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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 453/80

of 18 February 1980

amending Regulation (EEC) No 337/79 on 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 Articles 42 and 43 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas experience shows that certain amendments should be made to Council Regulation (EEC) No 337/79 of 5 February 1979 on the common organization of the market in wine (4), as last amended by Regulation (EEC) No 2961/79 (5), in particular so as to strengthen the mechanisms for the management of the market;

Whereas raising the alcoholic strength by the use of concentrated grape must can sometimes cause difficulties, notably if the qualifying characteristics of certain wines are altered; whereas scientific and technical advances have been made which enable rectified concentrated grape must to be produced, the use of which allows such difficulties to be avoided; whereas it therefore appears necessary to amend the provisions of Regulation (EEC) No 337/79 so as to permit the manufacture of the abovementioned product;

Whereas it has become necessary, in order to achieve a more stable balance between production and utilization in the wine-growing sector, to increase utilization of wine products; whereas intervention appears to be justified further back than the table wine production stage, by encouraging the use of must for purposes other than wine making, and in particular the manufacture of grape juice and the manufacture, traditionally carried out in the United Kingdom and in Ireland, of certain products falling within heading No 22.07 of the Common Customs Tariff, since at present some relatively substantial outlets could be made available through such uses;

Whereas in the abovementioned sectors the use of Community grape musts is restricted by competition from musts originating in third countries; whereas, this being so, and to afford a stable outlet for musts intended for the users concerned, it is necessary to provide for a system of aid for grape must and for concentrated grape must intended for such uses, whereby the amounts of aid are fixed in such a way that the supply cost of the aforementioned products, originating in the Community, achieves a level comparable to that for the corresponding products originating in third countries;

Whereas these grounds also apply in cases where such musts are used as the main element in a set of products marketed in the United Kingdom and in Ireland with clear instructions for the consumer to obtain from it a beverage in imitation of wine (home-made wine); whereas the quantities of musts currently used for this purpose amount to around 75 000 hectolitres and the grant of aid must lead to the replacement of imported musts by Community musts;

(1) OJ No C 209, 2. 9. 1978, p. 3; OJ No C 9, 11. 1. 1979, p. 3.
(2) OJ No C 6, 8. 1. 1979, p. 66; OJ No C 67, 12. 3. 1979, p. 46.
(3) OJ No C 105, 26. 4. 1979, p. 46; OJ No C 171, 9. 7. 1979, p. 16.
(4) OJ No L 54, 5. 3. 1979, p. 1.
(5) OJ No L 336, 29. 12. 1979, p. 9.

Whereas the industry using some of these products which fall within heading No 22.07 of the Common Customs Tariff requires must with a very high natural sugar content which is traditionally produced in southern wine-growing regions; whereas, in order to enable users to continue employing a raw material suited to their needs, aid should be reserved for must coming from those regions of the Community which are best placed to satisfy the aforementioned qualitative requirements; whereas, however, this action must not give rise to distortion of competition;

Whereas Council Regulation (EEC) No 348/79 of 5 February 1979 on measures designed to adjust wine-growing potential to market requirements (1) provides for the adoption of structural measures to adapt wine-growing potential to the outlets available; whereas such measures will not yield results for several years; whereas, pending these results, it is essential to adopt, for a transitional period covering four years, certain measures relating to the intervention mechanisms which have sometimes proved inadequate to restore price levels in cases of short-term imbalance on the market in table wines; whereas, to remedy this shortcoming and to guarantee producers a fair income in the long term, adequate steps should be taken to bring about a rapid improvement in prices of those table wines whose price, despite the implementation of all the planned intervention measures, remains very low for three consecutive weeks; whereas in serious crisis situations of this nature it may prove necessary that, as an exceptional and temporary remedy, such measures should extend to fixing a minimum price for such wines; whereas, in addition, it is necessary to take steps to ensure that such a minimum price is complied with and at the same time to provide for the possibility for these table wines to be distilled under certain conditions; whereas moreover account should also be taken, in the context of these measures, of table wines which are closely related economically to the types of table wine concerned;

