

## COMMISSION REGULATION (EC) No 1034/95

of 8 May 1995

opening a sale by individual invitation to tender for the 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 <sup>(1)</sup>, as last amended by the Act of Accession of Austria, Finland and Sweden and Council Regulation (EC) No 3290/94 <sup>(2)</sup>,

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 <sup>(3)</sup>,

Whereas Commission Regulation (EEC) No 377/93 <sup>(4)</sup>, as last amended by Regulation (EC) No 3152/94 <sup>(5)</sup>, 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 substantial quantities of non-rectified alcohol comprising by-products from the manufacture of neutral alcohol of vinous origin are stored in Italy; whereas, on account of the cost of storage of such alcohol, an individual invitation to tender should be opened to dispose of it;

Whereas an opportunity exists to sell such alcohol to the Maghreb countries exclusively for industrial use in those countries; whereas, on account of the high methanol and acidity content of such alcohol, rectification operations are necessary in order for it to be used for industrial purposes;

Whereas a performance security and a system of specific controls should ensure that the market for alcohol and spirituous beverages is not disturbed;

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 <sup>(6)</sup>, as last amended by Regulation (EC) No 150/95 <sup>(7)</sup>;

Whereas the operative events for the agricultural conversion rates described in Commission Regulation (EEC) No 2192/93 <sup>(8)</sup> should be applied to convert the payments and securities under this invitation to tender into the national currencies;

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. A sale by individual invitation to tender No 174/95 shall be held of a total quantity of 40 000 hectolitres of alcohol at 100 % vol obtained from distillation as provided for in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 and comprising by-products from the manufacture of neutral alcohol of vinous origin.

2. The alcohol put up for sale:

- shall be for export outside the European Community to the Maghreb countries (Morocco, Algeria and Tunisia),
- must be rectified in the Community,
- must be used in the abovementioned countries solely for industrial purposes and/or in the cosmetics and/or pharmaceutical industries; use in the manufacture of spirituous beverages or vinegar shall be strictly prohibited.

*Article 2*

The location and reference numbers of the vats concerned, the quantity of alcohol in each vat, the alcoholic strength of the alcohol and certain specific conditions are given in Annex I hereto.

*Article 3*

The sale shall take place in accordance with Regulation (EEC) No 377/93, and in particular Articles 10 to 18 and 30 to 38 thereof.

<sup>(1)</sup> OJ No L 84, 27. 3. 1987, p. 1.

<sup>(2)</sup> OJ No L 349, 31. 12. 1994, p. 105.

<sup>(3)</sup> OJ No L 346, 15. 12. 1988, p. 7.

<sup>(4)</sup> OJ No L 43, 20. 2. 1993, p. 6.

<sup>(5)</sup> OJ No L 332, 22. 12. 1994, p. 34.

<sup>(6)</sup> OJ No L 387, 31. 12. 1992, p. 1.

<sup>(7)</sup> OJ No L 22, 31. 1. 1995, p. 1.

<sup>(8)</sup> OJ No L 196, 5. 8. 1993, p. 19.

However :

- to be admissible, tenders must specify the exact use to which the alcohol is to be put,
- notwithstanding Article 16 (1) of Regulation (EEC) No 377/93, the Commission may decide, in accordance with the procedure referred to in Article 83 of Regulation (EEC) No 822/87, on the basis of the tenders submitted and, where applicable, the type of end use planned, to award a contract or to take no action in respect of tenders received,
- the alcohol must have been completely used within two years from the date of removal of the first batch,
- the alcohol may only be removed after the place of end use has been indicated, after the successful tenderer has provided an undertaking to observe that destination and after the end users of the alcohol have provided binding undertakings specifying that the alcohol will be used solely for the specified purposes in the third countries concerned.

#### Article 4

Notwithstanding Article 34 (2) of Regulation (EEC) No 377/93, the alcohol removed shall be deemed to have been totally used for the purposes laid down if :

- the proof of arrival at destination of the rectified alcohol and proof that it has been used for the purposes laid down have been provided,
- reasons are given for losses of alcohol during operations to rectify non-rectified alcohol,
- the by-products of rectification are destroyed under the supervision of the competent inspection agency.

#### Article 5

Commission Regulation (EEC) No 3002/92 <sup>(1)</sup> and Regulation (EEC) No 2220/85 <sup>(2)</sup> shall apply save as otherwise provided for herein.

#### Article 6

1. Export of the alcohol concerned under the invitation to tender referred to in Article 1 of this Regulation must be completed by 31 December 1995, at the latest.
2. Notwithstanding Articles 23 of Regulation (EEC) No 2220/85, ECU 12,08 of the performance security per hectolitre of alcohol at 100 % vol, shall be forfeit in respect of the quantities of alcohol not exported by 31 December 1995, at the latest.

#### 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 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 9

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

<sup>(1)</sup> OJ No L 301, 17. 10. 1992, p. 17.

<sup>(2)</sup> OJ No L 205, 3. 8. 1985, p. 5.

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

Done at Brussels, 8 May 1995.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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## ANNEX I

## INDIVIDUAL INVITATION TO TENDER No 174/95 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
ITALY	Enodistil SpA		500	35 + 36 + 39	Off flavour
	Vinum SpA		500	35 + 36	Off flavour
	Distercoop Scrl		800	39	Off flavour
	Italcol SpA		800	35	Off flavour
	Tampieri SpA		1 900	35 + 39	Off flavour
	F. Palma SpA		4 900	35 + 36 + 39	Off flavour
	Mazzari SpA		3 300	35 + 39	Off flavour
	Ge.Dis SpA		300	35	Off flavour
	Lav. Soc. Vinacce SpA		1 900	35	Off flavour
	Bertolino SpA		900	35 + 36	Off flavour
	Dicovisa Scrl		500	35	Off flavour
	Caviro Scrl		1 000	35 + 39	Off flavour
	Neri Srl		3 550	35 + 36 + 39	Off flavour
	Enalco Srl		800	35 + 36 + 39	Off flavour
	Bonollo SpA		4 630	35 + 39	Off flavour
	F. Lli Balice SpA		1 050	35	Off flavour
	G. de Luca Sas		500	35	Off flavour
	Rodi San Severo Srl		3 900	35 + 36 + 39	Off flavour
	F. Lli Russo Snc		820	35 + 36 + 39	Off flavour
	Kronion Scrl		350	35 + 39	Off flavour
	G. di Lorenzo Srl		1 850	35 + 36 + 39	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
	Canellese Bocchino SpA		100	35	Off flavour
	Aniello Esposto Srl		450	35	Off flavour
	Sapis SpA		300	39	Off flavour
	Sasriv SpA		1 700	35 + 36 + 39	Off flavour
	Di Trani SpA		2 700	35 + 36	Off flavour
	Total		40 000		

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 national currency, 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

Evidence relating to the destination and use of the alcohol is to be obtained in particular 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 40 000 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 174/95 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 29. 5. 1995.

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

- (a) include a reference to individual sale by tender No 174/95 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 and in Article 3 of this Regulation.

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 51; telex: 62 03 31, 62 02 52, 61 30 03; fax: 445 39 40, 495 35 40).

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

## IV. Award of contract

At the same time as he provides evidence of the lodging of a performance security of ECU 72,45 per hectolitre of alcohol at 100 % vol, the successful tenderer will obtain a statement of award from the intervention agency concerned within 20 days of the date of receipt of the Commission's decision awarding the lot in question.

*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 1034/95**

- 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