

## **Grain and Oilseed Dispute resolution protocol**

**1 October 2021**

### **Purpose:**

The purpose of this protocol is to address disputes that cannot be resolved without the assistance of an approved independent arbiter.

### **General**

The International Organization for Standardization (ISO) International Standard ISO24333:2009 Cereals and Cereal Products – Sampling is used as a basis for this protocol and adheres to the minimum requirements of the grading regulations and legal requirements of the Agricultural Product Standards Act No 119 of 1990.

### **Introduction**

Sampling is a procedure that requires both a method and equipment that are suitable for the task. Any analysis of the characteristics of a lot and any interpretation of the results would prove futile if the sample was not representative of the lot from which it was taken.

Sampling is a procedure that requires a great deal of care. It is strongly recommended that the task be entrusted to personnel who have been trained to use the appropriate equipment.

### **Scope**

This International Standard specifies requirements for dynamic or static sampling, by manual or mechanical means, of grains/oilseeds and grain/oilseed products, for assessment of their quality and condition.

It applies to sampling for the determination of heterogeneously distributed contaminants, undesirable substances, and parameters usually homogeneously distributed like those used to assess quality or compliance with the specification.

### **General requirements**

In this International Standard, sampling includes the following stages:

- taking a defined number of increments to constitute an aggregate sample;
- homogenization of the aggregate sample;
- reduction of the aggregate sample into laboratory sample(s).

Since the composition of the lots of grains/oilseeds is rarely homogeneous and since certain contaminants are distributed in a non-uniform way, a sufficient number of increments shall be taken and carefully mixed to constitute an aggregate sample from which it subsequently will be possible to obtain one or several laboratory sample(s).

For non-flowing commodities (static), particular care shall be taken to ensure that these increments are distributed regularly throughout the grain mass, both at the surface and deep down.

Precautions shall be taken to ensure that all equipment used is clean, dry and free from foreign odours.

The sampling procedures shall be carried out in such a way that the sampled material is protected from any source of accidental contamination caused by rain, dust, etc.

All the sampling procedures shall be carried out over a sufficiently short period to avoid any modification of the volatile substances in the samples. If one of the sampling stages takes a long time, the increments, individually or combined, shall be kept in sealed containers.

In the event of arbitration, samples shall be taken jointly by representatives of both the purchaser and the vendor, or by a third party nominated by common accord.

Precautions shall be taken to guarantee the integrity of all samples between the moment they are taken and the moment they are used in the laboratory.

Sampling in bulk concerns both the sampling of flowing grains/oilseeds and the sampling of static grains/oilseeds. In both cases, the sample can be taken using **mechanical** or **manual** means.

## Equipment and devices

There are many different types of sampling equipment or devices. The most suitable equipment should be chosen considering the product to be sampled, the quantity required, the containers to be used, mobility required and electricity outages.

For grains/oilseeds a suction sampling device should have a twin-bore tube with an air supply of 1.3 to 1.5 m<sup>3</sup>/min. These suction sampling devices may also be used for other grains/oilseeds.

## Sampling of bulk products

Sample procedures are described in the regulation for each product. Only alter the device used to obtain a sample as proposed.

## Apparatus and method of sampling

A suction sampling device should have a twin-bore tube with an air supply of 1.3 to 1.5 m<sup>3</sup>/min to sample the consignment throughout the whole depth of the consignment, in at least six (6) different places, chosen at random in the bulk quantity, to the bottom of the truck in order to sample the cross section of the consignment. Deposit the contents of the sampling apparatus in a suitable container. The minimum mass of the representative sample must be as follows:

- Grain, Soya Beans, Dry Beans, Sorghum and Wheat 10 kg; and
- Sunflower and Barley 5 kg
- Canola 3 kg

The sample should be thoroughly mixed before it is divided.

## Samples taken when discharging a consignment/bulk container

If, after the discharge of a consignment in bulk has commenced and it is suspected that the consignment could be of a class or grade other than determined by means of the initial sampling, the discharge must immediately be stopped and the part of the consignment remaining in the bulk container, as well as the part that is already in the collecting hopper (on condition that no other grain, oilseed or dry beans were present in the hopper) shall be sampled anew.

