COMMISSION REGULATION (EC) No 360/95

of 22 February 1995

opening individual sales by invitation to tender for the export of vinous alcohol held by intervention agencies

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European 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 the Act of Accession of Austria, Finland and Sweden,

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 [2],

Whereas Commission Regulation (EEC) No 377/93 [3], as last amended by Regulation (EC) No 3152/94 [4], lays 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;

Whereas, in view of the cost of storing alcohol, individual sales by invitation to tender should be opened for vinous alcohol obtained from the distillation operations referred to in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 and held by the Italian, French and Spanish intervention agencies;

Whereas individual invitations to tender should be organized for the export of alcohol to Brazil with a view to its end use as motor fuel in order to achieve a short-term reduction in Community stocks of vinous alcohol;

Whereas it should be stipulated that the performance guarantee, to be lodged for the total quantity put up for sale under each invitation to tender provided for in this Regulation, must serve to ensure compliance with the time limit for exporting the alcohol and the end use as motor fuel in Brazil; whereas half of the said guarantee may be released, in proportion to the quantities of alcohol denatured, where the alcohol in question is denatured in accordance with the specifications laid down; whereas the remainder of the guarantee may be released when proof has been supplied of the export, destination and utilization of the denatured alcohol;

Whereas the tender prices expressed in ecus/hl, submitted under invitations to tender for vinous alcohol, must take account of any amendments made under the agrimonetary system established by Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy [5], as last amended by Regulation (EC) No 150/95 [6];

Whereas Commission Regulation (EEC) No 2192/93 [7] concerning the operative events for the agricultural conversion rates used in the wine sector and amending Regulation (EEC) No 377/93 specifies the agricultural conversion rates to be used to convert the payments and securities provided for in connection with individual invitations to tender into national currency;

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. Two individual sales by invitation to tender Nos 170/94 EC and 171/94 EC shall be held of a total quantity of 750 000 hectolitres of alcohol obtained from the distillation operations referred to in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 and held by the Italian, French and Spanish intervention agencies.

2. Individual invitations to tender Nos 170/94 EC and 171/94 EC shall each cover 375 000 hectolitres of alcohol at 100 % volume.

3. The alcohol offered for sale:

— shall be for export outside the European Community,

— must be imported into and used only as motor fuel in Brazil.

[1] OJ No L 84, 27. 3. 1987, p. 1.
[2] OJ No L 346, 15. 12. 1988, p. 7.
[3] OJ No L 43, 20. 2. 1993, p. 6.
[4] OJ No L 332, 22. 12. 1994, p. 34.
[5] OJ No L 387, 31. 12. 1992, p. 1.
[6] OJ No L 22, 31. 1. 1995, p. 1.
[7] OJ No L 196, 5. 8. 1993, p. 19.

4. The alcohol covered by individual invitations to tender Nos 170/94 EC and 171/94 EC must be processed, where applicable, and denatured in the Community and must meet the Brazilian standards for alcohol to be used as motor fuel after these operations.

5. Notwithstanding Article 33 of Regulation (EEC) No 377/93, denaturing shall take the form of the addition of petrol, with a minimum proportion of 2 %, to the quantity of alcohol concerned after physical removal of the alcohol.

Article 2

The location and reference numbers of the vats concerned, the quantity of alcohol contained in each vat, the alcoholic strength and the characteristics of the alcohol as well as certain specific conditions are given in Annex I to this Regulation.

Article 3

The sales shall take place in accordance with Articles 13, 14, 15, 16 and 30 to 38 of Regulation (EEC) No 377/93.

However, notwithstanding Article 15 of Regulation (EEC) No 377/93, the closing date for submission of tenders under the invitations to tender referred to in this Regulation shall fall between the eighth and the 25th day following the date of publication of the notices issuing the individual invitations to tender.

Article 4

The alcohol awarded must be used not later than 31 December 1996.

