COMMISSION REGULATION (EC) No 38/2007

of 17 January 2007

opening a standing invitation to tender for the resale for export of sugar held by the intervention agencies of Belgium, the Czech Republic, Spain, Ireland, Italy, Hungary, Poland, Slovakia and Sweden

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the market in the sugar sector [1], and in particular Articles 40(1)(g) and 40(2)(d) thereof,

Whereas:

(1) Article 39(1) of Commission Regulation (EC) No 952/2006 of 29 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 318/2006 as regards the management of the Community market in sugar and the quota system [2] provides that the intervention agencies may sell sugar only after a decision to that effect has been adopted by the Commission.

(2) Belgium, the Czech Republic, Spain, Ireland, Italy, Hungary, Poland, Slovakia and Sweden have intervention stocks of sugar. In order to respond to market needs, it is appropriate to open a standing invitation to tender to make these stocks available for export.

(3) In order to prevent any abuse associated with the re-import or re-introduction into the Community of sugar sector products that have qualified for export refunds, no export refund should be fixed for the countries of the western Balkans.

(4) To take account of the situation on the Community market, provision should be made for the Commission to fix a maximum export refund for each partial invitation to tender.

(5) The intervention agencies of Belgium, the Czech Republic, Spain, Ireland, Italy, Hungary, Poland, Slovakia and Sweden should communicate the tenders to the Commission. The tenderers should remain anonymous.

(6) Pursuant to Article 42(1)(d) of Regulation (EC) No 952/2006, the price to be paid by the successful tenderer should be determined by the invitation to tender.

(7) Pursuant to Article 42(2)(e) of Regulation (EC) No 952/2006, it is appropriate to determine the period of validity of the export licences.

(8) In order to ensure proper management of sugar in storage, provision should be made for a communication from the Member States to the Commission on the quantities actually sold and exported.

(9) The second paragraph of Article 59 of Regulation (EC) No 952/2006 provides that Commission Regulation (EC) No 1262/2001 of 27 June 2001 laying down detailed rules for implementing Council Regulation (EC) No 1260/2001 as regards the buying-in and sale of sugar by intervention agencies [3] continues to apply to sugar accepted into intervention before 10 February 2006. However, for the resale of intervention sugar, this distinction is unnecessary and its implementation would create administrative difficulties for the Member States. It is therefore appropriate to exclude the application of Regulation (EC) No 1262/2001 to the resale of intervention sugar pursuant to this Regulation.

(10) The quantities available for a Member State that can be awarded when the Commission fixes the maximum export refund should take into account the quantities awarded pursuant to Commission Regulation (EC) No 1039/2006 of 7 July 2006 opening a standing invitation to tender for the resale on the Community market of sugar held by the intervention agencies of Belgium, the Czech Republic, Germany, Spain, Ireland, Italy, Hungary, Poland, Slovenia, Slovakia and Sweden [4].

(11) The Management Committee for Sugar has not delivered an opinion within the time limit set by its chairman,

[1] OJ L 58, 28.2.2006, p. 1. Regulation as last amended by Regulation (EC) No 2011/2006 (OJ L 384, 29.12.2006, p. 1).
[2] OJ L 178, 1.7.2006, p. 39.
[3] OJ L 178, 30.6.2001, p. 48. Regulation repealed by Regulation (EC) No 952/2006.
[4] OJ L 187, 8.7.2006, p. 3. Regulation as amended by Regulation (EC) No 1555/2006 (OJ L 288, 19.10.2006, p. 3).

HAS ADOPTED THIS REGULATION:

Article 1

The intervention agencies of Belgium, the Czech Republic, Spain, Ireland, Italy, Hungary, Poland, Slovakia and Sweden shall offer for sale by standing invitation to tender for export to all destinations excluding Albania, Croatia, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Serbia, Kosovo and Montenegro a total quantity of 852 681 tonnes of sugar accepted into intervention and available for export. The maximum quantities involved per Member State are set out in Annex I.

Article 2

1. The period during which tenders may be submitted in response to the first partial invitation to tender shall begin on 19 January 2007 and shall end on 24 January 2007 at 15.00, Brussels time.

