# COMMISSION REGULATION (EC) No 2049/96

## of 25 October 1996

## opening individual invitations to tender for the sale for export of alcohol of vinous origin

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 Regulation (EC) No 1592/96 [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],

Whereas Commission Regulation (EEC) No 377/93 [4], as last amended by Regulation (EC) No 3152/94 [5], lays down detailed rules for the disposal of alcohol obtained from distillation as provided for in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 and held by intervention agencies;

Whereas individual invitations to tender should be opened for the export of vinous alcohol to certain Caribbean and Central American countries so as to guarantee continuity of supplies to those countries and reduce the Community stock of vinous alcohol;

Whereas a specific security should be provided for to ensure that the alcohol is actually exported from the customs territory of the Community and any failure to comply with the date laid down for export should be progressively penalized; whereas the security must be separate from the performance guarantee ensuring in particular that the alcohol is removed from storage and the alcohol awarded is used for the purposes laid down;

Whereas Commission Regulation (EEC) No 2192/93 [6], concerning certain operative events for the agricultural conversion rates used in the wine sector and amending in particular Regulation (EEC) No 377/93, specifies the agricultural conversion rates to be used to convert 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*

Three sales by individual invitation to tender Nos 211/96 EC, 212/96 EC and 213/96 EC shall be held for a total quantity of 150 000 hectolitres of alcohol obtained from distillation as provided for in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 and held by the Italian and Spanish intervention agencies.

Individual invitations to tender Nos 211/96 EC, 212/96 EC and 213/96 EC shall cover a quantity of 50 000 hectolitres of alcohol at 100 % vol each.

*Article 2*

The alcohol offered for sale:

— shall be for export outside the European Community,

— must be imported into and dehydrated in Costa Rica in the case of individual invitation to tender No 211/96 EC, in El Salvador in the case of individual invitation to tender No 212/96 EC and in Jamaica in the case of individual invitation to tender No 213/96 EC,

— must be used only as motor fuel.

*Article 3*

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 shall be as set out in Annex I hereto.

*Article 4*

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

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

[1] OJ No L 84, 27. 3. 1987, p. 1.
[2] OJ No L 206, 16. 8. 1996, p. 31.
[3] OJ No L 346, 15. 12. 1988, p. 7.
[4] OJ No L 43, 20. 2. 1993, p. 6.
[5] OJ No L 332, 22. 12. 1994, p. 34.
[6] OJ No L 196, 5. 8. 1993, p. 19.

*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 under each invitation to tender referred to in Article 1.

Maintenance of the tender after the closing date for the submission tenders and the provision of a security to ensure export and of a 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 lodged for each invitation to tender referred to in Article 1 shall be released immediately if the tender is not accepted or if the successful tenderer had lodged the full security to ensure export and the entire performance guarantee for the invitation to tender in question.

2. The security to ensure export shall amount to ECU 5 per hectolitre of alcohol at 100 % vol and shall be lodged for each quantity of alcohol covered by a removal order under each invitation to tender referred to in Article 1.

The security shall be released only by the intervention agency holding the alcohol for each quantity of alcohol for which proof has been furnished that it has been exported within the time limit laid down in Article 6.

Notwithstanding Article 23 of Regulation (EEC) No 2220/85, and except in cases of *force majeure*, where the time limit laid down in Article 6 has not been complied with, the security to ensure export of ECU 5 per hectolitre of alcohol at 100 % vol shall be forfeit as follows:

(a) 15 % in all cases;

(b) 0,33 % of the amount remaining after deduction of the 15 %, for each day the time limit in question is exceeded.

3. The performance guarantee shall be ECU 25 per hectolitre of alcohol at 100 % vol.

The guarantee shall be released in accordance with Article 34 (3) (b) of Regulation (EEC) No 377/93.

4. Notwithstanding Article 17 of Regulation (EEC) No 377/93, the security covering export and the performance guarantee shall be lodged simultaneously with each intervention agency concerned, for each invitation to tender referred to in Article 1 of this Regulation not later than the day of issue of a removal order for the quantity of alcohol concerned.

5. The agricultural conversion rate to be applied for conversion into national currency shall be that in force on the closing date for the submission of tenders for the invitation to tender in question in the case of the security to ensure export, expressed in ecus per hectolitre at 100 % vol.

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

*Article 6*

1. The alcohol awarded under the invitations to tender referred to in Article 1 shall be exported by 30 June 1997 at the latest.

2. The alcohol awarded shall be used within two years of the date of first removal.

*Article 7*

To be admissible, tenders must indicate the place where end use of the alcohol awarded is to take place and must include an undertaking by the tenderer to the effect that the alcohol will be sent to that destination and used for that purpose. The tender shall also include proof that the tenderer has binding commitments with an operator in the motor-fuel sector in one of the third countries listed in Article 2 who has undertaken to dehydrate the alcohol awarded in one of those countries and to export it for use solely as motor fuel.

*Article 8*

1. Before the alcohol awarded is removed, the intervention agency and the successful tenderer shall take a reference sample and shall analyse that sample to verify the alcoholic strength by volume (% 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:

— 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, in accordance with paragraph 1, the intervention agency shall supply him with another quantity of alcohol of the requisite quality, at no extra charge, within a maximum of eight days.

