REGULATION (EEC) No 557/75 OF THE COMMISSION

of 4 March 1975

on a standing invitation to tender to determine subsidies on the importation of white and raw 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 2476/74 [2], and in particular Articles 11 (2), 16 (5), 25 (3) and 38 thereof;

Having regard to Regulation (EEC) No 608/72 [3] of 23 March 1972 laying down rules to be applied in cases of considerable price rises on the world sugar market, and in particular Article 3 thereof;

Having regard to Council Regulation (EEC) No 191/75 [4] of 21 January 1975 concerning an additional quantity in respect of the subsidized importation of sugar and amending Regulation (EEC) No 2931/74, and in particular Article 4 (2) thereof;

Having regard to Council Regulation (EEC) No 974/71 [5] of 12 May 1971 on certain measures of conjunctural policy to be taken in agriculture following the temporary widening of the margins of fluctuation in the currencies of certain Member States, as last amended by Regulation (EEC) No 475/75 [6], and in particular Article 6 thereof;

Whereas Commission Regulation (EEC) No 3062/74 [7] of 3 December 1974 on a standing invitation to tender to determine subsidies for imports of white and raw sugar, as last amended by Regulation (EEC) No 363/75 [8], opened a standing invitation to tender which has been suspended by Regulation (EEC) 436/75 [9]; whereas in the light of experience gained and of a concern to ensure supplies to deficit regions it is desirable to revise, by issuing a new Regulation, the terms of this invitation to tender for the balance of the 200 000 metric tons of sugar for subsidized importation under Regulation (EEC) No 191/75, in particular by providing for a maximum quantity of sugar for each partial invitation to tender to be fixed in advance in respect of each Member State, by reference to its short-term deficit;

Whereas it is desirable to provide for certain measures of a technical nature to ensure that the tender procedure functions as efficiently as possible; whereas for the same reason it is desirable to derogate from or to adapt Commission Regulation (EEC) No 2637/70 [10] of 23 December 1970 on special 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 363/75;

Whereas, having regard in particular to the fact that the present invitation to tender concerns both an importation and a subsequent exportation to third countries of a corresponding quantity of sugar, it is desirable not to apply monetary compensatory amounts to these operations;

Whereas it is desirable to close the invitation to tender provided for in Regulation (EEC) No 3062/74, to open the invitation to tender provided for in Commission Regulation (EEC) No 314/75 [11] of 7 February 1975 on a 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, as amended by Regulation (EEC) No 363/75 and to suspend the invitation to tender provided for in Commission Regulation (EEC) No 312/75 [12] of 7 February 1975 on a standing invitation to tender to determine subsidies for white sugar provided in excess of the maximum quota and in respect of which no export levy is to apply;

Whereas the Opinion of the Monetary Committee has been sought;

Whereas the Management Committee for Sugar has not delivered an opinion within the time limit set by its Chairman,

(1) OJ No 308, 18. 12. 1967, p. 1.
(2) OJ No L 264, 1. 10. 1974, p. 70.
(3) OJ No L 75, 28. 3. 1972, p. 5.
(4) OJ No L 20, 25. 1. 1975, p. 39.
(5) OJ No L 106, 12. 5. 1971, p. 1.
(6) OJ No L 52, 28. 2. 1975, p. 28.
(7) OJ No L 324, 4. 12. 1974, p. 7.
(8) OJ No L 40, 14. 2. 1975, p. 46.
(9) OJ No L 48, 22. 2. 1975, p. 18.
(10) OJ No L 283, 29. 12. 1970, p. 15.
(11) OJ No L 35, 8. 2. 1975, p. 11.
(12) OJ No L 35, 8. 2. 1975, p. 5.

HAS ADOPTED THIS REGULATION :

Article 1

1. Member States shall issue a standing invitation to tender in respect of subsidies for imports from third countries of white and raw sugar and, during the period of validity of this standing invitation to tender, they shall issue partial invitations to tender in respect of which a maximum tonnage shall be fixed for each Member State.

