

REGULATION (EEC) No 189/68 OF THE COMMISSION

of 16 February 1968

on certain detailed rules for the disposal of oil seeds bought in by 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/EEC¹ of 22 September 1966 on the establishment of a common organisation of the market in oils and fats, and in particular Articles 26 (3) and 27 (5) thereof;

Having regard to Council Regulation No 162/66/EEC² of 27 October 1966 on trade in oils and fats between the Community and Greece;

Having regard to Council Regulation No 142/67/EEC³ of 21 June 1967 on export refunds on colza, rape and sunflower seeds, and in particular Article 6 thereof;

Whereas, under Council Regulation No 724/67/EEC⁴ of 17 October 1967, oil seeds held by intervention agencies must be sold by tender for resale on the Community market or for export;

Whereas, to avoid disturbances on the market in oil seeds and to ensure normal movement of this product as provided for in the regionalisation rules, it must be provided that intervention agencies may not resell seeds held by them on the Community market at prices which are too close to the intervention price; whereas if, by reason of price trends on the Community market, such price conditions cannot be observed, special conditions must be laid down for sales by tender on the Community market or for export;

Whereas transactions by intervention agencies take place at the wholesale stage; whereas, therefore,

those agencies should lay down for each invitation to tender a minimum quantity below which offers may be refused;

Whereas, however, invitations to tender for export which are issued as a result of intervention agencies needing to dispose of stocks held by them must not cause distortions detrimental to normal exports; whereas, therefore, in each case, a minimum price to be observed should be fixed; whereas, however, several minimum prices may be fixed, in each case on the basis of the distance from the Community market of the countries of destination and of the special conditions applying to imports in certain countries of destination;

Whereas when this invitation to tender is issued, a special deposit should be lodged to guarantee that the seeds thus acquired will in fact be exported from the Community and, where appropriate, will reach their destination;

Whereas, in view of the administrative facilities currently available in the Member States, customs export formalities should be completed in the Member State in which the invitation to tender takes place;

Whereas it is useful for the interested party to know, when submitting his tender, the cost price to him of seeds put up for sale; whereas to this end it is necessary to be able to fix in advance, when tenders are being submitted, the amount of the subsidy or export refund; whereas the system of advance fixing applicable to both subsidies and refunds requires the lodging of a deposit; whereas to ensure that the tenderer may avail himself of the possibility of this advance fixing, on terms comparable to those of the normal system, provision must be made for the release of the deposit in respect of such quantities as are not awarded to him under the invitation to tender;

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

¹ OJ No 172, 30.9.1966, p. 3025/66.

² OJ No 197, 29.10.1966, p. 3393/66.

³ OJ No 125, 26.6.1967, p. 2461/67.

⁴ OJ No 252, 19.10.1967, p. 10.

HAS ADOPTED THIS REGULATION:

Article 1

Intervention agencies shall place the oil seeds in their possession on the market again by tender in the manner laid down in the following Articles.

Article 2

For the purposes of this Regulation, 'invitation to tender' means a competition in which all interested parties are invited to submit tenders, the contract being awarded to the persons offering the highest prices, subject to observance of the minimum prices fixed in accordance with the following provisions.

Article 3

1. For each tender, the invitation to submit tenders shall be published in particular in the *Official Journal of the European Communities*.
2. Interested parties shall take part in the invitation to tender by submitting tenders in writing and in sealed envelopes.

Article 4

1. When an intervention agency issues an invitation to tender on the Community market, the Member State to which it belongs shall notify the Commission at least ten days before the date of publication.
2. When the invitation to submit tenders is published, the terms of the invitation to tender shall be indicated, in particular the minimum price to be observed and the minimum quantity, below which tenders may be refused.
3. The invitation to submit tenders referred to in paragraph 2 shall be published in the *Official Journal of the European Communities* at least twenty days before the final date fixed for the submission of tenders.

Article 5

1. If the seeds offered are stored:
 - (a) at an intervention centre, their selling price may not be lower than the intervention price ruling at that centre on the day on which contract is awarded plus 0.5 units of account per 100 kg;
 - (b) elsewhere, their selling price may not be lower than the intervention price ruling at the intervention centre to which the seeds may be forwarded at the lowest cost plus 0.5 units of account per 100 kg. When transport costs from the place where the seeds are held in store to two or more intervention centres are the same, the highest intervention price shall be chosen.

2. When the seeds offered are not of the standard quality for which the intervention prices are fixed, the price increases and reductions listed in Annex I to Commission Regulation No 282/67/EEC¹ of 11 July 1967 on detailed rules for intervention for oil seeds shall apply to their selling price.

Article 6

If the trend in seed prices is such that the seeds held by the intervention agency cannot be disposed of in accordance with the price conditions set out in Article 5, these seeds shall be put up for sale either on the Community market or for export under conditions to be adopted in accordance with the procedure laid down in Article 38 of Regulation No 136/66/EEC.

Article 7

1. In the case of an invitation to tender for export, the conditions to be observed shall include, in particular:
 - the minimum price,
 - the deposit referred to in paragraph 3,
 - the minimum quantity, below which tenders shall be refused.
2. The minimum price shall be fixed at such a level that it does not disturb other exports of the oil seeds concerned.

When the situation on the world market or the specific needs of certain markets so require, different minimum prices may be fixed, according to destination.

3. Intervention agencies inviting tenders in this way shall require the exporter who submitted the successful tender to lodge a special deposit. This deposit shall be released when proof is furnished that the seeds acquired by tender have in fact been exported from the Community and, where appropriate, have reached their destination.

Article 8

Customs export formalities must be completed in the Member State in which the invitation to tender is issued.

Article 9

Unsuccessful participation in an invitation to tender shall be considered to be a case of *force majeure* within the meaning of Article 5 (2) of Council Regulation No 116/67/EEC of 6 June 1967 on the subsidy

¹ OJ No 151, 13.7.1967, p. 1.

for oil seeds and of Article 4 (2) of Regulation No 142/67/EEC.

Such case of *force majeure* may be invoked in respect of quantities for which an applicant, when applying for advance fixing of a subsidy or refund, declares that he had submitted a tender in a specified invitation to tender on condition that the document referred to in Article 10 is sent by the interested party to the competent authority for the release of the deposit referred to in Article 5 of Regulation No 116/67/EEC or in Article 4 of Regulation No 142/67/EEC.

Article 10

After the invitation to tender, the intervention agency shall send wholly or partially unsuccessful tenderers a document

— certifying that they took part in invitation to tender,

— indicating the quantity for which the interested party submitted an unsuccessful tender.

Article 11

Member States shall assist one another in implementing the provisions of this Regulation and in particular Articles 9 and 10 thereof.

Article 12

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 February 1968.

For the Commission

The President

Jean REY
