# COMMISSION REGULATION (EEC) No 3358/88

## of 28 October 1988

## on the supply of common wheat to the People's Republic of Bangladesh as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3972/86 of 22 December 1986 on food-aid policy and food-aid management (1), as last amended by Regulation (EEC) No 1870/88 (2), and in particular Article 6 (1) (c) thereof,

Whereas Council Regulation (EEC) No 1420/87 of 21 May 1987 laying down implementing rules for Regulation (EEC) No 3972/86 on food-aid policy and food-aid management (3) lays down the list of countries and organizations eligible for food-aid operations and specifies the general criteria on the transport of food aid beyond the fob stage;

Whereas, by its Decision of 15 September 1988 on the supply of food aid to Bangladesh, the Commission allocated to this country 100 000 tonnes of cereals to be supplied free at port of landing — undischarged;

Whereas it is necessary to provide for the carrying-out of this measure in accordance with the rules laid down by Commission Regulation (EEC) No 2200/87 of 8 July 1987 laying down general rules for the mobilization in the Community of products to be supplied as Community food aid (4); whereas it is necessary to specify the time limits and conditions of supply and the procedure to be followed to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

*Article 1*

A tendering procedure is hereby initiated for the award of a contract for the supply of common wheat to Bangladesh in accordance with the provisions of Regulation (EEC) No 2200/87 and with the conditions laid down in Annex I hereto.

The offer submitted shall be deemed to have been drawn up taking account of the charges and constraints resulting from specific clauses set out in the Exchange of Letters between the Commission and the recipient, published in part in Annex II.

*Article 2*

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, 28 October 1988.

*For the Commission*

Frans ANDRIESSEN

*Vice-President*

(1) OJ No L 370, 30. 12. 1986, p. 1.
(2) OJ No L 168, 1. 7. 1988, p. 7.
(3) OJ No L 136, 26. 5. 1987, p. 1.
(4) OJ No L 204, 25. 7. 1987, p. 1.

*ANNEX I*

1. **Operation No** (1): 1100/88 (6)

2. **Programme**: 1988

3. **Recipient**: Bangladesh

4. **Representative of the recipient** (2): The Secretary, Ministry of Food, Bangladesh Secretariat, Dhaka/ Bangladesh

5. **Place or country of destination**: Bangladesh

6. **Product to be mobilized**: common wheat

7. **Characteritics and quality of the goods** (3):
   See list published in *Official Journal of the European Communities* No C 216 of 14 August 1987, page 3 (under II.A.1); specific characteristic: protein content 11 % minimum

8. **Total quantity**: 100 000 tonnes

9. **Number of lots**: three (Lot A: 34 000 tonnes; Lot B: 33 000 tonnes; Lot C: 33 000 tonnes)

10. **Packaging and marking**: in bulk

11. **Method of mobilization**: the Community market

12. **Stage of supply**: free at port of landing — undischarged

13. **Port of shipment**: —

14. **Port of landing specified by the recipient**: —

15. **Port of landing**: Chittagong and/or Chalna

16. **Address of the warehouse and, if appropriate, port of landing**: —

17. **Period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage**: Lots A, B and C: 1 to 10 December 1988

18. **Deadline for the supply**: Lot A: 1 January 1989; Lot B: 4 January 1989; Lot C: 7 January 1989

19. **Procedure for determining the costs of supply**: tendering

20. **Date of expiry of the period allowed for submission of tenders**: 12 noon on 15 November 1988

21. **In the case of a second invitation to tender**:
   (a) deadline for the submission of tenders: 12 noon on 22 November 1988
   (b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage: Lots A, B, C: 1 to 10 December 1988
   (c) deadline for the supply: Lot A: 1 January 1989; Lot B: 4 January 1989; Lot C: 7 January 1989

22. **Amount of the tendering security**: 5 ECU/tonne

23. **Amount of the delivery security**: 10 % of the amount of the tender in ECU

24. **Address for submission of tenders** (4):
   Bureau de l'aide alimentaire, a l'attention de Monsieur N. Arend, bâtiment Loi 120, bureau 7/58, 200, rue de la Loi, B-1049 Bruxelles; telex: AGREC 22037 B

25. **Refund payable on request by the successful tenderer** (5):
   Refund applicable on 20 October 1988 fixed by Regulation (EEC) No 3016/88 in *Official Journal of the European Communities* No L 271 of 1 October 1988, page 45

*Notes:*

(1) The operation number is to be quoted in all correspondence.

