COMMISSION REGULATION (EEC) No 1201/89

of 3 May 1989

laying down rules implementing the system of aid for cotton

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Greece, and in particular Protocol 4 on cotton, as last amended by Regulation (EEC) No 4006/87 (1),

Having regard to Council Regulation (EEC) No 2169/81 of 27 July 1981 fixing general rules with regard to the system of aid for cotton (2), as last amended by Regulation (EEC) No 791/89 (3), and in particular Article 11 thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy (4), as last amended by Regulation (EEC) No 1636/87 (5), and in particular Article 12 thereof,

Whereas, in view of the fluctuations which normally occur in world market prices, the average world market price for unginned cotton should be determined at least once a month;

Whereas, if there are no representative offers or quotations for unginned cotton, the world market price for this product should be determined on the basis of the value of the products resulting from the ginning thereof;

Whereas provision should be made for the adjustment of offers and quotations in order to compensate for any deviation from the presentation, quality, terms and place of delivery normally to be used for fixing the world market price; whereas account should also be taken of any compensatory amount levied on imports pursuant to Regulation (EEC) No 143/67/EEC of the Council of 21 June 1967 on the compensatory amount aplicable to certain vegetable oils (6), as amended by Regulation (EEC) No 2077/71 (7);

Whereas, in order to facilitate checks on entitlement to aid, and in particular on compliance with the minimum price, the conditions to be satisfied by the contracts provided for in Article 6 of Regulation (EEC) No 2169/81 should be specified;

Whereas Article 5 of Regulation (EEC) No 2169/81 provides that aid is to be paid in respect of quantities of unginned cotton provided they are actually ginned, and whereas Article 10 provides that Member States are to check the entry of the products to the ginning plant and the ginning thereof; whereas, to ensure the effectiveness of such checks, the term 'ginning plant' should be defined and the checking procedure laid down;

Whereas the stock records of the processors should be used as a basis for this check;

Whereas, in order to facilitate the marketing of unginned cotton, the amount of aid applicable should be the amount in force on the day when the ginning plant lodges the application for aid;

Whereas in accordance with Article 8 of Regulation (EEC) No 2169/81 the Member States are to introduce a system of declarations of areas sown; whereas the procedures relating to this system and the relevant checks should be specified;

Whereas, to ensure the efficient functioning of the aid system, provision should be made for the Member States to issue a certificate stating the quantity of cotton qualifying for aid and the amount of such aid; whereas, for administrative reasons, it should be laid down that the cotton be ginned within a certain period;

Whereas, pursuant to Article 8 of Regulation (EEC) No 2169/81, in order to palliate the adverse consequences for beneficiaries of a delay in the payment of aid, provision should be made for a proportion of the aid to be paid in advance;

Whereas, to ensure the uniform application of the aid system, detailed rules for payment of the aid should be laid down;

Whereas the minimum frequency of fixings of the aid should be specified; whereas it will be sufficient to fix the aid at least once a month, subject to possible adjustments in the interim;

Whereas the rate for converting the minimum price into national currency should be the representative rate applicable on the day the contract is concluded and the amount of aid should be the amount which is applicable on the day the application is lodged;

(1) OJ No L 377, 31. 12. 1987, p. 49.
(2) OJ No L 211, 31. 7. 1981, p. 2.
(3) OJ No L 85, 30. 3. 1989, p. 7.
(4) OJ No L 164, 24. 6. 1985, p. 1.
(5) OJ No L 153, 13. 6. 1987, p. 1.
(6) OJ No 125, 26. 6. 1967, p. 2463/67.
(7) OJ No L 220, 30. 9. 1971, p. 1.

Whereas, to facilitate administration of the aid system, it is desirable that the Member States provide the Commission with regular information on the production and ginning of unginned cotton;

Whereas in the interests of clarity Commission Regulation (EEC) No 2183/81 [1], as last amended by Regulation (EEC) No 2993/88 [2] should be repealed and replaced by this Regulation;

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

HAS ADOPTED THIS REGULATION:

TITLE I

World price

Article 1

1. The world market price for unginned cotton shall be determined once a month. However, if the market situation changes significantly, the said price may be changed during the intervening period.

2. The price shall be fixed per 100 kilograms and shall be equal to the sum of the value of 32 kilograms of ginned cotton and the value of 54 kilograms of cotton seed, less ginning costs evaluated at ECU 13,25 per 100 kilograms.

