COMMISSION REGULATION (EEC) No 2499/82

of 15 September 1982

laying down provisions concerning preventive distillation for the 1982/83 wine year

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 11 (5) 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 preliminary estimates point to an abundant harvest of mostly good quality wine; whereas, however, in some areas of the Community the quality of the harvest is expected to be below average; whereas provision should therefore be made for preventive distillation as referred to in Article 11 of Regulation (EEC) No 337/79;

Whereas Article 11 of Regulation (EEC) No 337/79, as amended by Regulation (EEC) No 2144/82, provides for major changes in the system of preventive distillation; whereas, therefore, 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[4], which no longer correspond to the new arrangements provided for by Article 11 of Regulation (EEC) No 337/79 are no longer applicable; whereas that Regulation does not lay down certain general rules which the new arrangements necessitate;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 11 of Regulation (EEC) No 337/79 between the entry into force of Regulation (EEC) No 2144/82 and 1 September 1982; whereas, in the circumstances, the Commission should adopt all the provisions relating to preventive distillation for the 1982/83 wine year so as to enable the new rules to be applied from the date specified and avoid difficulties in changing from the old system to the new one;

Whereas provision should be made for producers to conclude with distillers delivery contracts 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 possess 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 it should be specified that the contracts and the supply declarations must contain the information necessary for identification of the wines to which they relate;

Whereas certain time limits for the operation should be laid down for both producers and distillers to ensure that the measure is as effective as possible; whereas these time limits must be fixed bearing in mind the date specified in Article 41 of Regulation (EEC) No 337/79 for compulsory distillation;

Whereas the price for wines for distillation normally renders it impossible to market the products of distillation at market prices; whereas it is therefore necessary to provide for an aid fixed in the light of the market price for the various products of distillation which can be obtained;

Whereas preventive distillation is open to all table wines and wines suitable for yielding table wine; whereas, however, the minimum buying-in prices of wines delivered for distillation are fixed as a percentage of the guide prices for the various types of table wine; whereas the table wines which are in a close economic relationship with each type of table wine should therefore be defined;

[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.

Whereas, in the absence of a Community definition of rosé wine and in the interests of clarity, it should be stated that rosé table wines must be treated in the same way as red table wines owing to the close economic relationship between them;

Whereas provision should be made for the minimum price guaranteed to producers to be paid to them, as a general rule, within a period which will enable them to obtain a profit comparable to that which they would have obtained from a commercial sale; whereas, in these circumstances, it is essential to pay the aid due to them for the distillation in question at the earliest opportunity, while guaranteeing that operations are correctly carried out by means of an appropriate system of securities; whereas, in order to allow the measure fully to achieve its purpose in the Member States, provision should be made for procedures for payment of aids and advances which are suited to the administrative systems of the different Member States;

Whereas, in the light of experience, a certain margin should be allowed in the quantity of wine and its actual alcoholic strength by volume specified in the delivery contracts; whereas, moreover, provision should be made, to cover the eventuality of chance circumstances of *force majeure,* for aid to be paid in respect of the quantity of wine which has actually been distilled;

Whereas, in order to allow the distillation measure to achieve its full purpose and in order to take account of the reality of the market in wines for distillation, it should be possible for wine to be fortified for distillation both by distillers and by manufacturers;

Whereas the fortification of wine for distillation takes place in the vicinity of the place where the table wine is held in order to limit transport costs to distilleries a great 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 monitoring problems; whereas it should, therefore, be stipulated that the fortification of wine for distillation may take place only in the country where the table wine has been 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 subject to a system of approval;

Whereas the intervention agencies and the Commission should be informed of the progress of distillation operations and should in particular be aware of the quantities of wine distilled and the quantities of products obtained;

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

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

HAS ADOPTED THIS REGULATION:

Article 1

1. Producers wishing to have table wines or wines suitable for yielding table wines produced by them distilled under Article 11 of Regulation (EEC) No 337/79 shall conclude supply contracts with an approved distiller and shall submit them to the intervention agency not later than 20 January 1983.

However, if the decision referred to in Article 41 (1) of Regulation (EEC) No 337/79 is adopted, the date referred to in the first subparagraph shall be replaced by the date of the publication of the said decision in the *Official Journal of the European Communities.*

2. The contracts referred to in paragraph 1 shall specify:

(a) the quantity, colour and actual alcoholic strength by volume of the table wine to be distilled, stating whether it is table wine or wine suitable for yielding table wine;

(b) the name and address of the producer;

(c) the place where the wine is stored;

(d) the name of the distiller or of the distillery;

(e) the address of the distillery.

3. The contracts referred to in paragraph 1 shall not be valid under this Regulation unless they are approved by the intervention agency of the Member State in which the wine is held when the contract is concluded not later than 10 February 1983 or, where the second subparagraph of paragraph 1 is applied, not later than the 20th day following publication in the *Official Journal of the European Communities* of the decision referred to in Article 41 (1) of Regulation (EEC) No 337/79.

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

Article 2

1. Producers :

— who themselves possess distillation plants and 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 on whose territory their winery is located by means of the declaration of delivery for distillation. If the distilling plant is located in another Member State, they shall also inform the intervention agency of that Member State by transmission of a copy of the declaration.

The declaration referred to in the first subparagraph shall be submitted to the competent intervention agency within the time limits referred to in Article 1 (1).

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 declaration referred to in paragraph 1 and the contract referred to in the second indent of paragraph 2 shall specify :

(a) the quantity, colour and actual alcoholic strength by volume of the wine to be distilled, stating whether the wine is table wine or wine suitable for yielding table wine ;

(b) the name and address of the producer ;

(c) the place where the wine is stored ;

(d) the address of the distillery.

4. The declaration referred to in paragraph 1 shall not be valid under this Regulation unless approved by the intervention agency of the Member State on whose territory the producer's winery is located, within the time limit referred to in Article 1 (3).

5. In the case referred to in the first indent of paragraph 1, a sample of the wine to be distilled shall be taken, under the supervision of an official body of the Member State on whose territory the producer's winery is situated, 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 of the Member State where the distillation took place.

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

7. Producers who have lodged a declaration shall be obliged to distil, or to have distilled, the wine covered by that declaration.

Article 3

The intervention agency responsible for the approval of contracts and declarations shall inform those concerned within 30 days of receipt of the contract or declaration whether or not it has been approved.

Article 4

1. The wine may not be distilled until the contract or declaration covering it has been approved.

2. Distillation operations may not take place after 31 May 1983.

3. The product obtained from the distillation referred to in Article 1 shall have an alcoholic strength by volume of 86 % or more or 85 % or less.

Article 5

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

— 2·13 ECU per % vol per hectolitre in the case of red table wines of types R I and R II,

— 3·16 ECU per % vol per hectolitre in the case of red table wines of type R III,

— 1·96 ECU per % vol per hectolitre for white table wines of type A I and for wines suitable for yielding table wine,

— 4·42 ECU per % vol per hectolitre for white table wines of type A II,

— 5·05 ECU per % vol per hectolitre for white table wines of type A III.

If the compulsory distillation referred to in Article 41 of Regulation (EEC) No 337/79 is not decided upon, the prices referred to in paragraph 1 shall be increased by the following amounts from 20 January 1983 :

— 0·16 ECU per % vol per hectolitre for red table wines of type R I and R II,

— 0·24 ECU per % vol per hectolitre for red table wines of type R III,

— 0·15 ECU per % vol per hectolitre for white table wines of type A I and for wines suitable for yielding table wine,

— 0·34 ECU per % vol per hectolitre for white table wines of type A II,

— 0·39 ECU per % vol per hectolitre for white table wines of type A III.

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

Article 6

The intervention agency shall pay aid for wine distilled. Where the product obtained from distillation has an alcoholic strength of 85 % vol or less, the amount of aid shall be :

— 1·53 ECU per % vol per hectolitre for red table wines of types R I and R II,

— 2·56 ECU per % vol per hectolitre for red table wines of type R III,

— 1·36 ECU per % vol per hectolitre for white table wines of type A I and for wines suitable for yielding table wine,

— 3·82 ECU per % vol per hectolitre for white table wines of type A II,

— 4·45 ECU per % vol per hectolitre for table wines of type A III.

Where the product obtained from distillation has an alcoholic strength of 86 % vol or more, the amount of aid shall be :

— 1·55 ECU per % vol per hectolitre for red table wines of types R I and R II,

— 2·58 ECU per % vol per hectolitre for table wines of type R III,

— 1·38 ECU per % vol per hectolitre for white table wines of type A I and for wines suitable for yielding table wine,

— 3·84 ECU per % vol per hectolitre for white table wines of type A II,

— 4·47 ECU per % vol per hectolitre for white table wines of type A III.

Article 7

1. The provisions of this Regulation relating to red wines shall also apply to rosé wines.

2. The provisions of this Regulation relating to a given type of table wine shall also apply to table wines which are in a close economic relationship with that type of table wine.

For the purposes of the application of this Regulation, the following shall be considered to be in a close economic relationship with the type of table wine indicated :

— A I : white table wines which are not of types A I, A II or A III,

— R I : red table wines which have an actual alcoholic strength of not more than 12·5 % vol which are not of types R I or R III,

— R II : red table wines of an actual alcoholic strength exceeding 12·5 % vol which are not of type R III.

Article 8

For the payment of the minimum buying-in price for wines and for the payment of aid by the intervention agency, one or other of the procedures referred to in Articles 9 and 10 shall be applied, at the choice of the Member States.

Article 9

1. The minimum buying-in price referred to in the first subparagraph of Article 5 (1) shall be paid by the distiller to the producer not later than 90 days after the entry into the distillery :

— of the total quantity of wine covered by the contract when a single delivery is made,

— of each consignment of wine when delivery of the wine covered by the contract is made in stages.

2. The intervention agency shall pay to the distiller the aid provided for in Article 6 (1) and, where appropriate, the increase in the minimum buying-in price referred to in the second subparagraph of Article 5 (1) within 90 days of submission of proof that the total quantity of wine specified in the contract has been distilled.

However, where the period referred to in the first paragraph expires before the abovementioned increase is applicable, the intervention agency shall pay the increase to the distiller not later than 31 March 1983.

The distiller shall be required to supply the intervention agency with proof that he has paid the minimum buying-in price referred to in the first subparagraph of Article 5 (1) within the period specified in paragraph 1 and, where appropriate, the increase in the said price within the period referred to in the fourth paragraph. If such proof is not submitted within 120 days of the date of submission of the proof referred to in the first paragraph, the amounts paid shall be recovered by the intervention agency.

Where the increase in the minimum buying-in price referred to in the second subparagraph of Article 5 (1) is applicable, the distiller shall pay the producer such amount :

— at the same time as the minimum buying-in price if this has not yet been paid,

— before 31 January 1983 if the minimum buying-in price has already been paid.

Article 10

1. Not later than 30 days after the entry into the distillery :

— of the total quantity of wine covered by the contract when a single delivery is made,

— of each consignment of wine when delivery of the wine covered by the contract is made in stages,

the distiller shall pay the producer at least the difference between the minimum buying-in price referred to in the first subparagraph of Article 5 (1) and the aid referred to in Article 6 (1).

2. Not later than 30 days after submission of the proof that the total quantity of wine covered by the contract has been distilled, the intervention agency shall pay the producer the aid referred to in Article 6 (1) and, where appropriate, the increase in the minimum buying-in price referred to in the second subparagraph of Article 5 (1).

However, where the period referred to in the first subparagraph expires before the abovementioned increase is applicable, the intervention agency shall pay the increase to the producer not later than 15 February 1983.

Article 11

1. The distiller in the case referred to in Article 9 or the producer in the case referred to in Article 10 may ask for an amount equal to the aid referred to in the first paragraph of Article 6 to be paid to him by way of advance on condition that he has provided a security equal to 110 % of the said amount in the name of the intervention agency.

2. The security shall be provided in the form of a guarantee by an establishment meeting the criteria laid down by the Member State to which the intervention agency is responsible.

3. The advance shall be paid not later than 90 days after proof is furnished that the security has been provided and in any case after the date of approval of the contract or declaration.

4. Subject to Article 13, the security referred to in paragraph 1 shall be released only if, not later than 31 October 1983, proof is furnished :

— that the total quantity of wine covered by the contract has been distilled,

— and, if the advance has been paid to the distiller, that the latter has paid the producer the minimum buying-in price referred to in the first subparagraph of Article 5 (1) and, where appropriate, the increase in the said price within the periods specified.

However, if the proofs referred to in the first subparagraph are furnished after the date specified therein but before 1 February 1984, the amount to be released shall be 80 % of the security, the difference being forfeit.

If such proofs are not furnished before 1 February 1984, the security shall be forfeit in its entirety.

5. When the security is released the intervention agency shall settle the balance of the amount by making the adjustments necessary to take account of the margins referred to in Article 12.

Article 12

1. For wine delivered to the distillery a margin of 1 % vol more or less in the actual alcoholic strength specified in the contract or in the declaration shall be permitted provided that :

— in the case of table wine, it has the minimum actual alcoholic strength fixed in point 11 of Annex II to Regulation (EEC) No 337/79,

— in the case of wine suitable for yielding table wine, it has the minimum natural alcoholic strength by volume fixed for the wine-growing area in which it was produced.

For the quantity of wine actually delivered to the distillery a margin of 10 % more or less than the quantity specified in the contract or declaration shall be permitted.

2. The intervention agency shall pay the aid referred to in Article 6 for the quantity of wine which has actually been distilled, within the margin referred to in paragraph 1.

Article 13

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

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

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

In such cases, the intervention agency shall pay the aid laid down in Article 6 in respect of that quantity of wine which has actually been distilled.

Article 14

The wine intended for distillation as provided for in Article 1 (1) may be fortified for distillation by the distiller or by an approved processor other than the producer.

If the operation is carried out by a processor, Articles 1 and 3 to 13 shall apply, subject to the provisions of the following Articles.

