REGULATION (EEC) No 630/75 OF THE COMMISSION

of 12 March 1975

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

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), 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 475/75 (5), and in particular Article 6 thereof;

Whereas Commission Regulation (EEC) No 312/75 (6) 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 opened a standing invitation to tender which was last suspended by Regulation (EEC) No 557/75 (7); whereas, in the light of experience and with a view to ensuring more effectively the supply of the deficit areas, the terms of this invitation should be revised and incorporated in a new Regulation, and should include in particular a provision whereby a tenderer may undertake to deliver the sugar in question to Italy; whereas it should be provided that in such cases the subsidy shall correspond to the maximum amount fixed on the day in question by virtue of Commission Regulation (EEC) No 558/75 (8) of 4 March 1975 on a standing invitation to tender for the purposes of delivery to Italy of white sugar and the subsidized importation of corresponding quantities of white and raw sugar;

Whereas, in order to limit the cost of such operations, provisions should be laid down whereby a successful tenderer entitled to a subsidy may export free of levy a quantity of sugar from the subsequent crop;

Whereas it is desirable to provide for certain measures to ensure that the tendering procedure functions as efficiently as possible and to derogate from or adapt Commission Regulation (EEC) No 2637/70 (9) of 23 December 1970 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 491/75 (10);

Whereas the standing invitation to tender provided for in Regulation (EEC) No 312/75 should accordingly be closed;

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,

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 23 April 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 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

(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 52, 28. 2. 1975, p. 28.
(6) OJ No L 35, 8. 2. 1975, p. 5.
(7) OJ No L 59, 5. 3. 1975, p. 8.
(8) OJ No L 59, 5. 3. 1975, p. 16.
(9) OJ No L 283, 29. 12. 1970, p. 15.
(10) OJ No L 53, 28. 2. 1975, p. 33.

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 18 March 1975 at 10 a.m.

2. Without prejudice to Article 1, the period for the submission of tenders in response to the second and 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) a tonnage 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) — either the amount of subsidy per 100 kilogrammes of white sugar, in the currency of the Member State of the agency to which the tender is submitted,

— or that the sugar is intended for sale in Italy.

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 tonnage of sugar concerned on the Community internal market.

In the case provided for in the second indent of paragraph 2 (d) such declaration must include an undertaking by the tenderer that if his tender is successful he will deliver the tonnage of sugar in question to Italy in accordance with the conditions laid down in Article 10 ;

4. In the case provided for in the second indent of paragraph 2 (d) a tender may stipulate that it is to be regarded as having been submitted only if the subsidy referred to in the second subparagraph of Article 6 (1) exceeds a specified amount.

5. 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.

6. 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 such that the names of the tenderers are not disclosed.

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.

Where the tenderer submits a tender in respect of a tonnage of white sugar to be delivered to Italy the subsidy to be granted shall be equal to the maximum amount fixed on the day in question pursuant to the standing invitation to tender provided for in Regulation (EEC) No 558/75.

It may alternatively be decided 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 as 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), as last amended by Regulation (EEC) No 538/75 (2), applicable in the Member State concerned on the day on which the maximum amount of the subsidy is fixed.

(1) OJ No L 146, 4. 6. 1973, p. 1.
(2) OJ No L 57, 3. 3. 1975, p. 1.

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 :

(a) in the case provided for in the first indent of Article 4 (2) (d), does not exceed the maximum amount of the subsidy fixed pursuant to Article 6, or

(b) indicated that the sugar is intended for sale in Italy.

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 forthwith to successful tenderers 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 ;

(d) where appropriate, that the sugar must be delivered to Italy.

