# COMMISSION REGULATION (EC) No 2742/95

## of 28 November 1995

## on the transfer of 100 000 tonnes of barley and 100 000 tonnes of rye held by the German intervention agency

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 unusually severe weather conditions in Spain have brought about a shortage of fodder which could lead farmers to sell their livestock prematurely and suffer a loss of income;

Whereas the shortage of fodder may be offset by the use by stock-farmers of 200 000 tonnes of feed grain; whereas these cereals are available from the German intervention agency in the form of barley and rye; whereas, in order to make these cereals available to the stock-farmers concerned, they will have to be transferred to Spain;

Whereas the Spanish intervention agency resells transferred stocks under the conditions set out in 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 [3], as last amended by Regulation (EC) No 120/94 [4];

Whereas the Spanish intervention agency must rapidly be informed of the storage locations in Germany of the quantities to be transferred; whereas that information and details of the storage locations in Spain must be sent to the Commission to enable it, inter alia, to assess the cost of the transfer;

Whereas the port areas of Spain are supplied with feed grain through resales to Spain carried out by the German and Austrian intervention agencies; whereas, in order to ensure the supply of the affected inland areas under equivalent economic conditions, it should be laid down that the cereals concerned must be transferred to specific silos;

Whereas, in order to find the most economical means of carrying out this operation, an invitation to tender should be opened for transport contracts and rules should be laid down to ensure that the transfer is completed successfully and that the stipulated deadlines are met;

Whereas the transfer is subject to 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 [5] and Commission Regulation (EEC) No 3515/92 of 4 December 1992 laying down common detailed rules for the application of Council Regulation (EEC) No 1055/77 on the storage and movement of products bought in by an intervention agency [6], as amended by Regulation (EC) No 306/95 [7];

Whereas the Management Committee for Cereals has not issued an opinion within the time limit laid down by its Chairman,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. The German intervention agency shall make available to the Spanish intervention agency 100 000 tonnes of barley and 100 000 tonnes of rye.

2. The Spanish intervention agency shall take charge of the products referred to in paragraph 1 and ensure that they are transferred to Spain before 1 March 1996 (and disposed of in animal feed before 30 June 1996).

3. The resale of the products referred to in paragraph 1 shall be carried out in accordance with Regulation (EEC) No 2131/93.

4. Transport contracts shall be awarded by tendering procedure. Mobilization shall be carried out under the most favourable transport conditions.

*Article 2*

1. The German intervention agency shall debit the account referred to in Article 4 of Council Regulation (EEC) No 1883/78 [8] with the quantities of barley and rye transferred, valued at zero.

2. The Spanish intervention agency shall credit the account referred to in paragraph 1 with the quantities of barley and rye of which it has taken delivery, valued at zero, and shall value them at the end of each month at

[1] OJ No L 181, 1. 7. 1992, p. 21.
[2] OJ No L 179, 29. 7. 1995, 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 128, 24. 5. 1977, p. 1.
[6] OJ No L 355, 5. 12. 1992, p. 15.
[7] OJ No L 36, 16. 2. 1995, p. 1.
[8] OJ No L 216, 5. 8. 1978, p. 1.

ECU 63 per tonne for rye and ECU 80 per tonne for barley. The amounts are to be converted into national currency at the agricultural rate applying on 30 September 1995.

3. The transport costs of the barley and rye referred to in Article 1 shall be entered in the accounts referred to in paragraphs 1 and 2 of this Article.

*Article 3*

The Spanish and German intervention agencies shall:

(a) agree on the choice of storage lcoations and places of departure, taking account of the destination referred to in Article 4, so as to reduce transport costs to a minimum, and on the dates of removal of the product; the lists of those places shall be forwarded to the Commission immediately;

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

*Article 4*

The Spanish intervention agency shall ensure that the relevant quantities of the products referred to in Article 1 (1) are transferred to the silos listed in the Annex hereto.

*Article 5*

1. The Spanish intervention agency shall determine the transport costs for the products by means of a tendering procedure. Those costs shall comprise:

(a) the cost of transport (excluding the costs of withdrawal) from the storage location of departure to the storage location of destination (excluding the costs of entry into storage);

(b) the cost of insurance covering 12 % of the intervention price for the goods referred to in Article 3 of Regulation (EEC) No 1766/92; that price shall be converted into national currency at the agricultural conversion rate applying on the date on which the validity of tenders expires.

