COMMISSION REGULATION (EEC) No 2393/78

of 13 October 1978

laying down detailed rules for the application of the additional measures applicable to holders of long-term storage contracts for table wine for the wine-growing year 1977/78

THE COMMISSION 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 1861/78 (2), and in particular Article 6c (4) thereof,

Having regard to Council Regulation (EEC) No 878/77 of 26 April 1977 on the exchange rates to be applied in agriculture (3), as last amended by Regulation (EEC) No 976/78 (4), and in particular Article 5 thereof,

Whereas the measures to support the wine market which were employed during this wine-growing year have not in all cases given the desired results; whereas, in particular, the representative price for table wine of type AI has been lower than the activating price since the month of April and the prices for types AII and AIII are at present lower than the activating price; whereas the first condition required under Article 6c (1) of Regulation (EEC) No 816/70 for the adoption of additional measures applicable to holders of long-term storage contracts is therefore satisfied; whereas the second condition, namely that the representative price should remain lower than the activating price for three consecutive weeks, should logically be ascertained shortly before the first expiry dates of the long-term storage contracts; whereas the market situation is such that this condition is satisfied;

Whereas these measures should provide for the complete removal from the market by distillation of a certain quantity of wine and for the delaying for several months of the marketing of the remaining quantity held by holders of long-term storage contracts, in anticipation of a recovery of the market; whereas, however, this latter measure might not achieve the desired objective; whereas provision for any further measures which may be necessary should therefore be made;

Whereas the distillation provided for by this Regulation should take place in accordance with the provisions of Council Regulation (EEC) No 1931/76 of 20 July 1976 laying down general rules governing the distillation of wines provided for in Articles 6b, 6c, 24a and 24b of Regulation (EEC) No 816/70 (5), as amended by Regulation (EEC) No 1675/77 (6); whereas, pursuant to Articles 1 (1) and 4 of that Regulation, time limits should be fixed for the submission of applications for approval of distillation contracts, for approval by the intervention agencies and for the distillation operations; whereas Article 2 of that Regulation specifies that aid is to be paid, the amount of which is to be fixed so as to enable the products obtained to be disposed of;

Whereas the additional information which should appear in the distillation contract should also be specified;

Whereas the arrangements for paying the aid referred to in Article 3 of Regulation (EEC) No 1931/76 provide that the aid is to be paid to the producer in two instalments; whereas payment of the second instalment should be made within a limited period to enable the producer to receive the full amount of the aid quickly; whereas it should therefore be provided that such payment is to be made at the latest within 30 days after distillation;

Whereas the technical conditions for the approval of distillers must be laid down; whereas provision should also be made for cases in which approval is in principle to be withdrawn from the distiller if he defaults for reasons other than *force majeure* or inevitable accident;

Whereas the intervention agencies referred to in Article 6 of Regulation (EEC) No 1931/76 and the Commission should be informed of the progress of distillation operations and should in particular be aware of the quantities of wine distilled and the quantities of alcohol obtained;

Whereas, in order to achieve the objective envisaged, the storage contracts should be concluded in accordance with Commission Regulation (EEC) No

(1) OJ No L 99, 5. 5. 1970, p. 1.
(2) OJ No L 215, 4. 8. 1978, p. 1.
(3) OJ No L 106, 29. 4. 1977, p. 27.
(4) OJ No L 125, 13. 5. 1978, p. 32.
(5) OJ No L 211, 5. 8. 1976, p. 5.
(6) OJ No L 187, 27. 7. 1977, p. 3.

