COUNCIL REGULATION (EEC) No 346/79

of 5 February 1979

laying down conditions for applying protective measures in the market in wine

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 337/79 of 5 February 1979 on the common organization of the market in wine [1], and in particular Article 26 (1) thereof,

Having regard to the proposal from the Commission [2],

Whereas in Article 26 (1) of Regulation (EEC) No 337/79 provision is made for the application of appropriate measures if, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 (2) thereof experiences, or is threatened with, serious disturbances which may endanger the objectives set out in Article 39 of the Treaty; whereas these measures relate to trade with third countries; whereas they will no longer apply when the disturbance or threat of disturbance has ceased;

Whereas it is for the Council to adopt detailed rules for the application of Article 26 (1) of that Regulation and define the cases in which and the limits within which Member States may take interim protective measures;

Whereas, therefore, the main factors to be used in assessing whether the Community market is seriously disturbed or threatened with disturbance should be determined;

Whereas since recourse to protective measures depends on the influence of trade with third countries on the Community market, the situation on this market must be assessed by taking account not only of the factors peculiar to the market itself but also of the factors connected with the development of that trade;

Whereas the measures which may be taken under Article 26 of Regulation (EEC) No 337/79 should be laid down; whereas those measures must be such as to put an end to serious disturbances on the market and the threat of such disturbances; whereas they must be suited to the circumstances if they are not to have other than the desired effects;

Whereas the organization of the market in wine includes a system of import licences; whereas in view of the existence of that system, rules should be laid down whereby interim protective measures at Community level can be decided upon after a summary examination of the situation;

Whereas recourse by a Member State to Article 26 of Regulation (EEC) No 337/79 should be limited to a case in which the market of that State, following an assessment based on the abovementioned factors, is regarded as fulfilling the conditions of that Article; whereas the measures which may be taken in that case should be designed to stop the market situation from deteriorating further; whereas, however, they must be of an interim nature; whereas this interim nature of national measures justifies their application only until the entry into force of a Community decision on the subject;

Whereas the Commission is required to take a decision on the Community protective measures to be applied in response to a request from a Member State within 24 hours following receipt of the request; whereas in order that the Commission may assess the situation on the market with the greatest effectiveness, provision must be made to ensure that it is informed as quickly as possible of any interim protective measures applied by a Member State; whereas, therefore, provision should be made for the Commission to be notified of any such measures as soon as they have been adopted and for such notification to be treated as a request within the meaning of Article 26 (2) of Regulation (EEC) No 337/79,

HAS ADOPTED THIS REGULATION:

Article 1

In order to assess whether the Community market in one or more of the products listed in Article 1 (2) of Regulation (EEC) No 337/79 is, by reason of imports or exports, experiencing or threatened with serious disturbances which may endanger the objectives set out

---

[1] See page 1 of this Official Journal.
[2] OJ No C 276, 20. 11. 1978, p. 1.

in Article 39 of the Treaty, particular account shall be taken, in addition to the criteria provided in the second subparagraph of Article 26 (1) of that Regulation, of:

(a) the volume of exports achieved or foreseen;

(b) the quantities of products available on the Community market;

(c) the prices recorded on the Community market or the foreseeable trend of these prices and in particular any excessive upward trend thereof or, in the case of products for which no intervention price has been fixed, any excessive downward trend thereof;

(d) the quantities of products for which intervention measures may need to be taken if the abovementioned situation arises as a result of imports.

Article 2

1. The measures which may be taken under Article 26 (2) and (3) of Regulation (EEC) No 337/79 should the situation mentioned in paragraph 1 of that Article arise shall be:

(a) the total or partial suspension of the issue of import licences, resulting in the refusal of fresh applications;

(b) the total or partial rejection of outstanding applications for the issue of licences;

(c) the suspension of exports;

(d) the levying of export charges.

2. These measures may only be taken to such extent and for such length of time as is strictly necessary. They may not extend to products other than those imported from or intended for third countries. They may be restricted to products imported from or originating in particular countries, to exports to particular countries or to particular qualities or types of presentation. They may be restricted to imports intended for or to exports from certain regions of the Community.

3. The rejection of applications mentioned in paragraph 1 shall apply to those submitted during the periods in which the suspension mentioned in Article 3 or 4 have been in force.

Article 3

After a summary examination of the situation based on the factors set out in Article 1, the Commission may establish by decision that the conditions for applying Article 26 (2) of Regulation (EEC) No 337/79 are fulfilled. The Commission shall notify Member States of its decision and shall publish it on a notice board at its headquarters.

The consequence of that decision for the products in question shall be the provisional suspension of the issue of licences from the time fixed for the purpose, that time being subsequent to the notification.

Such decision shall apply for not more than 48 hours, without prejudice to the second sentence of Article 26 (2) of Regulation (EEC) No 337/79.

Article 4

1. A Member State may take one or more interim protective measures if, after an assessment based on the factors set out in Article 1, it considers that the situation mentioned in Article 26 (1) of Regulation (EEC) No 337/79 has arisen on its own territory.

Interim protective measures shall consist of:

(a) the total or partial suspension of the issue of import licences;

(b) the suspension of exports;

(c) the requirement that export charges should be deposited or secured.

The measure mentioned in (c) shall not result in charges being levied unless it is so decided under Article 26 (2) or (3) of Regulation (EEC) No 337/79.

The provisions of Article 2 (2) of this Regulation shall apply.

2. The Commission shall be notified of the interim protective measures by telex as soon as they have been decided on. Such notification shall be treated as a request within the meaning of Article 26 (2) of Regulation (EEC) No 337/79. These measures shall apply only until the decision taken by the Commission on this matters enters into force.

Article 5

1. Council Regulation (EEC) No 958/70 of 26 May 1970 laying down conditions for applying protective measures in the market in wine [1] is hereby repealed.

---

[1] OJ No L 115, 28. 5. 1970, p. 4.

2. References to the Regulation repealed by paragraph 1 shall be construed as references to this Regulation.

Article 6

This Regulation shall enter into force on 2 April 1979.

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

Done at Brussels, 5 February 1979.

For the Council

The President

P. MEHAIGNERIE