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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 1861/78

of 25 July 1978

amending Regulation (EEC) No 816/70 laying down additional provisions for the common organization of the market in wine

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas experience has shown that certain amendments should be made to Council Regulation (EEC) No 816/70 of 28 April 1970 laying down additional provisions for the common organization of the market in wine (3), as last amended by Regulation (EEC) No 2560/77 (4);

Whereas Council Regulation (EEC) No 978/78 of 10 May 1978 on statistical surveys of areas under vines (5) has taken over from the provisions relating to the viticultural land register, which have to a great extent lapsed; whereas it is therefore necessary to adjust the provisions on the notification of new plantings, replantings, grubbings and incidences of cessation of cultivation of vines and to ensure that the Commission receives the necessary information enabling it to draw up a report on the relationship between production and utilization and on the foreseeable trends in that relationship; whereas, pending Community decisions aimed at adapting the wine-growing potential to market requirements, it is necessary to limit the application of these provisions to a three-year period at the end of which the results of the aforementioned statistical surveys will be available;

Whereas, with a view to establishing fair conditions of competition on the Community wine market, it is advisable that the Community provisions relating to the increase in alcoholic strength, to acidification and to deacidification should apply in all wine-growing zones, including C zones, and that the other oenological pratices provided for under the Community provisions be extended to quality wines psr;

Whereas, in view of the special characteristics resulting from natural production conditions, revision of the maximum limit of the sulphur dioxide content for certain Community wines and certain imported wines available only in small quantities and of a high quality is justified;

Whereas, in view of scientific progress and experience to date, a number of additions and clarifications should be made with regard to the existing rules on oenological practices and treatments which are allowed in the Community; whereas, in view of the large quantity of red wines produced in the Community, Member States should have the option of using calcium phitate in place of potassium ferrocyanide;

Whereas, for the sake of clarity, opportunity should be taken of explaining certain provisions of Regulation (EEC) No 816/70 in order to establish clearly the extent of their application;

Whereas Council Directive 76/766/EEC of 27 July 1976 on the approximation of the laws of the

(1) OJ No C 182, 31. 7. 1978, p. 57.
(2) Opinion delivered on 20 June 1978 (not yet published in the Official Journal).
(3) OJ No L 99, 5. 5. 1970, p. 1.
(4) OJ No L 303, 28. 11. 1977, p. 1.
(5) OJ No L 128, 17. 5. 1978, p. 1.

Member States relating to alcohol tables (1) and Council Directive 71/354/EEC of 18 October 1971 on the approximation of the laws of the Member States relating to units of measurement (2), as amended by Directive 76/770/EEC (3), should be used as the basis for certain provisions in Regulation (EEC) No 816/70; whereas, in order to ensure the consistency of Community provisions, the amendments resulting from the application of the aforementioned two Directives and from the alterations to the definitions of the products covered by this Regulation should be made to Annex IV on the Common Customs Tariff,

HAS ADOPTED THIS REGULATION:

Article 1

Article 4a (2) of Regulation (EEC) No 816/70 shall be replaced by the following:

'2. With the exception of types R III, A II and A III, table wines with an actual alcoholic strength by volume of not more than 9·5 degrees shall be excluded from all intervention measures provided for under this Title other than those referred to in Article 6b and Article 6d.'

Article 2

Article 17 of Regulation (EEC) No 816/70 shall be replaced by the following:

'*Article 17*

1. Until 31 March 1980, any natural or legal person who, during the current wine-growing year:

— intends to plant, replant, grub-up or definitively cease to cultivate vines,

— has planted, replanted, grubbed-up or definitively ceased to cultivate vines,

shall be obliged to notify the competent authority of the Member State concerned by a date to be determined by the authority in question.

The competent authority of the Member State concerned shall acknowledge receipt of the notification referred to in the first subparagraph by issuing a licence.

The Member States shall send to the Commission annually before 15 January, on the basis of the notifications referred to in paragraph 1, a national plan showing:

— the areas which are intended for planting, replanting, grubbing-up or cessation of cultivation,

— the areas which have been planted, replanted, grubbed-up or the cultivation of which has ceased,

— the developments in production potential shown by these notifications.

