COMMISSION REGULATION (EC) No 1967/2002

of 4 November 2002

on the sale by tender of beef held by certain intervention agencies and intended for processing within the Community

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal [1], as last amended by Commission Regulation (EC) No 2345/2001 [2], and in particular Article 27(4), Article 28(2) and Article 41 thereof,

Whereas:

(1) The application of intervention measures in respect of beef has created stocks in several Member States. In order to prevent an excessive prolongation of storage, part of these stocks should be sold by tender for processing in the Community.

(2) The sale should be made subject to the rules laid down by Commission Regulations (EEC) No 2173/79 [3], as last amended by Regulation (EC) No 2417/95 [4], (EEC) No 3002/92 [5], as last amended by Regulation (EC) No 770/96 [6], and (EEC) No 2182/77 [7], as last amended by Regulation (EC) No 2417/95, subject to certain special exceptions on account of the particular use to which the products in question are to be put.

(3) With a view to ensuring a regular and uniform tendering procedure, measures should be taken in addition to those laid down in Article 8(1) of Regulation (EEC) No 2173/79.

(4) Provision should be made for derogations from Article 8(2)(b) of Regulation (EEC) No 2173/79, in view of the administrative difficulties which application of this point creates in the Member States concerned.

(5) In order to ensure a proper functioning of the tender arrangements it is necessary to provide for a higher amount of security than the one fixed in Article 15(1) of Regulation (EEC) No 2173/79.

(6) On the basis of experience gained with regard to the disposal of bone-in intervention beef, it is necessary to reinforce the quality controls of the products before their delivery to the purchasers, in particular to ensure that the products comply with the provisions in Annex III to Regulation (EC) No 562/2000 of 15 March 2000 laying down detailed rules for the application of Council Regulation (EC) No 1254/1999 as regards the buying-in of beef [8], as last amended by Regulation (EC) No 1592/2001 [9].

(7) In order to ensure optimum monitoring of the destination of beef from intervention stocks, control measures should be taken, in addition to the measures provided for in Regulation (EEC) No 3002/92, which are based on physical inspection of quantities and qualities.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

Article 1

1. The sale shall take place of the following quantities of meat, for processing within the Community:

— approximately 1 000 tonnes of bone-in forequarters held by the German intervention agency,

— approximately 1 000 tonnes of bone-in forequarters held by the Austrian intervention agency,

— 400 tonnes of bone-in forequarters held by the Danish intervention agency,

— approximately 1 000 tonnes of bone-in forequarters held by the French intervention agency,

— approximately 1 000 tonnes of bone-in forequarters held by the Italian intervention agency,

— 67 tonnes of bone-in forequarters held by the Dutch intervention agency,

— approximately 1 000 tonnes of bone-in forequarters held by the Spanish intervention agency,

— approximately 1 506 tonnes of boneless beef held by the German intervention agency,

— approximately 851 tonnes of boneless beef held by the Spanish intervention agency,

— approximately 1 800 tonnes of boneless beef held by the French intervention agency,

— approximately 1 032 tonnes of boneless beef held by the Italian intervention agency,

[1] OJ L 160, 26.6.1999, p. 21.
[2] OJ L 315, 1.12.2001, p. 29.
[3] OJ L 251, 5.10.1979, p. 12.
[4] OJ L 248, 14.10.1995, p. 39.
[5] OJ L 301, 17.10.1992, p. 17.
[6] OJ L 104, 27.4.1996, p. 13.
[7] OJ L 251, 1.10.1977, p. 60.
[8] OJ L 68, 16.3.2000, p. 22.
[9] OJ L 210, 3.8.2001, p. 18.

— approximately 144 tonnes of boneless beef held by the Dutch intervention agency.

Detailed information concerning quantities is given in Annex I.

2. Subject to the provisions of this Regulation the products referred to in paragraph 1 shall be sold in accordance with Regulations (EEC) No 2173/79, in particular Titles II and III thereof, (EEC) No 2182/77 and (EEC) No 3002/92.

