COMMISSION REGULATION (EC) No 1438/2005

of 2 September 2005

on a special intervention measure for oats in Finland and Sweden for the 2005/06 marketing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals [1], and in particular Article 7 thereof,

Whereas:

(1) Oats are one of the products covered by the common organisation of the market in cereals. They are not, however, included among the basic cereals referred to in Article 5 of Regulation (EC) No 1784/2003 for which provision is made for intervention buying-in.

(2) Oats are a major traditional crop in Finland and Sweden and are well suited to the weather conditions obtaining in those countries. Production far exceeds requirements in those countries with the result that they are required to dispose of surpluses by exporting them to third countries. Membership of the Community has not altered the previous situation.

(3) Any reduction in the quantity of oats grown in Finland and Sweden would promote the growing of other cereals qualifying for the intervention arrangements, especially barley. Production of barley is in surplus both in these two countries and across the whole of the Community. A switch from oats to barley would only worsen the situation and create further surpluses. It is necessary therefore to ensure that exports of oats to third countries can continue.

(4) Refunds may be granted in respect of oats under Article 13 of Regulation (EC) No 1784/2003. The geographical situation of Finland and Sweden places those countries in a less favourable position from the point of view of exporting than other Member States. The fixing of refunds on the basis of Article 13 favours primarily exports from other Member States. It is anticipated therefore that the production of oats in Finland and in Sweden will give way increasingly to that of barley. Consequently, in coming years, substantial quantities of barley must be expected to enter intervention storage in Finland and Sweden under Article 5 of Regulation (EC) No 1784/2003, the only possibility of disposal being export to third countries. Exports from intervention storage are more costly to the Community budget than direct exports.

(5) These additional costs can be avoided under a special intervention measure within the meaning of Article 7 of Regulation (EC) No 1784/2003. Such an intervention measure may take the form of a measure intended to relieve the market in oats in Finland and Sweden. The grant of a refund by a tendering procedure, applicable only to oats produced and exported from those two countries, would be the most appropriate measure in the circumstances.

(6) The nature and objectives of the said measure make it appropriate to apply to it, *mutatis mutandis*, Article 13 of Regulation (EC) No 1784/2003 and the Regulations adopted for its implementation, in particular Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals [2].

(7) Regulation (EC) No 1501/95 requires tenderers, among their other undertakings, to apply for an export licence and lodge a security. The rate of that security should be established.

(8) The cereals in question should actually be exported from the Member States for which a special intervention measure was implemented. It is necessary therefore to limit the use of export licences to exports from the Member State in which application for the licence was made and to oats produced in Finland and Sweden.

[1] OJ L 270, 21.10.2003, p. 78. Regulation as amended by Commission Regulation (EC) No 1154/2005 (OJ L 187, 19.7.2005, p. 11).

[2] OJ L 147, 30.6.1995, p. 7. Regulation as last amended by Commission Regulation (EC) No 777/2004 (OJ L 123, 27.4.2004, p. 50).

(9) In view of the Europe Agreements establishing an association between the European Communities and their Member States, of the one part and the Republic of Bulgaria [1] and Romania [2], these two countries must be excluded from the list of eligible destinations. Furthermore, given the way the refund is calculated using market prices on distant markets, the nearby destinations of Switzerland and Norway, for which these measures are not justified by reason of the relatively minor transport costs arising from their proximity and the communication channels available to these destinations, should also be excluded.

(10) To ensure that all parties are treated equally, all licences issued should have the same period of validity.

(11) To ensure the satisfactory operation of export tendering procedures, a minimum quantity should be set and the time limit for the submission of tenders to the competent authority and the form in tenders are to be forwarded should be specified.

(12) 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

1. A special intervention measure in the form of an export refund shall be implemented in respect of 400 000 tonnes of oats produced in Finland and Sweden and intended for export from Finland and Sweden to all third countries, except Bulgaria, Norway, Romania and Switzerland.

Article 13 of Regulation (EC) No 1784/2003 and the provisions adopted for the application of that Article shall apply, *mutatis mutandis*, to that refund.

