

**COMMISSION REGULATION (EEC) No 2329/85****of 12 August 1985****laying down detailed rules for the application of the special measures for soya beans**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1491/85 of 23 May 1985 laying down special measures in respect of soya beans <sup>(1)</sup>, and in particular Article 2 (8) and the second paragraph of Article 3 thereof,

Having regard to Council Regulation (EEC) No 2194/85 of 2 August 1985 adopting general rules concerning special measures for soya beans <sup>(2)</sup>, and in particular Article 9 thereof,

Whereas Article 1 of Regulation (EEC) No 2194/85 details the criteria for determining the world market price for soya beans ;

Whereas, in view of the price fluctuations that normally occur on the world market, the world market price for soya beans should be determined twice per month ;

Whereas provision should be made for adjusting the offers and quotations used in order to compensate for any differences in quality and conditions and place of delivery compared with the product for which the world price must be fixed ;

Whereas Article 2 (a) of Regulation (EEC) No 2194/84 specifies that the first purchaser shall keep stock records ; whereas, in order to enable beans harvested in the Community to be distinguished from imported beans, it should be specified that separate stock records are to be kept for the two categories of beans and that they are to be stored in different premises ;

Whereas the second paragraph of Article 2 of Regulation (EEC) No 2194/85 provides for the approval by the competent agency of the first purchaser other than the processor, it is necessary to determine the conditions for approval ;

Whereas standardized terms to be incorporated in the contracts concluded between producers and first purchasers, and also those terms for incorporation into the delivery declarations, should be laid down. However, with regard to the contracts in order that the minimum price may be observed, provision should be

made for the selling price to be expressed by unit of weight of produce of standard quality, such that the contract should mention any increases and reductions in the selling price ;

Whereas, Article 3 of Regulation (EEC) No 2194/85 provides that aid shall be paid to the first purchaser after verification of processing or of sale or delivery to a processor ; aid may be paid in advance upon presentation of the delivery declaration and provided that a security is lodged ;

Whereas, to ensure that the aid system is applied in a uniform manner, detailed rules for payment of the aid should be laid down ; it is also necessary to determine the conditions for the advance payment of the aid and to define the circumstances in which the security shall be forfeit ;

Whereas it should be specified how often the aid should be fixed, it is considered sufficient for the aid to be fixed twice a month ;

Whereas, Member States shall set up a control system ensuring that only the products entitled to aid receive it, this system should enable checks to be made upon the observance of the minimum price referred to in Article 2 (3) of Regulation (EEC) No 1491/85 ;

Whereas, pursuant to Article 9 of Regulation (EEC) No 2194/85 transitional measures may be adopted in order to facilitate a smooth transition between the previous aid system and that provided for under the present Regulation ;

Whereas until an intra-Community control system can be established, but at the latest by 31 December 1985, producer Member States shall limit the payment of aid to soya beans processed in their territory ;

Whereas, notwithstanding the measures for the rest of the Community, Article 2 (4) of Regulation (EEC) No 1491/85 provides that in the case of French overseas departments, the aid should be granted to producers in respect of a level of production established by applying a representative yield to the areas on which soya beans have been sown and harvested ; therefore, certain detailed rules should be laid down for implementing these new arrangements ;

Whereas, to facilitate proper management of the aid arrangements in the departments in question, it is necessary that France should communicate to the Commission certain data concerning the aid ;

<sup>(1)</sup> OJ No L 151, 10. 6. 1985, p. 15.

<sup>(2)</sup> OJ No L 204, 2. 8. 1985, p. 1.

Whereas it is therefore necessary to amend Commission Regulation (EEC) No 1978/80<sup>(1)</sup>, as last amended by Regulation (EEC) No 2784/84<sup>(2)</sup>, however, for the sake of clarity this Regulation should be replaced;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Oils and Fats

HAS ADOPTED THIS REGULATION:

#### *Article 1*

The world market price for soya beans shall be determined twice a month.

