COMMISSION REGULATION (EEC) No 660/76

of 25 March 1976

authorizing the supply to the processing industries of oranges withdrawn from the market, and laying down the conditions for such supply

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 2482/75 [2], and in particular Article 21 (1) and (4) thereof,

Whereas certain quantities of oranges of pigmented varieties have been withdrawn from the market; whereas, by reason of technical difficulties in processing and preserving, these products have not been able to be processed with a view to free distribution to the persons visualized 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 present possibilities of processing and of the distribution of the products of such processing, to authorize the supply to the processing industries, up to the end of April 1976, of pigmented oranges withdrawn from the market; whereas it appears necessary, moreover, to limit this supply to the anticipated withdrawals of these products in the course of the present season;

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 the tendering procedure or public auction appear appropriate to that end;

Whereas, with the same object, a minimum sale price should be fixed, taking account of the normal price of supplies to the industry;

Whereas, to allow all industries the chance to make an offer, it is necessary to give appropriate publicity to the notice to processors;

Whereas the invitation to tender or notice of public auction must state the basic conditions of the procedure; whereas to ensure that the tendering procedure is carried out correctly, 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 tenders submitted by interested parties must be assessed on the basis of the price offered; whereas quantities have to be allocated as they become available and in the order in which the tenderers are listed, beginning with those offering the highest prices;

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

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 the provisions of Article 18 of Regulation (EEC) No 1035/72, up to 30 April 1976 or bought in up to the same date, in conformity with Article 19 of the Regulation, may be supplied, up to 25 000 metric tons, to the processing industries, under the conditions laid down in the following Articles.

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, under conditions such that equality of access to the product to be transformed and equality of treatment as between undertakings are assured.

2. The minimum sale price shall be 29·10 units of account per metric ton net, on leaving the warehouse in which the merchandise is stored.

[1] OJ No L 118, 20. 5. 1972, p. 1.
[2] OJ No L 254, 1. 10. 1975, p. 3.

Article 3

1. Each standing invitation to tender may consist of several series of tenders. Public notice must be given of invitations to tender within the framework of this procedure.

2. The 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 are to be stored;

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

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

Article 4

1. Interested parties 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. The tender shall specify:

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

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

(c) the price offered, per net weight in metric tons on leaving the warehouse where the product is stored, expressed in the currency of the Member State where the tender is to take place;

(d) where appropriate, additional information required under the notice to processors.

3. A tender shall not 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 classify the tenderers on the basis of the price offered. Where the highest prices are equal, first place shall go to the tenderer who has bid for the largest quantity, or to a tenderer chosen by ballot where the quantity of products bid for is also equal.

Products shall be allocated, in order of the classification, as quantities become available.

2. On the closing date for each subsequent series of tenders that agency shall classify 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 fulfilled 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 are 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 most favourable prices.

Article 9

The successful tenderer or the purchaser at auction shall, before delivery to him of the product allocated, lodge a processing deposit of an amount of 51 units of account per metric ton net.

The deposit shall be lodged either in the form of a cheque in favour of the agency appointed by the Member State in which supply takes place or of a bond complying with the criteria fixed by that Member State.

Article 10

1. Processing of the product allocated shall be supervised on the spot by the competent authority of the Member State where processing takes place, or by any other agency appointed by it for that purpose.

2. Where processing takes place in a Member State other than that which sells the product, proof of processing may be given only by production of the control copy referred to in Article 1 of Commission Regulation (EEC) No 2315/69 of 19 November 1969 on the use of Community transit documents for the purpose of applying Community measures for verifying the use and/or destination of goods (1).

Sections 101, 103 and 104 of the control copy shall be completed. Section 104 shall be completed by deleting the entries not applicable and marking at the second indent one of the following entries :

'destiné à la transformation au titre du règlement (CEE) n° 660/76',

'Zur Verarbeitung gemäß Verordnung (EWG) Nr. 660/76 bestimmt',

'destinato alla trasformazione ai sensi del regolamento (CEE) n. 660/76',

'bestemd voor verwerking krachtens Verordening (EEG) nr. 660/76',

'for processing under Regulation (EEC) No 660/76',

'bestemt til omdannelse i henhold til forordning (EØF) nr. 660/76'.

Article 11

Save in cases of *force majeure* the deposit referred to in Article 9 shall be repaid only in respect of the quantity for which the successful tenderer or the purchaser at auction furnishes to the agency appointed by the Member State concerned :

(a) supporting documents establishing that this quantity has been processed, where processing takes place in the Member State which sells the product ;

(b) proof of processing, given by the control copy referred to in Article 10, where processing takes place in another Member State.

Article 12

1. When a Member State intends to apply the provisions of this Regulation, the agency appointed shall forthwith communciate to the agencies of the other Member States and to the Commission the 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, under the same conditions as those laid down in the first subparagraph, communicate all amendments to the invitation to tender or notice of public auction.

These amendments shall take effect only at the end of seven days after 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 publicising the intention of the Member State concerned to apply the provisions of this Regulation.

Article 13

The agency appointed by the Member State shall, as soon as each tender action or auction has been completed, inform the Commission of the quantities of products supplied and the prices at which they were supplied.

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, 25 March 1976.

For the Commission

P. J. LARDINOIS

Member of the Commission

(1) OJ No L 295, 24. 11. 1969, p. 14.