Whereas Article 40 of Regulation (EEC) No 337/79 lays down that the alcohol content of by-products of wine-making delivered for obligatory distillation may be increased by up to 6 %; whereas to ensure better control of the market it would appear necessary, in the light of experience gleaned from the application of Article 40 and in order to ensure that the obligations are better balanced between the regions of the Community, no longer to exempt producers whose vineyards are located in the Italian parts of wine-growing zones C from the increase, although the maximum rate applicable in their case should be not higher than 2 %,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 337/79 is hereby amended as follows:

1. The second indent of Article 1 (4) (b) shall be replaced by the following:

'— the following Community-produced products: grape must with fermentation arrested by the addition of alcohol, concentrated grape must, rectified concentrated grape must, wine suitable for yielding table wine, table wine, liqueur wine, sparkling wine, aerated sparkling wine, semi-sparkling wine and aerated semi-sparkling wine.'

2. Article 14 (1) shall be replaced by the following:

'Article 14

1. If it appears necessary on the basis of crop forecasts to enrich a considerable proportion of production, aid may be granted for concentrated grape must and rectified concentrated grape must produced within the Community which is used to increase the alcoholic strength referred to in Article 32 of this Regulation and Article 8 (2) of Regulation (EEC) No 338/79.

With respect to the concentrated grape must referred to in the first subparagraph, the grant of this aid may be reserved for concentrated grape must produced in wine-growing zone C III if the current trade patterns in concentrated grape must and blending wines cannot be guaranteed without this measure.'

3. Article 33 is hereby amended as follows:

— Paragraph 1 shall be replaced by the following:

'1. The increase in natural alcoholic strength by volume provided for in Article 32 may only be effected:

(a) in respect of fresh grapes, grape must in fermentation or new wine still in fermentation, by adding sucrose, concentrated grape must or rectified concentrated grape must;

(1) OJ No L 54, 5. 3. 1979, p. 81.

(b) in respect of grape must, by adding sucrose or concentrated grape must or rectified concentrated grape must or by partial concentration;

(c) in respect of wine suitable for yielding table wine and table wine, by partial concentration through cooling.'

— Paragraph 4 shall be replaced by the following:

'4. The addition of concentrated grape must or rectified concentrated grape must shall not have the effect of increasing the initial volume of fresh crushed grapes, grape must, grape must in fermentation or new wine still in fermentation by more than 11 % in wine-growing zone A, 8 % in wine-growing zone B and 6·5 % in wine-growing zones C.

If Article 32 (2) is applied, the limits on increases of volume shall be raised to 15 % in wine-growing zone A and to 11 % in wine-growing zone B.'

4. Article 35 (1) (b) shall be replaced by the following:

'(b) with concentrated grape must or rectified concentrated grape must or grape must, provided that the total alcoholic strength by volume of the table wine in question is not raised by more than 2 % vol, if the products mentioned under (a) have not been the subject of one of the processes mentioned in Article 33 (1).'

5. The second subparagraph of Article 36 (1) shall be replaced by the following:

'Each of the processes referred to in the first subparagraph must be notified to the competent authorities. The same shall apply in respect of the quantities of sucrose or concentrated grape must or rectified concentrated grape must held in the exercise of their profession by natural or legal persons or groups of persons, in particular producers, bottlers, processors and merchants to be determined, at the same time and in the same place as fresh grapes, grape must, grape must in fermentation or wine in bulk. The notification of these quantities may, however be replaced by entry in a goods inwards and stock utilization register.'

6. Article 49 (1) shall be replaced by the following:

'1. Unless otherwise decided by the Council acting by a qualified majority on a proposal from the Commission, only grapes from recommended or authorized vine varieties as referred to in Article 30 and products derived from such grapes may be used within the Community for the production of:

— grape must with fermentation arrested by the addition of alcohol,
— concentrated grape must,
— rectified concentrated grape must,
— wine suitable for yielding table wine,
— table wine,
— quality wine psr,
— liqueur wine.'

7. Article 50 shall be amended as follows:

— The first subparagraph of paragraph 3 shall be replaced by the following:

'3. Unless otherwise decided by the Council acting by a qualified majority on a proposal from the Commission, fresh grapes, grape must, grape must in fermentation, concentrated grape must, rectified concentrated grape must, grape must with fermentation arrested by the addition of alcohol, grape juice and concentrated grape juice originating in non-member countries may not be turned into wine or added to wine in the territory of the Community.'

