

Commission Regulation (EU) No 1272/2009 of 11 December 2009  
laying down common detailed rules for the implementation of  
Council Regulation (EC) No 1234/2007 as regards buying-in and  
selling of agricultural products under public intervention (repealed)

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selling of agricultural products under public intervention (repealed)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)<sup>(1)</sup>, and in particular Article 43(a), (aa), (c), (d), (f), (j), (k) and (l), in conjunction with Article 4 thereof,

Whereas:

- (1) Article 10 of Regulation (EC) No 1234/2007 provides that public intervention is to be applicable for common wheat, durum wheat, barley, maize, sorghum, paddy rice, white or raw sugar produced under quota, fresh or chilled meat of the beef and veal sector, butter and skimmed milk powder.
- (2) Article 11 of Regulation (EC) No 1234/2007, as amended by Council Regulation (EC) No 72/2009<sup>(2)</sup>, provides that for sugar the public intervention scheme will be available only for the marketing years 2008/2009 and 2009/2010. In order to preserve the effectiveness of this scheme for the sugar sector and to reduce the administrative burden on operators and national administrations it does not seem appropriate to include the existing implementing rules for the sugar sector in the present detailed rules for the marketing year 2009/2010.
- (3) A public intervention scheme for the products mentioned in Article 10 of Regulation (EC) No 1234/2007 applies when the conditions mentioned in that Regulation are fulfilled.
- (4) In order to simplify and improve the effectiveness of the management and control mechanisms related to the public intervention scheme, common rules for all the products listed in Article 10 of Regulation (EC) No 1234/2007, except sugar, should be laid down.
- (5) Article 13(1)(a) of Regulation (EC) No 1234/2007, as amended by Regulation (EC) No 72/2009, limits public intervention at fixed price for durum wheat, barley, maize and sorghum to 0 tonnes for the period from 1 November to 31 May and for paddy rice to 0 tonnes for the period from 1 April to 31 July.

- (6) Article 13(1)(c) and (d) and Article 18(2)(a) of Regulation (EC) No 1234/2007, as amended by Regulation (EC) No 72/2009, limits public intervention at fixed price for butter to 30 000 tonnes, for skimmed milk powder to 109 000 tonnes for the period from 1 March to 31 August and for common wheat to 3 million tonnes for the period from 1 November to 31 May.
- (7) Pursuant to Articles 13(3) and 18(2) of Regulation (EC) No 1234/2007, as amended by Regulation (EC) No 72/2009, the Commission may decide to extend the application of the public intervention scheme by means of a tendering procedure beyond the limits mentioned in Article 13(1) of Regulation (EC) No 1234/2007 as amended by Regulation (EC) No 72/2009 if such an action is justified by the development of market prices.
- (8) It is necessary to lay down the rules as regards the authorities in charge of public intervention in the Member States, in accordance with Commission Regulation (EC) No 884/2006 of 21 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the financing by the European Agricultural Guarantee Fund (EAGF) of intervention measures in the form of public storage operations and the accounting of public storage operations by the paying agencies of the Member States<sup>(3)</sup>. Those authorities should be named 'intervention agencies' for the purposes of this Regulation.
- (9) In order to ensure that the public intervention system operates as simply and efficiently as possible throughout the European Community, as regards the buying-in of eligible products on one hand and the reselling of products taken over by intervention agencies on the other hand, the conditions to be fulfilled by the storage places should be defined. In particular, for cereals and rice, in order to comply with the provisions laid down in Article 41 of Regulation (EC) No 1234/2007, the rules relating to a prior approval of the intervention centres by the Member States before their designation by the Commission should be decided upon. In order to rationalise/streamline the way intervention operates, by discontinuing the use of small storage facilities which may be spread throughout a region, a minimum capacity of storage should be fixed for the intervention centre and storage places that make up the intervention centre, but should not be applicable in case where a storage place have ready access to a river, sea or railway connection.
- (10) As a general rule, in order to facilitate the management and control, participation in the public intervention scheme should be allowed only to operators established and registered for VAT purposes in a Member State.
- (11) For the purposes of buying-in for cereals and rice, if in some Member States some operators who could participate in the scheme do not have a VAT registration number, participation in the public intervention scheme should be allowed also to operators registered in the farm registry.
- (12) Since products covered by intervention measures have a different nature as to production or harvest time and storage requirements, specific conditions should be provided for.
- (13) In order to provide for an effective control of the production in the beef and veal sector, in particular for conditions of boning and storage facilities, operators eligible

to participate in the public intervention scheme via a tendering procedure should fulfil additional conditions.

- (14) Cereals and paddy rice whose quality does not permit suitable further use or storage should not be accepted for intervention. Therefore, the methods necessary to establish the quality of cereals and rice should be defined.
- (15) The risks inherent to exceeding the maximum admissible contaminant thresholds can be identified by the paying agencies or intervention agencies on the basis of information received from offerers or tenderers and their own analysis criteria. In order to limit the financial costs, it is therefore justified to require analyses, under the responsibility of the agencies prior to the taking over of products, only on the basis of a risk analysis enabling the quality of the products on entry into the intervention scheme to be guaranteed.
- (16) In the case of products of the beef and veal sector, the conditions for eligibility have to rule out products that are not representative of national production of the Member State and that do not meet the health and veterinary rules in force and those over a weight normally sought after on the market.
- (17) In order to be eligible for intervention butter should meet the requirements laid down in Regulation (EC) No 1234/2007 as well as the conditions of quality and presentation, which need to be defined. The methods of analysis and detailed rules governing quality control of butter and skimmed milk powder should also be specified and, if the situation so requires, provision should be made for checks of radioactivity in butter and skimmed milk powder, the maximum levels of which need to be established, where appropriate, by Community legislation. However, it should be possible for Member States to authorise a system of self checking, subject to certain conditions.
- (18) In the case of butter and skimmed milk powder, in order to make sure that the intervention arrangements function smoothly, it is necessary to specify the conditions for the approval of manufacturing undertakings and verification of compliance therewith. To ensure that the arrangements are effective, provision should be made for action to be taken if those conditions are not complied with. Since butter and skimmed milk powder may be bought in by a competent body belonging to a Member State other than that on whose territory it was produced, the competent body which does the buying-in should in such cases be able to verify that the conditions relating to quality and presentation are complied with.
- (19) For a sound management of the scheme, it is necessary to fix a minimum quantity below which the intervention agency cannot accept an offer or a tender, both for buying-in and sales. However, if the conditions and practices of the wholesale trade or environmental rules in force in a Member State justify the application of minimum quantities larger than those laid down, the Member State concerned should be entitled to require such larger minimum quantities for buying-in at fixed price.
- (20) Offers and tenders should contain all the information necessary to assess them, and communications between Member States and the Commission should be provided for.
- (21) In the case of common wheat, butter and skimmed milk powder, in order to comply with the limits of 3 000 000, 30 000 and 109 000 tonnes respectively, it is appropriate

to provide for a reflection period during which, before a decision is taken on the offers, special measures can be taken applying in particular to pending offers. Those measures may consist of closure of intervention, application of a reduction coefficient or rejection of the pending offers. They require swift action and the Commission should be enabled to take all the necessary measures without delay.

- (22) On the basis of the tenders received a maximum amount of price may be fixed. However, situations might arise on the market in which economic or other aspects make it necessary to reject all the tenders received.
- (23) Both in the case of intervention at fixed price and in the case of a tendering procedure for public intervention, a security is needed in order to guarantee the seriousness of the offer or tender and in order to ensure that the measure will have its desired effect on the market. Therefore, provisions should be adopted for the release and forfeit of the security lodged in accordance with Commission Regulation (EEC) No 2220/85 of 22 July 1985 laying down common detailed rules for the application of the system of securities for agricultural products<sup>(4)</sup>.
- (24) In order to guarantee a clear and effective functioning of the public intervention scheme, it is necessary to lay down the general rules concerning the delivery of the products to the storage place designated by the intervention agency. In addition, for cereals and rice as well as for dairy products, given the specificities of those sectors, specific rules are necessary to complement the general ones.
- (25) With a view to the proper management of stocks in storage, the obligations of the Member States should be specified as regards the maximum distance to the place of storage and the costs to be borne when this distance is exceeded. However, due to the differences in the nature of products it is justified to set distinct levels of the maximum distances for cereals and rice as compared to dairy products.
- (26) In order to create common rules, it is appropriate to provide that the checks on products during storage have to be carried out as laid down in Article 2 of Regulation (EC) No 884/2006.
- (27) With a view to harmonise the current rules applicable in the different sectors, it should be provided that after the products have been delivered to the storage places their takeover by the intervention agency should be conditional to the outcome of the relevant checks and analyses to establish their compliance with the requirements applicable for buying-in. A takeover record should be issued on the basis of those checks and analyses, but it should not be later than sixty days following the final date fixed for the delivery. Should the products not fulfil the applicable requirements, the offerer or tenderer should take back the products and bear all the costs associated with the conditional takeover during the period the products have been stored in the intervention storage places.
- (28) In order to avoid any speculation due to the very high volatility of the prices in the cereals and rice sectors, the products to be offered to the intervention should be held actually by the offerer or tenderer at the time of submission of the offer or tender; this should be one of the primary requirements for benefiting of the public intervention scheme. Intervention agencies should receive satisfactory assurance that quantities

offered are actually present in the storage place indicated in the offer or tender; in that respect offerers or tenderers should be required to submit a statement to that effect together with their offer or tender.

- (29) In order to guarantee a simple and efficient management of intervention, it is necessary to lay down that a lot of cereals presented for intervention should be homogenous and that a lot of rice should consist of the same variety.
- (30) For cereals and rice, it is appropriate not to accept for intervention those products which cannot be subsequently used or do not allow for an adequate storage. For this purpose, the methods for determining the quality of cereals and rice need to be defined.
- (31) Article 18(2) and Article 18(4)(a) of Regulation (EC) No 1234/2007 as amended by Regulation (EC) No 72/2009 provide that the intervention price for cereals is fixed by the Commission by way of a tendering procedure without prejudice to price increases or reductions for quality reasons. It is appropriate to mention the variation of prices based on the main quality criteria for cereals.
- (32) Article 18(4)(b) of Regulation (EC) No 1234/2007 provides that the intervention price for rice is fixed for a standard quality and that if the quality of rice offered into intervention differs from that standard quality, the intervention price is adjusted based on reduction and increasing coefficients. The application of those coefficients should reflect the differences in price on the rice market due to quality reasons. To this end, it is appropriate to take into account the main characteristics of rice, which allow an objective assessment of the quality.
- (33) Products bought in by intervention agencies pursuant to Article 10 of Regulation (EC) No 1234/2007 have to be disposed of in such a way as to avoid disturbance of the market and to ensure equal access to the products and equal treatment of purchasers; tendering procedure permit that objective to be achieved.
- (34) Notices of invitation to tender should be drawn up and published by the intervention agency holding intervention stocks available for sale in order to give the necessary information on the characteristics of the products and on the site where they are stored. To this end, it should be provided for that a reasonable time period should elapse between the date of such publication and the first closing date for the submission of tenders.
- (35) Proper management of intervention stocks requires the products to be resold as soon as outlets become available. To ensure equal access to product for sale, all interested parties should be given the possibility to examine samples of the products put up for sale at their own expense.
- (36) To allow comparison between tenders, for cereals or rice, the tenders should be submitted for a defined quality. Provision should be made to adjust the selling price in cases where the cereals and rice differ from this quality.
- (37) In order to ensure an efficient functioning of the public intervention scheme, it is necessary to lay down the general rules concerning the removal of the products from

storage. For butter and skimmed milk powder given the specific nature of these products, special rules are necessary to complement the general ones.

- (38) The tendering procedure can take place properly only if those concerned submit genuine tenders. That objective can be achieved by requiring that a security be lodged, and be released subject to the payment of the selling price within the time limit laid down.
- (39) The intervention agencies should notify the Commission of the admissible tenders. On the basis of the tenders and of the situation on the Community market, the Commission should decide to fix or not a minimum selling price. According to that decision, the intervention agencies shall accept or reject the tenders on products available for sale.
- (40) In order to facilitate the sale of small quantities remaining in storage places in a Member State and to assure a sound management of the system, it should be appropriate to provide that the intervention agency, under its own responsibility, is entitled to open the tendering procedure for the resale, by applying the rules laid down in respect of tendering procedures opened by the Community *mutatis mutandis*, with a view to ensure equal access for all parties concerned. For the same reasons the intervention agency should be authorised to put up for direct sales quantities which after checking by visual examination in the context of the annual stocktaking or during the inspection after taking into intervention may no longer be repackaged or are deteriorated.
- (41) For an effective management of the system, it is necessary to provide that the Member States have to inform the Commission periodically of the situation of stocks, and of the products entering and leaving storage places. This information should be transmitted by the competent authorities of the Member States to the Commission by electronic means using the form made available to them by the Commission.
- (42) This Regulation incorporates certain provisions related to intervention measures set out in Commission Regulation (EC) No 562/2005 of 5 April 2005 laying down rules for the implementation of Council Regulation (EC) No 1255/1999 as regards communications between the Member States and the Commission in the milk and milk products sector<sup>(5)</sup>. That Regulation should therefore be amended accordingly.
- (43) As the aim of this Regulation is to harmonise the provisions applicable to the products covered by the public intervention, it should replace the provisions contained in Commission Regulations (EEC) No 75/91 of 11 January 1991 laying down the procedures and conditions for the disposal of paddy rice held by intervention agencies<sup>(6)</sup>, (EC) No 214/2001 of 12 January 2001 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in skimmed-milk powder<sup>(7)</sup>, (EC) No 1669/2006 of 8 November 2006 laying down detailed rules for the application of Council Regulation (EC) No 1254/1999 as regard buying-in of beef<sup>(8)</sup>, (EC) No 105/2008 of 5 February 2008 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in butter<sup>(9)</sup>, (EC) No 687/2008 of 18 July 2008 establishing procedures for the taking over of cereals by intervention agencies or paying agencies and laying down methods of analysis for determining the quality of cereals<sup>(10)</sup>, (EC) No 127/2009 of 12 February 2009 laying down the procedure and conditions for the sale of cereals held by paying agencies or intervention agencies<sup>(11)</sup> and (EC) No 670/2009 of 24 July 2009

laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards public intervention by invitation to tender for the purchase of durum wheat or paddy rice and amending Regulations (EC) No 428/2008 and (EC) No 687/2008<sup>(12)</sup>. Those Regulations should therefore be repealed.

- (44) The Management Committee for the Common Organisation of Agricultural Markets has not delivered an opinion within the time limit set by its Chair,

HAS ADOPTED THIS REGULATION:

## TITLE I

### COMMON RULES AND CONDITIONS RELATED TO PUBLIC INTERVENTION

#### CHAPTER I

##### **Scope, definition and approval of intervention centres and storage places**

###### *Article 1*

###### **Scope and definition**

1 This Regulation lays down common detailed rules for buying-in for intervention and selling of products from intervention for the products listed in Article 10(1)(a), (b), (d), (e) and (f) of Regulation (EC) No 1234/2007.

It shall apply without prejudice to the specific provisions laid down in Commission Regulations on opening a tendering procedure for buying-in of products or in the Commission Regulations on sales of products from intervention.

2 For the purposes of this Regulation, ‘intervention agency’ shall mean the paying agency or the agency delegated by the paying agency in accordance with Article 2(1) of Regulation (EC) No 884/2006.

###### *Article 2*

###### **Designation and approval of intervention centres and storage places**

1 Intervention centres and storage places where products bought-in are stored shall be under the responsibility of the intervention agencies in accordance with this Regulation and Regulation (EC) No 884/2006, in particular with regard to matters of responsibility and controls, as provided for in Article 2 of that Regulation.

2 The intervention centres to be designated for cereals and rice by the Commission pursuant to Article 41 of Regulation (EC) No 1234/2007 shall be subject to prior approval by the intervention agencies. An intervention centre can consist of one or several storage places located in a region of a Member State.

3 The storage places of an intervention centre shall be subject to approval by the intervention agencies. The intervention agencies shall ensure that the intervention centres or the storage places fulfil at least the conditions laid down in Article 3.

4 Information concerning the intervention centres and their storage places shall be updated and made available to the Member States and the public, in accordance with Article 55 of this Regulation.

### *Article 3*

#### **Requirements for intervention centres and storage places**

- 1 For cereals and rice:
  - a each intervention centre shall have a minimum storage capacity of:
    - (i) 20 000 tonnes for cereals, for the sum of all storage places;
    - (ii) 10 000 tonnes for rice, for the sum of all storage places;
  - b each storage place shall:
    - (i) have a minimum storage capacity of 5 000 tonnes in respect of purchases from the intervention period starting in 2012/2013;
    - (ii) be built or suitable for the storage and keeping in good condition of cereals and rice, as referred to in paragraph 3;
    - (iii) have available the necessary technical equipment to take over cereals and rice;
    - (iv) be able to remove the quantities in order to comply with the removal period determined in Article 51(2).

For the purpose of this paragraph, the ‘minimum storage capacity’ for an intervention centre means a minimum capacity which may not be available permanently, but a readily achievable capacity during the period when buying-in might take place. The minimum storage capacity shall apply for all the cereals and varieties of rice to be bought in.

Where storage places have ready access to a river, a sea or a railway connection, the minimum storage capacity fixed in point (b)(i) of the first subparagraph shall not apply.

2 For butter or for skimmed milk powder, each storage place shall have a minimum storage capacity of 400 tonnes. The minimum storage capacity requirement shall not apply where the storage place has ready access to a river, sea or railway connection.

- 3 In the case of skimmed milk powder, butter, cereals and rice, the storage places must:
  - a be dry, well maintained and free of vermin;
  - b be free of extraneous odours;
  - c permit good ventilation, except for cold stores.

4 In the case of butter, the intervention agencies shall lay down technical standards, providing in particular for a storage temperature equal or lower than - 15 °C, and shall take any other measures necessary to ensure that the butter is properly conserved.

5 In the case of products of the beef and veal sector, hereinafter referred to as ‘beef’, the storage places shall be selected by the Member States with a view to ensuring the effectiveness of intervention measures. The facilities at those storage places shall permit:

- a bone-in meat to be taken over;
- b freezing of all meat to be preserved without further processing;
- c storage of such meat for at least three months under technically satisfactory conditions.

Only storage places whose cutting plants and refrigeration plants are unconnected with the slaughterhouse and/or the successful tenderer and which are operated, managed



and staffed independently of the slaughterhouse and/or the successful tenderer may be selected for bone-in meat intended for boning. However, where practical difficulties occur in meeting these requirements within the processing chain, Member States may derogate from these requirements, provided that they tighten controls at the time of acceptance in accordance with Part III(5) of Annex III.

Save for specific derogations provided for in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007, the cold stores located in the Member State exercising jurisdiction over the intervention agency shall be capable of holding all boned beef allocated by the intervention agency for at least three months under technically satisfactory conditions.

## CHAPTER II

### Access to public intervention

#### *Article 4*

#### **Eligibility of operators**

1 Any operator established and registered for VAT purposes in the Community can submit an offer or a tender under a public intervention scheme.

However, for the purposes of buying-in, for cereals and rice, registration in a farm register is sufficient if the operator has no VAT registration.

- 2 In the case of beef for buying-in only the following operators may submit tenders:
- a slaughterhouses for bovine animals registered or approved in accordance with Article 4 of Regulation (EC) No 853/2004 of the European Parliament and of the Council<sup>(13)</sup>, whatever their legal status; and
  - b livestock or meat traders who have slaughtering undertaken therein on their own account.

3 For butter and skimmed milk powder, approved undertakings as referred to in Article 10(1)(e) and (f) of Regulation (EC) No 1234/2007 are eligible only if they fulfil the conditions referred to in Part III of Annex IV and Part III of Annex V.

#### *Article 5*

#### **Procedure for submitting offers or tenders**

1 Offers or tenders submitted in accordance with this Regulation shall use the method made available to the operators by the Member State concerned.

2 The intervention agencies may require that electronic offers or tenders be accompanied by an advance electronic signature within the meaning of Article 2(2) of Directive 1999/93/EC of the European Parliament and of the Council<sup>(14)</sup> or by an electronic signature offering equivalent assurances with regard to the functionalities attributed to a signature, by applying the same rules and conditions as those applied by the Commission in accordance with its provisions on electronic and digitised documents, set out by Decision 2004/563/EC, Euratom<sup>(15)</sup>, and in its implementing rules.

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## TITLE II

### PROCEDURE OF BUYING-IN

#### *Article 6*

#### **Type of procedure for buying-in**

1 Buying-in of products listed in Article 10(1)(a),(b),(d),(e) and (f) of Regulation (EC) No 1234/2007 shall be carried out either through buying-in at a fixed price or via a tendering procedure in accordance with Articles 12, 13 and 18 of that Regulation.

2 Offers or tenders for common wheat, butter and skimmed milk powder may be submitted in accordance with the provisions of this Title during the intervention periods fixed in Article 11 of Regulation (EC) No 1234/2007.

