COMMISSION REGULATION (EEC) No 201/85

of 25 January 1985

amending Regulation (EEC) No 1092/80 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 last amended by Regulation (EEC) No 2966/80 (2), and in particular Article 7 (2) and the second subparagraph of Article 22 thereof,

Whereas the detailed rules for granting private storage aid were laid down for pigmeat by Commission Regulation (EEC) No 1092/80 (3);

Whereas it should be made clear that the same product cannot be the subject of a private storage contract and at the same time be eligible for advance payment of an export refund under Article 25 of Commission Regulation (EEC) No 2730/79 (4), as last amended by Regulation (EEC) No 519/83 (5), or under Council Regulation (EEC) No 565/80 of 4 March 1980 on the advance payment of export refunds in respect of agricultural products (6), as amended by Regulation (EEC) No 2026/83 (7); whereas to apply both systems simultaneously would have the effect in particular of compensating storers unduly in respect of certain of their financing costs;

Whereas experience gained with various arrangements of private storage of agricultural products has shown the need to specify to what extent Council Regulation (EEC, Euratom) No 1182/71 (8) applies to the determination of periods, dates and time limits referred to under these arrangements and to define accurately the dates when storage under contract starts and finishes;

Whereas, in particular, Article 3 (4) of Regulation (EEC, Euratom) No 1182/71 specifies that where the last day of a period is a public holiday, Sunday or Saturday, the period should end with the expiry of the last hour of the following working day; whereas the application of this provision to storage contracts may not be in the interest of operators and may even result in inequalities in the way in which they are treated; whereas, therefore, a derogation should be made with regard to the determination of the last day of storage under contract;

Whereas provision should be made for the possibility of reducing the storage period where meat removed from storage is intended for export; whereas proof that the meat has been exported must be supplied, as in the case of refunds, in accordance with Commission Regulation (EEC) No 2730/79;

Whereas the Member States should be required to inform the Commission of reductions or extensions of the period of storage;

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

Regulation (EEC) No 1092/80 is hereby amended as follows:

1. The following paragraph is added to Article 4:

'4. The same products may not, at the same time, be the subject of a private storage aid contract and be eligible for advance payment of an export refund under Article 25 of Regulation (EEC) No 2730/79, or the subject of application of the provisions of Article 5 (1) of Regulation (EEC) No 565/80.'

2. Article 3 (1) (b) is replaced by the following:

'(b) the time limit for placing in storage the total quantity referred to in (a) which must be completed within 28 days following the date of conclusion of the contract;'

(1) OJ No L 282, 1. 11. 1975, p. 1.
(2) OJ No L 307, 18. 11. 1980, p. 5.
(3) OJ No L 114, 3. 5. 1980, p. 22.
(4) OJ No L 317, 12. 12. 1979, p. 1.
(5) OJ No L 58, 5. 3. 1983, p. 5.
(6) OJ No L 62, 7. 3. 1980, p. 5.
(7) OJ No L 199, 22. 7. 1983, p. 12.
(8) OJ No L 124, 8. 6. 1971, p. 1.

3. Article 6 (1) (a) is replaced by the following :

'(a) in the case of products stored frozen, to their weight before freezing, exclusive of packaging, as ascertained :

— at the place of storage, where freezing of products is carried out on entry into store,

— at the place of freezing, where freezing of products is carried out in suitable facilities outside the place of storage.'

4. Article 8 is replaced by the following :

'Article 8

1. The periods, dates and time limits referred to in this Regulation shall be determined in accordance with Council Regulation (EEC, Euratom) No 1182/71 (1). Nevertheless, Article 3 (4) of that Regulation shall not apply to the determination of the period of storage as referred to in Article 3 (1) (c) or as altered under Article 3 (1) (f) or under paragraph 4 of this Article.

2. The first day of the storage period shall be :

— for all products other than those covered by the second indent, the first day following that on which delivery into storage has been completed,

— for dried or dried and smoked hams, the 181st day following that on which the weight as referred to in Article 6 (1) (b) is ascertained for the entire quantity to be placed in store.

3. Removal from storage may commence on the day following the last day of the storage period specified in the contract.

4. On the expiry of a storage period of two months, the contracting party may withdraw from store all or part of the quantity of meat under contract, subject to a minimum of 10 tonnes or, if less, the total remaining quantity under contract, provided that within 60 days after the date of its removal from storage :

— the meat has left the Community's territory within the meaning of Article 9 (2) of Regulation (EEC) No 2730/79, or

— the meat has reached its destination in the cases referred to in Article 5 (1) of Regulation (EEC) No 2730/79, or

— the meat has been placed in a victualling warehouse approved pursuant to Article 26 of Regulation (EEC) No 2730/79.

In this case, the storage period shall end on the day before :

— the first day of removal from store, or

— the day of acceptance of the export declaration where a product has not been moved.

The amount of aid shall be reduced in proportion to the reduction in the period of storage.

The contracting party shall inform the intervention agency at least two working days before the commencement of removal operations, stating the quantities which it intends to export. As under the refund procedure, the contracting party shall provide proof of export in accordance with the terms of Regulation (EEC) No 2730/79.

(1) OJ No L 124, 8. 6. 1971, p. 1.'

5. The second paragraph of Article 10 is replaced by the following :

'If the application is accepted, the contract shall be regarded as being concluded on the date of the decision referred to in (b) of the first paragraph. The intervention agency shall specify the date referred to in Article 3 (1) (b) accordingly.'

6. The second subparagraph of Article 11 (2) is replaced by the following :

'If the application is accepted, the contract shall be regarded as being concluded on the date of the said modification. The intervention agency shall specify the date referred to in Article 3 (1) (b) accordingly.'

7. The following is added to Article 12 (2) :

'(c) every month, if the period of storage has been reduced or extended in accordance with Article 3 (1) (f) or reduced in accordance with Article 8 (4), of the products and quantities in respect of which the alterations have been made and of the original and altered months for removal from storage.'

Article 2

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

It shall apply to storage contracts concluded from that date.

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

Done at Brussels, 25 January 1985.

For the Commission

Frans ANDRIESSEN

Member of the Commission