— Paragraph 4 shall be replaced by the following:

'4. The products mentioned in the first subparagraph of paragraph 3 shall be subject to control with respect to their use. The addition of an indicator to imported grape must, imported grape must in fermentation, imported concentrated grape must, imported rectified concentrated grape must, imported must with fermentation arrested by the addition of alcohol and imported grape juice, whether or not concentrated, may be made compulsory.'

8. The following shall be inserted in Annex II after point 5:

'5a. Rectified concentrated grape must: the liquid uncaramelized product which:

— is obtained by partial dehydration of grape must, carried out by any authorized method other than direct heat of a fire in such a way that its density at 20 °C is not less than 1·350 g/cm³; Member States may, however, allow a different density for products used on their territory, provided that the figure is no lower than 1·240 g/cm³;

— has undergone authorized treatment for de-acidification and elimination of competents other than sugar, so that its acidity, expressed as tartaric acid, is not greater than 1 g/kg of total sugars and its ash content is not greater than 1·2 g/kg of total sugars;

— has a:

— total phenol content between 100 and 400 mg/kg of total sugars,

— simple phenol content not less than 50 % of total phenols,

— sucrose content of less than 20 g/kg of total sugars;

— is derived exclusively from the vine varieties referred to in Article 49;

— is produced within the Community;

— is obtained from grape must having at least the minimum natural alcoholic strength by volume laid down for the wine-growing zone in which the grapes were harvested.'

9. The following point shall be inserted in Annex III:

'1a. Oenological practices and processes which may be applied to grape must intended for manufacture or rectified concentrated grape must:

(a) aeration;

(b) thermal treatment;

(c) centrifuging and filtration, with or without an added inert filtering agent, on condition that no undesirable residue is left in the product so treated;

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

(e) elimination of sulphur dioxide by physical processes;

(f) treatment with charcoal for oenological use;

(g) use of calcium carbonate, which may contain small quantities of double calcium salt, L (+) tartaric and L (—) malic acids;

(h) use of ion exchange resins under conditions to be laid down.'

Article 2

The following Article shall be inserted in Regulation (EEC) No 337/79:

'Article 14a

1. A system of aid is hereby set up for the use of

— grape musts and concentrated grape musts produced within the Community for the purpose of manufacturing grape juice,

— grape musts and concentrated grape musts produced in wine-growing zone C III for the purpose of manufacturing in the United Kingdom and in Ireland products falling within heading No 22.07 of the Common Customs Tariff in respect of which, by virtue of the first subparagraph of Article 54 (1), the use of a composite name including the word "wine" may be allowed by these Member States,

— concentrated grape musts produced within the Community as the main element in a set of products marketed in the United Kingdom and Ireland with clear instructions for the consumer to obtain from it a beverage in imitation of wine (home-made wine).

However, where the restriction on the grant of aid referred to in the second indent of the first subparagraph gives rise to distortion of competition, the Council, acting by a qualified majority on a proposal from the Commission, shall decide to extend the grant of the aid to grape musts and concentrated grape musts produced in other regions of the Community.

2. The system of aid provided for in paragraph 1 may also be applied to use of grapes of Community origin.

3. The amounts of aid must be fixed so that the supply costs for grape musts and concentrated grape musts, originating in the Community and intended for the manufacture of the products referred to in paragraph 1, achieve a level comparable to the free-at-frontier offer price plus the customs duties actually to be charged for grape musts and concentrated grape musts produced in third countries.

The aid shall not cause obvious distortion of competition on the fruit-juice market or show variations which would not be justified by the markets in the products referred to in paragraph 1.

4. The amount of the aid shall be fixed annually by 31 August for the following wine-growing year in accordance with the procedure laid down in Article 67. Detailed rules for the application of this Article and, in particular, the measures necessary to ensure control of the use of the products referred to in paragraph 1 shall be adopted by the same procedure.

5. The Commission shall forward a report to the Council to enable it to examine, before 1 September 1984, the operation of the system referred to in paragraph 1.'

