

COMMISSION REGULATION (EEC) No 689/92

of 19 March 1992

fixing the procedure and conditions for the taking-over of cereals 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 2727/75 of 29 October 1975 on the common organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EEC) No 3577/90 ⁽²⁾, and in particular Article 7 (6) thereof,

Whereas intervention prices are fixed in respect of a given standard quality and provision has been made for price increases and reductions to be applied if the quality of the cereals offered does not correspond to that standard ;

Whereas cereals of inadequate quality for use or storage should not be accepted for intervention ; whereas, in fixing the minimum quality, the diversity of climatic conditions in the different regions of the Community should be taken into consideration ;

Whereas, in order to simplify the management of intervention operations and, in particular, to permit the establishment of homogeneous lots for each type of cereal offered to intervention, a minimum quality, below which the intervention agency is not obliged to accept the offer, should be fixed ; whereas, however, it may be necessary to provide for a greater minimum tonnage in certain Member States, so that intervention agencies may take account of pre-existing conditions and practices of the wholesale trade in those countries ;

Whereas the conditions under which cereals are offered to and taken over by the intervention agencies must be as uniform as possible throughout the Community in order to avoid any discrimination between producers ; whereas minimum quality characteristics should therefore be laid down ; whereas, however, it may be appropriate for the Member States to apply, concurrently with the provisions of this Regulation, certain provisions of their own which are suited to their own climatic conditions and commercial practices ;

Whereas Commission Regulation (EEC) No 1569/77 of 11 July 1977 fixing the procedure and conditions for the taking-over of cereals by intervention agencies ⁽³⁾, as last amended by Regulation (EEC) No 2642/91 ⁽⁴⁾, has been amended several times ; whereas for reasons of clarity it should be replaced ;

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

HAS ADOPTED THIS REGULATION :

Article 1

During the periods referred to in Article 7 of Regulation (EEC) No 2727/75, any holder of a homogeneous batch of not less than 80 tonnes of common wheat, rye, barley, maize or sorghum or 10 tonnes of durum wheat, harvested within the Community, shall be entitled to offer the batch to the intervention agency.

However, the intervention agencies may fix a greater minimum tonnage.

Article 2

1. In order to be accepted for intervention, the cereals must be sound, fair and of marketable quality.

2. They shall be considered of sound and fair merchantable quality if they are of the typical colour of the cereal in question, free from abnormal smell and live pests (including mites) at every stage of their development, meet the minimum quality requirements set out in the Annex hereto, and the radioactivity levels of which do not exceed the maximum levels permitted under Community regulations.

The level of radioactive contamination of the product shall be monitored if the situation so requires and during the period necessary only. Where necessary, the duration and scope of the controls shall be determined in accordance with the procedure laid down in Article 26 of Regulation (EEC) No 2727/75.

For cereals presented as being of breadmaking quality, the intervention agency shall, in case of doubt, undertake a germination test. Where the germinative capacity is less than 85 % for common wheat and 75 % for rye, the cereal in question shall, at the request of the supplier, be accepted by the intervention agency and paid for at the intervention price minus, in the case of common wheat, the reduction provided for in the first subparagraph of Article 4a (1) of Commission Regulation (EEC) No 1570/77 ⁽⁵⁾.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 353, 17. 12. 1990, p. 23.

⁽³⁾ OJ No L 174, 14. 7. 1977, p. 15.

⁽⁴⁾ OJ No L 247, 5. 9. 1991, p. 20.

⁽⁵⁾ OJ No L 174, 14. 7. 1977, p. 18.

However, if evidence is furnished to the satisfaction of the intervention agency that the cereal offered is of breadmaking quality, the cereal in question shall be accepted as such and the buying-in price to be paid shall be that fixed for breadmaking quality. The costs of carrying out the tests required to furnish the abovementioned evidence shall be defrayed by the supplier.

3. For the purposes of this Regulation, the definitions of matter other than basic cereals of unimpaired quality shall be those set out in the Annex to Council Regulation (EEC) No 2731/75⁽¹⁾, with the addition, as regards maize, of the definition set out in the first indent of Article 4 (c) and, as regards sorghum, that set out in the first indent of Article 4a (c) of that Regulation.

Grains of basic cereals and other cereals which are damaged, affected, by ergot or decayed shall be classified as 'miscellaneous impurities' even if they have defects which belong to other categories.

