COUNCIL REGULATION (EEC) No 1145/81

of 28 April 1981

laying down general rules for the application of the minimum price for table 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], as last amended by the 1979 Act of Accession, and in particular Article 15a (4) thereof,

Having regard to the proposal from the Commission,

Whereas general rules should be laid down for application of the minimum price introduced by Article 15a of Regulation (EEC) No 337/79;

Whereas an exemption from the application of the minimum price system is justified, because of the small number of transactions, for Member States whose production is less than 25 000 hectolitres;

Whereas certain traditional outlets, such as export, vinegar-making or distillation, contribute towards reducing surplus in the market of table wines; whereas it appears advisable not to reduce these outlets and, as a result, advisable to exclude wines which are subject to such outlets from the minimum price obligation; whereas such exclusion is justified also for consignments of table wines which are of little importance in economic terms and for table wines in bottles, since transport of the latter may take place without their being subject to an accompanying document; whereas, therefore, checking to ensure compliance with the minimum price obligation would pose considerable difficulties;

Whereas the minimum price obligation may, for reasons of equity, be applied only to consignments which are traded after the date when the Regulation fixing the minimum price enters into force; whereas, in order to prevent abuse of the measure, it is essential to provide that exemption from the observance of this price should be subject to provision of proof that the contract for the consignment in question was concluded before the date in question;

Whereas, in providing for adjustment of the minimum price for certain regions referred to in the second subparagraph of Article 15a (1) of Regulation (EEC) No 337/79, it is essential to take account of the regions which are furthest from the main consumer areas; whereas, in calculating that adjustment, account must be taken of the cost of bringing wines from the furthest regions to the same marketing stage as wines from other regions;

Whereas measures of control are indispensable in order to ensure compliance with the minimum price; whereas, to this end, it would appear advisable to make the issue of an accompanying document for the table wine in question subject to prior authorization; whereas such authorization should not be possible until compliance with the minimum price has been proved by examination of a contract for sale, the authenticity of which is guaranteed by registration;

Whereas the Council may decide to restrict marketing of the type of table wine in question where it does not reach the minimum price; whereas it should therefore be made clear what is meant by marketing;

Whereas it should be stipulated that producers who intend to deliver wine for distillation, as referred to in Article 15a of Regulation (EEC) No 337/79, should conclude contracts with distillers and submit them for approval to the intervention agency, so that the distillation operation and the observance of the obligations to which the two parties are subject may be checked; whereas this will also enable a clearer picture to be obtained of the effect of the distillation operations on the quantity available on the market; whereas, if a producer intends to distil his own wine in his own premises or to have it distilled for him, the contract may be replaced by a declaration permitting equally effective checking;

Whereas it should be laid down that the minimum price guaranteed to the producer should be paid to him within time limits comparable to those which are usual in commercial transactions;

Whereas controls and checks are necessary to enable intervention agencies to approve contracts and to follow the progress of distillation operations; whereas, in order to do this, it should be possible for the intervention agency to have at its disposal certain information forwarded by those concerned;

Whereas the respective obligations of the distillers and the intervention agencies, as regards the buying-in of the product obtained by distillation, should also be determined;

[1] OJ No L 54, 5. 3. 1979, p. 1.

Whereas, having regard to the fixed price payable to the producer by the distiller, provision must be made to ensure that intervention agencies purchase the vinous alcohol resulting from distillation at a price which takes account of the cost of processing the table wine in question ;

Whereas the general rules for the distillations referred to in Regulation (EEC) No 343/79 (1), as last amended by Regulation (EEC) No 1991/80 (2), must be amended ; whereas, pending the adoption of these amendments, provision should be made, for the distillation operations referred to in Article 15a of Regulation (EEC) No 337/79, for specific rules, while limiting their application in time ; whereas, this being so and bearing in mind the serious difficulties which the intervention agencies in certain Member States would encounter in the marketing of alcohol taken over, it would appear necessary to afford Member States the possibility of allowing the intervention agency, as an alternative to taking over the alcohol, to grant aid to the distiller ensuring him terms comparable to those guaranteed by the arrangements for taking over the alcohol ;

