COUNCIL REGULATION (EEC) No 3168/76

of 21 December 1976

laying down the conditions for coupage and wine-making in the free zones on Community territory for wine products originating in third countries

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 of 28 April 1970 laying down additional provisions for the common organization of the market in wine [1], as last amended by Regulation (EEC) No 2842/76 [2], and in particular the third subparagraph of Article 26 (4) and the third subparagraph of Article 28 (2) thereof,

Having regard to the proposal from the Commission,

Whereas the first subparagraph of Article 26 (4) and the first subparagraph of Article 28 (2) of Regulation (EEC) No 816/70 prohibit on Community territory, except by way of derogation, coupage of a wine originating in a third country with a Community wine and coupage between wines originating in third countries, the making of wine from imported basic products and the addition of such products to wine; whereas, however, as an exception to this rule, these operations are authorized in the free zones provided that the wine obtained therefrom is intended for re-consignment to a third country;

Whereas it should be noted that Council Directive 69/75/EEC of 4 March 1969 on the harmonization of provisions laid down by law, regulation or administrative action relating to free zones [3], as last amended by Directive 76/634/EEC [4], continues to apply;

Whereas it is necessary in accordance with the third subparagraph of Article 26 (4) and with the third subparagraph of Article 28 (2) of the abovementioned Regulation, to adopt the provisions for the application of these operations and the rules governing the description of the wines produced in the free zones;

Whereas, in order to ensure effective supervision of operations in the free zones, it is necessary to provide for the prior authorization thereof by the Member State concerned and the setting up of means for supervising the movements of the products concerned;

Whereas, in order to prevent abuses, it must be laid down that the products used for such operations are, depending on the case, products of sound, fair and marketable quality originating in a third country or that they have been produced in accordance with Community provisions or those of the Member State concerned;

Whereas confusion between wines produced in free zones and Community wines should be avoided; whereas the issue of a certificate of origin by the competent authorities of the Member States for the products obtained in the free zones would be likely to create such confusion; whereas it therefore appears necessary to provide, for the purpose of achieving the agricultural objective of this Regulation, that no certificate of origin may be issued for the products thus obtained;

Whereas, to avoid confusion, the rules concerning the description of the wines concerned should also be defined; whereas, in this respect, a distinction should be drawn between mandatory information necessary to identify the wines and optional information designed to indicate the special properties of the wine or to characterize them,

HAS ADOPTED THIS REGULATION:

Article 1

1. Any natural or legal person or any association of persons intending to effect in a free zone, within the meaning of Directive 69/75/EEC, one of the following operations:

(a) coupage of wines originating in a third country with Community wines;

(b) coupage between wines originating in third countries;

(c) the making of wine in accordance with Community provisions or, in the absence of such provisions, with national legislation in force as at 1 March 1977 and subject to Article 2 (2), from fresh grapes, grape must, grape juice, grape must in fermentation, originating in third countries;

[1] OJ No L 99, 5. 5. 1970, p. 1.
[2] OJ No L 327, 26. 11. 1976, p. 2.
[3] OJ No L 58, 8. 3. 1969, p. 11.
[4] OJ No L 223, 16. 8. 1976, p. 7.

or

(d) the addition to wine of concentrated grape juice, grape must with fermentation arrested by addition of alcohol, of grape must or of concentrated grape must, originating in third countries;

shall submit an application to the appropriate authorities designated by the Member States. Authorization by those authorities to carry out the aforementioned operations may be given only if the required assurances are given that the products resulting from the operations in question will be kept in separate premises or separated from other products of the wine sector stored in the free zone and that they will be re-exported to a third country.

2. The products resulting from the operations referred to in paragraph 1 may not be placed in free circulation in the Community and must be subjected to customs control which will ensure that they are dispatched only to a third country and without further processing.

3. All persons concerned shall keep entry and exit registers, in accordance with the provisions laid down pursuant to Article 29 (3) of Regulation (EEC) No 816/70, enabling the movements of those products and of the products referred to in paragraph 1 to be supervised. Entries in the registers shall be made on the basis of the official documents drawn up by the authorities of the third countries or, in the absence of such documents, on the basis of commercial documents.

These documents shall show at least:

(a) the name and address of the consignor;

(b) the name and address of the consignee;

(c) the word 'wine' or, if appropriate, the type of product, this information being given using the definition in the Community provisions which most accurately describes the product concerned;

(d) the volume of the product;

(e) in the case of:

— grape must and grape juice, whether or not concentrated: the density,

— wine and grape must in fermentation: the actual and total alcoholic strength;

(f) the name of the third country or countries concerned.

When an official document drawn up by the authorities of a third country has been submitted the original shall be deposited with the authorities referred to in paragraph 1.

Article 2

1. Only the following shall be used for the operations referred to in Article 1 (1):

— products of sound, fair and marketable quality originating in third countries,

or

— Community products which have been produced in accordance with Community provisions or, in the absence of such provisions, with the provisions of the Member State concerned.

2. In the context of the operation referred to in Article 1 (1) (c), increasing the alcoholic strength of the product concerned and also acidification and deacidification shall be prohibited.

Article 3

No certificate of origin shall be issued in respect of products which have undergone the operations listed in Article 1.

Article 4

1. The description of a wine resulting from the operations referred to in Article 1 (1) shall include the following information:

(a) the word 'wine' with or without a statement as to whether the wine is red, rosé or white;

(b) the nominal volume of the wine;

(c) the name or business name of the natural or legal person or association of persons who have produced the wine in the free zone and the locality within the latter, where the wine was produced;

(d) where the wine has been put in containers with a nominal volume of 60 litres or less and provided that the bottler is not one of the persons referred to in (c): the name or business name of the bottler and the locality within the free zone where bottling took place.

2. The description of the wines may be supplemented by the following information:

(a) a brand name provided that it does not show words, parts of words, signs or designs which:

— are likely to create a false impression of a person, particularly the bottler, who has been involved in the commercial distribution of the product described,

— contain false or misleading information, particularly in respect of indications of geographical origin, vine variety, vintage year or superior quality,

— include the name of a table wine or of a quality wine psr or may lead to confusion with the description of a table wine, a quality wine psr or an imported wine,

or

— contain information concerning the geographical origin, vine variety, vintage year or any indication of superior quality;

(b) the actual and/or total alcoholic strength;

(c) a recommendation to the consumer as to the use of the wine.

3. Only the information specified in paragraphs 1 and 2 shall be permitted for the description of wines resulting from one of the operations referred to in Article 1 (1).

Supplementary information may, however, be provided for in accordance with the procedure laid down in Article 7 of Regulation No 24 (1) to the extent required by the laws of the third countries to which the wine will be dispatched.

The description of wines resulting from one of the operations referred to in Article 1 (1) shall not bear any indication, sign, illustration or brand name which might lead to confusion with a Community product.

Article 5

This Regulation shall not prejudice the application of Directive 69/75/EEC.

Article 6

This Regulation shall enter into force on 1 March 1977.

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

Done at Brussels, 21 December 1976.

For the Council

The President

A. P. L. M. M. van der STEE

(1) OJ No 30, 20. 4. 1962, p. 989/62.