

COMMISSION REGULATION (EEC) No 37/90

of 8 January 1990

amending Regulation (EEC) No 1780/89 laying 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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to Council Regulation (EEC) No 3877/88 of 12 December 1988 laying down general rules on 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⁽¹⁾,

Whereas Commission Regulation (EEC) No 1780/89⁽²⁾, as last amended by Regulation (EEC) No 3052/89⁽³⁾, 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, in view of experience gained, the conditions under which contracts may be granted or not in respect of offers submitted under a partial invitation to tender should be specified;

Whereas, in order to be able to grant contracts in respect of the greatest number possible of tenders in respect of a partial invitation to tender where the prices proposed are deemed satisfactory and where the end uses to which the alcohol is to be put are suitable for developing new industrial outlets for the product, provision should be made within certain limits of the possibility for tenderers who have submitted such tenders to be allocated a replacement lot; whereas this procedure is likely to increase sales of Community alcohol and thus achieve a reduction in stocks management of which entails a high cost to the budget;

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

Regulation (EEC) No 1780/89 is hereby amended as follows:

1. Article 7 is amended as follows:

— paragraph 1 is replaced by the following:

'1. The Commission, acting in accordance with the procedure laid down in Article 83 of

Regulation (EEC) No 822/87, may decide in the light of the tenders submitted and where appropriate depending on the type of end use laid down for the alcohol:

- either to award contracts,
- or to make no awards.'

— the following paragraph 4a is added:

'4a. Where several admissible tenders relate totally or part to the same vats, the Commission shall allocate the quantity of alcohol in question to the tenderer submitting the highest tender in absolute value;

In the decision referred to in paragraph 1, the Commission may decide to propose to the tenderers whose tenders as referred to in the first indent cannot be met, that the quantity of alcohol in question be repaid by a quantity of alcohol of the same type located at the same place of storage. In that case, the relevant tenders shall be deemed to have been accepted provided that the tenderers in question do not express their disagreement with such transfer in writing to the intervention agency concerned within 10 working days from the date of notification of the Commission decisions referred to in the first indent of Article 7 (5a).

To that end, the Commission decision shall indicate, among the vats of unsold alcohol specified in the Annex to the Regulation issuing the standing invitation to tender, the number of the vat in which the quantity of replacement alcohol is stored. Where, at the same place of storage, no vat of as yet unsold alcohol of the same type is indicated in the Annex to the Regulation issuing the standing invitation to tender, the Commission may, after consulting the intervention agency concerned and in agreement with it, indicate in its decision another vat of alcohol of the same type located at the same place of storage.'

2. In Article 8:

— the following subparagraph is added to paragraph 1:

'Where the Commission proposes replacement pursuant to Article 7 (4a) and there is no ensuing disagreement by the tenderer, the statement of award referred to in the first subparagraph shall be issued by the intervention agency concerned on the working day following the expiry of the time limit referred to in the second indent of Article 7 (4a).'

⁽¹⁾ OJ No L 346, 15. 12. 1988, p. 7.

⁽²⁾ OJ No L 178, 24. 6. 1989, p. 1.

⁽³⁾ OJ No L 292, 11. 10. 1989, p. 17.

— paragraph 2 is replaced by the following :

'2. Within the two weeks following the date of receipt of the statement of award referred to in Article 7 (6) and, where the second subparagraph of paragraph 1 is applied, within the two weeks following the date of issue of the statement of award, each successful tenderer shall :

— obtain from the intervention agency the statement of award referred to in paragraph 1,

— provide the intervention agency concerned with proof that a performance security has been lodged to ensure that the alcohol in question is in fact used for the purposes specified in his tender.'

3. Article 31 (1a) is replaced by the following :

'1. After the closing date for the submission of tenders :

— the successful tenderer may obtain samples of the alcohol awards,

— any tenderer to whom replacements pursuant to Article 7 (4a) is proposed may obtain samples of the replacement alcohol proposed.

Such samples may be obtained from the intervention agency against payment of ECU 2 per litre, quantities not exceeding five litres per vat.'

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

It shall apply with effect from 14 October 1989.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 8 January 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission
