COMMISSION REGULATION (EEC) No 3950/89
of 22 December 1989
on a special intervention measure for common wheat in Germany

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 3707/89 (2), and in particular Article 8 (3) thereof,

Whereas production of common wheat in Germany exceeds that country's requirements;

Whereas the possibility of that surplus being absorbed by the Community market is slight;

Whereas the German market can be relieved by the export of part of this surplus quantity of common wheat to third countries; whereas, in view of world market prices for common wheat, export is possible only with the aid of a refund;

Whereas, however, the refund arrangements laid down in Article 16 of Regulation (EEC) No 2727/75 apply to export from any Member State; whereas such arrangements, therefore, are not only unsuitable for solving the problem in question but may also encourage the export of common wheat from Member States where the market situation is different from that in Germany;

Whereas, in the absence of adequate measures, massive quantities of common wheat may be expected to enter intervention storage in Germany in accordance with Article 7 of Regulation (EEC) No 2727/75, the only possibility of disposal being in any case export to third countries; whereas, to avoid the abovementioned intervention, a special intervention measure intended to relieve the German market should be taken under Article 8 of the said Regulation; whereas, furthermore, such a measure should take the form of a direct export incentive, which would avoid the high cost to the Community budget of buying in and storing products which would in any case then have to be exported; whereas the granting of a refund, the amount of which would be determined by tendering and which would apply only to products exported from Germany would be an appropriate measure for this purpose;

Whereas the objective of the measure justifies the granting of full refunds in respect only of common wheat with a protein content of at least 13,3 %; whereas, however, the common wheat exported must be at least of the quality required for acceptance into intervention as defined in Commission Regulation (EEC) No 1569/77 (3), as last amended by Regulation (EEC) No 1663/89 (4); whereas the competent agency must ensure that the quality of the quality of the common wheat exported conforms to requirements;

Whereas the nature and objectives of the said measures make it appropriate to apply in respect of it *mutatis mutandis* Article 16 of Regulation (EEC) No 2727/75 and the Regulations adopted for the application thereof, in particular 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 Commission Regulation (EEC) No 279/75 of 4 February 1975 laying down detailed rules for the application of the system of tendering for export refunds on cereals (6), as last amended by Regulation (EEC) No 2788/86 (7);

Whereas, since the concerned parties are already aware of the terms of the invitation, a derogation may be made from the provisions of Regulation (EEC) No 279/75 on the period that must elapse between the date of publication and the first closing date for the submission of tenders;

Whereas, under the abovementioned Regulation (EEC) No 279/75, the commitments on the part of the tenderer include the obligation to lodge an application for an export licence; whereas compliance with this obligation may be ensured by requiring tenderers to lodge a tendering security of ECU 12 per tonne when they submit their tenders;

Whereas, in order to ensure equal treatment of all concerned, it is necessary to make provision for the licences issued to have an identical period of validity;

Whereas, in order to ensure the smooth operation of the export tendering procedure, it is appropriate to prescribe a minimum quantity to be tendered for and a time limit and form for the communication of tenders submitted to the competent authorities;

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

(1) OJ No L 281, 1. 11. 1975, p. 1.
(2) OJ No L 363, 13. 12. 1989, p. 1.
(3) OJ No L 174, 14. 7. 1977, p. 15.
(4) OJ No L 163, 14. 6. 1989, p. 13.
(5) OJ No L 281, 1. 11. 1975, p. 78.
(6) OJ No L 31, 5. 2. 1975, p. 8.
(7) OJ No L 257, 10. 9. 1986, p. 32.

HAS ADOPTED THIS REGULATION:

Article 1

1. A special intervention measure in the form of an export refund shall be applied in respect of 150 000 tonnes of common wheat exported from the German market;

Article 16 of Regulation (EEC) No 2727/75 and the provisions adopted for the application of that Article shall apply *mutatis mutandis* to the said refund.

2. The German intervention agency shall be responsible for implementing the measure provided for in paragraph 1.

Article 2

1. Tenders shall be invited in order to determine the amount of the refund referred to in Article 1.

2. The invitation to tender shall relate to the quantity of common wheat referred to in Article 1 (1) for export to the countries of zones I, II, III, IV, V, VI, VII and VIII, and the Canary Islands as defined in Annex I to Commission Regulation (EEC) No 1124/77 (1).

3. The invitation shall remain open until 31 May 1990. During the period of its validity weekly awards shall be made, for which the time limits for the submission of tenders shall be as prescribed in the notice of invitation to tender.

By way of derogation from Article 1 (2) of Regulation (EEC) No 279/75, the time limit for submission of tenders under the first partial invitation to tender shall expire on 4 January 1990.

4. Tenders must be submitted to the German intervention agency named in the notice of invitation.

5. The tendering procedure shall take place in accordance with this Regulation and Regulation (EEC) No 279/75.

Article 3

A tender shall be valid only if:

— it relates to not less than 1 000 tonnes,

— it is accompanied by:

  — advance fixing of the German monetary compensatory amount valid on each closing date for the submission of tenders,

  — the undertaking provided for in Article 2 (3) (b) of Regulation (EEC) No 279/75 that the export licence will be applied for in Germany.

Article 4

The security referred to in Article 3 of Regulation (EEC) No 279/75 shall be ECU 12 per tonne.

Article 5

1. By way of derogation from Article 21 (1) of Commission Regulation (EEC) No 3183/80 (2), export licences issued in accordance with Article 8 (1) of Regulation (EEC) No 279/75 shall, for the purpose of determining their period of validity, be deemed to have been issued on the day on which the tender was submitted.

2. Export licences issued in connection with the invitation to tender pursuant to this Regulation shall be valid from their date of issue, as defined in paragraph 1, until the end of the third month following that of issue.

Article 6

1. The Commission shall decide, under the procedure laid down in Article 26 of Regulation (EEC) No 2727/75, either:

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

3. Export refunds awarded may be granted only if the common wheat exported has a protein content of at least 13,3 %. A reduction of ECU 10 per tonne in the refund awarded shall apply where the wheat exported has a protein content of less than 13,3 %. However, the quality of wheat exported must at least comply with the conditions laid down for common wheat in the Annex to Regulation (EEC) No 1569/77 with the exception of the maximum moisture content, which is hereby altered to 15 %. No refund shall be granted if the quality does not meat those conditions.

To that end, the competent agency shall have an analysis made, by an approved body or company, of the loaded goods and shall hold at the Commission's disposal an additional sample from each consignment taken and sealed in the presence of the successful tenderer or his representative.

Sampling and analysis costs shall be met by the tenderer.

Article 7

Tenders submitted must reach the Commission through the intermediary of the German intervention agency at the latest one and a half hours after expiry of the period for the weekly submission of tenders as specified in the notice of invitation to tender. They must be communicated in the form indicated in the Annex.

(1) OJ No L 134, 28. 5. 1977, p. 53.

(2) OJ No L 338, 13. 12. 1980, p. 1.

If no tenders are received, the German intervention agency shall inform the Commission of this by the time limit indicated in the first paragraph.

The times fixed for the submission of tenders shall correspond to Belgian time.

Article 8

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, 22 December 1989.

For the Commission
Ray MAC SHARRY
Member of the Commission

ANNEX

Weekly tender for the refund for the refund for the export of common wheat to the countries of zones I, II, III, IV, V, VI, VII and VIII and the Canary Islands

(Regulation (EEC) No 3950/89)

(Closing date for the submission of tenders (date/time))

1	2	3
Number of tenderer	Quantity in tonnes	Amount of export refund in ECU per tonne
1		
2		
3		
etc.		