COMMISSION REGULATION (EC) No 2064/95

of 29 August 1995

amending Regulation (EEC) No 1201/89 laying down rules implementing the system of aid for cotton

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of Greece, and in particular Protocol 4 on cotton, as last amended by Council Regulation (EC) No 1533/95 (1),

Having regard to Council Regulation (EEC) No 1964/87 adjusting the system of aid for cotton introduced by Protocol 4 annexed to the Act of Accession of Greece (2), as last amended by Regulation (EC) No 1553/95, and in particular Article 2 (4) thereof,

Having regard to Council Regulation (EC) No 1554/95 of 29 June 1995 laying down the general rules for the system of aid for cotton and repealing Regulation (EEC) No 2169/81 (3), and in particular Article 11 (1) thereof,

Whereas, as a result of the major adjustments made to the system of aid for cotton by Regulations (EC) No 1553/94 and (EC) No 1554/94, it is necessary to make the amendments arising therefrom to Commission Regulation (EEC) No 1201/89 (4), as last amended by Regulation (EEC) No 2046/93 (5);

Whereas Regulation (EC) No 1554/95 introduces changes to the method for calculating the world market price for unginned cotton, in particular by providing that it be determined on the basis of the historical relationship between the world price determined for ginned cotton and that calculated for unginned cotton; whereas the coefficient which represent the historical relationship should be fixed; whereas the calculation method should also be adapted to take account of the fact that the average of the offers and quotations is to be recorded for cotton delivered cif at a northern European port and not at Piraeus, save in exceptional cases; whereas certain provisions for determining the world market price are no longer applicable and may be abolished;

Whereas, as a result of the adjustments to the aid system, an advance on the aid is to be paid from 16 October following the start of the marketing year, and the balance is to be paid before the end of the marketing year once actual production has been determined and any adjustments to the aid amount as referred to in Article 2 (3) and (4) of Regulation (EEC) No 1964/87 have been made; whereas, consequently, it is no longer necessary for the amount of the aid to be fixed regularly; whereas provision should be made for the fixing, not later than 15 July, of the aid amounts applicable for each period corresponding to that for which a world market price has been determined; whereas a time limit should also be laid down for determining the advance;

Whereas, in order to allow actual production to be determined before the end of June, the period within which the aid applications are to be lodged should be shortened to the end of April; whereas provision should be made so that lodgement of the aid application shortly after the closing date does not result in the aid being totally forfeited;

Whereas Article 2 (4) of Regulation (EEC) No 1964/87 provides for an increase in the aid where certain conditions are fulfilled and up to certain maximum limits; whereas rules should be laid down for determining this increase; whereas provision should also be made for the communication by the Member States of additional information required for verifying that the conditions are fulfilled;

Whereas Article 5 (6) of Regulation (EC) No 1553/95 lays down that the quantity of cotton for which the aid is paid is to be calculated on the basis of the percentage of ginned cotton produced from the quantity of unginned cotton; whereas, therefore, the qualitative analysis of each consignment of unginned cotton and the adjustment of their weight are no longer necessary; whereas provision should be made for the notification by the ginner of the quantity of ginned cotton produced from each quantity of unginned cotton taken into supervised storage; whereas the method for determining the weight of ginned cotton should be established by providing in particular for sample checks and for the adjustment rate in relation to the grade recorded;

Whereas Article 7 of Regulation (EC) No 1554/95 lays down that, where the quality of the cotton delivered differs from the standard quality, the price agreed is to be adjusted proportionally to that difference by common consent between the contrating parties; whereas this requirement should be provided that the Member States verify the proportional nature of such adjustments; whereas the contract should also include the terms of payment since the ginner receives the balance of the aid only at the end of the marketing year;

(1) OJ No L 148, 30. 6. 1995, p. 45.
(2) OJ No L 184, 3. 7. 1987, p. 14.
(3) OJ No L 148, 30. 6. 1995, p. 48.
(4) OJ No L 123, 4. 5. 1989, p. 23.
(5) OJ No L 185, 28. 7. 1993, p. 19.

Whereas certain references to Council Regulation (EEC) No 2169/81 (1) which has been repealed should be changed;

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:

Article 1

Regulation (EEC) No 1201/89 is hereby amended as follows:

1. Article 1 is replaced by the following:

'Article 1

1. The world market price for unginned cotton shall be determined once a month so that it may come into effect on the first day of the month following the date of fixing. However, if the market situation changes significantly, the said price may be changed in the intervening period.

2. The price, fixed per 100 kilograms, shall be equal to a percentage of the world market price for ginned cotton determined in accordance with Article 2.

