COMMISSION REGULATION (EEC) No 1022/90

of 25 April 1990

amending Regulation (EEC) No 1569/77 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 201/90 (2), and in particular Article 7 (6) thereof,

Whereas experience gained in the application of Commission Regulation (EEC) No 1569/77 (3), as last amended by Regulation (EEC) No 1663/89 (4), shows that the procedure to be followed by the intervention agencies for taking over cereals should be set out in greater detail;

Whereas the differences noted between the Member States relate in particular to checks on the quantity and quality of the lots offered; whereas those checks should therefore be set out in greater detail;

Whereas where the intervention agency delegates a third party to carry out checks the agency must ensure that the latter provides all guarantees of independence *vis-à-vis* the offerer;

Whereas Council Regulation (EEC) No 3247/81 of 9 November 1981 on the financing by the European Agricultural Guidance and Guarantee Fund, Guarantee Section, of certain intervention measures, particularly those involving the buying-in, storage and sale of agricultural products by intervention agencies (5), as last amended by Regulation (EEC) No 3757/89 (6), already provides for an annual inventory of actual stocks; whereas the quantitative inventory should be accompanied by a check on quality;

Whereas the Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1569/77 is hereby amended as follows:

1. Articles 3 and 4 are replaced by the following:

'*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 of the offer.

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 last delivery shall be made not later than the end of the second month following the month during which the offer was received.

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.

(1) OJ No L 281, 1. 11. 1975, p. 1.
(2) OJ No L 22, 27. 1. 1990, p. 7.
(3) OJ No L 174, 14. 7. 1977, p. 15.
(4) OJ No L 163, 14. 6. 1989, p. 13.
(5) OJ No L 327, 14. 11. 1981, p. 1.
(6) OJ No L 365, 15. 12. 1989, p. 11.

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 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 first indent.

(b) In the case of take-over 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,

— 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 invoving 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 technological characteristics of the samples taken analysed under its responsibility within 20 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 amylasic 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 take-over 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 numer 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 (*), the price payable to the seller 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 of acceptance of the offer, adjusted in accordance with Articles 1 and 2 of Council Regulation (EEC) No 1581/86, for goods delivered at warehouse, before unloading, account being taken of increases and reductions to be determined.

However, where delivery takes places 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 110th and the 115th day following the date of take-over referred to in Article 3 (4).

(*) OJ No L 131, 27. 5. 1988, p. 37.'

2. The following Article 4a is added:

'Article 4a

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 2 (1a) of Regulation (EEC) No 3247/81.'

Article 2

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

It shall apply from the 1990/91 marketing year.

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

Done at Brussels, 25 April 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission