

## III

(Notices)

## COMMISSION

**Bureau d'intervention et de restitution belge (BIRB), Bruxelles****Státní zemědělský intervenční fond, Praha****Direktoratet for FødevareErhverv, København****Bundesanstalt für Landwirtschaft und Ernährung (BLE), Frankfurt am Main****Põllumajanduse Registrate ja Informatsiooni Amet (PRIA), Tartu****Οργανισμός πληρωμών και ελέγχου κοινοτικών ενισχύσεων προσανατολισμού και εγγυήσεων (ΟΠΕΚΕΠΕ), Αθήνα****Fondo Español de Garantía Agraria (FEGA), Madrid****Fonds d'intervention et de régularisation du marché du sucre (FIRS), Paris****Irish Sugar Intervention Agency (ISIA), Dublin****Agenzia per le erogazioni in agricoltura (AGEA), Roma****Κυπριακός οργανισμός αγροτικών πληρωμών (ΚΟΑΠ), Nicosia****Lauku Atbalsta Dienests (LAD), Rīga****Nacionalinė Mokėjimo Agentūra (NMA), Vilnius****Ministère de l'agriculture, Luxembourg****Mezőgazdasági és Vidékfejlesztési Hivatal (MVH), Budapest****Agenzija ta' Pagamenti (AP), Valletta****Hoofdproductschap Akkerbouw (HPA), Den Haag****Agrarmarkt Austria (AMA), Wien****Agencja Rynku Rolnego (ARR), Warszawa****Ministério das Finanças, Direcção-Geral das Alfândegas e dos Impostos Especiais sobre o Consumo, Direcção de Serviços de Licenciamento, Lisboa****Agencija Republike Slovenije za kmetijske trge in razvoj podeželja, Ljubljana****Pôdohospodárska platobná agentúra, Bratislava****Maa- ja metsätalousministeriö (MMM), Helsinki****Statens jordbruksverk (SJV), Jönköping****Rural Payments Agency (RPA), Newcastle-upon-Tyne****Notice of a standing invitation to tender in order to determine levies and/or refunds on exports of white sugar****(No 1/2004)**

(2004/C 185/06)

**I. Subject**

1. A standing invitation to tender will be held in order to determine levies and/or refunds on exports of white sugar falling within CN code 1701 99 10 for all destinations except for Albania, Croatia, Bosnia-Herzegovina, Serbia and Montenegro, including Kosovo as defined by the United Nations Security Council Resolution 1244 of 10 June 1999, and the Former Yugoslav Republic of Macedonia.

2. The standing invitation to tender shall be conducted in accordance with Article 28 of Regulation (EC) No 1260/2001 <sup>(1)</sup> and Regulation (EC) No 1327/2004 <sup>(2)</sup>.

## II. Time limits

1. The standing invitation to tender shall remain open until 28 July 2005. During the period of validity of this invitation, partial invitations will be issued.

- 2.1. The period during which tenders may be submitted in response to the first partial invitation will begin on 23 July 2004 and will expire at 10.00 Brussels time on Thursday 29 July 2004.

- 2.2. For each of the partial invitations to tender, the period during which tenders may be submitted will begin on the first working day following the day on which the period for the previous partial invitation to tender ends.

- 2.3. The period for the submission of tenders will end at 10.00 Brussels time on:

- 12 and 26 August 2004,
- 9, 16, 23 and 30 September 2004,
- 7, 14, 21 and 28 October 2004,
- 4, 11 and 25 November 2004,
- 9 and 23 December 2004,
- 6 and 20 January 2005,
- 3 and 17 February 2005,
- 3, 17 and 31 March 2005,
- 14 and 28 April 2005,
- 12 and 26 May 2005,
- 2, 9, 16, 23 and 30 June 2005,
- 14 and 28 July 2005.

3. Subject to its amendment or replacement, the terms of this notice will apply to every partial invitation to tender held during the period of validity of this standing invitation to tender.