## CHAPTER I

### **General rules**

#### *Section I*

#### ***Common conditions for buying-in***

#### *Article 7*

#### **Eligibility of products**

1 In order to be eligible for public intervention, in addition to the requirements laid down in Regulation (EC) No 1234/2007, the products shall be of sound, fair and of marketable quality.

In particular, they shall fulfil the requirements laid down in this Regulation:

- for cereals: in Annex I, Parts I, II and III,
- for rice: in Annex II, Parts I and III,
- for beef: in Annex III, Parts I, III, V and VI,
- for butter: in Article 28 and Annex IV, Parts I and IV,
- for skimmed milk powder: in Article 28 and Annex V, Parts I, IV and V.

2 In order to establish the eligibility of products, tests shall be carried out in accordance with the methods laid down in:

- for cereals: in Annex I, Parts IV to VIII and Part XII,
- for rice: in Annex II, Part VI,
- for beef: in Annex III, Part III,
- for butter: in Annex IV, Part IV,
- for skimmed milk powder: in Annex V, Part IV.

## Article 8

### Minimum quantities of products offered

- 1 The minimum quantity offered or tendered for buying-in shall be:
  - a for common wheat, barley, maize and sorghum: 80 tonnes;
  - b for durum wheat: 10 tonnes;
  - c for rice: 20 tonnes;
  - d for beef: 10 tonnes;
  - e for butter: 20 tonnes;
  - f for skimmed milk powder: 20 tonnes.
- 2 For buying-in products at a fixed price, a Member State may require minimum quantities greater than those laid down in paragraph 1 if justified by the conditions and practices of the wholesale trade or environmental rules in force in the Member State.

## Article 9

### Security

When submitting an offer or a tender for buying-in, the following security shall be lodged in favour of the intervention agency to which the offer or tender is submitted, in accordance with Regulation (EC) No 2220/85:

- (a) for cereals: EUR 20/tonne;
- (b) for paddy rice: EUR 30/tonne;
- (c) for beef: EUR 300/tonne;
- (d) for butter: EUR 50/tonne;
- (e) for skimmed milk powder: EUR 50/tonne.

## Article 10

### Conditions for submission and admissibility of offers and tenders

- 1 To be admissible by the intervention agency the offer or tender shall be submitted in the official language or one of the official languages of the Member State in which the offer or tender is submitted, and shall include:
  - a a form made available by the Member States providing, at least, the following information:
    - (i) the offerer's or tenderer's name, address and VAT registration number in the Member State where the offerer or tenderer carries out his main activity or, failing this, his farm registration number;
    - (ii) the product offered with, for cereals and rice, its relevant CN code and, for rice, an indication of the type and variety;

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- (iii) except for beef, the place where the product is held at the time of the offer or tender;
  - (iv) for cereals and rice, the approved storage place of an intervention centre for which the offer or tender is made, at the lowest cost taking into account Article 29; this storage place shall not be the storage place where the product is held at the time of the offer or tender;
  - (v) the year of harvest and the area or areas of production in the Community for cereals and rice;
  - (vi) the date of production for butter and skimmed milk powder;
  - (vii) the quantity offered or tendered within the limits laid down in Article 8;
  - (viii) for cereals and rice the main characteristics of the product offered;
  - (ix) for butter and skimmed milk powder, the name and the approval number of the undertakings.
- b the following annexed documents:
- (i) proof that the security referred to in Article 9 has been lodged by the offerer or tenderer;
  - (ii) for cereals and rice a declaration by the offerer or tenderer that the quantity offered is actually present in the place of storage specified in point (a)(iii) of this paragraph;
  - (iii) for cereals and rice a declaration by the offerer or tenderer that the products are of Community origin and that the offer or tender refers to a homogeneous lot which, for rice, must comprise paddy rice of the same variety; and
  - (iv) for cereals and rice, a declaration specifying whether any post-harvest treatment has been carried out or not, the name of the product used, that it has been applied in conformity with the conditions of use, and that the product is authorised under Council Directive 91/414/EEC<sup>(16)</sup>.

2 Notwithstanding, paragraph 1(a)(iv) of this Article, an offerer or tenderer can request on the form referred to in paragraph 1(a) thereof that the product is taken over at the storage place where it is held at the time the offer or tender is submitted provided that the storage place fulfils the requirements laid down in Article 3 and, in respect of cereals and rice, has been approved in accordance with Article 2(3).

3 Where the time limit for the submission of offers or tenders is a public holiday, the offers or tenders shall be submitted at the latest in the last working day preceding the public holiday.

4 Offers or tenders submitted on a Saturday, Sunday or public holiday shall be deemed to be received by the intervention agency on the first working day following the day on which they were submitted.

5 Offers or tenders shall not be withdrawn or amended after their submission.

6 The intervention agency shall register the admissible offers or tenders the day on which the offer or tender was received and the quantities concerned.

7 The rights and obligations resulting from the acceptance of the offer or tender shall not be transferable.

### *Article 11*

#### **Verification of offers or tenders by the intervention agency**

1 The intervention agencies shall check that the offers or tenders are admissible, on the basis of the elements required, as set out in Article 10(1).

If the offer or tender is not admissible, the operator concerned shall be informed by the intervention agency within three working days. For offers, if the operator does not receive such information, the offer is considered as being admissible.

2 The documents referred to in Article 10(1)(b)(ii), (iii) and (iv) can be checked for compliance after the intervention agency has verified that the offers or tenders are admissible, if necessary with the assistance of the intervention agency competent for the storage place indicated by the offerer or tenderer, in accordance with Article 32(3).

### *Section II*

#### ***Specific conditions for buying-in at fixed price***

### *Article 12*

#### **Procedure for buying-in of products at fixed price**

1 Buying-in of common wheat, butter and skimmed milk powder at fixed price as referred to in Article 18(1) of Regulation (EC) No 1234/2007 shall be carried out in accordance with the provisions of Section I and this Section.

2 Offers can be submitted to the intervention agency from the beginning of the periods laid down in Article 11 of Regulation (EC) No 1234/2007.

### *Article 13*

#### **Notifications to the Commission**

1 The intervention agencies shall notify the Commission of the quantities of common wheat, butter and skimmed milk powder which, during the preceding week, have been the subject of an offer and of the related information.

2 The notifications shall be sent:

- a for butter and skimmed milk powder: not later than 14.00 (Brussels time) each Monday;
- b for common wheat: not later than 12.00 (Brussels time) each Wednesday, as part of the notification referred to in Article 56(1).

3 When for common wheat, butter and skimmed milk powder, the quantities offered approach the limits fixed in Articles 13(1)(a), (c) or (d) or 18(1)(a) of Regulation (EC) No 1234/2007, the Commission shall inform the Member States as of which date they shall notify the Commission of the quantities as referred to in paragraph 1 of this Article each working

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day before 14.00 (Brussels time) for the quantities of common wheat, butter and skimmed milk powder offered for intervention during the preceding working day.

4 The notifications shall not contain the data referred to in Article 10(1)(a)(i) and 10(1)(a)(ix).

5 The notifications shall be made in accordance with Article 58.

#### *Article 14*

### **Measures for respecting the intervention ceilings**

1 In order to comply with the limits referred to in Article 13(1)(a), (c) and (d) and Article 18(1)(a) of Regulation (EC) No 1234/2007, the Commission shall decide, without the assistance of the Committee referred to in Article 195(1) of that Regulation:

- a to close intervention buying-in at fixed price;
- b where acceptance of the full quantity offered on a certain day would lead to the maximum quantity being exceeded, to set an allocation coefficient applicable to the total quantity in the offers received and notified to the Commission on that day from each offerer;
- c where appropriate, to reject pending offers submitted to the intervention agencies of the Member States.

The Commission shall decide within 2 working days following the notification referred to in Article 13(1) and within 5 working days following the notification referred to in Article 13(3).

2 For common wheat, butter and skimmed milk powder, an offerer to whom an allocation coefficient as referred to in paragraph 1, point (b) applies may withdraw his offer within 5 working days from the date of entry into force of the regulation fixing the allocation coefficient.

#### *Section III*

### ***Specific conditions for buying-in via a tendering procedure***

#### *Article 15*

### **Procedure for buying-in of products via a tendering procedure**

Buying-in of products referred to in Article 18(2) of Regulation (EC) No 1234/2007 shall be carried out in accordance with the provisions of Section I and of this Section.

#### *Article 16*

### **Tendering procedure**

1 A tendering procedure for buying-in of products may be opened in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007, by way of Regulation, hereinafter referred to as 'Regulation opening the tendering procedure'.

2 The Commission shall open without the assistance of the Committee referred to in Article 195(1) of Regulation (EC) No 1234/2007:

- a the tendering procedure for buying-in of common wheat for amounts in excess of the maximum quantity offered of 3 million tonnes;
- b the tendering procedure for buying-in beef by category and Member State, or region thereof, on the basis of the two most recent weekly market prices recorded, in accordance with Articles 12(1)(c) and 18(3)(b) of Regulation (EC) No 1234/2007.

3 The Regulation opening the tendering procedure shall, in particular, contain the following information:

- a the products covered with their relevant CN codes, for cereals and rice, with an indication for rice of the type and variety;
- b the period covered (tendering period) and, if necessary the different sub-periods during which the tenders can be submitted.

4 In accordance with the second subparagraph of Article 18(2) of Regulation (EC) No 1234/2007, a restricted tendering procedure may be opened in special circumstances in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007. In such a case, the Regulation shall refer to the specific Member State or region of a Member State covered by the tendering procedure.

5 With regard to rice, the tendering procedure may be restricted to one or more types of rice as defined in Part I, I.2 of Annex III of Regulation (EC) No 1234/2007 ('round grain rice', 'medium grain rice', 'long grain rice A' or 'long grain rice B').

6 For the purposes of Articles 12(1)(c) and 18(3)(b) of Regulation (EC) No 1234/2007, the following rules shall apply:

- (a) the average market price by eligible category in a Member State or in a region thereof shall take account of the prices for qualities U, R and O, expressed in quality R3 using the coefficients set out in Part II of Annex III to this Regulation in the Member State or intervention region concerned;
- (b) the average market prices shall be recorded in accordance with the conditions and in respect of the qualities laid down in Commission Regulation (EC) No 1249/2008<sup>(17)</sup>;
- (c) the average market price by eligible category in a Member State or a region thereof shall be the average of the market prices for all the qualities referred to in point (b), weighted by the proportion each represents of total slaughterings in that Member State or region.

The United Kingdom shall consist of two intervention regions as follows:

- region I: Great Britain,
- region II: Northern Ireland.

7 For the purposes of paragraphs 2 and 6 of this Article, the competent authority of the Member State shall notify to the Commission the average market prices in accordance with Article 17 of Regulation (EC) No 1249/2008 and Article 58 of this Regulation.

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## Article 17

### Submission and admissibility of tenders

1 In addition to the general conditions laid down in Article 10, a tender shall be admissible if it indicates a proposed price in euro per unit of measurement rounded to no more than two decimal places, exclusive of VAT.

In the case of cereals and rice the price proposed per tonne for the products shall be a price corresponding to the minimum quality for cereals or to the standard quality for rice, delivered to the storage place indicated by the tenderer, not unloaded.

In the case of butter and skimmed milk powder, the proposed price shall be the price per 100 kg of products delivered to the loading bay of the storage place to be designated by the intervention agency in accordance with Articles 25 and 30(1).

In the case of beef, tenders shall state the price quoted in accordance with Article 16(5) (a) and the second subparagraph of Article 19(2), expressed per 100 kg of products of quality R3.

2 Without prejudice to Article 20(1) of this Regulation, the price tendered shall at most be equal for cereals, rice, beef and skimmed milk powder to the reference price set out in Article 8 of Regulation (EC) No 1234/2007 or, for butter to 90 % of the reference price as referred to in Article 18(3) of that Regulation.

## Article 18

### Notification of the tenders to the Commission

1 All admissible tenders shall be notified to the Commission by the intervention agencies, within the time limits set in the Regulation opening the tendering procedure, containing the related information.

2 The notifications shall not contain the data referred to in Article 10(1)(a)(i) and 10(1)(a)(ix).

3 The intervention agencies shall notify nil returns to the Commission within the time limits referred to in paragraph 1.

4 The notifications shall be made in accordance with Article 58.

## Article 19

### Decisions on the basis of tenders

1 On the basis of the tenders notified as provided for in Article 18, the Commission shall, in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007, fix a maximum buying-in price or decide not to fix a maximum buying-in price.

2 In the case of beef:

- a the maximum buying-in price relating to quality R3 shall be fixed per category;



- b a different buying-in price may be set per Member State or region thereof to reflect the average market prices recorded, in application of Article 12(1)(c) of Regulation (EC) No 1234/2007.

Where qualities other than quality R3 are taken over, the price to be paid to successful tenderers shall be adjusted by applying the coefficient for the quality bought in as set out in Part II of Annex III.

- 3 Decisions on public intervention referred to in paragraphs 1 and 2 shall be published in the *Official Journal of the European Union*.

#### Article 20

##### Individual decisions on tenders

- 1 Where a maximum buying-in price has been fixed pursuant to Article 19(1), the intervention agencies shall accept tenders which are equal to or lower than the maximum amount. All the other tenders shall be rejected.

- 2 Where no maximum buying-in price has been fixed all tenders shall be rejected.

The intervention agencies shall not accept tenders that have not been notified as provided for in Article 18.

- 3 The intervention agencies shall take the decisions referred to in paragraphs 1 and 2 of this Article after the publication of the Commission's decision on public intervention referred to in Article 19(3) and shall notify tenderers of the outcome of their participation within a deadline of three working days after the entry into force.

#### Article 21

##### Specific criteria in the beef sector

- 1 For beef, tenders shall not be considered if the price offered is higher than the average market price recorded by category in each Member State or region thereof, converted into quality R3 using the coefficients set out in Part II of Annex III, plus EUR 10 per 100 kg carcase weight.

- 2 Without prejudice to paragraph 1, tenders shall be rejected if the price offered is higher than the maximum buying-in price as referred to in the first subparagraph of Article 19(2) for the tendering sub-period concerned.

- 3 Where the buying-in price awarded to tenderers is higher than the average market price as referred to in paragraph 1, the price awarded shall be adjusted by multiplying it by the coefficient obtained by applying formula A in Part VII of Annex III. However, that coefficient may not:

- a be greater than 1;
- b result in a reduction in the price awarded that is greater than the difference between that price and the average market price.

Should the Member State possess reliable data and have suitable means of verification, it may decide to calculate the coefficient for each tenderer using *formula B* in Part VII of Annex III.

*Article 22***Limitation of buying-in for beef**

Where the intervention agencies are offered beef in quantities greater than they are able to take over forthwith, they may limit the buying-in to the quantities they can take over in their territory or in one of their intervention regions as defined in the second subparagraph of Article 16(5).

Member States shall ensure equal access for all parties concerned in the event of such limitation.

## CHAPTER II

**Primary requirements and release or forfeiture of the security***Article 23***Primary requirements**

The following shall constitute primary requirements within the meaning of Article 20 of Regulation (EEC) No 2220/85:

- (a) maintenance of the offer or tender;
- (b) delivery of the products to the storage place designated by the intervention agencies within the time limit laid down in the delivery order in accordance with Article 25;
- (c) compliance with the requirements referred to in Article 7;
- (d) for cereals and rice, the presence of the products in the storage place indicated at the time the offer or tender was submitted.

*Article 24***Release and forfeiture of the security**

1 The security referred to in Article 9 shall be released as soon as the offerer or tenderer has delivered the quantity indicated on the delivery order under Article 25 within the time limit laid down therein and conformity with the requirements referred to in Article 7 has been established.

2 Where the products do not conform with the requirements referred to in Article 7, the products shall not be accepted and the security shall be forfeit in respect of the quantities not accepted.

3 Except in cases of force majeure, where the offerer or tenderer fails to deliver the products within the time limit laid down in the delivery order, the security shall be forfeit in proportion to the quantities not delivered and buying-in shall be cancelled in respect of the quantities not yet delivered.

4 Where offers or tenders are not admissible or have not been accepted, the securities shall be released.

5 For cereals and rice, if the intervention agency has not received satisfactory evidence that the quantities offered or tendered were present in the storage place, as provided for in Article 10(1)(b)(ii), the security shall be forfeited.

For the purposes of the first subparagraph, the intervention agency shall carry out checks on the quantities present in the places of storage by applying *mutatis mutandis* the rules and conditions laid down in Regulation (EC) No 884/2006 as regards checks on the physical presence of products stored under public storage operations, and more specifically those provided for under Part B(III) of Annex I to that Regulation. These checks shall be carried out on at least 5 % of the tenders and 5 % of the quantities offered, on the basis of a risk analysis.

6 In the case of cereals and rice, if the quantity actually delivered and accepted is less than the quantity awarded, the security shall be released in full where the difference is not more than 5 %.

7 In the case of beef, if the quantity actually delivered and accepted is less than the quantity awarded, the security shall:

- a be released in full where the difference is not more than 5 % or 175 kg;
- b except in cases of *force majeure*, be forfeited:
  - (i) in part, corresponding to the quantities not delivered or not accepted where the difference is not more than 15 %;
  - (ii) in full in other cases, pursuant to Article 29 of Regulation (EEC) No 2220/85.

8 The security shall be released in case of application of Article 14(2).

## CHAPTER III

### Common rules for deliveries

#### *Section I*

#### **Deliveries**

#### *Article 25*

#### **Deliveries and delivery orders**

After having checked the admissibility of the offer as referred to in Article 11(1) and after having notified in accordance with Article 20(3), the intervention agency shall issue a delivery order, without prejudice to the measures adopted in accordance with Articles 14(1) and 19(1). The delivery order shall be dated and numbered and shall show:

- (a) the quantity to be delivered;
- (b) the final date for delivery of the products;
- (c) the storage place to which the products shall be delivered;

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(d) the price at which the offer or tender is accepted.

Delivery orders shall not be issued for quantities not notified to the Commission as provided for in Articles 13(1) and 18(1).

#### *Article 26*

##### **Specific provisions for the delivery of cereals and rice**

1 If cereals or rice cannot be delivered to the storage place of the intervention centre indicated by the offerer or tenderer, referred to in Article 10(1)(a)(iv), the intervention agency shall designate another storage place of the same intervention centre or a storage place of another approved intervention centre, to which delivery must take place, at the lowest cost.

2 Delivery to the storage place shall occur not later than the end of the third month following the date of issue of the delivery order referred to in Article 25 and in any case not later than 30 June for cereals and 31 August for rice.

However in cases referred to in Article 35(2), the delivery shall take place not later than 31 August for cereals and 31 October for rice.

3 The quantity delivered shall be weighed in the presence of the offerer or tenderer and a representative of the intervention agency who is independent vis-à-vis the offerer or tenderer.

However, the representative of the intervention agency may also be the storekeeper. In that case, the intervention agency itself shall, within 30 days from the date of conditional takeover referred to in Article 31(1), conduct an inspection involving at least a volumetric check; any difference between the quantity determined by weighing and the quantity estimated in accordance with the volumetric method may not exceed 5 %.

Where the tolerance is not exceeded, the storekeeper shall bear all costs relating to any difference observed, at a later weight check, from the weight entered in the accounts on when the cereals or rice were taken over.

Where the tolerance is exceeded, the cereals or rice shall be weighed forthwith. The costs of weighing shall be borne by the storekeeper, where the weight determined is less than that recorded, or by the Member State, where it is more.

#### *Article 27*

##### **Specific provisions for the delivery of beef**

1 The costs of unloading shall be borne by the successful tenderer.

2 Successful tenderers shall deliver the products not later than 17 days after the first working day following publication of the regulation fixing the maximum buying-in price.

However, depending on the quantities awarded, the intervention agency may extend that period by one week. Deliveries may be divided into more than one consignment.

3 Specific requirements for the delivery of beef are laid down in Annex III, Part III.

## Article 28

### **Specific provisions for the delivery of butter and skimmed milk powder**

1 Butter shall be packed and delivered in blocks of at least 25 kilograms net meeting the requirements laid down in Part IV of Annex IV. Butter shall be packed in new, strong material in such a way as to ensure it is protected throughout transportation, entry into storage, storage and removal from storage. The packing shall show at least the following particulars, where appropriate in code:

- a the approval number identifying the factory and the Member State of production;
- b the date of production;
- c the date of entry into storage;
- d the production batch number and the package number; the package number may be replaced by a pallet number marked on the pallet;
- e the words 'sweet cream' if the aqueous phase of the butter has the corresponding pH.

Member States may waive the obligation to show the date of entry into storage on the packaging, provided that the store manager undertakes to keep a register in which the particulars referred to in the first subparagraph are recorded on the date of entry into storage.

2 The skimmed milk powder shall be put up in bags of a net weight of 25 kilograms net meeting the requirements laid down in Parts II and III of Annex V, and showing the following particulars, where appropriate in code:

- a the approval number identifying the factory and the Member State of manufacture;
- b the date or, where appropriate, the week of manufacture;
- c the number of the manufacturing batch;
- d the description 'spray skimmed-milk powder'.

