

COMMISSION REGULATION (EC) No 2142/98

of 6 October 1998

opening an individual invitation 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 1627/98 ⁽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 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;

Whereas small quantities of *teste e code* alcohol in the form of by-products of the compulsory distillation of vinous alcohol provided for in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 are stored in a large number of distilleries in Italy; whereas that alcohol should be disposed of quickly in view of the cost of storage and the characteristics of the alcohol which make long-term storage difficult; whereas, for logistical reasons, this *teste e code* alcohol should be included in a consignment of alcohol for export to certain Caribbean and Central American countries;

Whereas vinous alcohol stored in Greece should also be offered for sale in view of the cost of storage and, for logistical reasons, should be included in this invitation to tender;

Whereas 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; whereas 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;

Whereas Commission Regulation (EEC) No 2192/93 ⁽⁶⁾, 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

A sale by individual invitation to tender No 245/98 EC shall be held for a total quantity of 201 430,442 hectolitres of alcohol obtained from the distillation operations referred to in Article 35, 36 and 39 of Regulation (EEC) No 822/87 and held by the Greek and Italian intervention agencies.

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,

⁽¹⁾ OJ L 84, 27. 3. 1987, p. 1.

⁽²⁾ OJ L 210, 28. 7. 1998, 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 196, 5. 8. 1993, p. 19.

- Saint Lucia,
- Saint Vincent, including the Northern Grenadines,
- Barbados,
- Trinidad and Tobago,
- Belize,
- Grenada, including the Southern Grenadines,
- Aruba,
- Netherlands Antilles (Curaçao, Bonaire, Saint Eustace, Saba and the southern part of Saint Martin),
- 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 and 30 to 38 of Regulation (EEC) No 377/93.

However, notwithstanding Article 15 of Regulation (EEC) No 377/93, the final date for the submission of tenders for the invitation 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 ECU 3,622 per hectolitre of alcohol at 100 % volume and shall be lodged with the Italian and Greek intervention agencies respectively for the quantities of 183 948,80 hectolitres and 17 481,642 hectolitres. 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 the invitation to tender referred to in Article 1 shall be released 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 ECU 5 per hectolitre of alcohol at 100 % vol.

That guarantee shall be released by the intervention agency holding the alcohol only 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 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.

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 the Italian and Greek intervention agencies respectively for the quantities of 183 948,80 hectolitres and 17 481,642 hectolitres not later than the day of issue of a removal order.

5. The agricultural conversion rate to be applied for the conversion into national currency shall be that in force on the final day for the submission of tenders in the case of the guarantee to ensure export, as expressed in ecus per hl at 100 % vol.

Article 6

1. The alcohol awarded under the invitation to tender referred to in Article 1 shall be exported by 30 June 1999 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. 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.

⁽¹⁾ OJ L 205, 3. 8. 1985, p. 5.

Article 8

1. Before the awarded alcohol is removed, the intervention agency concerned 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 attributable to the intervention agency, the

Member State shall be responsible for the payment of compensation.

Article 9

1. Where the *teste e code* alcohol is removed and processed separately, notwithstanding Article 34(2) of Regulation (EEC) No 377/93, it shall be considered to have been used for the purpose laid down where:

- proofs of arrival at destination and of the use of the processed alcohol as motor fuel are furnished,
- losses during processing of the *teste e code* alcohol are justified; such losses must be attested by the international surveillance firm designated in accordance with Article 38 of Regulation (EEC) No 377/93.

2. Where the *teste e code* alcohol is mixed with other alcohol, Article 34(2) of Regulation (EEC) No 377/93 shall apply for calculating losses of alcohol.

Article 10

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 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 11

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, 6 October 1998.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

INDIVIDUAL INVITATION TO TENDER No 245/98 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 alcohol at 100 % vol	Reference to Regulation (EEC) No 822/87	Type of alcohol
ITALY	Dist. Acquavite Srl		206,62	35	<i>teste e code</i>
	Aniello Esposito Srl — Pomigliano		86,47	36	<i>teste e code</i>
	Aniello Esposito Srl — Pomigliano		235,53	39	<i>teste e code</i>
	Bertolino SpA — Partinico-Platini		9 000,00	35	raw
	Bertolino SpA — Partinico-Platini		94,30	35	<i>teste e code</i>
	Bocchino & C. SpA — Calamandrana		146,36	35	<i>teste e code</i>
	Bonollo SpA — Paduni-Anagni		25 000,00	35	raw
	Bonollo SpA — Fontana-Anagni		38,13	35	<i>teste e code</i>
	Bonollo SpA — Paduni-Anagni		987,71	35	<i>teste e code</i>
	Bonollo SpA — Torrita di Siena		695,10	35	<i>teste e code</i>
	Bonollo SpA — Fontana-Anagni		43,00	36	<i>teste e code</i>
	Bonollo SpA — Paduni-Anagni		17,14	36	<i>teste e code</i>
	Bonollo SpA — Paduni-Anagni		324,21	39	<i>teste e code</i>
	Bonollo Umberto SpA — Conselve Padova 74		845,96	35	raw
	Bonollo Umberto SpA — Conselve Padova 74		1 000,00	39	raw
	Bonollo Umberto SpA — Conselve Padova 74		232,51	35	<i>teste e code</i>
	Camel SpA — Povoletto		161,20	39	raw
	Cantine Sociali Venete — Ponte di Piave		30,09	35	good taste
	Cantine Sociali Venete — Ponte di Piave		748,66	35	raw
	Cantine Sociali Venete — Ponte di Piave		128,46	35	<i>teste e code</i>
	Carlino Reg SnC — Via Milano 49		67,00	35	<i>teste e code</i>
	Caviro-Coop Srl — Faenza		22 000,00	35	raw
	Caviro-Coop Srl — Faenza		417,33	35	<i>teste e code</i>

