COMMISSION REGULATION (EEC) No 1915/86

of 20 June 1986

laying down detailed implementing rules for the disposal of alcohol obtained from the distillation operations referred to in Articles 39, 40 and 41 of Regulation (EEC) No 337/79 and held by intervention agencies

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 337/79 of 5 February 1979 on the common organization of the market in wine (1), as last amended by Regulation (EEC) No 3805/85 (2), and in particular Articles 40a (2) and 41a (5) thereof,

Having regard to Council Regulation (EEC) No 139/86 of 20 January 1986 laying down general rules for the disposal of alcohol obtained from the distillation operations referred to in Articles 39, 40 and 41 of Regulation (EEC) No 337/79 and held by intervention agencies (3), and in particular Articles 2 and 6 (5) thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy (4), and in particular Article 12 (1) thereof,

Whereas, under Articles 1 and 2 of Regulation (EEC) No 139/86, alcohol obtained from distillation as provided for in Articles 39 and 40 of Regulation (EEC) No 337/79 must first be disposed of by a sale by tender or by public auction which must be opened by the intervention agency holding the alcohol; whereas certain rules should be laid down regarding such sales in order to ensure equality of treatment for all buyers;

Whereas the products obtained from distillation as provided for in Articles 39 and 40 of Regulation (EEC) No 337/79 which could not be disposed of by the intervention agencies holding them, and the products obtained from distillation as provided for in Article 41 of the said Regulation, must be disposed of by sale by tender decided on in accordance with the procedure laid down in Article 67 of Regulation (EEC) No 337/79; whereas specific detailed rules should be laid down in respect of such sales;

Whereas notices of invitation to tender published by the Commission must contain the information enabling the products concerned to be identified;

Whereas the volume of the lots offered for tender should be limited and account should be taken of the particular situation in Greece;

Whereas it is easier for interested parties to submit a tender if samples are kept at their disposal to help them ascertain the quality of the products on offer;

Whereas, since invitations to tender are intended to obtain the most advantageous price, the lot must be awarded to the tenderer who submits the highest bid; whereas provision should also be made for cases in which the same price is offered by several tenderers in respect of a given lot;

Whereas, to help speed up disposal, provision should be made for requiring tenderers to fulfil their obligations within fairly short periods;

Whereas, where it is sold for use in engines or power stations, provision should be made for denaturing the alcohol to prevent it from being used for other purposes; whereas, in the light of the information obtained by the Commission, denaturing should be carried out by adding petrol to the alcohol; whereas, in order to ensure effective verifications of the use and/or destination of such alcohol, most of the provisions of Commission Regulation (EEC) No 1687/76 of 30 June 1976 laying down common detailed rules for verifying the use and/or destination of products from intervention (5), as last amended by Regulation (EEC) No 142/86 (6), should be taken over;

Whereas tenderers should be required to lodge a security in respect of their obligations under the terms of the invitation to tender; whereas, in cases where the invitation to tender stipulates that the alcohol must be used for a particular purpose, provision should be made for the lodging of a specific security to ensure that it is so used; whereas the rules laid down in Commission Regulation (EEC) No 2220/85 of 22 July 1985 laying down common detailed rules for the application of the system of securities for agricultural products (7) should be referred to as regards such securities;

Whereas the minimum selling prices should be fixed in accordance with the rules laid down in Article 6 of Regulation (EEC) No 139/86;

(1) OJ No L 54, 5. 3. 1979, p. 1.
(2) OJ No L 367, 31. 12. 1985, p. 39.
(3) OJ No L 19, 25. 1. 1986, p. 1.
(4) OJ No L 164, 24. 6. 1985, p. 1.
(5) OJ No L 190, 14. 7. 1976, p. 1.
(6) OJ No L 19, 25. 1. 1986, p. 8.
(7) OJ No L 205, 3. 8. 1985, p. 5.

Whereas Regulation (EEC) No 1676/85 lays down provisions concerning the exchange rates between the ECU and national currencies which must be used for the purposes of the common agricultural policy; whereas detailed rules should be laid down for applying them;

Whereas no alcohol obtained from distillation as provided for in Articles 39, 40 and 41 of Regulation (EEC) No 337/79 exists in 1986 in Spain; whereas it should be made clear that this Regulation does not apply to the disposal of alcohol obtained from distillation in Spain before accession;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. Alcohol obtained from the distillation operations referred to in Articles 39, 40 and 41 of Regulation (EEC) No 337/79 shall be disposed of under the conditions laid down in this Regulation.

