# COMMISSION REGULATION (EEC) No 1061/92

## of 29 April 1992

## laying down detailed rules for applying Council Regulation (EEC) No 916/92 on the transfer to Portugal of 12 000 tonnes of durum wheat held by the Spanish intervention agency

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals (1), as last amended by Commission Regulation (EEC) No 674/92 (2),

Having regard to Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy (3), as last amended by Regulation (EEC) No 2048/88 (4),

Having regard to Council Regulation (EEC) No 916/92 of 31 March 1992 on the transfer of 382 000 tonnes of cereals held by various intervention agencies (5), and in particular Article 1 (5) thereof,

Whereas, according to Regulation (EEC) No 916/92, the Spanish intervention agency is to make available to the Portuguese intervention agency 12 000 tonnes of durum wheat to be moved to specified places; whereas the detailed rules for applying this measure should be adopted;

Whereas there is a shortage of grain in Portugal; whereas it should therefore be specified that the durum wheat is to be transferred to intervention silos in Portugal;

Whereas the Portuguese intervention agency must be informed quickly of the storage locations in Spain of the grain to be transferred; whereas this information and the storage locations in Portugal must be notified to the Commission in order to enable it, in particular, to assess the cost of the transfer operation;

Whereas a tendering procedure should be organized for the transportation of the grain so that it can be carried out as cheaply as possible;

Whereas the provisions of Council Regulation (EEC) No 1055/77 of 17 May 1977 on the storage and movement of products bought in by an intervention agency (6) and of Commission Regulation (EEC) No 1722/77 of 28 July 1977 laying down common detailed rules for the application of Regulation (EEC) No 1055/77 on the storage and movement of products bought in by an intervention agency (7), as last amended by Regulation (EEC) No 3826/85 (8), are to apply to this transfer operation;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. Pursuant to Regulation (EEC) No 916/92, the Spanish intervention agency shall make 12 000 tonnes of durum wheat available to the Portuguese intervention agency.

2. The Spanish and Portuguese intervention agencies shall:

(a) agree on the choice of storage locations, places of departure and destination in order to reduce transport costs as much as possible and on the dates of removal of the product pursuant to Article 1 (2) of Regulation (EEC) No 916/92; the lists of those places shall be forwarded to the Commission immediately;

(b) ascertain, on loading in Spain and on entry into the storage locations in Portugal, the loaded and unloaded weight and, by analysing a representative sample, the quality of the product in question.

*Article 2*

The Portuguese intervention agency shall be responsible for the carriage of the product referred to in Article 1 (1) to the places specified in Article 3 (1), at the following intervals:

— 4 000 tonnes at least to be transported by 31 July 1992,

— the rest before 31 December 1992.

(1) OJ No L 281, 1. 11. 1975, p. 1.
(2) OJ No L 73, 19. 3. 1992, p. 7.
(3) OJ No L 94, 28. 4. 1970, p. 13.
(4) OJ No L 185, 15. 7. 1988, p. 1.
(5) OJ No L 98, 11. 4. 1992, p. 4.
(6) OJ No L 128, 24. 5. 1977, p. 1.
(7) OJ No L 189, 29. 7. 1977, p. 36.
(8) OJ No L 371, 31. 12. 1985, p. 1.

*Article 3*

1. The durum wheat shall be transferred to the Lisbon and/or Oporto silos referred to in the invitation to tender drawn up by the Portuguese authorities.

2. The cost of transporting the grain shall be determined by the Portuguese intervention agency by a tendering procedure. The cost shall include :

(a) that of transportation (excluding loading) from the storage location of departure to the storage location of destination (excluding unloading) ;

(b) the cost of insurance covering the buying-in price of the goods as referred to in Article 7 (3) of Regulation (EEC) No 2727/75. This price is converted into national currency at the agricultural exchange rate valid for the date of expiry of the offers.

3. The invitation to tender may relate to one or more lots.

4. The Portuguese intervention agency shall determine the terms and conditions governing the invitation to tender in accordance with the provisions of this Regulation. These must provide in particular for :

— the written undertaking of the offeror, endorsed by a recognized credit establishment, to lodge within two days of receipt of the statement of award of contract, a security guaranteeing successful completion of the operations covered by the invitation to tender of ECU 130 per tonne converted into national currency at the rate referred to under 2 (b),

— the loss of an appropriate amount of the security for each day of delay in fulfilment of the obligations arising from the contract, except in cases of *force majeure*. By way of derogation from Article 23 of Commission Regulation (EEC) No 2220/85 [1] such amount shall be equal at least to 10 % of the transport cost awarded applied to each tonne not transported within the period laid down. It shall be increased by a further 1 % per day of delay from the sixth day over the stipulated date of delivery.

The principal requirement of the abovementioned security shall be deemed to have been fulfilled on delivery to the place of destination designated by the Portuguese authorities. Proof thereof shall be furnished within one month of delivery.

The notices of invitation to tender for each tranche shall be drawn up by lot and by destination. They shall be published by the Portuguese authorities not later than five working days before the dates of the award referred to in paragraph 5.

5. The first awards shall be made on 8 May 1992 at 1.00 p.m. For quantities not then awarded, two further awards shall be made on 15 May 1992 and 22 May 1992 at 1.00 p.m.

6. Tenders shall be both submitted to the Portuguese intervention agency and accepted in escudos.

7. The tenders may be submitted by telex.

8. Tenders shall be valid only if they are accompanied by proof that the tenderer has lodged a security of ECU 5 per tonne. The security shall be released :

— if the tender is not successful,

— when the security referred to in Article 3 (4) has been lodged.

9. Contracts shall be awarded by lot and by destination to the tenderer offering the best terms. However, if no tender is in line with normal prices and costs, no award shall be made.

*Article 4*

The Portuguese intervention agency shall take delivery of the grain when it is loaded on the means of transport at the storage location of the intervention agency of departure and shall assume responsibility for it from that moment.

The Spanish intervention agency shall keep the Portuguese intervention agency informed as to the actual quantities of grain removed and the dates of removal from each place of removal.

*Article 5*

The Portuguese intervention agency shall keep the Commission informed of the progress of the tendering procedure and shall immediately notify the outcome both to the Commission and to the Spanish intervention agency.

*Article 6*

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

[1] OJ No L 205, 3. 8. 1985, p. 5.

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

Done at Brussels, 29 April 1992.

*For the Commission*
Ray MAC SHARRY
*Member of the Commission*