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REGULATION (EEC) No 1171/71 OF THE COUNCIL

of 3 June 1971

on the distillation of the by-products of winemaking

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation (EEC) No 816/70[1] of 28 April 1970 laying down additional provisions for the common organisation of the market in wine, as last amended by Regulation (EEC) No 2612/70,[2] and in particular Article 24 (2) and (3) thereof;

Having regard to the proposal from the Commission;

Whereas the fixing of the price to be paid for alcohol delivered to intervention agencies for the distillation of the by-products of winemaking and the contribution to be made by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund to the costs borne by those agencies are both closely linked to the fixing of the guide price; whereas there should therefore be the same interval and time limit for both these operations;

Whereas the intervention agencies designated by Member States must buy in alcohol delivered to them for the distillation of the by-products of winemaking at a price at which the producer subject to the obligation to distil is not placed at a disadvantage in relation to the producer who is not subject to that obligation;

Whereas, in the absence of any organised market in ethyl alcohol at Community level, the intervention agencies responsible for marketing that alcohol risk having to resell it at a price lower than the buying-in price; whereas it is necessary to provide that, in such cases, the difference between the buying-in price and the selling price of that alcohol can be met by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund, provided that the contribution does not exceed the difference;

Whereas, in the present situation, it is preferable to provide that that contribution should be a fixed amount rather than an amount which takes into account the actual losses of the intervention agencies; whereas that fixed amount should take account of the prices at which intervention agencies actually buy in and sell that alcohol, but whereas, pending normal working of the system, it will be necessary to refer to currently ruling prices;

Whereas the third subparagraph of Article 24 (2) of Regulation (EEC) No 816/70 provides that the obligation to distil may be discharged by the production of potable spirits; whereas the first subparagraph of Article 24 (2) of that Regulation, moreover, permits the distillation of wine in the absence of grape marc or wine lees; whereas, under these conditions, it is logical to allow the production of a potable spirit from wine as well as a potable spirit from grape marc;

Whereas the production of potable spirits must release the producer from the obligation to deliver alcohol only in respect of the quantity of alcohol contained in the potable spirit produced;

Whereas, in order to prevent potable spirits of mediocre quality from being produced, it is necessary, in the absence of any Community criteria on the subject, to provide that the potable spirits produced should conform to national provisions in force; whereas, to ensure that these are observed, provision should be made for inspection;

Whereas, for the 1970/71 wine-growing year, the Member States in which an obligatory system for the distillation of the by-products of winemaking was in force on 31 May 1970 were required by Commission Regulation (EEC) No 1633/70[3] of 11 August 1970 on the provisional suspension of the application of Article 24 of Regulation (EEC) No 816/70, as amended by Regulation (EEC) No 2230/70,[4] to

[1] OJ No L 99, 5.5.1970, p. 1.
[2] OJ No L 281, 27.12.1970, p. 6.
[3] OJ No L 173, 12.8.1970, p. 9.
[4] OJ No L 241, 4.11.1970, p. 15.

continue to apply for a provisional period the rules which they had already laid down; whereas only France is in this position; whereas the buying-in price of the alcohol delivered to the 'Service des alcools' in France was fixed, in application of the above rules, at 58·5 units of account per hectolitre of pure alcohol for the wine-growing year in question; whereas that price, when set against the price that could obtain for that alcohol under existing national provisions, left the producer with too heavy a burden, which should be relieved by means of a suitable contribution for that wine-growing year from the Guarantee Section of the European Agricultural Guidance and Guarantee Fund;

Whereas the first subparagraph of Article 24 (3) of Regulation (EEC) No 816/70 provides that certain production regions may be exempted from the obligation to distil the by-products of winemaking; whereas in Germany and Luxembourg grape marcs and wine lees generally contain little alcohol and the costs involved in extracting it would be too high; whereas, under those conditions, provision should be made for producers in those regions to be exempted from the obligation to distil their grape marcs and wine lees, while remaining subject nevertheless to the provisions of Article 24 (1) of that Regulation;