Whereas the intervention agencies must be in a position to market the products taken over ; whereas, to attain this object, the qualitative features of the products delivered should be determined ; whereas, however, it is advisable to allow distillers who are not able to obtain the abovementioned products to supply other products as well, providing such products have an alcoholic strength of 86 % vol or more ;

Whereas, in the absence of an organization of the market in ethyl alcohol at Community level, the intervention agencies responsible for marketing the vinous alcohol may be obliged to dispose of it at a price lower than the buying-in price ; whereas provision should be made, in these circumstances, for the difference between the buying-in price and the selling price of the said alcohol to be covered by the European Agricultural Guidance and Guarantee Fund, Guarantee Section ;

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 ;

Whereas, before application of the minimum price can be terminated, the representative price needs to have risen high enough to eliminate any serious difficulty on the market ; whereas, so as to ensure that the increase in the representative price is not a temporary phenomenon, a sufficiently long reference period should be provided for ; whereas, in addition, it appears advisable to provide that the Council may itself terminate the application of the minimum price when examination of the market situation so justifies ; whereas it is therefore necessary to provide that the Council fix the date on which it will carry out such examination,

HAS ADOPTED THIS REGULATION :

Article 1

1. This Regulation applies to table wine produced in those Member States where wine production exceeds 25 000 hectolitres per wine year.

2. If the Council should decide, pursuant to Article 15a (3) of Regulation (EEC) No 337/79, to extend the measures referred to in paragraphs 1 and 2 of that Article to wines which are closely related economically to the type of table wine concerned, this Regulation shall also apply to such wines.

3. For the purposes of this Regulation :

— white table wines with an actual alcoholic strength not exceeding 15 % vol, and which are not of type A II or type A III, shall be considered as being in close economic relationship with table wines of type A I,

— red table wines with an actual alcoholic strength not exceeding 12·5 % vol and which are not of type R III, shall be considered as being in close economic relationship with table wines of type R I,

— red table wines with an actual alcoholic strength exceeding 12·5 % vol but not exceeding 15 % vol and which are not of type R III, shall be considered as being in close economic relationship with table wines of type R II.

Article 2

1. The minimum price for table wine of a given type, as fixed by the Council pursuant to Article 15a of Regulation (EEC) No 337/79, must be observed for all wines of that type.

(1) OJ No L 54, 5. 3. 1979, p. 64.
(2) OJ No L 195, 29. 7. 1980, p. 8.

However, this provision shall not apply to table wines of the type in question :

— which are put up in bottles, or

— which are intended for :

  — export, or

  — the manufacture of wine vinegar, or

  — distillation decided under the terms of Regulation (EEC) No 337/79, or

— which are covered by a contract of sale in respect of a volume of not more than 200 hectolitres, or

— for which it is proved that the sales contract was concluded before the Regulation fixing the minimum price came into force.

2. The price to be taken, for the purposes of checking compliance with this provision, shall be that for unpackaged goods, ex-producer's premises.

3. The minimum price shall be reduced by :

— 2·50 ECU per hectolitre for wine produced in the Italian part of Zone C III (b), and in the departments of Corsica, and by

— 3·20 ECU per hectolitre for wine produced in Zone C III (a) and in the Greek part of Zone C III (b),

if such wines are sent to destinations outside Zones C III (a) and Zone C III (b).

The amount of the reductions specified in the first subparagraph may be modified in accordance with the procedure laid down in Article 67 of Regulation (EEC) No 337/79, to take into account, in particular, changes in relative costs of transporting the wines in question.

Article 3

1. With effect from the date of entry into force of the minimum price for table wine of a given type and, where applicable, for table wines in close economic relationship with that type, no accompanying document may be issued for the wines in question, with the exception of the wines referred to in the second subparagraph of Article 2 (1), until authorized by the agency referred to in the following subparagraph.

