REGULATION (EEC) No 999/75 OF THE COMMISSION

of 17 April 1975

amending the terms of the invitations to tender in the sugar sector referred to in Regulations (EEC) No 314/75, (EEC) No 557/75, (EEC) No 558/75 and (EEC) No 630/75

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) and 25 (3) 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, as amended by Regulation (EEC) No 821/75 [5], and in particular Article 4 (2) thereof;

Having regard to Council Regulation (EEC) No 2932/74 [6] 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;

Whereas the different Member States concerned, acting pursuant to Regulation (EEC) No 314/75 [7], as last amended by Regulation (EEC) No 557/75 [8], and to Regulations (EEC) No 557/75, (EEC) No 558/75 [9] and (EEC) No 630/75 [10] currently issue standing invitations to tender for subsidies on imports of white and raw sugar and for subsidies on certain white sugars produced in the Community and intended to be sold there;

Whereas the terms of the abovementioned invitations to tender should be amended appropriately in the light of experience and particularly in order to increase the scope for participation in these invitations to tender by tenderers who wish to supply the highest deficit market, namely Italy, with white sugar;

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

Article 5 (4) (b) of Regulation (EEC) No 557/75 shall start as follows: 'Without prejudice to the provisions of the third subparagraph of paragraph 5'.

Article 2

Article 5 (4) of Regulation (EEC) No 314/75 and Article 5 (5) of Regulation (EEC) No 557/75 shall be amended to read as follows:

'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 entire quantity indicated in the tender or to a specified part thereof;

Moreover, a tenderer may submit tenders in respect of one and the same quantity of sugar in response to a partial invitation to tender conducted under Regulation (EEC) No 314/75 and in response to a partial invitation to tender of the same date conducted under Regulation (EEC) No 557/75. The two tenders concerned shall be submitted to the competent agency of a single Member State and shall be marked "Dual tender". In respect of tenders marked "Dual tender" the tenderer shall have:

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(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 79, 28. 3. 1975, p. 1.
(6) OJ No L 311, 22. 11. 1974, p. 10.
(7) OJ No L 35, 8. 2. 1975, p. 11.
(8) OJ No L 59, 5. 3. 1975, p. 8.
(9) OJ No L 59, 5. 3. 1975, p. 16.
(10) OJ No L 66, 13. 3. 1975, p. 5.

— the right to lodge in respect of the quantity of sugar concerned only one of the securities for tender required in respect of the two partial invitations to tender, and,

— the obligation, if both his tenders are successful, to cancel one of them by notifying in writing the competent agency in the Member States concerned within two working days following the expiry of the time limit for the submission of tenders.'

Article 3

1. Article 1 (1) of Regulation (EEC) No 314/75 shall be amended to read as follows :

'1. Italy, the Netherlands and the United Kingdom shall open a standing invitation to tender in respect of a subsidy on the importation from third countries of white and raw sugar, and during the period of validity of such standing invitation to tender they shall issue partial invitations to tender in respect of which a maximum quantity shall be fixed for each Member State.

The maximum quantity fixed for a partial invitation to tender by virtue of Article 1 (2) of Regulation (EEC) No 557/75 shall apply also to the partial invitation to tender conducted on the same date by virtue of this Regulation.'

2. The following second subparagraph shall be added to Article 5 (1) of Regulation (EEC) No 314/75 :

'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.'

3. In Article 6 (1) of Regulation (EEC) No 314/75 the amount '25 units of account' shall be replaced by the amount '10 units of account'.

4. Article 8 (2) of Regulation (EEC) No 314/75 shall be amended to read as follows :

'2. The maximum subsidy referred to in paragraph 1 shall be fixed for each Member State referred to in Article 1 (1) in respect of which a maximum quantity has been fixed and to which tenders have been submitted'.

Article 4

Article 9 of Regulation (EEC) No 314/75 shall be amended to read as follows :

'*Article 9*

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.

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 that maximum tonnage, 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 5

Article 7 (2) of Regulation (EEC) No 557/75 shall be amended to read as follows :

'2. Tenders, and any cancellations of tenders in the case of dual tenders, shall be notified to the Commission without delay and in a manner such that the tenderers cannot be identified.'