Whereas the obligation under the first subparagraph of Article 24 (2) is a heavy one for the independent producer who makes only a small quantity of wine; whereas such obligation would involve him in transport costs for his grape marcs and wine lees out of all proportion to the return which he could expect from the alcohol which might be extracted; whereas such producers should therefore also be exempted from the obligation to distil but remain subject, nevertheless, to the provisions of Article 24 (1) of that Regulation;

Whereas the period of application of this Regulation should be limited so that future developments in this field may be taken into account;

HAS ADOPTED THIS REGULATION:

Article 1

1. Subject to the provisions of Article 4, the price to be paid to producers for alcohol delivered to intervention agencies and the contribution by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund towards the costs devolving on those agencies shall be fixed annually before 1 August for the following wine-growing year.

2. The price mentioned in the previous paragraph is hereinafter called the 'buying-in price'.

Article 2

1. The buying-in price shall be fixed at a level at which the producer distilling his by-products of winemaking, or having them distilled, can be assured of a return comparable to that which he would have had if he had not been subject to the obligation to distil.

2. The buying-in price, fixed per hectolitre of pure alcohol, shall be valid for the Community. It shall apply to goods, free-at-distillery, loaded into a means of transport chosen by the intervention agency.

The actual alcoholic strength of the products obtained from the distillation of the by-products of winemaking and delivered to the intervention agency may not be less than 52°.

Article 3

1. The contribution of the Guarantee Section of the European Agricultural Guidance and Guarantee Fund shall be paid only where the buying-in price is greater than the selling price; it shall be at a fixed rate per hectolitre of pure alcohol contained in the products delivered to the intervention agencies. It shall not exceed the difference between the buying-in price and the weighted selling price of those products.

2. For the wine-growing years preceding the establishment of the common organisation of the market in alcohol, that difference shall be determined by taking into account normal selling prices for similar products during the previous wine-growing year.

Article 4

1. For the 1970/71 wine-growing year, the buying-in price shall be fixed at 66·25 units of account per hectolitre of pure alcohol.

2. By way of derogation from Article 3, the contribution of the Guarantee Section of the European Agricultural Guidance and Guarantee Fund shall be fixed for the same wine-growing year at 7·75 units of account per hectolitre of pure alcohol.

Article 5

1. Producers may, in partial or total discharge of the obligation laid down in the first subparagraph of Article 24 (2) of Regulation (EEC) No 816/70, produce or have produced potable spirits of grape marc or potable spirits of wine from their own products.

2. The quantity of alcohol, expressed as pure alcohol, contained in the potable spirits shall be deducted from the quantity of alcohol which must be delivered pursuant to the first subparagraph of Article 24 (2) of Regulation (EEC) No 816/70.

3. The production of potable spirits may have the effect mentioned in paragraph 1 only if:

(a) the quality of the spirit obtained conforms to national provisions on the subject; the producer or distiller shall supply proof thereof to the competent agency;

(b) it is carried out under the supervision of the competent authority, the producer and the distiller being required to permit that supervision at any moment during distillation.

Article 6

Producers whose vineyards are situated in wine-growing zone A or in the German part of wine-growing zone B shall not be subject to the obligation laid down in the first subparagraph of Article 24 (2) of Regulation (EEC) No 816/70.

Article 7

Independent producers who do not make more than 50 hectolitres of wine in any one wine-growing year, shall not be subject to the obligation laid down in the first subparagraph of Article 24 (2) of Regulation (EEC) No 816/70.

Article 8

Subject to the provisions of Article 4, the provisions of this Regulation shall apply to the 1971/72, 1972/73 and 1973/74 wine-growing years.

Before 1 June 1974, the Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, shall adopt provisions for subsequent wine-growing years.

Article 9

This Regulation shall enter into force on the third day following 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 Luxembourg, 3 June 1971.

For the Council

The President

R. PLEVEN