## III. Tenders

1. This notice invites interested parties to submit, for each partial invitation to tender, tenders for the export levy and/or export refund for the sugar referred to in Title I above.

- 2.1. Written tenders must reach the competent agency of a Member State no later than the dates and times indicated in point 2 of Title II, and must either be handed in, in return for a receipt, or be sent by registered post or by telegram, or else by telex, fax or electronic-mail provided the competent agency accepts those forms of transmission, to one of the following addresses:

— Bureau d'intervention et de restitution belge  
Rue de Trèves 82  
B-1040 Bruxelles  
Tel: (32-2) 287 24 11  
Fax: (32-2) 287 25 24

— Státní zemědělský intervenční fond  
Oddělení vývozních subvencí  
Ve Smečkách 33  
CZ-11000 Praha 1  
Tel.: (420) 222 871 458  
Fax: (420) 222 871 714

— Direktoratet for Fødevare Erhverv  
Nyropsgade 30  
DK-1780 København V  
Tel: (45) 33 95 80 00  
Fax: (45) 33 95 80 18

— Bundesanstalt für Landwirtschaft und Ernährung,  
Referat 325  
D-60631 Frankfurt am Main  
Tel: (49-69) 15 64 -0  
Fax: (49-69) 15 64-624/794

— Põllumajanduse Registre ja Informatsiooni Amet (PRIA)  
Narva maantee 3  
Tartu 51009  
Tel: (372) 7 371 200  
Fax: (372) 7 371 201  
e-mail: pria@pria.ee

— Οργανισμός πληρωμών και ελέγχου κοινοτικών ενισχύσεων προσανατολισμού και εγγυήσεων,  
Αχαρνών 241, Αθήνα  
Texex: 221 734 – 221 735 – 221 738  
Fax: 867 11 11 Αθήνα

— Fondo Español de Garantía Agraria  
Beneficencia, 8  
E-28004 Madrid  
Tel: (34) 913 47 64 66  
Fax: (34) 913 47 63 97, 491 521 98 32 and 915 22 43 87  
e-mail: sgarmoni@fega.mapya.es

— Fonds d'intervention et de régularisation du marché du sucre  
120, boulevard de Courcelles  
F-75017 Paris  
Tel.: (33-1) 56 79 46 00  
Fax: (33-1) 56 79 46 60

— Irish Sugar Intervention Agency, Department of Agriculture and Food  
Agriculture House  
Kildare Street  
Dublin 2  
Tel: (01) 607 20 00  
Fax: (01) 676 40 37

<sup>(1)</sup> OJ L 178, 30.6.2001, p. 1.

<sup>(2)</sup> OJ L 246, 20.7.2004, p. 23.