2. In respect of each partial invitation to tender the maximum tonnage shall be fixed before the expiry of the time limit for the submission of tenders for the partial invitation to tender concerned.

The maximum tonnage for each Member State shall be based on its estimated supply deficit during a period of 60 days following the partial invitation to tender concerned.

For the partial invitation to tender to be issued on 7 March 1975, the maximum tonnages shall be those laid down in Annex I.

3. The subsidy may be granted only in respect of sugar intended for free circulation and ultimate consumption in the Member State indicated in the tender.

'Ultimate consumption' means utilization by the processing industry or retail sale.

Article 2

The standing invitation to tender and the partial invitations to tender shall be conducted in accordance with the provisions of Regulations (EEC) No 2931/74, (EEC) No 191/75 and the present Regulation.

Article 3

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

2. The notice of the 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 4

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 the standing invitation to tender is published in the *Official Journal of the European Communities,* and

(b) shall expire on 7 March 1975 at 10 a.m.

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

(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.

3. Notwithstanding paragraph 2 (b), the time limits for the submission of tenders which would normally expire on Wednesday, 19 March and 30 April 1975 shall expire at 10 a.m. on Tuesday, 18 March and 29 April 1975 respectively.

4. During the period of Summer Time in Italy, the time limits laid down in the preceding paragraphs shall be extended by one hour in that Member State. Outside the periods of Summer Time in Ireland and in the United Kingdom, the time limits laid down in the preceding paragraphs shall be brought forward by one hour in those Member States.

Article 5

1. A tender shall relate only to the subsidy necessary for the importation of sugar into a Member State in respect of which a maximum tonnage greater than zero has been fixed for the partial invitation to tender in question.

2. Tenderers must either lodge a tender in writing, against a receipt, with the competent authority of the Member State chosen by the tenderer, or address the tender to that authority by registered letter, telex or telegram.

3. The 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 or raw sugar, as appropriate, to be imported. In the case of raw sugar the quantity to be imported must also be expressed as a corresponding quantity of white sugar by reference to a yield calculated by doubling the degree of polarization of the raw sugar and subtracting 100 ;

(d) the Member State in whose territory the imported sugar is to be put into free circulation and ultimately consumed ;

(e) the amount of import subsidy proposed per 100 kilogrammes of sugar expressed in white value, in the currency of the Member State referred to in (d).

4. A tender shall be valid only if :

(a) the total quantity of sugar to be imported is not less than 500 metric tons ;

(b) proof is furnished before expiry of the time limit for the submission of tenders that the tenderer has lodged the security for tender required by Article 6 ;

(c) it includes a declaration by the tenderer that if his tender is successful he will apply for an import licence in respect of the quantity of product to be imported.

5. A tender may stipulate that it is to be regarded as having been submitted only if :

(a) the maximum amount of the subsidy provided for in Article 8 is fixed on the day on which the time limit for the submission of tenders expires ;

(b) the contract awarded relates to the active quantity indicated in the tender or to a specified part thereof.

6. 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.

7. Once submitted a tender may not be withdrawn.

Article 6

1. The security required for the invitation to tender shall be 10 units of account per 100 kilogrammes of white sugar or of raw sugar expressed in white value.

2. The amount to be used in calculating that part of the security which is to be forfeit shall be three units of account plus, where the maximum amount of the subsidy fixed in connection with the partial invitation for which the tender was accepted is less than the maximum amount of the subsidy fixed for the last partial invitation prior to the date on which the validity of the licence expires, the difference between those two maximum amounts.

3. The tenderer may lodge the security 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.

4. Except in cases of *force majeure*, the security required for the invitation to tender shall be released only in respect of that quantity :

(a) for which the tenderer :

— has not withdrawn his tender, and

— has completed customs import formalities under the import licence issued following the award of a contract, the provisions of Article 18 of Regulation (EEC) No 193/75 [1] to apply *mutadis mutandis*,

(b) in respect of which no award has been made.

