COMMISSION REGULATION (EC) No 2539/95

of 30 October 1995

on the opening of a standing invitation to tender for 250 000 tonnes of barley held by the German intervention agency for processing in Spain

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 Regulation (EC) No 1863/95 [2], and in particular Article 5 thereof,

Whereas the drought affecting Spain in recent months has resulted in a shortage of fodder, which may induce stockfarmers to sell their livestock early, thereby adversely affecting their incomes;

Whereas that shortage may be made good by making 250 000 tonnes of barley available to Spanish stockfarmers; whereas, for its part, the Spanish intervention agency does not have fodder grain available; whereas such Community grain is available at the German intervention agency;

Whereas, given the current market situation, a standing invitation to tender should be opened for 250 000 tonnes of barley held by the German intervention agency for compulsory dispatch to Spain;

Whereas the aim of the measures can only be achieved if the minimum price laid down under the invitation to tender takes account of the forwarding costs between Germany and Spain but does not disturb the Spanish domestic market; whereas, under these circumstances, the most appropriate procedure is that followed for exports of cereals to third countries; whereas a special system, combining certain rules on resale on the internal market and those on exports, should therefore be laid down;

Whereas, as regards proof of processing in Spain, Commission Regulation (EEC) No 3002/92 of 16 October 1992 laying down common detailed rules for verifying the use and/or destination of products from intervention [3], as last amended by Regulation (EEC) No 1938/93 [4], should apply;

Whereas, in view of the early harvest in Spain and if the provisions of this Regulation are to produce an effect, the measures adopted must be applied as soon as possible;

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. Notwithstanding Commission Regulation (EEC) No 2131/93 of 28 July 1993 laying down the procedure and conditions for the sale of cereals held by intervention agencies [5], the German intervention agency shall organize a standing invitation to tender under the conditions laid down hereunder for 250 000 tonnes of barley it holds with a view to processing in Spain.

2. The regions where the 250 000 tonnes of barley are stored are set out in Annex I.

Article 2

1. In the notice of invitation to tender provided for in Article 5, the intervention agency shall specify for each lot the port or place of exit which may be accessed at the lowest transport costs and which has adequate technical facilities for dispatching the cereals put up for tender.

2. The lowest transport costs between the place of storage and the place of loading at the port or place of exit referred to in paragraph 1 shall be reimbursed to the successful tenderer by the intervention agency in respect of the quantities delivered.

Article 3

Tenders shall be deemed to relate to cereals delivered to, but not unloaded at, the ports or places of exit referred to in Article 2.

Article 4

When each closing date for the submission of tenders has expired, the Member State concerned shall forward to the Commission a list of tenders, without names, showing in each case in particular the quantity, the price and the price increases or reductions applying thereto. In accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, the Commission shall fix the minimum selling price or shall decide to take no action in respect of tenders received.

[1] OJ No L 181, 1. 7. 1992, p. 21.
[2] OJ No L 179, 29. 7. 1995, p. 1.
[3] OJ No L 301, 17. 10. 1992, p. 17.
[4] OJ No L 176, 20. 7. 1993, p. 12.
[5] OJ No L 191, 31. 7. 1993, p. 76.

The minimum selling price shall be set at a level which does not disturb the Spanish market.

Article 5

At least five days before the first closing date for the submission of tenders, the German intervention agency shall publish a notice of invitation to tender setting out :

— supplementary terms and conditions of sale in accordance with this Regulation,

— the main physical and technical characteristics of the various lots as ascertained at the time of buying-in by the intervention agency or during checks conducted thereafter,

— the places of storage and the names and addresses of the storers.

The notice and any amendments thereto shall be forwarded to the Commission before the first closing date for the submission of tenders.

The German intervention agency shall take all measures necessary to enable interested parties to assess the quality of the cereals put up for sale before submitting their tenders.

Article 6

1. Tenders shall refer to the standard quality defined in Council Regulation (EEC) No 2731/75 of 29 October 1975 fixing standard qualities for common wheat, rye, barley, maize and durum wheat [1].

Where the quality of the cereals does not comply with the standard quality, the price of the tender accepted shall be adjusted by applying price increases or reductions pursuant to Articles 4 and 5 of Regulation (EEC) No 1766/92.

2. Tenders submitted may not be adjusted or withdrawn.

Tenders shall only be valid if they are accompanied by :

— proof that the tenderer has lodged a security of ECU 20 per tonne,

— proof that a contract of sale for delivery in Spain has been concluded, subject to award to the contract,

— a written undertaking by the tenderer that the cereals covered by the award will be processed in Spain by 30 June 1996 at the latest.

Article 7

1. The time limit for the submission of tenders in response to the first partial invitation to tender shall expire at 9 a.m. (Brussels time) on 9 November 1995.

2. The time limit for the submission of tenders in response to subsequent partial invitations to tender shall expire at 9 a.m. (Brussels time) each Thursday.

3. The closing date for the last partial invitation to tender shall expire at 9 a.m. (Brussels time) on 21 December 1995.

4. Tenders must be submitted to the German intervention agency at the following address :

Bundesanstalt für Landwirtschaft und Ernährung (BLE),
Adickesallee 40,
D-60322 Frankfurt am Main,
(Telex : 4-11475, 4-16044).

Article 8

Not later than two hours after the expiry of the time limit for the submission of tenders, the German intervention agency shall notify the Commission of tenders received. Such notifications shall be sent to the telex or telefax numbers set out in Annex III, using the model set out in Annex II.

Article 9

The intervention agency shall immediately inform all tenderers of the outcome of their tenders. Within three working days of such notification, it shall forward statements of award to the successful tenderers by registered letter or written telecommunication.

Article 10

Successful tenderers shall pay for the cereals before they are removed and at the latest within one month of the date of forwarding of the statements referred to in Article 9. They shall bear all risks and storage costs in respect of cereals not removed within the term of payment.

Cereals covered by contracts awarded and not removed within the term of payment shall be deemed to all effects to have been removed on expiry of that term. In such cases, the tender price shall be adjusted by reference to the quality specifications laid down in the notice of invitation to tender.

Where the successful tenderer has not paid for the cereals within the term laid down in the first paragraph, the contract shall be cancelled by the intervention agency in respect of the quantities not paid for.

Article 11

Securities as referred to in Article 6 (2) shall be released where they cover quantities in respect of which :

— the tender has not been accepted,

— the selling price is paid within the term laid down and a security covering the difference between the price accepted and the intervention price applying on the closing date for the submission of tenders, plus ECU 30/tonne, has been lodged.

[1] OJ No L 281, 1. 11. 1975, p. 22.

Article 12

1. Securities as referred to in the second indent of Article 11 shall be released where they cover quantities in respect of which the tenderers provide proof that the product:

— has been processed in Spain by 30 June 1996 at the latest, except in cases of *force majeure*, or

— is no longer fit for human or animal consumption.

2. Proof that the cereals covered by this Regulation have been processed in Spain shall be furnished in accordance with Regulation (EEC) No 3002/92.

However, processing shall be deemed to have taken place once the barley has been delivered to a store in Spain.

Article 13

In addition to the endorsements provided for in Regulation (EEC) No 3002/92, box 104 of the T5 control copy must bear one or more of the following:

— Destinados a la transformación [Reglamento (CE) nº 2539/95]

— Til forarbejdning (forordning (EF) nr. 2539/95)

— Zur Verarbeitung bestimmt (Verordnung (EG) Nr. 2539/95)

— Προορίζονται για μεταποίηση [Κανονισμός (ΕΚ) αριθ. 2539/95]

— For processing (Regulation (EC) No 2539/95)

— Destinées à la transformation [règlement (CE) nº 2539/95]

— Destinate alla trasformazione [regolamento (CE) n. 2539/95]

— Bestemd om te worden verwerkt (Verordening (EG) nr. 2539/95)

— Para transformação [Regulamento (CE) nº 2539/95]

— Tarkoitettu jalostukseen [Asetus (EY) N:o 2539/95]

— För bearbetning (förordning (EG) nr 2539/95).

Article 14

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, 30 October 1995.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

(tonnes)

Place of storage	Quantity
Schleswig-Holstein/Hamburg/ Niedersachsen/Bremen/ Nordrhein-Westfalen	50 578
Berlin/Brandenburg/ Mecklenburg-Vorpommern	122 516
Sachsen/Sachsen-Anhalt/Thüringen	76 887

ANNEX II

Standing invitation for the resale of 250 000 tonnes of barley held by the German intervention agency for dispatch to Spain

(Regulation (EC) No 2539/95)

1	2	3	4	5	6
Number of tenderer	Number of lot	Quantity (tonnes)	Tender price (ECU/tonne)	Price increase (+) or reduction (−) (ECU/tonne) (p. m.)	Commercial costs (ECU/tonne)
1					
2					
3					
etc.					

ANNEX III

Only the following numbers in Brussels should be used (DG VI. (C.1) Attention : Messrs Thibault and Brus) :

— telex : — 22037 AGREC B,
— 22070 AGREC B (Greek alphabet);

— telefax : — 295 01 32,
— 296 10 97,
— 295 25 15.