Article 5

1. The tendering security referred to in Article 15 of Regulation (EEC) No 377/93 shall be ECU 3,622 per hectolitre of alcohol at 100 % vol and shall be lodged for the total quantity of alcohol offered for sale in each of the invitations to tender referred to in Article 1.

Maintenance of the tender after the time limit for submitting tenders and the lodging of the performance guarantee shall constitute the primary requirements within the meaning of Article 20 of Commission Regulation (EEC) No 2220/85 [1] as regards the tendering security.

The tendering security shall be released immediately if the tender is not accepted or if the successful tenderer meets the conditions set out in the preceding subparagraph.

2. Within 20 days of receipt of the Commission's decision awarding the alcohol, the successful tenderer shall provide proof that the performance guarantee has been lodged with each intervention agency holding alcohol to ensure the export and utilization for the purpose laid down of the alcohol in question.

The performance guarantee shall be ECU 72,45 per hectolitre of alcohol at 100 % vol and shall be lodged for the total quantity offered for sale in each invitation to tender covered by this Regulation.

3. Half of the performance guarantee shall be released, in proportion to the quantities of alcohol-denatured, by each of the intervention agencies concerned for the quantities of alcohol removed from their stores once proof is supplied that the quantity of alcohol in question, after any processing and denaturing in accordance with Article 1 of this Regulation, meets the Brazilian standards for alcohol used as motor fuel, and that this quantity of alcohol has been exported from the Community.

4. The remainder of the performance guarantee shall be released upon request by each of the intervention agencies concerned for the quantity removed from its stores once proof has been supplied that the quantity of alcohol removed has been exported to the correct destination to be used for the purposes laid down, in accordance with Regulation (EEC) No 2220/85.

5. Notwithstanding Article 23 of Regulation (EEC) No 2220/85, ECU 12,08 per hectolitre of alcohol at 100 % vol of the performance guarantee shall be forfeited for any quantities of alcohol not exported within the time limit laid down in Article 6 (4).

Article 6

1. The intervention agency holding alcohol and the successful tenderer shall agree on a detailed timetable for the physical removal of the awarded alcohol. The timetable shall be notified to the Commission in the month following receipt of the Commission's decision awarding the alcohol to permit coordination of removal operations in accordance with this Regulation.

2. The successful tenderer shall pay for the alcohol he is awarded and accept responsibility for the risk of theft, loss and destruction and the cost of storage of the alcohol covered by the invitations to tender referred to in this Regulation not later than 26 June 1995.

3. After receiving payment for a quantity of alcohol calculated to the nearest hectolitre of alcohol at 100 % vol, the intervention agency holding the alcohol shall issue a removal order for the relevant quantity of alcohol. Ownership of the alcohol for which a removal order is issued shall be transferred on issue of the order and the relevant quantities shall be considered as being withdrawn on that date.

[1] OJ No L 205, 3. 8. 1985, p. 5.

The removal order shall state the time limit by which the alcohol must be physically removed from the storehouses of the intervention agency concerned.

4. The alcohol awarded under the invitations to tender provided for in this Regulation must be exported within a time limit of four months from the date of issue of the last removal order relating thereto.

Article 7

1. Before the awarded alcohol is removed, the intervention agency and the successful tenderer shall take a reference sample and shall analyse that sample to verify the alcoholic strength expressed in % vol of the alcohol in question.

Where the final results of the analysis of the sample show a difference between the alcoholic strength by volume of the alcohol to be removed and the minimum alcoholic strength by volume stated in the notice of invitation to tender, the following provisions shall apply:

(i) the intervention agency shall, the same day, inform the Commission thereof in accordance with Annex II, as well as the storer and the successful tenderer;

(ii) the successful tenderer may:

— either agree to take over the lot with its characteristics as established, subject to the Commission's agreement,

— or refuse to take over the lot in question.

In either case, the successful tenderer shall, the same day, inform the intervention agency and the Commission thereof in accordance with Annex III.

Once these formalities have been completed, if he has refused to take over the lot concerned, he shall be immediately released from all his obligations relating to that lot.