Article 2

1. Notwithstanding Articles 6 and 7 of Regulation (EEC) No 2173/79, the provisions of and Annexes to this Regulation shall serve as a general notice of invitation to tender.

The intervention agencies concerned shall draw up a notice of invitation to tender which shall include the following:

(a) the quantities of beef offered for sale, and

(b) the deadline and place for submitting tenders.

2. Interested parties may obtain the details of the quantities available and the places where the products are stored from the addresses listed in Annex II to this Regulation. The intervention agencies shall, in addition, display the notice referred to in paragraph 1 at their head offices and may publish it in other ways.

3. For each product mentioned in Annex I the intervention agencies concerned shall sell first the meat which has been stored the longest. However, Member States may in exceptional cases and after having obtained authorisation from the Commission derogate from that obligation.

4. Only tenders which reach the intervention agencies concerned by 12 noon on 12 November 2002 shall be considered.

5. Notwithstanding Article 8(1) of Regulation (EEC) No 2173/79, a tender must be submitted to the intervention agency concerned in a closed envelope, bearing the reference to the Regulation concerned. The closed envelope must not be opened by the intervention agency before the expiry of the tender deadline referred to in paragraph 4.

6. Notwithstanding Article 8(2)(b) of Regulation (EEC) No 2173/79, tenders shall not indicate in which cold store or stores the products are held.

Article 3

1. Member States shall provide the Commission with information concerning the tenders received not later than on the working day following the deadline set for the submission of tenders.

2. After the tenders received have been examined a minimum selling price shall be set for each product or the sale will not proceed.

Article 4

1. A tender shall be valid only if presented by or on behalf of a natural or legal person who, for the 12 months prior to the entry into force of this Regulation, has been engaged in the processing of products containing beef and who is entered in a national VAT register. In addition, tenders must be presented by or on behalf of a processing establishment approved in accordance with Article 8 of Council Directive 77/99/EEC [1].

For the purposes of the preceding subparagraph, a retail or catering establishment or an establishment attached to a retail sales outlet where meat is processed and put up for sale to the final consumer shall not be taken into consideration.

2. Notwithstanding Article 3(1) and (2) of Regulation (EEC) No 2182/77, a tender must be accompanied by:

— a written undertaking by the tenderer to process the meat into the products specified in Article 6 within the period referred to in Article 5(1) of Regulation (EEC) No 2182/77,

— precise details of the establishment or establishments where the meat which has been purchased is to be processed.

3. The tenderers referred to in paragraph 1 may instruct an agent in writing to take delivery, on their behalf, of the products which they purchase. In this case the agent shall submit the bids of the tenderers represented together with the written instruction referred to above.

4. Notwithstanding Article 18(1) of Regulation (EEC) No 2173/79 the time limit for taking over meat sold pursuant to this Regulation shall be two months from the day of the notification referred to in Article 11 of the same Regulation.

5. The purchasers and agents referred to in the preceding paragraphs shall maintain and keep up to date an accounting system which permits the destination and use of the products to be ascertained with a view in particular to ensuring that the quantities of products purchased and manufactured tally.

Article 5

1. The Member States shall take all necessary measures to ensure that bone-in intervention products delivered to the purchasers are presented in a state which fully complies with Annex III to Regulation (EC) No 562/2000 and in particular the sixth indent of point 2(a) of that Annex.

2. The costs related to the measures referred to in paragraph 1 shall be borne by the Member States and shall, in particular, not be imposed on the purchaser or any other third party.

3. Member States shall notify the Commission [2] of all cases where a bone-in intervention quarter has been identified as not complying with Annex III as referred to in paragraph 1, specifying the quality and quantity of the quarter as well as the slaughterhouse where it was produced.

[1] OJ L 26, 31.1.1977, p. 85.
[2] DG Agriculture, D2: fax number (32-2) 295 36 13.

Article 6

1. Meat purchased in accordance with this Regulation shall be processed into products which comply with the definitions for A products and B products set out in paragraphs 2 and 3 below.