3 The successful offerer or tenderer shall deliver the butter or skimmed milk powder to the loading bay of the storage place within 28 days following the date of issue of the delivery order. Delivery may be in several consignments.

The skimmed milk powder and butter shall be delivered on pallets of a quality suitable for long-term storage, to be exchanged against equivalent pallets.

Any cost incurred in unloading the butter or skimmed milk powder at the loading bay of the storage place shall be borne by the successful offerer or tenderer.

## Section II

### **Transport costs**

## Article 29

### **Transport costs for cereals and rice**

1 The cost of transporting the cereals or rice to the storage place indicated by the offerer or tenderer as being at the lowest cost, in accordance with Article 10(1)(a)(iv), shall be borne by the offerer or tenderer, where the distance involved is equal to or less than 100 km. Once this

distance has been exceeded, the transport costs over 100 km shall be borne by the intervention agency.

2 If the storage place indicated by the offerer or tenderer is changed by the intervention agency, in accordance with Article 26(1), the additional transport costs, subject to a threshold of 20 km, shall be borne by the intervention agency. However, the transport costs over 100 km shall still be borne totally by the intervention agency. This paragraph shall not apply in case of application of Article 31(2).

3 The costs to be borne by the intervention agency referred to in paragraphs 1 and 2 shall be reimbursed by the Commission, on a non-flat-rate basis, in accordance with Article 4(1)(c) of Regulation (EC) No 884/2006.

4 The transport costs inherent in the replacement of products referred to in Article 35(2) shall be borne solely by the offerer or tenderer.

### *Article 30*

#### **Transport costs for butter and skimmed milk powder**

1 The intervention agency shall choose the nearest available storage place to the place where the butter or skimmed milk powder is stored.

However, the intervention agency may choose another storage place situated within a distance of 350 km, provided that the choice of that storage place does not result in additional storage costs.

The intervention agency may choose a storage place situated beyond that distance if the resulting expenditure, including storage and transport costs, is lower. In that case, the intervention agency shall notify the Commission of its choice forthwith.

2 Where the intervention agency which buys-in the butter or skimmed milk powder is in a Member State other than the one in whose territory the offered butter or skimmed milk powder is stored, no account shall be taken, in calculating the maximum distance referred to in paragraph 1 of the distance between the store of the offerer or tenderer and the border of the Member State of the purchasing competent body.

3 Beyond the maximum distance referred to in paragraph 1, the additional transport costs shall be borne by the intervention agency at a rate per tonne and per kilometre of EUR 0,05 for skimmed milk powder and EUR 0,065 for butter. The additional costs shall be borne by the intervention agency only if the temperature of the butter does not exceed 6 °C on arrival at the cold store.

## CHAPTER IV

### **Takeover, initial controls and sampling**

#### *Article 31*

#### **Conditional takeover**

1 The date of conditional takeover shall be:

- a for cereals, rice, butter and skimmed milk powder on the day on which the whole quantity entered the storage place designated but not earlier than the day following that on which the delivery order was issued;
- b for each consignment of beef as referred to in Article 27, on the day of entrance at the weighing point of the intervention storage place's cutting plant.

2 The intervention agency may decide that the takeover of cereals, rice, butter or skimmed milk powder may take place in the storage place where the products are held at the time the offer or tender is submitted, provided that the storage place fulfils the requirements laid down in Article 3 and, in respect of cereals and rice, that it has been approved in accordance with Article 2(3). In that case, conditional takeover takes place on the day following the issue of the delivery order.

3 The products shall be taken over by the intervention agency or its representative, who has to be a person who is independent from the offerer or tenderer.

### *Article 32*

#### **Control measures**

1 Without prejudice to the checks required by this Regulation for the takeover of products, the checks of the intervention stocks shall be carried out under the conditions set out in Article 2 of Regulation (EC) No 884/2006.

2 For cereals, where the checks provided are to be carried out on the basis of the risk analysis referred to in Part I third subparagraph of Annex I to this Regulation, the Member States shall be liable for the financial consequences of any failure to comply with the maximum admissible contaminant level in accordance with the rules set out in Article 2 of Regulation (EC) No 884/2006.

However, in the case of ochratoxin A and aflatoxin, if the Member State concerned is able to prove to the Commission's satisfaction that the standards were met on entry, that normal storage conditions were observed and that the storekeeper's other commitments were respected, the financial liability shall be borne by the Community budget.

3 For cereals and rice, where the storage place indicated in accordance with Article 10(1)(a)(iii) is in a Member State other than that where the offer or tender is submitted, and the intervention agency that received the offer or tender decides to make an on-site check to verify the effective presence of the products, this agency shall send a request for a check and a copy of the offer or tender to the intervention agency responsible for that storage place. The on-site check shall be carried out within the period set by the intervention agency that received the offer or tender.

4 Provisions relating to checks laid down in the Annexes to this Regulation may be amended in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007, notably if the market situation is seriously disrupted by contaminants or where the control of the level of the radioactive contamination of products requires specific monitoring.

5 The tenderer or offerer shall bear the costs relating to the tests carried out for cereals, in accordance with the methodology referred to in Annex I, Part XII, as follows:

- (i) determination of the tannin content of sorghum;
- (ii) the amylasic activity (Hagberg) test;

- (iii) determination of the protein content of durum wheat and common wheat;
- (iv) the Zeleny test;
- (v) the machinability test;
- (vi) analyses of contaminants.

6 In cases of dispute concerning the results, the tenderer or offerer shall bear the costs relating to the necessary relevant tests carried out again, only if he is the losing party.

### Article 33

#### **Specific provisions for the takeover in storage place of the storekeeper for cereals and rice**

1 If the takeover of cereals or rice takes place at the storage place where the products are held at the time the offer or tender is submitted, the quantity taken over shall be established on the basis of the stock records, which shall fulfil professional standards which allow to guarantee compliance with Community legislation, in particular Annex II to Regulation (EC) No 884/2006, and provided that:

- a the stock records show:
  - (i) the weight recorded on weighing carried out within a period of no more than 10 months before the takeover;
  - (ii) the physical quality characteristics at the time of weighing and, in particular, the moisture content;
  - (iii) trans-silages if any, and treatments carried out;
- b the storekeeper declares that the lot offered corresponds in all respects to the details contained in the stock records;
- c 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.

2 If paragraph 1 applies, the weight to be recorded, in accordance with article 5 of Regulation (EC) No 884/2006, shall be that entered in the stock records, adjusted, where appropriate, to take account of any difference between the moisture content and/or the percentage of miscellaneous impurities (*Schwarzbesatz*) recorded at the moment of weighing and those determined on the basis of the representative sample. A difference between the percentages of miscellaneous impurities may only be taken into account to reduce the weight entered in the stock records.

Within 45 days of takeover the intervention agency shall make a further volumetric check. The difference between the quantity determined by weighing and the quantity estimated in accordance with the volumetric method may not exceed 5 %.

Where the tolerance is not exceeded, the storekeeper shall bear all costs relating to any difference observed, at a later weight check, from the weight entered in the accounts on takeover.

Where the tolerance is exceeded, the cereals or rice shall be weighed forthwith. The costs of weighing shall be borne by the storekeeper, where the weight determined is less than that recorded, or by the European Agricultural Guarantee Fund, where it is



more, account being taken of the tolerances provided for in paragraph 1 of Annex XI of Regulation (EC) No 884/2006.

#### *Article 34*

##### **The takeover record**

1 The takeover record shall be issued by the intervention agency after the checks and analyses have established that the requirements laid down in Article 7 have been fulfilled, at the latest 60 days following the final date for the delivery of the products referred to in Article 25(b). It shall indicate:

- a the date on which the quantity and minimum characteristics were checked;
- b the weight delivered and for rice the variety;
- c the number of samples taken to make up the representative sample for cereals and rice;
- d the characteristics of the products as resulting from the analyses;
- e the entity responsible for the analyses and the results;
- f the date of conditional takeover as referred to in Article 31(1);
- g if applicable, for cereals and rice, the quantities that have not been taken over. In this case, the offerer or tenderer shall be notified accordingly.

2 The record shall be dated and sent to the offerer or tenderer and to the storekeeper.

However, this record may be registered in the accounting system of the intervention agency and sent by electronic means.

#### *Article 35*

##### **Obligations of the offerer or tenderer**

1 Where the checks show that the products do not meet the requirements set out in Article 7, the offerer or tenderer shall:

- a take back at his expense the products concerned,
- b pay the associated costs from the date of entry of the products into the storage place until the date of their removal from storage.

The costs to be paid by the offerer or tenderer shall be determined on the basis of standard amounts for entry, removal and storage costs in accordance with Article 4(1) of Regulation (EC) No 884/2006.

2 In cases where the analyses and controls do not allow the cereals or rice offered to be accepted for intervention, the offerer or tenderer may replace the quantity that does not meet the requirements. In that case, the intervention agency may change the date for delivery, without prejudice to the final date for delivery laid down in Article 26(2).

#### *Article 36*

##### **Specific condition for beef — boning requirement**

The intervention agency shall have all the beef bought-in boned in accordance with Part IV of Annex III.

## CHAPTER V

### **Intervention price, buying-in price and payments**

#### *Article 37*

#### **Buying-in price for beef**

The buying-in price for beef shall be the price free at the entrance weighing point of the storage place's cutting plant.

#### *Article 38*

#### **Intervention prices and buying-in price for cereals and rice**

1 For the purposes of Articles 13(3), 18(1) and 18(2) of Regulation (EC) No 1234/2007 as regards the cereals sector the intervention price to be taken into consideration for fixing the buying-in fixed price shall be the reference price set out in Article 8(1)(a) of that Regulation.

2 For cereals and rice, the price to be paid is as follows:

- a to the offerer, in case of buying-in at fixed price, it shall be the price referred to in paragraph 1;
- b to successful tenderer, in case of tendering procedure, it shall be the price calculated by the intervention agency on the basis of the tendered price.

In both cases the price shall be adjusted to take into account the quality of the products, in accordance with Parts IX, X and XI of Annex I, as regards cereals and in Parts II and III of Annex II as regards rice.

3 For cereals and rice, if the intervention agency, in accordance with Article 31(2), takes over and stores the products at the storage place at which they are located at the time the offer or tender is submitted, a reduction shall be made to the buying-in price to be paid. This reduction shall consist of:

- a the transport costs between the actual place of takeover designated by the intervention agency and the storage place referred to in Article 10(1)(a)(iv) where the products should have been delivered at the lowest cost; and
- b the removal costs from the intervention storage place.

The costs referred to in points (a) and (b) of the first subparagraph shall be assessed on the basis of the rates actually recorded in the Member State concerned.

#### *Article 39*

#### **Payments**

1 Payments for the quantities taken over in accordance with Article 34 shall be made no later than the 65th day following the date of conditional takeover referred to in Article 31.

2 Only the quantity actually delivered and accepted shall be paid for. However, if the quantity actually delivered and accepted is greater than the quantity awarded, only the quantity awarded shall be paid for.

## TITLE III

### PROCEDURE OF SALE OF PRODUCTS FROM INTERVENTION

#### CHAPTER I

##### Tendering procedure

###### *Article 40*

##### Opening of the tendering procedure

1 The products taken over and available for sale shall be sold through a tendering procedure.

2 The tendering procedure shall be opened in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007 by way of Regulation, hereinafter referred to as 'Regulation opening the sale'.

The first closing date for submission of tenders shall be fixed not earlier than six days after the publication of the Regulation opening the sale.

3 Tendering procedures may be open for reselling products stored in one or several regions of the Community or the Member State.

4 The Regulation opening the sale shall contain, in particular, the following information:

- a the products covered with, for cereals and rice, their relevant CN code, for rice, an indication of the type and variety and, for beef, the relevant description;
- b the period covered (tendering period) and the different sub-periods during which the tenders can be submitted.

In addition, that Regulation may contain the following information:

- a the global quantities covered by the tendering procedure;
- b provisions concerning transport costs for cereals and rice, if applicable.

5 Tendering procedures may be restricted to specified uses and/or destinations, in particular for the processing of cereals into ethyl alcohol (bioethanol) to be used to produce fuels in the Community.

###### *Article 41*

##### Notice of invitation to tender and arrangements related to the invitation to tender

1 Each intervention agency holding intervention stocks available for sale shall draw up a notice of invitation to tender, and publish it at least four days before the first date for the submission of tenders.

2 The notice shall indicate in particular:

- a the name and address of the intervention agency issuing the notice to tender;
- b the reference to the Regulation opening the sale;
- c the closing dates for the submission of tenders for each partial invitation to tender;

- d the storage places, the names and addresses of the storekeepers, the quantities available and,
    - (i) for cereals and rice, presented in sales lots determined in such a way to ensure equal access to tenderers, together with the quality for each sales lot;
    - (ii) for beef, by product and cold store, the date on which the beef was bought in;
  - e the delivery stage as referred to in Article 42(1)(e) and, if applicable, the type of packaging;
  - f any facilities at the storage place for loading onto a means of transport;
  - g in the case of tendering for export of cereals and rice, the port or place of exit which may be reached at the lowest transport costs and which has adequate technical equipments for exporting the products put up for tender;
  - h for butter, the notice of invitation to tender shall indicate, if appropriate, the kind of butter referred to in Article 28(1)(e) for which the tender is being submitted.
- 3 The intervention agency shall ensure that notices of invitation to tender are properly publicised, in particular by displaying them at their head offices and on their website or the website of the competent ministry.
- 4 The intervention agency shall make the necessary arrangements to enable interested parties:
- a to inspect and except for beef, to take and examine samples of the product put up for sale at their own expense before submitting a tender;
  - b to consult the results of the analyses referred to in Part XII of Annex I, Part VI of Annex II, Part V of Annex IV and Part VI of Annex V.
- 5 For the purpose of paragraph 2(g), the ports of Rijeka and Split may be regarded as places of exit.

#### *Article 42*

#### **Submission and admissibility of tenders**

- 1 A tender shall be admissible if the following conditions are met:
- a it indicates a reference to the Regulation opening the sale and the expiry date for the sub-period of submission of the tenders;
  - b it indicates the identification data of the tenderer: name, address and VAT registration number;
  - c it indicates the products with the relevant CN code, if necessary, for cereals and rice and with the relevant description for beef;
  - d it indicates the quantity tendered for and for cereals and rice the sales lot;
  - e it indicates the price in euro tendered per unit of measure, rounded to no more than two decimal places, exclusive of VAT, for the product loaded onto the means of transport in the case of cereals and rice or delivered to the loading-bay of the storage place for the other products;
  - f it relates to at least the minimum quantity referred to in Article 43(2) for beef, butter and skimmed milk powder;
  - g it indicates the storage place where the product is held and for dairy products, as the case may be, a substitute storage place;
  - h proof is furnished that the tenderer has lodged the security referred to in Article 44;

- i it does not include any additional conditions introduced by the tenderer other than those laid down in this Regulation and in the Regulation opening the sale;
- j it is presented in the official language, or one of the official languages, of the Member State in which the tender is submitted.

2 For cereals and rice, the tendered price shall refer to minimum or standard quality defined respectively in Part II of Annex I to this Regulation and in Section A of Annex IV to Regulation (EC) No 1234/2007.

In case of tendering procedure for exports of cereals referred to in Annex II, Part II of Commission Regulation (EC) No 376/2008<sup>(18)</sup>, tenders shall be admissible only if they are accompanied by an application for an export licence.

Provision may be made for tenders submitted pursuant to Article 47 of Regulation (EC) No 376/2008 not to be admissible.

By way of derogation from Article 22(1) of Regulation (EC) No 376/2008, export licences issued pursuant to this Regulation shall be considered, for the purposes of determining their term of validity, as having been issued on the closing date for the submission of tenders.

3 For beef, butter and skimmed milk powder, the tendered price shall apply to net weight. For beef, the net weight shall be regarded as the difference between the gross weight ascertained at the loading bay of the cold store and the average weight of packaging determined before its use.

For butter, tenders shall contain, if appropriate, an indication of the kind of butter referred to in Article 41(2)(h) for which the tender is submitted.

4 Tenders submitted on a Saturday, Sunday or public holiday shall be deemed to be received by the competent body on the first working day following the day on which they were submitted.

5 Where the time limit for the submission of tenders is a public holiday, the tenders shall be submitted at the latest in the last working day preceding the public holiday.

6 Tenders shall not be withdrawn or amended after their submission.

### *Article 43*

#### **Quantity per tender**

1 For cereals and rice, the tender is submitted for the total quantity of a sales lot, as indicated in the invitation to tender.

2 The tender is submitted for a minimum quantity of:

- a 2 tonnes for beef;
- b 10 tonnes for butter or for skimmed milk powder.

If the quantity available at the storage place is less than the minimum quantity, the quantity available shall constitute the minimum quantity.

#### Article 44

##### **Securities**

When submitting a tender for the sale of products, the following security shall be lodged in favour of the intervention agency where the tender is submitted, in accordance with Regulation (EC) No 2220/85:

- (a) for rice and cereals: EUR 10/tonne;
- (b) for beef, for butter and for skimmed milk powder: EUR 60/tonne.

#### Article 45

##### **Notification of the tenders to the Commission**

- 1 All admissible tenders shall be notified to the Commission by the intervention agencies, within the time limits set in the Regulation opening the sale.
- 2 The notifications shall not contain the data referred to in Article 42(1)(b).
- 3 The intervention agencies shall notify nil returns to the Commission within the time limits referred to in paragraph 1.
- 4 The notifications shall be made in accordance with Article 58.

#### Article 46

##### **Decision on the basis of the tenders**

- 1 On the basis of the tenders notified in accordance with Article 45(1), the Commission shall in accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007, fix a minimum selling price or decide not to fix a minimum selling price.

For butter and skimmed milk powder the minimum selling price may vary according to the location of the products offered for sale.

- 2 Decisions referred to in paragraph 1 shall be published in the *Official Journal of the European Union*.

#### Article 47

##### **Individual decisions on tenders**

- 1 Where no minimum selling price has been fixed, all tenders shall be rejected.
- 2 Where a minimum selling price has been fixed, the intervention agencies shall reject any tender lower than the minimum selling price.

The intervention agencies shall not accept tenders that have not been notified as provided for in Article 45.

3 The intervention agencies shall adopt the decision referred to in paragraphs 1 and 2 after the publication of Commission's decision referred to in Article 46(2). They shall notify the tenderers of the outcome of their participation in the tendering procedure, within three working days after the entry into force of the Commission's decision. They shall notify the successful tenderers of the accepted quantities and of the price to be paid, adjusted for cereals and rice, by increases or reductions determined in accordance with Parts IX, X and XI of Annex I, and Parts II and III(2) of Annex II where the quality of the product differs from the minimum or standard quality respectively.

4 In the case of export of cereals, where the export licence application submitted by the successful tenderer pursuant to Article 42(2) is based on Article 47 of Regulation (EC) No 376/2008, the intervention agency shall cancel the sale in respect of the quantities for which the licence is not issued in accordance with that Article.

5 The rights and obligations of the successful tenderer shall not be transferable.

#### *Article 48*

### **Specific rules for the allocation of dairy products and beef**

1 For butter and skimmed milk powder, the successful tenderer shall be the tenderer offering the highest price. If the full quantity available is not allocated, the remainder shall be awarded to the other tenderers on the basis of the prices tendered, starting with the highest price.

2 Where acceptance of a tender would result in contracts being awarded in excess of the quantity available at a particular storage place, only the quantity available shall be awarded to the tenderer in question. However, the intervention agency may designate other storage places to make up the quantity set out in the tender, provided the tenderer agrees.

3 Where acceptance of two or more tenders offering the same price for product at a particular storage place would lead to contracts being awarded in excess of the quantity available, the award shall be made by allocating the quantity available in proportion to the quantities tendered for. However, should such allocation lead to the award of quantities of less than the quantity referred to in Article 43(2), the award shall be made by drawing lots.

4 Where after the acceptance of all successful tenders the quantity left at the storage place is less than the quantity referred to in Article 43(2), this remaining quantity shall be offered by the intervention agency to the successful tenderers starting with the one who offered the highest price. The successful tenderer shall be offered the option to buy the remaining quantity at the minimum selling price.

5 The intervention agency shall allocate the butter or the skimmed-milk powder on the basis of its date of entry into storage, starting with the oldest product of the total quantity available at the storage place designated by the tenderer or, as the case may be, the oldest of the quantity of sweet or sour cream butter available in the cold storage place designated by the tenderer.

6 The intervention agencies concerned shall sell first beef which has been in store for the longest time.

### Article 49

#### Payments

Before removing the product and within the period specified in Article 51(2), successful tenderers shall pay the intervention agency the amount corresponding to their tender for each quantity that they withdraw, as it has been fixed and notified by the intervention agency in accordance with Article 47(3).

### Article 50

#### Sales by Member States

1 A Member State, where no tendering procedure is open in accordance with Article 40, may itself open a tendering procedure for sale when the total quantity remaining in its storage places is less than:

- a for each cereal: 5 000 tonnes;
- b for rice: 1 000 tonnes;
- c for beef, butter or skimmed milk powder: 100 tonnes.

2 For a tendering procedure opened by a Member State, in accordance with paragraph 1, this title, with the exception of Articles 40(2), 41(2)(b), 42(1)(a) and (f), 43, 45, 46(2), and Title IV shall apply. Article 46(1) shall apply *mutatis mutandis* by way of a decision of the Member State.

3 Member States may put up for direct sales products which after visual examination by the intervention agencies in the context of the annual stocktaking or during the inspection may no longer be repackaged or are deteriorated referred to in paragraphs 1(d) et 1(f) of Article 5 of Regulation (EC) No 884/2006.

This paragraph shall apply within the quantities fixed in paragraph 1 of this Article.

4 The intervention agencies shall ensure equality of access for all parties concerned.

## CHAPTER II

### Removal from the storage place

#### Article 51

#### Removal order

1 Once the amount referred to in Article 49 has been paid the intervention agency shall issue a removal order indicating:

- a the quantity in respect of which the corresponding amount has been paid;
- b the storage place in which the product is stored;
- c the final date for removal of the product.

2 The successful tenderer shall remove the product awarded to them within 30 days following the notification referred to in Article 47(3).



3 At the request of the successful tenderer, the intervention agency may allow a longer period for removing from the storage place. However, except in cases of force majeure, if the product has not been removed by the deadline referred to in paragraph 2, the cost of storing shall be borne by the successful tenderer from the day following the final date for removal of the product. Moreover, storage shall be at tenderer's risk.

#### *Article 52*

### **Removal of butter and skimmed milk powder**

1 At the time of removal from the storage place the intervention agency shall make the butter and skimmed milk powder available on pallets at the storage place loading bay.

2 The buyer shall return equivalent quality pallets to the intervention agency on removal from the storage place.

3 The loading costs and any depalletising costs shall be borne by the buyer of the butter or skimmed milk powder. These costs shall be fixed by the Member States on a flat-rate basis and notified on request to the interested parties.

## CHAPTER III

### **Primary requirements and release or forfeiture of the security**

#### *Article 53*

### **Primary requirements**

Maintenance of the tenders after the time limit referred to in Article 40(4)(b) and the payment of the price in accordance with Article 49 shall constitute primary requirements within the meaning of Article 20 of Regulation (EEC) No 2220/85.

#### *Article 54*

### **Release and forfeiture of the security**

1 For unsuccessful tenderers, the security as provided for in Article 44 shall be released immediately after the decision referred to in Article 46(2) and 50(2).

2 For successful tenderers, the security shall be released in respect of the quantities for which the selling price has been paid in accordance with Article 49.

3 Except in cases of force majeure, the security shall be forfeited in respect of quantities for which the payment has not been made in accordance with Article 49 and the sale shall be cancelled in respect of these quantities not paid.

## TITLE IV

**PROVISIONS CONCERNING NOTIFICATIONS***Article 55***Intervention agencies and centres for cereals and rice**

- 1 For cereals and rice, Member States shall notify the Commission of:
  - a the approved intervention agencies;
  - b the approved intervention centres;
  - c the approved storage places of the intervention centres; and
  - d the minimum quantity required for buying-in products at a fixed price if different from the quantities specified in Article 8(1).
- 2 The notifications shall be made in accordance with Article 58.
- 3 The list of intervention agencies, the list of intervention centres and their storage places and their updates shall be made available to the Member States and to the public by every appropriate means via the information systems put in place by the Commission, including publication on the Internet.

*Article 56***Weekly notifications for cereals and rice**

- 1 When intervention is open and until buying-in has been completed, for each cereal listed in Article 10(1)(a) of Regulation (EC) No 1234/2007 and for rice, Member States concerned shall notify the Commission not later than 12.00 (Brussels time) each Wednesday for the previous week of:
  - a the quantities of common wheat offered pursuant to Article 13;
  - b the quantities accepted on tenders pursuant to Article 20(1);
  - c the quantities to which Article 24(5) applies;
  - d the quantities subject to conditional takeover, in accordance with Article 31(1)(a).
- 2 For each cereal listed in Article 10(1)(a) of Regulation (EC) No 1234/2007, and for rice, Member States concerned shall notify the Commission of the stock situation, no later than 12.00 (Brussels time) each Wednesday for the previous week of:
  - a the quantities stored at the beginning of the marketing year;
  - b the cumulative quantities taken over since the beginning of the marketing year;
  - c the cumulative quantities which have left the storage places since the beginning of the marketing year, identified by type of use or destination, and the cumulative quantities lost;
  - d the cumulative quantities earmarked (committed), identified by type of use or destination;
  - e the quantities under offer at the end of the weekly reporting period.
- 3 For each of the cereals and the cereal qualities considered relevant for the Community market, Member States shall notify the Commission no later than 12.00 (Brussels time) each Wednesday for the previous week, of the representative market prices, expressed in national currency per tonne. Those prices shall be calculated regularly, independently and transparently

and shall refer, in particular, to the qualitative properties, the place of quotation of each product and the stage of marketing.

4 For each of the varieties of rice considered relevant for the Community market, Member States shall notify the Commission no later than 12.00 (Brussels time) each Wednesday for the previous week, of the representative market prices, expressed in national currency per tonne. Those prices shall be calculated regularly, independently and transparently and shall refer, in particular, to the processing stage, the place of quotation of each product and the stage of marketing.

5 The notifications shall be made in accordance with Article 58.

#### *Article 57*

### **Monthly notifications**

1 The intervention agencies holding intervention stocks shall notify the Commission not later than the 15th of each month for the previous month of the following items:

- a for cereals, the weighted average results of specific weight, moisture content, percentage of broken grains and protein content recorded for the batches of each cereal taken over, at the regional levels defined in Annex III to Council Regulation (EEC) No 837/90<sup>(19)</sup>;
- b for butter and skimmed-milk powder:
  - (i) the quantities for each product in storage at the end of the month concerned and the quantities entering and leaving the storage places during that month;
  - (ii) a breakdown of the quantities of each product leaving the storage places during the month concerned, according to the regulations by which they are covered;
  - (iii) a breakdown by age of the quantities in storage at the end of the month concerned;
- c for beef:
  - (i) the quantities for each product in storage at the end of the month concerned and the quantities entering and leaving the storage places during that month;
  - (ii) a breakdown of the quantities of each product leaving the storage places during the month concerned, according to the regulations by which they are covered;
  - (iii) the quantities of each boned product covered by contracts of sale concluded in the month concerned;
  - (iv) the quantities of each boned product covered by withdrawal orders or similar documents issued in the month concerned;
  - (v) the quantities of each boned product obtained from bone-in beef bought in during the month concerned;
  - (vi) the uncommitted stocks and the physical stocks of each boned product at the end of the month concerned, with details of the length of time the uncommitted stocks have been in storage;

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- d for all products, the opening of a tendering procedure, the quantities awarded and the minimum sale prices fixed in the case of application of Article 50.
- 2 For the purposes of paragraph 1(b):
    - a ‘quantities entering’ means quantities physically placed in storage, whether or not taken over by the intervention agency;
    - b ‘quantities leaving’ means quantities which have been removed or, if taken over by the purchaser before removal, quantities taken over.
  - 3 For the purposes of paragraph 1(c):
    - a ‘uncommitted stocks’ means stocks not yet covered by a contract of sale;
    - b ‘physical stocks’ means uncommitted stocks plus stocks covered by a contract of sale but not yet taken over.
  - 4 For the notifications under this Article, the intervention agencies shall notify nil returns to the Commission.
  - 5 The notifications shall be made in accordance with Article 58.

#### *Article 58*

### **Method applicable to notification obligations**

- 1 When reference is made to this Article, the Member States shall notify the Commission by electronic means using the form made available to them by the Commission.
- 2 The form and content of the notifications shall be defined on the basis of models or methods made available to the competent authorities by the Commission. Those models and methods shall be adapted and updated after the Committee referred to in Article 195(1) of Regulation (EC) No 1234/2007 and the competent authorities concerned, as appropriate, have been informed.
- 3 The notifications shall be carried out under the responsibility of the competent authorities designated by the Member States.

## TITLE V

### **AMENDMENTS, REPEALS AND FINAL PROVISIONS**

#### *Article 59*

### **Amendment to Regulation (EC) No 562/2005**

Chapter I of Regulation (EC) No 562/2005 is deleted.

#### *Article 60*

### **Repeals**

The following Regulations are repealed:

- (a) Regulation (EC) No 1669/2006 with effect from the date of entry into force of this Regulation;
- (b) Regulations (EC) No 214/2001 and (EC) No 105/2008 with effect from 1 March 2010;
- (c) Regulations (EC) No 687/2008, (EC) No 127/2009 and (EC) No 670/2009 with effect from 1 July 2010 as far as cereals are concerned;
- (d) Regulations (EC) No 75/91 and (EC) No 670/2009 with effect from 1 September 2010 as far as rice is concerned.

Those repealed Regulations shall continue to apply in respect of offers or tenders submitted under these Regulations. However, this Regulation shall apply to the storage and disposal of products in all cases.

#### *Article 61*

#### **Entry into force**

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

However it shall apply from:

- (a) 1 March 2010 for butter and skimmed milk powder;
- (b) 1 July 2010 for cereals; and
- (c) 1 September 2010 for rice.

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

Done at Brussels, 11 December 2009.

*For the Commission*

José Manuel BARROSO

*The President*

## ANNEX I

## CEREALS

## PART I

**Eligibility criteria for cereals**

The requirements referred to in Article 7(1) as regards cereals shall be, in particular, the following:

- (a) cereals are of the typical colour of the cereal in question;
- (b) cereals are free from abnormal smell and live pests (including mites) at every stage of their development;
- (c) cereals meet the minimum quality requirements set out in Part II of this Annex; and
- (d) the levels of contaminants, including radioactivity, do not exceed the maximum levels permitted under Community legislation.

The maximum contaminant level which must not be exceeded shall be as follows:

- (a) for common wheat and durum wheat, those permitted under Council Regulation (EEC) No 315/93<sup>(20)</sup>, including the requirements regarding the Fusarium-toxin level for common wheat and durum wheat laid down in points 2.4 to 2.7 of the Annex to Commission Regulation (EC) No 1881/2006<sup>(21)</sup>;
- (b) for barley, maize and sorghum, those set by Directive 2002/32/EC.

Member States shall check levels of contaminants, including radioactivity, on the basis of a risk analysis, taking account in particular of the information supplied by the offerer or tenderer and the commitments of the latter regarding compliance with the standards set, especially in the light of the results of the analyses.

In addition, in cases where analyses indicate that the Zeleny index of a batch of common wheat is between 22 and 30, for this wheat to be deemed sound, fair and of marketable quality, the dough obtained from it must be judged to be non-sticky and machinable.

## PART II

**Minimum quality requirements referred to in Part I**

	<b>Durum wheat</b>	<b>Common wheat</b>	<b>Barley</b>	<b>Maize</b>	<b>Sorghum</b>
A. Maximum moisture content	14,5 %	14,5 %	14,5 %	13,5 %	13,5 %
a As a % of dry matter.					
'—'	No specific provision applicable.				

B.	Maximum percentage of matter which is not basic cereal of unimpaired quality:	12 %	12 %	12 %	12 %	12 %
1.	Broken grains	6 %	5 %	5 %	5 %	5 %
2.	Impurities consisting of grains (other than indicated at 3)	5 %	7 %	12 %	5 %	5 %
of which:						
(a)	shrivelled grains		—	—	—	—
(b)	other cereals	3 %	—	5 %	—	—
(c)	grains damaged by pests	—	—	—	—	—
(d)	grains in which the germ is discoloured	—	—	—	—	—
(e)	grains overheated during drying	0,5 %	0,5 %	3 %	0,5 %	0,5 %

**a** As a % of dry matter.

‘—’

No specific provision applicable.

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3.	Mottled grains and/or grains affected with fusariosis, of which	5 %	—	—	—	—
—	grains affected with fusariosis	1,5 %	—	—	—	—
4.	Sprouted grains	4 %	4 %	6 %	6 %	6 %
5.	Miscellaneous impurities ( <i>Schwarzbesatz</i> ), of which:	3 %	3 %	3 %	3 %	3 %
(a)	extraneous seeds:	—	—	—	—	—
—	noxious	0,1 %	0,1 %	0,1 %	0,1 %	0,1 %
—	other	—	—	—	—	—
(b)	damaged grains: of which:	—	—	—	—	—
—	grains damaged by spontaneous heating or too extreme heating during drying	0,05 %	0,05 %	—	—	—
—	other	—	—	—	—	—

**a** As a % of dry matter.

‘—’

No specific provision applicable.

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(c)	extraneous matter	—	—	—	—
(d)	husks	—	—	—	—
(e)	ergot	0,05 %	0,05 %	—	—
(f)	decayed grains	—	—	—	—
(g)	dead insects and fragments of insects	—	—	—	—
C.	Maximum percentage of wholly or partially piebald grains	27 %	—	—	—
D.	Maximum tannin content <sup>a</sup>	—	—	—	1 %
E.	Minimum specific weight (kg/hl)	78	73	62	—
F.	Minimum protein content <sup>a</sup>	11,5 %	10,5 %	—	—
G.	Hagberg falling number (seconds)	220	220	—	—
H.	Minimum Zeleny index (ml)	—	22	—	—

<sup>a</sup> As a % of dry matter.

‘—’ No specific provision applicable.

Matter other than basic cereals of unimpaired quality shall be as defined in Part III of this Annex.

Grains of basic cereals and other cereals which are damaged, affected by ergot or decayed shall be classified as 'miscellaneous impurities' even if they have defects which belong to other categories.

### PART III

#### 1. DEFINITION OF MATTER OTHER THAN BASIC CEREALS OF UNIMPAIRED QUALITY

##### 1.1. Broken grains

All grains whose endosperm is partially uncovered shall be regarded as broken grains. Grains damaged by threshing and grains from which the germ has been removed also belong to this group.

For maize, 'broken grains' means pieces of grain or grains which pass through a sieve with a circular mesh 4,5 mm in diameter.

For sorghum, 'broken grains' means pieces of grain or grains which pass through a sieve with a circular mesh 1,8 mm in diameter.

##### 1.2. Grain impurities

###### (a) Shrivelled grains

Grains which, after elimination from the sample of all other matter referred to in this Annex, pass through sieves with apertures of the following dimensions: common wheat 2,0 mm, durum wheat 1,9 mm, barley 2,2 mm.

Notwithstanding this definition, however:

- for barley from Estonia, Latvia, Finland and Sweden with a specific weight of at least 64 kilograms per hectolitre offered for intervention in those Member States, or
- for barley with a moisture content of 12,5 % or less, 'shrivelled grains' means grains which, after elimination of all other matter referred to in this Annex, pass through sieves with apertures of 2,0 mm.

In addition, grains damaged by frost and unripe grains (green) belong to this group.

###### (b) Other cereals

All grains which do not belong to the species of grain sampled.

###### (c) Grains damaged by pests

Grains which have been nibbled. Bug-ridden grains also belong to this group.

###### (d) Grains in which the germ is discoloured, mottled grains, grains affected with fusariosis

Grains in which the germ is discoloured are those of which the tegument is coloured brown to brownish black and of which the germ is normal and not sprouting. For common wheat, grains in which the germ is discoloured shall be disregarded up to 8 %.

For durum wheat:

- grains which show a brown to brownish black discoloration elsewhere than on the germ itself shall be considered as mottled grains,

— grains affected with fusariosis are grains whose pericarp is contaminated with *Fusarium mycelium*; such grains look slightly shrivelled, wrinkled and have pink or white diffuse patches with an ill-defined outline.

(e) *Grains overheated during drying are those which show external signs of scorching but which are not damaged grains*

### 1.3. Sprouted grains

Sprouted grains are those in which the radicle or plumule is clearly visible to the naked eye. However, account must be taken of the general appearance of the sample when its content, of sprouted grains, is assessed. In some kinds of cereals the germ is protuberant, for example in durum wheat, and the germ tegument splits when the batch of cereals is shaken. These grains resemble sprouted grains but must not be included in that group. Sprouted grains are only those where the germ has undergone clearly visible changes which make it easy to distinguish the sprouted grain from the normal grain.

### 1.4. Miscellaneous impurities (*Schwarzbesatz*)

#### (a) Extraneous seeds

‘Extraneous seeds’ are seeds of plants, whether or not cultivated, other than cereals. They include seeds not worth recovering, seeds which can be used for livestock and noxious seeds.

‘Noxious seeds’ means seeds which are toxic to humans and animals, seeds hampering or complicating the cleaning and milling of cereals and seeds affecting the quality of products processed from cereals.

#### (b) Damaged grains

‘Damaged grains’ are those rendered unfit for human consumption and, as regards feed grain, for consumption by cattle, owing to putrefaction, mildew, or bacterial or other causes.

Damaged grains also include grains damaged by spontaneous heat generation or too extreme heating during drying. These ‘heated’ or ‘smutty’ grains are fully grown grains in which the tegument is coloured greyish brown to black, while the cross-section of the kernel is coloured yellowish-grey to brownish-black.

Grains attacked by wheat midge shall be considered damaged grains only when more than half the surface of the grain is coloured grey to black as a result of secondary cryptogamic attack. Where discoloration covers less than half the surface of the grain, they must be classed with grains damaged by pests;

#### (c) Extraneous matter

All matter in a sample of cereals retained by a sieve with apertures of 3,5 mm, (with the exception of grains of other cereals and particularly large grains of the basic cereal) and that passing through a sieve with apertures of 1,0 mm shall be considered extraneous matter. Also included are stones, sand, fragments of straw and other impurities in the samples which pass through a sieve with apertures of 3,5 mm and are retained by a sieve with apertures of 1,0 mm.

This definition does not apply to maize. For maize, all matter in a sample which passes through a sieve with apertures of 1 mm shall be considered extraneous matter, in addition to that referred to in the first subparagraph.

(d) *Husks (for maize: cob fragments)*

(e) *Ergots*

(f) *Decayed grains*

(g) *Dead insects and fragments of insects*

1.5. **Live pests**

1.6. Piebald grains which have lost their vitreous aspect (mitadiné or piebald)

Mitadiné grains of durum wheat are grains whose kernel cannot be regarded as entirely vitreous.

2. SPECIFIC FACTORS TO TAKE INTO CONSIDERATION FOR EACH TYPE OF CEREAL FOR THE DEFINITION OF IMPURITIES

2.1. Durum wheat

Grain impurities means shrivelled grains, grains of other cereals, grains damaged by pests, grains in which the germ is discoloured, mottled grains of grains affected with fusariosis and grains overheated during drying.

Miscellaneous impurities mean extraneous seeds, damaged grains, extraneous matter, husks, ergot, decayed grains, dead insects and fragments of insects.

2.2. Common wheat

Grain impurities means shrivelled grains, grains of other cereals, grains damaged by pests, grains in which the germ is discoloured and grains overheated during drying.

Miscellaneous impurities means extraneous seeds, damaged grains, extraneous matter, husks, ergot decayed grains, dead insects and fragments of insects.

2.3. Barley

Grain impurities means shrivelled grains, grains of other cereals, grains damaged by pests and grains overheated during drying.

Miscellaneous impurities mean extraneous seeds, damaged grains, extraneous matter, husks, dead insects and fragments of insects.

2.4. Maize

Grain impurities means grains of other cereals, grains damaged by pests and grains overheated during drying.

For maize, all matter in a sample which passes through a sieve with apertures of 1,0 mm shall be considered extraneous matter.

All extraneous seeds, damaged grains, extraneous matter, husks, dead insects and fragments of insects shall be considered miscellaneous impurities.

2.5. Sorghum

Grain impurities means grains of other cereals, grains damaged by pests and grains overheated during drying.

Miscellaneous impurities mean extraneous seeds, damaged grains, extraneous matter, husks, dead insects and fragments of insects.

