COMMISSION REGULATION (EC) No 1217/2000
of 9 June 2000
opening individual invitations to tender for the sale for export of vinous alcohol

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 organisation of the market in wine [1], as last amended by Regulation (EC) No 1677/1999 [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:

(1) Commission Regulation (EEC) No 377/93 [4], as last amended by Regulation (EC) No 1448/97 [5], 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.

(2) 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.

(3) A specific security should be provided for to ensure that the alcohol is physically exported from the customs territory of the Community and non-compliance with the date laid down for export should be progressively penalised. This security must be independent of the performance guarantee ensuring that the alcohol is removed from storage and the awarded alcohol is used for the purposes laid down.

(4) Since Council Regulation (EC) No 2799/98 of 15 December 1998 on establishing agrimonetary arrangements for the euro [6], tender prices and guarantees must be expressed in euro and payments must be made in euro.

(5) 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

Two sales by individual invitation to tender Nos 288/2000 EC, and 289/2000 EC shall be held for a total quantity of 150 000 hectolitres of alcohol obtained from the distillation operations referred to in Articles 35 and 36 of Regulation (EEC) No 822/87 and held by the Spanish intervention agency.

Each of the individual invitations to tender Nos 288/2000 EC and 289/2000 EC shall cover a quantity of 75 000 hectolitres of alcohol at 100 % volume.

Article 2

The alcohol offered for sale:

— shall be for export outside the European Community,

— must be imported into and dehydrated in one of the following third countries:

  — Costa Rica,

  — Guatemala,

  — Honduras, including the Swan Islands,

  — El Salvador,

  — Nicaragua,

  — St Kitts and Nevis,

  — Bahamas,

  — Dominican Republic,

  — Antigua and Barbuda,

  — Dominica,

  — British Virgin Islands and Montserrat,

  — Jamaica,

  — Saint Lucia,

  — Saint Vincent, including the Northern Grenadines,

  — Barbados,

  — Trinidad and Tobago,

  — Belize,

  — Grenada, including the Southern Grenadines,

  — Aruba,

  — Netherlands Antilles (Curação, Bonaire, Saint Eustace, Saba and the southern part of Saint Martin),

[1] OJ L 84, 27.3.1987, p. 1.
[2] OJ L 199, 30.7.1999, p. 8.
[3] OJ L 346, 15.12.1988, p. 7.
[4] OJ L 43, 20.2.1993, p. 6.
[5] OJ L 198, 25.7.1997, p. 4.
[6] OJ L 349, 24.12.1998, p. 1.

— Guyana,

— United States Virgin Islands,

— Haiti,

— 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 are given in Annex I hereto.

Article 4

The sales shall take place in accordance with Articles 13 to 18, 30 to 34 and 36 to 38 of Regulation (EEC) No 377/93, and Article 2 of Regulation (EC) No 2799/98.

However, notwithstanding Article 15 of Regulation (EEC) No 377/93, the final date for the submission of tenders for 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 individual invitations to tender.

Article 5

1. The tendering security referred to in Article 15 of Regulation (EEC) No 377/93 shall be EUR 3,622 per hectolitre of alcohol 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 a guarantee 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 of the invitations 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 entire guarantee to ensure export and the entire performance guarantee for the invitation to tender in question.

2. The guarantee to ensure export shall be EUR 5 per hectolitre of alcohol at 100 % volume and shall be lodged for each quantity of alcohol for which there is a removal order under each of the invitations to tender referred to in Article 1 of this Regulation.

This guarantee 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 of this Regulation. Notwithstanding Article 23 of Regulation (EEC) No 2220/85, and except in cases of *force majeure*, where the time limit referred to in Article 6 has not been complied with, the guarantee to ensure export of EUR 5 per hectolitre of alcohol at 100 % volume 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 EUR 25 per hectolitre of alcohol at 100 % volume.

This 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 guarantees on export and performance shall be lodged simultaneously with each intervention agency concerned, for each of the invitations 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.

Article 6

1. The alcohol awarded under the invitations to tender referred to in Article 1 shall be exported by 31 December 2000 at the latest.

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

Article 7

To be valid, 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 following the entry into force of this Regulation 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 in accordance with Annex II.

Article 8

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 % volume 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 III, 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.