- Agenzia per le erogazioni in agricoltura  
Direzione Organismo pagatore  
Colture specializzate  
Via Palestro 81  
I-00185 Roma  
Telex: 06/620064  
Tel: (39) 06 49 49 95 63 — (39) 06 49 49 95 76  
Fax: (39) 06 445 39 16
- Κυπριακός Οργανισμός Αγροτικών Πληρωμών,  
Μιχαήλ Κουτσόφτα 20 (Εσπερίδων και Μιχαήλ  
Κουτσόφτα)  
2000/Nicosia  
Tel: +357-22557777  
Fax: +357 -22557755  
email commissioner@capo.gov.cy
- Lauku Atbalsta Dienests  
2, Republikas laukums  
LV – 1981, Rīga  
Tel.: (371) 7027542  
Fax: (371) 7027120  
email: LAD@lad.gov.lv
- Nacionalinė mokėjimo agentūra prie Žemės ūkio  
ministerijos  
Užsienio Prekybos Departamentas  
Blindžių g. 17  
LT - 08111 Vilnius  
Tel: (370) 5 2683954  
Fax: (370) 5 2391376
- Office des licences  
21, rue Philippe II  
Boîte postale 113  
L-2011 Luxembourg  
Tel: (352) 478 23 70  
Fax: (352) 46 61 38  
Telex: 2 537 AGRIM LU
- Mezőgazdasági és Vidékfejlesztési Hivatal  
Alkotmány u. 29.  
H-1054 Budapest  
Tel: (36) 1 219 4514  
Fax: (36) 1 219 4511
- Agenzija ta' Pagamenti - Trade Mechanisms Unit  
Ministeru għall-Affarijiet Rurali u l-Ambjent  
Barriera Wharf  
Valletta CMR 02  
Malta  
Tel: (356) 2295 2227 2225 2115  
Fax: (356) 2295 2224
- Hoofdproductschap Akkerbouw  
Stadhoudersplantsoen 12  
2517 JL Den Haag  
Nederland  
Tel.: (070) 370 87 08  
Fax: (070) 346 14 00/370 84 44  
e-mail: hpa@hpa.agro.nl
- Agrarmarkt Austria  
Dresdner Straße 70
- A-1200 Wien  
Tel: (43-1) 33 151 208  
Fax: (43-1) 33 151 303
- Agencja Rynku Rolnego  
Biuro Administrowania Obrotom Towarowym z  
Zagranicą  
Dział Produktów Przetworzonych  
Nowy Świat 6/12  
00-400 Warszawa  
Tel: (48) 22 661 75 90  
Fax: (48) 22 661 71 58
- Ministério das Finanças  
Direcção-Geral das Alfândegas e dos Impostos Espe-  
ciais sobre o Consumo  
Direcção de Serviços de Licenciamento  
Edifício da Alfândega  
Rua Terreiro do Trigo  
P-1149-060 Lisboa  
Tel: (351) 218 81 42 63  
Fax: (351) 218 81 42 61
- Agencija Republike Slovenije za kmetijske trge in  
razvoj podeželja  
Dunajska Cesta 160  
1000 Ljubljana  
Tel: (386) 1478 9228  
Fax: (386) 1479 9206
- Pôdohospodárska platobná agentúra  
Dobrovičova 12  
SK-815 26 Bratislava  
Tel: (421) 2 592 66 397  
Fax: (421) 2 592 66 361
- Maa- ja metsätalousministeriö (MMM)  
Malminkatu 16, Helsinki  
PL 30,  
FIN-00023 Valtioneuvosto  
Tel: (358 -9) 16001  
Fax: (358-9) 16 05 27 78
- Statens jordbruksverk  
Vallgatan 8  
S-55182 Jönköping  
Tel: (46 -36) 15 50 00  
Fax: (46-36) 19 05 46
- The Rural Payments Agency  
Lancaster House  
Hampshire Court  
Newcastle-upon-Tyne NE4 7YE  
United Kingdom  
Tel: (44 191) 226 50 79  
Fax: (44 191) 226 18 39
3. Tenders not submitted by telex, telegram, fax or e-mail message must reach the address concerned in double sealed envelopes. The inner envelope, also sealed, must carry the words: 'Tender under standing invitation to tender to determine levies and/or refunds on exports of white sugar, No 1/2004 — Confidential'.

