REGULATION (EEC) No 1877/74 OF THE COUNCIL
of 15 July 1974
on the distillation of the by-products of wine making

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 organization of the market in wine, as last amended by Regulation (EEC) No 1532/74 (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 under the obligation to distil the by-products of wine making, referred to in the first subparagraph of Article 24 (2) of Regulation (EEC) No 816/70, and that of the maximum amount of 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 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 in fulfilment of the obligation to distil the by-products of wine making 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 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-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, within a maximum amount, by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund, provided that the contribution does not exceed the difference;

Whereas the third subparagraph of Article 24 (2) of Regulation (EEC) No 816/70 provides that the producer may be discharged from the obligation to distil by producing 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 a potable spirit must lead to the release 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 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 wine making; whereas in Germany and Luxembourg grape marcs and wine lees generally contain little alcohol and the costs involved in recovering it would be very high; under these conditions, producers in these regions should not be obliged to distil their grape marcs and wine lees, while remaining subject nevertheless to the prohibitions of Article 24 (1) of that Regulation;

Whereas the obligation to distil is a burden for the isolated 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 recovered; whereas such producers should therefore also be exempted from the obligation to distil but remain subject, nevertheless, to the prohibitions referred to above; whereas, however, some of these small-scale producers are already in the habit of distilling their grape marcs and wine lees and whereas they should be allowed to continue in this practice; whereas they should therefore be allowed to forego exemption and become thereby comparable in all respects to producers who are not exempt; whereas in order to prevent deliveries of alcohol to the intervention agencies from becoming too irregular, an isolated producer should, once he has foregone exemption, undertake to continue to do so, until the validity of this Regulation expires;

(1) OJ No L 99, 5. 5. 1970, p. 1.
(2) OJ No L 166, 21. 6. 1974, p. 1.

Whereas producers who deliver their grape marcs for the manufacture of oenocyanine generally supply unfermented grape marcs; whereas the processes to which these are subjected in order to extract the oenocyanine render them thereafter unsuitable for fermentation and distillation; whereas such producers should be exempt *pro rata* in relation to their production of grape marcs; whereas an exact calculation is not possible; whereas, therefore, provision should be made for a fixed reduction in the general rate;

Whereas, in accordance with Article 10 (1) of Council Regulation (EEC) No 817/70 [1] of 28 April 1970 laying down special provisions relating to quality wines produced in specified regions, as last amended by Regulation (EEC) No 2680/72 [2], a yield per hectare is fixed for each of the quality wines psr, which facilitates observance of the prohibition against the pressing of wine lees and over-pressing of grapes; whereas, moreover, the marcs and lees of certain quality wines psr contain little alcohol and whereas it is useful to be able to apply a reduced rate to those products;

Whereas the obligation to distil is a burden for producers whose vineyards are situated in small islands and who do not have adequate transport links at their disposal; whereas such obligation would involve them in transport costs for products subject to the obligation to distil which would exceed the return on the alcohol obtained; whereas, provision should therefore be made for producers whose vineyards are situated in small islands to be discharged from the obligation to distil, while nevertheless remaining subject to the prohibitions contained in Article 24 (1) of Regulation (EEC) No 816/70;

Whereas the provisions concerning the financing of intervention laid down in Council Regulation (EEC) No 729/70 [3] of 21 April 1970 on the financing of the common agricultural policy should be extended to apply also to the distillation of the by-products of wine making;

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

The price to be paid to producers for alcohol delivered to intervention agencies, hereinafter called the 'buying-in price', and the maximum amount of the contribution by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund towards the costs devolving on these agencies shall be fixed annually before 1 August for the following wine-growing year.

Article 2

1. The buying-in price shall be fixed at a level at which the producer distilling his by-products of wine making, 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, referred to in the first subparagraph of Article 24 (2) of Regulation (EEC) No 816/70.

2. The buying-in price shall be fixed per hectolitre/degree of alcohol. It shall apply to unpacked goods, ex-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 wine making and delivered to the intervention agency may not be less than 52°.

Article 3

The maximum amount of contribution from the Guarantee Section of the European Agricultural Guidance and Guarantee Fund shall be fixed per hectolitre/degree of alcohol.

Article 4

1. Contribution from the Guarantee Section of the European Agricultural Guidance and Guarantee Fund shall be paid, up to the maximum amount laid down in accordance with Article 1, only where, during a given budgetary year, the overall expenditure of an intervention agency for the buying-in of alcohol obtained by the distillation of the by-products of wine making is greater than the income from the sale of such alcohol.

2. If the difference referred to in paragraph 1 is less than the maximum amount multiplied by the quantities sold, the contribution shall be equal to that difference.

Article 5

1. Producers may, in partial or total discharge of the obligation to distil, produce or have produced potable spirits of grape marcs 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.

(1) OJ No L 99, 5. 5. 1970, p. 20.
(2) OJ No L 289, 27. 12. 1972, p. 1.
(3) OJ No L 94, 28. 4. 1970, p. 13.

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

(a) the quality of the potable 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 agency; the producer and the distiller are 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 to distil.

Article 7

1. Isolated producers who, during a wine-growing year, do not make more than 30 hectolitres of wine shall not be subject to the obligation to distil.

However, such producers may forego this exemption. Such action shall bind them for the period from the date on which this action is taken until the validity of this Regulation expires.

2. Producers who deliver their grape marcs for the manufacture of oenocyanine may be subject to a reduced rate.

3. Producers of certain quality wines psr may be subject to reduced rates in respect of that part of their harvest which can qualify for such description.

Article 8

Producers whose vineyards are situated in the Italian islands, except Sicily and Sardinia, shall not be subject to the obligation to distil.

Article 9

Articles 4 and 5 of Regulation (EEC) No 729/70 shall apply to contribution from the Guarantee Section of the European Agricultural Guidance and Guarantee Fund, provided for in this Regulation.

Article 10

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 the 1974/75, 1975/76 and 1976/77 wine-growing years.

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

Done at Brussels, 15 July 1974.

For the Council

The President

Christian BONNET