

COMMISSION REGULATION (EC) No 367/2007

of 30 March 2007

amending Regulation (EEC) No 2131/93 laying down the procedure and conditions for the sale of cereals held by intervention agencies

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 6 and the second paragraph of Article 24 thereof,

Whereas:

- (1) Article 1(2) of Commission Regulation (EEC) No 2131/93 ⁽²⁾ defines 'invitation to tender' and the related award conditions. In order to avoid any ambiguity as regards the award of the contract, it is necessary to clarify those conditions.
- (2) Under the third subparagraph of Article 2(1) and the third subparagraph of Article 7(1) of Regulation (EEC) No 2131/93, a period of at least eight days must elapse between the date of publication in the *Official Journal of the European Union* of decisions opening invitations to tender for sale on the Community market or for export and the first closing date for the submission of tenders. The first paragraph of Article 12 of that Regulation provides for the same period between the publication of the notice of invitation to tender and the first closing date for submission of tenders. These time limits now appear too long, in view of the progress made in communications and information provision by electronic means, and should therefore be reduced.
- (3) Article 3 of Regulation (EEC) No 2131/93 specifies minimum rules for publicising notices of invitations to tender and lays down certain general rules applicable to standing invitations to tender, irrespective of the destination of the products. For the sake of clarity, those rules should appear in Title III of that Regulation setting out general and final provisions.
- (4) Article 10 of Regulation (EEC) No 2131/93 specifies the information to be sent to the Commission following the submission of tenders, and the terms for accepting the tenders, in particular as regards price. For the sake of effective management, the lot to which the tender relates should be identified, and the circumstances in

which the fixing of the minimum selling price should not prejudice other export operations should be specified.

- (5) Article 12 of Regulation (EEC) No 2131/93 lays down general provisions on the notice of invitation to tender. For the sake of clarity, the provisions deleted from Article 3 should appear in this Article.
- (6) Regulation (EEC) No 2131/93 should therefore be amended accordingly.
- (7) Regulation (EEC) No 2131/93 contains entries in all Community languages. Under Council Regulation No 1 of 6 October 1958 determining the languages to be used by the European Economic Community ⁽³⁾, as amended by Regulation (EC) No 920/2005 ⁽⁴⁾, Irish has been one of the official languages of the Community since 1 January 2007. The above entries should therefore include the Irish language version.
- (8) 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

Regulation (EEC) No 2131/93 is amended as follows:

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

'2. For the purposes of this Regulation, "invitation to tender" means competition between interested parties in response to a call for tenders, the contract being awarded for each of the lots to the tenderer submitting the most favourable bid from among the bids that comply with this Regulation, for which the price tendered is at least equal to the minimum selling price laid down by the Commission in accordance with Article 10(2).';

2. The third subparagraph of Article 2(1) is replaced by the following:

'There must be a gap of at least six days between publication and the first closing date for submission of tenders.';

⁽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 191, 31.7.1993, p. 76. Regulation as last amended by Regulation (EC) No 1996/2006 (OJ L 398, 30.12.2006, p. 1).

⁽³⁾ OJ 17, 6.10.1958, p. 385/58.

⁽⁴⁾ OJ L 156, 18.6.2005, p. 3.

3. Article 3 is replaced by the following:

'Article 3

The intervention agencies shall draw up and publish notices of invitations to tender in accordance with Article 12.;

4. The third subparagraph of Article 7(1) is replaced by the following:

'There must be a gap of at least six days between publication and the first closing date for submission of tenders.;

5. Article 10 is replaced by the following:

'Article 10

1. When each period for the submission of tenders has expired, the Member State concerned shall forward to the Commission a list of the tenders, without names, in each case showing in particular the lot number, the quantity tendered, the price tendered and the price increases and reductions applying thereto.

2. The Commission, in accordance with the procedure laid down in Article 25(2) of Regulation (EC) No 1784/2003, shall fix the minimum selling price or decide not to award any quantities.

3. In the case of invitations to tender for export, the minimum selling price shall be fixed at a level which does not prejudice other export operations.;

6. Article 12 is replaced by the following:

'Article 12

1. At least four days before the first closing date for the submission of tenders, the intervention agencies shall publish a notice of invitation to tender setting out:

(a) the additional clauses and conditions of sale compatible with this Regulation;

(b) the main physical and technological characteristics of the various lots established upon buying in by the intervention agency or during checks carried out subsequently;

(c) the places of storage and the names and addresses of the storers.

2. Intervention agencies shall ensure that notices of invitation to tender are properly publicised, in particular by displaying them at their head offices and on their website or the website of the competent ministry. In the case of standing invitations to tender, they shall specify therein the closing dates for the submission of tenders for each partial invitation to tender.

3. Notices of invitation to tender shall specify the minimum quantities which tenders must cover.

4. Notices of invitation to tender, and any changes to them, shall be forwarded to the Commission before the expiry of the first deadline for the submission of tenders.'

7. In the Annex, after the entry in French, the following indent is inserted:

'— *in Irish:* Onnmhairiú gránach ar muir, Airteagal 17a de Rialachán (CEE) 2131/93'.

Article 2

This Regulation shall enter into force on the third day following 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, 30 March 2007.

For the Commission
Mariann FISCHER BOEL
Member of the Commission