Article 3

1. To be valid, all offers for intervention shall be made using a form issued by the intervention agency, containing the following details:

- name of the offerer,
- cereal offered,
- place of storage of the cereal offered,
- quantity, main characteristics and harvesting year of the cereal offered,
- the intervention centre to which the offer relates.

The form shall also contain a declaration that the products are of Community origin or, in the case of cereals admitted to intervention under specific conditions according to their zone of production, details of the region in which they were produced.

However, the intervention agency may regard as valid offers submitted in another written form, in particular telecommunications, provided that all the details to be shown on the form referred to in the first subparagraph are included.

Without prejudice to the validity from the date of presentation of an offer submitted in accordance with the third subparagraph, Member States may require that it be followed by the forwarding or direct submission to the competent agency of the form provided for in the first subparagraph.

2. Should an offer be inadmissible, the operator concerned shall be informed by the intervention agency accordingly within five working days following receipt.

3. Should an offer be admissible, operators shall be informed as soon as possible of the store at which the cereals are to be taken over and of the delivery schedule.

At the request of the offerer or the storekeeper, the said schedule may be amended by the intervention agency.

The final delivery shall be made not later than the end of the fourth month at the latest following the month during which the offer was received, without, however, being later than 1 July in Spain, Greece, Italy and Portugal and 31 July in the other Member States.

4. The cereals offered shall be taken over by the intervention agency when the quantity and the minimum required standards, as set out in the Annex, have been established by the intervention agency or its representative for the entire lot in respect of the goods delivered to the intervention store.

5. The quality characteristic shall be established on the basis of a representative sample of the lot offered, made up of samples taken at the rate of one sample per delivery and at least one every 60 tonnes.

6. (a) The quantity delivered must be weighed in the presence of the offerer and a representative of the intervention agency who is independent *vis-à-vis* the offerer.

The representative of the intervention agency may also be the storer, in that case:

- the intervention agency shall subsequently itself conduct an inspection involving at least a volumetric check; any difference between the quantity as weighed and the quality estimated by the volumetric method may not exceed 4 % in the case of products on floor storage and 2 % in the case of products stored in silos;
- the storer shall bear all costs relating to missing quantities in excess of the tolerance referred to in the first indent.

(b) In the case of takeover in the store in which the cereals are being held at the time of the offer, the quantity may be established on the basis of the stock records which must satisfy professional requirements and those of the intervention agency, and provided that:

- the stock records show the weight recorded on weighing, the physical quality characteristics at the time of weighing, and, in particular, the moisture content, transsilages if any, and treatments carried out; the weighing may not have been carried out more than 10 months previously;
- the storekeeper declares that the lot offered corresponds in all respects to the details contained in the stock records;

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 22.

- the quality characteristics established at the time of weighing are the same as those of the representative sample made up from the samples taken by the intervention agency or its representative at a rate of one for every 60 tonnes.

Where the first subparagraph is applied :

- the weight to be recorded shall be that entered in the stock records adjusted, where appropriate, to take account of any difference between the moisture content recorded on weighing and that recorded on the basis of the representative sample ;
- an inspection involving a volumetric check shall be conducted subsequently by the intervention agency ; any difference between the quantity as weighed and the quantity estimated by the volumetric method may not exceed 4 % in the case of products on floor storage and 2 % in the case of products stored in silos ;
- the storer shall bear all costs relating to missing quantities in excess of the tolerances referred to in the second indent.

7. The intervention agency shall have the physical and technical characteristics of the samples taken analysed under its responsibility within 20 working days of the representative sample being made up.

If the analyses provided for in the preceding subparagraph show that the cereals offered do not meet the minimum quality required for intervention, the said cereals shall be withdrawn at the offerer's expense. The offerer shall also bear all the costs incurred.

The cost of determining the tannin content of sorghum and, in the case of durum wheat, the cost of the amylic activity (Hagberg) test and of determining the protein content shall be met by the offerer.

In cases of dispute, the intervention agency shall have the necessary tests on the cereals in question carried out again, the cost being met by the losing party.

8. A takeover note shall be issued by the intervention agency in respect of each offer, giving :

- the date of verification of the quantity and the minimum characteristics,
- the weight delivered,
- the number of samples taken to make up the representative sample,
- the physical characteristics established,
- the agency responsible for analysing the technological criteria and the results thereof.

The note shall be dated and sent for countersignature to the storekeeper.

