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

COMMISSION REGULATION (EC) No 38/2007

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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.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 38/2007. (See end of Document for details)*

(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,

HAS ADOPTED THIS REGULATION:

[F1 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 Andorra, Gibraltar, Ceuta, Melilla, the Holy See (Vatican City State), Liechtenstein, Communes of Livigno and Campione d'Italia, Heligoland, Greenland, Faeroe Islands, the areas of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control, Albania, Croatia, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Serbia[5] 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.**]**

Textual Amendments

F1 Substituted by Commission Regulation (EC) No 203/2007 of 27 February 2007 amending Regulations (EC) No 958/2006 and (EC) No 38/2007 in order to abolish refunds for exports to certain destinations.

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.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 38/2007. (See end of Document for details)*

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[(6)].

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.