These values shall be fixed on the basis of prices determined in accordance with Articles 2, 3 and 4.

Article 2

1. In determining the world market price for ginned cotton the Commission shall refer to the offers and quotations most representative of the world market situation for unginned cotton, in particular those obtaining at the Liverpool Cotton Exchange for shipments to be made during the months nearest in date and concerning the marketing year for which the price is determined.

For the purposes of determining such price, the Commission may establish an average of the offers and quotations obtaining on one or more European exchanges for cotton originating in various supplier countries regarded as the most representative in international trade.

2. Where the offers and quotations relate to:

(a) ginned cotton of a quality other than the quality for which the guide price was fixed, they shall be adjusted as shown in Annex A;

(b) cotton delivered cif to a frontier crossing point other than Piraeus, they shall be adjusted on the basis of the difference in transport and insurance costs as against cotton delivered cif Piraeus, except in the case referred to in the second subparagraph of paragraph 1;

(c) cotton delivered c and f, they shall be increased by 0,2 % to take insurance costs into account;

(d) cotton delivered fas, fob or otherwise, they shall be increased, as appropriate, by loading, transport and insurance costs from the point of shipment or loading to the frontier crossing point;

(e) cotton delivered cif, they shall be increased by ECU 1 per 100 kilograms to take account of unloading and forwarding costs at Piraeus.

3. For the purposes of paragraph 2, only the lowest costs shall be taken into account.

Article 3

1. In determining the world market price for cotton seed, the Commission shall refer to the offers and quotations obtaining for the shipments nearest in date.

2. Where the offers and quotations relate to:

(a) cotton seed of a quality other than defined in Article 4 (3) of Regulation (EEC) No 2169/81, they shall be adjusted upward or downward by 2 % for each oil content point below or above the standard quality;

(b) cotton seed delivered c and f, they shall be increased by 0,2 % to take insurance costs into account;

(c) cotton seed delivered cif to a frontier crossing point other than Piraeus, they shall be adjusted on the basis of the difference in transport and insurance costs as against cotton seed delivered cif Piraeus;

(d) cotton seed delivered fas, fob or otherwise, they shall be increased, as appropriate, by loading, transport and insurance costs from the point of shipment or loading to the frontier crossing point;

(e) cotton seed delivered cif, they shall be increased by ECU 0,3 per 100 kilograms to take account of unloading and forwarding costs at Piraeus;

3. For the purposes of paragraph 2, only the lowest lodading, transport and insurance costs shall be taken into account.

[1] OJ No L 211, 31. 7. 1981, p. 35.
[2] OJ No L 270, 30. 9. 1988, p. 61.

Article 4

1. Where Article 4 (4) of Regulation (EEC) No 2169/81 is applied, the world market price for cotton seed shall be equal to the sum of the value of 12 kilograms of unprocessed cotton-seed oil and the value of 75 kilograms of oil-cake, less crushing costs which are calculated at ECU 7,45 per 100 kilograms. These values shall be fixed on the basis of prices determined in accordance with paragraph 2.

2. In determining the world market price for cotton-seed oil and oil-cake, the Commission shall refer to :

(a) the most favourable offers and quotations for a bulk product of Community origin or imported, delivered Piraeus ;

(b) offers and quotations relating to :

— the shipments nearest in date, and

— as regards oil, a raw product and, as regards oil-cake, a product with a fat and protein content of 27 %.

3. Where the offers and quotations relate to oil other than raw or oil-cake with a fat and protein content other than 27 % they shall be adjusted on the basis of the difference in price from the quality referred to in paragraph 2 recorded on the market during a reference period.

4. For imported products, where the offers and quotations do not relate to a product delivered Piraeus, adjustments shall be made in accordance with the detailed rules laid down for seeds, having regard to the nature of the product.

In making such adjustments the Commission shall take into account the lowest costs.

Offers and quotations for oil shall be increased by the customs duties applied in the Community and any compensatory amount levied on imports pursuant to Regulation (EEC) No 143/67/EEC.

5. For products of Community origin, where there are no offers or quotations for a product delivered in bulk at Piraeus, the most favourable offers and quotations recorded on the other principal markets of the Community shall be taken into consideration.

TITLE II

Aid

Article 5

1. The Commission shall fix the amount of aid for unginned cotton once a month so that it may be brought into effect on the first day of the month following the date of fixing. However, if the market situation changes significantly, the said amount may be changed during the intervention period.

