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REGULATION (EEC) No 1561/70 OF THE COMMISSION

of 31 July 1970

laying down conditions for awarding contracts for distilling operations in respect of certain fruit withdrawn from the market

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation No 159/66/EEC[1] of 25 October 1966 laying down additional provisions on the common organisation of the market in fruit and vegetables, as last amended by Regulation (EEC) No 2515/69,[2] and in particular Article 7b (4) thereof;

Whereas Article 7b of Regulation No 159/66/EEC provides that contracts for distilling apples, peaches and pears withdrawn from the market should be awarded to industry by a tendering procedure by the agency appointed by the Member State concerned; whereas, in order that the tendering procedure can be held, criteria must be established to ensure the most favourable conditions for tendering and to ensure equal treatment for all interested parties in the Community;

Whereas a standing invitation to tender involving several series of tenders may facilitate the marketing of products withdrawn from the market;

Whereas, in order to allow any processor to submit a tender, adequate notice of invitation to tender must be given;

Whereas the notice must state the basic conditions of the procedure; whereas in his tender the interested party must specify in particular the price and also the quantities which he can process into alcohol and which he undertakes to supply at the end of the operation;

Whereas tenders submitted by interested parties must be assessed on the basis of the price offered for all transport, processing and storage operations; whereas quantities have to be allocated as they become available and in the order in which the tenderers are classified, beginning with those whose prices for the operations are the lowest;

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

HAS ADOPTED THIS REGULATION:

Article 1

Contracts for the distilling operations referred to in subparagraph 1 (b) of Article 7 (b) (1) of Regulation 159/66/EEC shall, under the conditions laid down in the following Articles, be awarded to industry by standing invitation to tender held by the agency appointed by the Member State concerned.

Article 2

The invitation to tender shall be valid for a period not longer than the marketing year for the product in question. Each invitation to tender may include several series of tenders.

Article 3

1. Public notice must be given of invitations to tender within the framework of the procedure referred to in Article 1.

2. The invitation to tender must give all relevant information concerning in particular:

(a) the period during which products are likely to be available;

[1] OJ No 192, 27.10.1966, p. 3286/66.
[2] OJ No L 318, 18.12.1969, p. 10.

(b) the nature of the product to be distilled;

(c) the areas in which the products are to be stored;

(d) the characteristics of the resulting product;

(e) the minimum yield in alcohol;

(f) the closing date for each series of tenders;

(g) the duration of storage of the alcohol obtained;

(h) the agency to which tenders must be submitted.

The invitation shall specify that by-products shall become the property of the distiller.

Article 4

1. Interested parties shall submit their tender by letter delivered directly or by registered post with recorded delivery, by telex or telegram, to the agency appointed by the Member State concerned.

2. The tender shall specify:

(a) the name and address of the tenderer;

(b) the quantity of products to which the tender refers, expressed in metric tons;

(c) the price offered for processing one metric ton of product into alcohol, expressed in the currency of the Member State where the tender is to take place, that price including:

— the cost of distilling;

— the transport charges from the areas where the product is stored to the distillery;

(d) the average yield in alcohol envisaged;

(e) the cost of storing alcohol per hectolitre of pure alcohol and per month, for the length of time shown in the notice, as well as the charge for removal from storage;

(f) where appropriate, additional information required under the invitation to tender.

3. Removal from storage shall take place on the decision of the agency appointed by the Member State concerned.

Article 5

1. On the closing date for the first series of tenders, the agency appointed by the Member State concerned shall classify the tenderers on the basis of the price offered, calculated per unit of the product processed, for all transport, distilling and storage operations, the last named cost being estimated for a standard duration fixed for this purpose in the invitation to tender.

Where the lowest prices are equal, preference shall be given to the tenderer who has requested the largest quantity or to the tenderer chosen by balloting where the quantity of products requested is also equal.

Where a tender does not appear to correspond to current market prices, the agency appointed may exclude the tenderer in question.

As quantities of products become available; they shall be allocated in order of classification.

2. On the closing date for each further series of tenders, that agency shall classify tenderers and allocate quantities of the product in accordance with the criteria laid down in paragraph 1.

Article 6

Wherever a tender is not accepted, the tenderer shall forthwith be informed thereof by the agency appointed by the Member State concerned.

At the end of the period for which the invitation to tender is valid, that agency shall inform each processor whose tender has not been fulfilled owing to lack of products.

Article 7

1. The agencies appointed by Member States to award contracts to industry for distilling fruit and vegetables withdrawn from the market are listed in the Annex to this Regulation.

2. Where a Member State intends to apply the provisions of this Regulation, the agency appointed shall forthwith communicate to the agencies of the other Member States and to the Commission the invitation to tender provided for in Article 3 (2). This communication shall be made at least seven days before the closing date for the first series of tenders.

The agency appointed shall, under the same conditions as those laid down in the first subparagraph, communicate all amendments to the invitation to tender. These amendments shall take effect only at the end of seven days after the date of their communication.

3. As soon as the communication provided for in the first subparagraph of paragraph 2 has been made, the agency appointed shall publish in the *Official Journal of the European Communities* a notice of its

intention to apply the provisions of this Regulation for one or more specified products.

Article 8

The agency appointed by the Member State shall communicate to the Commission, within the week following the completion of each series of tenders, the quantities of products supplied and the prices at which they were supplied.

Article 9

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

It shall apply:

— to apples and pears, from the same date;

— to peaches, from 1 June 1971.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 31 July 1970.

For the Commission

The President

Franco M. MALFATTI

ANNEX

List of agencies appointed by the Member States

Belgium:	Office belge de l'économie et de l'agriculture (OBEA), 22, rue des Comédiens, 1000 Bruxelles.
France:	Fonds d'orientation et de régularisation des marchés agricoles (FORMA), 2, rue Saint-Charles, Paris XV^e^.
Germany:	Bundesamt für Ernährung und Forstwirtschaft, Abteilung Gartenbauerzeugnisse, Adickesallee 40, 6 Frankfurt am Main.
Italy:	Azienda di Stato per gli interventi nel mercato agricolo (AIMA), Via Palestro 81, Roma.
Luxembourg:	Administration des services techniques agricoles (ASTA), route d'Esch, Luxembourg.
The Netherlands:	Voedselvoorzienings In- en verkoopbureau (VIB), Hooftskade 1, Den Haag.