## PART IV

### **Methods used in order to determine the quality of cereals offered for intervention**

To determine the quality of cereals offered for intervention, the following methods shall be used:

- (a) the standard method for determining matter other than basic cereals of unimpaired quality shall be that set out in Part V to this Annex;
- (b) the standard method for determining moisture content shall be that set out in Part VI of this Annex. However, Member States may also use other methods based on the principle set out in Annex V, method ISO 712:1998, or a method based on infrared technology. In case of dispute, only the results of using the method set out in Part V to this Annex shall be accepted;
- (c) the standard method for determining the tannin content of sorghum shall be method ISO 9648:1988;
- (d) the standard method for determining the non-stickiness and machinability of the dough obtained from common wheat shall be that set out in Part VII of this Annex;
- (e) the standard method for determining the protein content of ground common wheat shall be that recognised by the International Association for Cereal Chemistry (ICC), the standards of which are laid down under heading No 105/2: 'method for the determination of the protein content of cereals and cereal products';

However, Member States may use any other method. In such a case, they must furnish the Commission with evidence of recognition by the ICC that the method in question gives equivalent results;

- (f) the method for determining the Zeleny index of ground common wheat shall comply with method ISO 5529:1992;
- (g) the method for determining the Hagberg falling number (amylase activity test) shall comply with method ISO 3093:2004;
- (h) the standard method for determining the rate of loss of vitreous aspect of durum wheat shall be that set out in Part VIII of this Annex;
- (i) the standard method for determining the specific weight shall comply with method ISO 7971/2:1995;
- (j) the sampling methods and reference analysis methods for determining mycotoxin rates shall be those mentioned in Annex I to Regulation (EC) No 1881/2006 and set out in Annexes I and II to Commission Regulation (EC) No 401/2006<sup>(22)</sup>.

## PART V

### **Standard method for determining matter other than basic cereals of unimpaired quality**

1. For common wheat, durum wheat and barley, an average sample of 250 g shall be passed through two sieves, one with slotted perforations of 3,5 mm and the other with slotted perforations of 1,0 mm, for half a minute each.

In order to ensure constant sifting, it is advisable to use a mechanical sieve, for example a vibrating table with fitted sieves.

The matter retained by the sieve with slotted perforations of 3,5 mm and that passing through the sieve with slotted perforations of 1,0 mm must be weighed together and regarded as extraneous matter. Where the matter retained by the sieve with slotted perforations of 3,5 mm includes parts in the 'other cereals' group or particularly large grains of the basic cereal, those parts or grains shall be returned to the sifted sample. During sifting, in the sieve with slotted perforations of 1,0 mm, a close check must be made for live pests.

From the sifted sample, a sample of 50 to 100 g shall be taken using a separator. This partial sample must be weighed.

The partial sample should then be spread out on a table with tweezers or a horn spatula and broken grains, other cereals, sprouted grains, grains damaged by pests, grains damaged by frost, grains in which the germ is discoloured, mottled grains, extraneous seeds, ergots, damaged grains, decayed grains, husks and live pests and dead insects must be extracted.

Where the partial sample includes grains still in the husk, they shall be husked by hand, the husks obtained being considered as pieces of husks. Stones, sand and fragments of straw shall be considered extraneous matter.

The partial sample shall be passed for half a minute through a sieve with a mesh size of 2,0 mm for common wheat, 1,9 mm for durum wheat and 2,2 mm for barley. Matter which passes through this sieve shall be considered as shrivelled grains. Grains damaged by frost and unripe green grains shall belong to the 'shrivelled grains' group.

2. An average sample of 500 g in the case of maize and 250 g for sorghum, is shaken for half a minute in a sieve which has slotted perforations of 1,0 mm. Check for the presence of live pests and dead insects.

Using tweezers or a horn spatula, extract from the matter retained by the sieve with slotted perforations of 1,0 mm stones, sand, fragments of straw and other extraneous matter.

Add the extraneous matter thus extracted to the matter which has passed through the sieve with slotted perforations of 1,0 mm and weigh them together.

Using a separator, prepare a partial sample of 100 to 200 g in the case of maize or 25 to 50 g for sorghum from the sample passed through the sieve. Weigh this partial sample. Spread it out in a thin layer on a table. Using tweezers or a horn spatula, extract the pieces of other cereals, grains damaged by pests, grains damaged by frost, sprouted grains, extraneous seeds, damaged grains, husks, live pests and dead insects.

Next, pass this partial sample through a sieve with a 4,5 mm round mesh for maize and 1,8 mm round mesh for sorghum. The matter which passes through this sieve shall be considered as broken grains.

3. Groups of matter other than basic cereals of unimpaired quality, determined according to the methods referred to in 1 and 2 must be weighed very carefully to the nearest 0,01 g and distributed according to percentage over the average sample. The particulars entered in the analysis report shall be to the nearest 0,1 %. Check for live pests.

As a general rule, two analyses must be made for each sample. They must not differ by more than 10 % in respect of the total of the above mentioned matter.

4. The apparatus to be used for the operations referred to in 1, 2 and 3 is as follows:

- (a) sample separator, for example a conical or grooved apparatus;

- (b) precision or assay balance;
- (c) sieves with slotted perforations of 1,0 mm, 1,8 mm, 1,9 mm, 2,0 mm, 2,2 mm and 3,5 mm and sieves with a 1,8 mm and 4,5 mm round mesh. The sieves may be fitted to a vibrating table.

## PART VI

### Standard method of testing for moisture content

#### 1. Principle

The product is dried at a temperature of 130 to 133 °C under normal atmospheric pressure, for a period appropriate to the size of the particles.

#### 2. Scope

This drying method applies to cereals crushed into particles of which at least 50 % pass through a sieve with 0,5 mm mesh and leave not more than 10 % residue on the sieve with a 1,0 mm round mesh. It also applies to flour.

#### 3. Apparatus

Precision balance.

Crusher made of a material which does not absorb moisture, is easy to clean, enables crushing to be effected quickly and evenly without overheating, limits contact with the outside air to the minimum, and meets the requirements mentioned in point 2 (for example a detachable roller mill).

Receptacle made of non-corrodible metal or glass, fitted with a sufficiently tight-fitting lid; working surface allowing distribution of the test sample at 0,3 g per cm<sup>2</sup>.

Electrically heated isothermic heating chamber, set at a temperature of 130 to 133 °C<sup>(23)</sup> having adequate ventilation<sup>(24)</sup>.

Dessicator with a metal or, failing metal, porcelain plate (thick, perforated), containing any suitable dessicant.

#### 4. Procedure

Drying

Weigh to the nearest 1 mg a quantity slightly greater than 5 g of the crushed small-grained cereals or 8 g of the crushed maize in the pre-weighed receptacle. Place the receptacle in a heating chamber heated to a temperature of 130 to 133 °C. This should be done as quickly as possible, so as to prevent too great a drop in temperature. Leave small-grained cereals to dry for two hours and maize for four hours after the heating chamber regains a temperature of 130 to 133 °C. Remove the receptacle from the heating chamber, quickly replace the lid, leave to cool for 30 to 45 minutes in a dessicator and weigh (to the nearest 1 mg).

#### 5. Method of calculation and formulae

E	= the initial mass, in grams, of the test sample
M	= the mass, in grams, of the test sample after preparation
M'	= the mass, in grams, of the test sample after crushing
m	= the mass, in grams, of the dry test sample.

The moisture content as a percentage of the product is equal to:

- without previous preparation  $(E - m) \times 100/E$ ,
- with previous preparation,  $((M' - m)M/M' + E - M) \times 100/E = 100 (1 - Mm/EM)$ .

Tests to be made in duplicate at least.

#### 6. Repetition

The difference between the values obtained from the two determinations carried out simultaneously or in rapid succession by the same analyst shall not exceed 0,15 g of moisture per 100 g of sample. If it does so, the determinations shall be repeated.

## PART VII

### **Method for determining the non-stickiness and machinability of the dough obtained from common wheat**

#### 1. Title

Method for test baking of wheat flour.

#### 2. Scope

The method is applicable to flour, experimentally milled from wheat for the production of yeast-raised bread.

#### 3. Principle

Dough is made from flour, water, yeast, salt and sucrose, in a specified mixer. After dividing and rounding, the pieces are given 30 minutes' rest; they are moulded, placed on baking sheets and baked after a final proof of fixed duration. Dough-handling properties are noted. The loaves are judged by volume and height.

#### 4. Ingredients

##### 4.1. Yeast

Active dry yeast of type *Saccharomyces cerevisiae* DHW-Hamburg-Wansbeck or a product having the same characteristics.

##### 4.2. Tap water

##### 4.3. Sugar-salt-ascorbic acid solution

Dissolve  $30 \pm 0,5$  g of sodium chloride (commercial grade),  $30 \pm 0,5$  g of sucrose (commercial grade), and  $0,04 \pm 0,001$  g ascorbic acid in  $800 \pm 5$  g of water. Prepare fresh daily.

##### 4.4. Sugar solution

Dissolve  $5 \pm 0,1$  g sucrose (commercial grade) in  $95 \pm 1$  g of water. Prepare fresh daily.

##### 4.5. Enzyme active malt flour

Commercial grade.

#### 5. Equipment and apparatus

##### 5.1. Baking room



Controlled to maintain a temperature of 22 to 25 °C.

5.2. Refrigerator

For maintaining a temperature of  $4 \pm 2$  °C.

5.3. Balance

Maximum load 2 kg, accuracy 2 g.

5.4. Balance

Maximum load 0,5 kg, accuracy 0,1 g.

5.5. Analytical balance

Accuracy  $0,1 \times 10^{-3}$  g.

5.6. Mixer

Stephan UMTA 10, with mixing arm model 'Detmold' (Stephan Soehne GmbH) or similar equipment having the same characteristics.

5.7. Proving cabinet

Controlled to maintain a temperature of  $30 \pm 1$  °C.

5.8. Open plastic boxes

Made from polymethylmethacrylate (Plexiglas, Perspex). Inside dimensions: 25 × 25 × 15 cm height, wall thickness  $0,5 \pm 0,05$  cm.

5.9. Square plastic sheets

Made from polymethylmethacrylate (Plexiglas, Perspex). At least 30 × 30 cm, thickness  $0,5 \pm 0,05$  cm.

5.10. Moulder

Brabender ball homogeniser (Brabender OHG) or similar equipment having the same characteristics.

6. Sampling

According to ICC Standard No 101.

7. Procedure

7.1. Determination of water uptake

Determine the water absorption according to ICC Standard No 115/1.

7.2. Determination of malt flour addition

Determine the 'falling number' of the flour according to ISO 3093-1982. If the 'falling number' is higher than 250, determine the malt flour addition required to bring it within the range 200 to 250, using a series of mixtures of the flour with increasing quantities of malt flour (4.5). If the 'falling number' is lower than 250, no malt flour is required.

7.3. Reactivation of active dry yeast

Adjust the temperature of the sugar solution (4.4) to  $35 \pm 1$  °C. Pour one part by weight of the active dry yeast into four parts by weight of this tempered sugar solution. Do not stir. Swirl if necessary.

Allow to stand for  $10 \pm 1$  minute, then stir until a homogeneous suspension is obtained. Use this suspension within 10 minutes.

#### 7.4. Temperature adjustment of the flour and the dough liquid

The temperature of the flour and the water must be adjusted to give a dough temperature of  $27 \pm 1$  °C after mixing.

#### 7.5. Dough composition

Weigh, with a precision of 2 g,  $10 \frac{y}{3}$  g flour on as-is moisture basis (corresponding to 1 kg flour on a 14 % moisture basis), in which 'y' is the quantity of flour used in the farinograph test (see ICC Standard No 115/1).

Weigh, with a precision of 0,2 g, the quantity of malt flour necessary to bring the 'falling number' within the range 200 to 250 (7.2).

Weigh  $430 \pm 5$  g sugar-salt-ascorbic acid solution (4.3) and add water to a total mass of  $(x - 9) \frac{10}{3}$  g, (see 10.2) in which 'x' is the quantity of water used in the farinograph test (see ICC Standard No 115/1). This total mass (usually between 450 and 650 g) must be achieved with a precision of 1,5 g.

Weigh  $90 \pm 1$  g yeast suspension (7.3).

Note the total mass of the dough (P), which is the sum of the masses of flour, sugar-salt-ascorbic acid solution plus water, yeast suspension and malt flour.

#### 7.6. Mixing

Before starting, bring the mixer to a temperature of  $27 \pm 1$  °C by use of a suitable quantity of tempered water.

Place the liquid dough ingredients in the mixer and place the flour plus malt flour on top.

Start the mixer (speed 1, 1 400 rev/min), and allow to run for 60 seconds. Twenty seconds after the start of mixing, turn the scraper attached to the lid of the mixing bowl two revolutions.

Measure the temperature of the dough. If it is outside the range 26 to 28 °C, discard the dough and mix a new one after adjustment of ingredient temperatures.

Note dough properties using one of the following terms:

- non-sticky and machinable, or
- sticky and non-machinable.

To be considered 'non-sticky and machinable' at the end of mixing, the dough should form a coherent mass which hardly adheres to the sides of the bowl and spindle of the mixer. It should be possible to collect the dough by hand and remove it from the mixing bowl in a single motion without noticeable loss.

#### 7.7. Dividing and rounding

Weigh, with precision of 2 g, three pieces of dough according to the formula:

$$p = 0,25 P, \text{ where:}$$

- p = mass of scaled dough piece,  
P = total mass of dough.

Immediately round the pieces for 15 seconds in the moulder (5.10) and place them for  $30 \pm 2$  minutes on the square plastic sheets (5.9), covered by the inverted plastic boxes (5.8) in the proving cabinet (5.7).

Do not use dusting flour.

#### 7.8. Moulding

Bring the pieces of dough on the plastic sheets, covered by the inverted boxes, to the moulder (5.10), and re-round each piece for 15 seconds. Do not remove cover from a piece of dough until immediately before rounding. Note dough properties again, using one of the following terms:

- non-sticky and machinable, or
- sticky and non-machinable.

To be considered as ‘non-sticky and machinable’ the dough should adhere hardly, or not at all, to the sides of the chamber so that it can freely rotate around itself and form a regular ball during the operation of the machine. At the end of the operation the dough should not stick to the sides of the dough-moulding chamber when the lid of the chamber is raised.

#### 8. Test report

The test report should mention:

- dough-handling properties at the end of mixing, and at moulding,
- the ‘falling number’ of the flour without addition of malt flour,
- any anomalies observed.

It should further include:

- the method used,
- all details required for the identification of the sample.

#### 9. General remarks

9.1. The formula for the calculation of the quantity of dough liquid is based on the following considerations:

Addition of  $x$  ml water to the equivalent of 300 g flour at 14 % moisture produces the required consistency. As in the baking test 1 kg of flour (14 % moisture basis) is used, whereas  $x$  is based on 300 g of flour, for the baking test  $x$  divided by three and multiplied by 10 g of water is needed, so  $10 x/3$  g.

The 430 g sugar-salt-ascorbic acid solution contains 15 g salt and 15 g sugar. This 430 g solution is included in the dough liquid. So to add  $10 x/3$  g water to the dough,  $(10 x/3 + 30)$  g dough liquid composed of the 430 g sugar-salt-ascorbic acid solution and an additional quantity of water must be added.

Although part of the water added with the yeast suspension is absorbed by the yeast, this suspension also contains ‘free’ water. It is arbitrarily supposed that 90 g yeast suspension contains 60 g ‘free’ water. The quantity of the dough liquid must be corrected for this 60 g of ‘free’ water in the yeast suspension, so  $10 x/3$  plus 30 minus 60 g must finally be added. This can be rearranged as follows:  $(10 x/3 + 30) - 60 = 10 x/3 - 30 = (x/3 - 3) 10 = (x - 9) 10/3$ , the formula given in 7.5. If, for example, a water addition  $x$  in the farinograph test was found of 165 ml, this value must be substituted in this formula, so to the 430 g sugar-salt-ascorbic acid solution water must be added to a total mass of:

$$(165 - 9) \frac{10}{3} = 156 \times \frac{10}{3} = 520 \text{ g.}$$

9.2. The method is not directly applicable to wheat. The procedure to be followed for characterising the baking properties of wheat is as follows:

Clean the wheat sample, and determine the moisture content of the cleaned wheat. If the moisture content is within the range 15,0 % to 16,0 %, do not temper the wheat. If the moisture content is outside this range, adjust the moisture content to  $15,5 \pm 0,5$  %, at least three hours prior to milling.

Mill the wheat into flour using a Buehler laboratory mill MLU 202 or a Brabender Quadrumat Senior mill or similar equipment having the same characteristics.

Choose a milling procedure that yields a flour of minimum 72 % extraction, with an ash content of 0,5 to 0,6 % on dry matter basis.

Determine the ash content of the flour according to Annex II to Commission Regulation (EC) No 1501/95 and the moisture content according to this Regulation. Calculate the extraction

rate by the equation:

$$E = \left( \frac{(100 - f) F}{(100 - w) W} \right) \times 100 \%$$

where:

E	= extraction rate,
f	= moisture of the flour,
w	= moisture content of the wheat,
F	= mass of flour produced with moisture content f,
W	= mass of wheat milled with moisture content w.

*Note* : Information concerning the ingredients and equipment to be used is published in Document T/77,300 of 31 March 1977 from the Instituut voor Graan, Meel en Brood, TNO — Postbus 15, Wageningen, Netherlands.

## PART VIII

### Determination of the rate of loss of vitreous aspect

#### 1. Principle

Only part of the sample is used to determine the percentage of grains which have wholly or partially lost their vitreous aspect. The grains are cut using a Pohl grain cutter or an equivalent instrument.

#### 2. Equipment and apparatus

- Pohl grain cutter or equivalent instrument,
- tweezers, scalpel,
- tray or dish.

#### 3. Procedure

- (a) The determination is carried out on a sample of 100 g after separation of any matter other than basic cereals of unimpaired quality.
- (b) Spread the sample on a tray and homogenise well.

- (c) Insert a plate in the grain cutter and spread a handful of grains on the grid. Tap firmly to ensure that there is only one grain in each hole. Lower the moveable section to hold the grains in place and then cut them.
- (d) Prepare sufficient plates to ensure that a minimum of 600 grains are cut.
- (e) Count the number of grains which have wholly or partially lost their vitreous aspect (mitadiné).
- (f) Calculate the percentage of grains which have wholly or partially lost their vitreous aspect (mitadiné).
4. Expression of results
- I = mass, in grams, of matter other than basic cereals of unimpaired quality.
- M = percentage of cleaned grains examined which have wholly or partially lost their vitreous aspect (mitadiné).

5. Result

The percentage of grains which have wholly or partially lost their vitreous aspect (mitadiné) in the test portion is:

$$(M \times (100 - I))/100 = \dots$$

PART IX

**Price increases and reductions**

TABLE I

Price increases for moisture content

<b>Maize and sorghum</b>		<b>Other cereals</b>	
<b>Moisture content(%)</b>	<b>Increases(EUR/tonne)</b>	<b>Moisture content(%)</b>	<b>Increases(EUR/tonne)</b>
—	—	13,4	0,1
—	—	13,3	0,2
—	—	13,2	0,3
—	—	13,1	0,4
—	—	13,0	0,5
—	—	12,9	0,6
—	—	12,8	0,7
—	—	12,7	0,8
—	—	12,6	0,9
—	—	12,5	1,0
12,4	0,1	12,4	1,1
12,3	0,2	12,3	1,2

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12,2	0,3	12,2	1,3
12,1	0,4	12,1	1,4
12,0	0,5	12,0	1,5
11,9	0,6	11,9	1,6
11,8	0,7	11,8	1,7
11,7	0,8	11,7	1,8
11,6	0,9	11,6	1,9
11,5	1,0	11,5	2,0
11,4	1,1	11,4	2,1
11,3	1,2	11,3	2,2
11,2	1,3	11,2	2,3
11,1	1,4	11,1	2,4
11,0	1,5	11,0	2,5
10,9	1,6	10,9	2,6
10,8	1,7	10,8	2,7
10,7	1,8	10,7	2,8
10,6	1,9	10,6	2,9
10,5	2,0	10,5	3,0
10,4	2,1	10,4	3,1
10,3	2,2	10,3	3,2
10,2	2,3	10,2	3,3
10,1	2,4	10,1	3,4
10,0	2,5	10,0	3,5

TABLE II

Price reductions for moisture content

<b>Maize and sorghum</b>		<b>Other cereals</b>	
<b>Moisture content(%)</b>	<b>Reduction(EUR/tonne)</b>	<b>Moisture content(%)</b>	<b>Reduction(EUR/tonne)</b>
13,5	1,0	14,5	1,0
13,4	0,8	14,4	0,8
13,3	0,6	14,3	0,6
13,2	0,4	14,2	0,4
13,1	0,2	14,1	0,2

TABLE III

Price reductions for specific weight

Cereal	Specific weight(kg/hl)	Price reduction(EUR/tonne)
Common wheat	Less than 76 to 75	0,5
	Less than 75 to 74	1,0
	Less than 74 to 73	1,5
Barley	Less than 64 to 62	1,0

TABLE IV

Price reductions for protein content

Protein content <sup>a</sup> (N × 5,7)	Price reduction(EUR/tonne)
Less than 11,5 to 11,0	2,5
Less than 11,0 to 10,5	5

a As % of dry matter.

## PART X

**Practical method for determining the reduction to be applied to the price of sorghum by intervention agencies**

## 1. Basic data

- P = the percentage of tannin in raw product,  
 0,4 % = the percentage of tannin above to which the reduction is to be applied,  
 11 %<sup>(25)</sup> = the reduction corresponding to 1 % tannin in the dry matter.

## 2. Calculation of the reduction

The reduction, expressed in euro to be applied to the reference price, shall be calculated in accordance with the following formula:

11 (P - 0,4)

$$100 - \left( \frac{3917 - (4,19 \times 1,0)}{3917 - (4,19 \times 0,30)} \times 100 \right) = 7,74\%$$

$$\frac{7,74}{0,70} = \text{EUR } 11$$

## PART XI

### Calculation of prices increases and reductions

The price increases and reductions provided for in Article 38 shall be expressed in euro per tonne and apply to the intervention price for cereals offered for intervention by multiplying it by the sum of the established percentage increases or reductions, as follows:

- (a) where the moisture content of cereals offered for intervention is less than 13 % for maize and sorghum and 14 % for other cereals, the price increases to be applied shall be those listed in Table I of Part IX of this Annex. Where the moisture content of these cereals offered for intervention is higher than 13 % and 14 % respectively, the price reductions to be applied shall be those listed in Table II of Part IX of this Annex;
- (b) where the specific weight of cereals offered for intervention differs from the weight/volume ratio of 76 kg/hl for common wheat, and 64 kg/hl for barley, the reductions to be applied shall be those listed in Table III of Part IX of this Annex;
- (c) where the percentage of broken grains exceeds 3 % for durum wheat, common wheat and barley, and 4 % for maize and sorghum, a reduction of EUR 0,05 shall be applied for each additional 0,1 percentage point;
- (d) where the percentage of grain impurities exceeds 2 % for durum wheat, 4 % for maize and sorghum, and 5 % for common wheat and barley, a reduction of EUR 0,05 shall be applied for each additional 0,1 percentage point;
- (e) where the percentage of sprouted grains exceeds 2,5 %, a reduction of EUR 0,05 shall be applied for each additional 0,1 percentage point;
- (f) where the percentage of miscellaneous impurities (*Schwarzbesatz*) exceeds 0,5 % for durum wheat and 1 % for common wheat, barley, maize and sorghum, a reduction of EUR 0,1 shall be applied for each additional 0,1 percentage point;
- (g) where the percentage of piebald grains in durum wheat exceeds 20 %, a reduction of EUR 0,2 shall be applied for each additional percentage point or fraction thereof;
- (h) where the protein content of common wheat is less than 11,5 %, the reductions to be applied shall be those listed in Table IV of Part IX of this Annex;
- (i) where the tannin content of sorghum offered for intervention is higher than 0,4 % of the dry matter, the reduction to be applied shall be calculated in accordance with the method laid down in Part X of this Annex.

## PART XII

### Methodology of sampling and analyses for cereals

1. For each lot of cereals, the quality characteristics shall be established on the basis of a representative sample of the lot offered, consisting of samples taken at the rate of once every delivery for at least every 60 tonnes.
2. The intervention agency shall analyse under its responsibility the characteristics of the samples taken within 20 working days from the date on which the representative sample was taken.



3. The reference methods used for determining the quality of cereals for intervention are established in Parts IV, V, VI and VII of this Annex.
4. The results of the analyses are communicated to the tenderer or offerer by means of the takeover record referred to in Article 34.
5. In cases of dispute, the intervention agency shall have the necessary tests on the cereals in question carried out again.

## ANNEX II

### RICE

#### PART I

##### **Eligibility criteria for paddy rice**

The requirements referred to in Article 7(1) as regards rice shall be, in particular, the following:

- (a) the paddy rice is free of odour and does not contain live insects;
- (b) the moisture content does not exceed 14,5 %;
- (c) the milling yield is not more than five points below the basic yields listed in Part III to this Annex;
- (d) the percentage of miscellaneous impurities, the percentage of rice grains of other varieties and the percentage of grains which do not comply with the standard quality as defined in Annex IV to Regulation (EC) No 1234/2007, do not exceed the maximum percentages set out in Part IV of this Annex, by type of rice;
- (e) the level of radioactivity does not exceed the maximum levels permitted by Community legislation.

For the purposes of this Annex, 'miscellaneous impurities' means foreign matter other than rice.

#### PART II

##### **Prices increases and reductions**

1. The price increases and reductions provided for in Article 38 shall be expressed in euro per tonne and apply to the intervention price for paddy rice offered for intervention by multiplying it by the sum of the established percentage increases or reductions, as follows:
  - (a) where the moisture content of the paddy rice exceeds 13 %, the percentage reduction in its intervention price shall be equal to the difference between the percentage moisture content of the paddy rice offered for intervention, measured to one decimal place, and 13 %;

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- (b) where the milling yield of the rice differs from the basic milling yield for the variety concerned as set out in Part III(1) of this Annex, the price increases and reductions to be applied to each rice variety shall be as shown in Part III(2) of this Annex;
- (c) where the defects in the grains of paddy rice exceed the permitted tolerances for the standard quality of paddy rice, the percentage reduction to be applied to the intervention price shall be as set out in Part V to this Annex, by type of rice;
- (d) where the percentage of miscellaneous impurities in the paddy rice exceeds 0,1 %, it shall be bought in with a reduction in the intervention price of 0,02 % for each additional 0,01 % difference;
- (e) where a lot of paddy rice is offered for intervention for a particular variety but includes grains of other varieties exceeding 3 %, the lot shall be bought in with a 0,1 % reduction in the intervention price for each additional 0,1 % difference.
2. The price increases and reductions referred to in point 1 shall apply on the basis of the weighted average of the test results on the representative samples as defined in Part VI of this Annex.

### PART III

#### Criteria for milling yield

##### 1. Basic milling yield

Description of variety	Whole-grain yield(%)	Overall yield(%)
Argo, Selenio, Couachi	66	73
Alpe, Arco, Balilla, Balilla Sollana, Bomba, Elio, Flipper, Lido, Sara, Thainato, Thaiperla, Veta, Guadiamar	65	73
Ispaniki A, Makedonia	64	73
Bravo, Europa, Loto, Riva, Rosa Marchetti, Savio, Veneria	63	72
Ariete, Bahia, Carola, Cigalon, Cripto, Drago, Eolo, Gladio, Graldo, Korall, Mercurio, Niva, Onda, Padano, Panda, Ribe, S. Andrea, Saturno, Senia, Smeraldo, Dion, Zeus	62	72
Strymonas	62	71
Baldo, Redi, Roma, Tebre, Volano	61	72
Thaibonnet, Puntal	60	72
Evropi	60	70

Arborio, Rea	58	72
Carnaroli, Elba, Vialone Nano	57	72
Axios	57	67
Roxani	57	66
Unnamed varieties	64	72

## 2. Price increases and reductions relating to milling yield

Yield of whole-grain milled paddy rice	Price increases and reductions per yield point
Above the basic yield	0,75 % increase
Below the basic yield	1 % reduction
Overall yield of milled paddy rice	Price increases and reductions per yield point
Above the basic yield	0,6 % increase
Below the basic yield	0,8 % reduction

## PART IV

### Maximum percentages

Grain defects	Round-grain rice CN code 1006 10 92	Medium and long-grain ACN codes 1006 10 94 and 1006 10 96	Long-grain BCN code 1006 10 98
Chalky grains	6	4	4
Grains striated with red	10	5	5
Spotted and stained grains	4	2,75	2,75
Amber grains	1	0,5	0,5
Yellow grains	0,175	0,175	0,175
Miscellaneous impurities	1	1	1
Rice grains of other varieties	5	5	5

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## PART V

**Price reductions for defective grains**

Grain defects	Percentage of defective grains resulting in a reduction in the intervention price			Percentage reduction <sup>a</sup> applicable to the additional discrepancy beyond the lower limit
	Round-grain rice CN code 1006 10 92	Medium and long-grain ACN codes 1006 10 94 and 1006 10 96	Long-grain BCN code 1006 10 98	
Chalky grains	from 2 % to 6 %	from 2 % to 4 %	from 1,5 % to 4 %	1 % for each additional 0,5 % discrepancy
Grains striated with red	from 1 % to 10 %	from 1 % to 5 %	from 1 % to 5 %	1 % for each additional 1 % discrepancy
Spotted and stained grains	from 0,5 % to 4 %	from 0,5 % to 2,75 %	from 0,5 % to 2,75 %	0,8 % for each additional 0,25 % discrepancy
Amber grains	from 0,05 % to 1 %	from 0,05 % to 0,5 %	from 0,05 % to 0,5 %	1,25 % for each additional 0,25 % discrepancy
Yellow grains	from 0,02 % to 0,175 %	from 0,02 % to 0,175 %	from 0,02 % to 0,175 %	6 % for each additional 0,125 % discrepancy

**a** Each discrepancy is calculated from the percentage of defective grains, to the second decimal place.

## PART VI

**Methodology of sampling and analyses for paddy rice**

1. With a view to verifying the quality requirements as laid down in Part I of this Annex, samples shall be taken by the intervention agency in the presence of the offerer or tenderer or his/her duly authorised agent.

Three representative samples, each weighing a minimum of one kilogram, shall be collected. One each shall go to:

- (a) the offerer or tenderer;
- (b) the storage place where takeover is to take place;
- (c) the intervention agency.

To make up the representative samples, the number of individual samples to be taken shall be obtained by dividing the quantity of the lot on offer by 10 tonnes. Each individual sample

shall weigh the same. The representative samples shall be made up of the sum of the individual samples, divided by three.

The quality requirements shall be verified using the representative sample intended for the store where takeover is to take place.

2. Representative samples shall be taken of each part-delivery (by lorry, barge, railway wagon) under the conditions laid down in point 1.

Before its entry into the intervention store the examination of each part delivery can be restricted to a check of the moisture content and impurity level and verification that no live insects are present. However, if it later becomes apparent when the check is finalised that a part-delivery does not satisfy the minimum quality requirements, the concerned quantity shall be refused for takeover. If the intervention agency in a Member State is able to check all the minimum quality requirements for each part-delivery before it enters the store, it shall refuse takeover of any part-delivery that fails to satisfy these requirements.

3. The control of the radioactivity level is performed only if the situation so requires and for a limited period.
4. The results of the analyses are communicated to the offerer or tenderer by means of the takeover record referred to in Article 34.
5. 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.

A new analysis is performed by a laboratory recognised by the intervention agency on the basis of a new representative sample made up, in equal parts, by samples preserved by the offerer or tenderer and by the intervention agency. In cases where there were part deliveries of the lot offered, the result is given by the weighted average of the results of analyses of new representative samples taken for each of the partial deliveries.

## ANNEX III

### BEEF

#### PART I

##### **Eligibility criteria for beef**

1. The products listed in Part V of this Annex and falling within the following categories defined in point II of Annex V(A) to Regulation (EC) No 1234/2007 may be bought in:
  - (a) meat of uncastrated young male animals of less than two years of age (category A);
  - (b) meat of castrated male animals (category C).
2. Carcasses and half-carcasses may be bought in only where they:
  - (a) have obtained the health mark referred to in Chapter III of Section I of Annex I to Regulation (EC) No 854/2004 of the European Parliament and of the Council<sup>(26)</sup>;
  - (b) have no characteristics rendering the products derived from them unfit for storage or subsequent use;

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- (c) do not come from animals slaughtered as a result of emergency measures;
- (d) originate in the Community within the meaning of Article 39 of Commission Regulation (EEC) No 2454/93<sup>(27)</sup>;
- (e) are derived from animals raised in accordance with the prevailing veterinary requirements;
- (f) do not exceed the maximum radioactivity levels permitted under Community Regulations.;
- (g) come from carcasses weighing not more than 340 kg.

The control of radioactivity level is performed only if the situation so requires and for a limited period.

3. Carcasses and half-carcasses may be bought in only where they are:

- (a) presented, where appropriate after cutting into quarters at the expense of the party concerned, in accordance with Part V of this Annex to the present Regulation. In particular, parts of the carcass must be inspected to assess compliance with the requirements of point 2 of that part. The failure to comply with any of those requirements shall result in rejection; where a quarter is rejected for failure to comply with such conditions of presentation and in particular where unsatisfactory presentation cannot be improved during the acceptance procedure, the other quarter of the same half-carcass shall also be rejected;
- (b) classified in accordance with the Community scale provided for in Article 42(1)(a) of Regulation (EC) No 1234/2007. The intervention agencies shall reject any products which they do not deem to be classified in conformity with that scale after conducting a detailed inspection of all parts of the carcass;
- (c) identified, first, by markings indicating the category, the conformation class and the degree of fat cover and, secondly, by an identification or slaughter number. Markings indicating the category, conformation class and fat cover must be perfectly legible and shall be stamped using non-toxic, fast, indelible ink in accordance with a procedure approved by the competent national authorities. The letters and figures must be at least 2 cm high. The markings shall be applied to the striploin at the level of the fourth lumbar vertebra on hindquarters and approximately 10 to 30 cm from the cut edge of the sternum on forequarters. The identification or slaughter number shall be marked in the middle of the inner side of each quarter using a stamp or indelible marker authorised by the intervention agency;
- (d) labelled in accordance with the system introduced by Regulation (EC) No 1760/2000 of the European Parliament and of the Council<sup>(28)</sup>.

## PART II

### Conversion coefficients

Qualities	Coefficient
U2	1,058
U3	1,044

U4	1,015
R2	1,015
R3	1,0
R4	0,971
O2	0,956
O3	0,942
O4	0,914

### PART III

#### Conditions and controls for taking over

1. Products shall be delivered in consignments of a quantity between 10 and 20 tonnes. However, the quantity may be below 10 tonnes only if it is the final balance of the original offer or if the original offer has been scaled back below 10 tonnes.

Products delivered shall be accepted and taken over subject to verification by the intervention agency that they comply with the requirements laid down in this Regulation. Compliance with the requirements laid down in Part I(2)(e) of this Annex and in particular the absence of substances prohibited under Article 3 and Article 4(1) of Council Directive 96/22/EC<sup>(29)</sup> shall be verified by analysis of a sample, the size and sampling of which is laid down in the relevant veterinary legislation.

2. Where no preliminary inspection is conducted immediately before loading at the slaughterhouse loading bay and prior to transport to the intervention store, half-carcases shall be identified as follows:
  - (a) where they are simply marked, the markings must comply with Part I(3)(c) of this Annex, and a document specifying the identification or slaughter number and the slaughter date relating to the half-carcase shall be completed;
  - (b) where they are labelled in addition, the labels must comply with Article 6(4), (5) and (6) of Regulation (EC) No 1249/2008.

Where half-carcases are cut into quarters, the quartering shall be carried out in accordance with Part VI of this Annex. With a view to acceptance, quarters shall be grouped by carcase or half-carcase at the time of takeover. Where half-carcases are not cut into quarters prior to transport to the intervention store, they shall be cut in accordance with Part VI of this Annex on their arrival.

At the point of acceptance, each quarter shall be identified by a label complying with Article 6(4), (5) and (6) of Regulation (EC) No 1249/2008. The labels shall also show the weight of the quarter and the contract number. The labels shall be affixed directly to shin/shank tendons on the forequarters and hindquarters or neckstrap tendon on the forequarter and hindquarter flank without using metal or plastic ties.

The acceptance procedure shall entail a systematic check of the presentation, classification, weight and labelling of each quarter delivered. The temperature of one hindquarter of each carcase shall also be checked. In particular no carcase shall be accepted where it exceeds the maximum weight laid down in Part I(2)(g) of this Annex.

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3. A preliminary inspection may be conducted immediately before loading at the slaughterhouse loading bay and shall cover the weight, classification, presentation and temperature of half-carcases. In particular no carcase shall be accepted where it exceeds the maximum weight laid down in Part I(2)(g) of this Annex. Products rejected shall be marked as such and may not be presented again for preliminary inspection or acceptance.

Such inspections shall cover consignments of up to 20 tonnes of half-carcases as laid down by the intervention agency. However, where the offer involves quarters, the intervention agency may allow a consignment of more than 20 tonnes of half-carcases. Where more than 20 % of the total number of half-carcases in any consignment inspected is rejected, the whole consignment shall be rejected in accordance with point 6.

Before half-carcases are transported to the intervention store, they shall be cut into quarters in accordance with Part VI of this Annex. Each quarter shall be systematically weighed and identified by a label complying with Article 6(4), (5) and (6) of Regulation (EC) No 1249/2008. The labels shall also show the weight of the quarter and the contract number. The labels shall be affixed directly to shin/shank tendons on the forequarters and hindquarters or neckstrap tendon on the forequarter and hindquarter flank without using metal or plastic ties.

The quarters from each carcase shall then be grouped for the purposes of the acceptance procedure by carcase or half-carcase at the time of takeover.

A checklist giving all details of the half-carcases or quarters, including the number of half-carcases or quarters presented and either accepted or rejected, shall accompany each consignment up to the point of acceptance. The checklist shall be handed over to the accepting officer.

A seal shall be affixed to the means of transport before it leaves the slaughterhouse. The number of the seal shall be shown on the health certificate or checklist.

The acceptance procedure shall include checks of the presentation, classification, weight, labelling and temperature of the quarters delivered.

4. Preliminary inspection and acceptance of the products offered for intervention shall be carried out by an official of the intervention agency or a person authorised by the latter who is a qualified classifier, is not involved in classification at the slaughterhouse and is totally independent of the successful tenderer. Such independence shall be ensured in particular by the periodic rotation of such officials between intervention stores.

At the time of takeover, the total weight of the quarters in each consignment shall be recorded and the record kept by the intervention agency.

A document recording full details of the weight and the number of the products presented and either accepted or rejected must be completed by the accepting officer.

5. The requirements regarding identification, delivery and controls for the takeover of bone-in meat intended for boning in intervention stores which do not meet the requirements laid down in the second subparagraph of Article 3(5) shall include the following:
  - (a) at the time of takeover as referred to in paragraph 1, forequarters and hindquarters for boning must be identified by the letters 'INT' marked on both inner and outer sides in accordance with the same rules as those laid down in Part I(3)(c) of this Annex for marking the category and the slaughter number and the places where such markings are to be made; however, the letters 'INT' shall be marked on the inner side of each



quarter at the level of the third or fourth rib of forequarters and of the seventh or eighth rib of hindquarters;

- (b) the codfat must remain attached up to the time of takeover and must be removed before weighing;
- (c) the products delivered shall be sorted into consignments as defined in point 1 of this part.

Where carcasses or quarters marked 'INT' are found outside the areas reserved for them, the Member State shall conduct an enquiry, take suitable measures and inform the Commission thereof.

- 6. Where more than 20 % of a consignment presented is rejected, in terms of number of half-carcasses or quarters presented, the whole consignment shall be rejected and all the products shall be marked as such and may not be presented again for preliminary inspection or acceptance.

## PART IV

### Boning

- I. General conditions governing boning
  - 1. Boning may only be carried out in cutting plants registered or approved in accordance with Article 4 of Regulation (EC) No 853/2004 and with one or more adjoining blast-freezers.

At the request of a Member State, the Commission may grant a derogation for a limited period from the obligations covered by the first subparagraph. When making its decision, the Commission shall take account of current developments in plant and equipment, health and control requirements and the objective of gradual harmonisation in this field.

- 2. Boned cuts must meet the conditions laid down in Regulation (EC) No 853/2004 and the requirements in Part VIII of this Annex, to the present Regulation.
- 3. Boning may not commence before takeover of the consignment concerned has been completed.
- 4. No other meat may be present in the cutting room when intervention beef is being boned, trimmed or packed. However, pigmeat may be present in the cutting room at the same time as beef, provided that it is processed on a separate production line.
- 5. All boning activities shall take place between 7 a.m. and 6 p.m.; boning shall not take place on Saturdays, Sundays or public holidays. Those hours may be extended by up to two hours, provided that the inspection authorities are present.

If boning cannot be completed on the day of takeover, seals shall be affixed by the intervention agencies to the refrigeration rooms where the products are stored and may only be broken by the same authorities when boning resumes.

- II. Contracts and specifications
  - 1. Boning shall be carried out under contract on terms laid down by the intervention agencies and in accordance with their specifications.

2. The specifications of the intervention agencies shall lay down the requirements to be met by cutting plants, shall specify the plant and equipment required and shall ensure that the Community rules on the preparation of cuts are adhered to.

They shall in particular lay down detailed conditions covering boning, specifying the method of preparation, trimming, packing, freezing and preservation of cuts with a view to their takeover by the intervention agency.

### III. Monitoring of boning

1. The intervention agencies shall ensure that continuous physical monitoring is carried out of all boning operations.

Such monitoring may be delegated to bodies which are wholly independent of the traders, slaughterers and storers in question. In such cases, the intervention agencies shall ensure that their officials conduct an unannounced inspection of boning of meat covered by each bid. During such inspections, random checks shall be carried out of cartons of cuts before and after freezing and the quantities used shall be compared with the quantities produced on the one hand and with the bones, fat and trimmings on the other hand. Such checks shall cover at least 5 % of cartons filled during the day with a particular cut and, where there are sufficient cartons, a minimum of five cartons per cut.

2. Forequarters and hindquarters must be boned separately. In respect of each day of boning:
  - (a) a comparison shall be made of the numbers of cuts and of cartons filled;
  - (b) a form shall be completed showing separately the yields for boning of forequarters and of hindquarters.

### IV. Special conditions governing boning

1. During boning, trimming and packing prior to freezing, the internal temperature of the beef must at no time rise above + 7 °C.

Cuts may not be transported before they have been blast-frozen, except under the derogations provided for in Section I, point 1 of this part.

2. All labels and foreign matter must be totally removed immediately prior to boning.
3. All bones, tendons, cartilage, neckstrap and backstrap (paddywack) (*ligamentum nuchae*) and coarse connective tissues must be cleanly removed. Trimming of cuts must be confined to the removal of fat, cartilage, tendons, joint capsules and other specified trim. All obvious nervous and lymphatic tissues must be removed.
4. Large blood vessels and clots and soiled areas must be removed carefully with as little trimming as possible.

### V. Packing of cuts

1. Cuts shall be packed immediately after boning in such a way that no part of the meat comes into direct contact with the carton, in accordance with the requirements laid down in Part VIII to this Annex.
2. Polyethylene used to line cartons and polyethylene sheet or bags used to wrap cuts must be at least 0,05 mm thick and suitable for wrapping foodstuffs.

3. Cartons, pallets and cages used must meet the conditions laid down in Part IX of this Annex.

#### VI. Storage of cuts

The intervention agencies shall ensure that all boneless beef bought in is stored separately and is easily identifiable by invitation to tender, cut and month of storage.

Cuts obtained shall be stored in cold stores located in the territory of the Member State exercising jurisdiction over the intervention agency.

#### VII. Costs of boning

Contracts as referred to in Section II of this part and payments made thereunder shall cover the operations and costs resulting from the application of this Regulation, and in particular:

- (a) the costs of any transport of bone-in products to the cutting plant after acceptance;
- (b) boning, trimming, packing and blast-freezing;
- (c) the storage, loading and carriage of frozen cuts and their takeover by the intervention agencies at the cold stores designated by them;
- (d) the costs of materials, in particular for packaging;
- (e) the value of any bones, fat and trimmings left at cutting plants by the intervention agencies.

#### VIII. Time limits

Boning, trimming and packaging must be completed within 10 calendar days of slaughter. However, the Member States may set shorter time limits.

Blast-freezing shall be carried out immediately after packing, commencing in any event on the same day; the quantity of meat boned may not exceed the daily capacity of the blast-freezers.

The internal temperature of boned meat shall be reduced to or below - 7 °C within 36 hours during blast-freezing.

#### IX. Rejection of products

1. Where the checks specified in Section III, point 1 to this part show breaches by the boning plant of points 1 to 8 to this part in respect of a particular cut, those checks shall be extended to cover a further 5 % of the cartons filled during the day in question. Where further breaches are discovered, additional samples amounting to 5 % of the total number of cartons of the relevant cut shall be checked. When, at the fourth 5 % check, at least 50 % of the cartons are found to be in breach of those articles, the whole day's production of that cut shall be checked. However, checking of the whole day's production shall not be required once at least 20 % of the cartons of a particular cut has been found to be in breach.
2. When, on the basis of point 1, less than 20 % of the cartons of a particular cut are found to be in breach, the entire contents of those cartons shall be rejected and no payment shall be made in respect of them. The boning plant shall pay the intervention agency an amount equal to the price shown in Part X of this Annex, for the cuts that have been rejected.

If at least 20 % of the cartons of a particular cut are found to be in breach, the whole day's production of that particular cut shall be rejected by the intervention agency and no payment shall be due. The boning plant shall pay the intervention agency an amount equal to the price shown in Part X of this Annex for the cuts that have been rejected.

If at least 20 % of the cartons of various cuts produced during the day are found to be in breach, the whole day's production shall be rejected by the intervention agency and no payment shall be due. The boning plant shall pay the intervention agency an amount equal to the price to be paid by the agency to the successful tenderer in accordance with Articles 19(2), 27, 37 and 39 for the original bone-in products bought in and which, after boning, have been rejected, that price being increased by 20 %.

Where the third subparagraph is applicable, the first and second subparagraphs shall not apply.

3. By way of derogation from points 1 and 2, where as a result of serious negligence or fraud the boning plant fails to comply with Sections I, II, III, IV, V, VI, VII, VIII and IX of this part:
  - (a) all products obtained after boning during the day for which non-compliance with the above provisions is established shall be rejected by the intervention agency and no payment shall be due,
  - (b) the boning plant shall pay the intervention agency an amount equal to the price to be paid by the agency to the successful tenderer in accordance with Articles 19(2), 27, 37 and 39 for the original bone-in products bought in and which, after boning, have been rejected in accordance with point (a), that price being increased by 20 %.

## PART V

### Classification of products

#### BELGIQUE/BELGIË

*Carcasses, demi-carcasses: Hele dieren, halve dieren:*

- Catégorie A, classe U2/
- Categoria A, klasse U2
- Catégorie A, classe U3/
- Categoria A, klasse U3
- Catégorie A, classe R2/
- Categoria A, klasse R2
- Catégorie A, classe R3/
- Categoria A, klasse R3

#### БЪЛГАРИЯ

*Трупове, половинки трупове:*

- категория А, клас R2
- категория А, клас R3

#### ČESKÁ REPUBLIKA

*Jatečně upravená těla, půlky jatečně upravených těl:*

- Kategorie A, třída R2
- Kategorie A, třída R3

#### DANMARK

*Hele og halve kroppe:*

— Kategori A, klasse R2

— Kategori A, klasse R3

DEUTSCHLAND

*Ganze oder halbe Tierkörper:*

— Kategorie A, Klasse U2

— Kategorie A, Klasse U3

— Kategorie A, Klasse R2

— Kategorie A, Klasse R3

EESTI

*Rümbad, poolrümbad:*

— Kategooria A, klass R2

— Kategooria A, klass R3

EIRE/IRELAND

*Carcases, half-carcases:*

— Category C, class U3

— Category C, class U4

— Category C, class R3

— Category C, class R4

— Category C, class O3

ΕΛΛΑΔΑ

*Ολόκληρα ή μισά σφάγια:*

— Κατηγορία A, κλάση R2

— Κατηγορία A, κλάση R3

ESPAÑA

*Canales o semicanales:*

— Categoría A, clase U2

— Categoría A, clase U3

— Categoría A, clase R2

— Categoría A, clase R3

FRANCE

*Carcasses, demi-carcasses:*

— Catégorie A, classe U2

— Catégorie A, classe U3

— Catégorie A, classe R2/

— Catégorie A, classe R3/

— Catégorie C, classe U2

— Catégorie C, classe U3

— Catégorie C, classe U4

— Catégorie C, classe R3

— Catégorie C, classe R4

— Catégorie C, classe O3

## ITALIA

*Carcasse e mezzene:*

- Categoria A, classe U2
- Categoria A, classe U3
- Categoria A, classe R2
- Categoria A, classe R3

## ΚΥΠΡΟΣ

*Ολόκληρα ή μισά σφάγια:*

- Κατηγορία A, κλάση R2

## LATVIJA

*Liemeņi, pusliemeņi:*

- A kategorija, R2 klase
- A kategorija, R3 klase

## LIETUVA

*Skerdenos ir skerdenų pusės:*

- A kategorija, R2 klasė
- A kategorija, R3 klasė

## LUXEMBOURG

*Carcasses, demi-carcasses:*

- Catégorie A, classe U2
- Catégorie A, classe U3
- Catégorie A, classe R2
- Catégorie A, classe R3

## MAGYARORSZÁG

*Hasított test vagy hasított féltest:*

- A kategória, R2 osztály
- A kategória, R3 osztály

## MALTA

*Karkassi u nofs karkassi:*

- Kategorija A, klassi R3

## NEDERLAND

*Hele dieren, halve dieren:*

- Categorie A, klasse R2
- Categorie A, klasse R3

## ÖSTERREICH

*Ganze oder halbe Tierkörper:*

- Kategorie A, Klasse U2
- Kategorie A, Klasse U3
- Kategorie A, Klasse R2
- Kategorie A, Klasse R3

## POLSKA

*Tusze, póltusze:*

— Kategoria A, klasa R2

— Kategoria A, klasa R3

PORTUGAL

*Carcaças ou meias-carcaças*

— Categoria A, classe U2

— Categoria A, classe U3

— Categoria A, classe R2

— Categoria A, classe R3

ROMÂNIA

*Carcase, jumătăți de carcace*

— categoria A, clasa R2

— categoria A, clasa R3

SLOVENIJA

*Trupi, polovice trupov:*

— Kategorija A, razred R2

— Kategorija A, razred R3

SLOVENSKO

*Jatočné telá, jatočné polovičky:*

— kategória A, akostná trieda R2

— kategória A, akostná trieda R3

SUOMI/FINLAND

*Ruhot, puoliruhot/Slaktkroppar, halva slaktkroppar:*

— Kategoria A, luokka R2/Kategori A, klass R2

— Kategoria A, luokka R3/Kategori A, klass R3

SVERIGE

*Slaktkroppar, halva slaktkroppar:*

— Kategori A, klass R2

— Kategori A, klass R3

UNITED KINGDOM

**I. Great Britain**

*Carcases, half-carcases:*

— Category C, class U3

— Category C, class U4

— Category C, class R3

— Category C, class R4

**II. Northern Ireland**

*Carcases, half-carcases:*

— Category C, class U3

— Category C, class U4

— Category C, class R3

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- Category C, class R4
- Category C, class O3

## PART VI

### Provisions applicable to carcasses, half-carcasses and quarters

1. Carcasses and half-carcasses, fresh or chilled (CN code 0201), of animals slaughtered not more than six days and not less than two days previously.
2. For the purposes of this Regulation, the following definitions apply:
  - (a) carcass: the whole body of the slaughtered animal hung from the slaughterhouse hook by the shank tendon after bleeding, evisceration and skinning, presented:
    - without the head and without the feet; the head must be separated from the carcass at the atlanto-occipital joint and the feet must be severed at the carpometacarpal or tarsometatarsal joints,
    - without the organs contained in the thoracic and abdominal cavities, and without the kidneys, the kidney fat and the pelvic fat,
    - without the sexual organs and the attached muscles,
    - without the thin skirt and the thick skirt,
    - without the tail and the first coccygeal vertebra,
    - without the spinal cord,
    - without the codfat and the adjacent flank fat,
    - without the fascial linea alba of the abdominal muscle,
    - without fat on the inside of topside,
    - without the jugular vein and the adjacent fat, the neck being cut in accordance with veterinary requirements,
    - without removal of the neck muscle, the brisket fat must not be more than 1 cm thick;
  - (b) half-carcass: the product obtained by separating the carcass as referred to in (a) symmetrically through the middle of the cervical, dorsal, lumbar and sacral vertebrae and through the middle of the sternum and the ischiopubic symphysis. During carcass processing, the dorsal and lumbar vertebrae must not be seriously dislocated; associated muscles and tendons must not show any serious damage from saws or knives;
  - (c) forequarters:
    - cut from the carcass after cooling off,
    - five-rib straight cut;
  - (d) hindquarters:
    - cut from the carcass after cooling off,
    - eight-rib straight cut.
3. Products as specified in points 1 and 2 must come from well-bled carcasses, the animal having been properly flayed, the carcass surface in no way peeling, suffused or bruised; superficial fat must not be torn or removed to any significant degree. The pleura must be undamaged except in order to facilitate hanging of the forequarters.



Carcases must not be soiled by any source of contamination, in particular by faecal matter or significant bloodstain.

4. Products as specified in point 2(c) and (d) must come from carcasses or half-carcasses satisfying the requirements in point 2(a) and (b).
5. Products as specified in points 1 and 2 must be chilled immediately after slaughter for at least 48 hours so that the internal temperature at the end of the chilling period does not exceed + 7 °C. This temperature must be maintained until they are taken over.

## PART VII

### Coefficients referred to in Article 21(3)

#### Formula A

Coefficient n = (a/b)

Where:

- a = the average of the average market prices recorded in the Member State or region thereof in question for the two or three weeks following that of the award decision,
- b = the average market price recorded in the Member State or region thereof in question, as referred to in Article 21(1), applicable to the invitation to tender concerned.

#### Formula B

Coefficient n' = (a'/b')

Where:

- a' = the average of the purchase prices paid by the tenderer for animals of the same quality and category as those taken into account for the calculation of the average market price during the two or three weeks following that of the award decision,
- b' = the average of the purchase prices paid by the tenderer for animals taken into account for the calculation of the average market price during the two weeks used to determine the average market price applicable to the invitation to tender concerned.

## PART VIII

### Specifications for intervention boning

1. HINDQUARTER CUTS
  - 1.1. Description of cuts
    - 1.1.1. Intervention shank (code INT 11)

Cutting and boning: remove by a cut passing through the stifle joint and separating from the topside and the silverside by following the natural seam, leaving the heel muscle attached to the shank. Remove shank bones (tibia and hock).

Trimming: trim sinew tips back to the meat.

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Wrapping and packing: these cuts must be individually wrapped in polyethylene before packing in cartons lined with polyethylene.

#### 1.1.2. Intervention thick flank (code INT 12)

Cutting and boning: separate from the topside by a straight cut down to and along the line of the femur and from the silverside by continuing the cut down in the line of the natural seam; the cap must be left naturally attached.

Trimming: remove the patella, the joint capsule and tendon; the external fat cover must not exceed one centimetre at any point.

Wrapping and packing: these cuts must be individually wrapped in polyethylene before packing in cartons lined with polyethylene.

#### 1.1.3. Intervention topside (code INT 13)

Cutting and boning: separate from the silverside and the shank by a cut following the line of the natural seam and detach from the femur; remove the aitchbone.

Trimming: remove the pizzle butt, the adjacent gristle and the scrotal (superficial inguinal) gland; remove the cartilage and connective tissues associated with the pelvic bone; the external fat cover must not exceed one centimetre at any point.

Wrapping and packing: these cuts must be individually wrapped in polyethylene before packing in cartons lined with polyethylene.

#### 1.1.4. Intervention silverside (code INT 14)

Cutting and boning: separate from the topside and the shank by a cut following the line of the natural seam; remove the femur.

Trimming: remove the heavy cartilage adjacent to the bone joint, the popliteal lymph node, attached fat and tendon; the external fat cover must not exceed one centimetre at any point.

Wrapping and packing: these cuts must be individually wrapped in polyethylene before packing in cartons lined with polyethylene.

#### 1.1.5. Intervention fillet (code INT 15)

Cutting: remove entire length of fillet by freeing the head (butt end) from the hip bone (ilium) and by tracing along the fillet adjacent to the vertebrae, thereby freeing the fillet from the loin.

Trimming: remove gland and de-fat. Leave the silverskin and chain muscle intact and fully attached. Special care must be taken in cutting, trimming and packing this valuable cut.

Wrapping and packing: fillets must be packed carefully lengthwise, thin ends to thick ends alternatively, silverskin up, and must not be folded.

These cuts must be individually wrapped in polyethylene before packing in cartons lined with polyethylene.

#### 1.1.6. Intervention rump (code INT 16)

Cutting and boning: separate from the silverside/thick flank by a straight cut from a point approximately five centimetres from the posterior edge of the fifth sacral vertebra, passing approximately five centimetres from the anterior edge of the aitchbone, taking care not to cut through the thick flank.

Separate from the loin by a cut between the last lumbar and first sacral vertebrae, clearing the anterior edge of the pelvic bone. Remove bones and cartilage.

Trimming: remove the pocket of fat on the internal surface below the eye muscle. The external fat cover must not exceed one centimetre at any point. Special care must be taken in cutting, trimming and packing this valuable cut.

Wrapping and packing: these cuts must be individually wrapped in polyethylene before packing in cartons lined with polyethylene.

#### 1.1.7. Intervention striploin (code INT 17)

Cutting and boning: separate from the rump by a straight cut between the last lumbar and the first sacral vertebrae. Separate from the fore-rib (five bone) by a straight cut between the eleventh and tenth ribs. Remove the backbones cleanly. Remove the ribs and feather bones by sheeting out.

Trimming: remove any species of cartilage left after boning. The tendon must be removed. The external fat cover must not exceed one centimetre at any point. Special care must be taken in cutting, trimming and packing this valuable cut.

Wrapping and packing: these cuts must be individually wrapped in polyethylene before packing in cartons lined with polyethylene.

#### 1.1.8. Intervention flank (code INT 18)

Cutting and boning: remove the full flank from the eight-rib straight-cut hindquarter by a cut from the point where the flank has been laid back, following the natural seam down around the surface of the hind muscles to a point which is horizontal to the middle of the last lumbar vertebra.

Continue the cut downwards in a straight line parallel to the fillet, through the thirteenth to the sixth rib inclusive along a line running parallel to the dorsal edge of the vertebral column, so that the entire downward cut is no more than five centimetres from the lateral tip of the eye muscle.

Remove all bones and cartilage by sheeting out. The whole flank must remain in one piece.

Trimming: remove the coarse connective tissue sheath covering the goose skirt, leaving the goose skirt intact. Trim fat so that the overall percentage of visible (external and interstitial) fat does not exceed 30 %.

Wrapping and packing: the full flank may be folded once only for packing. It must not be cut or rolled. When packed, the inner part of the flank and the goose skirt must be clearly visible. Before packing each box must be lined with polyethylene to allow complete wrapping of the cut(s).

#### 1.1.9. Intervention fore-rib (five bone) (code INT 19)

Cutting and boning: this cut must be separated from the striploin by a straight cut between the eleventh and tenth ribs and must include the sixth to tenth ribs inclusive. Remove the intercostal muscles and pleura in a thin sheet with rib bones. Remove backbone and cartilage, including the tip of the scapula.

Trimming: remove the backstrap (*ligamentum nuchae*). The external fat cover must not exceed one centimetre at any point. The cap must be left attached.

Wrapping and packing: these cuts must be individually wrapped in polyethylene before packing in cartons lined with polyethylene.

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## 2. FOREQUARTER CUTS

### 2.1. Description of cuts

#### 2.1.1. Intervention shin (code INT 21)

Cutting and boning: remove by a cut around the joint separating the shinbone (radius) and clod-bone (humerus). Remove the shinbone (radius).

Trimming: trim sinew tips back to the meat.

Wrapping and packing: these cuts must be individually wrapped in polyethylene before packing in cartons lined with polyethylene.

Shins must not be packed with shanks.

#### 2.1.2. Intervention shoulder (code INT 22)

Cutting and boning: separate the shoulder from the forequarter by cutting in a line following the natural seam around the edge of the shoulder and the cartilage at the tip of the scapula, continuing around the seam so that the shoulder is lifted from its natural pocket. Remove the scapula. The blade muscle under the scapula must be laid back but left attached so as to allow clean removal of the bone. Remove the clod-bone (humerus).

Trimming: remove cartilage, tendons and joint capsules; trim fat so that the overall percentage of visible (external and interstitial) fat does not exceed 10 %.

Wrapping and packing: these cuts must be individually wrapped in polyethylene before packing in cartons lined with polyethylene.

#### 2.1.3. Intervention brisket (code INT 23)

Cutting and boning: separate from the forequarter by cutting in a straight line perpendicular to the middle of the first rib. Remove intercostal muscles and pleura by 'sheeting out', with ribs, breastbone and cartilage. Deckle to be left attached to the brisket. Fat underlying the deckle and the sternum must be removed.

Trimming: trim fat so that the overall percentage of visible (external and interstitial) fat does not exceed 30 %.

Wrapping and packing: each cut must be individually wrapped in polyethylene and packed in a carton lined with polyethylene to allow complete wrapping of the cuts.

#### 2.1.4. Intervention forequarter (code INT 24)

Cutting and boning: the cut remaining after removal of the brisket, shoulder and shin is classed as forequarter.

Remove rib bones by sheeting out. Neck bones must be removed cleanly.

The chain muscle must be left attached to this cut.

Trimming: tendons, joint capsules and cartilage to be removed. Trim fat so that the overall percentage of visible (external and interstitial) fat does not exceed 10 %.

Wrapping and packing: these cuts must be individually wrapped in polyethylene before packing in cartons lined with polyethylene.

## 3. VACUUM-PACKING OF CERTAIN INDIVIDUAL CUTS

Member States may decide to allow vacuum-packing instead of individual wrapping as provided for under point 1 for cuts of codes INT 12, 13, 14, 15, 16, 17 and 19.

## PART IX

### Provisions applicable to cartons, pallets and cages

- I. Cartons
  1. Cartons shall correspond to commercial standards and weight and be strong enough to be pallet-stacked.
  2. Cartons used may not show the name of the slaughterhouse or cutting plant from which the products come.
  3. Cartons must be weighed individually after being filled; cartons filled with a weight fixed in advance are not authorised.
  4. The net weight of cuts per carton may not exceed 30 kg.
  5. Only cuts of the same designation identified by their full name or by the Community code and coming from the same category of animal may be placed in the same carton; cartons may not contain any pieces of fat or other trimming under any circumstances.
  6. Cartons must bear the following seals:
    - intervention agency labels on both ends,
    - official veterinary inspection labels in the middle of front and back, but only on the front in the case of monobloc boxes.