2. For the purposes of this Regulation 'sale by tender' shall mean a competition among interested parties following an invitation to tender, the contract being awarded to the party submitting the most advantageous offer complying with the rules relating to the submission of tenders.

3. For the purposes of this Regulation, 'sale by public auction' shall mean the sale of products at a public session attended by interested parties at which, starting from a given minimum price, the products are sold to the highest bidder.

Article 2

1. Alcohol shall be disposed of in lots as determined by the competent intervention agency.

The competent intervention agency shall be that in the Member State on whose territory the alcohol is held.

2. A lot shall consist of a quantity of alcohol of uniform quality, contained in a single vat. Several quantities may be grouped together in a single lot provided that the mixture is made uniform by adequate stirring.

However, alcohol obtained from distillation as provided for in Article 41 of Regulation (EEC) No 337/79 shall be placed in separate lots and may not be mixed with alcohol obtained from distillation as provided for in Articles 39 and 40 of that Regulation.

Apart from exceptions decided on in accordance with the procedure referred to in Article 67 of Regulation (EEC) No 337/79, lots shall consist of no less than 1 000 hl and no more than 100 000 hl of alcohol. However, in the case of alcohol held in Greece, the lower limit shall be 200 hl where the alcohol is sold for use in the production of spirituous beverages. Lots shall not be subdivided.

3. Each lot shall be numbered. The letters 'EC' shall precede the numbers of the lots as referred to in the second subparagraph of paragraph 2.

4. A descriptive sheet shall be completed for each lot. It shall contain at least:

— the precise location of the lot, including a reference to enable the vat containing the alcohol to be identified,

— the quantity, expressed in hl and of alcohol at 100 % vol,

— the alcoholic strength, expressed in % vol to the nearest tenth,

— the acidity, expressed in grams of acetic acid per hl of alcohol at 100 % vol,

— the ester content, expressed in grams of ethyl acetate per hl of alcohol at 100 % vol, and

— the methanol content, expressed in grams of methanol per hl of alcohol at 100 % vol.

The descriptive sheet for lots of neutral spirits shall, in addition, contain the aldehyde content, expressed in grams of acetaldehyde per hl of alcohol at 100 % vol.

The descriptive sheet for lots of alcohol other than neutral spirits shall, in addition, contain the higher alcohol content, expressed in grams of methyl-2-propanol-1 per hl of alcohol at 100 % vol.

Article 3

1. With regard to products obtained from the distillation operations referred to in Articles 39 and 40 of Regulation (EEC) No 337/79, the competent intervention agency shall decide, on the basis of all the data available to it, whether a sale by tender or a sale by public auction should be organized for the sale of such products on the markets in alcohol and spirituous beverages.

In addition, the Member States shall lay down rules for such disposal measures, taking account in particular of the need to ensure equality of treatment for all interested parties wherever they are established in the Community.

2. Sale by tender or public auction shall take place no later than six months after receipt of the alcohol.

However, for alcohol held at 1 April 1986, the sale shall take place no later than 31 December 1986.

3. As regards sale by tender, the competent agency shall fix the final date for the submission of tenders for each lot put up for sale.

The invitation to tender shall give the address of the competent intervention agency.

The intervention agency shall communicate the invitation to tender to the Commission at least 30 days before the final date for the submission of tenders.

The conditions governing the sale by tender shall be published 15 days before the final date for the submission of tenders in the 'C' series of the *Official Journal of the European Communities.*

4. As regards sale by public auction, the competent agency shall fix the date of sale for each lot. It shall notify the Commission of that date at least 30 days before the sale. The date of sale shall be published in the 'C' series of the *Official Journal of the European Communities* at least 15 days beforehand.

5. The intervention agency shall notify the Commission, within 15 days of the sale or attempted sale, of the quantities, prices and references of the lots which have been disposed of and the quantities and references of lots which were not disposed of.

Where none of the offers is accepted, it shall inform the Commission forthwith of the reason.