4. Tenders shall be valid only if the following conditions are met:
- (a) tenders shall contain:
- (i) the procedure to which the tender relates (No 1/2004);
- (ii) the name and address of the tenderer;
- (iii) the quantity of white sugar to be exported;
- (iv) the amount of the export levy or, where applicable, of the export refund, per 100 kilograms of white sugar, expressed in euro to three decimal places;
- (v) the amount of the security to be lodged covering the quantity of sugar indicated in (iii), expressed in the currency of the Member State in which the tender is submitted;
- (b) before the expiry of the time limit for the submission of tenders, the security referred to under IV, or proof that this security has been lodged, has been furnished to one of the addresses listed under III.2.1 chosen by the tenderer for the submission of the tender;
- (c) the quantity to be exported is not less than 250 tonnes of white sugar;
- (d) tenders include a declaration by the tenderer that if their tender is successful they undertake to apply within the time limit specified under V.6.1(b) for an export licence or licences in respect of the quantities of white sugar to be exported;
- (e) tenders include a declaration by the tenderer that the product for exports is white sugar of fair, sound and marketable quality, falling within CN code 1701 99 10;
- (f) tenders include a declaration by the tenderer that if their tender is successful they will:
- (i) where the obligation to export resulting from the export licence referred to under V.6.1(b) is not fulfilled, supplement the security by the payment of the amount referred to in VI.3,
- (ii) within 30 days following the expiry of the export licence in question, notify the authority which issued the licence of the quantity or quantities in respect of which the licence was not used.
5. The tender, as well as the proofs and declarations referred to in points 3 and 4, must be in the official language, or one of the official languages, of the Member State in which the tender is submitted.
6. A tender which is not submitted in accordance with this notice, or which contains terms other than those in this notice, will not be considered.
7. Once submitted, a tender may not be withdrawn.
8. A tender may stipulate that it is to be regarded as having been submitted only if one or both of the following conditions is/are met:
- (a) the minimum export levy or, where applicable, the maximum export refund is fixed on the day of the expiry of the period for the submission of the tenders in question;
- (b) the tender, if successful, relates to all or a specified part of the tendered quantity.
- IV. Security**
- 1.1. A security of EUR 11 per 100 kilograms of white sugar to be exported under this invitation to tender must be lodged by each tenderer.
- 1.2. Without prejudice to VI.3, the security referred to in I.1 shall in the case of successful tenderers and at the time of the application referred to in V.6.1(b) become the security for the export licence.
- 2.1. The security referred to in point 1.1 may be lodged at the tenderer's choice, either in cash or in the form of a guarantee given by a bank approved by the Member State concerned and expressed in the currency of that Member State. The guarantee must be made out in favour of the competent authority concerned.
- 2.2. However, for a tender submitted to the competent authority in Germany, the security must be in favour of the Federal Republic of Germany. For a tender submitted to the competent authority in the other Member States, the guarantee may also be given by a financial institution approved by the Member State concerned. The guarantee must be made out in the official language, or in one of the official languages, of the Member State in which the tender is submitted.
- 3.1. Except in the event of *force majeure* the security referred to in point 1.1 shall be released:
- (a) to unsuccessful tenderers in respect of the quantity for which no award has been made;
- (b) to successful tenderers who have not applied for their export licence within the period laid down in V.6.1(b), to the extent of EUR 10 per 100 kilograms of white sugar.

- (c) to successful tenderers, for the quantity for which they have fulfilled, within the meaning of Article 31(b) and the first subparagraph of Article 32(1)(b)(i) of Regulation (EC) No 1291/2000 <sup>(1)</sup>, the export obligation resulting from the licence referred to in V.6.1(b) in accordance with the terms of Article 35 of that Regulation.

In the case referred to under (b) of the first subparagraph, the releasable part of the security shall be reduced, as applicable, by:

- (a) the difference between the maximum amount of the export refund fixed for the partial invitation concerned and the maximum amount of the export refund fixed for the following partial invitation, when the latter amount is higher than the former;
- (b) the difference between the minimum amount of the export levy fixed for the partial invitation concerned and the minimum amount of the export levy fixed for the following partial invitation, when the latter amount is lower than the former.
- 3.2. The part of the security or the security which is not released shall be forfeit in respect of the quantity of sugar for which the corresponding obligations have not been fulfilled.
4. In cases of *force majeure*, the competent authority of the Member State concerned shall take such action for the release of the security as it considers necessary having regard to the circumstances invoked by the party concerned.