2. Where the successful tenderer refuses the merchandise, as provided for in paragraph 1, the intervention agency shall supply him with another quantity of alcohol of the requisite quality, at no extra charge, within eight days.

3. If physical removal of the alcohol is delayed by more than five working days in relation to the date of acceptance of the lot to be removed by the successful tenderer for reasons imputable to the intervention agency, the Member State shall be responsible for the payment of compensation.

Article 8

Notwithstanding the first subparagraph of Article 36 (2) of Regulation (EEC) No 377/93, the alcohol contained in the vats indicated in the communication from the Member States referred to in Article 36 of Regulation (EEC) No 377/93 and covered by the invitations to tender referred to in Article 1 of this Regulation may be substituted by the intervention agencies holding the alcohol concerned in agreement with the Commission or mixed with other alcohol delivered to the intervention agency until a removal order is issued for that alcohol, in particular for logistical reasons.

Article 9

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, 22 February 1995.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

INDIVIDUAL INVITATION TO TENDER No 170/94 EC

I. Place of storage, volume and characteristics of the alcohol offered for sale

Member State	Location	Reference number of vat	Volume in hectolitres of pure alcohol	Reference to Regulation (EEC) No 822/87	Type of alcohol
1. FRANCE	Longuefuye 53200 Château-Gontier		5 091	39	Off flavour (+ 92 % vol)
	Miroline Terre-plein Nord 14600 Honfleur		15 374	35 + 36	Off flavour (+ 92 % vol)
	Total		20 465		
2. SPAIN	Villarrobledo		5 427	39	Neutral
	Tarancón		69 139	39	Neutral
	Villarrobledo		35 836	39	Raw alcohol
	Tarancón		44 133	39	Raw alcohol
	Total		154 535		
3. ITALY	D'Auria		6 000	36	Neutral
	DCA		5 000	36	Neutral
	Mazzari		20 000	39	Neutral
	Bonollo		3 500	39	Neutral
	Sapis (Puglia)		24 000	39	Neutral
	Sasriv		5 000	36	Neutral
	De Luca		15 000	35	Neutral
	Vinum		35 000	39	Neutral
	Gedis		10 000	36	Neutral
	Dicovisa		1 500	35	Neutral
	D'Auria		9 000	39	Raw alcohol
	SAIG		5 500	39	Raw alcohol
	Vinal		3 000	35	Raw alcohol
	De Luca		20 000	35	Raw alcohol
	Balice		2 500	39	Raw alcohol
	DCA		3 000	35	Off flavour
	Caviro		3 000	35	Off flavour
	Del Salento (Puglia)		2 000	35	Off flavour

Member State	Location	Reference number of vat	Volume in hectolitres of pure alcohol	Reference to Regulation (EEC) No 822/87	Type of alcohol
3. ITALY *(cont'd)*	Sapis (Campania)		2 000	39	Off flavour
	Rodi (Campania)		4 000	35	Off flavour
	Rodi (Puglia)		4 000	35	Off flavour
	Bertolino		7 000	35	Off flavour
	Enodistil		3 000	36	Off flavour
	Enodistil		2 500	39	Off flavour
	Vinum		4 500	39	Off flavour
	Total		200 000		
	Grand total		375 000		

Any interested party may, on application to the intervention agency concerned and on payment of ECU 2 per litre or the equivalent thereof in Italian lire, French francs or Spanish pesetas, obtain samples of the alcohol offered for sale. Such samples shall be taken by a representative of the intervention agency concerned.

II. Destination and use of the alcohol

The alcohol offered for sale must be exported from the Community. It must be imported into and used exclusively as motor fuel in Brazil.

Evidence relating to the destination and use of the alcohol is to be obtained by an international security company and transmitted to the intervention agency concerned.

The costs thus incurred are to be borne by the successful tenderer.

III. Submission of tenders

1. Tenders should be submitted for a quantity of 375 000 hectolitres of alcohol, expressed in hectolitres of alcohol at 100 % vol.

