COMMISSION REGULATION (EC) No 561/1999

of 15 March 1999

on the opening of a standing invitation to tender for the sale of olive oil held by the Spanish intervention agency

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1638/98 of 20 July 1998 amending Regulation No 136/66/EEC on the establishment of a common organisation of the market in oils and fats [1], and in particular Article 3(1) thereof,

Whereas Article 2 of Council Regulation (EEC) No 2754/78 [2], as amended by Regulation (EEC) No 2203/90 [3], lays down that the sale of olive oil held by intervention agencies must be by tender;

Whereas, in accordance with Article 12(1) of Council Regulation No 136/66/EEC [4], as last amended by Regulation (EC) No 1638/98, in force until 31 October 1998, the Spanish intervention agency currently holds certain quantities of olive oil;

Whereas Commission Regulation (EEC) No 2960/77 [5], as last amended by Regulation (EEC) No 3818/85 [6], lays down the conditions for the sale by tender on the Community market and for export of olive oil; whereas the situation on the market in olive oil currently favours the sale of some of the oil in question;

Whereas the present situation on the market in virgin olive oils not directly edible is one of reduced supply compared to demand; whereas, in order to provide the greatest possible number of operators with a minimum supply to meet their immediate needs, it should be laid down that each operator may only submit tenders for a maximum quantity;

Whereas special rules must be laid down to ensure that the operators are properly carried out and monitored;

Whereas to that end the Member States must provide for all additional measures compatible with the provisions in force to ensure that the operation takes place smoothly and that the Commission is kept informed;

Whereas the monitoring arrangements should accordingly be supplemented by allowing a reference sample to be taken;

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

1. The Spanish intervention agency, the Fondo Español de Garantía Agraria, hereinafter referred to as 'FEGA', shall open an invitation to tender in accordance with this Regulation and Regulation (EEC) No 2960/77, for the sale on the Community market of the following quantities of olive oil:

— 20 000 t of ordinary virgin olive oil,

— 55 000 t of lampante virgin olive oil.

Five invitations shall be opened, each of which shall be for approximately one fifth of the above quantities plus any quantities unsold under the previous invitation.

2. Notwithstanding Article 5(2) of Regulation (EEC) No 2960/77, where the quantity of oil in a container exceeds 500 t, FEGA shall be authorised to divide that quantity into several lots.

Article 2

The invitation to tender shall be published on 23 March 1999.

Details of the lots of oil offered for sale and of the places where they are stored shall be displayed at the central office of FEGA, calle Beneficencia, 8, E—28004 Madrid.

[1] OJ L 210, 28. 7. 1998, p. 32.
[2] OJ L 331, 28. 11. 1978, p. 13.
[3] OJ L 201, 31. 7. 1990, p. 5.
[4] OJ 172, 30. 9. 1966, p. 3025/66.
[5] OJ L 348, 30. 12. 1977, p. 46.
[6] OJ L 368, 31. 12. 1985, p. 20.

A copy of the invitation to tender shall be sent forthwith to the Commission.

Article 3

Tenders must reach FEGA at calle Beneficencia, 8, E—28004 Madrid no later that 2 p.m. (local time) on:

— 7 April 1999,

— 5 May 1999,

— 9 June 1999,

— 7 July 1999,

— 21 July 1999.

Tenders shall be admissible only if they are submitted by a natural or legal person engaged in activity in olive oil and recorded as such in a public register of a Member State on 31 December 1998.

Moreover, no tenderer may submit a tender for more than 500 t of ordinary virgin olive oil or 1 000 t of lampante virgin olive oil.

Article 4

1. With regard to lampante virgin olive oil, tenders shall be submitted for an oil of 3° acidity.

2. Where the oil awarded has a different degree of acidity to that for which the tender was made, the price to be paid shall be equal to the price tendered, increased or reduced in accordance with the scale below:

— up to 3° acidity:

increase of EUR 0,32 for each tenth of a degree of acidity below 3°,

— more than 3° acidity:

reduction of EUR 0,32 for each tenth of a degree of acidity above 3°.

Article 5

Not later than two days after the expiry of the time limit laid down for the submission of tenders, FEGA shall send the Commission a list, without names, stating the highest tender received for each lot put up for sale.

Article 6

The minimum selling price per 100 kg of oil shall be fixed, in accordance with the procedure laid down in Article 38 of Regulation No 136/66/EEC, on the basis of the tenders received, not later than the 10th working day after the expiry of each deadline for the submission of tenders. The decision fixing the minimum selling price shall be notified immediately to the Member State concerned.

Article 7

Without prejudice to Article 10 of this Regulation, FEGA shall sell the oil not later than the fifth working day after the date of notification of the decision referred to in Article 6. FEGA shall send the storage agencies a list of the lots remaining unsold.

Article 8

The security referred to in Article 7 of Regulation (EEC) No 2960/77 shall be EUR 18/100 kg.

Article 9

The storage charge referred to in Article 15 of Regulation (EEC) No 2960/77 shall be EUR 3/100 kg.

Article 10

Notwithstanding Article 11(1) and (2) of Regulation (EEC) No 2960/77, before the lot awarded is removed, the intervention agency, the successful tenderer and the storage agency shall take a reference sample and test it in accordance with Article 2(4) and (5) of Commission Regulation (EEC) No 3472/85 [1].

The intervention agency shall have the final result of the tests on this sample not later than the 30th working day following the notification of the decision referred to in Article 6.

(a) If the final result of the tests on the sample indicate a difference between the quality of the olive oil to be removed and the quality of the oil as described in the invitation to tender, but that the oil is still olive oil as referred to in point 1 of the Annex to Regulation No 136/66/EEC, the following provisions shall apply:

(i) the intervention agency shall, that same day, inform the Commission thereof in accordance with Annex I, as well as the storer and the successful tenderer;

(ii) the successful tenderer may:

— either agree to take over the lot with its quality as established,

— or refuse to take over the lot in question, notwithstanding the declaration made in accordance with Article 7(6)(b) of Regulation (EEC) No 2960/77. In that case, the successful tenderer shall, that same day, inform the intervention agency and the Commission thereof in accordance with Annex II.

Once these formalities have been completed, the successful tenderer shall be immediately released from all his obligations relating to the lot in question, including those relating to the securities.

[1] OJ L 333, 11. 12. 1985, p. 5.

(b) If the final result of the tests on the sample indicate that the oil is of a different quality to that referred to in point 1 of the Annex to Regulation No 136/66/EEC:

— the intervention agency shall, that same day, inform the Commission thereof in accordance with Annex I, as well as the storer and the successful tenderer,

— the successful tenderer shall give official notice, that same day, to the intervention agency that he cannot take over the lot in question, and shall inform the Commission thereof, that same day, in accordance with Annexes I and II.

Once these formalities have been completed, the successful tenderer shall be immediately released from all his obligations relating to the lot in question, including those relating to the securities.

Notwithstanding the second paragraph of Article 13 of Regulation (EEC) No 2960/77, the whole of the lot awarded shall be removed by the 70th day following the notification referred to in Article 6.

Article 11

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, 15 March 1999.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

The only numbers to be used in Brussels are (DG VI/C/4, for the attention of Mr Gazagnes):

— fax (32-2) 296 60 09 or (32-2) 296 60 08

ANNEX II

Communication of refusal of lots under the invitation to tender for the sale of ..... t of olive oil held by the Spanish intervention agency

— Name of successful tenderer:

— Date of award of contract:

— Date of refusal of the lot by successful tenderer:

Lot No	Quantity/t	Address of warehouse	Reason for refusal to take over