## V. Award of contracts

1. After examination of the tenders, a maximum quantity may be fixed for each of the partial invitations to tender.
2. A decision may be taken to make no award under a specific partial invitation to tender.
- 3.1. Except where point 2 applies and without prejudice to points 4 and 5, where a minimum export levy is fixed an award will be made to the tenderer or tenderers who quote either the same levy as the minimum levy or a higher figure.
- 3.2. Except where point 2 applies, and without prejudice to points 4 and 5, where a maximum export refund is fixed, an award will be made to the tenderer or tenderers who quote either the same refund as the maximum refund or a lower figure, or to every tenderer quoting an export levy.

4. Where a maximum quantity has been fixed for a partial invitation to tender and if a minimum export levy is fixed, a contract shall be awarded to the tenderer whose tender quotes the highest export levy; if the maximum quantity is not fully covered by that award, awards shall be made to other tenderers in descending order of export levies quoted until the entire maximum quantity has been accounted for.

Where a maximum quantity has been fixed for a partial invitation to tender and if a maximum export refund is fixed, contracts shall be awarded in accordance with the first subparagraph; if after such awards a quantity is still outstanding, or if there are no tenders quoting an export levy, awards shall be made to tenderers quoting an export refund in ascending order of export refunds quoted until the entire maximum quantity has been accounted for.

- 5.1. the maximum quantity being exceeded, that award shall be limited to such quantity as is still available.
- 5.2. Where offers quote the same export levy or refund and would, if accepted for the full quantity in respect of which they have been submitted, cause the maximum quantity to be exceeded, awards will be made:
- (a) either pro rata to the total quantities specified in each of the tenders, or
- (b) by apportionment among the successful tenderers, up to a maximum tonnage to be fixed, or
- (c) by drawing lots.
- 6.1. The successful tenderer will have:
- (a) the right to receive in the circumstances referred to under (b), in respect of the quantity for which an award has been made, an export licence specifying, as appropriate, the export levy or refund quoted in the tender;
- (b) the obligation to lodge an application for an export licence in respect of that quantity not later than one of the following dates:
- (a) the last working day preceding the date of the partial invitation to tender to be held in the following week,
- (b) if no partial invitation to tender is to be held that week, the last working day of the following week;

<sup>(1)</sup> OJ L 152, 24.6.2000, p. 1.

- (c) the obligation to export the tendered quantity and if this obligation is not fulfilled in accordance with Article 31(b) and Article 32(1)(b)(i) of Regulation (EC) No 1291/2000, to pay, where applicable, the amount referred to in VI.3.
- 6.2. This right and these obligations are not transferable.
- 7.1. The competent authority in the Member State concerned will immediately notify all applicants of the result of their participation in the invitation to tender. In addition, that authority will send the successful tenderers a statement of award.
- 7.2. Statements of award will indicate, *inter alia*:
- (a) the reference number of the invitation to tender (No 1/2004);
  - (b) the quantity of white sugar to be exported;
  - (c) the export levy to be charged, or the export refund to be granted, expressed in EUR per 100 kilograms of white sugar of the quantity referred to in (b).
- 2.3. The export licences issued in respect of the partial invitations held between 29 July and 30 September 2004 shall be usable only from 1 October 2004.
3. Except in cases of *force majeure*, the licence holder shall pay the competent body a specified amount for the quantity for which the obligation to export resulting from the export licence applied for is not fulfilled in accordance with Articles 31(b) and 32(1)(b)(i) of Regulation (EC) No 1291/2000 and where the security referred to in IV.1.1. is less than the figure produced by one of the following calculations:
- (a) the export levy indicated on the licence, less the levy referred to in the second subparagraph of Article 33(1) of Regulation (EC) No 1260/2001 in force on the last day of validity of the said licence;
  - (b) the sum of the export levy indicated on the licence and the refund referred to in Article 28(2) of Regulation (EC) No 1260/2001 in force on the last day of validity of the said licence;
  - (c) the export refund referred to in Article 28(2) of Regulation (EC) No 1260/2001 in force on the last day of validity of the licence, less the refund indicated on the said licence,

## VI. Export licences

1. The first subparagraph of Article 9 of Regulation (EC) No 1464/95<sup>(1)</sup> and Article 12 of Regulation (EEC) No 120/89<sup>(2)</sup> shall not apply to white sugar exported in accordance with this notice.
- 2.1. 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.
- 2.2. However, export licences issued in respect of the partial invitations held after 1 May 2005 shall be valid only until 30 September 2005.

