COMMISSION REGULATION (EEC) No 2456/82

of 8 September 1982

laying down, for the 1982/83 wine-growing year, provisions relating to the distillation referred to in Article 40 of Regulation (EEC) No 337/79

THE COMMISSION 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 2144/82 [2], and in particular Articles 40 (6) and 65 thereof,

Having regard to Council Regulation (EEC) No 2144/82 of 27 July 1982 amending Regulation (EEC) No 337/79 on the common organization of the market in wine, and in particular Article 2 thereof,

Whereas Article 40 of Regulation (EEC) No 337/79, as amended by Regulation (EEC) No 2144/82, provides for major changes in the distillation arrangements previously provided for in Article 41 ; whereas, consequently, those provisions of Council Regulation (EEC) No 343/79 of 5 February 1979 laying down general rules governing certain distillation operations in the wine sector [3], as last amended by Regulation (EEC) No 2008/82 [4], which no longer correspond to the new arrangements laid down by the said Article 40 are no longer applicable ; whereas Regulation (EEC) No 343/79 does not lay down certain general rules that the new arrangements necessitate ;

Whereas the new system for the common organization of the market in wine is applicable from 1 September 1982 ; whereas it has not been possible for the Council to adopt new general rules for the application of Article 40 of Regulation (EEC) No 337/79 in the interval between the entry into force of Regulation (EEC) No 2144/82 and 1 September ; whereas, in these circumstances, the Commission should adopt all the provisions for the 1982/83 wine-growing year relating to the distillation covered by Article 40 of Regulation (EEC) No 337/79, so as to enable the new rules to be applied from the scheduled date and to avoid difficulties in changing from the old system to the new one ;

Whereas it is necessary to determine both the conditions for the fulfilment by producers of the obligations laid down in Article 40 of Regulation (EEC) No 337/79 and the conditions for the fulfilment of the obligations incumbent on distillers ;

Whereas each producer should be exempted from delivering for distillation in respect of a standard quantity representing family consumption and any quantities exported ; whereas it should therefore be prescribed that any export of wine must take place before a date which will allow the remaining quantities to be distilled, as is laid down, before the end of the wine-growing year ;

Whereas under Article 40 (2) of Regulation (EEC) No 337/79 the obligation to distil applies only to the quantities of wine in excess of those normally produced ; whereas for each of the different types of wine produced from grapes classed for two purposes these quantities should be defined ; whereas for wine produced from grapes of varieties classed as both wine grape and table grape varieties the rule laid down in Commission Regulation (EEC) No 2078/76 [5] should be followed, but with a different reference period for Greece ; whereas, however, for wine produced from grapes of varieties classed as both wine grape varieties and varieties for special uses, the obligation to distil constitutes a major change in the practices hitherto followed ; whereas, in order to enable the Commission to take fuller account of these practices while ensuring equal treatment of all those concerned, the adoption of criteria for determining the quantity of wine normally produced per hectare in each administrative unit should be postponed to a later date ;

Whereas experience has shown that it is not always easy for producers to calculate exactly the quantity of products which they must deliver to discharge their obligations ; whereas the expiry of the period for making deliveries should not mean that producers who have delivered almost all the required quantity and have only minor adjustments to make are penalized out of proportion to the infringement involved, particularly as regards the application of Article 6 (1) of Regulation (EEC) No 337/79 ; whereas, to this end,

[1] OJ No L 54, 5. 3. 1979, p. 1.
[2] OJ No L 227, 3. 8. 1982, p. 1.
[3] OJ No L 54, 5. 3. 1979, p. 64.
[4] OJ No L 216, 24. 7. 1982, p. 2.
[5] OJ No L 233, 24. 8. 1976, p. 20.

such producers should be considered as having discharged their obligation within the required time if their intervention agency authorizes them to deliver any remaining quantities of products under arrangements to be fixed by that agency; whereas, however, quantities delivered after the period has expired should not be eligible for financing by the European Agricultural Guidance and Guarantee Fund (EAGGF);

Whereas, in order to ensure that the quantities of wine which must be distilled and which qualify for a Community contribution are actually delivered for distillation, a system of checks should be introduced based as a general rule on verification that the characteristics of the wine delivered are as indicated on the accompanying document;