This percentage shall be set at:

— 20,6 if the price is less than ECU 110 per 100 kilograms,

— 23,0 if the price is ECU 110 or more but less than ECU 130 per 100 kilograms,

— 24,4 if the price is ECU 130 or more per 100 kilograms.

3. The Commission shall communicate to the Member States the price fixed per 100 kilograms of unginned cotton, as soon as that amount is fixed, and in any case before the date of its coming into force.'

2. Article 2 is replaced by the following:

'Article 2

1. In determining the world market price for ginned cotton the Commission shall establish an average of the offers and quotations obtaining on one or more European exchanges for cotton delivered cif originating in various supplier countries regarded as the most representative in international trade for shipments to be made during the nearest in date and concerning the marketing year for which the price is determined.

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

(c) 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; only the lowest costs shall be taken into account.

3. Where the world market price cannot be determined in accordance with paragraph 1, the second subparagraph of Article 4 (2) of Regulation (EC) No 1554/95 shall apply.

The offers and quotations taken into account shall be increased by ECU 1 304 per 100 kilograms to take account of unloading and forwarding costs at Piraeus.

Whereas the offers and quotations relate to 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 at Piraeus. Paragraph 2 shall also apply.'

3. Articles 3 and 4 are deleted.

4. Article 5 is replaced by the following:

'Article 5

1. Not later than 15 July the Commission shall fix the amount of aid for unginned cotton applicable for each period for which a world market price has been determined in accordance with Article 1 (1).

2. The amount of the advance referred to in Article 5 (3) of Regulation (EC) No 1554/95 shall be determined before 1 October of the current marketing year.

3. Without prejudice to Articles 5 (2) and 6 of Regulation (EC) No 1554/95 and Article 6 of this Regulation, the aid to be granted shall be that which is valid on the day the application for aid referred to in Article 7 of Regulation (EC) No 1554/95 is lodged in accordance with Article 7 of this Regulation.

However, if the aid application is lodged:

— between 1 and 15 May of the marketing year for which the aid is applied for, the aid to be granted shall be that valid on the preceding 30 April, less 50 %,

— after 15 May of the said marketing year, the aid application shall be rejected.'

5. Article 6 is replaced by the following:

'Article 6

The increase in the amount of the aid, provided for in Article 2 (4) of Regulation (EEC) No 1964/87, shall be established as follows:

(1) OJ No L 211, 31. 7. 1981, p. 2.

(a) the difference between the total budgetary expenditure on the aid system established after Article 2 (3) of Regulation (EEC) No 1964/87 has been applied and ECU 770 million shall be divided by the combined actual production of the Member States whose actual production exceeds the GNQ. The increase shall be equal to the result obtained except where (b) is applied and shall be without prejudice to the second subparagraph of Article 2 (4) of Regulation (EEC) No 1964/87;

(b) if the actual production in Spain and Greece exceeds the GNQ and if in one of those Member States the aid amount increased pursuant to (a) exceeds one of the ceilings fixed in the second subparagraph of Article 2 (4) of Regulation (EEC) No 1964/87, the aid amount applicable in that Member State shall be equal to that provided for at the lowest ceiling. The aid amount applicable in the other Member State shall be equal to the amount increased pursuant to (a) plus that proportion of the increase of the first Member State exceeding the aforementioned ceiling, in compliance with the second subparagraph of Article 2 (4) of Regulation (EEC) No 1964/87.'

6. In Article 7 (1) the date '31 July' is replaced by '30 April'.

7. In the second subparagraph of Article 9 (2) the words 'and analysed in accordance with Article 12 (5)' are deleted.

8. In Article 9 (2) the following subparagraph is inserted:

'Member States shall take the necessary measures to ensure that the unginned cotton entering ginning plants is of sound, fair and merchantable quality. Member States shall refuse the placing into supervised storage of the quantities which do not meet these standards.'

9. Article 9 (6) is deleted.

10. Article 9 (8) is replaced by the following:

'8. As soon as the unginned cotton is taken into supervised storage, Member States shall, on request, grant those concerned an advance on the aid, provided a security at least equal to 110 % of the advance is lodged. The amount of the advance shall be calculated on the basis of the quantities taken into supervised storage. The security shall take one of the forms provided for in Article 8 of Regulation (EEC) No 2220/85. The security shall be forfeited to the amount by which the advance paid exceeds the amount of the aid to be granted.'

11. Article 9 (9) and (10) are deleted.

12. Article 10 (2) (f) (2) is replaced by the following:

'(2) the price is subject only to the adjustments determined by common consent which are proportional to the difference in quality in relation to the standard quality.'

