COMMISSION REGULATION (EEC) No 1496/82

of 10 June 1982

amending Regulations (EEC) No 2041/81, (EEC) No 2042/81 and (EEC) No 2235/81 on standing invitations to tender for the export of sugar for the 1981/82 marketing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 974/71 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 [1], as last amended by Regulation (EEC) No 3605/81 [2], and in particular Article 6 thereof,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the market in sugar [3], as last amended by Regulation (EEC) No 606/82 [4], and in particular Articles 13 (2), 18 (5) and 19 (7) thereof,

Having regard to Council Regulation (EEC) No 608/72 of 23 March 1972 laying down rules to be applied in the case of considerable price rises on the world sugar market [5], and in particular Article 1 (1) thereof,

Whereas, in accordance with Commission Regulation (EEC) No 2041/81 of 16 July 1981 on a principal standing invitation to tender to determine levies and/or refunds on exports of white sugar [6], Regulation (EEC) No 2042/81 of 16 July 1981 on a supplementary standing invitation to tender in order to determine levies and/or refunds on exports of white sugar [7] and Commission Regulation (EEC) No 2235/81 of 31 July 1981 on a standing invitation to tender in order to determine levies and/or refunds on exports of raw sugar [8], as amended all three by Regulation (EEC) No 722/82 [9], the Member States issue partial invitations to tender for the export of white sugar and raw sugar;

Whereas the second subparagraph of Article 3 (1) of Commission Regulation (EEC) No 1160/82 of 14 May 1982 providing for the advance fixing of monetary compensatory amounts [10] provides that, where the levy or refund is fixed by means of tenders, applications to fix the monetary compensatory amount in advance shall be accepted only if the party concerned has declared in writing at the time of submission of the tender that he will also apply to fix the monetary compensatory amount in advance if the tender is accepted in whole or in part; whereas, in such cases, the obligation to lodge an application to fix the levy or refund in advance following acceptance of the tender involves an obligation to request at the same time advance fixing of the monetary compensatory amount;

Whereas, for reasons peculiar to the market in sugar, when an operator intends to make use of the facility of fixing a monetary compensatory amount in advance in connection with a levy or refund on exportation fixed in advance under a tendering procedure he only makes up his mind to do so at the moment when the application for the export licence is made;

Whereas in fact it is only after the offeror has been declared successful in respect of a levy or refund for the quantity of sugar indicated in his tender that the said monetary compensatory amount can be fixed in advance; whereas application of the second subparagraph of the said Article 3 (1) would as a consequence, if the tenderer did not, as laid down, ask for advance fixing of the monetary compensatory amount at the time the licence or certificate was applied for, entail his losing a very large security, the loss of which would be out of proportion to the objective behind the provisions of the second subparagraph of Article 3 (1) of Regulation (EEC) No 1160/82; whereas in consequence a derogation should be made from the said provision in the case of tendering procedures opened for the export of sugar, namely that application for advance fixing of the monetary compensatory amount at the time when the application for the export licence is made should be optional;

Whereas for administrative reasons certain of the time schedules laid down for partial invitations to tender should be altered;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

[1] OJ No L 106, 12. 5. 1971, p. 1.
[2] OJ No L 362, 17. 2. 1981, p. 2.
[3] OJ No L 177, 1. 7. 1981, p. 4.
[4] OJ No L 74, 18. 3. 1982, p. 1.
[5] OJ No L 75, 28. 3. 1972, p. 5.
[6] OJ No L 200, 21. 7. 1981, p. 22.
[7] OJ No L 200, 21. 7. 1981, p. 27.
[8] OJ No L 218, 4. 8. 1981, p. 19.
[9] OJ No L 85, 31. 3. 1982, p. 5.
[10] OJ No L 134, 15. 5. 1982, p. 22.

HAS ADOPTED THIS REGULATION :

Article 1

1. The following third subparagraph is added to Article 4 (3) of Regulations (EEC) No 2042/81 and (EEC) No 2235/81 :

'By way of derogation from paragraph 2 (b), the period for the submission of tenders which was to end on Wednesday 30 June 1982 shall end on Thursday 1 July 1982 at 10.30 a.m.'

2. The following Article 13a is inserted after Article 13 of Regulations (EEC) No 2041/81, (EEC) No 2042/81 and (EEC) No 2235/81 :

'*Article 13a*

If the tenderer intends to apply for advance fixing of the monetary compensatory amount under this standing invitation to tender, the provisions of the second subparagraph of paragraph 1 of Article 3 of Regulation (EEC) No 1160/82 shall not apply.

When use is made of the provisions of the first subparagraph of paragraph 1 of Article 3 of that Regulation, those of the third subparagraph of paragraph 1 and of paragraph 2 of that Article shall remain applicable to this tendering procedure.'

Article 2

This Regulation shall enter into force on 14 June 1982.

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

Done at Brussels, 10 June 1982.

For the Commission

Poul DALSAGER

Member of the Commission