The security shall be released forthwith.

5. In a case of *force majeure*, the competent authority of the Member State concerned shall determine the measures necessary in view of the circumstances invoked by the party concerned.

[1] OJ No L 25, 31. 1. 1975, p. 10.

Article 7

1. Tenders shall be examined in private by the competent authority 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 such manner that the names of the tenderers are not disclosed.

Article 8

After examining the tenders received, and having in particular (i) to the difference between spot prices on the world market and the maximum selling prices referred to in Article 12 and (ii) to the difference between the world market prices quoted for the last quarter of 1975 and the target price fixed for the 1975/76 sugar marketing year, the Commission shall fix, in accordance with the procedure laid down in Article 40 of Regulation No 1009/67/EEC, a maximum subsidy for each Member State as referred to in Article 5 (1) to which tenders have been submitted. Alternatively, it may be decided to make no award.

Article 9

Except where a decision is taken to discontinue a partial invitation to tender the award shall be made to every tenderer whose tender does not exceed the maximum amount of the subsidy. However, where the application of this provision would lead to the maximum tonnage being exceeded, the total amount in respect of which contracts are awarded shall be limited to awards being made in ascending order of tender by reference to the level of subsidy proposed. Where two or more tenderers quote the same subsidy and awards to all of them would result in the maximum tonnage being exceeded, the tonnage available shall be divided among them in proportion to the quantities tendered for.

Article 10

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

2. Statement of awards shall *inter alia* indicate :

(a) the invitation to which the tender relates ;

(b) the tonnage in respect of which the subsidy has been awarded, expressed in white value, and in the case of raw sugar expressed also in *tel quel* value ;

(c) the subsidy to be granted per 100 kilogrammes of sugar, expressed in white value ;

(d) the Member State where the imported sugar will be put into free circulation and ultimately consumed.

Article 11

1. Every successful tenderer shall have :

(a) the right to be issued, in respect of the quantity of product to be imported, with an import licence showing the subsidy specified in the tender and the Member State where the imported sugar is to be put into free circulation ;

(b) the right to be issued with an export licence in respect of a tonnage of sugar corresponding to that put into free circulation under the licence referred to in (a) and in respect of which the subsidy has been paid in accordance with Article 13, provided that such export licence is applied for between 15 October 1975 and 31 March 1976. Such export licence shall be valid for six months from its day of issue as defined in Article 9 (1) of Regulation (EEC) No 193/75 ;

(c) the right to export the tonnage of sugar referred to in (b) without the provisions of Article 16 (1) of Regulation No 1009/67/EEC being applied to that tonnage ;

(d) the obligation :

— to import the tonnage concerned into the Member State, as indicated in the statement of award where the sugar is to be put into free circulation ;

— when selling the imported sugar in the Member State in which it is put into free circulation, to comply with the obligations specified in Article 12.

The obligations arising from an award shall not be transferable.

2. The licence referred to in paragraph 1 (a) shall be issued by the competent authority of the Member State in which the statement of award was issued. Applications for licences must be submitted within 10 days following the day on which the time limit for the submission of tenders expires. The licence referred to in paragraph 1 (b) shall be issued by the competent authority of the Member State in which the imported sugar has been put into free circulation.

3. By way of derogation from Article 32 (1) of Regulation (EEC) No 2637/70, import licences issued under this tendering procedure shall be valid from their day of issue within the meaning of Article 9 (1) of Regulation (EEC) No 193/75 until the end of the second month following that day.

4. At the request of the tenderer a licence issued in respect of white sugar under paragraph 1 (a) may be replaced before customs import formalities have been completed by a licence in respect of raw sugar, and vice versa. Such new licence may be issued only by the authority which issued the original licence and only upon presentation of a statement of award as provided for in Article 10. The new licence shall contain the same information as that shown on the original licence except as regards the nature and quantity of the product to be imported.