(2) Commission delegate to be contacted by the successful tenderer:
Mr J. Fessaguet, Head of Office, Delegation EEC, Dhaka Office, House CES (E) 19, Road 128 Gulhan, Dhaka 12, Bangladesh.

(3) The successful tenderer shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded.

The radioactivity certificate must indicate the caesium-134 and -137 level.

(4) In order not to overload the telex, tenderers are requested to provide, before the date and time laid down in point 20 of this Annex, evidence that the tendering security referred to in Article 7 (4) (a) of Regulation (EEC) No 2200/87 has been lodged, preferably:

— either by porter at the office referred to in point 24 of this Annex,

— or by telecopier on one of the following numbers in Brussels:
235 01 32
236 10 97
235 01 30
236 20 05.

(5) Commission Regulation (EEC) No 2330/87 (OJ No L 210, 1. 8. 1987, p. 56) is applicable as regards the export refund and, where appropriate, the monetary and accession compensatory amounts, the representative rate and the monetary coefficient. The date referred to in Article 2 of the abovementioned Regulation is that referred to in point 25 of this Annex.

(6) Two ports of shipment may be specified in the tender if the loading must be completed in the second port.

*ANNEX II*

## ALLOCATION TO BANGLADESH UNDER 1988 FOOD AID PROGRAMME

1. **Discharging conditions**

The 'Recipient' shall unload the 100 000 tonnes of wheat as per the following conditions.

2. **Type of vessel to be fixed**

It is envisaged that three vessels (self-trimming bulk carriers) will be fixed, each carrying about 33 000 to 35 000 tonnes of wheat. The vessels will be geared ones of maximum length 610', with maximum draft of 35', even keel salt water so that each vessel, after requisite lighterage at Chittagong outer anchorage could, at the Receiver's option, either take berth at Chittagong port and, after discharging requisite quantities and attaining permissible draft, sail to Chalna for completion of discharging, or directly to Chalna for completion of discharging. A maximum of 40 % of each vessel's cargo may be discharged at Chalna at the Receiver's option. Minimum of five hooks/hatch. Fully geared with a minimum of 10 tonnes lifting capacity on even hatch. Vessel to be fitted with suitable fenders, such fenders being for owner's/disponent owner's account.

3. **Discharging facilities**

Vessels will furnish at discharging ports free of expenses to the 'Recipient', winches and/or cranes and the power to drive them, gins and falls in good working condition and will also supply sufficient lights for night work, as on board, on deck and in the holds, if required. Vessels will provide winchmen at loading and discharging ports at their own expense.

4. **Vessels ETA information**

Master to wireless/cable nominees of the recipient MOVEMENTS CHITTAGONG (simultaneously informing BANGLASHIP CHITTAGONG and MOVESTORE DHAKA) for orders regarding discharge 10 days prior to their arrival at the first discharge port, i.e. Chittagong, and state ETA and draft. Orders for discharging will be transmitted to the vessel within five days of the receipt of Master's request. Master to give following notice to the Recipient's nominees; i.e. MOVEMENTS, CHITTAGONG, BANGLASHIP, CHITTAGONG and MOVESTORE, DHAKA:

(a) Upon sailing from loading port vessels must state:

(i) quantity loaded,

(ii) arrival draft,

(iii) TPI (tonnes per inch);

(b) 10 days approximate ETA Chittagong Port,

5 days approximate ETA Chittagong Port,

72 hours definite ETA Chittagong Port,

48 hours definite ETA Chittagong Port,

24 hours definite ETA Chittagong Port.

5. **Places of discharging**

It is envisaged that out of the total 100 000 tonnes of wheat, about 60 000 tonnes will be discharged at Chittagong (1 to 2 safe berth) and the balance of 40 000 tonnes at Chalna (1 to 2 safe berth).

A maximum of 40 % of each vessel's cargo may be discharged at Chalna at the Receiver's option.