The plan referred to in the third subparagraph shall be submitted in respect of the following geographical units:

— in the Federal Republic of Germany: the wine-growing regions defined in accordance with Article 2 of Regulation (EEC) No 816/70,

— in France: the departments or groups of departments listed in the Annex to Regulation (EEC) No 978/78,

— in Italy: the regions listed in Annex III,

— in the other Member States concerned: their entire national territory.

The Member States may exempt the natural or legal persons referred to in the first subparagraph from making the notifications referred to in the second indent of this paragraph if they possess the information as a result of other declarations made on the basis of official provisions.

2. The Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, shall adopt before 31 December 1979 the necessary measures for declarations relating to the planting, replanting, grubbing-up or cessation of cultivation of vines which shall be applicable from 1 April 1980.

3. Each year, before 1 April, the Commission shall submit a report to the Council recording, in particular, the ratio between production and utilization and estimating foreseeable changes in that ratio.

4. This report shall be drawn up in particular:

(a) until 31 March 1980, on the basis of the plans referred to in the third subparagraph of paragraph 1;

(b) as from 1 April 1980, on the basis of the statistical surveys of the areas under vines provided for in Regulation (EEC) No 978/78.

(1) OJ No L 262, 27. 9. 1976, p. 149.
(2) OJ No L 243, 29. 10. 1971, p. 29.
(3) OJ No L 262, 27. 9. 1976, p. 204.

5. If that report shows that production is tending to exceed foreseeable utilization and, as a consequence, is liable to endanger the income of wine growers, the Council shall adopt, in accordance with the procedure laid down in Article 43 (2) of the Treaty, within the framework of a compulsory Community plan, the provisions regarding new planting and replanting of vines which are necessary to prevent the formation of structural surpluses.

6. The provisions of this Article shall not prevent the application of more restrictive national regulations regarding new planting and replanting of vines.

7. Detailed rules for the application of paragraphs 1, 3 and 4 shall be adopted in accordance with the procedure laid down in Article 7 of Regulation No 24.'

Article 3

The first indent of Article 22 (2) of Regulation (EEC) No 816/70 shall be replaced by the following:

'— before 1 January in wine-growing zones C,'

Article 4

Article 24 (2) of Regulation (EEC) No 816/70 shall be replaced by the following:

'2. With the exception of the producers referred to in paragraph 5 and except by way of derogation save as otherwise decided by the Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, any natural or legal person or group of persons manufacturing wine shall be required to distil the grape marc and wine lees relating to such manufacture or, failing that, a corresponding quantity of wine from his or their own production.

Where those subject to the obligation to distil referred to in the first subparagraph do not hold all or part of the by-products connected with the production of wine, they shall be discharged from this obligation in respect of the quantities for which they supply proof that distillation was effected by the individuals who supplied them with the grape must, grape must in fermentation or new wine still in fermentation.

The Member States shall decide on the measures necessary to ensure fair implementation of the second subparagraph with respect to the relationship between those who produced the wine and those who supplied the products connected therewith,'

Article 5

Article 26a (2) of Regulation (EEC) No 816/70 shall be replaced by the following:

'2. By way of derogation from paragraph 1, the maximum sulphur dioxide content shall be raised, as regards wines with a residual sugar content, expressed as invert sugar, of not less than five grams per litre, to:

(a) 225 milligrams per litre for red wines and 275 milligrams per litre for white and rosé wines;

(b) 300 milligrams per litre for wines qualifying for the description "Spätlese", in accordance with Community provisions, and quality white wines psr entitled to the registered designation of origin Bordeaux supérieur, Graves de Vayres, Côtes de Bordeaux St-Marcaire, Premières Côtes de Bordeaux, Ste Foy Bordeaux, Côtes de Bergerac (whether or not followed by the description "Côtes de Saussignac"), Haut Montravel, Côtes de Montravel, Rosette;

(c) 350 milligrams per litre for wines qualifying for the description "Auslese", in accordance with Community provisions, and white wines described as "superior wine of designated origin" in accordance with Romanian legislation and entitled to bear one of the following names: Murfatlar, Cotnari, Tîrnave, Pietroasele, Valea Călugărească;

(d) 400 milligrams per litre for wines qualifying for the descriptions "Beerenauslese", "Ausbruch", "Ausbruchwein", and "Trockenbeerenauslese", in accordance with Community provisions, and quality white wines psr entitled to the registered designations of origin Sauternes, Barsac, Cadillac, Cérons, Loupiac, Sainte-Croix-du-Mont, Monbazillac, Bonnezeaux, Quarts de Chaume, Côteaux du Laon, Côteaux de l'Aubance, Graves Supérieures, Jurançon.'

