COMMISSION REGULATION (EEC) No 1003/81

of 10 April 1981

defining the operative event in the case of the sale of cereals and rice held in store by intervention agencies

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 the Act of Accession of Greece,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice (2), as last amended by the Act of Accession of Greece,

Having regard to Council Regulation (EEC) No 878/77 of 26 April 1977 on the exchange rates to be applied in agriculture (3), as last amended by Regulation (EEC) No 850/81 (4), and in particular Article 4 (3) thereof,

Whereas Article 4 (1) of Regulation (EEC) No 878/77 provides that, with regard to the effect on the rights and obligations existing at the time a representative rate is altered, the provisions of Council Regulation (EEC) No 1134/68 of 30 July 1968 laying down rules for the implementation of Regulation (EEC) No 653/68 on conditions for alterations to the value of the unit of account used for the common agricultural policy (5), adopted for altering the relationship between the parity of one Member State's currency and the value of the unit of account, shall apply;

Whereas Article 4 (2) of Regulation (EEC) No 1134/68 provides that the sums therein stated are to be paid by using the conversion rate in force at the time the transaction or part thereof was carried out; whereas, pursuant to Article 6 of the said Regulation, the time when a transaction is carried out is to be considered as being the date on which occurs the event, as defined by Community rules or, in the absence of and pending adoption of such rules, by the rules of the Member State concerned, in which the amount involved in the transaction becomes due and payable; whereas, however, Article 4 (3) of Regulation (EEC) No 878/77 permits derogation from the above provisions;

Whereas, in the case of products held by the intervention agencies and resold by way of invitation to tender on the Community market or for export, any alteration to the representative rates after award but before the products are taken over by the successful tenderer automatically results in an alteration to the tender price and to the refunds fixed in advance, as the case may be; whereas adjustments of this may constitute considerable changes in the economic data used by operators in their calculations; whereas, in order to avoid such consequences, it is appropriate, in the context of such invitations to tender, to derogate from the rule laid down in Article 6 of Regulation (EEC) No 1134/68 and to select the closing date for submission of tenders under each partial invitation to tender as the operative event;

Whereas, in order to reflect the requirements of the present economic situation, provision should be made for the said provisions to have retroactive effect in respect to tenders submitted and refunds fixed in advance under invitations to tender current since 17 December 1980, where the quantities awarded have not yet been taken over by the successful tenderer;

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

The representative rate to be applied under invitations to tender opened pursuant to Article 3 (1) of Council Regulation (EEC) No 2738/75 (6) and of Council Regulation (EEC) No 1424/76 (7), for the purposes of accepting tenders submitted and of determining the export refunds where advance fixing was applied for at the time the tender was submitted, shall be the representative rate in force on the final day for submitting

(1) OJ No L 281, 1. 11. 1975, p. 1.
(2) OJ No L 166, 25. 6. 1976, p. 1.
(3) OJ No L 106, 29. 4. 1977, p. 27.
(4) OJ No L 90, 4. 4. 1981, p. 1.
(5) OJ No 188, 1. 8. 1968, p. 1.
(6) OJ No L 281, 1. 11. 1975, p. 49.
(7) OJ No L 166, 25. 6. 1976, p. 24.

tenders under the individual invitation to tender in question.

The provisions of this Article shall also apply to awards made since 17 December 1980, where the successful tenderer has not taken over the products by the date of entry into force of this Regulation.

Article 2

This Regulation shall enter into force on 13 April 1981.

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

Done at Brussels, 10 April 1981.

For the Commission

Poul DALSAGER

Member of the Commission