COMMISSION REGULATION (EEC) No 3447/85

of 6 December 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,

Having regard to Council Regulation (EEC) No 2738/75 of 29 October 1975 laying down general rules for intervention on the market in cereals (3), and in particular Article 3 thereof,

Whereas Commission Regulation (EEC) No 1836/82 (4), as amended by Regulation (EEC) No 1806/85 (5), provides that the selling price is to be fixed in terms of the standard quality defined in Regulation (EEC) No 2731/75 (6); whereas, where the quality of the lot awarded differs from the standard, the price to be paid must be adjusted by that of the tender, taking into account the price increases or reductions relating to the lot;

Whereas this provision is in line with the economic conditions obtaining at a resale on the Community internal market; wheres there must be observance of parallel conditions between intervention buying in and resale since the guaranteed price is largely responsible for setting the level on the Community market;

Whereas, where cereals are resold for export, this provision is not in line with the rules governing the level on the world market in respect of which the bid submitted by the tenderer is compared; whereas, from this viewpoint the amount of the tender must include increases and reductions relating to the lot to which the tender refers and should no longer relate to the standard quality;

Whereas an adjustment of this sort in the level of the selling price on export must lead, with a view to avoiding distortions on the internal market, to an adjustement in the method for calculating the security referred to in Article 8 (2), which guarantees the obligations referred to in Article 17 (3); whereas the security should consequently cover the difference between the price tendered and the intervention price or the reference price taking into account the increases or reductions relating to the lot to which the tender refers;

Whereas, for purposes of sound market management, provision should be made for a derogation to exclude optional bids submitted under Article 43 of Regulation (EEC) No 3183/80 (7);

Whereas the way tenders are submitted for each partial invitation to tender for the tendering procedures currently being organized should be amended accordingly;

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 second indent of the second subparagraph of Article 10 of Regulation (EEC) No 1836/82 is replaced by the following:

'— in terms of the actual quality of the lot to which the tender relates.'

Article 2

Article 13 of Regulation (EEC) No 1836/82 is replaced by the following:

'*Article 13*

1. In the case of disposal on the Community market, tenders shall be drawn up in terms of the standard quality defined in Regulation (EEC) No 2731/75.

Where the quality of the cereal differs from the standard, the successful tender price shall be adjusted by increases or reductions determined in accordance with Articles 7 (5) and 8 (4) of Regulation (EEC) No 2727/75, but excluding the specific adjustments referred to in Article 5 (1) of this Regulation.

(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 202, 9. 7. 1982, p. 23.
(5) OJ No L 169, 19. 6. 1985, p. 73.
(6) OJ No L 281, 1. 11. 1975, p. 22.
(7) OJ No L 338, 13. 12. 1980, p. 1.

2. In the case of disposal for export, tenders shall be drawn up in terms of the quality of the lot to which the tender relates, taking into account the increases or reductions determined in accordance with Articles 7 (5) and 8 (4) of Regulation (EEC) No 2727/75 but excluding the specific adjustments referred to in Article 5 (1) of this Regulation.

3. In the case of disposal for export, provision may be made for the inadmissibility of tenders submitted under Article 43 of Regulation (EEC) No 3183/80.

4. Once tenders have been submitted, they may neither be amended nor withdrawn.

Tenders shall be valid only if they are accompanied by evidence that the tenderer has provided a security of 5 ECU per tonne.'

Article 3

Annex II to Commission Regulations (EEC) No 1892/85 (1), (EEC) No 2923/85 (2), (EEC) No 2924/85 (3), (EEC) No 2946/85 (4), (EEC) No 2964/85 (5), (EEC) No 3052/85 (6), (EEC) No 3072/85 (7), (EEC) No 3142/85 (8), (EEC) No 3187/85 (9) and (EEC) No 3217/85 (10), relating to certain standing invitations to tender for the export of cereals held by intervention agencies is hereby amended as follows:

'ANNEX II

1	2	3	4	5	6	7
Tender No	Consignment No	Quantity (tonnes)	Offer price (ECU/tonne) (1)	Price increases (+) or reductions (—) (ECU/tonne)	Commercial costs (ECU/tonne)	Destination
1						
2						
3						
etc.						

(1) This price includes the increases or reductions relating to the lot to which the tender refers.'

Article 4

Article 8 (2) (c) of Regulation (EEC) No 1836/82 is replaced by the following:

'(c) Where the price tendered is less than the intervention or reference price, it is accompanied by a written undertaking by the tenderer, endorsed by a credit institution to provide, not later than two working days after receipt of the statement of

(1) OJ No L 178, 10. 7. 1985, p. 6.
(2) OJ No L 280, 22. 10. 1985, p. 22.
(3) OJ No L 280, 22. 10. 1985, p. 24.
(4) OJ No L 283, 24. 10. 1985, p. 19.
(5) OJ No L 285, 25. 10. 1985, p. 30.
(6) OJ No L 290, 1. 11. 1985, p. 71.
(7) OJ No L 293, 5. 11. 1985, p. 7.
(8) OJ No L 298, 12. 11. 1985, p. 7.
(9) OJ No L 301, 15. 11. 1985, p. 23.
(10) OJ No L 303, 16. 11. 1985, p. 38.

award of contract referred to in Article 15, a security covering the difference between the two prices, adjusted by the amount of the increases or reductions determined in accordance with Articles 7 (5) and 8 (4) of Regulation (EEC) No 2727/75 but excluding the specific adjustments referred to in Article 5 (1) of this Regulation.'

Article 5

This Regulation shall enter into force on the day of 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, 6 December 1985.

For the Commission

Frans ANDRIESSEN

Vice-President