Where the new licence relates to :

— white sugar, the tonnage to be indicated in the licence shall be the tonnage of raw sugar expressed in white value as indicated in the statement of award,

— raw sugar, the tonnage to be indicated in the licence shall be expressed in white value and shall be equal to the tonnage of white sugar as indicated in the original licence.

Article 12

1. The obligations referred to in the second indent of Article 11 (1) (d) shall be the following :

(a) where a successful tenderer sells the imported white sugar, the price in the contract of sale shall not exceed 35·81 units of account per 100 kilogrammes of product, exclusive of packaging, delivered cif in the Member State in which the sugar is put into free circulation ;

(b) where the successful tenderer is himself to manufacture products containing the imported white sugar, he may give an undertaking that such products will be manufactured on his own premises ; failing such undertaking subparagraph (a) shall apply ;

(c) where the successful tenderer sells imported raw sugar to a refinery or to a sugar producer for refining, the price in the contract of sale shall not exceed 30·96 units of account per 100 kilogrammes of standard quality raw sugar, exclusive of packaging, delivered cif in the Member State in which the refined sugar is to be put into free circulation. The contract shall also contain a clause whereby the refiner or the producer who purchases the sugar for refining undertakes to sell the refined sugar at a price not exceeding 35·81 units of account per 100 kilogrammes of product, exclusive of packaging ;

(d) where the successful tenderer is a refiner, or a producer refining the imported sugar he shall give an undertaking to sell the refined sugar at a price not exceeding 35·81 units of account per 100 kilogrammes, exclusive of packaging ;

(e) where the provisions of (a) or (c) apply the tenderer must include in his contract of sale a clause providing that the imported sugar must be ultimately consumed in the Member State in which it is put into free circulation.

Where the competent authority of a Member State itself buys sugar put into free circulation by virtue of this Regulation it shall when selling such sugar be subject to paragraphs (a), (c), and (e) above.

To the maximum selling price for refined sugar as specified in (c) and (d) there shall be added the cost of transport from the point of delivery cif in the Member State concerned to the place of refining.

2. Furthermore, in the cases referred to in paragraph 1 (c) and (d), where a refiner or producer intends to sell the refined sugar at a price which is to vary according to the origin and price of the imported raw sugar concerned, he shall give an undertaking that subject as provided in the third subparagraph of paragraph 1, when calculating such selling price he will not in respect of that part of the refined white sugar corresponding to the raw sugar imported under the invitation to tender exceed the maximum price specified in paragraph 1 (d).

Article 13

1. The subsidy in respect of the tonnage put into free circulation in a Member State shall be paid forthwith to the successful tenderer by that State upon production :

(a) of proof that the obligation under the first indent of Article 11 (1) (d) has been complied with. Such proof shall be furnished by production of copy No 1 of the import licence and of copy No 1 of any extract or extracts from licences bearing attributions entered by the Member State as indicated in the tender in which the product is to be put in free circulation ;

(b) of the contract or of the relevant undertaking as referred to in Article 12.

For the purposes of payment of the subsidy in respect of raw sugar the imported quantity of such sugar shall be expressed in white value by reference to the effective yield.

2. Where the right referred to in Article 11 (1) (b) has been exercised by the completion of customs formalities for the export of the sugar concerned from a Member State other than that into which the imported sugar was put into free circulation, the subsidy shall be increased or reduced, as appropriate by amounts to be determined for each partial invitation to tender.

For the partial invitation to tender taking place on 7 March 1975 these amounts shall be those shown in Annex II hereto.

3. Without prejudice to paragraph 2, the subsidy shall be increased or reduced for every partial invitation to tender by amounts to be determined if between the day on which contracts are awarded and the day on which the application for an export certificate is lodged there occurs a change :

(a) in the target price fixed for the sugar marketing year 1975/76, and/or

(b) in the representative rate used for the purposes of the common agricultural policy in respect of the Member State from whose territory the sugar is exported.

