COMMISSION REGULATION (EC) No 94/2009

of 30 January 2009

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

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) The situation of the pigmeat market in Ireland is particularly critical taken into account the recent findings of elevated levels of dioxins and polychlorinated biphenyls (PCBs) in pigmeat originating in Ireland. 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 affected pig farms constitute 7 % of the total pig production 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 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].

(4) The dioxin contamination and the application of the precautionary measure to recall all pigmeat and pigmeat products is causing very serious disturbance of the pigmeat market in Ireland. This situation is directly linked to a loss of consumer confidence arising from potential risks to public health. In addition, some cattle remained on farms where samples from other cattle had shown elevated levels of dioxin. Therefore, the Irish authorities have requested the Commission to provide further emergency support measures for the pigmeat and beef market in Ireland.

(5) 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.

(6) 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 Ireland, it is appropriate to take a temporary exceptional measure to support that market, similar to those laid down in Section I.

(7) That exceptional market support measure should be in the form of a disposal scheme of certain pigs and cattle that come from farms that have used contaminated feed. Furthermore, it is appropriate to provide for a disposal scheme of pigmeat products that are blocked in or under the responsibility and control of slaughterhouses in Ireland, and for which it is uncertain to what extent these products have come from pigs that came from farms that used contaminated feed. The measure should remove the possibility that products from animals that may contain elevated levels of contamination enter the food or feed chain.

(8) 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 pigmeat, for a limited quantity of the products concerned, while the Irish 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.

[1] OJ L 299, 16.11.2007, p. 1.
[2] OJ L 339, 18.12.2008, p. 78.

(9) The competent Irish 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.

(10) Given that for reasons of animal welfare, public health and market supply, the Irish authorities had to start the disposal of the animals as well as of the products concerned as of 13 December 2008, it is necessary to provide that this Regulation should apply as of that date.

(11) 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

An exceptional market support measure for Ireland is hereby introduced in the form of a disposal scheme for:

(a) pigs that had been on farms that used contaminated animal feed between 1 September 2008 and 6 December 2008;

(b) cattle that remain on farms where samples from other cattle have tested positive for elevated levels of dioxins and polychlorinated biphenyls (PCBs);

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

(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 Irish authorities.

Article 2

Disposal of animals and meat

1. Ireland is 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 carcases 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 Irish authorities, using standardised checklists incorporating weighing and counting sheets.

2. The compensation to be paid by the competent Irish authorities for the disposal of the animals referred to in points (a) and (b) of Article 1 and of the products referred to in point (c) of that Article shall not exceed the market value of the animals and products concerned at the moment prior to the decision of the Irish authorities 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 Irish 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 Irish 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 Irish 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.

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

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 54,77 per head for not more than 130 000 pigs;

(b) EUR 468,62 per head for not more than 7 000 cattle;

(c) EUR 1 133,50 per tonne of pigmeat for not more than 9 050 tonnes of pigmeat.

2. The competent Irish 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, Ireland shall notify the Commission the total compensatory expenditures, by indicating the number and categories of pigs and cattle as well the volume and types of pigmeat that has been disposed of under this Regulation.

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, Ireland 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, Ireland shall recover an amount equal to that compensation.

Article 4

Controls and communication

1. Ireland 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 carcases 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 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 pigmeat quantity deriving from animals slaughtered no later than 6 December 2008, ensuring that such 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 carcases 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 carcases transported under seal from the farm and the quantity received at the rendering plant, animal movement permit and seal numbers;

(iv) for each 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 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 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 carcases and pigmeat entering the rendering plant, the corresponding dates of rendering and quantities rendered.

2. Ireland 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 1 March 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].

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 13 December 2008.

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

Done at Brussels, 30 January 2009.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

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