Commission Implementing Regulation (EU) No 36/2013 of 18 January 2013 opening a standing invitation to tender for the 2012/2013 marketing year for imports of sugar of CN codes 17011410 and 17019910 at a reduced customs duty

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)[(1)] and in particular Articles 186, in conjunction with Article 4 thereof,

Whereas:

(1) During the 2011/2012 sugar marketing year, the Union average bulk white sugar ex-factory price reached a level of 175 % of the reference price of EUR 404/tonne and was approximately EUR 275/tonne higher than the world market price. The Union price is now stable at a level of around EUR 700/tonne, which is the highest level reached since the reform of the sugar market organisation and disturbs the optimal fluidity of the sugar supply on the Union market. The expected increase of this already high price level during the 2012/2013 marketing year substantiates the risk of serious market disturbances which should be prevented by the necessary measures.

(2) Pursuant to Regulation (EC) No 1234/2007 measures may be taken with a view to tackle the risk of market disturbances, in particular due to continued high prices, provided that this objective cannot be reached by means of other measures available under that Regulation. However, given the current market circumstances, Regulation (EC) No 1234/2007 does not provide for any specific measures aimed at reducing the tightness on the sugar market and allowing sugar supply at reasonable prices other than those based on Article 186 of that Regulation.

(3) Based on the estimated supply and demand for 2012/2013, the ending stocks for the sugar market are expected to be lower by at least 0.5 million tonne than in 2011/2012. This figure already takes into account the imports from third countries benefiting from certain preferential agreements.

(4) In order to improve the supply situation on the Union sugar market, it is necessary to make imports easier through the reduction of the import duty for certain quantities of sugar of CN codes 1701 14 10 and 1701 99 10 at a reduced customs duty. The quantity and the reduction of the duty should be assessed in the light of the current state and

foreseeable development of the Union sugar market. The quantity and reduction should therefore be based on a tendering system.

(5) The minimum eligibility requirements to tender should be specified.

(6) A security should be lodged for each tender. That security should become the security for the import licence application in the case of a successful tender and be released when a tender is unsuccessful.

(7) The competent authorities of the Member States should notify the Commission of the admissible tenders. In order to simplify and standardise those notifications, models should be made available.

(8) For each partial invitation to tender, provision should be made for the Commission to fix a minimum customs duty and, if appropriate, an allocation coefficient in order to reduce the quantities accepted, or to decide not to fix a minimum customs duty.

(9) Member States should inform the tenderers of the result of their participation in the partial invitation to tender within a short period.

(10) The competent authorities should notify the Commission of the quantities for which import licenses have been issued. For this purpose, models should be made available by the Commission.

(11) The Management Committee for the Common Organisation of Agricultural Markets has not delivered an opinion within the time limit set by its Chair,

HAS ADOPTED THIS REGULATION:

Article 1

A tendering procedure is opened for the 2012/2013 marketing year for imports of sugar of CN codes 1701 14 10 and 1701 99 10 at a reduced customs duty, bearing reference number 09.4312.

That customs duty shall replace the common customs tariff duty and the additional duties referred to in Article 141 of Regulation (EC) No 1234/2007 and Article 36 of Commission Regulation (EC) No 951/2006[(2)].

Commission Regulation (EC) No 376/2008[(3)] shall apply save as otherwise provided for in this Regulation.

Article 2

1 The period during which tenders may be submitted in response to the first partial invitation to tender shall end on 23 January 2013 at 12 noon, Brussels time.

2 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 12 noon, Brussels time, on 27 February 2013, 15 May 2013 and 12 June 2013.

3 The Commission may suspend the submission of tenders for one or several partial invitations to tender.

Article 3

1 Tenders shall be lodged by operators established in the Union. They shall be lodged to the competent authority in the Member State in which an operator is registered for VAT purposes.

2 Tenders shall be lodged by means of the application form for an import licence that is provided in Annex I to Regulation (EC) No 376/2008.

