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REGULATION (EEC) No 1897/72 OF THE COMMISSION

of 1 September 1972

on a standing invitation to tender to determine the export refund for white sugar

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation No 1009/67/EEC[1] of 18 December 1967 on the common organization of the market in sugar, as last amended by Regulation (EEC) No 607/72,[2] and in particular Articles 11 (2), 17 (4) and 38 thereof;

Whereas, as the new sugar production year approaches, a standing invitation to tender should be issued for the export of the surplus white sugar from the 1972/73 sugar marketing year and whereas the previous standing invitation to tender provided for in Commission Regulation (EEC) No 685/72[3] of 4 April 1972 on a standing invitation to tender to determine the export refund for white sugar, as last amended by Regulation (EEC) No 1701/72,[4] should be withdrawn;

Whereas the general and detailed rules relating to the tendering procedure to determine the export refund on sugar are contained in Council Regulation (EEC) No 766/68[5] of 18 June 1968 laying down general rules for granting export refunds on sugar, as last amended by Regulation (EEC) No 433/72,[6] and in Commission Regulation (EEC) No 394/70[7] of 2 March 1970 on detailed rules for granting export refunds on sugar;

Whereas, in order to take account of the present situation on the sugar market, the period of validity of the export licences issued in pursuance of this invitation to tender should be that provided for in Commission Regulation (EEC) No 2637/70[8] on special detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products, as last amended by Regulation (EEC) No 1524/72,[9] and it should be made possible to derogate from those provisions; whereas, moreover, a minimum quantity per tender should be laid down according to destination;

Whereas, as a result of the economic trend of the world sugar market, when an invitation to tender is issued, certain situations may arise which are likely to call into question the principles governing the system of invitations to tender; whereas, in order to forestall any possible difficulties, special provisions must be adopted to deal with such situations, particularly with regard to tenders and the transferability of export licences under conditions different from those provided for by Commission Regulation (EEC) No 1373/70[10] of 10 July 1970 on common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products subject to a single price system, as last amended by Regulation (EEC) No 2849/71[11];

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

HAS ADOPTED THIS REGULATION:

Article 1

Member States shall issue a standing invitation to tender to determine the export refund for white sugar, and, during the period of validity of the standing invitation, they shall issue partial invitations to tender.

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[1] OJ No 308, 18.12.1967, p. 1.
[2] OJ No L 75, 28.3.1972, p. 4.
[3] OJ No L 81, 5.4.1972, p. 13.
[4] OJ No L 178, 5.8.1972, p. 16.
[5] OJ No L 143, 25.6.1968, p. 6.
[6] OJ No L 53, 2.3.1972, p. 1.
[7] OJ No L 50, 4.3.1970, p. 1.
[8] OJ No L 283, 29.12.1970, p. 15.
[9] OJ No L 162, 18.7.1972, p. 15.
[10] OJ No L 158, 20.7.1970, p. 1.
[11] OJ No L 286, 30.12.1971, p. 24.

Article 2

The standing invitation to tender and the partial invitations shall be organized in accordance with Article 4 of Regulation (EEC) No 766/68, the provisions of Regulation (EEC) No 394/70 and the following provisions.

Article 3

The standing invitation to tender shall remain valid until a date to be determined at a later stage.

Article 4

1. The period during which tenders may be submitted in response to the first partial invitation:

(a) shall begin on the day on which notice of the standing invitation to tender is published in the *Official Journal of the European Communities*.

(b) shall end at 10.00 a.m. on Wednesday 13 September 1972.

2. The periods during which tenders may be submitted in response to the second and subsequent partial invitations:

(a) shall begin on the first working day following the end of the previous period, and

(b) shall end at 10.00 a.m. on the Wednesday of the following week.

3. By way of derogation from paragraph 2 (b) the periods for submitting tenders which are to end:

(a) on Wednesday 1, 15 and 22 November 1972 respectively shall end on Tuesday 31 October, 14 and 21 November 1972 at 10.00 a.m.,

(b) on Wednesday 27 December 1972 and 3 January 1973 respectively shall end on Thursday 4 January 1973 at 10.00 a.m.

4. During the period in which Summer Time applies in Italy, the time limits laid down in the previous paragraphs shall be understood in that Member State to be extended by one hour.

Article 5

A tender shall be valid only if it relates to an amount of not less than 250 metric tons.

Article 6

Where there are tenders indicating a refund with a rate of zero:

(a) each tenderer may submit only one tender;

(b) the tender should be submitted to the competent body of the Member State in which the tenderer is permanently resident or has his seat, as the case may be.

Article 7

Tenders shall be notified to the Commission immediately.

Article 8

1. A maximum quantity may be fixed for each of the partial invitations to tender once the tenders have been examined.

2. Where a maximum quantity has been fixed for a partial invitation to tender, and where all the tenders to be taken into consideration for the award indicate a refund with a rate of zero, the award shall be made, by way of derogation from the second subparagraph of Article 6 (4) of Regulation (EEC) No 394/70, by dividing the maximum quantity:

(a) either in proportion to the quantities shown in the tenders in question;

(b) or between the successful tenderers, up to a maximum tonnage to be determined;

(c) or by using the procedures provided for under (a) and (b) simultaneously;

(d) or by drawing lots in addition to the procedure provided for under (b).

Article 9

1. Article 33a of Regulation (EEC) No 2637/70 shall not apply to the white sugar to be exported in pursuance of this standing invitation to tender.

2. By way of derogation from the first subparagraph of Article 32 (3) of Regulation (EEC) No 2637/70:

(a) export licences issued before 15 October 1972 shall be valid only from that date;

(b) export licences issued in pursuance of the partial invitations to tender in response to which tenders

may be submitted after 6 June 1973 shall be valid only until 30 September 1973.

Article 10

By way of derogation from the first subparagraph of Article 3 of Regulation (EEC) No 1373/70, rights deriving from licences issued in pursuance of a partial invitation to tender which indicate a refund with a rate of zero shall not be transferable.

Article 11

The standing invitation to tender referred to in Regulation (EEC) No 685/72 is hereby withdrawn with effect from 7 September 1972.

Article 12

This Regulation shall enter into force on 2 September 1972.

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

Done at Brussels, 1 September 1972.

For the Commission

The President

S. L. MANSHOLT