Article 6

The text of the second indent of Article 26b (1) of Regulation (EEC) No 816/70 shall be replaced by the following:

'— 18 milliequivalents for white and rosé wines.'

Article 7

The following subparagraph shall be added to Article 26c (3) of Regulation (EEC) No 816/70:

'In the case of the treatments referred to in paragraph 2 (p) of Annex IIa. Member States may decide that calcium phitate is to be used instead of potassium ferrocyanide in all red wines produced in their territory.'

Article 8

Annex I to Regulation (EEC) No 816/70 shall be replaced by the following:

'*ANNEX I*

ALCOHOLIC STRENGTHS

1. "Actual alcoholic strength by volume" means the number of volumes of pure alcohol contained at a temperature of 20 °C in 100 volumes of the product at that temperature.

2. "Potential alcoholic strength by volume" means the number of volumes of pure alcohol at a temperature of 20 °C capable of being produced by total fermentation of the sugars contained in 100 volumes of the product at that temperature.

3. "Total alcoholic strength by volume" means the sum of the actual and potential alcoholic strengths.

4. "Natural alcoholic strength by volume" means the total alcoholic strength by volume of a product before any enrichment.

5. "Actual alcoholic strength by mass" means the number of kilograms of pure alcohol contained in 100 kg of the product.

6. "Potential alcoholic strength by mass" means the number of kilograms of pure alcohol capable of being produced by total fermentation of the sugars contained in 100 kg of the product.

7. "Total alcoholic strength by mass" means the sum of the actual and potential alcoholic strengths by mass.'

Article 9

Annex II to Regulation (EEC) No 816/70 shall be amended as follows:

(a) Point 2 shall be replaced by the following:

'2. Grape must: the liquid product obtained naturally or by physical processes from fresh grapes with an actual alcoholic strength by volume of not more than 1 % vol.'

(b) Point 3 shall be replaced by the following:

'3. Grape must in fermentation: the product obtained from the fermentation of grape must and with an actual alcoholic strength by volume of more than 1 % vol but less than three fifths of its total alcoholic strength by volume; however, certain quality wines psr having an actual alcoholic strength by volume of less than three fifths of their total alcoholic strength by volume but not less than 5·5 % vol shall not be considered as grape must in fermentation.'

(c) Point 17 shall be replaced by the following:

'17. Wine lees: the muddy residue accumulating in wine vessels after fermentation or during the storage of wine, dried or not; a distinction is drawn between:

— lees having a total alcoholic strength by volume of not more than 7·9 % mas and having a dry matter content not less than 25 % by weight, and

— other lees.'

(d) Point 18 shall be replaced by the following:

'18. Grape marc: the residue from the pressing of fresh grapes, whether or not fermented; a distinction is drawn between:

— grape marcs having a total alcoholic strength by volume of not more than 4·3 % mas and a dry matter content of not less than 40 % by weight,

— other grape marcs.'

Article 10

Annex IIa of Regulation (EEC) No 816/70 is hereby amended as follows:

(a) In paragraph 1:

— point (d) shall be replaced by the following:

'(d) use of carbon dioxide or nitrogen, either alone or combined, in order to create an inert atmosphere and to treat the product shielded from the air;'

— point (f) shall be replaced by the following:

'(f) addition of diammonium phosphate or ammonium sulphate up to 0·3 g/litre respectively and of thiamin hydrochloride up to 0·6mg/litre expressed as thiamin to encourage the growth of yeasts;'

— point (g) shall be replaced by the following:

'(g) use of sulphur dioxide, potassium bisulphite or potassium metabisulphite, which may also be called potassium disulphite or potassium pyrosulphite;'

— point (k) shall be replaced by the following:

'(k) use of sorbic acid or potassium sorbate;'

(b) In paragraph 2:

— in the first sentence, the phrase 'and quality wines psr' shall be added after 'sparkling wine';

— point (e) shall be replaced by the following:

'(e) use of carbon dioxide or nitrogen, either alone or combined, in order to create an inert atmosphere and to treat the wine shielded from the air. The carbon dioxide content of wine preserved or treated in this way may not exceed 2 g/litre;'

