# COMMISSION REGULATION (EC) No 1081/2002

## of 21 June 2002

## opening a standing invitation to tender for the export of barley held by the French 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 organisation of the market in cereals [1], as last amended by Regulation (EC) No 1666/2000 [2], and in particular Article 5 thereof,

Whereas:

(1) Commission Regulation (EEC) No 2131/93 [3], as last amended by Regulation (EC) No 1630/2000 [4], lays down the procedure and conditions for the disposal of cereals held by intervention agencies.

(2) Given the current market situation, a standing invitation to tender should be opened for the export of 300 000 tonnes of barley held by the French intervention agency.

(3) Special procedures must be laid down to ensure that the operations and their monitoring are properly effected. To that end, provision should be made for a security lodgement scheme which ensures that aims are met while avoiding excessive costs for the operators. Derogations should accordingly be made to certain rules, in particular those laid down in Regulation (EEC) No 2131/93.

(4) Where removal of the barley is delayed by more than five days or the release of one of the securities required is delayed for reasons imputable to the intervention agency, the Member State concerned must pay compensation.

(5) 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*

Subject to the provisions of this Regulation the French intervention agency issues a standing invitation to tender for the export of barley held by it in accordance with Regulation (EEC) No 2131/93.

*Article 2*

1. The invitation to tender shall cover a maximum of 300 000 tonnes of barley for export to third countries, with the exception of the United States, Canada and Mexico.

2. The regions in which the 300 000 tonnes of barley are stored are set out in Annex I.

*Article 3*

1. Notwithstanding the third paragraph of Article 16 of Regulation (EEC) No 2131/93, the price to be paid for the export shall be that quoted in the tender.

2. No export refund or tax or monthly increase shall be granted on exports carried out pursuant to this Regulation.

3. Article 8(2) of Regulation (EEC) No 2131/93 shall not apply.

*Article 4*

1. The export licences shall be valid from their date of issue within the meaning of Article 9 of Regulation (EEC) No 2131/93 until the end of the fourth month thereafter.

2. Tenders submitted in response to this invitation to tender may not be accompanied by export licence applications submitted pursuant to Article 49 of Commission Regulation (EC) No 1291/2000 [5], as last amended by Regulation (EC) No 2299/2001 [6].

*Article 5*

1. Notwithstanding Article 7(1) of Regulation (EEC) No 2131/93, the time limit for submission of tenders in respect of the first partial invitation to tender shall be 9.00 (Brussels time) on 27 June 2002.

2. The time limit for submission of tenders in respect of subsequent partial invitations to tender shall be 9.00 (Brussels time) each Thursday thereafter.

3. The last partial invitation to tender shall be 9.00 (Brussels time) on 22 May 2003.

4. Tenders shall be lodged with the French intervention agency.

*Article 6*

1. The intervention agency, the storer and the successful tenderer shall, at the request of the latter and by common agreement, either before or at the time of removal from storage as the successful tenderer chooses, take reference samples for counter-analysis at the rate of at least one sample for every 500 tonnes and shall analyse the samples. The intervention agency may be represented by a proxy, provided this is not the storer.

The analysis results shall be forwarded to the Commission in the event of a dispute.

[1] OJ L 181, 1.7.1992, p. 21.
[2] OJ L 193, 29.7.2000, p. 1.
[3] OJ L 191, 31.7.1993, p. 76.
[4] OJ L 187, 26.7.2000, p. 24.
[5] OJ L 152, 24.6.2000, p. 1.
[6] OJ L 308, 27.11.2001, p. 19.

Reference samples for counter-analysis shall be taken and analysed within seven working days of the date of the successful tenderer's request or within three working days if the samples are taken on removal from storage. Where the final result of sample analyses indicates a quality:

(a) higher than that specified in the notice of invitation to tender, the successful tenderer must accept the lot as established;

(b) higher than the minimum characteristics laid down for intervention but below the quality described in the notice of invitation to tender, providing that the differences having regard to those criteria do not exceed the following limits:

— two kilograms per hectolitre as regards specific weight, which must not, however, be less than 60 kg/hl,

— one percentage point as regards moisture content,

— half a percentage point as regards impurities as specified in points B.2 and B.4 of the Annex to Commission Regulation (EC) No 824/2000 ([1]), and

