REGULATION (EEC) No 1243/73 OF THE COMMISSION

of 14 May 1973

on a standing invitation to tender for the mobilization of white sugar as food aid for UNRWA

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community ;

Having regard to Council Regulation (EEC) No 1052/73 (1) of 17 April 1973 on the supply of sugar to UNRWA as food aid pursuant to the Agreement with that agency dated 18 December 1972, and in particular Article (3) thereof,

Whereas Article 1 of Regulation (EEC) No 1052/73 provides that 2 150 metric tons of white sugar produced and in free circulation in the Community be placed at the disposal of the United Nations Relief and Works Agency for Palestine Refugees (UNRWA) as food aid for the sugar marketing year 1972/73 ; whereas, in view of its destination, this white sugar must be Grade 1 sugar as defined by Regulation (EEC) No 1280/71 (2) of the Commission of 18 June 1971 laying down detailed rules for the buying-in of sugar by intervention agencies, as amended by Regulation (EEC) No 2417/71 (3) ;

Whereas Article 2 of Regulation (EEC) No 1052/73 provides in particular that the Community shall finance the cif value of the sugar ;

Whereas since the contract for the mobilization of the goods cif to the port of unloading is to be awarded under a tendering procedure, it would seem desirable to apply, in an appropriate form, the detailed rules governing sales by tender after intervention or for export within the framework of the common organization of the market in sugar ;

Whereas, for the avoidance of doubt, it should be specified that the system of monetary compensatory amounts for export to third countries because of their nature does not apply to this invitation to tender ;

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

1. Member States shall issue a standing invitation to tender for the supply of white sugar as food aid to UNRWA and, during the period of validity of the standing invitation, they shall issue partial invitations to tender.

2. The invitation to tender shall relate to the price of the total quantity of 2 150 metric tons of white sugar of Grade 1 as defined by Article 11 (1) of Regulation (EEC) No 1280/71 to be supplied cif to the Lebanese and Israeli ports of unloading referred to in Article 9.

3. No refund shall be granted in respect of the export of the quantity referred to in paragraph 2.

Article 2

The standing invitation to tender, that is the first partial invitation and all of the possibly following partial invitations, shall be organized in accordance with 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 for the submission of tenders in response to the first partial invitation shall :

(a) begin at 10 a.m. on 17 May 1973,

(b) expire at 10 a.m. on 23 May 1973.

2. The periods for the submission of tenders in response to the second and subsequent partial invitations shall :

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

(b) expire at 10 a.m. on the Wednesday of the following week.

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

Article 5

1. The Member States shall draw up an invitation to tender. The invitation to tender shall be published in the *Official Journal of the European Communities*. Member States may also publish the invitation to tender or have it published elsewhere.

2. The standing invitation to tender shall be published only for the purpose of issuing it.The invi-

(1) OJ No L 105, 20. 4. 1973, p. 1.
(2) OJ No L 133, 19. 6. 1971, p. 34.
(3) OJ No L 250, 11. 11. 1971, p. 30.

tation as published may be amended during the period of validity of the standing invitation. It shall be amended if the terms of the invitation to tender are amended during that period of validity.

3. The invitation shall indicate in particular :

(a) the name and address of the competent body issuing the invitation to tender ;

(b) the terms of the invitation to tender ;

(c) the time limit for the submission of tenders.

Article 6

1. Tenderers shall either deliver written tenders to the competent body against a receipt, or address tenders to the competent body by registered letter, telex or telegram.

Tenders shall be submitted in the Member State from which export is to be effected.

2. Tenders shall indicate :

(a) the invitation to which the tender relates ;

(b) the name and address of the tenderer ;

(c) the price proposed, in the currency of the Member State of the competent body to which the tender is submitted.

3. A tender shall be valid only if :

(a) it relates to a price for the total quantity of 2 150 tons of Grade 1 white sugar ;

(b) proof is furnished before the period for the submission of tenders expires that the deposit required by the invitation to tender has been lodged ;

(c) it includes a declaration by the tenderer that he will, if awarded the contract, supply the sugar in accordance with the provisions of this Regulation.

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 invitation to tender, shall not be taken into consideration.

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

Article 7

1. The deposit required by the invitation to tender shall be 21 500 units of account.

2. The tenderer may lodge the deposit either in cash or in the form of a guarantee by an establishment complying with criteria laid down by the Member State in which the tender is submitted.

3. Except in cases of *force majeure*, the deposit shall only be released if :

(a) the succesful tenderer supplies the sugar in accordance with the provisions hereof ;

or

(b) the tender is not accepted.