— point (g) shall be replaced by the following:

'(g) use, as laid down in Community rules, of sulphur dioxide, potassium bisulphite or potassium metabisulphite, which may also be called potassium disulphite or potassium pyrosulphite;'

— point (h) shall be replaced by the following:

'(h) addition of sorbic acid or potassium sorbate provided that the final sorbic acid content of the treated product on its release to the market for direct human consumption does not exceed 200 mg/litre;'

— in point (o), the expression '100 mg/litre' shall be replaced by '100 g of dry product per hl';

— point (p) shall be replaced by the following:

'(p) treatment, under conditions to be laid down:

— of white wines and rosé wines, with potassium ferrocyanide,

— of red wines, with potassium ferrocyanide or with calcium phitate, in accordance with the sixth subparagraph of Article 26c (3).'

Article 11

Annex IV to Regulation (EEC) No 816/70 shall be replaced by the following:

'*ANNEX IV*

AMENDMENT TO THE COMMON CUSTOMS TARIFF

CHAPTER 20

PREPARATIONS OF VEGETABLES, FRUIT OR OTHER PARTS OF PLANTS

Notes (unchanged)

Additional Note 4 shall be replaced by the following notes:

4. *For the purposes of subheadings 20.07 A I, 20.07 B I a) 1 and b) 1:*

— *"unfermented and not containing spirit" means grape juice (including grape must) with an actual alcoholic strength by volume of not more than 1 % vol;*

— *"actual alcoholic strength by volume" means the number of volumes of pure alcohol at a temperature of 20 °C contained in 100 volumes of the product at that temperature.*

5. *For the purposes of subheadings 20.07 B I a) 1 aa) and 20.07 B I b) 1 aa), "concentrated grape juice (including grape must)" means grape juice (including grape must) the volumetric mass of which at 20 °C is not less than 1·240.*

Heading number	Description	Rate of duty	
		Autonomous % or levy (L)	Conventional %
1	2	3	4
20.07	**Fruit juices (including grape must) and vegetable juices, whether or not containing added sugar, but unfermented and not containing spirit:**		
	A. Of a specific gravity exceeding 1·33 at 15 °C:		
	I. Grape juice (including grape must):		
	a) Of a value exceeding 22 u.a. per 100 kg net weight	50 (a)	—
	b) Of a value not exceeding 22 u.a. per 100 kg net weight:		
	1. With an added sugar content exceeding 30 % by weight.....	50 + (L) (a)	—
	2. Other	50 (a)	—
	II and III. (unchanged)		

(a) In certain conditions a countervailing tax is provided for in respect of certain products in addition to the customs duty.

Heading number	Description	Rate of duty	
		Autonomous % or levy (L)	Conventional %
1	2	3	4
20.07 *(cont'd)*	B. Of a specific gravity of 1·33 or less at 15 °C:		
	I. Grape, apple and pear juice (including grape must); mixtures of apple and pear juice:		
	a) Of a value exceeding 18 u.a. per 100 kg net weight:		
	1. Grape juice (including grape must):		
	aa) Concentrated:		
	11. With an added sugar content exceeding 30 % by weight	28 (a)	28 + ads
	22. Other	28 (a)	28 + ads
	bb) Other:		
	11. With an added sugar content exceeding 30 % by weight	28 (a)	28 + ads
	22. Other	28 (a)	28 + ads
	2 and 3. (unchanged)		
	b) Of a value of 18 u.a. or less per 100 kg net weight:		
	1. Grape juice (including grape must):		
	aa) Concentrated:		
	11. With an added sugar content exceeding 30 % by weight	28 + (L) (a)	28 + ads
	22. Other	28 (a)	28 + ads
	bb) Other:		
	11. With an added sugar content exceeding 30 % by weight	28 + (L) (a)	28 + ads
	22. Other	28 (a)	28 + ads
	2 to 4. (unchanged)		
	II. (unchanged)		

(a) In certain conditions a countervailing tax is provided for in respect of certain products in addition to the customs duty.