Article 3

The following Article shall be inserted in Regulation (EEC) No 337/79:

'Article 15a

1. Where, despite implementation of all the intervention measures provided for in this Regulation, particularly in Article 15, the representative price for a given type of table wine remains below 85 % of its guide price for three consecutive weeks, the Council, acting by a qualified majority on a proposal from the Commission, may decide to fix a minimum price for that type of table wine and adopt measures designed to ensure observance of this price; moreover, the marketing of that type of table wine may be restricted in so far as it does not reach the abovementioned minimum price.

The minimum price referred to in the first subparagraph shall be adjusted for some production regions, depending on their proximity to the areas of use, so as to ensure that price formation takes its normal course.

2. When a decision is taken to fix the minimum price referred to in paragraph 1, the Council, acting by a qualified majority on a proposal from the Commission, shall at the same time take a decision to allow distillation of the wines of the type in question which meet the analytical quality requirements to be established, whereby the buying-in price of the wine delivered for distillation shall be fixed at the same level as the minimum price referred to in the first subparagraph of paragraph 1.

3. If the state of the market so requires, the Council, acting by a qualified majority on a proposal from the Commission, may decide at the same time to extend the measures referred to in paragraphs 1 and 2 to table wines which are closely related economically to the type of table wine concerned.

4. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules for implementing this Article and, in particular:

— the conditions under which distillation may be carried out,

— the share of expenditure falling to the intervention agencies in respect of the distillation referred to in paragraph 2 to be financed by the European Agricultural Guidance and Guarantee Fund, Guarantee Section,

— the conditions under which implementation of the measures provided for in this Article may be discontinued.

5. The level of the minimum price referred to in paragraph 1 and the provisions on distillation referred to in paragraph 4 must be such as to enable the market price rapidly to attain a level equal to or higher than the activating price.

6. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 67.

7. The provisions of this Article shall apply until 30 June 1984.'

Article 4

Article 40 of Regulation (EEC) No 337/79 shall be replaced by the following:

'Article 40

1. The quantities of alcohol specified in Article 39 (3) may be increased.

The additional rate to be fixed shall be no higher than 6 %. It shall be fixed before 16 December of each year on the basis of data contained in the forward estimate. The rate actually applied must, however, be such as to ensure that each region of the Community bears a fair share of the obligation and that the obligatory distillation of wines obtained from table grapes provided for in Article 41 is taken into account.

A decision may be taken to adjust the additional rate according to area on the basis of one or more of the following criteria:

— the yield per hectare,

— the vine variety,

— the colour or the type of the wine,

— the alcoholic strength by volume.

2. The increase referred to in paragraph 1 shall apply to all wine producers except those:

— whose vineyards are situated in the Italian sections of wine-growing zones C, and for whom the additional rate to be fixed shall be not higher than 2 %,

— who produce quality wines psr; the exception shall relate to the part of their production to which this designation applies,

— who are exempt under Article 39 (2) and (5) and the second subparagraph of Article 39 (6).

3. The buying-in price for wine delivered for distillation under paragraph 1 shall be 50 % of the guide price for table wine of type A I which enters into force in the year of the harvest concerned.

However, when the first indent of paragraph 2 is applied, for the quantity of alcohol which exceeds the 10 % rate referred to in Article 39 (3) it shall be 70 % of the guide price referred to in the first subparagraph.

The price paid by the distiller may not be lower than the buying-in price.

4. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules concerning the distillation referred to in paragraph 3 and, in particular:

— the conditions under which distillation may be carried out,

— the criteria for fixing the amounts of aid so that the distilled products can be disposed of,

— the criteria for fixing the share of the expenditure falling to the intervention agencies to be financed by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund.

5. The decision fixing the additional rate provided for in paragraph 1 and the detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 67.'

Article 5

The following indent is added to Article 41 (3) of Regulation (EEC) No 337/79:

'— the criteria for fixing the share of expenditure falling to the intervention agencies to be financed by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund.'

Article 6

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 1980, with the exception of Article 3 which shall apply from 1 July 1980.

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

Done at Brussels, 18 February 1980.

For the Council

The President

G. MARCORA