COMMISSION REGULATION (EC) No 2463/94

of 12 October 1994

amending Regulation (EC) No 953/94 increasing to 1 400 000 tonnes the quantity of barley held by the German intervention agency for which a standing invitation to tender for export has been opened

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals [1], as last amended by Commission Regulation (EC) No 1866/94 [2], and in particular Article 5 thereof,

Having regard to Commission Regulation (EEC) No 2131/93 of 28 July 1993 laying down the procedure and conditions for the disposal of cereals held by the intervention agencies [3], as amended by Commission Regulation (EC) No 120/94 [4],

Whereas Commission Regulation (EC) No 953/94 [5], as last amended by Regulation (EC) No 1821/94 [6], opened a standing invitation to tender for the export of 1 400 000 tonnes of barley held by the German intervention agency; whereas, in a communication of 6 October 1994, Germany informed the Commission of the intention of its intervention agency to increase by 300 000 tonnes the quantity for which a standing invitation to tender for export has been opened; whereas the total quantity of barley held by the German intervention agency for which a standing invitation to tender for export has been opened should be increased to 1 400 000 tonnes;

Whereas this increase in the quantity put out to tender makes it necessary to alter the list of regions and quantities in store; whereas Annex I to Regulation (EC) No 953/94 must therefore be amended;

Whereas special rules must be laid down to ensure that the operations are properly carried out and monitored;

Whereas to that end the Member States must provide for all additional measures compatible with the provisions in force to ensure that the operation takes place smoothly and that the Commission is kept informed;

Whereas the monitoring arrangements should accordingly be supplemented by the possibility of a sample being taken in the presence of both parties;

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

Article 1 of Regulation (EC) No 953/94 is replaced by the following:

'*Article 1*

The German intervention agency may, on the conditions laid down in Regulation (EEC) No 2131/93, open a standing invitation to tender for the export of 1 400 000 tonnes of barley held by it.'

Article 2

Article 2 of Regulation (EC) No 953/94 is replaced by the following:

'*Article 2*

1. The invitation to tender shall cover a maximum of 1 400 000 tonnes of barley to be exported to all third countries.

2. The regions in which the 1 400 000 tonnes of barley are stored are stated in Annex I to this Regulation.'

Article 3

The following Article 5 is inserted:

'*Article 5*

1. Before the lot awarded is removed, the intervention agency and the successful tenderer shall take a reference sample in accordance with the method laid down in Commission Regulation (EEC) No 689/92 [*] and shall analyse that sample.

(a) Where the final results of the analysis of the sample indicate a difference between the quality of the barley to be removed and the quality as described in the notice of invitation to tender, which nevertheless remains within a limit of up to:

— 2 kg/hl for the specific weight, which must not however be less than 60 kg/hl,

— one percentage point for the moisture content,

— half a percentage point for the impurities referred to in points B.2 and B.4 of the Annex to Regulation (EEC) No 689/92,

[1] OJ No L 181, 1. 7. 1992, p. 21.
[2] OJ No L 197, 30. 7. 1994, p. 1.
[3] OJ No L 191, 31. 7. 1993, p. 76.
[4] OJ No L 21, 26. 1. 1994, p. 1.
[5] OJ No L 108, 29. 4. 1994, p. 4.
[6] OJ No L 190, 26. 7. 1994, p. 10.

— half a percentage point for the impurities referred to in point B.5 of the Annex to Regulation (EEC) No 689/92, the percentages admissible for noxious grains however remaining unchanged, the following provisions shall apply :

(i) The intervention agency shall, that same day, inform the Commission thereof in accordance with Annex III, as well as the storer and the successful tenderer ;

(ii) The successful tenderer may :

— either agree to take over the lot with its characteristics as established,

— or refuse to take over the lot in question. In that case the successful tenderer shall, that same day, inform the intervention agency and the Commission thereof in accordance with Annex IV.

Once these formalities have been completed, he shall be immediately released from all his obligations relating to the lot in question, including the securities,

The lot in question shall then be put up for sale again under a future invitation to tender at the quality established.

(b) Where the final results of the analysis of the sample indicate that the quality is below the limits laid down in (a) above :

— the intervention agency shall, that same day, inform the Commission thereof in accordance with Annex III, as well as the storer and the successful tenderer,

— the successful tenderer shall give official notice, that same day, to the intervention agency of the impossibility of taking over the lot in question and shall inform the Commission thereof, that same day, in accordance with Annex IV. Once these formalities have been completed, he shall be immediately released from all his obligations relating to the lot in question, including the securities.

2. All risks shall be borne by the successful tenderer from the time of removal.

(*) OJ No L 74, 20. 3. 1992, p. 18.'

Article 4

Annex I to Regulation (EC) No 953/94 is replaced by the Annex hereto.

Article 5

The following Annex IV is hereby added to Regulation (EC) No 953/94 :

'ANNEX IV

Communication of refusal of lots under the standing invitation to tender for the export of 1 400 000 tonnes of barley held by the German intervention agency

(Article 5 of Regulation (EC) No 953/94)

— Name of successful tenderer :

— Date of award of contract :

— Date of refusal of lot by successful tenderer :

Lot No	Quantity in tonnes	Address of silo	Reason for refusal to take over
			— Specific weight (kg/hl) — % sprouted grains — % miscellaneous impurities (Schwarzbesatz) — % of matter which is not barley of unimpaired quality — Other'

Article 6

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

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

Done at Brussels, 12 October 1994.

For the Commission
René STEICHEN
Member of the Commission

ANNEX

'ANNEX I

(tonnes)

Place of storage	Quantity
Schleswig-Holstein/Hamburg/ Niedersachsen/Bremen/ Nordrhein-Westfalen	664 946
Hessen/Rheinland-Pfalz/ Baden-Württemberg/Saarland/Bayern	63 876
Berlin/Brandenburg/ Mecklenburg-Vorpommern	295 112
Sachsen/Sachsen-Anhalt/Thüringen	268 267
Belgium	44 862
Netherlands	62 938'