3 The application form may be lodged by electronic means, using the method made available to the operators by the Member State concerned. The competent authorities of the Member States may require that electronic tenders be accompanied by an advance electronic signature within the meaning of Directive 1999/93/EC of the European Parliament and of the Council[(4)].

4 Tenders shall be admissible only if the following conditions are met:

a tenders shall indicate:

(i) in box 4, the name, address and VAT number of the tenderer;

(ii) in box 17 and 18, the quantity of sugar tendered, which shall be at least 20 tonnes and shall not exceed 45 000 tonnes, rounded with no decimal places;

(iii) in box 20, the proposed amount of the customs duty, in euro per tonne of sugar, rounded to no more than two decimal places;

(iv) in box 16, the eight digit CN code of the sugar;

b proof is furnished, before the expiry of the time-limit for the submission of tenders, that the tenderer has lodged the security referred to in Article 4(1);

c the tender is presented in the official language or one of the official languages of the Member State in which the tender is lodged;

d the tender indicates a reference to this Regulation and the expiry date for the submission of the tenders;

e the tender does not include any additional conditions introduced by the tenderer other than those laid down in this Regulation.

5 A tender which is not submitted in accordance with paragraphs 1 and 2 shall not be admissible.

6 Applicants shall not submit more than one tender per eight digit CN code for the same partial invitation to tender.

7 A tender may not be withdrawn or amended after its submission.

Article 4

1 In accordance with the provisions of Chapter III of Commission Implementing Regulation (EU) No 282/2012[(5)] each tenderer shall lodge a security of EUR 150 per tonne of sugar to be imported under this Regulation.

2 Where a tender is successful, that security shall become the security for the import licence.

3 The security referred to in paragraph 1 shall be released in case of unsuccessful tenderers.

Article 5

1 The competent authorities of the Member States shall decide on the validity of tenders on the basis of the conditions set out in Article 3.

2 Persons authorised to receive and examine the tenders shall be under an obligation not to disclose any particulars relating thereto to any unauthorised person.

3 Where the competent authorities of the Member States decide that a tender is invalid they shall inform the tenderer.

4 The competent authority concerned shall notify the Commission, by fax, of the admissible tenders submitted within two hours after the expiry of the time-limit for the submissions laid down in Article 2(1) and (2). That notification shall not contain the data referred to in Article 3(4)(a)(i).

5 The form and content of the notifications shall be defined on the basis of models made available by the Commission to the Member States. When no tenders are submitted, the competent authority shall notify the Commission thereof by fax within the same time-limit.

Article 6

In the light of the current state and foreseeable development of the Union sugar market, the Commission shall, for each partial invitation to tender and for each eight digit CN code, either fix a minimum customs duty or decide not to fix a minimum customs duty by adopting an Implementing Regulation in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007.

With that Implementing Regulation, the Commission shall also fix, where necessary, an allocation coefficient applicable to the tenders which have been introduced at the level of the minimum customs duty. In this case, the security referred to in Article 4 shall be released in proportion to the quantities allocated.

Article 7

1 Where no minimum customs duty has been fixed all tenders shall be rejected.

2 The competent authority concerned shall notify applicants within three working days after the day of publication of the Implementing Regulation referred in Article 6 of the result of their participation in the partial invitation to tender.

Article 8

1 No later than the last working day of the week following the week during which the Implementing Regulation referred in Article 6 was published, the competent authority shall issue an import licence to any tenderer whose tender quotes a customs duty for the eight digit CN code equal to or exceeding the minimum customs duty fixed for that eight digit CN code by the Commission. The quantities awarded shall take account of the allocation coefficient fixed by the Commission in accordance with Article 6.

The competent authorities of the Member States shall not issue licences for tenders that have not been notified as provided for in Article 5(4).

2 Import licences shall contain the following entries:

a in box 16, the eight digit CN code of the sugar;

b in boxes 17 and 18, the quantity of sugar awarded;

c in box 20 at least one of the entries listed in Part A of the Annex;