2015/76 of 13 August 1976 on storage contracts for table wine, grape must and concentrated grape must (1), as amended by Regulation (EEC) No 2206/77 (2);

Whereas, to allow for market developments, it should be possible to terminate contracts;

Whereas, in accordance with Article 2a (2) (e) of Regulation (EEC) No 878/77, the representative rates fixed by that Regulation are to be applied from 16 December 1978 for wine; whereas, however, other dates may be provided for distillation measures;

Whereas the application of the measures provided for in this Regulation extends beyond 15 December 1978; whereas it is necessary, in order to avoid any discrimination between those concerned, to provide for the application of a single representative rate for all payments relating to the distillation operations referred to in this Regulation; whereas, since all the table wine affected by these measures was produced during the wine-growing year 1977/78, the representative rates applicable for that year for wine should be retained and the application of the new representative rates provided for by Regulation (EEC) No 878/77 for the measures referred to in Article 6c of Regulation (EEC) No 816/70 should therefore be postponed until the expiry of the period of application of this Regulation;

Whereas the Management Committee for Wine has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down detailed rules for the application of additional measures, as provided for in Article 6c of Regulation (EEC) No 816/70, in respect of holders of long-term storage contracts for table wine for the wine-growing year 1977/78.

Article 2

1. The period of three consecutive weeks referred to in Article 6c (1) of Regulation (EEC) No 816/70 shall fall between 1 August and 30 November 1978.

2. If a decision as referred to in Article 6c (4) of Regulation (EEC) No 816/70 is taken, the holders of long-term storage contracts for the types of wine in respect of which the decision is taken and for wines in close economic relationship therewith may:

(a) in respect of a quantity of wine not exceeding a percentage to be fixed of the quantity under contract, carry out distillation in accordance with Articles 3 to 8;

(b) in respect of all or part of the quantity which is not distilled under (a), conclude, in accordance with Article 9, a storage contract for a period to be fixed.

3. Other additional measures applicable to holders of the storage contracts referred to in paragraph 2 (b) in respect of a given type of wine or a wine in close economic relationship therewith may be taken in accordance with the procedure laid down in Article 7 of Regulation No 24 if the Community representative price for that type of table wine has remained lower than the activating price during the period between the date of adoption of the decision referred to in Article 6c (4) of Regulation (EEC) No 816/70 and 15 January 1979.

4. For the purposes of this Regulation, there shall be considered to be in close economic relationship with table wine of type AI, white table wines with an actual alcoholic strength of not less than 12° and not more than 14° not belonging to type AII or type AIII.

Article 3

1. The distillation referred to in Article 2 (2) (a) shall be carried out in accordance with the provisions of Regulation (EEC) No 1931/76 and of this Regulation.

2. The wines which may be distilled are those which have been the subject of the long-term storage contract or other wines of the same type which have been produced by the holder of the storage contract. In the latter case the actual alcoholic strength of the wine may not be less than 10° and the total quantity of alcohol contained in the wine may not be greater than that contained in the quantity of wine under contract which may be distilled.

Article 4

1. Applications for approval of the contracts referred to in Article 1 of Regulation (EEC) No 1931/76 shall be made within 45 days of the date of expiry of the long-term contracts.

2. The intervention agency referred to in Article 6 of Regulation (EEC) No 1931/76 shall inform the parties to the contract at the latest 15 days after receiving the application for approval of a distillation contract of the result of the approval procedure.

(1) OJ No L 221, 14. 8. 1976, p. 20.
(2) OJ No L 225, 6. 10. 1977, p. 13.

3. Distillation shall be carried out between 1 October 1978 and 30 June 1979.

Article 5

1. The contracts referred to in Article 1 of Regulation (EEC) No 1931/76 shall state :

(a) the quantity, colour and actual alcoholic strength of the wines to be distilled ;

(b) the name and address of the producer ;

(c) the place where the wine is stored ;

(d) the name of the distiller or the distillery ;

(e) the address of the distillery.

2. 'Distiller' shall mean the person on whose behalf distillation is carried out.

Article 6

1. The price referred to in the second indent of Article 6c (2) of Regulation (EEC) No 816/70 shall be :

— 1·77 units of account per degree per hectolitre for table wine of type AI and for those wines in close economic relationship therewith,

— 3·53 units of account per degree per hectolitre for table wines of type AII,

— 4·03 units of account per degree per hectolitre for table wines of type AIII.

