

COMMISSION REGULATION (EEC) No 2448/77

of 8 November 1977

laying down conditions for the disposal of oranges withdrawn from the market to the processing industry and amending Regulation (EEC) No 1687/76

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Regulation (EEC) No 1034/77⁽²⁾, and in particular Article 21 (4) thereof,

Whereas Article 21 of Regulation (EEC) No 1035/72 provides that certain categories of blood oranges withdrawn from the market during the 1977/78, 1978/79 and 1979/80 marketing year may be disposed of to the processing industry; whereas only the varieties traditionally used for processing should be disposed of in this way;

Whereas the said Article also provides that the disposal of such oranges must be carried out by way of tender by the agency appointed by the Member State concerned; whereas, in order that the tender can be held, criteria must be fixed to ensure the most favourable conditions for tendering and to ensure equal treatment for all interested parties in the Community; whereas standing invitations to tender and public auctions may facilitate the marketing of the products and in certain cases may be the forms of sale best adapted to trade practice;

Whereas the said Article also lays down that such operations may take place only where they entail no distortion of competition between the industries concerned; whereas to that end a minimum selling price should be fixed before the start of each marketing year;

Whereas, in order to allow any industrial undertaking to submit a tender, processors should be given adequate information of the relevant notice;

Whereas the notice of invitation to tender and the notice of sale by auction must state the general conditions of the procedure; whereas, however, to ensure that the tender proceeds correctly, provision should be made for certain particulars to appear in the tender, in

particular as regards the price and quantities in respect of which the tender is made;

Whereas tenders submitted by those interested must be assessed on the basis of the price offered; whereas quantities are allocated as and when they become available and in the order in which the tenderers are listed, beginning with those offering the highest prices;

Whereas it is necessary to adopt measures to ensure that the allocated product is actually processed; whereas to this end a processing security must be lodged, the amount of which should be so calculated as to ensure the respect of this obligation;

Whereas Regulation (EEC) No 1687/76 of 30 June 1976⁽³⁾, as last amended by Regulation (EEC) No 2182/77⁽⁴⁾, laid down common detailed rules for verifying the use and/or destination of products from intervention; whereas an addition should therefore be made to the Annex to the said Regulation;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

Article 1

The disposal of oranges of the Sanguinello and Sanguigno varieties, withdrawn from the market during the 1977/78, 1978/79 and 1979/80 marketing years, to the processing industry shall be undertaken by the agency appointed by the Member State concerned, either by way of a standing invitation to tender or by public auction.

Article 2

A minimum selling price shall be fixed before the start of each marketing year, taking account of the industry's normal supply price for the product concerned. This minimum selling price shall be fixed in accordance with the procedure laid down in Article 33 of Regulation (EEC) No 1035/72.

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 125, 19. 5. 1977, p. 1.

⁽³⁾ OJ No L 190, 14. 7. 1976, p. 1.

⁽⁴⁾ OJ No L 251, 1. 10. 1977, p. 60.

Article 3

The period of validity of the procedures referred to in Article 1 may not exceed the duration of each marketing year.

Article 4

1. Each standing invitation to tender may comprise one or more series of tenders. Under this procedure arrangements shall be made to publicize the invitations to tender.

2. The notice of invitation to tender shall give all necessary information, including :

- (a) the period during which the products are likely to be available ;
- (b) the nature of the products to be put up for sale ;
- (c) the minimum selling price ;
- (d) the areas in which the products are to be stored ;
- (e) the closing date for each series of tenders ;
- (f) the agency to which tenders are to be submitted.

Article 5

1. Tenderers shall submit their tenders by letter delivered directly or by registered post with recorded delivery, by telex or by telegram, to the agency appointed by the Member State concerned.

2. The tender shall specify :

- (a) the name and address of the tenderer ;
- (b) the quantity of the product to which the tender relates, expressed in tonnes ;
- (c) the price offered, per tonne net, ex warehouse where the product is stored, expressed in the currency of the Member State in which the sale by tender is to take place ;
- (d) where appropriate, any additional information requested in the notice of invitation to tender.

3. The tender shall only be valid if :

- it relates to at least one tonne, and
- it is made at least at the minimum price referred to in Article 2.

Article 6

1. On the closing date for the first series of tenders, the agency appointed by the Member States concerned shall list the tenderers in accordance with the price offered.