Article 4

1. As regards products obtained from the distillation operations referred to in Articles 39 and 40 of Regulation (EEC) No 337/79 which have not been disposed of pursuant to Article 3 and as regards products obtained from the distillation operations referred to in Article 41 of Regulation (EEC) No 337/79, the Commission shall, in accordance with Article 67 of Regulation (EEC) No 337/79, open a sale by tender. The sale shall take place in accordance with the rules laid down in this Article and in Articles 5 to 12.

2. Where the alcohol referred to in paragraph 1 is obtained from distillation as provided for in Articles 39 and 40 of Regulation (EEC) No 337/79, it shall be disposed of on markets other than those in alcohol and spirituous beverages.

3. Where the alcohol referred to in paragraph 1 is intended to be sold to the motor fuel or power station sector,

— lots of alcohol other than neutral spirits shall be disposed of first,

— the competent intervention agency shall undertake or control the denaturing of the alcohol, depending on whether it is carried out by the agency itself or the purchaser.

For the purposes of this Regulation, denaturing shall consist in adding 1 % by volume of petrol. The cost of the denaturing operation shall be borne by the purchaser.

Article 5

1. From the time of their removal from intervention stock until the use and/or destination specified has been verified, the products referred to in Article 4 (3) shall be subject to customs or equivalent administrative control.

2. Member States shall take all measures necessary to ensure that the control referred to in paragraph 1 is effected. Such measures shall in particular prescribe that firms which carry out incorporation operations shall submit to any inspection or supervision deemed necessary and keep such records as enable the authorities to carry out any checks that they consider necessary.

3. The products shall be accompanied by the control copy referred to in Article 10 of Commission Regulation (EEC) No 223/77 [1]:

— where a part of the control referred to in paragraph 1 is to be carried out in Member States other than that in which the products are removed from intervention stock,

or

— where products are stocked pursuant to Council Regulation (EEC) No 1055/77 [2] in a Member State other than that where the selling intervention agency is situated and the security referred to in Article 8 (4) is lodged with that intervention agency.

4. In addition, as regards the rules for verifying the use and/or destination of the products referred to in Article 4 (3), Regulation (EEC) No 1687/76 shall apply *mutatis mutandis* with the exception of Articles 4, 6 (2), 9, 11, 13 and 13a.

The special endorsements to be entered in boxes 104 and 106 of the control copy shall be as set out in the Annex.

Article 6

1. For each lot offered for sale by tender as provided for in Article 4 (1), the Commission shall draw up a notice of invitation to tender containing:

— the lot number,

— the details on the descriptive sheet,

— the final date for the submission of tenders,

— the address to which tenders must be sent,

— the minimum selling prices determined in accordance with Article 13 and, where appropriate, details of the specific use to which the alcohol is intended to be put.

2. The notice of invitation to tender shall be published in the 'C' series of the *Official Journal of the European Communities* at least 15 days before the final date for the submission of tenders.

---

[1] OJ No L 38, 9. 2. 1977, p. 20.
[2] OJ No L 128, 24. 5. 1977, p. 1.

3. The competent agency shall take all measures to enable interested parties to examine samples of the alcohol put up for sale before tenders are lodged.

4. All interested parties may obtain samples of the alcohol put up for sale against payment of a sum equal to the price at which the alcohol was bought in by the intervention agency, plus expenses.

Article 7

1. Interested parties shall deposit their tenders in writing at the address given on the notice of invitation to tender or send them by registered letter to that address.

2. To be considered, tenders must contain :

(a) the name and address of the tenderer ;

(b) the description of the lot sought ;

(c) the price offered, expressed in the currency of the Member State in which the alcohol is held per hl of alcohol at 100 % vol. The said price shall not be lower than that specified in Article 13 (2) or (3), as the case may be ;

(d) a statement by the tenderer waiving all claims in respect of the quality and characteristics of a product awarded to him.

3. Tenders shall be valid only if they are accompanied by evidence that a security equal to 20 % of the minimum price has been lodged and the tenderer has undertaken to take over the alcohol within the time limit laid down in Article 8 (3).

4. Tenders may not be withdrawn.

Article 8

1. Within 10 days of the final date for the submission of tenders, the Commission shall take the decision referred to in Article 4 of Regulation (EEC) No 139/86. In appropriate cases the Commission shall award the lot to the tenderer submitting the most advantageous offer complying with the rules relating to the submission of tenders.

Where several tenders offering the same price are submitted, the award shall be decided by drawing lots.

2. Tenderers shall be notified immediately by the Commission of the results of their tenders. The Commission shall notify the intervention agencies of the results of the competition.

3. The purchaser shall take over the product within 15 days of the date of notification as provided for in paragraph 2.

Storage costs and risks relating to any alcohol which is not removed within the period laid down in the first subparagraph shall be borne by the successful tenderer.

If the successful tenderer fails to remove the alcohol within one month, the contract for the lot concerned shall be cancelled.

4. The price shall be paid to the competent agency no later than the day before the product is taken over. If a specific use has been laid down for the product put up for sale, the successful tenderer shall provide evidence, within the same time limit, that he has lodged a security equal to 80 ECU per hl of alcohol at 100 % vol.

Article 9

Evidence that the alcohol is used as specified in the invitation to tender concerned shall be supplied to the competent agency within four months of the final date for taking over the product.

Article 10

The primary requirements for the application of Article 20 of Regulation (EEC) No 2220/85 shall be that :

— the tender price is paid,

— the alcohol purchased is removed, and

— where appropriate, the alcohol is used as specified.

Article 11

1. Except in cases of *force majeure,* the security provided for in Article 7 (3) shall only be released by the competent agency :

— where the tender is not considered,

— where the tenderer is not awarded the lot,

— where the product is taken over.

2. Except in cases of *force majeure,* the security provided for in Article 8 (4) shall only be released where the evidence referred to in Article 12 of Regulation (EEC) No 1687/76 has been provided.

3. Regulation (EEC) No 2220/85, and in particular Title V thereof, shall apply to the securities referred to in paragraphs 1 and 2.

Article 12

1. Each case of *force majeure* shall be the subject of an individual examination in the light of the particular circumstances invoked and the evidence furnished.

The assessment of each case shall result in the release of all or part of the securities referred to in Article 7 (3) and/or in Article 8 (4).

2. The Member States shall inform the Commission of all cases of *force majeure.*

Article 13

1. The minimum selling prices for sales as provided for in Article 3 shall be :

— 96 ECU/hl of alcohol at 100 % vol for neutral spirits, and

— 96 ECU/hl of alcohol at 100 % vol for alcohol other than neutral spirits.

2. The minimum selling prices for sales of products obtained from distillation as provided for in Article 41 of Regulation (EEC) No 337/79 shall be :

— 96 ECU/hl of alcohol at 100 % vol for neutral spirits, and
— 96 ECU/hl of alcohol at 100 % vol for alcohol other than neutral spirits.

3. The minimum selling prices for sales as provided for in Article 4 (3) shall be :

— 15 ECU/hl of alcohol at 100 % vol for neutral spirits intended for the motor fuel sector,
— 15 ECU/hl of alcohol at 100 % vol for alcohol other than neutral spirits intended for the motor fuel sector,
— 15 ECU/hl of alcohol at 100 % vol for neutral spirits and for alcohol other than neutral spirits intended for the power station sector.

Article 14

The prices referred to in this Regulation shall mean prices for alcohol loaded onto the purchaser's conveyance.

Article 15

1. By way of derogation from Article 2 (1) of Regulation (EEC) No 1676/85, the conversion rate to be applied for converting

— tenders expressed in national currency into ECU,
— minimum selling prices expressed in ECU into national currency, and
— securities as provided for in Articles 7 (3) and 8 (4) into ECU

shall be the exchange rate referred to in Article 3 (1) of Regulation (EEC) No 1676/85.

2. The period referred to in the second indent of Article 3 (1) (b) of Regulation (EEC) No 1676/85 shall run from the Wednesday of one week to the Tuesday of the following week. The period taken into consideration shall be the week, thus defined, which precedes by at least three days the final date laid down for the submission of tenders. The Commission shall publish the rate to be applied in the 'C' series of the *Official Journal of the European Communities.*

Article 16

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

It shall apply to sales for which the date of the tendering procedure or the date of the sale by auction falls before 31 December 1986.

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

Done at Brussels, 20 June 1986.

For the Commission
Frans ANDRIESSEN
Vice-President

ANNEX

Special endorsements to be entered in boxes 104 and 106 of the control copy :

— Box 104 : denatured alcohol intended for use in the motor fuel or power station sector (Regulation (EEC) No 1915/86),
— Box 106 : date on which the denatured alcohol was removed.