2. The Commission shall communicate to the Member States the amount of aid for 100 kilograms of unginned cotton, as soon as that amount is fixed, and in any case before the date of its entry into effect.

3. Without prejudice to Articles 5 (2) and 7 (2) of Regulation (EEC) No 2169/81, the aid to be granted shall be that which is valid on the day of application for aid provided for in Article 6 of Regulation (EEC) No 2169/81 is lodged in accordance with Article 7 of this Regulation.

Article 6

Where, for a given marketing year, there is a difference between the actual production and the estimated production, the maximum quantity fixed by the Council for the following marketing year shall be :

— increased by that difference if actual production is less than estimated production,

— reduced by that difference in the contrary case.

However, for the calculation of the difference, actual and estimated production shall be taken into account within the following limits :

— a minimum equal to the maximum guaranteed quantity of the marketing year to which it refers, adjusted where necessary in accordance with the first subparagraph of this Article,

and, for the 1987/88, 1988/89 and 1989/90 marketing years :

— a maximum equal to the abovementioned maximum guaranteed quantity plus 225 000, 300 000 and 375 000 tonnes respectively.

Article 7

1. The application for aid shall be made in writing, it shall be lodged by the ginning plant with the agency appointed to inspect ginning plants by the producer Member State concerned. It shall be lodged, in respect of each harvest, between 1 May preceding the marketing year for which the aid is applied for and 30 April following, and on or before the date on which the application for supervised storage of the cotton is made.

2. Where an application for aid is lodged before the application for supervised storage is made, it shall be valid only if a security of ECU 10 per 100 kilograms is given.

3. The security referred to in paragraph 2 shall be given in one of the forms provided for in Article 8 of Commission Regulation (EEC) No 2220/85 [1].

[1] OJ No L 205, 3. 8. 1985, p. 5.

The security shall be released *pro rata* to the quantities for which the obligation provided for in Article 9 (1) is fulfilled. The security shall be forfeited *pro rata* to the quantities for which the obligation provided for in Article 9 (1) is not fulfilled.

4. The application for aid shall contain the following information :

— the name, forenames, address and signature of the applicant,

— the date of the application,

— quantity of unginned cotton for which aid is requested.

Article 8

1. All cotton growers shall, before a date set by the Member State concerned and, except in cases of *force majeure,* not later than 1 July, send an annual declaration of the areas sown.

2. If the areas declared differ from those found during the inspections referred to in Article 12 (1) (a), the Member States shall adjust the declarations concerned. They shall take such adjustments into account in determining the total area declared.

Article 9

1. All ginning plants shall lodge an application for supervised storage when the unginned cotton enters the ginning plant.

2. The application for supervised storage shall be made in writing. It shall be lodged with the agency authorized to inspect ginning plants, appointed by the producer Member State in question, not later than 30 April following the year of sowing. It may be presented for one or more consignments.

A 'consignment' shall mean a given quantity of unginned cotton, numbered on entry to the ginning plant and analysed in accordance with Article 12 (5).

3. The application for supervised storage shall contain :

— the name, forenames, address and signature of the applicant,

— the date of application,

— the quantity of unginned cotton in respect of which the application is made,

— the number(s) of the consignment(s) concerned,

— a reference to the aid application.

4. The quantities taken into supervised storage shall be set off against the aid applications, in chronological order of the lodging of applications.

5. The quantity taken into supervised storage under an aid application may not :

— exceed the quantity specified in the application by more than 10 %,

— be less than the quantity specified in the application by more than 2 %.

6. The weight of the quantity taken into supervised storage shall be determined after adjustment in accordance with the method set out in Annex C.

7. Where the quantity taken into supervised storage is less than the quantity specified in the application, the competent agency shall reduce the quantity specified in the application to the quantity taken into supervised storage.

Where the quantity taken into supervised storage exceeds the quantity resulting from the application of paragraph 5, the competent authority shall allow the excess to qualify for the aid applying on the day it is taken into supervised storage.

8. As soon as the application for supervised storage is lodged, Member States shall, on request, grant those concerned an advance on the aid equal to the amount of the aid, provided a security at least equal to the advance is lodged. The security shall take one of the forms provided for in Article 8 of Regulation (EEC) No 2220/85. The security shall be released *pro rata* to the quantities for which the obligation provided for in paragraph 9 is fulfilled. The security shall be forfeited *pro rata* to the quantities for which the obligation provided for in paragraph 9 is not fulfilled.

9. Except in cases of *force majeure,* the quantity taken into supervised storage must be ginned within a period laid down by the Member State concerned and in any case within 180 days of its entry into supervised storage.

10. The obligation referred to in paragraph 9 shall be considered to be fulfilled when the quantity ginned, as determined in accordance with the method set out in Annex C, is not more than 2 % below the quantity indicated.

This quantity shall refer to a product with moisture and impurity contents corresponding to those in respect of which the aid is fixed.

Article 10

1. Not later than when a quantity is taken into supervised storage, one or more contracts and/or declarations drawn up in accordance with paragraphs 2 and 3 shall be submitted for each aid application to the agency referred to in Article 7 (1).

2. A contract as provided for in paragraph 1 shall contain the following information :

(a) name, signature and address of the contracting parties ;

(b) the date on which it is concluded ;

(c) the year of sowing ;

(d) the quantity covered by the contract ; the total quantity given in a number of contracts referring to a single aid application may not be less than that given in the aid application concerned.

If the contract is concluded before the harvest, this information shall be replaced by undertakings by the producer to deliver and by the buyer to take delivery of the quantity harvested on the area in question ; in such cases the quantity shall be determined by the Member State on the basis of the yields recorded in the region concerned and any other relevant information supplied by the interested party ;

(e) the area, in hectares and ares, with the necessary particulars enabling the land to be identified ;

(f) the selling price of the unginned cotton by unit of weight, with the specification that :

1. the price is fixed for cotton of standard quality, ex holding ;

2. the price is variable only for the increases or reductions in relation to the standard quality given in Annex B ;

(g) a clause providing that, should Article 7 (2) of Regulation (EEC) No 2169/81 be applied, the agreed price will be reduced by the amount by which the aid will be reduced ;

(h) a reference to the declaration of areas sown provided for in Article 8 ; however, if the declaration is not available when the contract is concluded, a reference to it shall be added to the contract as soon as the declaration is received.

3. Where the cotton is to be ginned on the grower's own premises or at another ginning plant on behalf of an individual or cooperative grower, or at a plant belonging to a growers' cooperative, a declaration shall be submitted indicating the following, as appropriate :

— a statement to the effect that the cotton will be ginned on the grower's own premises, or

— a statement to the effect that the cotton will be ginned on behalf of the grower ; this statement shall contain the undertaking that the benefit of the aid shall be passed on to the grower. It shall be signed by the two parties concerned.

Paragraph 2 (h) shall apply *mutatis mutandis.*

Article 11

The aid shall be paid after it is established that the conditions laid down in this Regulation have been satisfied and, in particular, that the cotton taken into supervised storage was ginned during the period referred to in Article 9 (9).

If the total quantity ginned during the period in question, reconstituted if necessary by applying the yields referred to in Article 1 (2), is less than 98 % of the quantity taken into supervised storage, aid shall be paid *pro rata* to the quantities actually ginned.

Article 12

1. The agency appointed by the producer Member State shall verify :

(a) the accuracy of the declarations of areas sown, on the basis of random inspections relating to not less than 5 % of the declarations ;

(b) that the contracts lodged fulfil the conditions laid down in Article 10, in particular compliance with the minimum price ;

(c) that the quantity of cotton for which aid is being applied for corresponds to the quantity of unginned cotton of Community origin produced on the area indicated in the contract(s) ;

(d) that the quantity of cotton for which aid is paid corresponds to the quantity of Community cotton actually ginned ;

(e) that the stock records provided for in Article 6 of Regulation (EEC) No 2169/81 have been kept in accordance with Article 13 of this Regulation. In particular, it shall verify that the invoices and other documents referred to in the second indent of Article 13 have been signed by the growers and indicate a price at least equal to the minimum price, corrected where appropriate in accordance with Annex B to take account of the quality delivered.

2. The competent agency shall allow as qualifying for aid only the quantity of cotton in respect of which all the conditions are fulfilled.

3. Except in cases of *force majeure,* unginned cotton whose entry into the ginning plant has been verified pursuant to paragraph 1 may not leave the plant unginned, save on prior authorization by the competent agency ; otherwise, the entitlement to aid will be forfeited.

Prior authorization may be granted, in particular, for quantities which are to be ginned on behalf of the grower.