CHAPTER 22

BEVERAGES, SPIRITS AND VINEGAR

Notes (unchanged)

Additional Notes

1. *For the purposes of headings Nos 22.04, 22.05 and 22.06 and subheading 22.07 A:*

   (a) "actual alcoholic strength by volume" means the number of volumes of pure alcohol contained at a temperature of 20 °C in 100 volumes of the product at that temperature;

   (b) "potential alcoholic strength by volume" means the number of volumes of pure alcohol at a temperature of 20 °C capable of being produced by total fermentation of the sugars contained in 100 volumes of the product at that temperature;

   (c) "total alcoholic strength by volume" means the sum of the actual and potential alcoholic strengths;

(d) *"natural alcoholic strength by volume" means the total alcoholic strength by volume of a product before any enrichment;*

(e) *"% vol" is the symbol for alcoholic strength by volume.*

2. *For the purposes of heading No 22.04, "grape must in fermentation" means the product derived from the fermentation of grape must, having an actual alcoholic strength by volume of more than 1 % vol and less than three fifths of its total alcoholic strength by volume.*

3. *For the purposes of heading No 22.05:*

A. *"Sparkling wine" (subheading 22.05 A) means a product having an actual alcoholic strength by volume of not less than 8·5 % vol, obtained:*

— *either by first or second alcoholic fermentation of fresh grapes, grape must or wine, and releasing, when the container is opened, carbon dioxide derived exclusively from the fermentation,*

— *or from wine and releasing, when the container is opened, carbon dioxide derived wholly or partly from the addition of this gas,*

and having, when kept at a temperature of 20 ° C in closed containers, an excess pressure of not less than three bar.

B. *"Total dry extract" means the content in grams per litre of all the substances in a product which, under given physical conditions, do not volatilise.*

The total dry extract must be determined with the densimeter at 20 °C.

C. (a) *The presence in the products falling within subheading 22.05 C of the quantities of total dry extract per litre indicated in I, II, III and IV below does not affect their classification:*

I. *Products of an actual alcoholic strength by volume of not more than 13 % vol: 90 g or less of total extract per litre;*

II. *Products of an actual alcoholic strength by volume of more than 13 % vol but not more than 15 % vol: 130 g or less of total dry extract per litre;*

III. *Products of an actual alcoholic strength by volume of more than 15 % vol but not more than 18 % vol: 130 g or less of total dry extract per litre;*

IV. *Products of an actual alcoholic strength by volume of more than 18 % vol but not more than 22 % vol: 330 g or less of total dry extract per litre.*

Products with a total dry extract exceeding the maximum quantity shown above in each category are to be classified in the next following category, except that, if the total dry extract exceeds 330 g/litre, the products are to be classified in subheading 22.05 C V.

(b) *The above rules do not apply to products falling within subheadings 22.05 C III a) 1, b) 1 and b) 2 and 22.05 C IV a) 1, b) 1 and b) 2.*

4. *Subheading 22.05 C shall be taken to include:*

(a) *Grape must with fermentation arrested by the addition of alcohol, that is to say a product:*

— *having an actual alcoholic strength by volume of not less than 12 % vol but less than 15 % vol, and*

— *obtained by the addition to unfermented grape must having a natural alcoholic strength by volume of not less than 8·5 % vol of a product derived from the distillation of wine.*

(b) *Wine fortified for distillation, that is to say a product:*

— *having an actual alcoholic strength by volume of not less than 18 % vol but not more than 24 % vol,*

— *obtained exclusively by the addition to wine containing no residual sugar of an unrectified product derived from the distillation of wine and having a maximum actual alcoholic strength by volume of 86 % vol, and*

— *having a maximum volatile acidity of 2·40 g/litre, expressed as acetic acid.*

(c) *Liqueur wine, that is to say a product:*

— *having a total alcoholic strength by volume of not less than 17·5 % vol and an actual alcoholic strength by volume of not less than 15 % vol but not more than 22 % vol, and*

— *obtained from grape must or wine, which must come from wine varieties approved in the third country of origin for the production of liqueur wine and have a minimum natural alcoholic strength by volume of 12 % vol:*

— *by freezing, or*

— *by the addition during or after fermentation:*

— *of a product derived from the distillation of wine, or*

— *of concentrated grape must or, in the case of certain quality liqueur wines appearing on a list to be adopted of wines for which such practice is traditional, of grape must concentrated by direct heat, which, apart from this operation, corresponds to the definition of concentrated grape must, or*

— *of a mixture of these products.*

However, certain quality liqueur wines appearing on a list to be adopted may be obtained from unfermented fresh grape must which does not need to have a minimum natural alcoholic strength by volume of 12 % vol.