Where two or more tenderers offer the highest price, the first place shall go to that tenderer who applies for the largest quantity or where two or more such tenderers apply for the same quantity, to that tenderer chosen by lot.

As and when quantities of products become available, they shall be allocated in the list order.

2. On the closing date for each subsequent series of tenders, the agency shall list tenderers and allocate quantities of products in accordance with the criteria laid down in paragraph 1.

Article 7

Wherever a tender is not accepted, the tenderer shall be informed thereof immediately by the agency appointed by the Member State concerned.

At the end of the period for which the invitation to tender is valid the agency shall notify those processors whose tenders cannot be filled for lack of products.

Article 8

1. Where products are sold by public auction, the appointed agency shall issue a notice of sale by auction giving all relevant information concerning :

- the period during which the products are likely to be available,
- the nature of the products to be put up for sale,
- the minimum selling price,
- the areas in which the products are to be stored,
- the date, time and place of each auction.

2. Any other information concerning the quantities and characteristics of the products available for sale shall be communicated immediately to any interested party on request.

Article 9

Products sold by public auction shall be allocated to the person or persons offering the most favourable prices.

Article 10

Before taking delivery of the product allocated to him the successful tenderer or bidder shall lodge a processing security the amount of which shall be determined per 100 kilograms net of product and shall be at least equal to the difference between :

- 90 % of the arithmetical mean of the prices at which category III products of the Sanguinello variety may be withdrawn from the market under Article 18 of Regulation (EEC) No 1035/72 during the reference period, and
- the selling price to the successful tenderer or bidder.

However, the agency appointed by the Member State concerned may reduce the amount of the security to 40 % of the figure resulting from the above calculation, provided that the product concerned is inspected to ensure that at the time of delivery to the processing plant it is rendered unfit for human consumption in its natural state.

Article 11

1. The product allocated shall be processed within three months from the date of delivered to the purchaser.

2. The product allocated shall be inspected on the spot by the competent agency of the Member State in which processing takes place and shall be considered to have been processed when it is found to have been rendered unfit for human consumption in its natural state.

Article 12

1. Where a Member State intends to apply the provisions of this Regulation, the agency appointed shall without delay notify the agencies of the other Member States and the Commission of the notice of invitation to tender provided for in Article 4 or the notice of sale by auction provided for in Article 8.

Such notification shall be given :

- in the case of a tender, at least seven days before the closing date for the first series of tenders,
- in the case of sale by auction, at least seven days before the date of the first sale.

The appointed agency shall give notice in the manner laid down in the first subparagraph of any amendments to the notice of invitation to tender or to the notice of sale auction.

Such amendments may not take effect until seven days have elapsed from their communication.

2. Once the notification provided for in the first subparagraph of paragraph 1 has been made, a notice shall be published in the *Official Journal of the European Communities* announcing the intention of the

Member State concerned to apply the provisions of this Regulation.

Article 13

On completion of each invitation to tender or sale by auction, the agency appointed by the Member State concerned shall notify the Commission of the quantities of products disposed of and the prices at which they were disposed of.

Article 14

In the Annex to Regulation (EEC) No 1687/76 under 'II Products subject to a use and/or destination other than that mentioned under I', the following paragraph 18 and footnote 9 are hereby inserted :

'18. Commission Regulation (EEC) No 2448/77 of 8 November 1977 laying down conditions for the disposal of oranges withdrawn from the market to the processing industry and amending Regulation (EEC) No 1687/76 (*) :

— Section 104 :

'for processing (Regulation (EEC) No 2448/77)'

'Destiné à la transformation (règlement (CEE) n° 2448/77)'

'Zur Verarbeitung bestimmt (Verordnung (EWG) Nr. 2448/77)'

'Destinato alla trasformazione (regolamento (CEE) n. 2448/77)'

'Bestemd om te worden verwerkt (Verordening (EEG) nr. 2448/77)'

'Til forarbejdning (forordning (EØF) nr. 2448/77)'

— Section 106 :

date of delivery to the purchaser.

(*) OJ No L 285, 9. 11. 1977, p. 5.'

Article 15

This Regulation shall enter into force on the third day following 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, 8 November 1977.

For the Commission

Finn GUNDELACH

Vice-President