This price shall be fixed per 100 kilograms and shall be calculated on the basis of the most favourable offers and quotations for delivery within 30 days.

#### *Article 2*

1. Where the offers and quotations recorded relate to:

- (a) a quality other than the standard quality for which the guide price was fixed, they shall be adjusted by reference to the coefficient of equivalence given in Annex A;
- (b) products delivered cif at a frontier crossing point other than Rotterdam, they shall be adjusted by reference to the difference in freight and insurance costs as against products delivered cif Rotterdam;
- (c) products delivered cif Rotterdam, they shall be adjusted to take account of unloading and forwarding costs.

2. For the purpose of paragraph 1, only the lowest available costs in respect of loading, freight and insurance shall be taken into account.

#### *Article 3*

Within the meaning of Article 3 of Regulation (EEC) No 2194/85, processing for other uses in human food or animal feeding shall be understood to mean any procedure which processes the soya beans so that they lose their identity and yield products destined for human or animal consumption.

#### *Article 4*

Every first purchaser shall keep separate stock records for soya beans harvested in the Community and for

imported beans. These shall contain at least the following information:

- quantities in net weight of beans as received and in the case of beans harvested in the Community, moisture content and impurity content;
- movements between the various premises or stores of the undertaking;
- quantities of beans processed and the nature and quantity of the products obtained where the first purchaser is the processor;
- the quantity of seed or of the processed products leaving the undertaking and their destinations;
- a regular inventory of stocks;
- references to the contracts, the declarations of delivery and the invoices or equivalent documents for both products bought and products sold; however, in the case where the first purchaser, who is other than the processor, delivers to the processor, he shall keep references to the appropriate documents relating to the delivery to the processor.

In addition, every first purchaser shall:

- allow access to his premises by officials of the competent agency;
- comply with the obligations arising out of this Regulation;
- facilitate inspection operations;
- keep all the documents relative to the transactions concerned, together with his financial accounts, available for inspection by the competent agency of the Member State.

Beans harvested in the Community shall be stored separately from those imported.

#### *Article 5*

1. In order to be approved within the meaning of the second paragraph of Article 2 of Regulation (EEC) No 2194/85, each first purchaser shall, in addition to his obligations resulting from Article 4:

- (a) be a natural or legal person whose principal activity is trading in grain and oilseeds;
- (b) provide adequate assurance, from the financial point of view, that he is able to perform his obligations arising under this system;
- (c) have adequate storage capacity suitably equipped for weighing and analyzing the beans to determine the quality as compared with the standard quality;
- (d) keep the stock records and the other information required by Article 4 and by this paragraph from the date of his application for approval, for a period fixed by the Member State concerned.

2. The competent agency shall allocate an identification number to each approved first purchaser fulfilling the conditions of paragraph 1.

<sup>(1)</sup> OJ No L 192, 26. 7. 1980, p. 25.

<sup>(2)</sup> OJ No L 262, 3. 10. 1984, p. 7.

3. During the 1985/86 marketing year, the competent agency may grant provisional approval to the first purchaser concerned upon submission of an application for approval.

Provisionally approved first purchasers shall be assigned an identification number. If it is found that any of the conditions laid down in paragraph 1 are not satisfied, and in particular if this creates difficulties for the competent agency of the Member State in establishing the right to aid, provisional approval shall be withdrawn. Withdrawal shall be retroactive until the date of the provisional approval and any aid paid since that date shall be recovered.

Provisional approval shall become final as soon as the Member State concerned is satisfied that the approval conditions laid down in paragraph 1 are fulfilled.

#### Article 6

Where it is found that any of the conditions prescribed in Articles 4 and 5 are not observed, in particular if this creates difficulties for the Member State in establishing the right to aid, the approval shall be withdrawn forthwith for a period of not less than 12 months.