Article 6

Article 6 (4) of Regulation (EEC) No 558/75 shall be amended to read as follows :

'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 to apply *mutatis mutandis* ;

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

The security shall be released without delay.'

Article 7

Article 11 (3) of Regulations (EEC) No 314/75 and (EEC) No 557/75 shall be amended to read as follows :

'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 for 90 days from their day of issue within the meaning of Article 9 (1) of Regulation (EEC) No 193/75. However, import licences for white sugar intended to be put into free circulation in Italy may not be valid beyond 31 July 1975.'

Article 8

Article 11 (1) (b) of Regulation (EEC) No 558/75 shall be amended to read as follows :

'(b) the right to the issue without delay, on production of the proof referred to in Article 12 (a), of an import licence showing the quantity and the subsidy indicated in the offer and the Member State in which the sugar is to be put into free circulation.'

Article 9

1. In the first subparagraph of Article 12 (a) of Regulation (EEC) No 558/75 the words 'sixty days' shall be replaced by 'thirty days'.

2. The following subparagraph shall be added to Article 12 (a) of Regulation (EEC) No 558/75 :

'By way of derogation from the provisions of Article 5 (4) of Regulation (EEC) No 2315/69, the control copy referred to above shall be returned to the importer, after having been duly endorsed by the competent customs office, immediately on completion of the customs formalities for entry of the sugar into home use in Italy.'

Article 10

The last sentence of Article 19 of Regulation (EEC) No 558/75 and of Article 16 of Regulation (EEC) No 630/75 shall be deleted.

Article 11

1. Article 10 (b) of Regulation (EEC) No 630/75 shall be amended to read as follows :

'(b) the successful tenderer shall prove that the quantity of white sugar mentioned in the tender has been imported into Italy within 30 days following the day on which the period for submission of tenders in question expired. Proof of importation into Italy shall be furnished by production of the document referred to in the second subparagraph (a) of Article 11'.

2. The following shall be added to Article 10 of Regulation (EEC) No 630/75 :

'(c) the tenderer must include in the contract of sale a clause requiring the sugar to be retailed, in the unaltered state, in Italy.'

Article 12

Article 11 (a) of Regulation (EEC) No 630/75 shall be amended to read as follows :

'(a) the control copy referred to in Article 1 of Regulation (EEC) No 2315/69 [1], 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 verbruik in Italië" ;
"bestemt til forbrug i Italien" ;

— Section 106 must be completed by entering one of the following endorsements :

"Tendering Regulation (EEC) No 630/75 (OJ No L 66, 13 March 1975), time limit for submission of tenders expires ....." ;

"Règlement d'adjudication (EEC) nº 630/75 (JO nº L 66 du 13 mars 1975) délai de présentation des offres expirant le ....." ;

"Ausschreibungsverordnung (EWG) Nr. 630/75 (ABl. Nr. L 66 vom 13. März 1975), Ablauf der Angebotsfrist am ....." ;

"Regolamento di gara (CEE) n. 630/75 (GU n. L 66 del 13 marzo 1975), il termine di presentazione delle offerte scade il ....." ;

"Verordening m.b.t. inschrijving (EEG) nr. 630/75 (PB nr. L 66 van 13 maart 1975), indieningstermijn aanbiedingen eindigt op ....." ;

"Forordning om licitation (EØF) nr. 630/75 (EFT nr. L 66 af 13. marts 1975), fristen for indgivelse af tilbud udløber den .....".

By way of derogation from the provisions of Article 5 (4) of Regulation (EEC) No 2315/69 to control copy referred to above shall be returned to the importer, after having been duly endorsed by the competent customs office, immediately on completion of the customs formalities for entry of the sugar into home use in Italy.'

Article 13

1. This Regulation shall enter into force on 18 April 1975.

2. The derogations provided for in Articles 9 and 12 of this Regulation shall also apply to those operations in respect of which the customs formalities for importation into Italy were completed before this Regulation entered into force.

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

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

Done at Brussels, 17 April 1975.

For the Commission

P. J. LARDINOIS

Member of the Commission