COMMISSION REGULATION (EEC) No 3391/90

of 26 November 1990

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 Council 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 822/87 of 16 March 1987 on the common organization of the market in wine (1), as last amended by Regulation (EEC) No 1325/90 (2),

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 (3), and in particular Articles 2 and 3 thereof,

Whereas, for special sales of alcohol by tender, a single performance guarantee should be required for the purpose of ensuring that the alcohol awareded is removed and put to the intended use, in particular in the fuel sector in the Community, to be released in proportion as the successful tenderer supplies the proof of use for the intended purpose with a view to simplifying the system of guarantees required;

Whereas the price per hectolitre of alcohol at 100 % vol offered by the successful tenderer should be revised every three months by adjusting by a coefficient described in the notice of the invitation to tender concerned, in order to fix prices to be paid for the alcohol awarded which follow more closely the fluctuation of fuel prices on international markets; whereas the amendment of the system of guarantees required, in particular the partial release of the performance guarantee, makes it necessary to adapt the provisions relating to publication in the *Official Journal of the European Communities* of the descriptions of the batches not described in the first notice of invitation to tender, and to the determination of the main requirements regarding guarantees within the meaning of Commission Regulation (EEC) No 2220/85 (4), as last amended by Regulation (EEC) No 3745/89 (5);

Whereas Commission Regulation (EEC) No 1780/89 (6) should therefore be amended;

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. the second paragraph of Article 20 is amended as follows:

   (a) the third indent is replaced by the following:

   '— the level of the tendering security referred to in Article 22 (2) and the performance guarantee referred to in the second indent of Article 24 (2) and in Article 26 (2),';

   (b) the fifth indent is replaced by the following:

   '— the time limit for removal as referred to in Articles 25 (2) and 26 (3).';

2. the second indent of Article 24 (2) is replaced by the following:

   '— provide proof of the lodging with the intervention agency of the Member State where the successful tenderer has his principal place of business, of a performance guarantee to ensure that the total quantity of alcohol for which a contract is awarded is in fact used for the purposes specified in the notice of invitation to tender.';

3. the second indent of the second paragraph of Article 26 (1) is amended as follows:

   '— the Commission, having received all the notification referred to in the preceding indent, shall immediately advise the intervention agencies concerned and the successful tenderer that removal of the second lot may commence at a date specified in the advice.';

4. Article 26 (2) is deleted and paragraph 3 becomes paragraph 2;

5. Article 26 (4) is replaced by the following:

   '3. Where a special invitation to tender relates to more than two lots, the rules laid down in paragraphs 1 and 2 shall apply to the removal of the lots following the first two.';

(1) OJ No L 84, 27. 3. 1987, p. 1.
(2) OJ No L 132, 23. 5. 1990, p. 19.
(3) OJ No L 346, 15. 12. 1988, p. 7.
(4) OJ No L 205, 3. 8. 1985, p. 5.
(5) OJ No L 364, 14. 12. 1989, p. 54.
(6) OJ No L 178, 24. 6. 1989, p. 1.

6. the first paragraph of Article 27 is replaced by the following:

'Article 27

The price for hectolitre of alcohol at 100 % vol offered by the successful tenderer shall apply up to the first revision made on the first day of the fifth month following the final date for submission of tenders. This tender price shal lbe adjusted every three months by a coefficient and taking account of a margin within which application of the said coefficient shall result in no change to the price offered.';

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

'4. Utilization of the alcohol of each lot must be completed within one year from the date of the last removal of each lot.';

8. the second paragraph of Article 29 (5) is amended as follows:

'For the subsequent lot or lots the description laid down in paragraph 4 shall be published in the *Official Journal of the European Communities* at least two months before the final date planned in the provisional timetables referred to in Article 25 (1) fot the total physical removal from the stores of the intervention agencies of the last lot described. For this purpose, the aforementioned provisional timetables shall be communicated to the Commission in the month following the first removal of the lots described in the notice of invitation to tender.';

9. the second indent of Article 33 (1) (b) is amended as follows:

'— in relation to invitations to tender as referred to in Title III, the primary requirements for the performance guarantee within the meaning of Article 20 of Regulation (EEC) No 2220/85 shall be that the alcohol removed must in fact be used for the purposes specified in the invitation to tender and that the entire quantity of alcohol must be physically removed from the stores of each of the intervention agencies concerned before the deadline.'

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, 26 November 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission