COMMISSION REGULATION (EEC) No 3110/76

of 20 December 1976

authorizing the supply to the processing industries of oranges withdrawn from the market, laying down the conditions for such supply and amending Regulation (EEC) No 1687/76

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables (1), as last amended by Regulation (EEC) No 796/76 (2), and in particular Article 21 (1) and (4) thereof,

Whereas, in view of the size of the harvest, it is to be expected that considerable quantities of oranges of pigmented varieties will be withdrawn from the market; whereas, by reason of technical difficulties in processing and preserving, these products cannot be processed with a view to their free distribution to the persons referred to in Article 21 (1) (a) of Regulation (EEC) No 1035/72;

Whereas, in order to limit the risk of destruction of these products, it appears necessary, given the available facilities for processing and the distribution of the products of such processing, to authorize the supply to the processing industries of pigmented oranges withdrawn from the market up to the end of April 1977; whereas it appears necessary, moreover, to limit the quantity which may be so supplied to that which it is anticipated will be withdrawn in the course of the present marketing year;

Whereas the supply to the processing industries of products which have been the subject of intervention should be effected in such a manner as to avoid distortion of competition between the industries concerned; whereas a sale by tender or by public auction appears appropriate to that end;

Whereas, to this same end, a minimum sale price should be fixed, regard being had to the normal price of supplies to the industry;

Whereas, in order to ensure that all those concerned have an opportunity to tender or bid, it is necessary to give appropriate publicity to the notice to processors;

Whereas the notice of invitation to tender or of public auction must state the basic terms of each such operation; whereas, in order to ensure that the invitation to tender is conducted in a proper manner, provision should be made whereby certain particulars must appear in the tender, in particular as regards the prices and quantities in respect of which the tender is made;

Whereas the tenders submitted must be assessed on the basic of the price offered; whereas quantities should be allocated as they become available and in the order in which the tenderers are ranked, beginning with those offering the highest prices;

Whereas it is necessary to adopt measures ensuring that the products allocated are actually processed; whereas, to this end, a processing security must be lodged, the amount of which should be calculated so as to ensure observation of this obligation;

Whereas Regulation (EEC) No 1687/76 of 30 June 1976 (3), as last amended by Regulation (EEC) No 2054/76 (4) lays down detailed rules for verifying the use and/or destination of products from intervention; whereas it is therefore necessary to adapt the Annex to that Regulation;

Whereas the Management Committee for Fruit and Vegetables has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Oranges of the varieties of the Sanguinello group, and of the Sanguigno group, withdrawn from the market under Article 18 of Regulation (EEC) No 1035/72 on or before 30 April 1977, or bought in on or before that date under Article 19 of the Regulation, may be supplied, subject to an overall limit of 25 000 metric tons, to the processing industries.

(1) OJ No L 118, 20. 5. 1972, p. 1.
(2) OJ No L 93, 8. 4. 1976, p. 6.
(3) OJ No L 190, 14. 7. 1976, p. 1.
(4) OJ No L 228, 20. 8. 1976, p. 17.

Article 2

1. Supply to the processing industries shall be effected by means of a standing invitation to tender or a public auction, by the agency appointed by the Member State concerned and under conditions such that equality of access to the product to be processed and equality of treatment as between processors are ssured.

2. The minimum sale price shall be 31·40 units of account per metric ton net, ex storage depot.

Article 3

1. Each standing invitation to tender may comprise several series of tenders.

Public notice must be given of invitations to tender under this procedure.

2. The notice of invitation to tender shall give all relevant information concerning, in particular :

(a) the period during which products are likely to be available ;

(b) the nature of the products to be sold ;

(c) the areas in which the products will be stored ;

(d) the closing date for each series to tenders ;

(e) the agency to which tenders must be submitted.

Article 4

1. Tenderers shall submit their tenders by registered post with recorded delivery, by telex or by telegram, to the agency appointed by the Member State concerned.