— half a percentage point as regards impurities as specified in point B.5 of the Annex to Regulation (EC) No 824/2000, the percentages admissible for noxious grains and ergot, however, remaining unchanged,

the successful tenderer must accept the lot as established;

(c) higher than the minimum characteristics laid down for intervention but below the quality described in the notice of invitation to tender, and a difference exceeding the limits set out in point (b), the successful tenderer may:

— accept the lot as established, or

— refuse to take over the lot in question. The successful tenderer shall be discharged of all his obligations relating to the lot in question and the securities shall be released only once he has informed the Commission and the intervention agency forthwith in accordance with Annex II; however, if he requests the intervention agency to supply him with another lot of intervention barley of the quality laid down at no additional charge, the security shall not be released. The lot must be replaced within three days of the date of the successful tenderer's request. The successful tenderer shall notify the Commission immediately thereof in accordance with Annex II;

(d) below the minimum characteristics laid down for intervention, the successful tenderer may not remove the lot in question. He shall be discharged of all his obligations relating to the lot in question and the securities shall be released only once he has informed the Commission and the intervention agency forthwith in accordance with Annex II; however, he may request the intervention agency to supply him with another lot of intervention barley of the quality laid down at no additional charge. In that case, the security shall not be released. The lot must be replaced within three days of the date of the successful tenderer's request. The successful tenderer shall immediately inform the Commission thereof in accordance with Annex II.

([1]) OJ L 100, 20.4.2000, p. 31.

2. However, if the barley is removed before the results of the analyses are known, all risks shall be borne by the successful tenderer from the time the lot is removed, without prejudice to any means of redress of which he may avail himself against the storer.

3. If, as a result of successive replacements, the successful tenderer has not received a replacement lot of the quality laid down within one month of the date of his request for a replacement, he shall be discharged of all his obligations and the securities shall be released once he has informed the Commission and the intervention agency forthwith in accordance with Annex II.

4. Except where the final results of analyses indicate a quality below the minimum characteristics laid down for intervention, the costs of taking the samples and conducting the analyses provided for in paragraph 1 but not of inter-bin transfers shall be borne by the European Agricultural Guidance and Guarantee Fund (EAGGF) in respect of up to one analysis per 500 tonnes. The costs of inter-bin transfers and any additional analyses requested by the successful tenderer shall be borne by him.

*Article 7*

Notwithstanding Article 12 of Commission Regulation (EEC) No 3002/92 ([2]), as last amended by Regulation (EC) No 770/96 ([3]), the documents relating to the sale of barley in accordance with this Regulation, and in particular the export licence, the removal order referred to in Article 3(1)(b) of Regulation (EEC) No 3002/92, the export declaration and, where necessary, the T5 copy shall carry the entry:

— Cebada de intervención sin aplicación de restitución ni gravamen, Reglamento (CE) nº 1081/2002

— Byg fra intervention uden restitutionsydelse eller -afgift, forordning (EF) nr. 1081/2002

— Interventionsgerste ohne Anwendung von Ausfuhrerstattungen oder Ausfuhrabgaben, Verordnung (EG) Nr. 1081/2002

— Κριθή παρέμβασης χωρίς εφαρμογή επιστροφής ή φόρου, κανονισμός (ΕΚ) αριθ. 1081/2002

— Intervention barley without application of refund or tax, Regulation (EC) No 1081/2002

— Orge d'intervention ne donnant pas lieu à restitution ni taxe, règlement (CE) nº 1081/2002

— Orzo d'intervento senza applicazione di restituzione né di tassa, regolamento (CE) n. 1081/2002

— Gerst uit interventie, zonder toepassing van restitutie of belasting, Verordening (EG) nr. 1081/2002

— Cevada de intervenção sem aplicação de uma restituição ou imposição, Regulamento (CE) n.º 1081/2002

— Interventio-ohraa, johon ei sovelleta vientitukea eikä vientimaksua, asetus (EY) N:o 1081/2002

— Interventionskorn, utan tillämpning av bidrag eller avgift, förordning (EG) nr 1081/2002.

([2]) OJ L 301, 17.10.1992, p. 17.
([3]) OJ L 104, 27.4.1996, p. 13.