Commission Regulation (EC) No 1476/2007 of 13 December 2007 opening a standing invitation to tender for the resale for industrial use of sugar held by the intervention agencies of Belgium, the Czech Republic, Ireland, Spain, Italy, Hungary, Slovakia and Sweden and amending Regulations (EC) No 1059/2007 and (EC) No 1060/2007

COMMISSION REGULATION (EC) No 1476/2007

of 13 December 2007

opening a standing invitation to tender for the resale for industrial use of sugar held by the intervention agencies of Belgium, the Czech Republic, Ireland, Spain, Italy, Hungary, Slovakia and Sweden and amending Regulations (EC) No 1059/2007 and (EC) No 1060/2007

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 markets 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. Given the continued existence of intervention stocks, it is appropriate to provide for the possibility to sell for industrial use sugar held by the intervention agencies.

(2) Pursuant to Article 42(2)(c) of Regulation (EC) No 952/2006, it is appropriate to fix a minimum quantity per tenderer or per lot.

(3) To take account of the situation on the Community market, provision should be made for the Commission to fix a minimum selling price for each partial invitation to tender.

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

(5) 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.

(6) The provisions on processor's records, checks and penalties laid down by Commission Regulation (EC) No 967/2006 of 29 June 2006 laying down detailed rules for the

application of Council Regulation (EC) No 318/2006 as regards sugar production in excess of the quota[3] should apply to the quantities awarded under this Regulation.

(7) To ensure that the quantities awarded pursuant to this Regulation are used as industrial sugar, financial penalties must be laid down for tenderers at a dissuasive level to avoid any risk of these quantities being used for other purposes.

(8) The second paragraph of Article 59 of Regulation (EC) No 952/2006 provides that Commission Regulation (EC) No 1262/2001[4] 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 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.

(9) The quantities available for a Member State that can be awarded pursuant to this Regulation should take into account the quantities awarded pursuant to Commission Regulation (EC) No 1059/2007 of 14 September 2007 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, Ireland, Spain, Italy, Hungary, Slovakia, and Sweden[5].

(10) The quantities awarded under this Regulation should also be taken into account for the quantities that can be awarded under Commission Regulation (EC) No 1060/2007 of 14 September 2007 opening a standing invitation to tender for the resale for export of sugar held by the intervention agencies of Belgium, the Czech Republic, Ireland, Spain, Italy, Hungary, Slovakia and Sweden[6]. A relevant provision should therefore be inserted in Regulation (EC) No 1060/2007.

(11) The maximum quantities of intervention sugar held by the Spanish intervention agency according to Annex I to Regulation (EC) No 1059/2007 and Annex I to Regulation (EC) No 1060/2007 did not take into account 18 000 tonnes of sugar accepted into intervention in April 2006.

(12) Regulations (EC) No 1059/2007 and (EC) No 1060/2007 should therefore be amended accordingly.

(13) 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

The intervention agencies of Belgium, the Czech Republic, Ireland, Spain, Italy, Hungary, Slovakia and Sweden shall offer for sale by standing invitation to tender for industrial use a maximum total quantity of 477 924 tonnes of sugar accepted into intervention and available for sale for industrial use.

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 1 January 2008 and shall end on 9 January 2008 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:

— 30 January 2008,
— 13 and 27 February 2008,
— 12 and 26 March 2008,
— 9 and 23 April 2008,
— 7 and 28 May 2008,
— 11 and 25 June 2008,
— 9 and 23 July 2008,
— 6 and 27 August 2008,
— 10 and 24 September 2008.

2 The minimum quantity of the tender per lot referred to in Article 42(2)(c) of Regulation (EC) No 952/2006 shall be 100 tonnes, unless the available quantity for that lot is less than 100 tonnes. In such cases the available quantity must be tendered.

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

4 Tenders may be submitted only by processors within the meaning of Article 2(d) of Regulation (EC) No 967/2006.

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 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 per Member State concerned the minimum selling price for each partial invitation to tender 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 1059/2007.

Where an award at a minimum selling price set pursuant to paragraph 1 would result in the available quantity for the Member State concerned being exceeded, that award shall be limited to such quantity as is still available.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1476/2007. (See end of Document for details)*

Where awards for a Member State to all tenderers offering the same selling price would result in the quantity for that Member State being exceeded, then the quantity available shall be awarded as follows:

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

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 On the fifth working day at the latest after the Commission fixes the minimum selling price, the intervention agencies involved shall communicate to the Commission, in the form laid down in Annex III, the quantity actually sold by partial invitation to tender.

Article 5

1 Articles 11, 12 and 13 of Regulation (EC) No 967/2006 shall apply *mutatis mutandis* to processors in respect of the quantities of sugar awarded under this Regulation.

2 At the request of the successful tenderer, the competent authority of the Member State which granted him its approval as processor within the meaning of Article 2(d) of Regulation (EC) No 967/2006 may permit a quantity, in white sugar equivalent, of sugar produced under quota to be used for the purposes of production of the products referred to in the Annex to Regulation (EC) No 967/2006 in place of the same quantity, in white sugar equivalent, of intervention sugar awarded. The competent authorities of the Member States concerned shall coordinate checks and monitoring of such an operation.

Article 6

1 Each successful tenderer shall supply proof, to the satisfaction of the competent authorities of the Member State, that the quantity awarded by a partial invitation to tender has been used for the purposes of production of the products referred to in the Annex to Regulation (EC) No 967/2006 and in accordance with the approval referred to in Article 5 of Regulation (EC) No 967/2006. This proof shall consist of the computerised recording in the records during or at the end of the production process of the quantities of the products concerned.

2 If processors have not supplied the proof referred to in paragraph 1 by the end of the fifth month following the month of award, they shall pay, for each day of delay, a sum of EUR 5 per tonne of the quantity concerned.

3 If processors have not supplied the proof referred to in paragraph 1 by the end of the seventh month following the month of award, the quantity concerned shall be considered to be overdeclared for the purposes of applying Article 13 of Regulation (EC) No 967/2006.

Article 7

By way of derogation from the second paragraph of Article 59 of Regulation (EC) No 952/2006, Regulation (EC) No 1262/2001 shall not apply to the resale, as referred to in Article 1 of this Regulation, of sugar accepted into intervention before 10 February 2006.

Article 8

In Annex I to Regulation (EC) No 1059/2007, the row concerning Spain is replaced by the following:

Spain	Fondo Español de Garantia Agraria C/Beneficencia, 8 E-28004 Madrid Tel. (34) 91 347 64 66 Fax (34) 91 347 63 97	42 084

Article 9

Regulation (EC) No 1060/2007 is amended as follows:

(a) In Article 4(2), the first subparagraph is replaced by the following:

> The available quantity for a lot shall be reduced by the quantities awarded the same day for that lot by Regulation (EC) No 1059/2007 and Regulation (EC) No 1476/2007.

(b) In Annex I the row concerning Spain is replaced by the following:

Spain	Fondo Español de Garantia Agraria C/Beneficencia, 8 E-28004 Madrid Tel. (34) 91 347 64 66 Fax (34) 91 347 63 97	42 084

Article 10

This Regulation shall enter into force on the third day following that of 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, 13 December 2007.

For the Commission

Mariann FISCHER BOEL

Member of the Commission