Whereas it is necessary to avoid any risk that the product of distillation of certain wines that must be distilled pursuant to Article 40 of Regulation (EEC) No 337/79 may disturb the market in wine spirits with a registered designation of origin;

Whereas, in order to ensure that the arrangements are as effective as possible, provision should be made for certain time limits on the operations to be carried out by producers and distillers; whereas it should also be laid down what constitutes proof in respect of the delivery of wine to distillers, such proof varying according to whether the distiller is established in the same Member State as the producer or in another Member State;

Whereas distillers may, in accordance with Article 40 (4) of Regulation (EEC) No 337/79, either receive aid for the product to be distilled or deliver the product obtained from distillation to the intervention agency; whereas the amount of the aid must be fixed in the light of market prices for the different products obtainable by distillation; whereas, in order to avoid the production of poor quality potable spirits, it should be laid down, in the absence of Community provisions on this matter, that the potable spirits produced must comply with the national provisions in force;

Whereas, to qualify for the aid, the parties concerned must lodge an application accompanied by a number of supporting documents; whereas, to ensure that the system operates uniformly in all Member States, time limits for lodging applications and for the payment of aid to processors should be laid down;

Whereas the price to be paid by the intervention agencies for products delivered to them should take account of the average distillation costs of the product in question;

Whereas, in the absence of an organized Community market in ethyl alcohol, the intervention agencies responsible for marketing such alcohol are obliged to resell it at less than the buying-in price and the selling price for such alcohol to be borne, at a standard rate, by the Guarantee Section of the EAGGF;

Whereas the provisions on the financing of intervention laid down in Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy [1], as last amended by Regulation (EEC) No 2788/72 [2], should cover the taking over by intervention agencies of the product of distillation;

Whereas, in order to take account of the actual situation on the market in wine for distillation, both distillers and other processors should be authorized to fortify such wine for distillation;

Whereas wine is fortified for distillation in the vicinity of the place where the wine is held, in order to limit transport costs to distilleries a long distance away; whereas authorization of fortification for distillation in a Member State other than that in which the producer's winery is located is not justified economically and is likely to create serious supervision problems; whereas it should therefore be stipulated that wine may be fortified for distillation only in the country where it was produced; whereas, in addition, Member States should be able to restrict the places at which wine may be fortified for distillation in order to ensure the most appropriate form of supervision;

Whereas, in order to ensure appropriate supervision of distillation operations, distillers and processors who fortify wine for distillation should be made subject to a system of approval;

Whereas, in order that the Commission may keep a general watch on compliance with the obligations regarding distillation laid down in Article 40 of Regulation (EEC) No 337/79, the Member States must communicate regularly, on the basis of reports from distillers, of the progress and outcome of distillation operations;

Whereas the addition of an indicator to wine for distillation is an effective method of supervision; whereas it should be stipulated that the presence of such an indicator shall be no bar to free movement of such wine and of products obtained therefrom;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Wine,

[1] OJ No L 94, 28. 4. 1970, p. 13.
[2] OJ No L 295, 30. 12. 1972, p. 1.

HAS ADOPTED THIS REGULATION :

Article 1

This Regulation lays down general rules and detailed arrangements for the distillation provided for in Article 40 of Regulation (EEC) No 337/79 for the 1982/83 wine-growing year.

Article 2

1. Those persons subject to an obligation to distil under Article 40 of Regulation (EEC) No 337/79, hereinafter called 'producers', shall discharge their obligation by delivering their wine to an approved distiller by 31 July 1983 at the latest. The provisions of paragraphs 2 and 3 shall apply.

In cases covered by the second subparagraph of Article 10 (1) the obligation shall be discharged by delivery of the wine to an approved processor by 30 June 1983 at the latest.

2. In the case of wine covered by Article 40 (1) of Regulation (EEC) No 337/79, each producer must deliver a quantity equal to the total quantity that he has produced less :

— 10 hectolitres,

— any quantity which he proves have been exported by 30 June 1983 at the latest.

3. In the case of wine covered by Article 40 (2) of Regulation (EEC) No 337/79, each producer must deliver a quantity equal to the total quantity he has produced less :

— 10 hectolitres,

— any quantity which he proves have been exported by 30 June 1983 at the latest,

— the quantity normally produced, calculated as specified in paragraph 4.

