COMMISSION REGULATION (EEC) No 2953/92

of 12 October 1992

on the sale by tender for supply to Madeira of alcohol of vinous origin for the manufacture of Madeira liqueur wines

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1600/92 of 15 June 1992 concerning specific measures for the Azores and Madeira relating to certain agricultural products (1), and in particular Article 23 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 (2), as last amended by Regulation (EEC) No 2205/90 (3), and in particular Article 2 (4) thereof,

Whereas tenders should be invited for the supply of 4 000 hectolitres of alcohol to Madeira in order to cover current supply requirements for the manufacture of Madeira liqueur wines in 1992/93, pursuant to the specific measures provided for in Regulation (EEC) No 1600/92 for the Azores and Madeira;

Whereas Commission Regulation (EEC) No 1780/89 (4), as last amended by Regulation (EEC) No 2864/92 (5), lays 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 (6), as last amended by Regulation (EEC) No 1756/92 (7), and held by intervention agencies; whereas the system of securities provided for in Regulation (EEC) No 1780/89 should be made applicable, to ensure that the sale by tender is effective and that the alcohol is actually used for the purposes envisaged so as not to disturb the markets in alcohol and spirit drinks in the Community;

Whereas, for the payment of the tender and the lodging of securities, and in order to avoid market distortions of monetary origin, the representative market rates referred to in Article 3a of Commission Regulation (EEC) No 3152/85 of 11 November 1985 laying down detailed rules for the application of Regulation (EEC) No 1676/85 on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy (8), as last amended by Regulation (EEC) No 3237/90 (9), should be used;

Whereas it should also be laid down that the Member States concerned must take all steps necessary to ensure compliance with the Community provisions applicable, especially as regards the destination and use of the alcohol offered for sale, and that the Member States must inform the Commission of the monitoring measures planned before these are put into operation;

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

Tenders shall be invited for the supply of 4 000 hectolitres of neutral spirit of vinous origin at 100 % vol, held by the intervention agencies, to Madeira for use in the manufacture of Madeira liqueur wines in accordance with traditional methods.

Supply shall involve the purchase of neutral spirit held following Community intervention measures and its delivery to Madeira.

Article 2

1. Articles 20, 21, 22 and 23 (3) and Title IV of Regulation (EEC) No 1780/89 shall apply.

2. Depending on the tenders submitted, a decision shall be taken, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1600/92:

— either to award the supply to the tender with the highest amount in ecus per hectolitre of alcohol; where two tenders indicate the same amount, the supply shall be awared by drawing lots,

— or not to accept any of the tenders.

(1) OJ No L 173, 27. 6. 1992, p. 1.
(2) OJ No L 164, 24. 6. 1985, p. 1.
(3) OJ No L 201, 31. 7. 1990, p. 9.
(4) OJ No L 178, 24. 6. 1989, p. 1.
(5) OJ No L 286, 1. 10. 1992, p. 48.
(6) OJ No L 84, 27. 3. 1987, p. 1.
(7) OJ No L 180, 1. 7. 1992, p. 27.
(8) OJ No L 310, 21. 11. 1985, p. 1.
(9) OJ No L 310, 9. 11. 1990, p. 18.

3. In making the decision referred to in paragraph 2, account shall be taken in particular of:

— the prices applied by the intervention agencies when the alcohol was purchased,

— the various costs associated with the supply in question,

— the need not to disturb the markets in alcohol and spirit drinks in the Community.

Article 3

1. The specific conditions of this sale by tender, and in particular the following:

— name and address of the intervention agency,

— location and reference particulars of the storage vats,

— volume, alcoholic strength and characteristics of the alcohol in each vat,

— address for the submission of tenders,

— amounts of the tendering security and the performance guarantee,

shall be given in invitation to tender 'Madeira' numbered 1/92, published in the C series of the *Official Journal of the European Communities.*

2. The conversion rates to be used for payment of the tender and for the lodging of securities shall be the representative market rates as referred to in Article 3a of Regulation (EEC) No 3152/85 valid on the day before publication of the invitation to tender.

Article 4

The deadline for the submission of tenders to the address given in the invitation to tender shall be 12 noon, Brussels time, on 29 October 1992.

Article 5

1. The competent agency shall keep available to the successful tenderer an award statement certifying that his tender has been accepted and that he has been awarded the supply.

2. Within 20 days of receiving the notification referred to in Article 23 (3) of Regulation (EEC) No 1780/89, the successful tenderer shall supply proof that the competent agency has been provided with the performance guarantee intended to ensure that all of the alcohol awarded is used for the purposes specified in the invitation to tender.

Article 6

1. Removal of the alcohol from the intervention agency's stores must be completed three months after the date on which the Commission's decision awarding the alcohol is received.

2. Use of the alcohol must be completed within one year from the date on which the last of the alcohol awarded was removed from store, except in the event of *force majeure.*

3. The competent agency shall release the performance guarantee when the successful tenderer supplies it, in respect of the quantity removed in his case, with the proof required for this purpose in Title V of Regulation (EEC) No 2220/85 (1).

4. The proof that the alcohol has been used for the intended purposes shall be supplied in the form of a summary of the sales invoices, certified as correct by the competent agency on presentation of the said invoices.

The sales invoices must state the name and status of the purchaser, contain the obligation that the alcohol is to be used in accordance with Article 1. They must be signed jointly by the buyer and the seller.

Article 7

1. The alcohol shall be removed on presentation of a removal order issued by the agency holding the alcohol after the quantity to be removed has been paid for. Such quantity shall be determined to the nearest hectolitre of alcohol at 100 % vol.

2. Ownership of the alcohol for which a removal order has been issued shall be transferred at the moment of issue and the quantities involved shall be regarded as having left on that date. From that time onwards the buyer shall bear the risks of theft, loss or destruction and all costs in respect of any alcohol not removed.

3. The removal order shall give the final date on which the alcohol must be removed from the intervention agency's stores.

Article 8

This Regulation shall enter into force on the third day following 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, 12 October 1992.

For the Commission
Ray MAC SHARRY
Member of the Commission