In cases of *force majeure* the competent body shall determine the measures necessary in view of the circumstances invoked by the tenderer.

4. In the case of paragraph 3(a) the deposit shall be released when payment is made under Article 10 (1) ; in the case of paragraph 3 (b) the deposit shall be released immediately.

Article 8

1. Tenders shall be examined in private session by the competent body. Persons present at the examination shall be sworn to secrecy.

2. The Commission shall be informed without delay of the tenders submitted.

Article 9

1. The price relates to the delivery cif on quay of 1 350 metric tons to Beirut and 800 metric tons to Ashdod.

2. The sugar shall be supplied in new jute sacks of a minimum weight of 450 g lined with a polyethylene bag and with a net weight of 50 kg.

The following shall be printed on the outside of the sacks : 'White Sugar — Gift of the European Community'.

3. The sugar must have been produced and put in free circulation in the Community, except that sugar in free circulation in the United Kingdom can not be exported under the terms of this regulation.

4. The sugar shall be supplied cif on quay before 11 July 1973.

5. The taking of samples and analysis of the goods shall be effected by experts recognized by the competent authorities of the Member State concerned. All the costs of weighing, taking samples and quality control upon loading shall be paid by the Member State concerned. That Member State shall obtain from the successful tenderer a lump sum refund for the costs referred to above (2 500 units of account), a sum which must therefore be quoted in the tender.

Article 10

1. The Member State concerned shall pay the succesful tenderer subject to any adjustment necessary under Article 15 (2) the price quoted in this tender pro rata for the quantity actually supplied, reduced by the sum of 2 500 units of account refered to in Article 9 (5). Such quantity shall be the quantity notified to the Commission by UNRWA ; the Commission shall inform the Member State concerned of this quantity immediately.

2. The system of monetary compensatory amounts for export to third countries shall not apply in this case.

3. The accessional compensatory amounts for export to third countries shall be applied.

Article 11

The maximum price for supplying the sugar shall be fixed, after examination of the tenders, in accordance with the procedure laid down in Article 40 of Regulation No 1009/67/EEC (1), as last amended by Regulation (EEC) No 1014/73 (2).

However, a decision may be taken to make no award.

Article 12

1. Except where a decision is taken to make no award in respect of a partial invitation to tender, and without prejudice to the provisions of paragraph 2, the award shall be made to the tenderer whose bid is converted into units of account, the lowest.

2. If several tenderers propose the same price and that price is accepted, the successful tenderer shall be chosen by drawing lots.

Article 13

1. An award shall :

(a) confer the right to the issue, in respect of the quantity concerned, of an export licence indicating that the system of monetary compensatory amounts for export to third countries does not apply in this case and bearing the words : 'for export without refund' ;

(b) entail the obligation to apply for such a licence in respect of Grade 1 sugar and to supply such sugar in accordance with the terms of the invitation to tender.

2. Rights and obligations arising from awards shall not be transferable.

Article 14

1. The competent bodies shall immediately notify all tenderers of the outcome of their participation in the tendering procedure. The body concerned shall also send a statement of award to the successful tenderer.

2. Statements of award shall indicate at least :

(a) the invitation to which the tender relates ;

(b) the price accepted.

Article 15

1. The competent body of the Member State from whose territory the sugar concerned is to be exported shall verify whether the conditions relating to the supply of the sugar have been fulfilled.

The successful tenderer shall be responsible for all operations relating to the invitation to tender issued pursuant to this Regulation, in particular the notification of the information provided for in Articles 2 and 3 of the Annex to the Agreement the EEC and UNRWA (3). This information shall be communicated simultaneously to the Commission.

2. Without prejudice to Article 7 (3), the amount of the price accepted shall be reduced by :

(a) 1·00 unit of account per 100 kg of sugar, if the sugar is Grade 2 sugar ;

(b) 0·10 unit of account per 100 kg of sugar and per day if the sugar is supplied after 11 July 1973, except if the delay is due to a case of *force majeure* recognized by the competent body.

3. If the sugar is of a grade lower than that specified in paragraph 2 (a) it shall be rejected with no compensation to the tenderer.

Article 16

This Regulation shall enter into force on 15 May 1973.

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

Done at Brussels, 14 May 1973.

For the Commission

The President

François-Xavier ORTOLI

(1) OJ No 308, 18. 12. 1967, p. 1.
(2) OJ No L 106, 20. 4. 1973, p. 1.
(3) OJ No L 304, 31. 12. 1972, p. 24.