2. The amount of the aid provided for in Article 2 of Regulation (EEC) No 1931/76 shall be :

(a) for the wines referred to in the first indent of paragraph 1 :

— 1·15 units of account per degree per hectolitre if the wine has been processed into a product referred to in the first indent of Article 2 (3) of that Regulation,

— 1·15 units of account per degree per hectolitre if the wine has been processed into a product referred to in the second indent of the said Article 2 (3) ;

(b) for the wines referred to in the second indent of paragraph 1 :

— 2·91 units of account per degree per hectolitre if the wine has been processed into a product referred to in the first indent of the said Article 2 (3),

— 2·91 units of account per degree per hectolitre if the wine has been processed into a product referred to in the second indent of the said Article 2 (3) ;

(c) for the wines referred to in the third indent of paragraph 1 :

— 3·41 units of account per degree per hectolitre if the wine has been processed into a product referred to in the first indent of the said Article 2 (3),

— 3·41 units of account per degree per hectolitre if the wine has been processed into a product referred to in the second indent of the said Article 2 (3).

3. The payments to be made under Article 3 (1) and (3) of Regulation (EEC) No 1931/76 shall be made at the latest 30 days after the necessary conditions have been satisfied.

4. Where Article 3 (5) of Regulation (EEC) No 1931/76 applies, payment of the minimum buying-in price shall be made at the latest 30 days after the total quantity of wine appearing in the contract has entered the distillery.

5. Where Article 3 (6) of Regulation (EEC) No 1931/76 applies, payment of the minimum buying-in price shall be made at the latest 30 days after the total quantity of wine appearing in the contract has been distilled. When the relevant intervention agency of a Member State has not decided to make general use of the facility provided for in Article 3 (6), the distiller may make use of this facility only after having obtained the agreement of producer.

6. The conversion into national currency of the amounts referred to in paragraphs 1 and 2 above shall be made using the representative rate for wine applicable on the day that this Regulation enters into force.

Article 7

1. In order to be approved within the meaning of Article 5 of Regulation (EEC) No 1931/76, distillers must be capable of processing wine into a product with an alcoholic strength of 86° or more or into a product with an alcoholic strength of 85° or less.

2. Approval shall be withdrawn if the distiller, save in the event of inevitable accident or *force majeure*, fails to pay the buying-in price to the producer or to fulfil his obligations under Community provisions.

Article 8

1. Member States shall notify the Commission by 31 January 1979 of the quantities of wine appearing in the distillation contracts approved.

2. Distillers shall forward to the intervention agency, by the 10th day of each month, a return of the quantities of wine distilled during the previous month stating the quantities expressed as pure alcohol of the products which they have obtained, distinguishing between those referred to in the first indent of Article 2 (3) of Regulation (EEC) No 1931/76 and those referred to in the second indent thereof.

3. Member States shall inform the Commission by telex by the 20th day of each month in respect of the previous month of the quantities of wine distilled and the quantities expressed as pure alcohol of the products which they have obtained, distinguishing between them in accordance with paragraph 2.

4. Member States shall notify by 31 July 1979 cases of distillers who have failed to meet their obligations and the measures taken as a result.

Article 9

1. The contracts referred to in Article 2 (2) (b) shall be concluded within 45 days of the date of expiry of the long-term contracts. If the holder of a long-term storage contract decides to take advantage of Article 2 (2) (b) in respect of all the wine subject to a long-term storage contract, the intervention agency may extend the old contract for the new period by altering the relevant wording.

2. In the case of storage contracts as referred to in Article 2 (2) (b) the amount of the aid shall be that laid down for long-term storage contracts for the wine-growing year 1977/78.

3. The storage contracts referred to in Article 2 (2) (b) shall be terminated at the request of the producers concerned.

In this case, the storage aid for the period during which the wine was subject to any such contract shall be retained.

Article 10

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

It shall apply with effect from 16 September 1978.

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

Done at Brussels, 13 October 1978.

For the Commission

Finn GUNDELACH

Vice-President