

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

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organization of the market in wine ⁽¹⁾, as last amended by Regulation (EEC) No 2964/88 ⁽²⁾, and in particular the second subparagraph of Article 37 (2) and Article 40 (4) thereof,

Having regard to the proposal from the Commission,

Whereas Article 37 (2) Regulation (EEC) No 822/87 provides that alcohol from the distillation operations provided for in Articles 35 and 36 of that Regulation is to be disposed of in other sectors, under conditions to be determined; whereas, in the case of alcohol from the distillation operations provided for in Article 39 of that Regulation, the conditions under which intervention agencies may carry out operations concerning products taken over before they are put on the market and the arrangements for disposal of products held by intervention agencies should also be laid down;

Whereas the procedure for disposal of alcohol from the distillation operations provided for in Article 39 of Regulation (EEC) No 822/87 should be the same as that for alcohol from the operations provided for in Articles 35 and 36 of that Regulation, held by intervention agencies;

Whereas the alcohol should be sold by the tendering procedure, which offers the same guarantees of non-discrimination between Community operators as the auction procedure also provided for in Article 40 (3) of Regulation (EEC) No 822/87 since it offers the advantage of being generally more accessible to operators in the alcohol sector;

Whereas experience in the two attempts to sell alcohol by tender, organized in 1986 under Council Regulation (EEC) No 139/86 of 20 January 1986 laying down general rules for the disposal of alcohol obtained from the distillation operations referred to in Articles 39, 40 and 41 of Regulation (EEC) No 337/79 and held by intervention

agencies ⁽³⁾, shows that there is no point in trying to sell alcohol from those distillation operations on the markets for the various normal uses, because those markets are at present saturated; whereas therefore the first stage of the tendering procedure as laid down in Article 2 (a) and (b) of Regulation (EEC) No 139/86 may be dispensed with;

Whereas disturbance of the markets in alcohol and spirituous beverages produced in the Community in accordance with Articles 37 and 40 of Regulation (EEC) No 822/87 should be definitely avoided;

Whereas the possibility of such alcohol creating additional difficulties which could arise under the present conditions of the market in other sectors of utilization or for certain destinations should also be avoided; whereas such difficulties seem slighter in the fuel sector; whereas a preferential outlet must be sought in that sector without however excluding any other opportunities of sale;

Whereas, in order not to disturb competition with products which may be replaced by alcohol the Commission should be granted the possibility of taking no action on tenders received;

Whereas these measures should apply to stocks of alcohol taken over by intervention agencies under Community rules since 1 September 1982 in the case of the Community of Ten and since 1 March 1986 in the case of Spain and still held by those agencies and also to alcohol taken over in such fashion as from entry into force of those measures,

HAS ADOPTED THIS REGULATION:

Article 1

1. Alcohol obtained from the distillation operations provided for in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 and held by intervention agencies shall be disposed of by tendering procedures. Such procedures shall be initiated in accordance with the procedure laid down in Article 83 of Regulation (EEC) No 822/87.

2. The conditions governing invitations to tender must ensure equality of treatment for all interested parties wherever they are established in the Community.

⁽¹⁾ OJ No L 84, 27. 3. 1987, p. 1.

⁽²⁾ OJ No L 269, 29. 9. 1988, p. 5.

⁽³⁾ OJ No L 19, 25. 1. 1986, p. 1.

3. Invitations to tender shall be opened for a given utilization and/or destination.

4. Admission to the tendering procedures referred to in paragraph 1 shall be limited to interested parties who have guaranteed compliance with their obligations by putting up a security.

5. The alcohol may not be denatured before the invitation to tender.

Article 2

For each tendering procedure referred to in Article 1 (1), which may be subject to special conditions, particularly to avoid market disruptions, the Commission may, in accordance with the procedure laid down in Article 83 of Regulation (EEC) No 822/87, either take action on the tenders received or take no action.

Article 3

The conditions under which invitations to tender are organized and in particular those relating to checks to be performed and guarantees to be provided (e.g. securities

and possible denaturing) shall be determined in accordance with the procedure laid down in Article 83 of Regulation (EEC) No 822/87.

Article 4

During the third year of application of this Regulation the Commission shall submit a report on alcohol sales. The Council shall, acting on a Commission proposal, decide whether it is necessary to retain or adjust the measures introduced.

Article 5

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

It shall apply to products taken over by the intervention agencies under Community rules and held when this Regulation enters into force and to products taken over as from the entry into force of this Regulation.

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

Done at Brussels, 12 December 1988.

For the Council

The President

Y. POTTAKIS