The adjustment shall be calculated by reference to the change in question.

4. In order that the adjustments referred to in paragraphs 2 and 3 may be made the exporter must produce to the issuing Member State, within four weeks following the day on which customs export formalities are completed, copy No 1 of the export licence or, where appropriate, copy No 1 of the extract or extracts of the licences bearing attributions entered by the Member State from which the sugar was exported.

5. A successful tenderer shall not become finally entitled to the subsidy referred to in paragraph 1 until he has fulfilled the relevant obligations, and any deductions required pursuant to paragraphs 2 and 3 have been made.

Article 14

No monetary compensatory amounts shall be applicable in respect of imports and exports made with third countries under this tendering system.

Article 15

1. The provisions of Article 33a of Regulation (EEC) No 2637/70 shall not apply to white sugar or raw sugar which a tenderer is entitled to export pursuant to Article 11 (1) (b).

2. By way of derogation from Article 33 (1) (a) of Regulation (EEC) No 2637/70, the security required in connection with import licences shall be zero units of account per 100 kilogrammes net and that required in connection with export licences shall be 2·50 units of account per 100 kilogrammes net. This latter security shall be released only when the provisions of Article 13 (2) and (3) have been complied with.

Article 16

Article 30 (e) as follows is inserted in Regulation (EEC) No 2637/70 :

'Article 30 (e)

1. For the purposes of Article 11 (1) (a) of Regulation (EEC) No 557/75, section 20 of the import licence shall contain one of the following endorsements :

— import subsidy applicable : . . . per 100 kg, to be adjusted as appropriate (Regulation (EEC) No 557/75),
— licence valid in (Member State) ;
— subvention à l'importation applicable : . . . par 100 kg, à adapter le cas échéant, au règlement (CEE) n° 557/75,
— certificat valable en État membre) ;
— Einfuhrsubvention : . . . je 100 kg, gegebenenfalls anzupassen, Verordnung (EWG) Nr. 557/75,
— Lizenz gültig in Deutschland ;
— sovvenzione all'importazione applicabile : . . ./ 100 kg, adattare addatare se necessario, regolamento (CEE) n. 557/75,
— titolo valido in (Stato membro) ;
— invoersubsidie : . . . per 100 kg, eventueel aan te passen, Verordening (EEG) nr. 557/75,
— certificaat geldig in (Lid-Staat) ;
— tilskud til indførsel : . . . pr. 100 kg, tilpasses i givet fald, forordning (EØF) nr. 557/75,
— licens gyldig i (Medlemstat).

2. For the purpose of Article 11 (1) (b) of Regulation (EEC) No 557/75, section 18 of the export licence shall contain one of the sollowing endersements :

— for export without levy (Regulation (EEC) No 557/75) ;
— ohne Abschöpfungen auszuführen (Verordnung (EWG) Nr. 557/75) ;
— à exporter sans prélèvements (Règlement (CEE) n° 557/75) ;
— da esportare senza prelievi (Regolamento (CEE) n. 557/75) ;
— uit te voeren zonder heffingen (Verordening (EEG) nr. 557/75) ;
— udføres uden afgifter (forordning (EØF) nr. 557/75).'

Article 17

The provisions of Article 30 of Regulation (EEC) No 2637/70 shall apply *mutatis mutandis*, to the import and export licences issued under Article 11 (1) (a) and (b).

Article 18

Member States shall take all the measures required to ensure the necessary supervision of the implemention of this Regulation and, in cases where the tenderer's obligations have not been fulfilled, the recovery of all or part of the subsidy. The sums to be so recovered shall be determined by reference to the amounts by which the maximum prices specified in Article 12 are exceeded.

Article 19

1. The standing invitation to tender provided for in Regulation (EEC) No 312/75 is suspended until further notice.

2. The standing invitation to tender referred to in Regulation (EEC) No 3062/74 is hereby closed.

3. In Article 1 (1) of Regulation (EEC) No 314/75 the word 'Germany' is deleted.

4. In Article 4 (1) (b) of Regulation (EEC) No 314/75 the date '12 February 1975' is replaced by '7 March 1975'.

Article 20

This Regulation shall enter into force on 5 March 1975.

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

Done at Brussels, 4 March 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission

ANNEXE I — ANNEX I — ANHANG I — ALLEGATO I — BIJLAGE I — BILAG I

(Applicable à l'adjudication partielle du 7 mars 1975)
(Applicable to the partial invitation to tender of 7 March 1975)
(Anwendbar auf die Teilausschreibung am 7. März 1975)
(Applicabile alla gara parziale del 7 marzo 1975)
(Toe te passen op de deelinschrijving van 7 maart 1975)
(Gældende for dellicitationen af 7. marts 1975)

État membre Member State Mitgliedstaat Stato membro Lid-Staat Medlemsstat	Quantité maximale (1) Maximum quantity (1) Höchstmenge (1) Quantitativo massimo (1) Maximumhoeveelheid (1) Maksimumsbeløb (1)
België-Belgique/Luxembourg	0
Danmark	0
Deutschland	0
France	0
Ireland	0
Italia	179 000
Nederland	13 000
United Kingdom	53 000

(1) en t/m valeur sucre blanc.
in metric tons white sugar value.
in m/t Weißzuckerwert.
in t/m valore zucchero bianco.
in m/t witsuikerwaarde.
i m/t udtrykt i hvidt sukker.

ANNEXE II — ANNEX II — ANHANG II — ALLEGATO II — BIJLAGE II — BILAG II

(Applicable à l'adjudication partielle du 7 mars 1975)

(Applicable to the partial invitation to tender of 7 March 1975)

(Anwendbar auf die Teilausschreibung am 7. März 1975)

(Applicabile alla gara parziale del 7 marzo 1975)

(Toe te passen op de deelinschrijving van 7 maart 1975)

(Gældende for dellicitationen af 7. marts 1975)

Montant visé à l'article 13 § 2 du règlement (CEE) nº 557/75 dont la subvention doit être augmentée (+) ou diminuée (—)

The amount as referred to in Article 13 § 2 of Regulation (EEC) No 557/75 by which the subsidy must be increased (+) or reduced (—)

Der in Artikel 13 § 2 der Verordnung (EWG) Nr. 557/75 genannte Betrag, um den die Subvention zu erhöhen (+) oder zu vermindern (—) ist

Importo indicato all'articolo 13 § 2 del regolamento (CEE) n. 557/75 di cui la sovvenzione deve essere aumentata (+) ovvero diminuita (—)

Bedrag bedoeld in artikel 13, § 2, van Verordening (EEG) nr. 557/75, waarvan de subsidie verhoogd (+) of verlaagd (—) moet worden

Det i artikel 13 § 2 i forordning (EØF) nr. 557/75 nævnte beløb, med hvilken tilskudet skal formindskes (—) eller forhøjes (+)

État membre d'exportation / Exporting Member State / Ausführender Mitgliedstaat / Stato membro di esportazione / Uitvoerende Lid-Staat / Eksporterende medlemsstat	État membre d'importation / Importing Member State / Einführender Mitgliedstaat / Stato membro d'importazione / Invoerende Lid-Staat / Importerende medlemsstat							
	Danmark (Dkr)	Deutschland (DM)	France (FF)	Ireland (£)	Italia (Lit)	Nederland (HFl)	UEBL (Fb/Flux)	United Kingdom (£)
Danmark					+ 999	— 2,15		+ 2·386
Deutschland					+ 4 325	+ 10,44		+ 4·565
France					— 597	— 8,19		+ 1·341
Ireland					— 1 235	— 10,60		+ 0·923
Italia					—	— 5,93		+ 1·732
Benelux					+ 1 584	—		+ 2·770
United Kingdom					— 2 645	— 15,93		