Such labels must bear a serial number and be affixed in such a way that they are destroyed when the carton is opened.

7. The intervention agency labels must show the number of the contract, the type and number of cuts, the net weight and the date of packing; the labels must not be less than 20 × 20 cm. The veterinary inspection labels must show the approval number of the cutting plant.
  8. The serial numbers on labels referred to in point 6 must be recorded in respect of each contract and it must be possible to compare the number of cartons used and of labels issued.
  9. Cartons must be bound with four straps, two lengthwise and two widthwise placed approximately 10 cm from each corner.
  10. Labels torn during inspection must be replaced by serially numbered labels, two per carton, issued by the intervention agency to the competent authorities.
- II. Pallets and cages
  1. Cartons relating to different invitations to tender and containing different cuts must be stored on separate pallets by invitation to tender or by month and by cut. Such pallets must be identified by labels showing the number of the invitation to tender, the type of cut, the net weight of the product, the tare weight and the number of cartons per cut.
  2. The location of pallets and cages must be shown on a storage plan.

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## PART X

### Individual prices of rejected intervention cuts for the purposes of the first and second subparagraphs of Part IV, Section IX(2) of this Annex

<i>(EUR/tonne)</i>	
Intervention fillet	22 000
Intervention striploin	14 000
Intervention topside, Intervention rump	10 000
Intervention silverside, Intervention thick flank, Intervention forerib (with five ribs)	8 000
Intervention shoulder, Intervention forequarter	6 000
Intervention brisket, Intervention shank, Intervention shin	5 000
Intervention flank	4 000

## PART XI

### Checks on products

1. The intervention agencies shall ensure that meat covered by this Regulation is so placed and kept in storage as to be readily accessible and in conformity with the provisions of Part IV Section VI, first subparagraph of this Regulation.
2. The storage temperature may not rise above - 17 °C.
3. Member States shall take all measures necessary to ensure satisfactory preservation, in terms of quality and quantity, of the products stored and shall replace damaged packaging immediately. They shall provide for cover against the relevant risks by insurance in the form of either a contractual obligation on storers or comprehensive coverage of the liability borne by the intervention agency. Member States may also act as their own insurers.
4. During storage, the competent authorities shall conduct regular checks on significant quantities of the products stored following awards under invitations to tender held during the month.

During such checks, any products found not to be in compliance with the requirements as laid down in this Regulation shall be rejected and marked as such. Without prejudice to the application of penalties, the competent authorities shall, if need be, recover payments from the responsible parties.

Such checks shall be conducted by officials who do not receive instructions from the department which buys the meat.

5. The competent authorities shall take the necessary measures as regards traceability and storage to enable the products stored to be removed from storage and disposed of subsequently as efficiently as possible, having regard in particular to any requirements relating to the veterinary health status of the animals concerned.

## ANNEX IV

### BUTTER

#### PART I

##### **Eligibility criteria for butter**

1. The intervention agency shall buy in only butter which meets the requirements of the first subparagraph of Article 10(1)(e) of Regulation (EC) No 1234/2007 of points 3, 4, 5 and 6 of this part and of Article 28(1) of this Regulation.
2. The criteria for approving the undertakings referred to in Article 10(1)(e) of Regulation (EC) No 1234/2007 are listed in Part III of this Annex.
3. The intervention agency shall check the quality of butter using the methods described in Part IV of this Annex and on the basis of samples taken in accordance with the rules set out in Part V of this Annex. However, Member States may, subject to written agreement of the Commission, set up a system of self checking under their own supervision in respect of certain quality requirements and in the case of certain approved undertakings.
4. Levels of radioactivity in butter may not exceed the maximum levels permitted, where applicable, under Community rules.

The level of radioactive contamination of butter shall be monitored only if the situation so requires, and during the requisite period.

5. The butter shall have been made during the 31 days preceding the day on which the competent body received the offer to sell at fixed price or, in the case of tenders 31 days preceding the closing date of the tendering sub-period.
6. Where butter is offered to intervention in a Member State other than that in which it was produced, buying-in shall be subject to the presentation of a certificate supplied by the competent body of the Member State of production.

The certificate shall be presented to the competent body of the purchasing Member State not later than 35 days after the day on which the offer was received or after the closing date of the tender and shall contain the information referred to in Article 28(1)(a), (b) and (d) of this Regulation, and a confirmation that the butter has been produced directly and exclusively from pasteurised cream within the meaning of Article 6(2) of Regulation (EC) No 1234/2007, in an approved undertaking in the Community.

7. Where the Member State of production has performed the checks referred to in point 3 of this part, the certificate shall also contain the results of those checks and confirm that the product concerned is butter fulfilling the requirements of the first subparagraph of Article 10(1)(e) of Regulation (EC) No 1234/2007. In that case, the packaging referred to in Part VI(6) of this Annex must be sealed by means of a numbered label issued by the competent body of the Member State of production. The certificate shall contain the number of the label.

## PART II

**Taking over and initial controls for butter**

1. The butter shall be put through a trial storage period. This period shall be fixed at 30 days starting from the day of taking over.
2. The intervention agency shall require that the butter be placed and kept in storage on pallets, in such a way as to create easily identifiable and readily accessible lots.

## PART III

**Criteria for the approval of undertakings referred to in Article 10(1)(e) and (f) of Regulation (EC) No 1234/2007 (common part for butter and skimmed milk powder)**

1. Undertakings as referred to in Article 10(1)(e) and (f) of Regulation (EC) No 1234/2007 shall be approved only if they:
  - (a) are approved in accordance with Article 4 of Regulation (EC) No 853/2004 and have the appropriate technical equipment;
  - (b) undertake to keep permanent records in the form determined by the competent body of each Member State, listing the supplier and origin of the raw materials, for butter the quantities of butter obtained and for milk powder the quantities of skimmed-milk powder, buttermilk and whey obtained and the packaging, identification and exit date of each production batch intended for public intervention;
  - (c) agree to submit their production of butter and skimmed milk powder liable to be offered for intervention to a specific official inspection;
  - (d) undertake to inform the competent body, at least two working days in advance, of their intention to produce butter and skimmed milk powder for public intervention; however, the Member State may set a shorter time limit.
2. To ensure compliance with this Regulation, the competent body shall carry out unannounced on-the-spot inspections, on the basis of the intervention butter and skimmed milk powder production schedule of the undertakings concerned.

They shall carry out at least:

- (a) one inspection per period of 28 days of production for intervention with at least one inspection every year, to examine the records referred to in point 1(b);
- (b) one inspection every year, to verify compliance with the other conditions for approval referred to in point 1.
3. Approval shall be withdrawn if the preconditions laid down in point 1(a) are no longer satisfied. Approval may be re-granted at the request of the undertaking concerned after a period of at least six months, following a thorough inspection.

Except in cases of *force majeure*, where an undertaking is found not to have complied with one of its commitments as referred to in point 1(b), (c) and (d), approval shall be suspended for a period of between one and 12 months depending on the seriousness of the irregularity.



The Member State shall not impose suspension where it is established that the irregularity was not committed deliberately or as a result of serious negligence and it is of minor importance with regard to the effectiveness of the inspections provided for in point 2.

4. A report shall be drawn up on the inspections carried out pursuant to points 2 and 3, specifying:
- the date of the inspection;
  - the duration of the inspections;
  - the operations carried out.

The report shall be signed by the inspector responsible.

#### PART IV

##### Compositional requirements, quality characteristics and analytical methods

Butter is a solid emulsion, mainly of the water-in-oil type, with the following compositional and quality characteristics:

Parameters	Content and quality characteristics
Fat	Minimum 82 %
Water	Maximum 16 %
Non-fat solids	Maximum 2 %
Free fatty acids	Maximum 1,2 mmole/100 g fat
Peroxide value	Maximum 0,3 meq oxygen/1 000 g fat
Coliformes	Not detectable in 1 g
Non-milk fat	Not detectable by triglyceride analysis
Sensory characteristics	At least four out of five points for appearance, flavour and consistency
Water dispersion	At least four points

The reference methods to be applied shall be those laid down in Regulations (EC) No 213/2001 (OJ L 37, 7.2.2001, p. 1) and (EC) No 273/2008 (OJ L 88, 29.3.2008, p. 1).

#### PART V

##### Sampling for chemical and microbiological analysis and sensory evaluation

1. Chemical and microbiological analysis

Quantity of butter(kg)	Minimum number of samples(> 100 g)
≤ 1 000	2
> 1 000 ≤ 5 000	3

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> 5 000 ≤ 10 000	4
> 10 000 ≤ 15 000	5
> 15 000 ≤ 20 000	6
> 20 000 ≤ 25 000	7
> 25 000	7 + 1 per 25 000 kg or part thereof

Sampling for microbiological analysis must be carried out aseptically.

Up to five samples of 100 g may be combined into one sample for analysis after thorough mixing.

The samples must be taken randomly from different parts of the offered quantity before or at the time of entry into the cold store designated by the competent body.

Preparation of composite butter sample (chemical analysis):

- (a) using a clean, dry butter trier or similar suitable instrument, extract a core of butter of at least 30 g and place in a sample container. The composite sample must then be sealed and forwarded to the laboratory for analysis;
- (b) at the laboratory the composite sample is to be warmed in the original unopened container to 30 °C and shaken frequently until a homogeneous fluid emulsion free of unsoftened pieces is obtained. The container should be one half to two thirds full.

Two samples per year per producer offering butter for intervention must be analysed for non-milk fat.

## 2. Sensory evaluation

Quantity of butter(kg)	Minimum number of samples
1 000 ≤ 5 000	2
> 5 000 ≤ 25 000	3
> 25 000	3 + 1 per 25 000 kg or part thereof

The samples are to be taken randomly from different parts of the offered quantity between the 30th and the 45th day following conditional takeover of the butter and graded.

Each sample must be assessed individually in accordance with Annex IV to Regulation (EC) No 278/2008. No re-sampling or re-evaluation is allowed.

## 3. Guidelines to be followed where samples show defects

- (a) chemical and microbiological analysis:
  - where individual samples are analysed, one sample showing a single defect out of five to 10 samples or two samples each showing a single defect out of 11 to 15 samples may be allowed. Where a sample shows a defect, two new samples must be taken from either side of the sample showing the defect and checked for the parameter in question. Where neither sample meets the specification, the quantity of butter between the original two samples on either side of the sample showing the defect must be rejected from the quantity offered.

Quantity to be rejected where the new sample shows a defect:

- where composite samples are analysed and found to show defects in respect of one parameter, the quantity represented by the composite sample concerned is to be rejected from the quantity offered. The quantity represented by one composite sample may be determined by subdividing the quantity offered before samples are taken randomly from each part thereof;
- (b) sensory evaluation:
- where a sample fails the sensory evaluation, the quantity of butter between two neighbouring samples on either side of the sample failing is to be rejected from the quantity offered,
- (c) where samples show a sensory defect and either a chemical or a microbiological defect, the whole quantity is to be rejected.

## ANNEX V

### SKIMMED MILK POWDER

#### PART I

##### **Eligibility criteria for skimmed milk powder**

1. The intervention agency shall buy-in only skimmed milk powder which complies with Article 10(1)(f) of Regulation (EC) No 1234/2007 with points 2 to 5 of this Annex and with Article 28(2).
2. The criteria for approving the undertakings referred to in Article 10(1)(e) of Regulation (EC) No 1234/2007 are listed in Part III of Annex IV.
3. The intervention agencies shall check the quality of skimmed-milk powder using the analytical methods set out in Part IV of this Annex on the basis of samples taken in accordance with the rules set out in Part VI of this Annex. The checks must establish that, except authorised raw materials used for protein adjustment as referred to in Annex I(4)(b) to Council Directive 2001/114/EC<sup>(30)</sup> the skimmed milk powder does not contain other products, in particular buttermilk and whey, as defined in Part IV of this Annex.

Protein adjustment, if applicable, shall occur in the liquid phase. Material used for protein adjustment shall be of Community origin.

However, if the Commission so agrees, Member States may set up a system of self-checking under their own supervision for certain quality requirements and certain approved undertakings.

4. Radioactivity levels in the skimmed-milk powder may not exceed the maximum levels permitted, where applicable, under Community rules. The level of radioactive contamination of the product shall be monitored if the situation so requires and during the period necessary only.
5. The skimmed-milk powder must have been manufactured during the 31 days preceding the day on which the intervention agency received the offer to sell at fixed

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price or, in the case of tenders 31 days preceding the closing date of the tendering sub-period. If the skimmed-milk powder is stored in silos containing more than one production day, it must have been manufactured during the three weeks preceding the week during which the offer to sell at fixed price was received or, in the case of tenders four weeks preceding the closing date of the tendering sub-period.

6. Where skimmed-milk powder is offered for intervention in a Member State other than that in which it was manufactured, buying-in shall be subject to presentation, no later than 35 days after the day on which the offer was received or after the closing date of the tender, of a certificate supplied by the competent agency of the Member State of manufacture.

The certificate shall contain the information referred to in Article 28(2)(a), (b) and (c) and a confirmation that the skimmed-milk powder has been produced from milk in an approved undertaking in the Community and protein adjustment, if applicable, occurred in liquid phase, as laid down in Article 10(1)(f) of Regulation (EC) No 1234/2007.

Where the Member State of manufacture has performed the checks referred to in point 2 above, the certificate shall also contain the results of those checks and confirm that the product concerned is skimmed-milk powder within the meaning of Article 10(1)(f) of Regulation (EC) No 1234/2007. In that case, the bags referred to in Article 28 shall be sealed with a numbered label issued by the intervention agency of the Member State of manufacture. The number shall be entered on the certificate referred to in the first subparagraph of this point.

## PART II

### **Taking over and initial controls for skimmed milk powder**

The intervention agency shall require that skimmed milk powder be placed and kept in storage on pallets, in such a way as to create easily identifiable and readily accessible lots.

## PART III

### **Criteria for the approval of undertakings referred to in Article 10(1)(e) and (f) of Regulation (EC) No 1234/2007**

Part III of Annex IV of this Regulation shall apply.

## PART IV

**Compositional requirements, quality characteristics and analytical methods**

<b>Parameters</b>	<b>Content and quality characteristics</b>
Protein content	Minimum 34,0 % of the non-fat dry matter
Fat content	Maximum 1,0 %
Water content	Maximum 3,5 %
Titratable acidity in ml of decinormal sodium hydroxide solution	Maximum 19,5 ml
Lactate content	Maximum 150 mg/100 g
Additives	None
Phosphatase test	Negative, i.e., not more than 350 mU of phosphatase activity per litre of reconstituted milk
Solubility index	Maximum 0,5 ml (24 °C)
Burnt-particles index	Maximum 15,0 mg, i.e. disc B minimum
Micro-organism content	Maximum 40 000 per gram
Detection of coliforms	Negative in 0,1 g
Detection of buttermilk <sup>a</sup>	Negative <sup>b</sup>
Detection of rennet whey <sup>c</sup>	None
Detection of acid whey <sup>d</sup>	None
Taste and smell	Clean
Appearance	White or slightly yellowish colour, free from impurities and coloured particles
Antimicrobial substances	Negative <sup>e</sup>

**a** 'Buttermilk' means the by-product of butter manufacture obtained after churning of the cream and separation of the solid fat.

**b** The absence of buttermilk can be established either by an on-the-spot inspection of the production plan carried out without prior notice at least once a week, or by a laboratory analysis of the end product indicating a maximum of 69,31 mg of FEDP per 100 g.

**c** 'Whey' means the by-product of cheese or casein manufacture obtained by the action of acids, rennet and/or chemico-physical processes.

**d** 'Whey' means the by-product of cheese or casein manufacture obtained by the action of acids, rennet and/or chemico-physical processes. The method to be applied shall be approved by the intervention agency

**e** Raw milk used for the manufacture of skimmed milk powder must meet the requirements specified in Section IX of Annex III to Regulation (EC) No 853/2004.

The reference methods to be applied shall be those laid down in Commission Regulation (EC) No 273/2008 (OJ L 88, 29.3.2008, p. 1).

## PART V

**Conditions of packaging**

1. The skimmed-milk powder shall be packed in new, clean, dry and intact bags with a net weight of 25 kg.
2. The bags shall have at least three layers, which together correspond to at least 420 J/m<sup>2</sup> TEA average.

The second layer shall be covered with a layer of polyethylene of at least 15 g/m<sup>2</sup>.

Inside the paper layers, a polyethylene bag at least 0,08 mm thick shall be fused to the bottom.

3. Bags shall conform to standard EN 770.
4. When filling, the powder should be well pressed down. Loose powder must on no account be allowed to penetrate between the various layers.

## PART VI

**Sampling and analysis of skimmed-milk powder offered for intervention**

1. Samples shall be taken in accordance with the procedure laid down in International Standard ISO 707. However, Member States may use another method of sampling provided that it complies with the principles of the abovementioned standard.
2. Number of packages to be selected for sampling checks:
  - (a) offers containing up to 800 25-kg bags: at least eight;
  - (b) offers containing more than 800 25-kg bags: at least eight, plus one for each additional 800 bags or fraction thereof.
3. Weight of sample: samples of at least 200 g are to be taken from each package.
4. Grouping of samples: no more than nine samples are to be combined in a global sample.
5. Analysis of samples: each global sample is to undergo an analysis to verify all the quality characteristics laid down in Part III of this Annex.
6. Where samples show defects:
  - (a) where a composite sample shows a defect with regard to one parameter, the quantity from which the sample came is rejected;
  - (b) where a composite sample shows a defect with regard to more than one parameter, the quantity from which the sample came is rejected and samples are taken from the remaining quantities from the same plant; the analysis of those samples shall be decisive. In that case:
    - the number of samples laid down in point 2 is doubled,
    - where a composite sample shows a defect with regard to one or more parameters, the quantity from which the sample came is rejected.



- (1) OJ L 299, 16.11.2007, p. 1.
- (2) OJ L 30, 31.1.2009, p. 1.
- (3) OJ L 171, 23.6.2006, p. 35.
- (4) OJ L 205, 3.8.1985, p. 5.
- (5) OJ L 95, 14.4.2005, p. 11.
- (6) OJ L 9, 12.1.1991, p. 15.
- (7) OJ L 37, 7.2.2001, p. 100.
- (8) OJ L 312, 11.11.2006, p. 6.
- (9) OJ L 32, 6.2.2008, p. 3.
- (10) OJ L 192, 19.7.2008, p. 20.
- (11) OJ L 42, 13.2.2009, p. 3.
- (12) OJ L 194, 25.7.2009, p. 22.
- (13) OJ L 139, 30.4.2004, p. 55.
- (14) OJ L 13, 19.1.2000, p. 12.
- (15) OJ L 251, 27.7.2004, p. 9.
- (16) OJ L 230, 19.8.1991, p. 1.
- (17) OJ L 337, 16.12.2008, p. 3.
- (18) OJ L 114, 26.4.2008, p. 3.
- (19) OJ L 88, 3.4.1990, p. 1.
- (20) OJ L 37, 13.2.1993, p. 1.
- (21) OJ L 364, 20.12.2006, p. 5.
- (22) OJ L 70, 9.3.2006, p. 12.
- (23) Air temperature inside the heating chamber.
- (24) Its heating capacity should be such that, when it has been pre-set to a temperature of 130 to 133 °C, that temperature can be regained in less than 45 minutes after the maximum number of test samples have been placed in the chamber to dry simultaneously. Ventilation should be such that, when small-grained cereals (common wheat, durum wheat, barley and sorghum) are dried for two hours and maize for four hours, the results from all the test samples of semolina or, as the case may be, maize that the heating chamber can hold differ by less than 0,15 % from the results obtained after drying small-grained cereals for three hours and maize for five hours.
- (25) Reduction to be applied to the price of sorghum on the basis of the tannin content of 1 000 g of dry matter:
  - (a) Poultry-metabolisable energy of 1 000 g of sorghum dry matter with a theoretical tannin content of 0 %: 3 917 K calories;
  - (b) Reduction of the poultry-metabolisable energy of 1 000 g of sorghum dry matter per additional percentage point of tannin: 419 K calories;
  - (c) Difference, expressed in percentage points, between the maximum tannin content laid down for sorghum accepted for intervention and the tannin content laid down for the standard quality: 1,0 - 0,3 = 0,7;
  - (d) Difference, expressed as a percentage, between the poultry-metabolisable energy of sorghum containing 1,0 % tannin and the poultry-metabolisable energy of sorghum with the same tannin content as the standard quality (0,3 %);
  - (e) Reduction corresponding to a 1 % tannin content in the dry matter, in excess of 0,3 %.
- (26) OJ L 139, 30.4.2004, p. 206.
- (27) OJ L 253, 11.10.1993, p. 1.
- (28) OJ L 204, 11.8.2000, p. 1.
- (29) OJ L 125, 23.5.1996, p. 3.



(30) OJ L 15, 17.1.2002, p. 19.