In the case where a bulk sampling apparatus cannot be used, or if it is suspected that a representative sample cannot be taken in such a way, the sample can be obtained as follows:

- Use a suitable container, obtain at least 20 samples, taken at regular intervals, throughout the discharge period, from the stream of grain, oilseed or dry beans that are flowing in bulk, whilst the consignment is offloading.
- Deposit the contents of the sampling apparatus in a suitable container.
- The minimum mass of the representative sample must be as follows:
  - Grain, Soya Beans, Dry Beans, Sorghum and Wheat 10 kg; and
  - Sunflower and Barley 5 kg
  - Canola 3 kg

The sample should be mixed thoroughly before it is divided.

## Sampling apparatus and method for the sampling of rail trucks:

- use a bulk sampling apparatus of suitable length (must be able to reach the bottom of the rail truck);
- take at least two (2) samples from each hatch (hatches on top of each rail truck);
- the bulk sampling apparatus should be inserted crosswise in the length of the truck, into each hatch at an angle of 10° to the vertical line into the bottom of the truck, (in order to sample the cross section of the consignment);
- deposit the contents of the sampling apparatus into a suitable container.
- The minimum mass of the representative sample must be as follows:
  - Grain, Soya Beans, Dry Beans, Sorghum and Wheat 10 kg; and
  - Sunflower and Barley 5 kg
  - Canola 3 kg

The sample should be mixed thoroughly before it is divided.

In South Africa, the grading regulations state that a minimum of six (6) samples should be taken from a consignment delivered in bulk with a bulk sampling apparatus. For the purpose of this protocol it is proposed that this requirement be followed.

In many instances, quality/ grade/specifications are agreed between the parties, to be final as per certification issued by the outloading silo/place of vessel loading in the country of origin. In other instances, quality/ grade/specifications are agreed between the contracting parties, to be final as at the first arrival of the product at the buyer/receiver's premises.

It is entirely for the parties themselves to choose, by way of their contractual arrangements (contract), where quality/ grade/specifications will be final. However, it is of vital importance for such a choice to be committed to writing, i.e. included in detail, in the written contract, to be signed by both parties.

### **Proposal**

The following is proposed:

In many contracts, applicable to local commodities, where the quality/ grade / specifications are agreed between the parties to be final as per certification issued by the out-loading silo, an additional clause is often included in the contract, with wording along the following / similar lines:

“Upon first arrival of the commodity at the Buyer's / Receiver's premises, and upon initial inspection, if it is found that the commodity does not conform to the contractual quality/ grade/ specifications then the following is to apply:

1. The commodity is not discharged/offloaded from the applicable vehicle(s).
2. The seller is to be advised immediately telephonically and in writing as the applicable demurrage charges only take effect 24 hours after the written declaration of the dispute.
3. An independent, recognized arbiter as agreed upon by the seller (or the buyer – whichever the parties contractually agree to at the time of finalizing the contract), to visit soonest the premises where the product is situated, and properly sample the product in the applicable truck/trucks.

The costs to be incurred to resolve the dispute must be acceptable to both parties involved.

4. A pneumatic sampler is the preferred sampling device to be used in the dispute resolution process by the arbiter.

The unit utilizes an explosion-proof electric vacuum motor/switch assembly to draw samples from various depths into a portable cyclone assembly, connected to a flexible hose assembly allowing for the collection of a solid core sample to the desired depth.

Due to the possibility of electricity outages, lack of access or mobility, a suction sampling device with a twin-bore tube with an air supply of 1.3 to 1.5m<sup>3</sup>/min can be used if the parties mutually agree to it.

5. Sampling should be done as described in the grading regulations.
6. It is agreed that the findings of the appointed independent arbiter will be final, and binding to all parties (i.e. seller, buyer and vendor).
7. Should the independent, recognized arbiter ascertain that the product is below/out with the contractually agreed quality/grade/specifications, then the removal of the product is for the care and cost of the seller, and such product should be removed soonest by the seller.
8. All costs applicable to the visit of the independent arbiter will be for the party who is found to be in the wrong, and payable immediately.
9. Should it be found that the product does not conform to the contractual quality/grade/specifications, any/all applicable demurrage charges are incurred from the time of submission of the written declaration of the dispute to the supplier of grains and oilseeds. Note: Demurrage charges only take effect 24 hours after the dispute was declared.”

10. A list of approved, independent arbiters should be made available by the industry.
11. The protocol adheres to the legal requirements of the Agricultural Product Standards Act No 119 of 1990. Subsection 11 of the Act makes provision for offences and penalties.