The periods during which tenders may be submitted in response to the second and subsequent partial invitations shall begin on the first working day following the end of the preceding period. They shall end at 15.00, Brussels time:

— on 7 and 21 February 2007,

— on 7 and 28 March 2007,

— on 18 and 25 April 2007,

— on 9 and 23 May 2007,

— on 13 and 27 June 2007,

— on 11 and 18 July 2007,

— on 8 and 29 August 2007,

— on 12 and 26 September 2007.

2. Tenders shall be lodged with the intervention agency holding the sugar as set out in Annex I.

Article 3

The intervention agencies concerned shall communicate to the Commission tenders submitted within two hours after the expiry of the deadline for the submissions laid down in Article 2(1).

The tenderers shall not be identified.

Tenders submitted shall be communicated in electronic form according to be the model laid down in Annex II.

When no tenders are submitted, the Member State shall communicate this to the Commission within the same time limit.

Article 4

1. The Commission shall fix a maximum export refund for white sugar and for raw sugar or decide not to accept the tenders in accordance with the procedure referred to in Article 39(2) of Regulation (EC) No 318/2006.

2. The available quantity for a lot shall be reduced by the quantities awarded the same day for that lot by Regulation (EC) No 1039/2006.

Where an award at a maximum export refund set pursuant to paragraph 1 would result in that reduced available quantity for a lot being exceeded, that award shall be limited to that reduced available quantity.

Where awards for a Member State to all tenderers offering the same export refund for one lot would result in that reduced available quantity for that lot being exceeded, that reduced available quantity shall be awarded as follows:

(a) by division among the tenderers concerned in proportion of the total quantities in each of their tenders; or

(b) by apportionment among the tenderers concerned by reference to a maximum tonnage fixed for each of them; or

(c) by drawing of lots.

3. The price to be paid by the successful tenderer in accordance with article 42(1)(d) of Regulation (EC) No 952/2006 shall be EUR 632 per tonne for white sugar and EUR 497 per tonne for raw sugar.

Article 5

1. Export licence applications and licences shall contain in box 20 one of the entries listed in Annex III.

2. Export licences issued in connection with a partial invitation to tender shall be valid from the day of issue until the end of the fifth calendar month following that in which the partial invitation was issued.

Article 6

1. On the fifth working day at the latest after the Commission fixes the maximum export refund, the intervention agencies involved shall communicate to the Commission, in the form laid down in Annex IV, the exact quantity sold by partial invitation to tender.

2. Not later than the end of each calendar month in respect of the preceding calendar month, Member States shall notify to the Commission the quantities of sugar of the export licences returned to the competent authorities and the corresponding quantities of sugar exported, taking account of the tolerances permitted by Article 8(4) and (5) of Commission Regulation (EC) No 1291/2000 [1].

Article 7

By way of derogation from the second paragraph of Article 59 of Regulation (EC) No 952/2006, that Regulation shall apply to the resale, as referred to in Article 1 of this Regulation, of sugar accepted into intervention before 10 February 2006.

Article 8

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 17 January 2007.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] OJ L 152, 24.6.2000, p. 1.

ANNEX I

Member States holding intervention sugar

Member State	Intervention Agency	Quantities held by the intervention agency and available for sale for export (in tonnes)
Belgium	Bureau d'intervention et de restitution belge/ Belgisch Interventie- en Restitutiebureau (BIRB) Rue de Trèves, 82/Trierstraat 82 B-1040 Bruxelles/B-1040 Brussel Tél./Tel. (32-2) 287 24 11 Fax (32-2) 287 25 24	28 648,00
Czech Republic	Státní zemědělský intervenční fond Oddělení pro cukr a škrob Ve Smečkách 33 CZ-11000 PRAHA 1 Tel.: (420) 222 87 14 27 Fax: (420) 222 87 18 75	35 902,72
Spain	Fondo Español de Garantía Agraria Beneficencia, 8 E-28004 Madrid Tel. (34) 913 47 64 66 Fax (34) 913 47 63 97	43 084,00
Ireland	Intervention Section On Farm Investment Subsidies & Storage Division Department of Agriculture & Food Johnstown Castle Estate Wexford Ireland Tél.: (00 353) 53 63437 Fax: (00 353) 9142843	12 000,00
Italy	AGEA — Agenzia per le erogazioni in agricoltura Ufficio ammassi pubblici e privati e alcool Via Torino, 45 00185 Roma Tel. (39 06) 49 49 95 58 Fax: (39 06) 49 49 97 61	492 791,70
Hungary	Mezőgazdasági és Vidékfejlesztési Hivatal (MVH) (Agricultural and Rural Development Agency) Soroksári út 22–24. HU-1095 Budapest Tel.: 36/1/219-6213 Fax: 36/1/219-8905 vagy 36/1/219-6259	138 592,90
Poland	Agencja Rynku Rolnego Biuro Cukru Dział Dopłat i Interwencji Nowy Świat 6/12 00-400 Warszawa Tél.: +48 22 661 71 30 Fax: +48 22 661 72 77	8 623,00
Slovakia	Pôdohospodárska platobná agentúra Oddelenie cukru a ostatných komodít Dobrovičova 12 815 26 Bratislava Slovenská republika Tel.: (421-2) 58 24 32 55 Fax: (421-2) 53 41 26 65	34 000,00
Sweden	Statens jordbruksverk S-551 82 Jönköping Tél.: (46-36) 15 50 00 Fax: (46-36) 19 05 46	59 038,00