5. *For the purposes of subheading 22.07 A, the expression "piquette" means the product obtained by the fermentation of untreated grape marc macerated in water or by the extraction of fermented grape marc with water.*

6. *For the purposes of subheading 22.07 B I, the following are regarded as "sparkling":*

— *fermented beverages in bottles with "mushroom" stoppers held in place by ties or fastenings;*

— *fermented beverages otherwise put up, with an excess pressure of not less than 1·5 bar, measured at a temperature of 20 °C.*

7. *For the purposes of subheading 22.10 A, the expression "wine vinegar" means vinegar obtained exclusively by acetous fermentation of wine and having a total acidity of not less than 60 g/litre, expressed as acetic acid.*

Heading number	Description	Rate of duty	
		Autonomous % or levy (L)	Conventional %
1	2	3	4
22.04	**Grape must, in fermentation or with fermentation arrested otherwise than by the addition of alcohol**	40 (a)	—
22.05	**Wine of fresh grapes; grape must with fermentation arrested by the addition of alcohol:**		
	A. Sparkling wine	40 u.a. per hl (a)	—
	B. Wine in bottles with "mushroom" stoppers held in place by ties or fastenings, and wine otherwise put up with an excess pressure of not less than one bar but less than three bar measured at a temperature of 20 °C	40 u.a. per hl (a)	—

(a) In certain conditions a countervailing tax is provided for in respect of certain products in addition to the customs duty.

Heading number	Description	Rate of duty	
		Autonomous % or levy (L)	Conventional %
1	2	3	4
22.05 *(cont'd)*	C. Other:		
	I. Of an actual alcoholic strength by volume not exceeding 13 % vol, in containers holding:		
	a) Two litres or less	12 u.a. per hl (a) (b)	—
	b) More than two litres	9 u.a. per hl (a) (b)	9 u.a. per hl (b)
	II. Of an actual alcoholic strength by volume exceeding 13 % vol but not exceeding 15 % vol, in containers holding:		
	a) Two litres or less	14 u.a. per hl (a) (b)	—
	b) More than two litres	11 u.a. per hl (a) (b)	11 u.a. per hl (b)
	III. Of an actual alcoholic strength by volume exceeding 15 % vol but not exceeding 18 % vol, in containers holding:		
	a) Two litres or less:		
	1. Port, Madeira, sherry, Tokay (Aszu and Szamorodni) and Setubal muscatel (c)	15 u.a. per hl (b)	13·5 u.a. per hl (b)
	2. Other	17 u.a. per hl (a) (b)	—
	b) More than two litres:		
	1. Port, Madeira, sherry and Setubal muscatel (c)	12 u.a. per hl (b)	11 u.a. per hl (b)
	2. Tokay (Aszu and Szamorodni) (c)	12 u.a. per hl (b)	—
	3. Other	14 u.a. per hl (a) (b)	—
	IV. Of an actual alcoholic strength by volume exceeding 18 % vol but not exceeding 22 % vol, in containers holding:		
	a) Two litres or less:		
	1. Port, Madeira, sherry, Tokay (Aszu and Szamorodni) and Setubal muscatel (c)	16 u.a. per hl (b)	14·5 u.a. per hl (b)
	2. Other	19 u.a. per hl (a) (b)	19 u.a. per hl (b)
	b) More than two litres:		
	1. Port, Madeira, sherry and Sebutal muscatel (c)	13 u.a. per hl(b)	12 u.a. per hl (b)
	2. Tokay (Aszu and Szamorodni) (c)	13 u.a. per hl (b)	—
	3. Other	19 u.a. per hl (a) (b)	19 u.a. per hl (b)
	V. Of an actual alcoholic strength by volume exceeding 22 % vol, in containers holding:		
	a) Two litres or less	1·60 u.a. per hl and per % vol + 10 u.a. per hl (a) (b)	—
	b) More than two litres	1·60 u.a. per hl and per % vol (a) (b)	—

(a) In certains conditions a countervailing tax is provided for in respect of certain products in addition to the customs duty.

(b) The exchange rate to be applied in converting into national currencies the unit of account in which the customs duty is expressed shall, notwithstanding General Rule C 3 contained in Part I, Section I, be the representative rate applicable to wine, if such a rate is fixed pursuant to Council Regulation No 129 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy (OJ No 106, 30. 10. 1962, p. 2553/62).

