COMMISSION REGULATION (EEC) No 2122/85

of 29 July 1985

on the purchase by the Belgian intervention agency, and providing for the grant of a special aid by tender for the processing by heat treatment, of pigmeat stored under Regulations (EEC) No 772/85, (EEC) No 978/85 and (EEC) No 1477/85 bearing the Community health mark

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 20 thereof,

Having regard to Council Regulation (EEC) No 2763/75 of 29 October 1975 laying down general rules for granting private storage aid for pigmeat (3), and in particular Article 3 thereof,

Whereas, in the light of the health situation in the stockfarming sector in Belgium, provision is made in Commission Regulations (EEC) No 772/85 (4), as last amended by Regulation (EEC) No 978/85 (5), (EEC) No 978/85 itself, as amended by Regulation (EEC) No 1086/85 (6), and (EEC) No 1477/85 (7), as amended by Regulation (EEC) No 1706/85 (8), for exceptional support measures for the market in pigmeat in that Member State ;

Whereas, the abovementioned measures provide *inter alia* for the buying in of meat stored by the Belgian intervention agency at the request of the interested party if the national health authorities decide that such meat cannot be released for consumption until it has undergone sufficient heat treatment and according to the conditions provided for in the abovementioned Regulations ;

Whereas, the national health authorities have so determined and that the Belgian intervention agency is obliged to buy in such meat as is offered to it by interested parties and which has been stored pursuant to the aforesaid Regulations ;

Whereas, the purchase prices provided for in Regulations (EEC) No 772/85, (EEC) No 978/85 and (EEC) No 1477/85 are only applicable in so far as the meat in question has been stored and/or treated in a proper manner so as to preserve its normal merchantable quality ;

Whereas in view of the particular circumstances of this intervention measure and the exceptional nature of the meat in question, an alternative method of disposal should be foreseen ; whereas it is intended that stores should be granted a special aid if instead of offering their meat to the Belgian intervention agency they undertake to sell or otherwise dispose of their meat subject to certain stringent obligations as regards the storage, treatment and final disposal of the said meat ;

Whereas, in order to ensure equality of treatment between storers and to fix the amount of the special aid it would be appropriate to have recourse to a tendering procedure ;

Whereas the scope of this Regulation is limited to meat stored under the abovementioned Regulations and which bears the Community health mark as defined in Article 5a of Council Directive 72/461/EEC of 12 December 1972 (9), as last amended by Directive 85/322/EEC (10) ;

Whereas to take account of the current trading situation in the pigmeat sector between the Community on the one hand and the United States of America, Canada and Australia on the other hand, it is not intended that meat for which this special aid has been granted should be exported to the aforesaid countries ;

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

HAS ADOPTED THIS REGULATION :

TITLE I

Intervention purchases

Article 1

1. The Belgian intervention agency shall buy, subject to paragraphs 3 and 4, any meat stored pursuant to Regulations (EEC) No 772/85, (EEC) No 978/85 and (EEC) No 1477/85 and duly offered in

(1) OJ No L 282, 1. 11. 1975, p. 1.
(2) OJ No L 307, 18. 11. 1980, p. 5.
(3) OJ No L 282, 1. 11. 1975, p. 19.
(4) OJ No L 86, 27. 3. 1985, p. 20.
(5) OJ No L 105, 17. 4. 1985, p. 6.
(6) OJ No L 114, 27. 4. 1985, p. 36.
(7) OJ No L 145, 4. 6. 1985, p. 17.
(8) OJ No L 163, 22. 6. 1985, p. 36.
(9) OJ No L 302, 31. 12. 1972, p. 24.
(10) OJ No L 168, 28. 6. 1985, p. 41.

accordance with the provisions of Article 4b of Regulation (EEC) No 772/85, Article 7 of Regulation (EEC) No 978/85 and Article 7 of Regulation (EEC) No 1477/85.

2. In all cases the quantity of product purchased by the Belgian intervention agency shall not exceed the quantity specified in the storage contract in question regardless of the quantities actually stored.

3. The quantities of meat which may be offered in accordance with paragraphs 1 and 2 may be purchased only after the expiry of the storage contract, and only if prevailing market conditions allow ; where it appears necessary, the storage contract may be prolonged in accordance with the procedure laid down in Article 24 of Regulation (EEC) No 2759/75.