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

3. The Spanish intervention agency shall determine the terms and conditions governing the invitation to tender in accordance with the provisions of this Regulation. They shall provide *inter alia,* for:

— a written undertaking by the tenderer, endorsed by a recognized credit institution, to lodge, within two working days of the day on which notification of award of contract is received, a performance security for the operations covered by the invitation to tender of ECU 140 per tonne, converted into national currency using the rate referred to in paragraph 1 (b),

— the loss, except in cases of *force majeure,* of an appropriate amount of the security for each day's delay in fulfilling the obligations arising from the contract. Notwithstanding Article 23 of Commission Regulation (EEC) No 2220/85 [1], that amount shall be equal to at least 10 % of the transport costs set out in the contract for those quantities not transported within the time limit. That percentage shall be increased by 1 % per day of additional delay from the sixth day following the stipulated date of delivery.

The principal requirement of the abovementioned security shall be deemed to have been fulfilled on delivery to the destination designated by the Spanish authorities. Proof thereof shall be supplied within one month of delivery. Notices of invitation to tender shall be drawn up by lot and by destination. They shall be published by the Spanish authorities at least five working days before the award date referred to in paragraph 4.

4. The award shall be made on 4 December 1995 at 1.00 p.m.

5. Tenders shall be both submitted to the Spanish intervention agency and accepted in pesetas.

6. Tenders may be submitted by telex.

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

— if the tender is unsuccessful,

— when the security referred to in the first indent of paragraph 3 has been lodged.

8. 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 6*

The Spanish intervention agency shall take charge of the barley and rye when it is loaded on the means of transport at the German intervention agency's storage location of departure and shall assume responsibility for it from that moment.

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

*Article 7*

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

*Article 8*

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, 28 November 1995.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

*ANNEX*

## DESTINATION SILOS

*(tonnes)*

| Province | Silo | Product | | Total | Port of arrival |
|---|---|---|---|---|---|
| | | Barley | Rye | | |
| Córdoba | Valchillón | 6 950 | 8 050 | 15 000 | Huelva |
| Sevilla | Marchena | 6 950 | 8 050 | 15 000 | Huelva |
| **Andalucía** | | 13 900 | 16 100 | 30 000 | |
| Badajoz | Montijo | 10 800 | 9 200 | 20 000 | Huelva |
| Badajoz | Don Benito | 6 000 | 4 000 | 10 000 | Huelva |
| Badajoz | Mérida | — | 10 000 | 10 000 | Huelva |
| Cáceres | Cáceres | 5 000 | — | 5 000 | Huelva |
| Cáceres | Trujillo | 4 400 | 10 600 | 15 000 | Huelva |
| **Extremadura** | | 26 200 | 33 800 | 60 000 | |
| Albacete | Albacete | 4 700 | 1 300 | 6 000 | Valencia |
| Albacete | Minaya | — | 4 000 | 4 000 | Valencia |
| Ciudad Real | Cinco Casas | 9 400 | 10 600 | 20 000 | Valencia |
| Cuenca | Tarancón | 3 700 | 6 300 | 10 000 | Valencia |
| Guadalajara | Cabañas | 4 000 | 1 000 | 5 000 | Valencia |
| Toledo | Talavera de la Reina | 4 400 | 3 600 | 8 000 | Valencia |
| Toledo | Torrijos | — | 7 000 | 7 000 | Valencia |
| **Castilla-La Mancha** | | 30 900 | 39 100 | 70 000 | |
| Ávila | Arévalo | 5 000 | — | 5 000 | Santander |
| Salamanca | Gomecello | 2 000 | — | 2 000 | Gijón |
| Salamanca | Peñaranda | 8 000 | 6 000 | 14 000 | Santander |
| Salamanca | Tejares | 4 000 | — | 4 000 | Gijón |
| Segovia | Campo San Pedro | 3 000 | — | 3 000 | Santander |
| Segovia | San Cristóbal | — | 4 000 | 4 000 | Santander |
| Segovia | Sepúlveda | 3 000 | — | 3 000 | Santander |
| Zamora | Barcial | 4 000 | 1 000 | 5 000 | Gijón |
| **Castilla y León** | | 29 000 | 11 000 | 40 000 | |
| | Total | 100 000 | 100 000 | 200 000 | |