Member State	Location	Reference number of vat	Volume in hectolitres of alcohol at 100 % vol	Reference to Regulation (EEC) No 822/87	Type of alcohol
	Caviro-Coop Srl — Faenza		31,95	36	<i>teste e code</i>
	CO.NA.FR.U.VIT.SOC.COOP. — Quistello		880,33	39	raw
	DCA SpA — Aprutina		289,32	35	<i>teste e code</i>
	DCA SpA — Aprutina		40,74	36	<i>teste e code</i>
	DCA SpA — Aprutina		17,14	39	<i>teste e code</i>
	D'Auria SpA — Caldari		6 000,00	35	raw
	D'Auria SpA — Caldari		245,44	35	<i>teste e code</i>
	D'Auria SpA — Caldari		366,41	36	<i>teste e code</i>
	D'Auria SpA — Caldari		612,99	39	<i>teste e code</i>
	De Luca Giacomo SAS — Via Trepuzzi 35		5 000,00	35	raw
	De Luca Giacomo SAS — Via Trepuzzi 35		65,80	35	<i>teste e code</i>
	Del Salento SpA — Taviano		4 768,43	35	neutral
	Del Salento SpA — Taviano		315,36	36	neutral
	Del Salento SpA — Castel S. Giorgio		512,22	35	<i>teste e code</i>
	Del Salento SpA — Taviano		320,92	35	<i>teste e code</i>
	Del Salento SpA — Castel S. Giorgio		70,57	36	<i>teste e code</i>
	Del Salento SpA — Taviano		891,72	36	<i>teste e code</i>
	Del Salento SpA — Castel S. Giorgio		624,16	39	<i>teste e code</i>
	Del Salento SpA — Gallipoli		16,03	39	<i>teste e code</i>
	Del Sud SpA — Rutigliano		927,05	35	<i>teste e code</i>
	Del Sud SpA — Rutigliano		287,61	36	<i>teste e code</i>
	Del Sud SpA — Rutigliano		401,57	39	<i>teste e code</i>
	DI.CO.VI.SA. Srl — Assemini		894,16	36	raw
	DI.CO.VI.SA. Srl — Assemini		28,41	35	<i>teste e code</i>
	DI.CO.VI.SA. Srl — Assemini		1,38	36	<i>teste e code</i>
	Dister — COOP.S.C.R.L. — Faenza		3 000,00	39	raw
	Dister — COOP.S.C.R.L. — Faenza		24,98	35	<i>teste e code</i>

Member State	Location	Reference number of vat	Volume in hectolitres of alcohol at 100 % vol	Reference to Regulation (EEC) No 822/87	Type of alcohol
	Dister — COOP.S.C.R.L. — Faenza		10,61	39	<i>teste e code</i>
	Enalco Srl — Savignano		399,58	39	<i>teste e code</i>
	Enodistil SpA — Alcamo 1 Scampati		8 000,00	35	raw
	F. Palma SpA — Palo Del Colle		8,09	35	raw
	F. Palma SpA — Palo Del Colle		682,23	36	raw
	F. Palma SpA — Sant'Antimo		137,47	35	<i>teste e code</i>
	F. Palma SpA — Sant'Antimo		28,11	36	<i>teste e code</i>
	F. Palma SpA — Sant'Antimo		45,77	39	<i>teste e code</i>
	F.lli Balice SnC — Valenzano		7 000,00	35	raw
	F.lli Balice SnC — Valenzano		4,54	35	<i>teste e code</i>
	F.lli Cipriani SpA — Chizzola di Ala		5 000,00	35	raw
	F.lli Cipriani SpA — Chizzola di Ala		336,20	35	<i>teste e code</i>
	F.lli Cipriani SpA — Chizzola di Ala		810,41	39	<i>teste e code</i>
	F.lli Russo — S. Venerina via Ducci		1 800,00	36	raw
	F.lli Russo — S. Venerina via Ducci		0,27	35	<i>teste e code</i>
	F.lli Russo — S. Venerina via Ducci		33,11	39	<i>teste e code</i>
	G. Di Lorenzo Srl — Ponte Valleceppi		7 000,00	35	raw
	G. Di Lorenzo Srl — Ponte Valleceppi		1,50	35	<i>teste e code</i>
	G. Di Lorenzo Srl — Torgiano		542,65	35	<i>teste e code</i>
	G. Di Lorenzo Srl — Torgiano		16,70	39	<i>teste e code</i>
	GE.DIS SpA — Marsala Bartolotta		7 000,00	35	raw
	I.C.V. SpA — Borgoricco		2 461,77	35	raw
	I.C.V. SpA — Borgoricco		1 000,00	39	raw
	Inga e C. Srl — via Garibaldi 10		230,35	35	raw
	Inga e C. Srl — via Garibaldi 10		422,32	39	raw
	Inga e C. Srl — via Garibaldi 10		42,41	35	<i>teste e code</i>
	Kronion SpA — Fid. Scunchipani		5 000,00	35	raw
	Kronion SpA — Fid. Scunchipani		119,46	35	<i>teste e code</i>
	Kronion SpA — Fid. Scunchipani		86,26	36	<i>teste e code</i>

