COMMISSION REGULATION (EEC) No 1806/85

of 28 June 1985

amending Regulation (EEC) No 1836/82 laying down the procedure and conditions for the disposal of cereals held 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 Regulation (EEC) No 1018/84 (2), and in particular Articles 7 (5) and 8 (4) thereof,

Whereas, pursuant to Article 3 of Council Regulation (EEC) No 2738/75 of 29 October 1975 laying down general rules for intervention on the market in cereals (3) and Article 3 of Council Regulation (EEC) No 1146/76 of 17 May 1976 on particular and special intervention measures for cereals (4), cereals held by the intervention agencies are to be disposed of by invitation to tender;

Whereas, pursuant to the provisions of Commission Regulation (EEC) No 1836/82 (5), disposal on the internal market must be on the basis of price conditions preventing deterioration of the market; whereas that aim can be achieved if the selling price is equal to the local market price — account being taken of the quality put up for tender — without being below a given level in relation to the intervention or reference price increased by 1 %; whereas, account being taken of the fixing of a period of payment on intervention of 120 to 140 days, this increase can no longer be justified;

Whereas, in addition, account being taken of Article 4 (3) of Commission Regulation (EEC) No 1629/77 of 20 July 1977 laying down detailed rules of application for special intervention measures to support the development of the market in common wheat of bread-making quality (6), as last amended by Regulation (EEC) No 2215/84 (7), the provisions of Regulation (EEC) No 1836/82 relating to the minimum price to be respected in the event of sales on the internal market should be adapted accordingly;

Whereas, pursuant to the provisions of the abovementioned Regulation, the disposal of cereals for export must be on the basis of price conditions to be determined in each case in the light of current market trends and requirements; whereas, however, detailed terms of payment for cereals in respect of which contracts for export have been awarded should be fixed in order to adapt them to the Community rules on the arrangements for export licences with advance-fixing of the refund;

Whereas, with regard to common wheat, the quality of the lot put up for tender should be precisely determined in order to better evaluate the tenders submitted at the time of sales on the Community market or for export; whereas, therefore, it should be laid down that the intervention agencies should take the necessary steps to inform the parties concerned;

Whereas, in the light of the foregoing, Regulation (EEC) No 1836/82 should be amended;

Whereas the Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1836/82 is hereby amended as follows:

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

'1. Successful tenders must offer a price at least equivalent to the market price for a similar quality recorded on the market for the place of storage or, failing such a price, the price on the nearest market taking account of transport costs. The tender price may not, in any circumstances, be lower than the intervention or reference prices applicable on the closing date for the submission of tenders, adjusted, as appropriate:

(1) OJ No L 281, 1. 11. 1975, p. 1.
(2) OJ No L 107, 19. 4. 1984, p. 1.
(3) OJ No L 281, 1. 11. 1975, p. 49.
(4) OJ No L 130, 19. 5. 1976, p. 9.
(5) OJ No L 202, 9. 7. 1982, p. 23.
(6) OJ No L 181, 21. 7. 1977, p. 26.
(7) OJ No L 203, 31. 7. 1984, p. 20.

— in accordance with Article 4 (6) of Regulation (EEC) No 1570/77 (1), in the case of certain varieties of durum wheat,

— by the special increase provided for in Article 6 (1) of Regulation (EEC) No 1570/77, in the case of rye of bread-making quality.

However in the event that common wheat was bought in accordance with the provisions of the second subparagraph of Article 4 (3) of Regulation (EEC) No 1629/77, the successful tender in respect of this common wheat must not under any circumstances, be less than the price referred to in that Article and applied during the marketing year in which it was sent for sale, this price being increased monthly from September to July of the following year by an amount equal to the monthly increment fixed for the reference price.

(1) OJ No L 174, 1. 7. 1977, p. 18.'

2. In Article 8 (2) (c), delete 'increased by 1 %'.

3. The following is added to the second indent of the first paragraph of Article 12:

'in addition, in the event that only the physical characteristics have been determined, the intervention agency shall, in respect of common wheat, analyze the technical characteristics of the lot put up for sale, which characteristics shall be determined in accordance with the procedure laid down in Article 26 of Regulation (EEC) No 2727/75, and shall publish them in the notice of invitation to tender,'.

4. The term 'Article 5 (1) (b)' in the second subparagraph of Article 13 (1) is replaced by 'Article 5 (1)'.

5. Article 16 is replaced by the following:

'Article 16

The successful tenderer shall pay for the cereals before they are removed and at the latest one month after the date on which the statement referred to in Article 15 is sent. The successful tenderer shall bear all risks and storage costs in respect of cereals not removed within the period of payment.

In the case of export, the price to be paid shall be that shown in the tender plus a monthly increase where the cereals are removed during the month following that in which the contract was awarded. Where the cereals are removed during the 12th month of the marketing year and the contract was awarded during the 11th month, the price to be paid shall be that shown in the tender.

If the cereals are not paid for within the period referred to in the preceding subparagraphs, the intervention agency shall terminate the contract in respect of the quantities for which payment has not been received.'

Article 2

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

It shall apply from 1 August 1985.

However, in the case of durum wheat it shall apply from 1 July 1985.

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

Done at Brussels, 28 June 1985.

For the Commission

Frans ANDRIESSEN

Vice-President