ANNEX II

Model for the communication to the Commission as referred to in Article 3

Form (*)

Standing invitation to tender for the resale of sugar held by the intervention agencies

Regulation (EC) No 38/2007

1	2	3	4	5
Member State selling intervention sugar	Numbering of tenderers	Lot No	Quantity (tonnes)	Export refund EUR/100 kg
	1			
	2			
	3			
	etc.			

(*) To be faxed to the following number: +32 2 292 10 34.

ANNEX III

Entries referred to in Article 5(1)

in Bulgarian:	Изнесено с възстановяване съгласно Регламент (ЕО) № 38/2007
in Spanish:	Exportado con restitución en virtud del Reglamento (CE) nº 38/2007
in Czech:	Vyvezeno s náhradou podle nařízení (ES) č. 38/2007
in Danish:	Eksporteret med restitution i henhold til forordning (EF) nr. 38/2007
in German:	Mit Erstattung ausgeführt gemäß der Verordnung (EG) Nr. 38/2007
in Estonian:	Eksporditud toetusega vastavalt määrusele (EÜ) nr 38/2007
in Greek:	Εξαγωγή με επιστροφή σύμφωνα με τον κανονισμό (ΕΚ) αριθ. 38/2007
in English:	Exported with refund pursuant to Regulation (EC) No 38/2007
in French:	Exporté avec restitution conformément au règlement (CE) nº 38/2007
in Italian:	Esportato con restituzione ai sensi del regolamento (CE) n. 38/2007
in Latvian:	Saskaņā ar Regulu (EK) Nr. 38/2007 eksportēts, saņemot kompensāciju
in Lithuanian:	Eksportuota su grąžinamąja išmoka, remiantis Reglamentu (EB) Nr. 38/2007
in Hungarian:	Visszatérítéssel exportálva a 38/2007/EK rendelet szerint
in Maltese:	Esportat b'rifużjoni skond ir-Regolament (KE) Nru 38/2007
in Dutch:	Uitgevoerd met restitutie overeenkomstig Verordening (EG) nr. 38/2007
in Polish:	Wywóz objęty refundacją zgodnie z rozporządzeniem (WE) nr 38/2007
in Portuguese:	Exportado com restituição, nos termos do Regulamento (CE) n.º 38/2007
in Romanian:	Exportat cu restituire în baza Regulamentului (CE) nr. 38/2007
in Slovak:	Vyvezené s náhradou podľa nariadenia (ES) č. 38/2007
in Slovenian:	Izvoženo z nadomestilom v skladu z Uredbo (ES) št. 38/2007
in Finnish:	Viety asetuksen (EY) N:o 38/2007 mukaisella vientituella
in Swedish:	Exporterat med exportbidrag enligt förordning (EG) nr 38/2007

ANNEX IV

Model for the notification to the Commission as referred to in Article 6(1)

Form (*)

Partial invitation to tender of … for the resale of sugar held by the intervention agencies

Regulation (EC) No 38/2007

1	2
Member State selling intervention sugar	Quantity actually sold (in tonnes)

(*) To be faxed to the following number: +32 2 292 10 34.