#### Article 7

1. Contracts as referred to in Article 2 (b) of Regulation (EEC) No 2194/85 shall be concluded in writing. They shall be lodged before a date to be fixed by each Member State but not later than 15 August, before each new marketing year, with the competent agency of the Member State in which the beans will be harvested. However, for the 1985/86 marketing year, they shall be lodged before a date to be fixed by each Member State but not later than 1 September 1985.

2. Contracts shall provide at least the following information :

- (a) the name, forenames, addresses and signatures of the contracting parties ;
- (b) the date of signature ;
- (c) the area, in hectares and ares, from which the beans covered by the contract are to be harvested ;
- (d) the price to be paid to the producer per unit of weight ;
- (e) the particulars necessary for the identification of the area in question ;
- (f) an undertaking on the part of the producer to deliver, and on the part of the first purchaser to take delivery of, all the beans of sound and fair merchantable quality to be harvested from the abovementioned area.

#### Article 8

1. The price payable to the producer shall not be lower than the minimum price referred to in Article 2

(2) of Regulation (EEC) No 1491/85 and shall be for beans of standard quality.

2. The selling price shall be increased or reduced for each percentage point or impurity and moisture content below or above the standard quality.

The amounts of these increases and reductions shall be set out in the contract and agreed upon by the contracting parties.

3. However where the increases or reductions are not set out in the contracts :

- an increase of 0,75 % of the selling price shall be applied for each percentage point of moisture content below the standard quality,
- a reduction of 1,5 % of the selling price shall be applied for each percentage point of moisture content above the standard quality. Where the moisture content exceeds 17 %, however, the reduction to be applied to the selling price shall be 2,3 % for each percentage point of moisture content above 17 %,
- an increase or reduction of 1 % of the selling price shall be applied for each percentage point of impurity content below or above the standard quality.

#### Article 9

1. Declarations of delivery as referred to in Article 2 (b) of Regulation (EEC) No 2194/85 shall be concluded in writing and shall be lodged with the competent agency before the last working day of the marketing year.

Declarations shall contain at least the following information :

- (a) the name, forenames, addresses and signatures of the two parties concerned ;
- (b) the date of signature and date of delivery ;
- (c) reference to the contract or contracts previously concluded between the two parties to which the quantity delivered relates ;
- (d) the weight delivered and the amounts of humidity and impurities in the said quantity resulting from the analysis method referred to in Article 5 of Regulation (EEC) No 2194/85.

2. Declarations of sale or delivery to the processor as referred to in the second paragraph of Article 2 of Regulation (EEC) No 2194/85 shall also be concluded in writing and shall contain at least the following information :

- (a) the name, forenames, addresses and signatures of the two parties concerned ;
- (b) the date of signature ;
- (c) the quantity sold or delivered ;

- (d) the date of sale or delivery ;
- (e) the quantity actually delivered, with an indication of the amounts of humidity and impurity ;
- (f) a declaration by the processor that the beans will be processed within the Community and details of the type of processing envisaged.

#### Article 10

1. After carrying out all the necessary checks as given in Article 13, the competent agency of the producing Member State shall pay the aid.

2. The quantity for which aid is granted shall be that indicated in the delivery declaration, after the weight has been adjusted in conformity with Article 5 of Regulation (EEC) No 2194/85, on condition however that the quantity does not exceed :

- (a) where the first purchaser is the processor, the quantity actually processed by more than 2 % ;
- (b) where the first purchaser is other than the processor, the quantity actually delivered by more than 4 %.

3. Where the quantity indicated in the declaration of delivery exceeds the quantities processed or delivered by more than the percentages indicated in paragraph 2, the quantity for which aid is granted shall be reduced in proportion to the level exceeded.

4. However, the aid shall be advanced on application to any first purchaser once he has presented the declaration of delivery as given in Article 2 (b) of Regulation (EEC) No 2194/85 and for the quantities indicated in the said declaration, provided that the application is accompanied by a security equal to the aid.

5. The security shall take the form of a guarantee given by an establishment meeting the requirements set by the Member State with which the application for aid has been lodged.

