

Commission Regulation (EU) No 234/2010 of 19 March 2010 laying down certain detailed rules for the application of Council Regulation (EC) No 1234/2007 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals (codified version)

Article 1

Export refunds, export taxes as referred to in Article 15(a) of this Regulation, and corrective amounts as referred to in Article 164(4) of Regulation (EC) No 1234/2007, in the case of the products listed in points (a), (b) and (c) of Part I of Annex I to that Regulation, shall be fixed in the light of the following factors in particular:

- (a) the prices charged on the representative Union markets and their trends, and the quotations recorded on the markets of third countries;
- (b) the marketing costs and the most favourable costs of transport from the representative Union markets to the port or other place of export, and the costs of forwarding on the world market;
- (c) in the case of processed products, the quantity of cereals required for the manufacture thereof;
- (d) the prospects for and conditions governing the sale of the relevant products on the world market;
- (e) concern to avoid disturbance on the Union market;
- (f) the economic aspect of the exports contemplated;
- (g) the quantitative and budgetary limits arising from agreements concluded in accordance with Article 218 of the Treaty.

Article 2

The provisions of the first paragraph of Article 166 of Regulation (EC) No 1234/2007 shall apply, in whole or in part, to all the products listed in points (c) and (d) Part I of Annex I to that Regulation and to the products referred to in Part I of Annex I to that Regulation exported in the form of goods as listed in Part I of Annex XX thereto.

The provisions of Article 164(4) of Regulation (EC) No 1234/2007 shall apply in respect of cereals and to products that are exported in the form of the goods listed in Annex XX to that Regulation.

Article 3

Corrective amounts may vary according to destination.

Article 4

1 Export refunds on the products listed in points (a), (b) and (c) of Part I of Annex I to Regulation (EC) No 1234/2007 and the export taxes provided for in Article 15(a) of this Regulation may be fixed by invitation to tender.

The terms of invitations to tender must guarantee equality of access for all persons established in the Union.

Such invitations to tender shall relate to the export refund or tax.

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2 Decisions to issue invitations to tender shall be taken in accordance with the procedure referred to in Article 195 of Regulation (EC) No 1234/2007.

3 Decisions to issue invitations to tender shall be accompanied by the publication of notices of invitation to tender drawn up by the Commission setting out in particular the dates on which tenders may be submitted and the relevant departments of the Member States to which they are to be sent.

4 Decisions to issue invitations to tender and notices of invitation to tender shall be published in the *Official Journal of the European Union*.

At least five days must elapse between the publication of the notice of invitation to tender and the first date for the submission of tenders.

Article 5

1 Interested parties shall submit tenders in writing or by any means of written telecommunication to the competent department of the Member State.

2 Tenders shall indicate:

- a the reference of the invitation to tender;
- b the name and address of the tenderer;
- c the type and quantity of product to be exported;
- d the export refund per tonne or, where applicable, the export tax per tonne, expressed in euro.

3 Tenders shall be valid only if:

- a proof is provided before the expiry of the time limit laid down for the submission of tenders that the tenderer has lodged the tendering security;
- b they are accompanied by a written undertaking to submit, in respect of quantities awarded and within two days of receipt of the notification of award pursuant to Article 7(3), an export licence application or, where applicable, an application for an export licence with advance fixing of an export tax equal to the amount tendered;
- c they do not include any conditions other than those provided for in the notice of invitation to tender.

4 Tenders submitted may not be withdrawn.

Article 6

Tenders shall be opened by the competent departments of the Member States. They shall not be opened in public. Persons authorised to be present at the opening of the tenders shall be under an obligation of secrecy.

The Commission shall be notified forthwith of the tenders without the tenderers being mentioned by name.

Article 7

1 On the basis of tenders notified, the Commission shall, in accordance with the procedure referred to in Article 195 of Regulation (EC) No 1234/2007, decide to fix a maximum export refund or, where applicable, a minimum export tax or to take no further action in respect of the invitation to tender.

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2 Where a maximum export refund is fixed, the contract shall be awarded to the tenderer or tenderers whose bids are equal to or lower than the maximum refund, as well as to the tenderer or tenderers whose bid relates to an export tax.

