COMMISSION REGULATION (EEC) No 3052/89

of 10 October 1989

amending Regulation (EEC) No 1780/89 laying down detailed rules for the disposal of alcohol obtained from the distillation operations referred to in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 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 3877/88 of 12 December 1988 laying down general rules for the disposal of alcohol obtained from the distillation operations referred to in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 and held by intervention agencies (1),

Whereas Commission Regulation (EEC) No 1780/89 (2), as amended by Regulation (EEC) No 2205/89 (3), lays down detailed rules for the disposal of alcohol obtained from the distillation operations provided for in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 and held by intervention agencies;

Whereas, in view of experience gained as regards invitations to tender for vinous alcohol, it is necessary to determine processing which may be considered equivalent to real industrial uses from processing into goods exported under inward processing arrangements;

Whereas, in order to permit intermediate-scale industrial tests of new uses devised for alcohol by certain operators and thus in the long term to develop possibilities of disposing of significant quantities of Community alcohol without disrupting the market in spirituous beverages, provision should be made under certain conditions for submitting tenders for more than 5 000 hectolitres in respect of a partial invitation to tender;

Whereas, in order to ensure that alcohol sold under a partial invitation to tender is really used for purposes not likely to disrupt the market in alcohol, tenders submitted for that invitation to tender must give a precise indication of the anticipated use;

Whereas, for the purposes of monitoring stocks of alcohol still available for sale under the standing invitation to tender, provision should be made for the intervention agencies concerned to notify, in addition to other information already laid down, the location of the alcohol to which the tenders submitted in respect of a partial invitation to tender relate;

Whereas account should be taken in the framework of a partial invitation to tender of the final uses laid down for the alcohol in order to permit the fixing of varying minimum prices in line with the latter with a view to facilitating in small-scale uses the setting-up of certain trials; whereas industrial uses providing for the direct combustion of the alcohol should be distinguished in particular from other uses;

Whereas, in order to make it easier to ascertain whether tenders submitted in respect of individual and special invitations to tender are admissible, provision should be made, for the intervention agencies concerned, to issue to tenderers a certificate of submission of the tendering security; whereas that certificate must be included by the tenderer with the other documents in his tender;

Whereas, in order to make it easier for the successful tenderer to organize the removal of alcohol, certain time limits should be adjusted and provision should be made for the successful tenderer to be able to obtain additional samples of the alcohol which he has acquired after the closing date for the submission of tenders;

Whereas, in view of experience gained in invitations to tender for alcohol, certain time limits should be adjusted and all the methods employed by the Commission to inform the Member States and the tenderers of the outcome of invitations to tender for alcohol should be specified;

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

Regulation (EEC) No 1780/89 is hereby amended as follows:

1. Article 2 is replaced by the following:

'*Article 2*

A standing invitation to tender may be issued for the implementation within the Community of small-scale projects relating to new industrial end uses such as:

— the heating of glasshouses,
— the drying of feedingstuffs,
— the fuelling of transport vehicles,
— the fuelling of heating systems, including those at cement works,

and the types of processing into goods exported for industrial purposes which have been the subject of inward processing arrangements during the last two

(1) OJ No L 346, 15. 12. 1988, p. 7.
(2) OJ No L 178, 24. 6. 1989, p. 1.
(3) OJ No L 209, 21. 7. 1989, p. 36.

years other than operations consisting solely in alcohol redistillation, rectification, dehydration, purification or denaturing.'

2. Article 5 (1) is replaced by the following:

'1. Apart from the particulars listed in Article 30, tenders shall specify the vat, the quantity to which the tender relates, expressed in hectolitres of alcohol at 100 % vol., and the use to which the alcohol is to be put. Such quantity must not be less than 100 hectolitres per tender and must not be more than 5 000 hectolitres at 100 % vol. where the final industrial use can be considered equivalent to combustion of the alcohol.'

3. Article 6 (3) is replaced by the following:

'3. The intervention agency concerned shall forward to the Commission, within two working days of the last date for the submission of tenders, a list of the tenderers whose tenders may be considered in accordance with Article 30, the prices quoted, the quantities applied for, the place where the alcohol concerned is stored, the types of alcohol concerned and the precise use to be made thereof.'

4. In Article 7:

— paragraph 2 is replaced by the following:

'2. Should contracts be awarded, the Commission, acting in accordance with the procedure referred to in paragraph 1, may decide to fix, where appropriate for each type of industrial use, a minimum price below which tenders will not be considered, taking account in particular of such factors as market conditions, available outlets and the use to be made of the alcohol.';

— paragraph 4 is deleted;

— the following paragraph 5a is inserted:

'5a: The Commission:

— shall notify the decisions taken pursuant to this Article only to those Member States and intervention agencies holding alcohol which have accepted tenders,

— shall publish in a simplified form the results of the partial invitation to tender in the "C" series of the *Official Journal of the European Communities*.'

5. Article 9 (1) is replaced by the following:

'1. Removal of the alcohol must be completed three months after the date of receipt of the notification of acceptance.'

6. Articles 14 (3) and 22 (3) are replaced by the following:

'3. For the purposes of paragraph 2, the intervention agencies concerned:

— shall immediately provide the tenderers with a certificate attesting that the tendering security has been lodged in respect of the quantities for which each intervention agency is responsible,

— shall forward to the Commission, within two working days of the last date for the submission of tenders, a list of the tendering securities checked and accepted.'

7. Articles 15 (3) and 23 (3) are replaced by the following:

'3. The Commission:

— shall inform, in writing with advice of receipt, tenderers whose offers have not been accepted of the decision taken on their tenders,

— shall notify its decision to the Member States holding the alcohol and to the successful tenderer,

— shall publish in a simplified form the results of the invitation to tender in the "C" series of the *Official Journal of the European Communities*.'

8. Article 28 (4) is replaced by the following:

'4. Utilization of the alcohol in both lots must be completed within five years from the date of the first removal of the first lot.'

9. The following points (g) and (h) are added to Article 30 (1):

'(g) in the case of individual and special invitations to tender, the certificates attesting that the tendering security referred to respectively in Articles 14 (3) and 22 (3) has been lodged;

(h) in the case of partial invitations to tender, the precise industrial use of the alcohol.'

10. The following paragraph 1a is inserted in to Article 31:

'1a. After the last date for the submission of tenders, the successful tenderer may obtain samples of the alcohol awarded from the intervention agency concerned under arrangements to be adopted by mutual agreement between then against payment of ECU 2 per litre. However, the quantity of the samples so delivered to the successful tenderer shall not exceed five litres per vat.'

11. The fourth indent of Article 34 is replaced by the following:

'— payments for samples in accordance with Article 31 (1) and (1a), expressed in ecus,'.

Article 2

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, 10 October 1989.

For the Commission
Ray MAC SHARRY
Member of the Commission