REGULATION (EEC) No 312/75 OF THE COMMISSION

of 7 February 1975

on a standing invitation to tender to determine subsidies for white sugar produced in excess of the maximum quota and in respect of which no export levy is to apply

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 2476/74 (2), and in particular Articles 25 (3) and 38 thereof ;

Having regard to Council Regulation (EEC) No 2932/74 (3) of 18 November 1974 on the grant and financing of a subsidy on sugar produced in excess of the maximum quota and on the financing of the subsidy on sugar imports, and in particular Article 1 (2) thereof ;

Having regard to Council Regulation (EEC) No 974/71 (4) of 12 May 1971 on certain measures of conjunctural policy to be taken in agriculture following the temporary widening of the margins of fluctuation for the currencies of certain Member States, as last amended by Regulation (EEC) No 3259/74 (5), and in particular Article 6 thereof ;

Whereas by virtue of Regulation (EEC) No 2932/74 a subsidy may be granted for sugar produced in excess of the maximum quota which should be exported in accordance with Article 25 of Regulation No 1009/67/EEC ; whereas it is necessary, because of the sugar deficit within the Community, to allow this sugar to be released onto the Community market and to invite tenders to determine the amount of the subsidy concerned ;

Whereas appropriate provisions should be drawn from the rules governing invitations to tender in respect of imports and exports of sugar ; whereas, in addition, when the maximum subsidy is fixed, account should be taken of the differences existing between the prices recorded on the world market and in the Community and of the maximum subsidy fixed pursuant to the invitation to tender in respect of imports ;

Whereas the Opinion of the Monetary Committee has been sought ;

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

The Member States in which sugar has been produced in excess of the maximum quota shall issue a standing invitation to tender to remain open until 12 March 1975, and during its period of validity partial invitations to tender, in respect of a subsidy for such white sugar produced during the 1974/75 sugar marketing year and to which the provisions of Article 16 (1) of Regulation No 1009/67/EEC do not apply.

Article 2

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

2. The notice of invitation to tender shall indicate in particular the terms of the invitation.

3. The notice of standing invitation to tender shall be published only for the purpose of opening that invitation. The notice as published may be amended during the period of validity of the standing invitation to tender. It shall be so amended if the terms of the invitation to tender are amended during that period.

Article 3

1. The period for the submission of tenders in response to the first partial invitation :

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

and

(b) shall expire on 12 February 1975 at 10 a.m.

(1) OJ No 308, 18. 12. 1967, p. 1.
(2) OJ No L 264, 1. 10. 1974, p. 70.
(3) OJ No L 311, 22. 11. 1974, p. 10.
(4) OJ No L 106, 12. 5. 1971, p. 1.
(5) OJ No L 349, 28. 12. 1974, p. 10.

2. Without prejudice to Article 1, the period for the submission of tenders in response to the second and to the subsequent partial invitations to tender :

(a) shall begin on the first working day following the day on which the preceding period expires, and

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

Article 4

1. Tenders, which must be in writing, shall either be delivered by hand against a receipt to the competent agency of the Member State in which the sugar referred to in Article 1 has been produced, or addressed to that agency by registered letter, telex, or telegram.

2. Every tender must indicate :

(a) the invitation to which the tender relates ;

(b) the name and address of the tenderer ;

(c) the quantity of white sugar produced in excess of the maximum quota and to which the provisions of Article 16 (1) of Regulation No 1009/67/EEC do not apply ;

(d) the amount of subsidy sought per 100 kilogrammes of white sugar, in the currency of the Member State of the agency to which the tender is submitted.

3. A tender shall not be valid unless it includes a declaration by the tenderer that if his tender is successful he will sell the quantity of sugar concerned on the Community internal market.

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 notice of invitation to tender, shall not be taken into consideration.

5. Once submitted a tender may not be withdrawn.

Article 5

1. Tenders shall be examined in private by the competent agency concerned. Subject as provided in paragraph 2, persons present at the examination shall be under an obligation not to disclose any particulars relating thereto.

2. Tenders shall be communicated to the Commission without delay and in a manner which respects the anonymity of the participants.

Article 6

1. After examining the tenders received and having regard in particular to the differences between sugar prices in the Community and on the world market, the Commission shall fix, in accordance with the procedure laid down in Article 40 of Regulation No 1009/67/EEC, a maximum subsidy for the partial invitation to tender in question.

This maximum amount must be less than the maximum amount fixed on the same day by virtue of the standing invitation to tender to determine subsidies on the importation of white and raw sugar without authorization to export subsequently free of levy a corresponding quantity. The Commission may alternatively decide to make no award.

2. In order to achieve comparability between tenders, and for the purpose of the award of contracts by Member States, the amount proposed for the subsidy expressed in a national currency shall be converted into units of account by applying the relevant conversion rate currently applicable for purposes of the common agricultural policy, weighted by the coefficient as referred to in Article 4 (3) of Regulation (EEC) No 1463/73 [1] applicable in the Member State concerned on the day on which the maximum amount of the subsidy is fixed.

Article 7

Except where a decision is taken to make no award under a partial invitation to tender, a contract shall be awarded to every tenderer whose tender does not exceed the maximum amount of the subsidy.

Article 8

1. The competent agency of the Member State concerned shall immediately notify all applicants of the result of their participation in the invitation to tender. That agency shall also send successful tenderers without delay a statement of award.

2. Statements of award shall *inter alia* indicate :

(a) the invitation to which the tender relates ;

(b) the tonnage of white sugar in respect of which the subsidy has been awarded ;

(c) the subsidy to be granted per 100 kilogrammes of white sugar.

Article 9

The tenderer shall have :

(a) the right to be paid the subsidy for the quantity of sugar indicated in the tender ;

(b) the obligation to dispose on the internal market of the Community of the quantity of white sugar indicated in the tender. The sugar so disposed of shall not be subject to the charge referred to in Article 25 (3) of Regulation No 1009/67/EEC and Article 16 (1) of that Regulation shall apply.

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(1) OJ No L 146, 4. 6. 1973, p. 1.

Article 10

The subsidy in respect of the quantity stated in the tender shall be paid without delay to the tenderer by the Member State which issued the invitation to tender, in the currency of that Member State.

Article 11

1. Member States concerned shall take all measures to ensure the necessary supervision of the implementation of this Regulation.

2. If the quantity of sugar actually produced in excess of the maximum quota and to which the provisions of Article 16 (1) of Regulation No 1009/67/EEC do not apply :

— exceeds the quantity of sugar in respect of which the subsidy has been granted, the tenderer shall be entitled, provided that he lodges a claim with the Member State concerned and that the obligation referred to in Article 9 (b) has been fulfilled in respect of this excess, to be paid a supplementary subsidy in respect of the quantity concerned ;

— is less than the quantity of sugar in respect of which the subsidy has been granted, the Member State shall recover in respect of the deficient quantities the corresponding amount of the subsidy plus daily interest at the rate of 9 % per annum.

The amount per 100 kg of sugar to be paid or recovered by the Member State concerned shall be that of the subsidy as awarded or, where appropriate, the weighted average of the amounts of all the subsidies awarded to the successful tenderer concerned in the course of the standing invitation to tender.

Article 12

This Regulation shall enter into force on 8 February 1975.

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

Done at Brussels, 7 February 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission