

REGULATION (EEC) No 216/69 OF THE COMMISSION

of 4 February 1969

on detailed rules of application for the disposal of frozen beef and veal bought in by intervention agencies

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation (EEC) No 805/68¹ of 27 June 1968 on the common organisation of the market in beef and veal, and in particular Articles 7 (3) and 25 thereof;

Whereas the disposal of products bought in by intervention agencies pursuant to Articles 5 and 6 of Regulation (EEC) No 805/68 must take place in such a way as to avoid any disturbance of the market and to ensure equal access to goods and equal treatment of purchasers;

Whereas pursuant to Article 2 of Council Regulation (EEC) No 98/69² of 16 January 1969 laying down general rules for the disposal of frozen beef and veal by intervention agencies, selling prices may be fixed in advance or determined by means of an invitation to tender;

Whereas equal access to goods and equal treatment of purchasers can be ensured if, when the selling price is fixed in advance, the intervention agencies accept bids in the order in which they are received until supplies are exhausted;

Whereas, where the selling price is determined by means of an invitation to tender, these principles can be respected by publishing the invitation in good time in the *Official Journal of the European Communities*, in addition to any national publicity;

Whereas, since the object of the tendering procedure is to obtain the best price, the award must go to the highest tender; whereas there should also be

provision for several tenders being submitted at the same price for the same quantities; whereas, however, the highest price can only be accepted if it corresponds to the actual market situation; whereas therefore, minimum selling prices should be determined, in accordance with a Community procedure, in the light of the tenders received;

Whereas, so that the disposal of stored products may be efficiently organised, minimum sale quantities should be laid down, varying according to the particular marketing conditions applying to each product;

Whereas invitations to tender and bids must specify the products sufficiently to permit their identification;

Whereas the submission of bids is facilitated if bidders are permitted to inspect the products; whereas it should consequently be laid down that no claim can be accepted from bidders as to the quality and characteristics of the product which may be assigned to them;

Whereas the amount of the deposit securing fulfilment of the obligations involved in a sale contract or in a tender can be determined according to the purchaser's interest in concluding the contract or accepting the award of the tender;

Whereas so that the procedure may be quick and efficient, it should be laid down that the rights and obligations involved in a sale contract must be fulfilled within a certain time limit;

Whereas Member States should inform the Commission at regular intervals of the quantities sold so that the Commission may be able to assess the progress of disposal;

Whereas the measures provided for in this Regulation are in accordance with the Opinion of the Management Committee for Beef and Veal;

¹ OJ No L 148, 26.6.1968, p. 4.

² OJ No L 14, 21.1.1969, p. 2.

HAS ADOPTED THIS REGULATION:

Article 1

The intervention agencies designated by Member States shall sell the products bought in pursuant to Articles 5 and 6 of Regulation (EEC) No 805/68 in accordance with the provisions of Article 7 (1) of that Regulation, Regulation (EEC) No 98/69 and this Regulation.

TITLE I

Sale at prices fixed in advance

Article 2

1. The selling price shall be understood as including packaging in the weight, exclusive of internal taxation, free at the cold storage wharf where the purchaser takes delivery of the product.

2. The minimum sale quantity of a product shall be 5 metric tons per delivery point. However, when hindquarters are for sale, the intervention agency may reduce the minimum quantity to 2 metric tons. When the quantity available at the delivery point is less than 5 metric tons or, in the case of hindquarters, less than 2 metric tons the quantity available shall be the minimum sale quantity of the product.

Article 3

Intervention agencies shall make the necessary arrangements to permit those concerned to inspect the products for sale before making their bids.

Article 4

1. Bids, specifying the products, their quantity and the delivery point or points, shall be submitted to intervention agencies by telegram or telex only. They shall be considered only if confirmed by the bidder by registered letter which must reach the intervention agency within ninety-six hours after despatch of the telegram or telex and if, within that period, he lodges a deposit of 100 units of account per metric ton of the product.

2. Bids shall not be valid unless the confirmation is accompanied by a statement in which the bidder agrees to forgo any claim as to the quality or characteristics of the product which may be assigned to him.

3. The deposit shall be lodged in the form either of a cheque made out to the intervention agency or

of a guarantee meeting criteria fixed by each Member State.

4. If the bid, having been confirmed, is withdrawn the deposit shall be forfeited.

5. Within the seventy-two hours following the lodging of the deposit mentioned in paragraph 1, the intervention agency shall accept bids in the order in which they are received until supplies are exhausted. When bids are received simultaneously, the intervention agency shall divide the quantity available in agreement with the bidders concerned or award it by balloting.

Article 5

1. At least 90% of the purchase price shall be paid on account not later than the day preceding that fixed by mutual agreement for delivery of the goods. Delivery shall be taken of the goods within twenty-eight days following that on which the bid was accepted by the intervention agency. The balance shall be paid within the three days following receipt of the final bill.

2. If the payment on account has not been made in conformity with paragraph 1, the sale contract shall be cancelled and the deposit shall be forfeited.

3. Delivery shall be taken of the goods in accordance with the rules of the intervention agencies for release from storage and no claim shall be admitted to any particular stock.

4. The deposit shall be returned forthwith:

- (a) upon rejection of the bid;
- (b) upon fulfilment by the purchaser of all the terms of the sale contract.

TITLE II

Sale at a price determined by means of an invitation to tender

Article 6

1. Each intervention agency shall be responsible for invitations to tender in respect of the quantities it holds.

2. Invitations to tender shall be published in the *Official Journal of the European Communities*. In addition, intervention agencies may announce the invitations by other means.

3. Publication in the *Official Journal of the European Communities* shall take place at least a fortnight before the time limit for the submission of tenders.

Article 7

The invitation to tender shall specify:

- (a) the products for sale;
- (b) the location of the cold store or stores where the products are kept;
- (c) in respect of each cold store, the quantities and the length of time they have been in store;
- (d) the time limit and address for the submission of tenders.

Article 8

Intervention agencies shall take the necessary measures to enable those concerned to inspect the products offered before tendering.

Article 9

1. Tenders shall be submitted to the intervention agency in writing against receipt or by registered letter addressed to the intervention agency.

2. The tender shall specify:

- (a) the name and address of the tenderer;
- (b) the products and the quantity tendered for and the cold store or stores;
- (c) the price offered per metric ton, to be understood as including packaging in the weight, exclusive of internal taxation, free at the cold storage wharf where the purchaser takes delivery of the product, expressed in the currency of the Member State whose intervention agency has issued the invitation to tender;
- (d) any additional information required by the invitation to tender.

3. Tenders shall be for not less than 10 metric tons per delivery point. However, when tenders are invited for hindquarters, the minimum tender may be for 2 metric tons. When the quantity put out to tender at a delivery point is less than 10 metric tons or, in the case of hindquarters, less than 2 metric tons, the tender shall be for the available quantity.

4. A tender shall not be valid unless accompanied by a deposit.

5. A tender shall not be valid unless accompanied by a statement in which the tenderer agrees to forgo any claim as to the quality or characteristics of the product which may be assigned to him.

Article 10

1. The deposit shall be 100 units of account per metric ton of the product.

2. The provisions of Article 4 (3) shall apply.

Article 11

In the light of the tenders received, minimum selling prices shall be fixed for the products in question in accordance with the procedure laid down in Article 27 of Regulation (EEC) No 805/68.

Article 12

1. If the tender is for less than the minimum price, it shall be refused.

2. Without prejudice to the provisions of paragraph 1, the contract shall be awarded to the highest tender. When several tenders at the same price are received for the same quantity, the intervention agency shall divide the quantity available in agreement with the tenderers concerned or award it by balloting.

Article 13

1. Each tenderer shall immediately be informed by the intervention agency of the decision on his tender.

2. At the same time the successful tenderer shall be informed of the amount to be paid on account to the intervention agency before taking delivery of the products.

This amount shall be at least 90% of the amount of the successful tender.

The payment on account shall be made within eight days from the day on which the information is received. The balance shall be paid within the three days following receipt of the final bill.

3. Delivery shall be taken of the product within the twenty-eight days following the award of the contract by the intervention agency.

4. The provisions of Article 5 (3) shall apply.

Article 14

1. The deposit shall be returned forthwith for quantities for which:

- (a) the tender is not accepted;
- (b) the successful tenderer has fulfilled the obligations laid down in Article 13 and the terms of the invitation to tender.

2. Except in a case of *force majeure*, the deposit shall be forfeited for a quantity in respect of which:

- (a) the tenderer withdraws his tender before a decision has been taken on the award of a contract.
- (b) the successful tenderer has not fulfilled the obligations laid down in Article 13 or one of the terms of the invitation to tender.

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

Done at Brussels, 4 February 1969.

TITLE III

General provisions*Article 15*

Member States shall inform the Commission each week of the quantities sold.

Article 16

This Regulation shall enter into force on 5 February 1969.

For the Commission

The President

Jean REY