Where a minimum export tax is fixed, the contract shall be awarded to the tenderer or tenderers whose bids are equal to or higher than the minimum tax.

3 The competent departments of the Member States concerned shall notify all tenderers in writing of the outcome of their tenders as soon as the Commission has taken a decision.

Article 8

1 Export licences shall be issued to successful tenderers after their applications for export licences have been received by the competent departments of the Member States and in respect of the quantities awarded to them.

2 In the relevant section of the licence applications, and of the licences themselves, shall be stated the destination specified in the regulation issuing the invitation to tender. Licences shall entail the obligation to export to the stated destination.

Article 9

Tendering securities shall be released:

- (a) where tenders are not accepted;
- (b) when the successful tenderer has provided proof that the security provided for in Article 12 of Commission Regulation (EC) No 1342/2003⁽¹⁾ has been submitted.

Where the undertaking referred to in Article 5(3)(b) is not fulfilled, the tendering security shall be forfeited except in cases of *force majeure*.

Article 10

Export refunds on the products listed in points (a), (b) and (c) of Part I of Annex I to Regulation (EC) No 1234/2007 shall be fixed at least once a month.

Article 11

1 The export refund on wheat flour, meslin flour and rye flour, wheat groats, wheat meal and malt shall be fixed taking account of the quality of the basic cereal necessary to manufacture 1 000 kg of the product in question. The processing coefficients expressing the relationship between the quantity of the basic product and the quantity of that product contained in the processed product shall be as set out in Annex I.

2 The ash content of the flour shall be determined using the method of analysis defined in Annex II.

Article 12

Notwithstanding Article 17 of Regulation (EC) No 612/2009, proof of completion of customs formalities for import shall not be required for payment of refunds fixed in a contract awarded for refunds on exports to all third countries, provided that the operator provides proof that a quantity of at least 1 500 tonnes of cereal product have left the customs territory of the Union on board a vessel suitable for sea transport.

Such proof shall be furnished by the insertion of one of the entries listed in Annex III certified by the competent authority, on the control copy referred to in Article 8 of Regulation (EC) No 612/2009, the export declaration referred to in Article 787 of

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Commission Regulation (EEC) No 2454/93⁽²⁾ or the national document proving that the goods have left the customs territory of the Union.

Article 13

Where the operator provides proof of completion of customs formalities for release for consumption in Switzerland or Liechtenstein, the amount of the export refund for exports to 'all third countries' fixed under an invitation to tender shall be reduced by the difference between that amount and the amount of the export refund in force for the abovementioned destinations on the day the contract is awarded.

Article 14

Where the conditions laid down in Article 187 of Regulation (EC) No 1234/2007 are met in respect of one or more products, the following measures may be taken:

- (a) an export tax may be applied. A corrective amount may be fixed. Such taxes and corrective amounts may vary according to destination;
- (b) the issuing of export licences may be totally or partly suspended;
- (c) the export licence applications pending may be rejected in whole or in part.

However, no tax shall be applied to exports of cereals or cereal products carried out to implement Union and national food aid measures provided for under international agreements or other supplementary programmes, or to implement other Union free supply measures.

Article 15

Where there is no invitation to tender, the export tax to be collected shall be that applicable on the day on which customs formalities are completed.

However, export taxes applicable on the day of submission of licence applications shall apply, at the request of the party concerned lodged at the same time as the licence application, to exports to be effected during the term of validity of the licence.

Article 16

The measures referred to in Article 15 shall be adopted in accordance with the procedure referred to in Article 195 of Regulation (EC) No 1234/2007. However, in emergencies, the Commission may adopt the measures.

Article 17

Regulation (EC) No 1501/95 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex V.

Article 18

This Regulation shall enter into force on the 20th 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.

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Done at Brussels, 19 March 2010.

For the Commission

The President

José Manuel BARROSO

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- (1) [OJ L 189, 29.7.2003, p. 12.](#)
- (2) [OJ L 253, 11.10.1993, p. 1.](#)