Article 4

1. Without prejudice to Article 4 (3) of Commission Regulation (EEC) No 1432/88 ⁽¹⁾, the price payable to the offerer shall be the intervention buying-in price referred to in Article 7 (3) of Regulation (EEC) No 2727/75, valid on the date specified as the first day of delivery when notice was given an acceptance of the offer, adjusted in accordance with Articles 1 and 2 of Council Regulation (EEC) No 1581/86 ⁽²⁾, for goods delivered at warehouse, before unloading, account being taken of increases and reductions to be determined.

However, where delivery takes place in a month in which the intervention buying-in price is lower than that of the month of the offer, the latter price shall apply.

2. Payment shall be made between the 30th and the 35th day following the date of takeover, as referred to in Article 3 (4).

Article 5

Any operator who stores bought-in products on behalf of the intervention agency shall monitor their presence and state of preservation regularly and inform the aforesaid agency without delay of any problem arising in that respect.

The intervention agency shall check the quality of the stored product at least once a year. Samples for that purpose may be taken when the annual inventory is established as provided for in Article 3 of Commission Regulation (EEC) No 618/90 ⁽³⁾.

Article 6

The intervention agencies shall, where necessary, adopt additional procedures and conditions for taking over, compatible with this Regulation, to take account of any special conditions existing in the Member State in question ; in particular, they may request periodic stock returns.

Article 7

Regulation (EEC) No 1569/77 is hereby repealed.

Article 8

This Regulation shall enter into force on 1 July 1992.

⁽¹⁾ OJ No L 131, 27. 5. 1988, p. 37.

⁽²⁾ OJ No L 139, 24. 5. 1986, p. 36.

⁽³⁾ OJ No L 67, 15. 3. 1990, p. 21.

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

Done at Brussels, 19 March 1992.

For the Commission
Ray MAC SHARRY
Member of the Commission

ANNEX

| | Durum wheat | Common wheat | Rye | Barley | Maize | Sorghum |
|--|-------------|--------------|----------|----------|--------|---------|
| A. Maximum moisture content | 14,5 % | 14,5 % | 14,5 % | 14,5 % | 14,5 % | 14,5 % |
| B. Maximum percentage of matter which is not basic cereal of unimpaired quality of which : | 12 % | 12 % | 12 % | 12 % | 12 % | 12 % |
| 1. Broken grains | 6 % | 5 % | 5 % | 5 % | 10 % | 10 % |
| 2. Impurities consisting of grains (other than indicated at 3) of which : | 5 % | 12 % | 5 % | 12 % | 5 % | 5 % |
| (a) shrivelled grains | | | | | — | — |
| (b) other cereals | 3 % | } 5 % | | } 5 % | | |
| (c) grains damaged by pests | | | | | | |
| (d) grains in which the germ is discoloured | | | — | — | — | — |
| (e) grains overheated during drying | 0,50 % | 3 % | 3 % | 3 % | 3 % | 3 % |
| 3. Mottled grains and/or grains affected with fusariosis of which : | 5 % | — | — | — | — | — |
| — grains affected with fusariosis | 1,5 % | — | — | — | — | — |
| 4. Sprouted grains | 4 % | 6 % | 6 % | 6 % | 6 % | 6 % |
| 5. Miscellaneous impurities (Schwarzbesatz) of which : | 3 % | 3 % | 3 % | 3 % | 3 % | 3 % |
| (a) extraneous seeds : | | | | | | |
| — noxious | 0,10 % | 0,10 % | 0,10 % | 0,10 % | 0,10 % | 0,10 % |
| — other | | | | | | |
| (b) damaged grains : | | | | | | |
| — grains damaged by spontaneous heating or too extreme heating during drying | 0,05 % | | | | | |
| — other | | | | | | |
| (c) extraneous matter | | | | | | |
| (d) husks | | | | | | |
| (e) ergot | 0,05 % | 0,05 % | 0,05 % | — | — | — |
| (f) decayed grains | | | — | — | — | — |
| (g) dead insects and fragments of insects | | | | | | |
| C. Maximum percentage of wholly or partially mitadine grains | 40 % | — | — | — | — | — |
| D. Maximum tannin content | — | — | — | — | — | 1 % (!) |
| E. Minimum specific weight | 78 kg/hl | 72 kg/hl | 68 kg/hl | 63 kg/hl | — | — |
| F. Protein content | 11,5 % (!) | — | — | — | — | — |
| G. Hagberg falling number | 220 | — | — | — | — | — |

(!) Percentage calculated on the dry matter.