2. Every tender shall specify :

(a) the name and address of the party concerned ;

(b) the quantity of product to which the tender relates, expressed in metric tons ;

(c) the price offered, per metric ton net ex-storage depot, expressed in the currency of the Member State where the award of contracts is to take place ;

(d) any additional information required by the notice to processors.

3. A tender shall be valid unless it is :

— in respect of at least one metric ton, and

— made at least at the minimum price laid down in Article 2.

Article 5

1. On the closing date for the first series of tenders, the agency appointed by the Member State concerned shall rank the tenderers on the basis of the price offered.

Where the highest price is offered by more than one tenderer, first place shall go to that one of them who has bid for the largest quantity, or if the quantity bid for is equal, then to one chosen by lot.

Products shall be allocated, in accordance with the ranking order, as quantities become available.

2. On the closing date for each subsequent series of tenders the aforesaid agency shall rank tenderers and allocate quantities of products in accordance with the criteria laid down in paragraph 1.

Article 6

Whenever a tender is not accepted, the tenderer shall be informed of the fact immediately by the agency appointed by the Member State concerned.

At the end of the period for which the invitation to tender is valid, that agency shall notify each processor whose tender has not been satisfied owing to lack of products.

Article 7

1. Where products are sold by public auction, the agency must, in a notice of sale by auction, give all information concerning :

— the period during which the products are likely to be available,

— the nature of the products to be sold,

— the areas in which the products will be stored,

— the date, time and place of each auction.

2. Any other information, in particular concerning the quantities and characteristics of the products for sale, shall forthwith be communicated to any interested party on request.

Article 8

Products sold by public auction shall be allocated to the person or persons offering the best prices.

Article 9

Every sucessful tenderer or purchaser at auction shall lodge a processing security in an amount of 53 units of account per metric ton net.

Article 10

Processing of the products allocated shall be supervised on the spot by the competent authority of the Member State where it takes place.

Article 11

1. When a Member State intends to have recourse to the provisions of this Regulation the agency appointed shall forthwith communicate to the agencies of the other Member States and to the Commission the notice of invitation to tender provided for in Article 3 or the notice of sale by auction provided for in Article 7.

This communication must be made :

— in respect of an invitation to tender, not less than seven days before the closing date for the first series of tenders,

— in respect of sale by auction, not less than seven days before the date of the first sale.

The agency appointed shall communicate as provided in the first subparagraph hereof all amendments to the notice of invitation to tender or notice of public auction.

Such amendments shall take effect only on the expiry of seven days from the date of their communication.

2. As soon as the communication provided for in the first subparagraph of paragraph 1 has been made, there shall be published in the *Official Journal of the European Communities* a notice publicizing the intention of the Member State concerned to have recourse to the provisions of this Regulation.

Article 12

The agency appointed by the Member State shall, immediately upon the completion of each sale by tender or by auction, inform the Commission of the quantities of products supplied and the prices at which they were supplied.

Article 13

In the Annex to Regulation (EEC) No 1687/76, in the part headed 'II. Products subject to a use and/or destination other than that mentioned under I', there is added after paragraph 12, a further paragraph as follows, together with the appropriate footnote reference :

'13. Commission Regulation (EEC) No 3110/76 authorizing the supply to the processing industries of oranges withdrawn from the market, laying down the conditions for such supply and amending Regulation (EEC) No 1687/76 (4) ;

— Section 104 : 'for processing (Regulation (EEC) No 3110/76)'

'destiné à la transformation (Règlement (CEE) n° 3110/76)'

'zur Verarbeitung bestimmt (Verordnung (EWG) Nr 3110/76)'

'destinato alla trasformazione (Regolamento (CEE) n. 3110/76)'

bestemd om te worden verwerkt (Verordening (EEG) nr. 3110/76)'

'til forarbejdning (Forordning (EØF) nr 3110/76)'.

(4) OJ No L 351, 21. 12. 1976, p. 24.'

Article 14

This Regulation shall enter into force on the 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, 20 December 1976.

For the Commission

P. J. LARDINOIS

Member of the Commission