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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 564/80

of 3 March 1980

laying down general rules on distillation operations for table wines for which the delivery contract must be approved before 15 April 1980

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), as last amended by Regulation (EEC) No 459/80 (2), and in particular Article 15 (1) thereof,

Having regard to the proposal from the Commission,

Whereas Article 15 of Regulation (EEC) No 337/79 provides that provisions concerning the distillation of table wines may be adopted were application of the market support measures provided for in that Regulation are unlikely to be effective in restoring price levels;

Whereas this is the case, at present in view, of the fact that this year's abundant harvest and the large stocks from the previous year have created supplies which considerably exceed the normal requirements for the present year; whereas, moreover, all the support measures have already been taken, but they have not yet succeeded in restoring reasonable price levels;

Whereas the conditions under which these distillation operations may take place should be laid down; whereas, in particular, the price of the wines going for distillation should not be such as to encourage the production of wine principally for distillation, although it should be sufficiently attractive for the operation to be effective;

Whereas the marketing of the alcohol produced under this Regulation should not be allowed to have a negative influence on the market for the product;

Whereas the maximum quantity of table wine which may be distilled for each producer and the duration of the distillation operation should be limited in order to limit the overall cost of the operation;

Whereas, in order to ensure appropriate supervision of the distillation operations, distillers should be subject to a system of approval;

Whereas the present situation on the market in white table wines is less favourable than that on the market in red and rosé table wines; whereas the distillation of white wines should therefore be encouraged by allowing them to be substituted for red and rosé wines;

Whereas provision should be made for producers to conclude delivery contracts with distillers subject to approval by the intervention agency, in order to facilitate monitoring of the progress of operations and of the observance of the obligations of both parties; whereas this system would have the added advantage of making it easier to monitor the quantitative effects of distillation on the market;

Whereas, however, the contracts system must be adapted in order to take into account the fact that there are producers who intend to have their wine distilled on their behalf and producers who themselves make use of distillation plants; whereas, in the case of the latter producers, the absence of a contractual obligation necessitates an official analysis of certain characteristics of the wine to be distilled;

Whereas the price of wine going for distillation is not such as to enable the products obtained from this operation to be marketed normally; whereas, it is therefore necessary to grant aid and to fix the amount of aid, taking into account normal costs, at a level enabling the products obtained to be marketed;

(1) OJ No L 54, 5. 3. 1979, p. 1.
(2) OJ No L 57, 29. 2. 1980, p. 32.

Whereas provision should be made for the minimum price guaranteed to the producer to be paid to him, as a general rule, within time limits which will enable him to obtain a profit comparable to that which he would have obtained from a commercial sale ;

Whereas provision should be made for producers who have concluded a delivery contract to terminate it where the market situation would enable them to dispose of the wine more profitably ;

Whereas, on the basis of experience gained, a certain margin should be allowed for the quantity of wine specified in the delivery contracts ; whereas, moreover, provision should be made, in the event of chance circumstances or *force majeure,* for aid to be paid in respect of the quantity of wine which has actually been distilled ;

Whereas, in each Member State concerned, a body should be made responsible for implementing the provisions in question ;

Whereas the addition of an indicator to the wine to be distilled is an efficient monitoring method ; whereas it should be stated that the presence of such an indicator must not prevent the movement of these wines or of the products obtained therefrom,

HAS ADOPTED THIS REGULATION :

Article 1

1. Producers wishing to distil part of their harvest of table wines pursuant to Article 15 of Regulation (EEC) No 337/79 shall conclude contracts for the delivery of table wines with an approved distiller and shall submit them to the intervention agency before 1 April 1980.

2. For the purposes of this Regulation, the quantity of table wines distilled by any one producer may not be less than 10 hectolitres and may not exceed the following percentages of the quantity of table wine, expressed in terms of wine, musts or grapes, stated in the producer's harvest declaration for the 1979/80 wine-growing year :

(a) as regards red and rosé table wines :

— 20 % for the first 150 hectolitres declared,

— 10 % for the remainder of the declared production ;

(b) as regards white table wines :

— 20 % for the first 150 hectolitres declared,

— 10 % for the remainder of the declared production.

However, the quantity of red and rosé table wines which may be put up for distillation may be replaced wholly or in part by a corresponding quantity of white table wine.

Article 2

1. The delivery contracts shall not be valid unless approved before 15 April 1980 by the intervention agency of the Member State in which the wine happens to be when the contract is concluded. These contracts shall cover :

(a) the purchase by the distiller of the quantity of table wine entered in the contract ;

(b) the obligation for the distiller to process the wine into a product with an alcoholic strength by volume of 86 % vol or more, or into a product with an alcoholic strength by volume of 85 % vol or less and to pay for this wine at least the price referred to in Article 4.

2. Where distillation takes place in a Member State other than that in which the contract was approved, the intervention agency which approved the contract shall forward a copy of it to the intervention agency of the first Member State.

Article 3

1. Producers :

— who themselves make use of distillation plants and who intend to carry out the distillation referred to in Article 1, or

— who intend to have their wine distilled on their behalf in an approved distiller's plant,

shall so inform the intervention agency of the Member State in whose territory their winery is located by means of a declaration of delivery for distillation, hereinafter called 'declaration', and, if the distilling plant is located in another Member State, the latter's intervention agency as well, by means of a copy of the declaration.

2. For the purposes of this Regulation, the contract referred to in Article 1 (1) shall be replaced :

— in the case specified in the first indent of paragraph 1, by the declaration,

— in the case specified in the second indent of paragraph 1, by the declaration accompanied by a contract for delivery for distillation on the producer's behalf concluded between the producer and the distiller.

