Commission Regulation (EC) No 1565/2004 of 3 September 2004 on a special intervention measure for cereals in Finland and Sweden for the 2004/05 marketing year

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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 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 previously existing situation.

(3) Any reduction in the quantity of oats grown in Finland and Sweden would increase that of other cereals which do qualify for intervention arrangements, especially barley. Production of barley is in surplus not only in those two countries but also 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 pursuant to 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 pursuant to 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.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1565/2004. (See end of Document for details)*

(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 amount of that security should be laid down.

(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.

(9) Taking account of the 'double profit' agreements with Bulgaria and Romania, it is necessary to exclude these countries from the list of eligible destinations. Furthermore, as these support measures are calculated in function of distant destinations, it is important to exclude the close destinations most likely to benefit from the measure, i.e. Switzerland and Norway.

(10) In order to ensure equal treatment for all concerned, it is necessary to provide that the licences issued have an identical period of validity.

(11) For the sake of 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 which 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 for 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 invitation shall remain open until 30 June 2005. During its period of validity weekly awards shall be made, for which the time limits for the submission of tenders shall be specified 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 16 September 2004.

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:

— Asetus (EY) N:o 1565/2004 — Todistus on voimassa ainoastaan Suomessa ja Ruotsissa,

— Förordning (EG) nr 1565/2004 — 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.

Article 7

1 Notwithstanding Article 23(1) of Commission Regulation (EC) No 1291/2000[(4)], 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.