(c) Entry under this subheading is subject to conditions to be determined by the competent authorities.

Heading number	Description	Rate of duty	
		Autonomous % or levy (L)	Conventional %
1	2	3	4
22.07	**Other fermented beverages (for example, cider perry and mead):**		
	A. Piquette	1·60 u.a. per hl and per % vol with a min. of 9 u.a. per hl (a)	—
	B. Other:		
	I. Sparkling.....	30 u.a. per hl	—
	II. Still, in containers holding:		
	a) Two litres or less	12 u.a. per hl	—
	b) More than two litres	9 u.a. per hl	—
22.10	**Vinegar and substitutes for vinegar:**		
	A. Wine vinegar, in containers holding:		
	I. Two litres or less	8 u.a. per hl (a)	—
	II. More than two litres	6 u.a. per hl (a)	—
	B. Other, in containers holding:		
	I. Two litres or less	8 u.a. per hl	—
	II. More than two litres	6 u.a. per hl	—

(a) In certain conditions a countervailing tax is provided for in respect of certain products in addition to the customs duty.

CHAPTER 23

RESIDUES AND WASTE FROM THE FOOD INDUSTRIES; PREPARED ANIMAL FODDER

Additional Notes

1. *For the purposes of subheadings 23.05 A and 23.06 A I, the following expressions shall have the meanings hereby assigned to them:*

   — *"actual alcoholic strength by mass": the number of kilograms of pure alcohol contained in 100 kg of the product;*

   — *"potential alcoholic strength by mass": the number of kilograms of pure alcohol capable of being produced by total fermentation of the sugars contained in 100 kg of the product;*

   — *"total alcoholic strength by mass": the sum of the actual and potential alcohol strengths by mass;*

   — *"% mas": the symbol for alcoholic strength by mass.*

2. (unchanged)

Heading number	Description	Rate of duty	
		Autonomous % or levy (L)	Conventional %
1	2	3	4
23.05	**Wine lees; argol:**		
	A. Wine less:		
	I. Having a total alcoholic strength by mass not exceeding 7·9 % mas and a dry matter content not less than 25 % by weight	Free (a)	—
	II. Other	2·03 u.a. per kg of total alcohol (a)	—
	B. Argol	Free	—
23.06	**Products of vegetable origin of a kind used for animal food, not elsewhere specified or included:**		
	A. Acorns, horse chestnuts and pomace or marc of fruit:		
	I. Grape marc:		
	a) Having a total alcoholic strength by mass not exceeding 4·3 % mas and a dry matter content not less than 40 % by weight.....	Free (a)	Free
	b) Other	2·03 u.a. per kg of total alcohol (a)	—
	II. Other	Free	Free
	B. Other.....	4	2

(a) In certain conditions a countervailing tax is provided for in respect of certain products in addition to the customs duty.'

Article 12

1. The term 'atmosphere' shall be replaced by 'bar' in Annex II, points 12, 13, 14 and 15 of Regulation (EEC) No 816/70.

2. The symbol '% vol' shall replace the term 'degree' or the symbol '°' in the following provisions of Regulation (EEC) No 816/70:

— Article 2 (3), second subparagraph,

— Article 4a (2),

— Article 9 (1), second subparagraph,

— Article 18 (1) and (2),

— Article 19 (5) and (6),

— Article 21 (1) (b),

— Article 26 (1),

— Article 26b (3) (b),

— Article 27 (3) (a) and (3a),

— Article 28 (1) (b) and (1a) (a),

— Annex II, with the exception of points 2, 3, 17 and 18.

3. The words 'by volume' shall be added to the term 'alcoholic strength' in the following provisions of Regulation (EEC) No 816/70:

— Article 4a (2),

— Article 18 (1) and (2),

— Article 19 (1) (5) and (6),

— Article 21 (1),

— Article 24 (3) and (7),

— Article 24a (1),

— Article 26 (1),

— Article 26b (3) (b),

— Article 27 (3) (a), (3a) and (4),

— Article 28 (1) (b) and (1a) (a),

— Annex II.

Article 13

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

It shall apply from 1 September 1978, with the exception of Articles 8, 9, 11 and 12, which shall apply from 1 January 1979.

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

Done at Brussels, 25 July 1978.

For the Council

The President

J. ERTL