6. The security shall be released once the competent agency of the Member State has recognized the applicant's entitlement to aid in respect of the quantities specified in the declaration. Where entitlement to aid is not recognized in respect of all or some of the quantities specified in the declaration, the security shall be forfeit in proportion to the quantities in respect of which the conditions for entitlement to the aid have not been fulfilled.

7. The quantity of soya beans for which there is entitlement to aid shall be calculated by the method set out in Annex B.

#### Article 11

1. The aid rate applying during the marketing year shall be fixed twice a month, in time to be applied from the first and the sixteenth day of each month.

2. The Commission shall notify the Member States of the rate of aid per 100 kilograms of beans as soon as

it is fixed, and in any case before the date from which the aid is to be applied.

#### Article 12

1. If the application for aid referred to in Article 4 (2) of Regulation (EEC) No 2194/85 :

(a) concerns the total production to be delivered covered by one or more contracts, the application shall contain at least the following information :

- the name, forenames and address of the applicant ;
- the area from which the production will be delivered to the applicant ;
- reference to the contract or contracts.

The application shall be accompanied by a security of 0,6 ECU/are.

(b) concerns the quantity already received under one or more declarations, the application shall contain at least the following information :

- the name, forenames and address of the applicant ;
- the quantity indicated in the declaration(s) of delivery ;
- reference to the declaration(s) of delivery and the relative contracts.

The application shall be accompanied by a security of 3 ECU/100 kg.

2. , Except in cases of *force majeure*, an application for aid shall carry with it an obligation to process, sell or deliver, as the case may be, the production or the quantity indicated in the application by the end of the sixth month following the month in which the application is lodged. However, when the application for aid is lodged by a first purchaser for a use other than the production of oil, the Member State, on request by the interested party, shall extend the abovementioned period until the end of the marketing year during which the application was lodged.

3. Where the application refers to the area indicated in one or more contracts, the actual quantity to be processed, sold or delivered, as the case may be, is that indicated in the delivery declaration(s) corresponding to the contract or contracts in question.

4. Where the application submitted by a first purchaser who is also the processor :

(a) the obligation referred to in paragraph 2 shall be deemed to have been fulfilled if the quantity processed, sold or delivered before the expiry of the time limit exceeds 98 % of that stated in the application ;

- (b) the security shall be forfeit in its entirety if the quantity processed, sold or delivered is less than 2 % of that stated in the application ;
- (c) if the quantity processed, sold or delivered is more than 2 % but less than 98 % of that stated in the application, the security shall be forfeit in proportion to the difference between 98 % of the quantity stated in the application and the quantity actually processed, sold or delivered.

5. Where the application is submitted by a first purchaser who is not the processor, the requirements of paragraph 4 shall apply but the percentage of 98 % shall be replaced by 96 %.

6. The security referred to in paragraph 1 shall take the form of a guarantee given by an establishment meeting the requirements set by the Member State with which the application for aid is lodged.

#### *Article 13*

1. The competent agency of the producing Member State shall verify with regard to :

(a) the contract

- that the particulars specified in Article 7 are complete, and, by means of random checks, that the areas indicated have actually been sown with soya beans; where such checks suggest that the area differs from that declared, the Member State, without prejudice to any sanctions which it may apply, shall automatically correct the contract ;
- that the price to be paid to the producer, account being taken of the provisions of Article 8, is at least equal to the minimum price referred to in Article 2 (2) of Regulation (EEC) No 1491/85. The conversion rate to be applied for the purpose of checking that the minimum price has been observed in the case of a product harvested during a given marketing year shall be the representative rate in force at the beginning of the marketing year in question ;

(b) the delivery declarations

- that the particulars specified in Article 9 are complete, and, by means of random checks that the quantities indicated in the delivery declarations could have been produced on the area indicated in the contract according to the established yields for that region. In the case where the Member State concludes that the quantity indicated in the delivery declaration could not have been produced on the area indicated in the contract, without prejudice to any

sanctions which may be applied, it shall reduce the quantity indicated in the delivery declaration on the basis of the average yield for the region.