4. The Belgian intervention agency shall buy meat properly offered in accordance with this Article no later than 15 days after receipt of the offer for sale.

Article 2

Any losses arising from poor or inappropriate handling, freezing or storing of the aforesaid meat and detected after purchase shall be born by the storer.

TITLE II

Tender for special aid

Article 3

1. Special aid may be granted for any meat not offered for sale in accordance with Article 1 which could have been so offered and which bears the Community health mark.

2. The amount of the special aid shall be fixed by means of a monthly invitation to tender.

3. The granting of the special aid shall be subject to the successful tenderer complying with the obligations listed in Article 10 in relation to the storage, treatment and disposal of the said meat.

Article 4

1. The Belgian intervention agency shall draw up a notice of invitation to tender stating in particular :

(a) the time limit and place for the submission of tenders ;

(b) the formalities regarding provision of the security for tender and treatment and the obligations regarding storage, treatment and disposal ;

(c) where appropriate a statement that tenders may be submitted by telex.

2. The notice of invitation to tender shall be communicated to all storers of meat stored pursuant to Regulations (EEC) No 772/85, (EEC) No 978/85 and (EEC) No 1477/85.

The Belgian intervention agency shall also publish the notice of invitation to tender in the *Moniteur Belge* and wherever else considered appropriate.

Article 5

1. The time limit for submission of tenders shall expire each last Tuesday of the month at 12 noon. If that Tuesday falls on a public holiday, the time limit shall be extended to the following working day at 12 noon.

With respect to the first individual invitation to tender, the time limit for the submission of tenders shall expire on 6 August 1985 at 12 noon.

2. Tenders shall be submitted in writing by the storer to the intervention agency against acknowledgment or by registered letter addressed to the intervention agency. The intervention agency may allow a tender to be submitted by telex.

3. A tender shall not be valid unless it includes the following particulars :

(a) the name and address of the tenderer and, if appropriate, of the processor ;

(b) the week of the conclusion of the storage contract for the product in question ;

(c) the level of aid proposed, expressed per tonne of product in ECU ;

(d) the quantity of meat to which the aid relates and which is to be treated within the time limit laid down in Article 10 (1) and which in any event shall not exceed the quantity specified in the storage contract ;

(e) a statement by the tenderer accepting responsibility in respect of any latent defect in the product not visible on inspection, arising from inappropriate handling, freezing or storage methods ;

(f) an undertaking to either store, treat and dispose of, pursuant to Article 10 and within the time limit laid down in Article 10 (1), the quantity of product specified in his tender or to ensure that such storage, treatment and disposal as laid down in Article 10 takes place.

4. The quantity referred to in (d) may not be less than four tonnes.

5. A tender shall further not be valid unless the following conditions are met :

(a) proof must be supplied that before the expiry of the time limit for the submission of tenders, in response to the individual invitation to tender in question, the tenderer has lodged the security for the tender and treatment referred to in Article 6 ;

(b) it must not contain any conditions and/or reservations that are not expressly authorized.

6. A tender may not be withdrawn.

Article 6

1. A security for tender and treatment shall be 100 ECU per tonne.

2. The security shall be lodged at the option of the tenderer, in cash or in the form of a guarantee provided by an establishment meeting the criteria fixed by the Belgian intervention agency, who may equally accept a banker's cheque as security.

Article 7

In accordance with the procedure laid down in Article 24 of Regulation (EEC) No 2759/75, a maximum amount of aid, expressed per tonne of product, shall be fixed for each individual invitation to tender. It may also be decided under the abovementioned procedure to make no award.

Article 8

1. A tender shall be refused if the level of aid proposed is above the maximum amount fixed for the individual invitation to tender in question.

2. Without prejudice to the provisions of paragraph 1, the successful tenderers shall be those who propose a level of aid below or equal to the maximum amount of aid fixed.

3. The right of a storer/tenderer to offer meat for sale in accordance with Article 1 expires upon his being adjudged successful in accordance with paragraph 2 of this Article for that quantity of meat.

Article 9

1. Each tenderer shall be informed without delay by the intervention agency, by registered letter, of the outcome of his tender.

