

▼B**REGULATION (EEC) No 584/75 OF THE COMMISSION****of 6 March 1975****laying down detailed rules for the application of the system of tendering for export refunds on rice**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation No 359/67/EEC⁽¹⁾ of 25 July 1967 on the common organization of the market in rice, as last amended by Regulation (EEC) No 476/75⁽²⁾;

Having regard to Council Regulation No 366/67/EEC⁽³⁾ of 25 July 1967 laying down general rules for granting export refunds on rice and criteria for fixing the amount of such refunds, as last amended by Regulation (EEC) No 478/75⁽⁴⁾, and in particular Article 3a (2) thereof;

Whereas Article 3a of Regulation No 366/67/EEC provides that export refunds may in appropriate cases be fixed by means of an invitation to tender relating to a specified quantity;

Whereas detailed rules for such a tendering procedure should be laid down;

Whereas, in order to ensure equal treatment for all interested parties in the Community, invitations to tender must be organized in accordance with uniform principles; whereas to this end publication in the *Official Journal of the European Communities* of a decision concerning the opening of an invitation to tender should be accompanied by a notice of invitation to tender;

Whereas the purpose of fixing an export refund by means of an invitation to tender is to permit better management of the market; whereas to this end it is essential that tenders include the information necessary for their assessment and are accompanied by certain formal undertakings;

Whereas a maximum export refund should be fixed; whereas this method enables contracts to be awarded in respect of all the quantities concerned;

Whereas there may be market situations in which it is clear from an examination of the economic aspects of the proposed exports that instead of fixing a refund the Commission should take no action on the tenders;

Whereas, in order to ensure that exportation is effected under the licence issued for the purpose of the invitation to tender, a security for tender should be required, such security to be forfeit if the tender is withdrawn;

Whereas procedures should be laid down as to the communications to tenderers of the outcome of the invitation to tender and also as to the issue of the licence necessary for the export of the quantities awarded;

Whereas the measures provided for in this Regulation are in accordance with the Opinion of the Management Committee for Cereals,

⁽¹⁾ OJ No 174, 31. 7. 1967, p. 1.

⁽²⁾ OJ No L 52, 28. 2. 1975, p. 31.

⁽³⁾ OJ No 174, 31. 7. 1967, p. 34.

⁽⁴⁾ OJ No L 52, 28. 2. 1975, p. 34.

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HAS ADOPTED THIS REGULATION:

*Article 1***▼M1**

1. A decision to open an invitation to tender under Article 4 (1) of Regulation (EEC) No 1431/76 shall be adopted in accordance with the procedure laid down in Article 27 of Regulation (EEC) No 1418/76.

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Such decision shall specify the terms of the invitation to tender. Such terms must guarantee equal access for all persons established within the Community and may as an exceptional measure prescribe a special period of validity for export licences issued in connection with the invitation concerned.

▼M1

2. The opening of the invitation to tender shall be accompanied by a notice of invitation to tender drawn up by the Commission. This notice shall include *inter alia* the dates for the submission of tenders and particulars of the competent authorities of the Member States to which such tenders must be addressed. It may also indicate the total quantity in respect of which a maximum export refund may be fixed under Article 5 (1) thereof. ►**M3** Between publication of the invitation to tender and the first date fixed for submission of tenders, a period of at least 10 days must be allowed. ◀ The notice shall also indicate the closing date for the submission of tenders.

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3. Both the decisions referred to in paragraph 1 and the notice of invitation to tender referred to in paragraph 2 shall be published in the *Official Journal of the European Communities*.

▼M1*Article 1a*

The invitation to tender may be limited to exports to particular countries or zones. In this case, the licence application and the licence itself shall bear, in space 13, an indication of the countries or zones of destination referred to in the Regulation opening the invitation to tender. The licence shall carry an obligation to export to the said destination.

▼B*Article 2***▼M4**

1. Tenders, which shall be in writing, may either be delivered personally to the competent authority of the Member State, or may be sent to such authority by any means of written telecommunication.