Article 15

1. In the case referred to in the second paragraph of Article 14, the contracts referred to in Article 1 shall be concluded between a producer and a processor.

2. The contracts shall involve the processor in the obligation :

(a) to purchase the quantity of wine appearing therein and to process all of it into wine fortified for distillation ;

(b) to deliver the wine fortified for distillation to an approved distiller ;

(c) to pay the producer not less than the price specified in Article 5 (1).

The information referred to in Article 1 (2) (d) and (e) shall apply *mutatis mutandis* to a processor fortifying wine for distillation and to the plant where such processing takes place.

Article 16

1. In the case referred to in the second paragraph of Article 14, fortification of wine for distillation may take place only on the territory of the Member State where the producer's winery is located and before 1 May 1983.

2. The fortification of wine for distillation, as referred to in paragraph 1, shall be subject to official supervision. For this purpose :

— the document or documents and registers provided for in Article 53 of Regulation (EEC) No 337/79 shall state the increase in actual alcoholic strength by volume, expressed as % vol, giving the strength before and after the addition of the distillate to the wine,

— before the wine is fortified for distillation, a sample shall be taken under the supervision of an official body for analysis by an official laboratory, or by a laboratory operating under official supervision, of the actual alcoholic strength by volume. Two copies of the results of this analysis shall be sent to the processor who fortified the wine for distillation, who shall forward one copy to the intervention agency of the Member State where the wine was fortified for distillation.

3. Member States may restrict the places at which wine may be fortified for distillation to the extent to which such restriction is necessary to ensure the most appropriate form of supervision.

Article 17

In the case referred to in the second paragraph of Article 14, the price specified in the first subparagraph of Article 5 (1) shall be paid by the processor not later than 90 days after the total quantity of wine appearing in the contract has entered his premises.

Article 18

In the case referred to in the second paragraph of Article 14, the wine fortified for distillation shall be distilled before 1 July 1983. The product obtained from the distillation of wine fortified for that purpose shall have an alcoholic strength by volume of 85 % or less.

Article 19

1. The intervention agency of the Member State where the wine was fortified for distillation shall pay to the processor the amount referred to in the first paragraph of Article 6 and, where appropriate, the increase over the minimum buying-in price laid down in the second subparagraph of Article 5 (1), in accordance with the procedures referred to in Article 9 (2) or Article 11.

2. The aid shall be calculated per hectolitre and per % vol of actual alcoholic strength of the wine before it is fortified for distillation.

3. The margins referred to in Article 12 shall apply to the quantities of wine delivered to the processor's premises.

4. The aid shall be paid for the quantity of wine which, after being fortified for distillation, has actually been distilled.

Article 20

For the purposes of this Regulation, 'approved distiller' shall mean a distiller included in a list 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 approved distiller.

For the purposes of this Regulation 'approved processor' shall mean a processor included in a list to be compiled by the competent authorities of the Member States.

Approval of a distiller or of a processor shall be withdrawn if he does not pay the producer the minimum buying-in price laid down in Article 5. Approval may be withdrawn if the distiller or processor does not satisfy the other obligations incumbent upon him pursuant to Community provisions, and in particular the obligations relating to notification.

Article 21

1. Member States shall notify the Commission, not later than 28 February 1983, of the quantities of wine covered by approved distillation contracts.

2. Distillers shall send the intervention agency, not later than the 10th day of each month, a record of the quantities of wine distilled during the previous month, specifying the quantities, expressed in pure alcohol, of the products they have obtained, giving separate figures for those of 86 % vol or more and those of 85 % vol or less.

3. Member States shall inform the Commission by telex, not later than the 20th day of each month, for the previous month, of the quantities of wine distilled and the quantities, expressed in pure alcohol, of products obtained, distinguishing between the latter in accordance with paragraph 2.

4. Member States shall report, not later than 30 September 1983, cases in which the distiller or the processor has failed to meet his obligations and the measures taken as a consequence.

Article 22

1. The intervention agencies responsible for implementing this Regulation shall be those appointed by the Member States in accordance with Article 8 of Regulation (EEC) No 343/79.

2. Without prejudice to Articles 1 (3), 2 (4) and 19 (1), the competent intervention agency shall be that of the Member State in whose territory distillation took place.

Article 23

Member States shall take the measures necessary to ensure that this Regulation and, in particular, checks to prevent the diversion 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 wine intended for distillation or of distilled products obtained from such wine, because of the presence of an indicator.

Article 24

The amounts referred to in this Regulation shall be converted into national currencies using the representative rate in force on 16 December 1982 for the wine sector, which shall apply from 1 September 1982 for this purpose.

Article 25

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, 15 September 1982.

For the Commission

Poul DALSAGER

Member of the Commission