3. The declarations referred to in paragraph 2 shall involve the distiller in an obligation to process the wine into a product with an alcoholic strength by volume of 86 % vol or more, or into a product with an alcoholic strength by volume of 85 % vol or less.

4. In the case referred to in the first indent of paragraph 1, a sample of the wine to be distilled shall be taken by a representative of an official body for analysis by an official laboratory of its actual alcoholic strength by volume, total acidity, volatile acidity and sulphur-dioxide content.

The producer shall forward the results of this analysis, certified by an official body, to the intervention agency.

5. A representative of an official body shall check the quantity of wine distilled and the date of distillation.

6. Producers who have lodged a declaration shall be obliged to distil or to arrange for the distillation of the wine covered by that declaration.

Article 4

1. The minimum buying-in price for table wines for distillation shall be fixed at :

— 2·16 ECU per hectolitre per % vol for all red and rosé table wines,

— 1·90 ECU per hectolitre per % vol for all white table wines.

These wines must have an actual alcoholic strength by volume of more than 9·5 % vol.

2. The prices referred to in paragraph 1 shall apply to bulk merchandise ex producer's premises.

Article 5

1. The intervention agency of the Member State in which the distillation has taken place shall pay aid for the wine distilled.

2. The amount of the aid shall be fixed, in respect of the wines referred to in the first indent of Article 4 (1), at :

— 1·31 ECU per hectolitre per % vol if the wine was processed into a product with an alcoholic strength by volume of 86 % vol or more,

— 1·22 ECU per hectolitre per % vol if the wine was processed into a product with an alcoholic strength by volume of 85 % vol or less.

The amount of the aid shall be fixed, in respect of the wine referred to in the second indent of Article 4 (1), at :

— 1·05 ECU per hectolitre per % vol if the wine was processed into a product with an alcoholic strength by volume of 86 % vol or more,

— 0·96 ECU per hectolitre per % vol if the wine was processed into a product with an alcoholic strength by volume of 85 % vol or less.

Article 6

1. When the total quantity of wine in the contract enters the distillery, the distiller shall pay the producer at least the difference between the minimum buying-in price referred to in Article 4 and the aid provided for in Article 5.

2. Within two weeks of notification of entry into the distillery of the total quantity of wine in the contract, the intervention agency shall pay the producer an amount equal to 45 % of the minimum buying-in price referred to in Article 4, to be deducted from the aid provided for in Article 5.

3. When proof is supplied that the total quantity of wine in the contract has been distilled, the intervention agency shall pay the producer the difference between the aid provided for in Article 5 and the amount referred to in paragraph 2.

4. Member States may provide that the amount referred to in paragraph 2 shall be paid :

— by the intervention agency to the producer within two weeks of approval of the contract,

— by the distiller, in which case the intervention agency shall reimburse this amount to the distiller when the proof referred to in paragraph 3 is supplied.

5. Where distillation takes place in a Member State other than the Member State where the producer is located, the minimum buying-in price referred to in Article 4 shall be paid by the distiller.

6. By way of derogation from paragraphs 1 to 4, the minimum buying-in price may be paid by the intervention agency or the distiller, in one payment after distillation of the total quantity of wine appearing in the contract.

Article 7

Distillation may not take place before 1 April or after 31 May 1980. It may, however, be decided to change the date referred to in Article 1 (1), in particular if the representative prices for all types of table wines except types A II, A III and R III should reach a level higher than the respective activating price during two consecutive weeks.

Article 8

Where the representative price of type A I table wine in a certain number of quotations exceeding 50 % of the quantities quoted exceeds 90 % of the activating price, it may be decided that delivery contracts shall be terminated wholly or in part at the request of the producer.

Annulment of contracts shall be permissible only in cases where the amounts paid by the intervention agency are refunded.

Article 9

A margin of 10 % more or less than the quantity of wine indicated in the delivery countries referred to in Article 1 shall be permitted.

The intervention agency shall pay the aid provided for in Article 5 for the quantity of wine which has actually been distilled, within the margin referred to in the first paragraph.

Article 10

Where, owing to chance circumstances or *force majeure*, all or some of the wine covered by a contract referred to in Article 1 cannot be distilled, the distiller or the producer shall immediately so inform :

— the intervention agency of the Member State in whose territory the distillation plant is located, and

— if the producer's winery is located in another Member State, the intervention agency of the second Member State.

In the cases referred to in the first paragraph, the intervention agency shall pay the aid referred to in Article 5 in respect of that quantity of wine which has actually been distilled.

Article 11

For the purposes of this Regulation, 'an approved distiller' means a distiller included on a list to be compiled by the competent authorities of the Member States.

A person on whose behalf distillation is carried out shall be treated in the same way as a distiller within the meaning of the first paragraph. Such distillation must be carried out by an approval distiller.

Under conditions to be laid down as part of the implementing rules, approval may be withdrawn by the authorities referred to in the first paragraph from distillers who do not fulfil their obligations under this Regulation.

Article 12

1. Member States shall appoint an intervention agency to be responsible for implementing this Regulation.

2. Without prejudice to Article 2 (1), the intervention agency responsible shall be that located on the territory where distillation takes place.

Article 13

Member States shall take the measures necessary to ensure that this Regulation and, in particular, checks to prevent the deflection of table wine from its end-use of distillation, are implemented. To this end, Member States may stipulate that an indicator may be used.

Member States may not prevent the movement within their territory of a table wine intended for distillation or of distilled products obtained from this wine, because of the presence of an indicator.

Article 14

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

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

Done at Brussels, 3 March 1980.

For the Council

The President

G. MARCORA