COMMISSION REGULATION (EC) No 739/95

of 31 March 1995

opening an individual sale by invitation to tender for vinous alcohol to be used in the motor fuel sector in Sweden

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],

Wherea 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 operation referred to in Article 39 of Regulation (EEC) No 822/87 and held by the Spanish intervention agency;

Whereas an individual invitation to tender should be organized for the sale of vinous alcohol to Sweden with a view to its end use as motor fuel in the public transport sector, given Sweden's capacity to produce alcohol intended for use in the motor fuel sector is currently limited;

Whereas that use is unlikely to disturb traditional alcohol markets; whereas, in addition, vinous alcohol does not replace synthetic alcohol in this case but alcohol obtained from renewable raw materials;

Whereas compliance with the stipulated destination and end use of the alcohol will be guaranteed by the competent control authorities in the Member States, as laid down in Article 37 of Regulation (EEC) No 377/93, and also by an international control company which will verify correct performance of the tender, by denaturing the alcohol in accordance with the specifications of the Swedish authorities and by a financial security which will be released as and when proof is supplied of the destination and use of a quantity of alcohol removed;

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. One individual sale by invitation to tender No 173/95 EC shall be held of a total quantity of 50 000 hectolitres of alcohol obtained from the distillation operation referred to in Article 39 of Regulation (EEC) No 822/87 and held by the Spanish intervention agency.

2. The alcohol offered for sale must be used only as motor fuel in the public transport sector in Sweden.

3. The alcohol must be denatured in Sweden in accordance with the specification adopted by the Swedish authorities.

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.

[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.

Article 3

1. The sale shall take place in accordance with Articles 13 to 18 and 30 to 38 of Regulation (EEC) No 377/93.

2. Notwithstanding Article 18 (2) of Regulation (EEC) 377/93 the successful tenderer shall pay for the alcohol awarded to him and shall assume responsibility for any theft, loss or destruction and for alcohol storage costs under the invitation to tender referred to in this Regulation by 26 June 1995 at the latest.

3. Notwithstanding Article 18 (6) of Regulation (EEC) 377/93, utilization of the alcohol awarded must be completed by 31 December 1996 at the latest.

Article 4

1. The performance guarantee shall be ECU 36,23 per hectolitre of alcohol at 100 % vol and shall be lodged for the total quantity offered for sale.

2. The performance guarantee shall be released on demand by the intervention agency concerned for the quantity removed once proof is supplied of the destination and intended use of that quantity of alcohol removed, in accordance with Commission Regulation (EEC) No 2220/85 [1].

Article 5

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 6

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 invitation to tender referred to in Article 1 of this Regulation may be substituted by the intervention agency 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 7

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, 31 March 1995.

For the Commission

Franz FISCHLER

Member of the Commission

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

ANNEX I

INDIVIDUAL INVITATION TO TENDER No 173/95 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
SPAIN	Tarancón	C-3	23 210	39	Neutral
	Tarancón	D-3	26 790	39	Neutral
	Total		50 000		

Any interested party may, on application to the intervention agency concerned and on payment of ECU 2,415 per litre or the equivalent thereof in 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 used exclusively as motor fuel in the public transport sector in Sweden.

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 50 000 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, Rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel, or

   — be submitted at the reception of the Loi 120 building of the Commission of the European Communities, Rue de la Loi/Wetstraat 130, B-1049 Bruxelles/Brussel, 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 173/95 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 20 April 1995.

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

   (a) include a reference to individual sale by tender No 173/95 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:

   — 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 36,23 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 739/95

— 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