13. Article 10 (2) (g) is replaced by the following:

'(g) a clause providing that, should Article 6 of Regulation (EC) No *1554/95* and, where appropriate, Article 6 of this Regulation be applied, the agreed price for a product of standard quality will be reduced by the amount by which the aid will be reduced;'.

14. To Article 10 (2) the following point (i) is added:

'(i) the terms of payment and in particular the time limit for payment of the selling price.'

15. Article 11 is replaced by the following:

'Article 11

Within 120 days of its entry into supervised storage and in any case before 20 May of a given marketing year, the ginning plant shall notify the Member State of the quantity of ginned cotton produced from the quantity of unginned cotton taken into supervised storage. The quantity of ginned cotton shall be established in accordance with the method set out in Annex B.'

16. The following words are added to Article 12 (1) (b):

'and the proportional nature of any adjustment thereto. A reduction of the agreed price can be considered disproportional only if the reduction indicated in the contract to take account of the difference in the delivered cotton's fibre length or grade in relation to those parameters for cotton of standard quality is clearly unreasonable in terms of the real depreciation in value of the cotton delivered;'.

17. Article 12 (1) (d) is replaced by the following:

'the accuracy of the data communicated by the ginning plants in accordance with Article 11.'

18. Article 12 (1) (e) is replaced by the following:

'(e) that the stock records provided for in Article 7 (2) of Regulation (EC) No 1554/95 have been kept in accordance with Article 13 of this Regulation. In particular, it shall verify that the invoices and other doucments referred to in the second indent of Article 13 have been signed by identifiable suppliers who can justify to the satisfaction of the Member State concerned the origin of the unginned cotton and the reference to the declaration of areas sown and that they indicate a price at least equal to the minimum price, corrected where appropriate to take account of the quality delivered.'

19. Article 12 (5) is deleted.

20. At the beginning of Article 13, the words 'Article 6 (2) of Regulation (EEC) No 2169/81' are replaced by 'Article 7 (2) of Regulation (EC) No 1554/95'.

21. In Article 13, a new first indent is inserted as follows:

'— the quantity of ginned cotton produced by reference to the consignments of unginned cotton taken into supervised storge.'

22. The following subparagraph is inserted in Article 14 (1):

'Where the world market price of unginned cotton change in the course of a month, the data specified in (b) shall be broken down for each period in respect of which a different world market price applies. The data specified in the third indent of (d) shall be broken down by the same periods as apply in the case of (b).'

23. Annex B is replaced by the Annex to this Regulation.

24. Annex C is deleted.

Article 2

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

It shall apply from the 1995/96 marketing year.

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

Done at Brussels, 29 August 1995.

For the Commission

Karel VAN MIERT

Member of the Commission

ANNEX

'ANNEX B

Determination of the weight of a consignment of ginned cotton

1. A consignment of ginned cotton means a quantity of ginned cotton produced from a given consignment or consignments of unginned cotton taken into supervised storage.

2. Without prejudice to point 4, the weight as such of a consignment of ginned cotton is to be increased by 0,6 % for each half-point of moisture below 4 % and reduced by the same percentage for each half-point of moisture above 8,5 %.

   The moisture content of a consignment:

   — is established by the inspection agency appointed by the Member State by the taking of samples which must relate to at least 5 % of the consignment produced by each ginning plant or,

   — is equal to the average moisture content recorded for each ginning plant as a result of the taking of samples referred to in the first indent if the consignment in question has not been sampled. This moisture content is to be communicated to the ginning plant by the inspection agency.

3. Without prejudice to point 4, the weight as such of a consignment of ginned cotton is to be adjusted as follows:

   1. for consignment the grade of which is determined by the inspection agency appointed by the Member State, the table below applies:

Grade	% by which the weight is adjusted
5 or lower	—
5,5	less 0,5
6	less 1
6,5	less 1,5
7	less 2
7,5	less 2,5
8	less 4
8,5 or higher	less 5

   2. for the consignments for which a grade is not established by the inspection agency appointed by the Member State, the weight as such is adjusted by taking into account the average impurity content recorded for each ginning plant on the basis of the samples taken by the inspection agency which must relate to at least 5 % of the consignments for which a grade is not established. This impurity content is to be communicated to the ginning plant by the inspection agency.

      The weight as such is to be reduced by 0,6 % for each half-point of impurities the average of which exceeds 2,5 %.

4. However, if the ginned cotton is not stored under normal storage conditions, in particular if it is not kept in a dry place or if the moisture content of the outer layers of the bale exceeds the limits practised by the trade, the determination of weight as described above can proceed only after the limits practised by the trade are complied with.'