2. An A product means a processed product falling within CN code 1602 10, 1602 50 31, 1602 50 39 or 1602 50 80, not containing meat other than that of animals of the bovine species, with a collagen/protein ratio of no more than 0,45 % [1] and containing by weight at least 20 % [2] of lean meat excluding offal [3] and fat with meat and jelly accounting for at least 85 % of the total net weight.

The product must be subjected to a heat treatment sufficient to ensure the coagulation of meat proteins in the whole of the product, which may not therefore show any traces of a pinkish liquid on the cut surface when the product is cut along a line passing through its thickest part.

3. A B product means a processed product containing beef, other than:

— one specified in Article 1(1)(a) of Regulation (EC) No 1254/1999 or

— one referred to in paragraph 2.

However, a processed product falling within CN code 0210 20 90 which has been dried or smoked so that the colour and consistency of the fresh meat has totally disappeared and with a water/protein ratio not exceeding 3,2 shall be considered to be a B product.

Article 7

1. Member States shall set up a system of physical and documentary supervision to ensure that all meat is processed in accordance with Article 6.

The system must include physical checks of quantity and quality at the start of the processing, during the processing and after the processing operation is completed. To this end, processors shall at any time be able to demonstrate the identity and use of the meat through appropriate production records.

Technical verification of the production method by the competent authority may, to the extent necessary, make allowance for drip losses and trimmings.

In order to verify the quality of the finished product and establish its conformity with the processor's recipe Member States shall undertake representative sampling and analysis of the product. The costs of such operations shall be borne by the processor concerned.

2. Member States may, at the request of the processor, authorise the boning of bone-in forequarters in an establishment other than that provided for in respect of processing provided the relevant operations take place in the same Member State under appropriate supervision.

3. Article 1 of Regulation (EEC) No 2182/77 shall not apply.

Article 8

1. Notwithstanding Article 15(1) of Regulation (EEC) No 2173/79, the security shall be EUR 12 per 100 kilograms.

2. The security provided for in Article 4(1) of Regulation (EEC) No 2182/77 shall be:

— for forequarters the difference in EUR between the tender price per tonne and EUR 1 600,

— for boneless beef of intervention codes INT 22 and INT 24 the difference in EUR between the tender price per tonne and EUR 1 800,

— for boneless beef of intervention codes INT 11, INT 18, INT 21 and INT 23 the difference in EUR between the tender price per tonne and EUR 1 400.

3. Notwithstanding Article 5(3) of Regulation (EEC) No 2182/77, the processing of all beef purchased into finished products as referred to in Article 6 shall constitute a principal requirement.

Article 9

Notwithstanding Article 9 of Regulation (EEC) No 2182/77, in addition to the entries provided for in Regulation (EEC) No 3002/92, Section 104 of T 5 control copies must be completed with one or more of the following:

— Para transformación [Reglamentos (CEE) nº 2182/77 y (CE) nº 1967/2002]

— Til forarbejdning (forordning (EØF) nr. 2182/77 og (EF) nr. 1967/2002)

— Zur Verarbeitung bestimmt (Verordnungen (EWG) Nr. 2182/77 und (EG) Nr. 1967/2002)

— Για μεταποίηση [κανονισμοί (ΕΟΚ) αριθ. 2182/77 και (ΕΚ) αριθ. 1967/2002]

— For processing (Regulations (EEC) No 2182/77 and (EC) No 1967/2002)

— Destinés à la transformation [règlements (CEE) nº 2182/77 et (CE) nº 1967/2002]

[1] Determination of collagen content: the collagen content shall be taken to mean the hydroxyproline content multiplied by the factor 8. The hydroxyproline content must be determined according to ISO method 3496-1978.

[2] The lean bovine meat content excluding fat is determined in accordance with the procedure described in the Annex to Commission Regulation (EEC) No 2429/86 (OJ L 210, 1. 8. 1986, p. 39).

[3] Offal includes the following: heads and cuts thereof (including ears), feet, tails, hearts, udders, livers, kidneys, sweetbreads (thymus gland with pancreas), brains, lungs, throats, thick skirts, spleens, tongues, caul, spinal cords, edible skin, reproductive organs (i.e. uteri, ovaries and testes), thyroid glands, pituitary glands.