Should technical difficulties arise which prevent export being carried out by the expiry date referred to in the first subparagraph above, the competent authorities in the Member State which issued the export licence may, at the written request of the holder of that licence, extend its validity to 15 October 2005 at the latest, provided that export is not subject to the rules laid down in Articles 4 or 5 of Council Regulation (EEC) No 565/80<sup>(3)</sup>.

<sup>(1)</sup> OJ L 144, 28.6.1995, p. 14. Regulation as last amended by Regulation (EC) No 995/2002 (OJ L 152, 12.6.2002, p. 11).

<sup>(2)</sup> OJ L 16, 20.1.1989, p. 19. Regulation as last amended by Regulation (EC) No 2194/96 (OJ L 293, 16.11.1996, p. 3).

<sup>(3)</sup> OJ L 62, 7.3.1980, p. 5.

The amount to be paid referred to in the first paragraph shall be equal to the difference between the result of the valuation made under (a), (b) or (c), as the case may be, and the security referred to in Article IV, point 1.1.

4. For this standing invitation, the cancellation procedure provided for in Article 13(2) of Regulation (EC) No 1291/2000 cannot be invoked.

## VII. Disputes

Any dispute between the successful tenderer and the competent authority to whom the tender was submitted will

1. fall exclusively within the jurisdiction:
- of the courts of Brussels, as court of last instance, in the case of the BIRB,
  - of the courts of Prague, in the case of the SZIF,
  - of the courts of Copenhagen, in the case of the 'Direktoratet for Fødevarer Erhverv',

- of the courts of Frankfurt am Main, in the case of BLE,
  - of the administrative court of Tartu (Tartu halduskohus), in the case of the PRIA,
  - of the courts of Athens, in the case of OPEKEPE,
  - of the courts of Madrid, in the case of FEGA,
  - of the Tribunal de Grande Instance de Paris, in all instances, even proceedings involving the introduction of third parties and proceedings involving several defendants, in case of FIRS,
  - of the courts of Rome, in the case of the AGEA,
  - of the courts of Cyprus, in the case of the KOAP,
  - of the courts of Riga, in the case of the LAD,
  - of the courts of Vilnius, in the case of the 'Užsienio Prekybos Departamentas',
  - of the administrative court of Luxembourg, in the case of the 'Office des Licences',
  - of the courts of Budapest, in the case of the MVH,
  - of the internal office of arbitration, in the case of the AP,
  - of the 'College van Beroep voor het Bedrijfsleven', Juliana van Stolberlaan 2, The Hague, in the case of the HPA,
  - of the courts of Vienna, in the case of the AMA,
  - of the Wojewódzki Sąd Administracyjny in Warsaw, in the case of the ARR,
  - of the 'da Comarca' court of Lisbon, in the case of the Ministério das Finanças,
  - of the courts of Ljubljana, in the case of the Agencija Republike Slovenije za kmetijske trge in razvoj podeželja,
  - of the Ministry of Agriculture of the Slovak Republic, Agriculture and Trade Section, in the case of the PPA,
  - of the Uudenmaan lääninoikeus court, in the case of the Maa-ja metsätalousministeriö, interventioyksikö;
2. be settled:
- according to Irish law, in the case of ISIA,
  - according to English law, in the case of the RPA,
  - according to Swedish law, in the case of SJV.
-