COMMISSION REGULATION (EC) No 2328/2002
of 23 December 2002
opening public sales of wine alcohol for use as bioethanol in the European Community

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine [1], as last amended by Regulation (EC) No 2585/2001 [2],

Having regard to Commission Regulation (EC) No 1623/2000 of 25 July 2000 laying down detailed rules for implementing Regulation (EC) No 1493/1999 on the common organisation of the market in wine with regard to market mechanisms [3], as last amended by Regulation (EC) No 1795/2002 [4], and in particular Article 92 thereof,

Whereas:

(1) Regulation (EC) No 1623/2000 lays down, *inter alia*, the detailed rules for disposing of stocks of alcohol obtained from distillation under Articles 27, 28 and 30 of Regulation (EC) No 1493/1999 and held by the intervention agencies.

(2) Public sales of wine alcohol for use in the fuel sector in the Community should be organised with a view to reducing Community stocks of wine alcohol and to some extent ensuring supplies to firms approved under Article 92 of Regulation (EC) No 1623/2000. Community stocks of wine alcohol held by the Member States come from distillation under Articles 35, 36 and 39 of Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organisation of the market in wine [5], as last amended by Regulation (EC) No 1677/1999 [6], and under Articles 27, 28 and 30 of Regulation (EC) No 1493/1999.

(3) Given the large quantities put up for sale, the deadline for removing the alcohol should be amended.

(4) In accordance with Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro [7], the selling price and securities must be expressed, and payments made, in euro.

(5) Given that there are risks of fraud by substitution of alcohol, it would appear necessary to reinforce checks on the final destination of the alcohol, allowing the intervention agencies to call on the help of international control agencies and to check the alcohol sold by means of nuclear magnetic resonance analyses.

(6) 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 lots of alcohol (references 15/2002 EC, 16/2002 EC and 17/2002 EC) comprising 250 000 hectolitres, 50 011,98 hectolitres and 30 000 hectolitres respectively at 100 % vol. are hereby put up for public sale for use in the fuel sector within the Community. The alcohol has been obtained from distillation as provided for in Article 35 of Regulation (EEC) No 822/87 and Articles 27 and 30 of Regulation (EC) No 1493/1999 and is held by the Spanish and Italian intervention agencies.

Article 2

The location and references of the vats making up the lots, the quantity of alcohol in each vat, the alcoholic strength and the characteristics of the alcohol are as set out in the Annex hereto. The lots shall be awarded to the three firms approved under Article 92 of Regulation (EC) No 1623/2000.

Article 3

All communications concerning this public sale shall be sent to the following Commission department:

Commission of the European Communities
Directorate-General for Agriculture, Unit D-4
Rue de la Loi 200
B-1049 Brussels
Fax: (32-2) 295 92 52
E-mail address: agri-d4@cec.eu.int

Article 4

The public sales shall take place in accordance with Articles 92, 93, 94, 95, 96, 98, 100 and 101 of Regulation (EC) No 1623/2000 and Article 2 of Regulation (EC) No 2799/98.

[1] OJ L 179, 14.7.1999, p. 1.
[2] OJ L 345, 29.12.2001, p. 10.
[3] OJ L 194, 31.7.2000, p. 45.
[4] OJ L 272, 10.10.2002, p. 15.
[5] OJ L 84, 27.3.1987, p. 1.
[6] OJ L 199, 30.7.1999, p. 8.
[7] OJ L 349, 24.12.1998, p. 1.

Article 5

The price of the alcohol for public sale shall be EUR 19 per hectolitre of alcohol at 100 % vol.

Article 6

The performance security shall be EUR 30 per hectolitre of alcohol at 100 % vol. Unless a standing guarantee is provided, before removing any alcohol and by the day of issue of the removal order at the latest, the firms awarded the lots shall lodge a performance security with the intervention agency concerned to ensure that the alcohol in question is used as bioethanol in the fuel sector.

Article 7

Notwithstanding Article 93(6) of Regulation (EC) No 1623/2000, all the alcohol must be removed no more than eight months after the date of notification of the Commission's decision to award the sale.

Article 8

Against payment of EUR 10 per litre and within 30 days of the publication of the notice of public sale, the firms approved under Article 92 of Regulation (EC) No 1623/2000 may obtain samples of the alcohol put up for sale from the intervention agency concerned. After that date, samples may be obtained in accordance with Article 98(2) and (3) of Regulation (EC) No 1623/2000. Samples issued to the approved firms shall amount to not more than five litres per vat.

Article 9

The intervention agencies in the Member States in which the alcohol put up for sale is stored shall carry out appropriate checks to verify the nature of the alcohol at the time of end-use. To that end, they may:

— apply, *mutatis mutandis*, the provisions of Article 102 of Regulation (EC) No 1623/2000,

— carry out checks on samples using nuclear magnetic resonance to verify the nature of the alcohol at the time of end-use.

The costs shall be borne by the companies to which the alcohol is sold.

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, 23 December 2002.

For the Commission

Franz FISCHLER

Member of the Commission