   Any tender relating to a smaller quantity will not be considered.

2. Tenders must:

   — be sent by registered mail to the Commission of the European Communities, 200 rue de la Loi, B-1049 Brussels, or

   — be submitted at the reception of the Loi 120 building of the Commission of the European Communities, 130 rue de la Loi, B-1049 Brussels, between 11 a.m. and 12 noon on the date mentioned in point 4.

3. Tenders must be enclosed in a sealed envelope marked 'Tender for individual sale No 170/94 EC (alcohol), DG VI-E-2 — to be opened only at the meeting of the group', which itself must be enclosed in an envelope addressed to the Commission.

4. Tenders must reach the Commission not later than 12 noon (Brussels time) on 6 March 1995.

5. Tenders must state the name and address of the tenderer and must:

   (a) include a reference to individual sale by tender No 170/94 EC;

   (b) specify the price tendered, expressed in ecus per hectolitre of alcohol at 100 % vol;

   (c) include all the undertakings and statements referred to in Article 31 of Regulation (EEC) No 377/93.

6. Each tender must be accompanied by attestations of the lodging of a tendering security, issued by the following intervention agency:

   — EIMA, Via Palestro 81, I-00185 Roma (tel.: 47 49 91; telex: 62 03 31, 62 02 52, 61 30 03; fax: 445 39 40, 495 39 40),

   — SAV par délégation de l'Onivins, zone industrielle, avenue de la Ballastière, boîte postale 231, F-33505 Libourne Cedex (tel.: 57 51 03 03; telex: 572 025; telefax: 57 25 07 25),

   — SENPA, Beneficencia 8, E-28004 Madrid (tel.: 347 65 00; telex: 23427 SENPA; fax: 521 98 32).

   This security must correspond to a sum of ECU 3,622 per hectolitre of alcohol at 100 % vol.

IV. Award of contract

Within 20 days following the date of receipt of the Commission's decision awarding the lot in question, the successful tenderer shall provide evidence of the lodging of a performance guarantee of ECU 72,45 per hectolitre of alcohol at 100 % vol with the intervention agency concerned.

INDIVIDUAL INVITATION TO TENDER No 171/94 EC

I. Place of storage, volume and characteristics of the alcohol offered for sale

Member State	Location	Reference number of vat	Volume in hectolitres of pure alcohol	Reference to Regulation (EEC) No 822/87	Type of alcohol
1. FRANCE	Longuefuye 53200 Château-Gontier		5 092	39	Off flavour (+ 92 % vol)
	Miroline Terre-plein Nord 14600 Honfleur		15 374	35 + 36	Off flavour (+ 92 % vol)
	Total		20 466		
2. SPAIN	Villarrobledo		5 427	39	Neutral
	Tarancón		69 138	39	Neutral
	Villarrobledo		35 836	39	Raw alcohol
	Tarancón		44 133	39	Raw alcohol
	Total		154 534		
3. ITALY	Neri		5 000	35	Neutral
	Neri		20 000	39	Neutral
	Bonollo		10 000	39	Neutral
	Sapis (Puglia)		10 500	39	Neutral
	Sapis (Campania)		10 000	39	Neutral
	Del Salento (Campania)		20 000	35	Neutral
	Sasriv (Campania)		3 000	39	Neutral
	Vinum		6 500	36	Neutral
	Vinum		17 000	39	Neutral
	Enodistil		4 000	35	Neutral
	Gedis		17 500	39	Neutral
	Dicovisa		1 500	35	Neutral
	Bonollo		10 500	39	Raw alcohol
	DCA		6 000	35	Raw alcohol
	Gist Brocades		1 000	35	Raw alcohol
	Balice		10 000	35	Raw alcohol
	Balice		10 000	36	Raw alcohol
	Balice		2 500	39	Raw alcohol
	Caviro		5 500	35	Off flavour
	Rodi (Puglia)		2 500	39	Off flavour
	Del Sud		4 500	35	Off flavour
	Del Sud		2 000	36	Off flavour

