COMMISSION REGULATION (EEC) No 1889/76

of 29 July 1976

laying down detailed rules for granting private storage aid for pigmeat

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organization of the market in pigmeat (1), as amended by Regulation (EEC) No 367/76 (2), and in particular Articles 5 (4), 7 (2) and the second paragraph of Article 22 thereof,

Whereas detailed rules for granting private storage aid in the pigmeat sector must be adopted in addition to the general rules laid down by Council Regulation (EEC) No 2763/75 of 29 October 1975 (3);

Whereas, in order to achieve its purpose, such aid should be granted only to natural or legal persons established in the Community whose past activities and professional experience afford a guarantee that the storage will be carried out in a proper manner and who have sufficient capacity; whereas, for the same reason, aid should be granted only for the storage of products which have been obtained from recent slaughterings and which are stored in a frozen state or as preserved or other processed products;

Whereas, to make the aid more effective, contracts should be concluded for a minimum quantity, if necessary fixed at different rates for different products;

Whereas for the same reason the contract between the intervention agency and the storer should include conditions to ensure equal treatment for storers within the Community; whereas, moreover, the necessary ratio should be fixed between the amount of the aid and the amount of the security to guarantee the observance of the obligations undertaken;

Whereas, both to take account of commercial practice and for practical reasons, certain margins of variation from the agreed quantity should be permitted;

Whereas private storage aid is designed to ease the market by removing surplus quantities of the product from it for a certain period; whereas the market can effectively be eased, however, only if the storer observes the contract by keeping the total agreed quantity for the whole of the stipulated storage period;

Whereas, however, the storage period may be curtailed or extended under Article 3 of Regulation (EEC) No 2763/75 if the market situation so requires;

Whereas Article 4 (2) of Council Regulation (EEC) No 1134/68 of 30 July 1968 laying down rules for the implementation of Regulation (EEC) No 653/68 on conditions for alterations to the value of the unit of account used for the common agricultural policy (4), provides that for transactions carried out under the common agricultural policy the sums owed by a Member State or a duly authorized body, expressed in national currency and representing amounts fixed in units of account, shall be paid on the basis of the relationship between the unit of account and the national currency which obtained at the time when the transaction or part transaction was carried out;

Whereas Article 6 thereof provides that the time when a transaction is carried out shall be considered as being the date on which occurs the event, as defined by Community rules or, in the absence of and pending adoption of such rules, by the rules of the Member State concerned, upon which the amount involved in the transaction becomes due and payable;

Whereas in the pigmeat sector the amount of private storage aid in national currency should be calculated by using the exchange rate ruling at the time when the private storage contract is concluded;

Whereas uniform provisions should be laid down for the payment of amounts of aid and for the granting of aid in the case of an invitation to tender;

Whereas, to give the Commission an overall view of the effects of private storage aid, the Member States should supply it with the necessary information;

(1) OJ No L 282, 1. 11. 1975, p. 1.
(2) OJ No L 45, 21. 2. 1976, p. 1.
(3) OJ No L 282, 1. 11. 1975, p. 19.
(4) OJ No L 188, 1. 8. 1968, p. 1.

Whereas Commission Regulation (EEC) No 289/71 of 10 February 1971 laying down detailed rules for granting private storage aid for pigment [1], as last amended by Regulation (EEC) No 1477/75 [2], should be repealed;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Pigmeat,

HAS ADOPTED THIS REGULATION:

Article 1

The granting of private storage aid, as provided for in Article 3 of Regulation (EEC) No 2759/75, shall be subject to the conditions contained in the following Articles.

TITLE I

General provisions

Article 2

1. A contract for the private storage of pigmeat may be concluded only with natural or legal persons:

— carrying on business in the meat and livestock sectors and officially registered in a Member State, and

— having within Community territory suitable storage facilities at their disposal.

2. Private storage aid may be granted only for products derived from animals of Community origin and slaughtered in the Community not less than eight days beforehand.

These products may be stored:

— frozen, or

— in the form of dried or dried and smoked hams the preparation of which requires a maturing period of at least five months before consumption, or

— in the form of preserved products containing not less than 80 % pigmeat.

3. Contracts may not relate to a quantity less than a minimum to be determined for each product.

Article 3

1. Every contract shall include at least the following:

(a) a description of the product to be stored and particulars of its quantity;

(b) the time limit for the entry of the product into store;

(c) the duration of storage;

(d) the amount of aid per unit of weight;

(e) the form and amount of the security;

(f) a provision giving the intervention agency the right to curtail or extend the storage period in accordance with the rules and conditions adopted in application of Article 3 of Regulation (EEC) No 2763/75.

2. Every contract shall in particular impose the following obligations on the private storer:

(a) at his own risk and expense to take the agreed quantity of the product into store within the time limits laid down and to store it for the stipulated period, and during that period not to alter the stored products in any way or to exchange them for other products;

(b) to advise the intervention agency concerned of the date and place of storage and the nature and quantity of the products to be stored, and in the case of dried or dried and smoked hams, the place and date of the beginning of drying and, where applicable, smoking operations;

(c) to forward to that intervention agency without delay the documents relating to the various storage operations;

(d) to store the products in easily identifiable lots, on which the weight and date of entry into store is clearly marked;

(e) to permit the intervention agency at all times to check that all the obligations laid down in the contract are being observed.

3. The obligation to store the agreed quantity shall be considered as fulfilled if not less than 90 % of that amount has been taken into store and stored in accordance with paragraph 2 (a).

In the case of dried or dried and smoked hams the quantity of the product must be shown in the contract both as a number of items and by weight. The weight of the finished product may not be less than 70 % of the weight of the fresh product as ascertained before drying or drying and smoking.

Article 4

1. Applications for contracts, contracts and tenders shall relate to a single product only.

2. Applications for contracts or tenders shall not be accepted unless they give the text of the contract to be concluded and are accompanied by proof that a security has been provided.

[1] OJ No L 35, 12. 2. 1971, p. 7.
[2] OJ No L 149, 10. 6. 1975, p. 6.

The security shall be paid to the competent intervention agency in cash or provided in the form of a guarantee meeting requirements laid down by each Member State.

Article 5

1. The amount of the security shall not exceed 30 % of the amount of aid applied for.

2. The security shall be wholly forfeit if the obligations imposed by the contract are not fulfilled.

3. The security shall not be forfeit if the storer is unable to fulfil the said obligations by reason of *force majeure*.

4. The security shall be released as soon as it is ascertained that the obligations of the contract have been fulfilled, or that an application for a contract or a tender has been refused.

Article 6

1. The amount of aid shall be fixed per unit of weight and shall relate :

(a) in the case of frozen products, to their weight, exclusive of packaging, as ascertained on entry into store and before freezing ;

(b) in the case of dried or dried and smoked hams, to the weight of the fresh products as ascertained before drying or drying and smoking ; and

(c) in the case of preserved products, to the net weight.

2. Without prejudice to the other obligations of the storer, aid may only be claimed if the obligations set out in Article 3 (2) (a) are fulfilled in their entirety.

3. The aid shall be paid as soon as it has been ascertained that the conditions of the contract have been fulfilled. Aid shall be paid for quantities actually stored up to a maximum of the quantities specified in the contract.

4. For the purposes of Article 6 of Regulation (EEC) No 1134/68 the event upon which private storage aid for pigmeat becomes due and payable shall be considered to occur on the day when the contract is concluded.

Article 7

The storage period shall begin on the day on which entry into storage is completed.

In the case of dried or dried and smoked hams, the effective storage period shall begin on the 151st day after the start of the drying or drying and smoking operations.

Article 8

If the storer is unable to fulfil his obligations under the contract by reason of *force majeure*, the competent intervention agency may cancel the contract or take other appropriate measures.

TITLE II

Special provisions

Article 9

Where the amount of aid is fixed at a flat rate in advance :

(a) the application for a contract shall be lodged with the competent intervention agency, duly completed in accordance with Article 4 ;

(b) the competent intervention agency shall within 10 working days following the day on which the application for a contract was lodged with the agency, by registered letter, acknowledge receipt thereof and inform all persons concerned of the decision concerning the said application. If the application is accepted, the contract shall be regarded as being concluded on the day on which the person concerned receives the said communication.

Article 10

1. Where private storage aid is granted by way of the tendering procedure :

(a) the Commission shall draw up and publish in the *Official Journal of the European Communities* a notice of invitation to tender setting out the general conditions and specifying the products to be stored, the time (limit (date and hour) for the submission of tenders and the minimum quantities in respect of which a tender may be submitted ;

(b) tenders must be submitted to the competent intervention agency, duly completed in accordance with Article 4 ;

(c) tenders will be examined in private session by the appropriate departments of the Member States. Persons present at the examination shall be sworn to secrecy ;

(d) tenders submitted must be forwarded anonymously to the Commission by way of the Member States to arrive at the latest two working days after the end of the period for the submission of tenders specified in the notice of invitation to tender ;

(e) if there are no tenders, Member States shall notify the Commission thereof within the same time limit as that specified in the preceding subparagraph ;

(f) on the basis of the tenders received, the Commission shall decide in accordance with the procedure laid down in Article 24 of Regulation (EEC) No 2759/75, either to fix a maximum amount for private storage aid, taking account of the criteria laid down in Article 4 (2) of Regulation (EEC) No 2763/75, or to make no award ;

(g) where a maximum amount for private storage aid is fixed, tenders below or equal to this amount shall be accepted.

2. The competent intervention agency shall within five working days following the day when the Member States are notified of the decision of the Commission, by registered letter acknowledge receipt of the tender and inform all the tenderers of the outcome of their tender.

Where a tender is accepted, the contract shall be regarded as being concluded on the day on which the successful tenderer receives the said communication.

TITLE III

Final provisions

Article 11

1. Member States shall inform the Commission of all official measures adopted in application of this Regulation.

2. Member States shall notify the Commission by telex :

(a) not later than Thursday in each week, of the products and quantities which have been the subject of applications for aid and of the products and quantities for which contracts have been concluded during the preceding week ;

(b) every month, of the products and quantities actually taken into storage and of the products and quantities in respect of which the storage period has been terminated.

3. The application of the measures provided for in this Regulation shall be subject to regular examination in accordance with the procedure laid down in Article 25 of Regulation (EEC) No 2759/75.

Article 12

Regulation (EEC) No 289/71 is hereby repealed.

Article 13

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

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

Done at Brussels, 29 July 1976.

For the Commission

P. J. LARDINOIS

Member of the Commission