To this end, any sales contract concluded by a producer or producers' association shall be registered, in the Member State where the wine in question was produced, by the agency designated for this purpose by that Member State.

The producer must submit a copy of the contract to the agency.

2. The agency shall authorize the producer to issue the accompanying document when it has ascertained that the minimum price has been respected. Authorization may be assumed to have been granted if no communication is received within seven working days of submission of the contract.

3. For the purposes of this Regulation :

— any natural or legal person or group of persons producing wine shall be regarded as a producer,

— a single contract shall be deemed to cover consignments of table wines of the same type, not referred to in the fourth indent of the second subparagraph of Article 2 (1), which make up a single delivery.

Article 4

If the Council decides to restrict marketing under the first subparagraph of Article 15a (1) of Regulation (EEC) No 337/79, the producer may not, during the period within which the minimum price applies for table wine of a given type, put up for sale, sell, deliver or market in any way table wine of the said type at a price lower than the minimum price in force.

However, this provision shall not apply to table wines referred to in the second subparagraph of Article 2 (1).

Article 5

Only producers of table wines of the type for which a minimum price is fixed shall be eligible, in respect of the said wines, to benefit under distillation provisions decided upon pursuant to Article 15a of Regulation (EEC) No 337/79.

Article 6

1. Producers undertaking the distillation of wine, pursuant to Article 15a of Regulation (EEC) No 337/79, shall conclude contracts for the delivery of wine with an approved distiller.

These contracts shall not be valid unless approved, before a date to be fixed, by the intervention agency of the Member State in which the wine was located at the time the contract was concluded.

These contracts shall cover :

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

(b) the obligation for the distiller to process the wine into a product with an alcoholic strength of 86 % vol or more, or into a product with an alcoholic strength of 85 % vol or less and to pay for it at least the price referred to in Article 15a (2) of Regulation (EEC) No 337/79, such price being applicable to unpackaged goods, ex-producer's premises.

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 7

1. Producers :

— who themselves make use of distillation plants and who intend to carry out the distillation referred to in Article 6, 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 6 (1) shall be replaced :

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

— in the case spcified 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 of 86 % vol or more, or into a product with an alcoholic strength 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 8

The distiller shall, for each delivery of wine, pay the producer the agreed purchase price within 30 days from the date on which the wine came into his premises.

Article 9

This distiller shall, within 15 days from the date specified in (a) or (b) below, as the case may be, communicate the following in written form to the competent intervention agency :

(a) the date by which all the wine stipulated in the contract entered his distillery or storage premises, by submitting :

— where all the wine was covered by a single delivery, a copy of the accompanying document provided for in Article 53 of Regulation (EEC) No 337/79 ;

— where delivery was by instalments, an account stating, in respect of each delivery, the consignor, the quantity of wine, the colour of the wine, the actual alcoholic strength by volume and the number of the accompanying document provided for in Article 53 of Regulation (EEC) No 337/79 ;

(b) the date on which distillation of the wine referred to in (a) was completed, stating the quantity and actual alcoholic strength by volume of the product so obtained.

Furthermore, the distiller shall provide the competent intervention agency with proof of the payment referred to in Article 8.

Article 10

1. Without prejudice to Article 12, the intervention agency shall be under an obligation to buy in the product offered to it by the distiller, provided that this product :

(a) has an alcoholic strength of at least 96 % vol and meets the analytic criteria laid down by the Member State concerned ;

or

(b) has an alcoholic strength of less than 96 % vol but not less than 86 % vol.

2. The price to be paid by the intervention agency to the distiller shall :

— for the product referred to in paragraph 1 (a), be that fixed in accordance with Article 11,

— for the product referred to in paragraph 1 (b), be that price less the cost required to process the product in question into a product with an alcoholic strength of 96 % vol.

Article 11

Acting by a qualified majority on a proposal from the Commission, the Council shall, at the same time as it fixed the minimum price, fix :

— the price payable by the intervention agency when buying in the product referred to in Article 10 (1) (a). This price shall be fixed per hectolitre and by % volume of pure alcohol, taking into account the price payable to the producer referred to in the third subparagraph, under (b), of Article 6 (1), flat-rate transport and processing costs and manufacturing losses. It shall apply to unpackaged goods free at the competent intervention agency's warehouse,

— the sum of the expenses referred to in Article 10 (2), second indent.

Article 12

1. Member States may provide for the competent intervention agency not to buy in the products referred to in Article 10 (1).

In that case, the agency shall pay the distiller aid equal in amount to the EAGGF contribution fixed in accordance with Article 14 (1) and (2), less the amount of the expenses referred to in Article 10 (2), second indent.

2. For products with an alcoholic strength by volume of 85 % vol or less, the intervention agency shall pay aid, the amount of which shall be fixed in accordance with Article 14 (3) and (4).

3. The sums paid by the intervention agency under this Article shall be paid by the EAGGF, Guarantee Section.

Article 13

Payment for products bought in pursuant to Article 10, and payment of aid referred to in Article 12 shall be made by the competent intervention agency within a period to be determined.

Article 14

1. The amount of the EAGGF Guarantee Section's contribution to expenditure incurred by intervention agencies for products purchased in accordance with Article 10 shall be laid down by the Council, acting by a qualified majority on a Commission proposal, at the same time as the minimum price.

This amount shall be fixed per hectolitre and by % volume of pure alcohol.

2. When fixing the amount referred to in paragraph 1, the following shall be taken into account :

— the price paid by the intervention agencies for the product referred to in Article 10 (1) (a),

— the market price recorded when fixing the amount in question, and the foreseeable movement in this price.

Expenditure incurred by intervention agencies in storing and marketing the product shall not be taken into account.

3. The amount of the aid referred to in Article 12 (2) shall be fixed by the Council in accordance with the procedure and at the time referred to in paragraph 1.

This amount shall be fixed per hectolitre and by % volume of pure alcohol.

4. When fixing the amount referred to in paragraph 3, the following shall be taken into account :

— the buying-in price of the wine paid by the distiller,

— flat-rate transport and processing costs, as well as manufacturing losses,

— the market price of the product concerned recorded when the amount in question was fixed, and the foreseeable movement in this price.

Article 15

The period during which distillation operations must take place shall be determined by the Council in accordance with the procedure and at the time referred to in Article 14 (1).

Article 16

Where, owing to chance circumstances or *force majeure*, all or some of the wine covered by a contract referred to in Articles 6 and 7 cannot be distilled, the distiller or the producer shall immediately so inform :

— the intervention agency of the Member State in whose territoriy 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 buy in only the quantities of products resulting from the processing of the quantity of wine which was actually distilled.

Where the intervention agency pays aid in accordance with Article 12, such aid shall, in the cases referred to in the first subparagraph, be paid only for the quantity of wine which was actually distilled.

Article 17

For the quantity of wine actually supplied for distillation, a margin of 10 % above or below the quantity of wine stated in the contracts referred to in Articles 6 and 7, or in the declaration referred to in Article 7, shall be allowed.

The intervention agency shall intervene only for the quantity of wine which has actually been distilled, within the margin referred to in the first subparagraph.

Article 18

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 subparagraph.

Such distillation must be carried out by an approved 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 subparagraph from distillers who do not fulfil their obligations under this Regulation.

Article 19

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

2. Without prejudice to Articles 6 (1) and 7 (1), the intervention agency responsible shall be that of the Member State on whose territory distillation takes place.

Article 20

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 21

When determining the minimum price, the Council shall fix the date on which it will examine the market situation and the possibility of terminating the application of the minimum price.

In any event, the minimum price, the obligation to observe the minimum price and the right of producers to conclude the delivery contracts referred to in Article 6 shall be terminated when the representative price for table wine of the type in question exceeds the minimum price by at least 5 % of the guide price for three consecutive weeks. The decision to terminate shall be taken by the Commission.

Article 22

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

It shall apply until 15 December 1981.

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

Done at Luxembourg, 28 April 1981.

For the Council

The President

J. de KONING