Member State	Location	Reference number of vat	Volume in hectolitres of pure alcohol	Reference to Regulation (EEC) No 822/87	Type of alcohol
3. ITALIE *(cont'd)*	Di Trani (Puglia)		3 000	39	Off flavour
	Bertolino		15 000	36	Off flavour
	Enodistil		1 500	35	Off flavour
	Vinum		1 000	36	Off flavour
	Total		200 000		
	Grand total	375 000			

Any interested party may, on application to the intervention agency concerned and on payment of ECU 2 per litre or the equivalent thereof in Italian lire, French francs or Spanish pesetas, obtain samples of the alcohol offered for sale. Such samples shall be taken by a representative of the intervention agency concerned.

II. Destination and use of the alcohol

The alcohol offered for sale must be exported from the Community. It must be imported into and used exclusively as motor fuel in Brazil.

Evidence relating to the destination and use of the alcohol is to be obtained by an international security company and transmitted to the intervention agency concerned.

The costs thus incurred are to be borne by the successful tenderer.

III. Submission of tenders

1. Tenders should be submitted for a quantity of 375 000 hectolitres of alcohol, expressed in hectolitres of alcohol at 100 % vol.

   Any tender relating to a smaller quantity will not be considered.

2. Tenders must:

   — be sent by registered mail to the Commission of the European Communities, 200 rue de la Loi, B-1049 Brussels, or

   — be submitted at the reception of the Loi 120 building of the Commission of the European Communities, 130 rue de la Loi, B-1049 Brussels, between 11 a.m. and 12 noon on the date mentioned in point 4.

3. Tenders must be enclosed in a sealed envelope marked 'Tender for individual sale No 171/94 EC (alcohol), DG VI-E-2 — to be opened only at the meeting of the group', which itself must be enclosed in an envelope addressed to the Commission.

4. Tenders must reach the Commission not later than 12 noon (Brussels time) on 6 March 1995.

5. Tenders must state the name and address of the tenderer and must:

   (a) include a reference to individual sale by tender No 171/94 EC;

   (b) specify the price tendered, expressed in ecus per hectolitre of alcohol at 100 % vol;

   (c) include all the undertakings and statements referred to in Article 31 of Regulation (EEC) No 377/93.

6. Each tender must be accompanied by attestations of the lodging of a tendering security, issued by the following intervention agency:

   — EIMA, Via Palestro 81, I-00185 Roma (tel.: 47 49 91; telex: 62 03 31, 62 02 52, 61 30 03; fax: 445 39 40, 495 39 40),

   — SAV par délégation de l'Onivins, zone industrielle, avenue de la Ballastière, boîte postale 231, F-33505 Libourne Cedex (tel.: 57 51 03 03; telex: 572 025; fax: 57 25 07 25),

   — SENPA, Beneficencia 8, E-28004 Madrid (tel.: 347 65 00; telex: 23427 SENPA; fax: 521 98 32).

   This security must correspond to a sum of ECU 3,622 per hectolitre of alcohol at 100 % vol.

IV. Award of contract

Within 20 days following the date of receipt of the Commission's decision awarding the lot in question, the successful tenderer shall provide evidence of the lodging of a performance guarantee of ECU 72,45 per hectolitre of alcohol at 100 % vol with the intervention agency concerned.

ANNEX II

The only telex and fax numbers in Brussels to be used are :

DG VI/E/2 (for the attention of Mr Chiappone/Mr Van der Stappen)

— telex : 22037 AGREC B,
22070 AGREC B (Greek characters),

— fax : (32 2) 295 92 52

ANNEX III

Communication of refusal or acceptance of lots under the individual invitation to tender for the export of vinous alcohol opened by Regulation (EC) No 360/95

— Name of the successful tenderer :

— Date of award of contract :

— Date of refusal or acceptance of the lot by the successful tenderer :

Lot No	Quantity in hectolitres	Location of alcohol	Reason for refusal or acceptance to take over