[1] OJ L 205, 3.8.1985, p. 5.

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

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 a maximum of 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 attributable to the intervention agency, the Member State shall be responsible for the 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 substituted by alcohol of the same type 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 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, 9 June 2000.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

INDIVIDUAL INVITATION TO TENDER No 288/2000 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	Tarancon	A-3	12 292	35 and 36	Raw alcohol
	Tarancon	A-4	24 617	35 and 36	Raw alcohol
	Tomelloso	1	10 674	35 and 36	Raw alcohol
	Tomelloso	3	18 574	35 and 36	Raw alcohol
	Tomelloso	5	8 843	35 and 36	Raw alcohol
	Total		75 000		

Any interested party may, on application to the intervention agency concerned and on payment of EUR 2,415 per litre, 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 dehydrated in one of the non-member countries listed in Article 2 of this Regulation as for use exclusively as motor fuel.

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 75 000 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 post to the European Commission, Rue de la Loi/Wetstraat 200, B-1049 Brussels, or

   — be submitted at the reception of the Loi 130 building of the European Commission, 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 288/2000 EC (alcohol), DG AGRI (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 21 June 2000.

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

   (a) include a reference to individual sale by tender No 288/2000 EC;

   (b) specify the price tendered, expressed in euro 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 a commitment with an operator for 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 913 47 65 00; telex 23427 FEGA; fax 915 21 98 32).

   This security must correspond to a sum of EUR 271 650.

INDIVIDUAL INVITATION TO TENDER No 289/2000 EC

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

Member State	Location	Reference number of vat	Volume en hectolitres of pure alcohol	Reference Regulation (EEC) No 822/87	Type of alcohol
SPAIN	Tarancon	A-3	12 292	35 and 36	Raw alcohol
	Tarancon	B-3	24 817	35 and 36	Raw alcohol
	Tomelloso	1	10 674	35 and 36	Raw alcohol
	Tomelloso	4	18 559	35 and 36	Raw alcohol
	Tomelloso	5	8 658	35 and 36	Raw alcohol
	Total		75 000		

Any interested party may, on application to the intervention agency concerned and on payment of EUR 2,415 per litre, 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 dehydrated in one of the non-member countries listed in Article 2 of this Regulation as for use exclusively as motor fuel.

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 75 000 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 post to the European Commission, Rue de la Loi/Wetstraat 200, B-1049 Brussels, or

   — be submitted at the reception of the Loi 130 building of the European Commission, 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 289/2000 EC (alcohol), DG AGRI (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 21 June 2000.

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

   (a) include a reference to individual sale by tender No 289/2000 EC;

   (b) specify the price tendered, expressed in euro 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 a commitment with an operator for 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 913 47 65 00; telex 23427 FEGA; fax 915 21 98 32).

   This security must correspond to a sum of EUR 271 650.

ANNEX II

List of undertakings and documents to be produced by the tenderer on submission of tenders:

1. evidence that the tendering security has been lodged with each intervention agency;
2. the final destination of the alcohol and an undertaking by the tenderer to comply with this destination;
3. evidence, subsequent to the entry into force of this Regulation, that the tenderer has binding commitments with an operator in the motor fuel sector in one of the non-member countries listed in Article 2 of this Regulation. This operator must undertake to dehydrate the alcohol awarded under the invitation to tender in one of these countries and to export it for use as motor fuel;
4. tenders must include the name and address of the tenderer, the reference number of the notice of invitation to tender, and the price proposed, expressed in euro per hectolitre of alcohol at 100 % volume;
5. an undertaking from the tenderer to the effect that he will comply with all the rules relating to the tendering procedure in question;
6. a statement by the tenderer to the effect that he waives all claims in respect of the quality and characteristics of the alcohol awarded to him, agrees to submit to any checks made on the destination and use of the alcohol and accepts that it is his responsibility to provide evidence that the alcohol is used as specified in the notice of invitation to tender.

ANNEX III

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

DG AGRI (E-2) (for the attention of Mr Chiappone/Mr Innamorati):

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

— fax (32-2) 295 92 52.

ANNEX IV

Communication of refusal or acceptance of lots under the individual invitation to tender for the export of vinous alcohol opened by Regulation (EC) No 1217/2000

— 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