4. For each administrative unit the following shall be regarded as the total quantity of wine normally produced :

— the average quantities produced during a reference period, for wine produced from grape varieties listed in the classification for that administrative unit as both wine grape and table grape varieties,

— the average quantities produced during the wine-growing years 1974/75 to 1979/80, for wine produced from grape varieties listed in the classification for that administrative unit as both wine grape varieties and varieties for the production of dried grapes,

— the average quantities produced in the wine-growing years 1974/75 to 1979/80 minus such quantities as were distilled other than for the production of wine spirits with a registered designation of origin, for wine produced from grape varieties listed in the classification for that administrative unit as both wine grape varieties and varieties for the production of wine spirits.

For the wines referred to in the first indent of the first subparagraph, the quantity normally produced per hectare shall be the quantity established :

— for administrative units in France and Italy, in accordance with Article 5 of Regulation (EEC) No 2078/76 for the 1976/77 wine-growing year,

— for administrative units in Greece, in accordance with the said Article 5, taking into account the results of the wine-growing years 1974/75 to 1979/80.

For the wines referred to in the second and third indents of the first subparagraph, the criteria for the allocation per hectare or per producer of the total quantity of wine normally produced in each administrative unit shall be adopted by 15 December 1982.

5. For each producer the total quantity produced shall be the sum of the quantities of wine mentioned in paragraph 1 appearing in the harvest declaration mentioned in Article 2 (1) of Regulation No 134 [1] and the quantities entered in the records referred to in Article 14 of Regulation (EEC) No 1153/75 [2] obtained by him, after the date of presentation of the harvest declaration, from grapes or from must produced from grapes of the varieties referred to in Article 40 (1) and (2) of Regulation (EEC) No 337/79, which appear in that declaration.

6. The competent intervention agency may allow producers, who have delivered within the period set in paragraph 1 at least 90 % of the quantity of wine they are obliged to deliver, to discharge their obligation by delivering the remaining quantity by a date to be fixed by the responsible national authority.

In such cases :

— the buying-in price for the remaining quantities of wine and the price for the alcohol produced from that wine and delivered to the intervention agency shall be reduced by an amount equal to the EAGGF contribution referred to in Article 9,

[1] OJ No 111, 6. 11. 1962, p. 2604/62.
[2] OJ No L 113, 1. 5. 1975, p. 1.

— there shall be no EAGGF contribution to intervention agencies' expenditure on the alcohol delivered to them,

— no aid shall be paid for products of distillation not delivered to intervention agencies,

— the obligation shall be considered to have been discharged within the period referred to in the first subparagraph.

Article 3

The buying-in price provided for in Article 40 (3) of Regulation (EEC) No 337/79 shall be 1·51 ECU per % vol per hectolitre.

This price shall apply to bulk merchandize ex producer's premises.

Article 4

1. The characteristics of the wine delivered to the distiller, and in particular the quantity and the actual alcoholic strength by volume, shall be checked on the basis of the accompanying document issued for transport of the wine to the distillery. The competent authorities of the Member States shall check that the characteristics of the wine delivered to the distillery correspond to the information given in the accompanying document.

The Member States may provide for the check mentioned in the first subparagraph to be made by sampling.

2. If, in accordance with the Community provisions in force, an accompanying document is not made out, the wine to be distilled shall be checked under arrangements that the Member States shall establish and communicate to the Commission. These arrangements must guarantee the same degree of effectiveness as those provided for in paragraph 1.

Article 5

1. On delivery of the wine referred to in Article 2, the distiller shall provide the producer with a certificate stating the quantity and alcoholic strength of the wine delivered.

Notwithstanding the first subparagraph, if a producer subject to the obligation referred to in Article 40 (1) or (2) of Regulation (EEC) No 337/79 has wine distilled in another Member State, the distiller shall have certified by the intervention agency of the Member State in which distillation takes place, in Section 23 of the accompanying document for the products to be distilled, that they have been taken over by the distillery. The distiller shall forward to the producer a copy of the accompanying document, thus certified, within 30 days of reception of the products to be distilled.

2. The distiller shall pay the producer the buying-in price indicated in Article 3 not later than 90 days after delivery of the wine.

Article 6

1. Subject to Article 10 (8) the distillation operations referred to in Article 40 of Regulation (EEC) No 337/79 may not take place after 31 August 1983.

