

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selling of agricultural products under public intervention (repealed)

## TITLE II

### PROCEDURE OF BUYING-IN

#### 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;

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- 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;
  - (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>(1)</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 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.

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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>(2)</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.

#### *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.

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- (1) [OJ L 230, 19.8.1991, p. 1.](#)
- (2) [OJ L 337, 16.12.2008, p. 3.](#)