum refund may be fixed ;

Whereas in the case of invitations to tender involving weekly tenders for the refund, all those presented may be higher than acceptable under the criteria set out in Articles 2 and 3 of Regulation (EEC) No 2746/75 ; whereas in such cases it would sometimes be useful to be able to indicate what refund level would have been acceptable ;

Whereas in practice invitations to tender are opened for exportation to specified destinations ; whereas these should be specifically indicated on the licences ; whereas certain provisions on the issue of export licences and release of securities where tenders are involved should be made more comprehensible ; whereas it appears preferable to group all these provisions in Regulation (EEC) No 279/75 instead of including them in each Regulation opening a specific invitation to tender ;

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

HAS ADOPTED THIS REGULATION :

Article 1

Regulation (EEC) No 279/75 is hereby amended as follows :

1. Article 1 (1), first subparagraph, is replaced by the following :

   '1. A decision to open an invitation to tender under Article 5 (1) of Regulation (EEC) No 2746/75 shall be adopted in accordance with the procedure laid down in Article 26 of Regulation (EEC) No 2727/75.'

2. Article 1 (2) is replaced by the following :

   '2. The opening of the invitation to tender shall be accompanied by a notice of invitation to tender prepared by the Commission. This notice shall include *inter alia* particulars of the various dates for the submission of tenders and of the competent authorities of Member States to which such tenders must be addressed. It may also indicate the total quantity in respect of which a maximum export refund may be fixed under Article 5 (1) below. There must be a period of a least 15 days between the publication of the said notice and the first date fixed for the submission of tenders. The notice shall also indicate the closing date for the submission of tenders.'

3. The following Article is added :

   '*Article 1a*

   The invitation to tender may be limited to exportation to certain specified countries or zones. The countries or zones specified in the Regulation opening the invitation to tender shall be indicated in section 13 of the licence application and of the licence itself. The issue of a licence shall carry with it the obligation to export to that destination.'

(1) OJ No L 281, 1. 11. 1975, p. 1.
(2) OJ No L 156, 14. 6. 1978, p. 1.
(3) OJ No L 281, 1. 11. 1975, p. 78.
(4) OJ No L 31, 5. 2. 1975, p. 8.

4. Article 2 (5) is replaced by the following:

'5. Once a tender has been submitted it may not be withdrawn, and the provisions of Article 5 (3) of Regulation (EEC) No 193/75 shall not apply in respect of an application for a licence made in compliance with paragraph 3 (b) above.'

5. Article 5 (1) is replaced by the following:

'1. On the basis of the tenders submitted, the Commission, acting under the procedure laid down in Article 26 of Regulation (EEC) No 2727/75, shall decide to fix a maximum export refund, having regard in particular to the criteria laid down in Articles 2 and 3 of Regulation (EEC) No 2746/75, and/or, where appropriate, to reject all offers.'

6. Article 7 is replaced by the following:

'*Article 7*

1. The tendering security shall be released:

(a) if the tender is rejected, or

(b) — when the successful tenderer furnishes proof that the export has taken place using the export licence issued under Article 8 (1) below, and

— under identical conditions to those for release of the security for the export licence issued following acceptance of the tender, or

(c) if exportation could not be carried out because of *force majeure.*

2. The provisions of Article 18 (4) of Regulation (EEC) No 193/75 shall apply in respect of tendering securities.'

7. Article 8 is replaced by the following:

'*Article 8*

1. An export licence for the quantity in respect of which the tenderer was successful shall be issued if he lodges the application referred to in Article 2 (3) (b) within the prescribed time limit. In cases of *force majeure* the prescribed time limit may be extended.

2. If the undertaking referred to in Article 2 (3) (b) is not respected the tendering security shall be forfeit except in cases of *force majeure.*'

Article 2

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities.*

It shall not however apply to invitations to tender opened before the date when it enters into force.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 14 December 1978.

For the Commission

Finn GUNDELACH

Vice-President