4. For the purposes of this Regulation 'ginning plant' shall mean :

(a) any building or other place within the precincts of a cotton ginning establishment ;

(b) if the products concerned cannot be stored within those precincts, any place of storage situated outside them which is sufficiently secure for the purposes of control of the stored products and which has been approved in advance by the agency responsible for inspection.

5. The taking of samples, the reduction of laboratory samples to samples for analysis and the determination of cotton quality, of moisture content and of impurities shall be carried out by a uniform method for the whole Community. However, until a Community method is adopted, the Member States may continue to use the methods of their choice.

Article 13

The stock records provided for in Article 6 (2) of Regulation (EEC) No 2169/81 shall contain the following information, separately in respect of unginned cotton harvested inside the Community and unginned cotton harvested outside the Community:

— the quantities of unginned cotton, ginned cotton, seed, oil and cotton linters in stock on the first day of each month,

— in respect of each consignment of such products received, the number of the invoice or, where appropriate, the number of the receipt or any other equivalent document issued per consignment, with an indication of the quantity concerned,

— in respect of each consignment of such products sent out, the number of the invoice, or, where appropriate, the number of the dispatch note or any other document issued per consignment, with an indication of the quantity concerned.

TITLE III

General provisions

Article 14

1. The producer Member States shall communicate to the Commission:

(a) the name and address of the agencies appointed to implement the provisions of this Regulation, as soon as those agencies are appointed;

(b) not later than the 15th of each month, the quantities for which aid was requested during the preceding month;

(c) not later than the 15th of each month, the quantities taken into supervised storage during the preceding month;

(d) not later than 15 August each year:

— the areas sown with cotton during the current year, where necessary adjusted in accordance with Article 8 (2),

— the average quality of ginned cotton and average yields of ginned cotton and cotton seed, recorded during the current marketing year,

— a summary of the quantities for which aid was approved in respect of the current marketing year.

2. Where significant irregularities are uncovered by 6 % or more of the inspections carried out in accordance with Article 12 (1) (a), the Member States shall so inform the Commission without delay, stating what measures have been adopted.

3. The Commission shall send to the Member States regular summaries of the data supplied.

Article 15

The conversion rate to be applied to the minimum price shall be the representative rate in force on the date the contract is concluded.

The conversion rate to be applied to the aid shall be the representative rate in force on the day the aid application is lodged.

Article 16

1. Regulation (EEC) No 2183/81 is hereby repealed.

2. In all Community instruments where reference is made to Regulation (EEC) No 2183/81 or to certain Articles of that Regulation, those references shall be construed as references to this Regulation or to the corresponding Articles hereof.

Article 17

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities.*

It shall apply to cotton harvested from the 1989/90 marketing year onwards.

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

Done at Brussels, 3 May 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX A

Coefficients of equivalence for ginned cotton

Increase or reduction of price by:

(a) 1 % for each mm more or less than 28 mm;

(b) 1,5 % for each half grade higher or lower than grade 5.

ANNEX B

Increases and reductions for unginned cotton

1. Increase or reduction of price by:

   (a) 1,2 % for each moisture point more or less;

   (b) 1,2 % for each impurity point more or less;

   (c) ECU 1,0 per 100 kilograms for each half-point of fibres more or less.

2. Coefficients applicable to the difference in millimetres of ginned cotton in relation to the standard quality.

Length	Percentage of price to be added	Percentage of price to be subtracted
32	4	
31	3	
30	2	
29	1	
28	—	—
27		0,5
26		1
25		1,8

3. Coefficients applicable to ginned cotton obtained differing from the standard quality:

Grade	Percentage of price to be added	Percentage of price to be subtracted
3 und 3,5	7,5	
4	4,5	
4,5	2	
5	—	
5,5		2
6		5
6,5		9
7		14
8		20
9		27

Should the quality of the cotton be lower than grade 9 price of the unginned cotdton shall be determined by mutual agreement between the contracting parties.

ANNEX C

Method for calculating weight of unginned cotton

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

i = impurity of unginned cotton the weight of which is to be calculated,

h = moisture of unginned cotton the weight of which is to be calculated,

i_1 = impurity

h_1 = impurity

q = quantity of unginned cotton as such (kilograms) the weight of which is to be calculated,

X = calculated weight of unginned cotton (kilograms).

NB: Only the first two decimal figures are taken into account for moisture and impurity contents.