2. If the tenderer is successful he shall be informed of the following :

(a) the expiry of the time limit for the submission of tenders in response to the individual invitation to tender in question ;

(b) the expiry of the time limit for the treatment of the quantity of product stated in the tender ;

(c) the particulars specified in Article 5 (3) (c) and (d).

TITLE III

Treatment of meat for which special aid will be granted

Article 10

1. Within five months from the date of forwarding of the information to the tenderer specified in Article 9 the successful tenderer shall either himself treat or else ensure that treatment is carried out on the quantity of meat specified in the tender and further that the obligations as regards storage and disposal listed below are respected.

2. The obligations incumbent upon the successful tenderer shall be as follows :

The tenderer shall himself process and dispose, or if the meat is sold to a third party shall ensure that the third party processes and disposes, of the meat in the following fashion :

(a) the meat shall undergo treatment as specified in the Annex hereto ;

(b) the meat shall be stored, transported and processed separately from all other meat and meat products ; such activities shall, in any event, comply with the rules of the competent Belgian services governing the disposal of this meat and shall take place within the territory of the Kingdom of Belgium ;

(c) all waste products shall be collected and destroyed under the supervision specified in Article 10 (4).

3. The successful tenderer further undertakes to ensure that the final products from the meat for which a special aid is granted will not be exported to the United States of America, Canada or Australia, irrespective of whether or not he himself processes and disposes of the meat.

4. The control of the obligations listed in paragraph 2 shall include a permanent control on site of the treatment and processing of the meat for which a special aid is granted. This control will be carried out by the Belgian veterinary services without prejudice to any further controls provided for by national legislation.

5. If meat for which a special aid may be granted is subject to a storage contract at the time that a successful bid is notified to the tenderer in accordance

with Article 9 then a curtailment of the storage contract may be agreed between the Belgian intervention agency and the tenderer.

If the storage contract is so curtailed, the amount of aid payable shall be reduced in accordnce with the tables appearing in the Annexes to Regulations (EEC) No 772/85, (EEC) No 978/85 or (EEC) No 1477/85.

TITLE IV

General provisions

Article 11

1. After checking that the processing of the meat subject to a special aid has been effected in accordance with this Regulation the Belgian veterinary services shall issue to the person concerned a certificate specifying the quantity of meat that has been properly processed and treated.

2. Payment of the special aid shall be made on presentation of the certificate referred to in paragraph 1 to the Belgian intervention agency. The payment shall be made pro rata according to the quantity specified in the said certificate.

Article 12

1. Save in cases of *force majeure* the security for tender and treatment referred to in Article 6 shall be released only for that quantity of meat in respect of which :

(a) the tender was not accepted ; or

(b) a certificate as referred to in Article 11 (1) has been issued.

2. In the case of any failure to comply with any obligation incumbent upon a successful tenderer under this Regulation, the Belgian intervention agency shall declare the security totally or partially forfeit depending on the seriousness of the breach involved.

All such cases where the preceding subparagraph is applied shall be notified to the Commission giving full details of the circumstances involved and the action taken.

Article 13

This Regulation shall enter into force on the day of 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 1985.

For the Commission

Frans ANDRIESSEN

Vice-President

ANNEX

Obligations on the disposal of the meat stored pursuant to Regulations (EEC) No 772/85, (EEC) No 978/85 and (EEC) No 1477/85 bearing the Community health mark

The pigmeat shall be fully deboned and the major lymphatic nodes removed.

The portion of pigmeat for heat treatment shall not exceed 5 kilograms in weight.

Before heating, each portion of the meat mentioned above shall be enclosed in a hermetically sealed container.

The meat in its container shall be subjected to a heat treatment according to the following criteria :

— the product shall retain a temperature of at least 60° for a minimum of four hours during which time the temperature shall be raised to at least 70° for a minimum of 30 minutes,

— the temperature of a representative number of samples of each batch of the product shall be monitored continuously by means of an automatic temperature recording device which records the temperature in the centre of the product and in the interior of the heating apparatus,

At all times during its processing, measures shall be taken to prevent any possible recontamination,

The products shall be marketed beside the health mark with the special additional mark '3-85'.