COMMISSION REGULATION (EC) No 314/2009

of 16 April 2009

adopting temporary exceptional support measure for the pigmeat and beef market in form of a disposal scheme in part of the United Kingdom

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products ('Single CMO' Regulation) [1], and in particular Article 191, in conjunction with Article 4 thereof,

Whereas:

(1) Following the recent findings of elevated levels of dioxins and polychlorinated biphenyls (PCBs) in pigmeat originating in Ireland, the situation of the pigmeat market in Ireland and Northern Ireland has been particularly critical. The competent authorities have taken various measures to address the situation.

(2) Contaminated animal feed was delivered to pig and cattle farms in Ireland. The contaminated feed constitutes a very large portion of the pig diet resulting in elevated levels of dioxins in meat from pigs from the affected farms. Given the difficulties in tracing back the pigmeat to farms and given the elevated levels of dioxin found in the affected pigmeat, the Irish authorities decided to recall, as a precautionary measure, all pigmeat and pigmeat products from the market.

(3) Given the exceptional circumstances and the practical difficulties that the pigmeat market in Ireland and Northern Ireland is experiencing, the Commission adopted Regulation (EC) No 1278/2008 of 17 December 2008 adopting emergency support measures for the pigmeat market in form of private storage aid in Ireland [2] and Regulation (EC) No 1329/2008 of 22 December 2008 adopting emergency support measures for the pigmeat market in form of private storage aid in part of the United Kingdom [3].

(4) Furthermore, the European Council of 11 and 12 December 2008 invited the Commission to support farmers and slaughterhouses in Ireland by way of co-financed measures to remove relevant animals and products from the market.

(5) In this context, Commission Regulation (EC) No 94/2009 of 30 January 2009 adopting temporary exceptional support measures for the pigmeat and beef market in the form of a disposal scheme for Ireland [4] provides for a disposal scheme of certain pigs and cattle that come from farms that had used contaminated feed as well as for pigmeat products that are blocked in or under the responsibility of slaughterhouses in Ireland.

(6) In addition to this, the Commission decided on 23 December 2008 not to raise objections against a State aid scheme concerning special measures relating to meat products of animal origin from pigs following a dioxin contamination in Ireland [5] (hereinafter 'State aid scheme N 643/2008'). That scheme provides, under certain conditions, compensation for pigmeat recalled from other Member States.

(7) A considerable part of the pigs slaughtered in Northern Ireland originate from Ireland. In this respect, the feed contamination in Ireland has clearly also repercussions for the pigmeat market in Northern Ireland. However, only pigmeat obtained from pigs slaughtered in Ireland is eligible for compensation under State aid scheme N 643/2008, thereby excluding from compensation under that scheme any meat obtained from pigs slaughtered in Northern Ireland.

(8) The beef sector in Northern Ireland was also affected by the feed contamination in Ireland. In particular, according to the UK authorities, it is established that contaminated feed had been delivered to some cattle farms in Northern Ireland. As a result, certain cattle remain blocked on farms in Northern Ireland where samples from other cattle have tested positive for elevated levels of dioxins and polychlorinated biphenyls (PCBs). Moreover, a certain quantity of beef obtained from animals slaughtered in Northern Ireland no later than 6 December 2008 and which is stored in the United Kingdom, originated from herds where samples from other cattle in these herds had tested positive for elevated levels of dioxins and polychlorinated biphenyls (PCBs).

[1] OJ L 299, 16.11.2007, p. 1.
[2] OJ L 339, 18.12.2008, p. 78.
[3] OJ L 345, 23.12.2008, p. 56.
[4] OJ L 29, 31.1.2009, p. 41.
[5] OJ C 36, 13.2.2009, p. 2.

(9) At farm level in Northern Ireland, the feed contamination and the application of the controls prohibiting the cattle concerned from entering the food chain to mitigate potential risks to public health have created a situation whereby the continuation of their business activities is seriously at risk. In addition, animal welfare problems persist as the cattle concerned have become excessively heavy. Moreover, some farmers concerned are having considerable financial difficulties maintaining their credit for feed.

(10) The United Kingdom has therefore requested the Commission to provide further emergency support measures for the pigmeat and beef market in Northern Ireland.

(11) Section I of Chapter II of Part II of Regulation (EC) No 1234/2007 provides for exceptional support measures. In particular Article 44 thereof provides that the Commission may adopt exceptional market support measures in case of animal diseases and Article 45 provides that, with regard to the poultrymeat and eggs sectors, the Commission may adopt exceptional market support measures in order to take account of serious market disturbances directly attributed to a loss in consumer confidence due to public health, or animal health risks. In order to resolve the practical problems arising from the current situation of the pigmeat and beef market in Northern Ireland, it is appropriate to take a temporary exceptional measure to support that market, similar to those laid down in Section I of Regulation (EC) No 1234/2007 and similar to those adopted for Ireland under Regulation (EC) No 94/2009.

(12) That exceptional market support measure should be in the form of a disposal scheme of certain cattle that are blocked on farms in Northern Ireland where samples from other cattle have tested positive for elevated levels of dioxins and polychlorinated biphenyls (PCBs). Furthermore, it is appropriate to provide for a disposal scheme of beef and pigmeat products that are blocked in or under the responsibility and control of slaughterhouses in the United Kingdom, and for which it is uncertain to what extent these products have come from cattle or pigs that came from farms that used contaminated feed.

(13) That exceptional market support measure should therefore address the escalating animal health and welfare risks, and at the same time remove the possibility that products from animals that may contain elevated levels of contamination enter the food or feed chain. Moreover, that measure should avoid that the beef and pigmeat market in Northern Ireland would be at a distinct competitive disadvantage compared to that in Ireland, given the eligibility conditions for the disposal scheme under Regulation (EC) No 94/2009 and those under State aid scheme N 643/2008.

(14) That exceptional market support measure should be partly financed by the Community. The contribution of the Community in the compensation should be expressed as maximum average amounts per animal or tonne of beef or pigmeat, for a limited quantity of the products concerned, while the competent authorities should be required to determine the compensation price and thus the amount of the part-financing based on the market value of the animals and the products compensated for within specified limits.

(15) The competent authorities should apply all controls and surveillance measures required for the proper application of the exceptional measure provided for in this Regulation and inform the Commission accordingly.

(16) Given that for reasons of animal welfare, public health and market supply, the competent authorities had to start the disposal of the animals as well as of the products concerned as of 14 February 2009, date of the United Kingdom request, it is necessary to provide that this Regulation should apply as of that date.

(17) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

1. An exceptional market support measure for part of the United Kingdom is hereby introduced in the form of a disposal scheme for:

(a) cattle that remain since 6 December 2008 on farms in Northern Ireland where samples from other cattle have tested positive for elevated levels of dioxins and polychlorinated biphenyls (PCBs);

(b) fresh, chilled or frozen beef which is coming from animals slaughtered in Northern Ireland no later than 6 December 2008 and which is stored in Northern Ireland and coming from herds where samples from other cattle in these herds have tested positive for elevated levels of dioxins and polychlorinated biphenyls (PCBs);

(c) fresh, chilled or frozen pigmeat which is coming from animals that originated from Ireland and that had been slaughtered in Northern Ireland no later than 6 December 2008. That pigmeat is stored in the United Kingdom:

(i) in the slaughterhouse; or

(ii) outside the slaughterhouse, under the responsibility and the control of the slaughterhouse, subject to the slaughterhouse demonstrating to the satisfaction of the competent authorities.

Article 2

Disposal of animals and meat

1. The competent authorities of the United Kingdom are authorised to compensate for the disposal of the animals and the meat referred to in Article 1, with a view to the slaughtering and full destruction of these animals and their relevant by-products and the destruction of the meat in compliance with the relevant veterinary legislation.

The destruction of live animals shall be accomplished by delivery to a slaughterhouse followed, after counting and weighing, by transport of all carcasses to a rendering plant, where all materials shall be rendered.

Where animals are unfit for transport to a slaughterhouse, the animals may be killed on farm.

Destruction of meat will be effected after weighing and transport to a rendering plant, where all materials shall be rendered.

These operations shall be carried out under the permanent supervision of the competent authorities, using standardised checklists incorporating weighing and counting sheets.

2. The compensation to be paid by the competent authorities for the disposal of the animals referred to in Article 1(a) and of the products referred to in points (b) and (c) of that Article shall not exceed the market value of the animals and products concerned at the moment prior to the decision of Ireland to recall, as a precautionary measure, all pigmeat and pigmeat products from the market.

In order to avoid any over-compensation, the compensation paid by the competent authorities shall take into account any other type of compensation to which the suppliers of animals or slaughterhouses may be entitled to.

3. The compensation for the products to be disposed of under this Regulation shall be paid by the competent authorities after the reception of the products by the rendering plant and after controls in accordance with Article 4(1)(c). Compensation paid under this Regulation by the competent authorities shall be eligible for Community part-financing after the full destruction of the products concerned has been established on the basis of all necessary documentary and physical checks.

Point (a) of the third subparagraph of Article 5(1) of Commission Regulation (EC) No 883/2006 [1] shall apply mutatis mutandis.

Only expenditure declared in respect of July 2009 at the latest shall be eligible for Community part-financing.

Article 3

Financing

1. For each fully destroyed animal and meat, the Community shall provide part-financing equivalent to 50 % of the expenditure incurred under Article 2(1). That part-financing shall be equivalent to not more than a maximum average amount of:

(a) EUR 468,62 per head for not more than 5 196 cattle;

(b) EUR 3 150,00 per tonne of beef for not more than 40 tonnes of beef;

(c) EUR 1 133,50 per tonne of pigmeat for not more than 1 034 tonnes of pigmeat.

2. The competent authorities shall determine the amount of the part-financing per animal and meat product compensated based on the market value referred to in Article 2(2) and respecting the maximum average amounts set out in paragraph 1 of this Article.

3. No later than 31 August 2009, the United Kingdom shall notify the Commission the total compensatory expenditures, by indicating the number and categories of cattle as well as the volume and types of beef and pigmeat that has been disposed of under this Regulation.

[1] OJ L 171, 23.6.2006, p. 1.

4. If it is established that the beneficiary of the amount paid under Article 2(3) has also received compensation under an insurance policy or compensation paid by a third party, the United Kingdom shall recover that amount and credit 50 % of it to the European Agricultural Guarantee Fund as a deduction of the corresponding expenditure. If the amount paid under Article 2(3) was higher than the compensation received, the United Kingdom shall recover an amount equal to that compensation.

Article 4

Controls and communication

1. The United Kingdom shall adopt all measures necessary to ensure proper application of this Regulation, in particular by:

(a) ensuring that none of the products compensated for under Article 2 enter the food or feed chain by envisaging appropriate on-the-spot supervision, denaturing agents as appropriate and seals on transports;

(b) performing at least once per calendar month, administrative and accounting controls at each participating rendering plant to ensure that all carcasses, beef and pigmeat delivered since the beginning of the scheme or since the last such control have been rendered;

(c) in respect of fresh, chilled or frozen beef and pigmeat stored at locations other than slaughterhouses, as referred to in Article 1(c)(ii), performing an on-the-spot inventory control to establish the beef and pigmeat quantity deriving from animals slaughtered no later than 6 December 2008, ensuring that such beef and pigmeat is secure, easily identifiable and kept apart physically from other stocks, and that removal operations are subject to the necessary identification and weighing controls;

(d) providing for on-the-spot controls and detailed reports on those controls indicating in particular:

(i) the age-span, classification and total number of animals transported from the farm, the date and time of their transport to and arrival at a slaughterhouse;

(ii) the quantities of carcasses transported under seal from the slaughterhouse and received at the rendering plant, animal movement permit and seal numbers;

(iii) in case of slaughtering on farm as referred to in the third subparagraph of Article 2(1), the number of animals slaughtered on farm, the number of carcasses transported under seal from the farm and the quantity received at the rendering plant, animal movement permit and seal numbers;

(iv) for each beef and pigmeat product, the date of slaughter of the animal from which the product was obtained and a weight protocol of that product; and in respect of fresh, chilled or frozen beef and pigmeat stored in locations other than slaughterhouses, the location and steps taken to ensure the security of the product concerned during storage and removal;

(v) the quantities and classification of beef and pigmeat product transported under seal from the point of collection and received at the rendering plant, movement permit and seal numbers;

(vi) the aspects, registers and documents checked pursuant to the control required under point (b) above, and at least a daily summary of the quantities of carcasses, beef and pigmeat entering the rendering plant, the corresponding dates of rendering and quantities rendered.

2. The United Kingdom shall send to the Commission:

(a) as soon as possible after the entry into force of this Regulation, a description of its implemented control and reporting arrangements for all operations involved;

(b) no later than 30 April 2009 a detailed report on the controls undertaken under paragraph 1.

Article 5

Intervention measure

The measures taken under this Regulation shall be considered to be intervention measures to regulate agricultural markets within the meaning of Article 3(1)(b) of Council Regulation (EC) No 1290/2005 [1].

[1] OJ L 209, 11.8.2005, p. 1.

Article 6

Entry into force and application

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

It shall apply from 14 February 2009.

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

Done at Brussels, 16 April 2009.

For the Commission
Mariann FISCHER BOEL
Member of the Commission