2. Wines as referred to in Article 2 (4) (c) must be distilled to give a product with an alcoholic strength of 92 % vol or more.

3. Distillers shall notify the intervention agency, no later than the 10th day of each month, of the quantities of wine distilled during the previous month, specifying :

— the quantity of alcohol obtained of 92 % vol or more,

— the quantity of alcohol obtained of 86 % vol or more but less than 92 % vol,

— the quantity and the alcoholic strength of products obtained of 85 % vol or less.

Article 7

1. Distillers :

— who do not intend to deliver to the intervention agency products of distillation which they obtain with an alcoholic strength of 92 % vol or more, or

— who obtain a product having an alcoholic strength of less than 92 % but not less than 86 % vol, or

— who obtain a product having an alcoholic strength of not less than 52 % vol but not more than 85 % vol, and meeting the national quality requirements applicable to wine spirits,

shall receive aid.

The amount of the aid shall be :

— 0·88 ECU per % vol alcohol per hectolitre for products having an alcoholic strength of not more than 85 % vol and not less than 52 % vol and meeting the national quality requirements applicable to wine spirits,

— 0·90 ECU per % vol alcohol per hectolitre for products having an alcoholic strength of not less than 86 % vol.

2. Distillers who wish to receive the aid referred to in paragraph 1 shall by 30 September 1983 submit an application to the intervention agency of the Member State in which distillation took place accompanied by, for the quantities for which aid is requested :

(a) copies of the accompanying documents for transport of the wine delivered to him or a summary of the contents of those documents ;

(b) a statement, endorsed by a supervisory authority designated by the Member State concerned, of the quantities :

— with an alcoholic strength of 86 % vol or more,

— of wine spirits meeting the national quality requirements applicable, obtained by distillation.

Member States may require that the copies or summary referred to at point (a) in the first subparagraph be endorsed by a supervisory authority.

3. The intervention agency shall pay the aid referred to in paragraph 1 not later than 90 days after submission of the application and of the documents referred to in paragraph 2.

The distiller must provide the intervention agency before 1 January 1984 which proof that he has paid the producer the buying-in price for the wine within the stipulated period.

If such proof is not provided within the period specified in the second subparagraph, the aid paid shall be recovered by the intervention agency. If, however, the proof is furnished after the stipulated period but before 1 March 1984 and the delay is not due to serious negligence by the distiller, the intervention agency shall recover 80 % of the aid paid.

Article 8

1. Distillers who do not receive the aid referred to in Article 7 may deliver to the intervention agency products with an alcoholic strength of 92 % vol or more obtained directly or indirectly from distillation.

Delivery to the intervention agency shall be made not later than 31 August 1983 or, if Article 2 (6) is applied, by the date fixed by the competent national authority.

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

— 1·96 ECU per % vol per hectolitre for neutral alcohol with an alcoholic strength of 96 % vol or more,

— 1·91 ECU per % vol for neutral alcohol with an alcoholic strength of less than 96 % vol but not less than 92 % vol.

These prices shall apply to bulk merchandize free at the premises of the intervention agency.

3. The intervention agency shall pay the distiller for the alcohol not later than 90 days after the day on which it was delivered.

Article 9

The Guarantee Section of the EAGGF shall contribute to intervention agencies' expenditure on the taking over of alcohol.

The contribution shall be at a flat rate of 0·95 ECU per % vol per hectolitre of alcohol taken over.

Articles 4 and 5 of Regulation (EEC) No 729/70 shall apply to this contribution.

Article 10

1. Wine to be distilled under Article 40 of Regulation (EEC) No 337/79, except wine referred to in the third indent of the first subparagraph of Article 2 (4) of this Regulation, may be fortified for distillation either by the distiller or by an approved processor other than the producer.

If such processing is carried out by an approved processor the provisions of this Article shall apply.

2. The wine may be fortified for distillation only on the territory of the Member State in which the producer's winery is located, and not later than 31 July 1983.

3. The wine shall be fortified for distillation under official supervision. For this purpose :

— the accompanying document(s) and register(s) that are compulsory under Article 53 of Regulation (EEC) No 337/79 shall show the % vol increase in actual alcoholic strength by volume by indicating the strength before and after addition of the distillate to the wine,

— a sample of the wine shall be taken under official supervision before it is fortified in order that the actual alcoholic strength by volume may be determined analytically by an official laboratory or a laboratory working under official supervision ; two copies of the analysis report shall be sent to the processor of the wine, one of which he shall transmit to the intervention agency of the Member State in which the wine is fortified.