2. For the purposes of verifying that the beans have either been processed or sold or delivered to a processor within the Community, the competent agency shall :

- (a) check the quantities which enter the undertaking of the first purchaser as shown in the delivery declaration ;
- (b) check the stock records and, where appropriate the financial records of the first purchaser to ensure that the beans have been processed or sold or delivered within the periods referred to in Article 12 (2) ;
- (c) where the first purchaser is not the processor, and has requested aid on the basis of delivery of the beans to a processor, check that the beans are processed for his own account ;
- (d) check the stock records and, where appropriate, the financial records or any other supporting documents to verify that the quantities of beans entering the undertaking of the first purchaser are equivalent to the quantities of beans or of the resultant processed product leaving the undertaking

#### *Article 14*

Until the introduction by Member States of the control system and the arrangements for assistance provided for in Article 6 of Regulation (EEC) No 2194/85, and until 31 December 1985 at the latest, producer Member States shall grant aid only for beans processed in their own territory.

#### *Article 15*

1. The aid to be granted for soya beans harvested in the French overseas departments shall be :

- during the first six months of a given year, that applicable with effect from 16 March of that year,
- during the second six months of a given year, that applicable with effect from 16 August of that year.

2. All producers of soya beans in the French overseas departments shall lodge with the competent authorities, for each harvest and by dates to be set by France, declarations of the areas sown with soya and the crop harvested.

3. France shall notify the Commission of soya bean yields recorded in the various overseas departments, differentiated according to method of cultivation used, before 15 May and 15 October of each year.

*Article 16*

1. Producer Member States shall inform the Commission of the names and addresses of the bodies appointed for purposes of implementation of the special measures for soya beans.
2. Producer Member States shall notify to the Commission :
  - (a) by 31 October of each year at the latest, the number of contracts lodged and the total area of cultivation covered by them ;
  - (b) before the end of each month, the quantities covered by aid requests in the preceding month. The information shall include the total number of contracts or delivery declarations to which the aid request refers. Where applications relate to the production to be delivered under one or more contracts, the quantity may be replaced by the area of cultivation involved. However, the quantity actually delivered under the contract or contracts must be reported as soon as possible ;
  - (c) by 30 November following each marketing year at the latest, the quantities for which aid has been granted.

3. The Commission shall forward regularly to the Member States a summary of the information supplied in accordance with the preceding paragraphs.

4. France shall notify the Commission by 31 December and 31 May of each marketing year at the latest, of the total area covered by soya-producers' declarations in the French overseas departments.

*Article 17*

Regulation (EEC) No 1978/80 is hereby repealed with effect from 1 September 1985.

However, it shall continue to apply for soya beans harvested before 1 January 1985.

*Article 18*

This Regulation shall enter into force on the 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, 12 August 1985.

*For the Commission*

Nicolas MOSAR

*Member of the Commission*

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## ANNEX A

## Coefficients of equivalence for soya beans

	<i>(ECU/100 kg)</i>	
	Amount to be deducted from the price	Amount to be added to the price
Soya beans originating from the USA	0,800	—
Soya beans originating from other third countries	1,000	—

## ANNEX B

## Method of calculating the weight of soya beans

$$\frac{100 - (i + h)}{100 - (i_1 + h_1)} \times q = X$$

*i* = impurity of beans the weight of which is to be determined,

*h* = moisture of beans the weight of which is to be determined,

*i*<sub>1</sub> = impurities }  
*h*<sub>1</sub> = moisture } of the quality for which the aid is fixed,

*q* = quantity of the products as received, expressed in kg, the adjusted weight of which is to be determined,

*X* = weight of the products expressed in kg.

*Notes:*

Only the first two decimal places shall be taken into consideration for the moisture and impurities content.