# COMMISSION REGULATION (EEC) No 2417/89

## of 4 August 1989

## amending Regulation (EEC) No 1626/89 opening an invitation to tender for the refund and/or levy for the export of durum wheat to countries of zones I, II, III, IV, V, VI, VII, VIII, the German Democratic Republic and the Canary Islands

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 1834/89 (2),

Having regard to Council Regulation (EEC) No 2747/75 of 29 October 1975 laying down general rules to be applied in the event of the cereals market being disturbed (3), as amended by Regulation (EEC) No 2560/77 (4), and in particular Article 2 (1) thereof,

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 (5), and in particular Article 5 thereof,

Whereas Commission Regulation (EEC) No 1626/89 (6) opens an invitation to tender for the refund and/or levy for the export of durum wheat to countries of zones I, II, III, IV, V, VI, VII, VIII, the German Democratic Republic and the Canary Islands;

Whereas the aim of the measure calls for the granting of the refund in respect only of durum wheat meeting certain quality requirements which the competent agency is to ensure are met; whereas Regulation (EEC) No 1626/89 should be amended to that effect;

Whereas the detailed rules governing the invitation to tender were adopted with a view to the fixing of the export levy in Commission Regulation (EEC) No 3130/73 (7), as last amended by Regulation (EEC) No 2788/86 (8), and with a view to the fixing of the export refund in Commission Regulation (EEC) No 279/75 (9), as last amended by Regulation (EEC) No 2788/86;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

Article 5 of Regulation (EEC) No 1626/89 is hereby replaced by the following:

'*Article 5*

1. Notwithstanding Articles 5 of Regulations (EEC) No 3130/73 and (EEC) No 279/75, the Commission shall decide in accordance with the procedure laid down in Article 26 of Regulation (EEC) No 2727/75:

— to fix a maximum export refund, taking account in particular of the criteria laid down in Articles 2 and 3 of Regulation (EEC) No 2746/75,

— or to fix a minimum export levy, taking account in particular of the criteria laid down in Article 3 (1) (b) and (d) of Regulation (EEC) No 2747/75,

— or to make no award.

2. Where a maximum export refund is fixed, a contract shall be awarded to any tenderer whose tender indicates a rate of refund equal to or less than such maximum export refund and to any tenderer who has tendered for an export levy.

Where a minimum export levy is fixed, a contract shall be awarded to any tenderer whose tender indicates a rate of levy equal to or greater than such minimum export levy.

3. A refund may only be granted where the quality of the durum wheat exported is at least equal to the quality defined in Article 2 (2) of Commission Regulation (EEC) No 1569/77 (*), with the exception of a maximum of 8 % broken grains. To that end, the competent agency shall have an approved agency or company carry out an analysis of the goods loaded. Sampling and analysis costs shall be borne by the successful tenderer.

4. Where the quality does not correspond to that defined in paragraph 3, the refund shall be reduced by ECU 50 per tonne.

(*) OJ No L 173, 14. 7. 1977, p. 15.'

*Article 2*

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

(1) OJ No L 281, 1. 11. 1975, p. 1.
(2) OJ No L 180, 27. 6. 1989, p. 1.
(3) OJ No L 281, 1. 11. 1975, p. 82.
(4) OJ No L 303, 28. 11. 1977, p. 1.
(5) OJ No L 281, 1. 11. 1975, p. 78.
(6) OJ No L 159, 10. 6. 1989, p. 33.
(7) OJ No L 319, 20. 11. 1973, p. 10.
(8) OJ No L 257, 10. 9. 1986, p. 32.
(9) OJ No L 31, 5. 2. 1975, p. 8.

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

Done at Brussels, 4 August 1989.

*For the Commission*
Ray MAC SHARRY
*Member of the Commission*