6. **Discharging rate and discharging port(s) time counting**

The cargo is to be discharged by the recipient free of risk and expense to the vessel at the rate of 2 000 tonnes average each in Chittagong and in Chalna per weather working day of 24 consecutive hours, Friday and holidays excepted even if worked. Time from 12.00 noon on Thursday and 17.00 on a day preceeding holiday until 09.00 on Saturday or next working day not to count even if worked. The rate of discharge is based on five or more workable hatches. If, however, the number of workable hatches is less than five, discharging rate will be reduced proportionately. At Chittagong and Chalna laytime will commence to count 24 hours after Notice of Readiness tendered and accepted during office hours, whether the vessel is in berth or not. At the discharge port(s), time of shifting from anchorage to berth, berth to berth, and port to port not to count as laytime and expenses will be on owner's account.

If any trimming is required after lighterage at the Chittagong outer anchorage/discharging and Chittagong jetty/silo berth for safe passage to Chalna, it will be on account of the owners, receivers providing only empty gunny bags and owners providing requisite thread for such trimming. Time required for trimming is not to count as laytime. Master to give direction for trimming. Discharge at anchorage to be affected with master's approval.

At Chittagong, outer anchorage and/or at Chalna anchorage, time lost due to cast off of mother vessel with lighter because of swell, not to count as laytime.

7. **Lighterage at discharge port**

If the vessels arrive at Chittagong and are unable to enter and take jetty/silo berth there due to excess arrival draft, the recipient will undertake lighterage of the requisite quantity of cargo at the Chittagong outer anchorage at their own cost for attaining permissible draft.

After further discharging at Chittagong jetty/silo berth, on attaining the permissable draft for Chalna, subject to the limit of maximum of 40 % of each vessel's cargo for discharging at Chalna, at the receiver's option, the vessel will then proceed to Chalna for completion of discharging. Subject to the limit of maximum of 40 % of each vessel's cargo for discharging at Chalna, at receiver's option, after lighterage at Chittagong outer anchorage, if permissable draft is attained, the vessel may proceed directly to Chalna for completion of discharging. If the vessels arrive with deeper draft than available at the Chittagong outer anchorage, lightening will be carried out at Kutubdia and the vessels to proceed from there to Chittagong outer anchorage as soon as permissable draft is attained. The cost and time for the quantity lightened, including trimming, if any, at Kutubdia, will be on the owner's account. Collision damage, if any, during the lightening will be settled directly between the owners of the mother vessels and the lightening vessels.

Master of the vessel(s) at all times to give full cooperation to the recipient and/or their nominees/agents for expediting discharge. The Recipient/their recipient/their nominees/agents supply fenders to lightening vessel(s) for avoiding damage.

8. ...

9. ...

10. **Payment**

Payment by the Commission to the recipient under this treaty will be phased as follows :

(a) ...

(b) ...

(c) In case of lack of coordination or of facilities between the supplier and the recipient through no fault of either part, the Commission will take special and adequate measures for financing the operations.

(d) In the case where some extra costs requested by the supplier are to be pre-financed by the recipient, they may be directly paid by the Commission on the recipient's behalf to the said Supplier or to the relevant Intervention Agency which has awarded the contract after consultation with recipient.

11. **Demurrage/Dispatch**

Should the vessel(s) not be discharged at the rate herein stipulated, demurrage shall be paid by the recipient at the rate stipulated in the charter party subject to a maximum of US $ 4 000 per day lost.

For working time saved at the port(s) of discharge, dispatch money shall be paid to the recipient at the rate of 50 % of the rate of demurrage.

Demurrage or dispatch at the discharging ports, if any, at the amounts specified above, shall be paid, as the case may be, by the recipient to the Commission or by the Commission to the recipient.

Laytime at port(s) of discharging to be non-reversible.

12. ...

13. **Miscellaneous**

Overtime expenses, if any, on account of port and customs personnel, will be for the account of the party (owner/their agents or receiver/their agents) ordering the same, but if ordered by the Port Authorities, to be on the receiver's/owner's account on 50 : 50 basis. Overtime expenses for vessel's crew to be always on the owner's account.

First opening and last closing of hatches at each port of discharge to be done by vessel's crew at all times outside laytime hours.

Whatever the respective destination of the goods found damaged, they must be disposed of/destroyed as per port rules prior to sailing out of the vessels.

14. ...

15. ...

16. ...