Member State	Location	Reference number of vat	Volume in hectolitres of alcohol at 100 % vol	Reference to Regulation (EEC) No 822/87	Type of alcohol
	Mazzari SpA — via Giardino 8/10		18 980,81	35	raw
	Mazzari SpA — via Giardino 8/10		299,55	35	teste e code
	Neri Srl — S. Silvestro		14 000,00	35	raw
	Neri Srl — S. Silvestro		240,64	35	teste e code
	RO.DI. San Severo Srl — Castel S. Giorgio		3,94	36	raw
	RO.DI. San Severo Srl — Fid. S. Severo		75,30	35	teste e code
	RO.DI. San Severo Srl — Castel S. Giorgio		167,47	36	teste e code
	RO.DI. San Severo Srl — Fid. S. Severo		898,48	36	teste e code
	RO.DI. San Severo Srl — Castel S. Giorgio		157,52	39	teste e code
	RO.DI. San Severo Srl — Fid. S. Severo		416,35	39	teste e code
	S.A.P.I.S SpA — Castel S. Giorgio		16,53	39	teste e code
	S.A.P.I.S SpA — S. Egidio M. Albino		18,26	39	teste e code
	S.A.S.R.I.V. SpA — Materdomini		0,88	36	raw
	S.A.S.R.I.V. SpA — Materdomini		20,79	35	teste e code
	S.V.A. SpA — Ortona		3 000,00	35	raw
	Villapana SpA — Villapana		6 000,00	35	raw
	Vinum SpA — Marsala — via Noto		2 200,00	35	raw
	Vinum SpA — Marsala — via Noto		83,00	36	teste e code
	TOTAL		183 948,80		
GREECE	UCA de Patras	A3	845,91	35 + 36	raw
	Anthias 38	A4	906,70	35 + 36	raw
	ANTHIA	A5	912,92	35	raw
		A6	691,04	35 + 36	raw
		A1	984,80	36	raw
		A2	965,97	36	raw
		A7	294,21	36	raw
		A7	420,65	35	raw
		A12	954,29	35	raw
		A13	961,77	35	raw
		A14	969,23	35	raw
		A15	961,48	35	raw
	Meligalas Industrial Estate	1	1 022,27	35 + 36	raw
	Elliniki Tartariki SA	2	1 008,46	35 + 36	raw
	Kalamata	3	842,57	35 + 36	raw
		4	988,27	35 + 36	raw
		5	1 008,69	35 + 36	raw
		7	994,62	35 + 36	raw
		8	992,48	35 + 36	raw

Member State	Location	Reference number of vat	Volume in hectolitres of alcohol at 100 % vol	Reference to Regulation (EEC) No 822/87	Type of alcohol
	P.A. Tzara Dokos (Chalkida) Eubae	4016 8 10	217,72 204,12 333,48	35 + 36 35 + 36 35 + 36	raw raw raw
	TOTAL		17 481,642		
	GRAND TOTAL		201 430,442		

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 or Greek drachmae, obtain samples of the alcohol offered for sale 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 Annex II to Regulation (EEC) No 377/93 for use exclusively as motor fuel.

Evidence relating to the destination and use of the alcohol is to be obtained by an international surveillance firm 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 201 430,442 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, 200 rue de la Loi/Wetstraat, B-1049 Brussels, or
- be submitted at the reception of the Loi 130 building of the European Commission, 130 rue de la Loi/Wetstraat, 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 245/98 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 19 October 1998.

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

- (a) include a reference to individual sale by tender No 245/98 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 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 agencies:

- AIMA, via Palestro 81, I-00185 Roma (tel. 47 49 91; telex 62 03 31, 62 02 52, 61 30 03; fax 445 39 40, 495 39 40), for the quantity of 183 948,80 hectolitres.
- Ministry of Agriculture, Didagep, 241, Acharnon Street, Athens (tel. 867 76 48; telex 221701; fax 867 11 11), for the quantity of 17 481,642 hectolitres.

That security must be 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) (for the attention of Mr Chiappone/Mr Carnielli)

— 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 2142/98**

— 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