4. Member States may restrict the number of locations at which wine may be fortified for distillation should this be necessary to ensure that the most suitable method of supervision can be used.

5. When wine as referred to in Article 2 is delivered, the processor shall issue the producer with a certificate stating the quantity and alcoholic strength of the wine delivered.

6. The processor shall pay the producer the buying-in price for the wine referred to in Article 3 not later than 90 days after the producer has delivered it.

7. The processor shall send the intervention agency, not later than the 10th day of each month, a statement of the quantities of wine delivered to him during the previous month.

8. The processor shall receive the aid referred to in the first indent of the second subparagraph of Article 7 (1) for wine fortified for distillation. The aid shall be calculated on the number of hectolitres and the actual alcoholic strength by volume before the wine is fortified for distillation. In order to receive the aid the processor shall not later than 30 November 1984 submit, to the intervention agency of the Member State in which fortification has been carried out, an application accompanied by :

(a) copies of the accompanying documents for transport of the wine for which aid is requested or a summary of those documents,

(b) proof that the wine fortified for distillation obtained from the wine for which aid is requested has been distilled.

Member States may require that the copies or summary referred to at point (a) in the first subparagraph be endorsed by a supervisory authority.

9. The wine fortified for distillation may be distilled only by an approved distiller, and not later than 31 October 1983. Only wine spirits meeting the applicable national quality requirements may be obtained from the wine fortified for distillation.

10. The intervention agency of the Member State in which the wine was fortified shall pay the aid to the processor not later than 90 days after submission of the application and of the documents referred to in paragraph 8.

Article 11

Notwithstanding Article 40 (1) and (2) of Regulation (EEC) No 337/79, wine covered by that Article may be moved :

— to customs offices for accomplishment of customs export formalities and removal thereupon from the customs territory of the Community,

— to the premises of approved processors for processing into wine fortified for distillation.

Article 12

1. For the purposes of this Regulation, an approved distiller shall be one appearing on a list drawn up by the competent authorities of each Member State.

For the purposes of this Regulation, an approved fortifier shall be a processor of wine into wine fortified for distillation whose name appears on a list drawn up by the competent authorities of each Member State.

2. Approval shall be withdrawn if the distiller or fortifier does not pay the producer the buying-in price for wine referred to in Article 3. It may be withdrawn if the distiller or fortifier does not meet the obligations incumbent on him under Community legislation, in particular those relating to notification.

Article 13

The Member States shall take the necessary measures to ensure that the provisions of this Regulation are applied, and in particular supervisory measures to ensure that the wine covered by Article 40 of Regulation (EEC) No 337/79 is not diverted to uses other than distillation. Member States may, for this purpose, require separate vinification and the use of an indicator.

Member States may not, on the grounds of the presence of an indicator, prevent the movement within their territory of table wine for distillation or of products obtained from such wine.

Article 14

1. By the 20th day of each month at the latest, Member States shall communicate the following information to the Commission in respect of the previous month :

— the quantity of alcohol delivered to intervention agencies following distillation under Article 40 of Regulation (EEC) No 337/79,

— the quantity of wine spirits produced and the quantity of alcohol contained therein,

— the quantity of alcohol produced of a strength of 86 % vol or more for which aid has been requested.

2. Member States shall, for alcohol taken over by their intervention agencies, notify the Commission before 1 October 1982 of the selling prices obtaining throughout the 1981/82 wine growing year and of the characteristics and quantity of the alcohol sold at these prices.

3. Member States shall inform the Commission not later than 31 March 1984 of cases in which distillers of wine or fortifiers of wine for distillation have not fulfilled their obligations and of the measures taken in consequence.

Article 15

The amounts referred to in Articles 3, 7 and 8 shall be converted into national currency at the representative rate applying on 16 December 1982 in the wine sector, which shall apply from 1 September 1982 for this purpose.

Article 16

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

It shall apply with effect from 1 September 1982.

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

Done at Brussels, 8 September 1982.

For the Commission

Poul DALSAGER

Member of the Commission