

**COMMISSION REGULATION (EEC) No 3189/85**  
of 14 November 1985

**derogation from certain provisions of Regulations (EEC) No 1836/82 and (EEC) No 1974/80 on the conditions for the disposal of cereals held by intervention agencies and the supply of cereals 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 2727/75 of 29 October 1975 on the common organization of the market in cereals<sup>(1)</sup>, as last amended by Regulation (EEC) No 1018/84<sup>(2)</sup>, and in particular Articles 7 (5), 8 (4) and 28 thereof,

Whereas Commission Regulation (EEC) No 1836/82<sup>(3)</sup>, as amended by Regulation (EEC) No 1806/85<sup>(4)</sup>, lays down the procedure and conditions for the disposal of cereals held by intervention agencies; whereas Article 5 of the said Regulation stipulates that such cereals may not be put on the Community market at a price lower than the intervention price or, in the case of common wheat of bread-making quality which has been the subject of a special intervention measure, at a price lower than the reference price;

Whereas the Council has not yet adopted the intervention and reference prices for cereals for the 1985/86 marketing year; whereas, however, without prejudicing the decisions to be taken by the Council and as a safeguard measure, the Commission has adopted the buying-in prices for durum wheat and the other cereals to be applied by the intervention agencies by means of Decision 85/329/EEC<sup>(5)</sup> and Regulation (EEC) No 2124/85<sup>(6)</sup> respectively; whereas, in view of the present circumstances, the said buying-in prices should be considered to constitute the minimum prices to be observed when these products are put back on the market; whereas the said buying-in prices should be considered applicable wherever the intervention price or reference price is referred to in Regulation (EEC) No 1836/82;

Whereas the aforesaid buying-in prices should also be applicable for the purposes of determining the amount for which the successful tenderer for the supply, as food aid, of cereals held by an intervention agency must insure the goods in order to be able to compensate the said agency in the event of their loss or deterioration pursuant to Article 12 (5) of Commission Regulation (EEC) No 1974/80 of 22 July 1980 laying down general implemen-

ting rules in respect of certain food-aid operations involving cereals and rice<sup>(7)</sup>, as last amended by Regulation (EEC) No 3323/81<sup>(8)</sup>;

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*

By way of derogation from Article 5(1) of Regulation (EEC) No 1836/82, the following provisions shall apply when cereals held by the intervention agencies are put back on the Community market:

1. Successful tenders must offer a price at least equivalent to the market price for a similar quality recorded on the market for the place of storage or, failing such a price, the price on the nearest market taking account of transport costs. The tender price may not, in any circumstances, be lower than the buying-in price applicable on the closing date for the submission of tenders determined in accordance with:

- Articles 1 and 3 of Regulation (EEC) No 2124/85 as regards common wheat, barley, maize, sorghum and rye,
- Article 1 (1) and (3) of Decision 85/329/EEC as regards durum wheat,

and, as appropriate, adjusted:

- in the case of certain varieties of durum wheat in accordance with Article 4 (6) of Commission Regulation (EEC) No 1570/77<sup>(9)</sup>,
- in the case of rye of bread-making quality by means of the special increase provided for in Article 6 (1) of Regulation (EEC) No 1570/77.

2. Where common wheat has been bought in in accordance with the provisions of the second subparagraph of Article 4 (3) of Commission Regulation (EEC) No 1629/77<sup>(10)</sup>, successful tenders for such common wheat may not, in any circumstances, offer a price lower than the buying-in price referred to in point 1.

<sup>(1)</sup> OJ No L 281, 1. 11. 1975, p. 1.

<sup>(2)</sup> OJ No L 107, 19. 4. 1984, p. 1.

<sup>(3)</sup> OJ No L 202, 9. 7. 1982, p. 23.

<sup>(4)</sup> OJ No L 169, 29. 6. 1985, p. 73.

<sup>(5)</sup> OJ No L 169, 29. 6. 1985, p. 94.

<sup>(6)</sup> OJ No L 198, 30. 7. 1985, p. 31.

<sup>(7)</sup> OJ No L 192, 26. 7. 1980, p. 11.

<sup>(8)</sup> OJ No L 334 21. 11. 1981, p. 27.

<sup>(9)</sup> OJ No L 174, 14. 7. 1977, p. 18.

<sup>(10)</sup> OJ No L 181, 21. 7. 1977, p. 26.

The buying-in prices referred to in the first subparagraph shall also be applicable wherever the intervention or reference price is referred to in Regulation (EEC) No 1836/82.

*Article 2*

In the case of supplies of cereals from intervention stocks for the purposes of food aid and by way of derogation from Article 12 (5) of Regulation (EEC) No 1974/80, the insurance contract concluded by the successful tenderer shall contain a clause stipulating that, in the event of loss or deterioration of the goods, the insurer shall pay to the intervention agency in charge of payment an indemnity

covering the value of the product, that is, the buying-in price applicable on the day of acceptance for the quantity in question and for an equivalent quality in accordance with Article 1 (1) and (3) of Decision 85/329/EEC as regards durum wheat, and Articles 1 and 3 of Regulation (EEC) No 2124/85 as regards cereals other than durum wheat.

*Article 3*

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

It shall apply with effect from 1 August 1985.

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

Done at Brussels, 14 November 1985.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

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