COMMISSION REGULATION (EEC) No 676/89

of 16 March 1989

amending Regulation (EEC) No 3418/82 on the procedure for sale of oil seeds held by the intervention agencies

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats [1], as last amended by Regulation (EEC) No 2210/88 [2], and in particular Article 26 (3) thereof,

Whereas, pursuant to Regulation No 724/67/EEC of the Council of 17 October 1967 laying down conditions for intervention in respect of oil seeds during the last two months of the marketing year and principles for the disposal of seeds bought in by intervention agencies [3], as last amended by Regulation (EEC) No 2382/79 [4], oil seeds held by intervention agencies must be sold by tender; whereas Commission Regulation (EEC) No 3418/82 [5], as last amended by Regulation (EEC) No 2305/86 [6], lays down that such sales may be by standing invitation to tender or by periodic invitation to tender;

Whereas, in the event of sale by periodic invitation to tender, the sale must be on the basis of price conditions preventing deterioration of the market; whereas that aim can be achieved if the selling price is at least equal to the local market price without being below the intervention buying-in price; whereas, subject to these conditions, the intervention agencies can be entrusted with the task of publishing the notice of invitation to tender and of awarding contracts once the Commission has opened the tendering procedure;

Whereas the adjustments made pursuant to Regulation No 136/66/EEC to the intervention price in the event of sale by standing invitation to tender and the intervention buying-in price in the event of sale by periodic invitation to tender should be specified;

Whereas, at the end of the marketing year, a price plus all monthly increases should be taken into account in order to avoid any disturbance of the market;

Whereas Regulation (EEC) No 3418/82 should be amended accordingly;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3418/82 is hereby amended as follows:

1. Article 2 (1) is replaced by the following:

'1. The intervention agencies shall sell the oil seeds in their possession, in the manner provided for in this Article and in Article 3, to any purchaser who offers at least the intervention price applying on the day of submission of the tender, plus ECU 1 per 100 kilograms.

The intervention price shall, where appropriate, be adjusted by:

— the amount referred to in Article 27a (4) of Regulation No 136/66/EEC,

— the supplement referred to in Article 24a (1) of Regulation No 136/66/EEC,

— the monthly increases referred to in Article 25 of Regulation No 136/66/EEC.

However, for a given marketing year, the intervention price to be taken into consideration after the period provided for in Article 26 (1) of Regulation No 136/66/EEC shall be that applying during the last month of that period.'

2. In Article 2 (2), 'telex' is replaced by 'telex or telefax'.

3. The second subparagraph of Article 3 (1) is replaced by the following:

'However, tenders shall be admissible only from the third working day following the date of publication of the notice of invitation to tender in the *Official Journal of the European Communities* and until the date of publication of the invitation to tender in the following month.'

4. Articles 5 to 9 are replaced by the following:

'Article 5

The following shall be determined in particular in the Decision referred to in Article 4:

(a) the quantities to be put up for tender;

(b) the opening and closing dates for the submission of tenders;

(c) the places where the quantities offered for sale are stored.

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[1] OJ No 172, 30. 9. 1966, p. 3025/66.
[2] OJ No L 197, 26. 7. 1988, p. 1.
[3] OJ No 252, 19. 10. 1967, p. 10.
[4] OJ No L 274, 31. 10. 1979, p. 7.
[5] OJ No L 360, 21. 12. 1982, p. 19.
[6] OJ No L 201, 24. 7. 1986, p. 21.

A period of at least 10 days shall elapse between the date of publication of that Decision and the opening date for the submission of tenders.

Article 6

1. Intervention agencies shall draw up notices of invitation to tender in accordance with paragraph 2 and shall publicize them, in particular by displaying them at their head offices. They shall specify therein the closing date for the submission of tenders for each partial invitation to tender.

2. At least eight days before the opening date for the submission of tenders, intervention agencies shall publish the notices of invitation to tender following the specimen set out in Annex II and including, where appropriate, the supplementary terms and conditions of sale compatible with the provisions of this Regulation.

Such notices and any amendments thereto shall be forwarded to the Commission before the first closing date for the submission of tenders.

3. Lots not awarded as the result of a partial invitation to tender shall be included in the next partial invitation.

Article 7

1. Tenders must be received not later than the date and time fixed in the notice of invitation to tender.

Tenders received after the deadline or tenders which do not meet the conditions of sale cannot be considered.

2. Tenders shall state the amount proposed in the national currency of the Member State where the seeds are stored, per 100 kilograms of standard quality seeds, delivered on the means of transport, unstowed, outside the intervention agency's warehouse.

Article 8

1. Successful tenders must offer a price at least equal to the price recorded, for an equivalent quality and for a representative quantity, on the market for the place of storage or, failing this, the nearest market, account being taken of transport costs. The tender price may not in any circumstances be lower than the intervention buying-in price referred to in Article 26 (1) of Regulation No 136/66/EEC applicable on the closing date for the submission of tenders and adjusted, where appropriate, by :

— the amount referred to in Article 27a (4) of Regulation No 136/66/EEC,

— the supplement referred to in Article 24a (1) of Regulation No 136/66/EEC,

— the monthly increases referred to in Article 25 of Regulation No 136/66/EEC.

However, for a given marketing year, the intervention buying-in price to be taken into consideration after the period provided for in Article 26 (1) of Regulation No 136/66/EEC shall be that applying during the last month of that period.

2. Where for a given lot the highest price is quoted by more than one tender, the award shall be made by drawing lots.

Article 9

Within 15 days following the closing date for the submission of tenders, the Member State concerned shall inform the Commission of the outcome of the tendering procedure and shall specify, in particular, the sale prices of the various lots and the quantities sold.'

5. The following Article 10a is inserted :

'Article 10a

The notice of invitation to tender may provide, where certain lots exceed 1 000 tonnes, for them to be subdivided.'

6. The first sentence of Article 11 (1) is replaced by the following :

'The tenders referred to in Articles 3 and 7 must reach the relevant intervention agency, in writing, being either handed in against a receipt at its head office or forwarded by registered letter, telex, telefax or telegram.'

7. In Articles 11 (6) and 13 (3), the words 'Regulation (EEC) No 1204/72' are replaced by 'Regulation (EEC) No 2681/83' (OJ No L 266, 28. 9. 1983, p. 1).'

8. Article 13 (1) is replaced by the following :

'1. Intervention agencies shall immediately inform all tenderers of the outcome of their tenders. They shall notify successful tenderers by registered letter, telex, telefax or telegram of the award of contracts.'

Article 2

This Regulation shall enter into force on the third day following 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, 16 March 1989.

For the Commission
Ray MAC SHARRY
Member of the Commission