2. The Finnish and Swedish intervention agencies shall be responsible for implementing the measure referred to in paragraph 1.

Article 2

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

2. The invitation to tender shall relate to the quantity of oats referred to in Article 1(1) for export to all third countries, except Bulgaria, Norway, Romania and Switzerland.

3. The invitations to tender shall be open until 22 June 2006. During that period, weekly invitations to tender shall be made for which the date for submission of tenders shall be set out in the notice of invitation to tender.

Notwithstanding Article 4(4) of Regulation (EC) No 1501/95, the time limit for the submission of tenders for the first partial invitation to tender shall be 15 September 2005.

4. Tenders must be submitted to the Finnish and Swedish intervention agencies named in the notice of invitation.

5. The tendering procedure shall take place in accordance with this Regulation and Regulation (EC) No 1501/95.

Article 3

Offers shall not be valid unless:

(a) they relate to not less than 1 000 tonnes;

(b) they are accompanied by a written undertaking from the tenderer specifying that they relate solely to oats grown in Finland and Sweden which are to be exported from those countries.

Where the undertaking referred to in (b) is not fulfilled, the security referred to in Article 12 of Commission Regulation (EC) No 1342/2003 [3] shall be forfeited, except in cases of *force majeure*.

Article 4

Under the tendering procedure laid down in Article 2, one of the following entries shall be made in box 20 of applications and export licences:

— *in Finnish:* 'Asetus (EY) N:o 1438/2005 – Todistus on voimassa ainoastaan Suomessa ja Ruotsissa',

— *in Swedish:* 'Förordning (EG) nr 1438/2005 – Licensen giltig endast i Finland och Sverige'.

Article 5

The refund shall be valid only for exports from Finland and Sweden.

Article 6

The security referred to in Article 5(3)(a) of Regulation (EC) No 1501/95 shall be EUR 12 per tonne.

[1] Council Decision 2003/286/EC of 8 April 2003 (OJ L 102, 24.4.2003, p. 60), as adapted by Council and Commission Decision 2005/430/EC, Euratom of 18 April 2005 (OJ L 155, 17.6.2005, p. 1).

[2] Council Decision 2003/18/EC of 19 December 2002 (OJ L 8, 14.1.2003, p. 18), as adapted by Council and Commission Decision 2005/431/EC, Euratom of 25 April 2005 (OJ L 155, 17.6.2005, p. 26).

[3] OJ L 189, 29.7.2003, p. 12.

Article 7

1. Notwithstanding Article 23(1) of Commission Regulation (EC) No 1291/2000 [1], export licences issued in accordance with Article 8(1) of Regulation (EC) No 1501/95 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 under the tendering procedure laid down in Article 2 shall be valid from their date of issue, as defined in paragraph 1 of this Article, until the end of the fourth month following that of issue.

3. Notwithstanding Article 11 of Regulation (EC) No 1291/2000, export licences issued under the tendering procedure laid down in Article 2 of this Regulation shall be valid in Finland and Sweden only.

Article 8

The Finnish and Swedish intervention agencies shall electronically notify the Commission of the tenders submitted not later than one and a half hours following expiry of the deadline for the weekly submission of tenders as specified in the notice of invitation to tender, using the form shown in the Annex hereto.

If no tenders are received, the Finnish and Swedish intervention agencies shall inform the Commission thereof within the period specified in the first subparagraph.

The time laid down for submitting tenders shall be Belgian time.

Article 9

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 2 September 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] OJ L 152, 24.6.2000, p. 1.

ANNEX

Tender for the refund for the export of oats from Finland and Sweden to all third countries, except Bulgaria, Norway, Romania and Switzerland

Form (*)

(Regulation (EC) No 1438/2005)

(Time limit for submission of tenders)

1	2	3
Numbering of tenderers	Quantity (tonnes)	Amount of export refund (in EUR per tonne)
1		
2		
3		
etc.		

(*) To be sent to DG AGRI (Unit D.2).