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2. The tender shall indicate:

- (a) the invitation to which the tender relates;
- (b) the name and address of the tenderer;
- (c) the nature and quantity of the product to be exported;

▼M2

(d) the amount of the export refund proposed per tonne in ecus;

▼M5

(e) in situations where the Commission fixes a coefficient for the award of quantities tendered in accordance with Article 5, a minimum quantity such that, if the quantity awarded falls short of the minimum quantity the tender shall be deemed not to have been submitted.

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3. A tender shall be valid only if:
- (a) before expiry of the time limit for the submission of tenders proof is furnished that the tenderer has lodged the security required for the invitation to tender;
 - (b) it is accompanied by a written undertaking to lodge, within two days following receipt of notification pursuant to Article 6 of the award of a contract, an application for an export licence in respect of the quantity awarded, together with an application for advance fixing of an export refund equal to that indicated in the tender.
4. A tender which is not submitted in accordance with the provisions of this Article, or which contains terms other than those indicated in the notice of invitation to tender, shall not be considered.

▼M4

5. Once a tender has been submitted it may not be withdrawn.

▼B*Article 3*

1. No tender shall be considered unless appropriate security is lodged.

The amount of such security shall be fixed in the Regulation relating to the opening of the relevant invitation to tender.

2. The tenderer may lodge the security either in cash or in the form of a guarantee given by an establishment complying with criteria laid down by the relevant Member State.

Each Member State shall notify the Commission of the criteria prescribed by it for the purposes of the preceding subparagraph and the Commission shall in turn inform the other Member States thereof.

Article 4

1. Tenders shall be examined in private session by the competent authorities of the Member States. Persons present at the examination shall be under an obligation not to disclose any particulars relating thereto.

▼M5

2. Tenderers shall be given an individual number for each weekly invitation to tender. Numbers shall be assigned on a random basis and independently on each occasion. Tenders shall be identified by their tenderer's number and communicated without delay to the Commission.

▼B*Article 5***▼M1**

1. On the basis of the tenders submitted, the Commission, acting in accordance with the procedure laid down in Article 27 of Regulation (EEC) No 1418/76, shall decide to fix a maximum export refund, having regard in particular to the criteria laid down in Articles 2 and 3 of Regulation (EEC) No 1431/76, and/or to make no award; as the case may be.

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2. If a maximum export refund is fixed, a contract shall be awarded to any tenderer whose tender indicates a rate of refund equal to or less than the maximum. ► **M5** In the case of tenders submitted at the level of the maximum refund, the fixing of the latter may be accompanied by the fixing of a coefficient for the award of the quantities tendered. This latter fixing shall be adopted in accordance with the procedure referred to in paragraph 1. ◀

▼B*Article 6*

The competent authority of the Member State concerned shall, as soon as the Commission has reached a decision under Article 5 (1) hereof, notify in writing all tenderers of the outcome of their participation in the invitation to tender.

▼M4*Article 7*

The tendering security shall be released where:

- (a) the tender has not been accepted;
- (b) the successful tenderer provided proof that the security provided for in Article 12 of Commission Regulation (EEC) No 891/89⁽¹⁾ has been lodged;

▼M5

- (c) the tender is considered not to have been submitted pursuant to Article 2;
- (d) the Commission shall fix an award coefficient. The amount released shall correspond to the quantity not accepted.

▼M4

Where the undertaking referred to in Article 2 (3) (b) is not complied with the tendering security shall, except in cases of *force majeure*, be forfeit.

▼M1*Article 8*

1. Where the tenderer lodges the export licence application referred to in Article 2 (3) (b) within the prescribed time limit, the export licence shall be issued for the quantities in respect of which his tender has been accepted. The prescribed time limits may be extended in cases of *force majeure*.

2. Where the undertaking referred to in Article 2 (3) (b) is not complied with the tendering security shall, except in cases of *force majeure*, be forfeit.

▼B*Article 9*

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.

⁽¹⁾ OJ No L 94, 7. 4. 1989, p. 13.