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

*Article 9*

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 remplaced by alcohol of the same type 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 10*

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, 25 October 1996.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

*ANNEX I*

## INDIVIDUAL INVITATION TO TENDER No 211/96 EC

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

| Member State | Location | Reference number of vat | Quantity in hectolitres of pure alcohol | Reference to Regulation (EEC) No 822/87 | Type of alcohol |
|---|---|---|---|---|---|
| SPAIN | Villarrobledo | 15 | 34 541 | 35 + 36 | Raw alcohol |
| | Villarrobledo | 17 | 15 459 | 39 | Raw alcohol |
| | 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 are to 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 dehydrated in one of the third countries listed in Article 2 of this Regulation for use exclusively as motor fuel.

Evidence relating to the destination and use of the alcohol is to be obtained by an international inspection body 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 are to be submitted for 50 000 hectolitres of alcohol, expressed in hectolitres of alcohol at 100 % vol.

   Tenders 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 Brussels, or

   — be submitted at the reception of the Loi 130 building of the Commission of the European Communities, Rue de la Loi/Wetstraat 130, 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 211/96 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 8 November 1996.

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

   (a) include a reference to individual sale by tender No 211/96 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, specify the final destination of the alcohol awarded and include proof of an undertaking with an operator covering dehydration and use solely as motor fuel.

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

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

   The security must amount to ECU 3,622 per hectolitre of alcohol at 100 % vol.

## INDIVIDUAL INVITATION TO TENDER No 212/96 EC

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

| Member State | Location | Reference number of vat | Quantity in hectolitres of pure alcohol | Reference to Regulation (EEC) No 822/87 | Type of alcohol |
|---|---|---|---|---|---|
| ITALY | Bertolino SpA — Partinico (PA) | | 10 000 | 35 | Raw alcohol |
| | Bonollo SpA — Formigine (MO) | | 15 000 | 36 | Raw alcohol |
| | I.C.V. SpA — Borgoricco (PD) | | 5 000 | 39 | Raw alcohol |
| | F.lli Cipriani SpA — Chizzola d'Ala (TN) | | 7 500 | 35 | Raw alcohol |
| | Villapana SpA — Faenza (RA) | | 7 500 | 35 | Raw alcohol |
| | Ge.Dis. SpA — Marsala | | 5 000 | 39 | Raw alcohol |
| | 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 Italian lire, obtain samples of the alcohol offered for sale. Such samples are to 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 dehydrated in one of the third countries listed in Article 2 of this Regulation for use exclusively as motor fuel.

Evidence relating to the destination and use of the alcohol is to be obtained by an international inspection body 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 are to be submitted for 50 000 hectolitres of alcohol, expressed in hectolitres of alcohol at 100 % vol.

   Tenders 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 Brussels, or

   — be submitted at the reception of the Loi 130 building of the Commission of the European Communities, Rue de la Loi/Wetstraat 130, 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 212/96 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 8 November 1996.

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

   (a) include a reference to individual sale by tender No 212/96 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, specify the final destination of the alcohol awarded and include proof an undertaking with an operator covering dehydration and use solely as motor fuel.

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

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

   The security must amount to ECU 3,622 per hectolitre of alcohol at 100 % vol.

## INDIVIDUAL INVITATION TO TENDER No 213/96 EC

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

| Member State | Location | Reference number of vat | Quantity in hectolitres of pure alcohol | Reference to Regulation (EEC) No 822/87 | Type of alcohol |
|---|---|---|---|---|---|
| ITALY | Enodistil SpA — Alcamo (TP) | | 5 000 | 35 | Raw alcohol |
| | Dist. Centro Adriatico Ascoli Piceno (AP) | | 7 500 | 35 | Raw alcohol |
| | Caviro Scrl — Faenza (RA) | | 7 500 | 35 | Raw alcohol |
| | Balice Sno — Valenzano (BA) | | 5 000 | 36 | Raw alcohol |
| | Caviro Scrl — Faenza (RA) | | 5 000 | 36 | Raw alcohol |
| | Di Trani SpA — Trani (BA) | | 10 000 | 39 | Raw alcohol |
| | Kronion Scrl — Agrigento (AG) | | 5 000 | 39 | Raw alcohol |
| | Distercoop Scrl — Faenza (RA) | | 5 000 | 39 | Raw alcohol |
| | 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 Italian lire, obtain samples of the alcohol offered for sale. Such samples are to 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 dehydrated in one of the third countries listed in Article 2 of this Regulation for use exclusively as motor fuel.

Evidence relating to the destination and use of the alcohol is to be obtained by an international inspection body 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 are to be submitted for 50 000 hectolitres of alcohol, expressed in hectolitres of alcohol at 100 % vol.

   Tenders 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 Brussels, or

   — be submitted at the reception of the Loi 130 building of the Commission of the European Communities, Rue de la Loi/Wetstraat 130, 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 213/96 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 8 November 1996.

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

   (a) include a reference to individual sale by tender No 213/96 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, specify the final destination of the alcohol awarded and include proof of an undertaking with an operator covering dehydration and use solely as motor fuel.

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

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

   The security must amount to ECU 3,622 per hectolitre of alcohol at 100 % vol.

*ANNEX II*

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

DG VI (E-2) (Attention Mr Chiappone/Mr Van der Stappen)

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

— fax: (32 2) 295 92 52.

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*ANNEX III*

**Notification of refusal or acceptance of lots under the individual invitation to tender for the export of vinous alcohol opened by Regulation (EC) No 2049/96**

— 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 (hectolitres) | Location of alcohol | Reason for refusal or acceptance to take over |
|---|---|---|---|
| | | | |