Article 9

Every successful tenderer shall have :

(a) the right :

— to be paid the subsidy for the quantity of sugar indicated in the tender ;

— to be issued, by the competent agency of the Member State in which the sugar referred to in Article 1 has been produced, with an export licence in respect of a tonnage of sugar corresponding to that indicated in the statement of award and for which the subsidy has been paid in accordance with Article 11. Applications for such licences must be lodged between 15 October 1975 and 31 March 1976 and their period of validity shall be six months from their day of issue as defined in Article 9 (1) of Regulation (EEC) No 193/75 [1] ;

— to export from the Member State referred to in the second indent, without the provisions laid down in Article 16 (1) of Regulation No 1009/67/EEC being applied, the tonnage of sugar referred to in that indent ;

(b) the obligation :

— to sell on the internal market of the Community the tonnage of white sugar indicated in the tender ;

or

— where the white sugar is intended for Italy, to comply with the conditions set out in Article 10.

In both cases the sugar thus sold 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.

Article 10

The conditions referred to in the second indent of Article 9 (b) are as follows :

(a) a successful tenderer must deliver the white sugar at a selling price not exceeding 35·56 units of account per 100 kilogrammes, exclusive of packaging, free-at-Italian frontier or cif Italian ports ;

(b) a successful tenderer must include in the contract of sale a clause stipulating that the sugar must be retailed, in the unaltered state, in Italy.

Article 11

The subsidy in respect of the tonnage stated in the tender shall be paid forthwith to every successful tenderer by the Member State which issued the invitation to tender, in the currency of that Member State.

However, the payment of the subsidy shall in case of sugar delivered to Italy be subject to production of :

(a) the control copy referred to in Article 1 of Regulation (EEC) No 2315/69 [2], such control copy to contain the following special entries :

— Sections 101 and 103 must be completed ;

— Section 104 must be completed by deleting as appropriate and adding one of the following endorsements :

'intended for home use in Italy' ;
'destiné à la mise à la consommation en Italie' ;
'zum Verbrauch in Italien bestimmt' ;
'destinato ad essere immesso al consumo in Italia' ;
'bestemd voor het verbruik in Italië' ;
'bestemt til forbrug i Italien' ;

(b) the contract as referred to in Article 10.

Article 12

The monetary compensatory amounts in respect of exportation to third countries shall not be applicable for purposes of this tendering system.

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

[2] OJ No L 295, 24. 11. 1969, p. 14.

Article 13

If the tonnage 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 tonnage of sugar in respect of which the subsidy has been granted, the tenderer shall be entitled to be paid a supplementary subsidy in respect of the difference between the estimated and actual amount of sugar produced by him to which Article 16 (1) of Regulation No 1009/67/EEC does not apply, provided that he lodges a claim with the Member State concerned and that the obligation set out in the first indent of Article 9 (b) has been fulfilled in respect of the excess to be subsidized,

— is less than the tonnage 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 14

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

'*Article 30e*

For the purposes of Article 9 (a) of Regulation (EEC) No 630/75, Section 18 of the export licence shall contain one of the following endorsements :

'for export without levies (Regulation (EEC) No 630/75)' ;

'à exporter sans prélèvement (Règlement (CEE) n° 630/75)' ;

'ohne Abschöpfungen auszuführen (Verordnung (EWG) Nr. 630/75)' ;

'da esportare senza prelievi (regolamento (CEE) n. 630/75)' ;

'uit te voeren zonder heffingen (Verordening (EEG) nr. 630/75)' ;

'udføres uden afgifter (forordning (EØF) nr. 630/75)'.

Article 15

The provisions of Article 30 of Regulation (EEC) No 2637/70 shall apply *mutatis mutandis* to export licences issued pursuant to Article 9 (a).

Article 16

The Member States shall take all measures to ensure the necessary supervision of the implementation of this Regulation. The competent Italian authorities shall return the control copies referred to in Article 11 (a) immediately after the customs formalities for import into Italy have been completed.

Article 17

The standing invitation to tender provided for in Regulation (EEC) No 312/75 is hereby closed.

Article 18

This Regulation shall enter into force on 13 March 1975.

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

Done at Brussels, 12 March 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission