COUNCIL REGULATION (EEC) No 701/82

of 25 March 1982

laying down general rules on the distillation of table wines as provided for in Article 15 of Regulation (EEC) No 337/79

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 3577/81 [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 where application of the market support measures provided for in that Regulation is unlikely to be effective in restoring price levels;

Whereas this is the case at present in respect, in particular, of red table wines in view of the fact that, despite a low harvest in the current year, the stocks from previous years have created supplies which considerably exceed the normal requirements for the present year; whereas, moreover, the support measures already taken have not succeeded in restoring reasonable price levels or reducing the surplus by a sufficient amount;

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 Article 67 of the 1979 Act of Accession provides that in fixing the level of the various amounts laid down within the common agricultural policy, account shall be taken, for Greece, of the accession compensatory amount, to the extent necessary for the proper functioning of the common agricultural policy; whereas the present situation on the market for red table wines is such that a minimum buying-in price, less the accession compensatory amount, should not be fixed for distillation operations carried out in Greece; whereas any risk of deflection of trade seems ruled out by the fact that the distillation capacity in Greece is limited and that no wine is sent to that country for distillation;

Whereas a complete rationalization of the market must be brought about while ensuring that the quantity needed to achive this is not exceeded;

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

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 and, where necessary, to limit the volume of wines which may be distilled;

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 provision should be made for the minimum price guaranteed to the producer to be paid to him within a period comparable to that normally applicable in commercial sales;

Whereas the price of wine intended for distillation is not such as to enable the products obtained from this operation to be marketed normally; whereas adequate possibilities for direct marketing by distillers exist for distilled wine of 85 % vol or less, while for certain products of 86 % vol or more such possibilities might prove inadequate; whereas, therefore, an aid should be fixed to make possible the marketing of products obtained from distillation while making provision for the distilled wine, once it has been processed into a product of 96 % vol or more, to be delivered to an intervention agency; whereas therefore the price at which it is to be accepted should be fixed and provision should be made for this operation to be financed by the European Agricultural Guidance and Guarantee Fund;

[1] OJ No L 54, 5. 3. 1979, p. 1.
[2] OJ No L 359, 15. 12. 1981, p. 1.

Whereas, having regard to the serious difficulties with which the intervention agencies of certain Member States might be faced in connection with the marketing of alcohol accepted by them, it appears necessary to authorize Member States to exclude the acceptance of alcohol by their intervention agencies; whereas on the other hand Member States should be allowed to decide to accept, as well, products of 86 % vol or more if the distilleries of such Member States are not able to obtain products of 96 % vol;

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 order to allow the distillation measure to achieve its full purpose and in order to take account of the reality of the market of wines intended for distillation, it appears appropriate to allow these wines to be processed into wine fortified for distillation both by distillers and by manufacturers;

Whereas the manufacture of wine fortified for distillation must take place in the vicinity of the place where the table wine is held, in order to limit transport costs to distilleries a long distance away; whereas authorization of the manufacture of wine fortified 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 seems appropriate, therefore, to stipulate that the manufacture of wine fortified for distillation may take place only in the country where the table wine has been produced; whereas it is further appropriate that Member States should be able to restrict the places at which wine fortified for distillation may be processed in order to ensure the most appropriate form of supervision;

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 table wines produced by them, pursuant to Article 15 of Regulation (EEC) No 337/79, shall conclude contracts for the delivery of table wines, hereinafter referred to as contracts, with an approved distiller and shall submit them to an intervention agency by a date to be agreed upon.

2. Member States shall inform the Commission each day of the quantities of table wine covered by the contracts presented on the previous day to intervention agencies, broken down according to the colour of the wine.

3. If the information referred to in paragraph 2 shows that the contracts submitted to intervention agencies account for a total quantity of less than 6·5 million hectolitres, but not more than 6·25 million hectolitres by the date agreed upon pursuant to paragraph 1, the Commission may decide to extend the deadline under the procedure provided for in Article 67 of Regulation (EEC) No 337/79.

In this case it may be provided that the final date for presentation of contracts to the intervention agency is extended only for contracts concerning only white table wines or only red table wines so that distribution of the total quantity of table wines covered by the contracts amounts to approximately five million hectolitres of red wine and approximately 1·5 million hectolitres of white wine.

4. If the information referred to in paragraph 2 shows that, before the final date for submission of contracts to intervention agencies, the contracts submitted account for a quantity greater that 6·5 million hectolitres, the Commission shall decide to terminate the submission of contracts.

5. Where the total quantity of table wines covered by the contracts submitted to the intervention agencies exceeds 6·5 million hectolitres, the Commission may decide, under the procedure provided for in Article 67 of Regulation (EEC) No 337/79, that distillation shall be confined to that quantity. In that case, the quantity covered by each contract shall be reduced proportionately, within the limits of the minimum quantity referred to in paragraph 6.

6. For the purposes of this Regulation, each producer may send not less than 50 hectolitres of table wine for distillation.

Article 2

Subject to Article 15, the product obtained from distillation shall have an alcoholic strength of 86 % vol or more or of 85 % vol or less.

Article 3

1. Delivery contracts shall not be valid under this Regulation unless approved, before a date to be agreed upon, by the intervention agency of the Member State in which the wine is held when the contract is concluded.

2. 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 4

1. Producers:

— who themselves possess 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, before a date to be agreed upon, 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'. If the distilling plant is located in another Member State, they shall also inform the intervention agency of that Member State 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 declaration referred to in paragraph 1 shall not be valid under this Regulation unless approved, before a date to be agreed upon, by the intervention agency of the Member State on whose territory the producer's winery is located.

4. 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.

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 5

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

— 2·42 ECU per hectolitre per % vol for red wines,

— 2·26 ECU per hectolitre per % vol for white wines.

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

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

Article 6

1. The intervention agency shall pay aid to the distiller for distilled wine.

Where the product obtained from distillation is of 85 % vol or less, the amount of aid shall be fixed at:

— 1·82 ECU per hectolitre per % vol for red wines,

— 1·66 ECU per hectolitre per % vol for white wines.

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

— 1·86 ECU per hectolitre per % vol for red wines,

— 1·70 ECU per hectolitre per % vol for white wines.

2. Without prejudice to paragraph 4, the intervention agency shall be under an obligation to buy in the product not eligible for aid, which the distiller offers it, provided that this product has an alcoholic strength of at least 96 % vol and meets the analytic criteria to be laid down by the Member State concerned.

Member States may, however, lay down that their intervention agencies shall be under an obligation likewise to buy in the product with an alcoholic strength of less than 96 % vol but not less than 86 % vol offered to them by the distiller.

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

(a) for the product referred to in the first subparagraph of paragraph 2, be :

— 2·87 ECU per hectolitre per % vol where the product is obtained from the distillation of red wine,

— 2·71 ECU per hectolitre per % vol where the product is obtained from the distillation of white wine ;

(b) for the product referred to in the second subparagraph of paragraph 2, be the price referred to, as the case may be, in the first indent of (a) or the second indent of (a), less 0·17 ECU per hectolitre per % vol.

4. The Member States may provide for the competent intervention agency not to buy in the products referred to in paragraph 2.

5. Financing by the EAGGF, Guarantee Section, of intervention agencies' costs arising from products accepted is hereby fixed at :

— 2·12 ECU per hectolitre per % vol for products obtained from the distillation of red wine,

— 1·96 ECU per hectolitre per % vol for products obtained from the distillation of white wine.

6. Regulation (EEC) No 729/70 shall apply to the EAGGF financing referred to in paragraph 5.

Article 7

1. The minimum buying-in price referred to in Article 5 shall be paid by the distiller to the producer within ninety days at the latest of the date of entry into the distillery :

— of the total quantity of the 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) within 90 days at the latest of presentation of proof that the total quantity of wine appearing in the contract has been distilled.

The distiller shall be required to supply the intervention agency with proof that he has paid the minimum buying-in price of the wine within the time limits in paragraph 1. If such proof is not presented within 120 days of the date of presentation of the proof referred to in the first subparagraph, the aid shall be recovered by the intervention agency.

3. The distiller may ask for an amount equal to the aid referred to in Article 6 (1) to be paid to him in advance on condition that he has lodged a security equal to 110 % of the amount in the name of the intervention agency. The security shall be given 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. The advance payment cannot be made until after the date of approval of the delivery contract.

Subject to Article 10, the security provided for in the first subparagraph shall not be released unless, within a specified period, evidence is provided that :

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

— the minimum buying-in price has been paid to the producer within the time limits in paragraph 1.

When the security is released, the intervention agency shall make the adjustments required to take account of the margins provided for in Article 9.

4. The buying-in price for the product referred to in Article 5 (2), on delivery by the distiller to the intervention agency, shall be paid by the intervention agency to the distiller within 90 days at the latest of delivery.

The distiller shall be required to supply the intervention agency with proof that he has paid the minimum buying-in price of the wine within the time limits in paragraph 1. If such proof is not supplied within 120 days of delivery of the product, the intervention agency shall recover the amount paid to the distiller.

Article 8

Should the average prices, for not less than 50 % of the quantities quoted of a type of table wine, exceed 90 % of the activating price for that type of wine, it may be decided that delivery contracts for wines of this type may be terminated wholly or in part at the request of the producer.

Termination of the contract shall be permitted 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 contracts referred to in Article 1, subject to the amount provided for in Article 1 (6), shall be permitted for the quantity of wine actually delivered to the distillery.

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

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 that Member State.

In the cases referred to in the first paragraph, the intervention agency shall pay the aid referred to in Article 6 in respect of that quantity of wine which has actually been distilled.

Article 11

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

If the operation is carried out by a manufacturer, Articles 1 to 3 and 5 to 10 shall apply subject to the provisions of the following Articles.

Article 12

1. In the case referred to in the second subparagraph of Article 11, the contracts provided for in Article 1 shall be concluded between a producer and a manufacturer.

2. These contracts shall involve the manufacturer 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 to the producer not less than the price specified in Article 5.

Article 13

1. In the case referred to in the second subparagraph of Article 11, wine fortified for distillation may be produced only in the territory of the Member State where the producer's winery is located and within a specified period of time.

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

— the document(s) and the register(s) 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 processed into wine 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 manufacturer of the wine fortified for distillation, who shall forward one copy to the intervention agency of the Member State where the wine fortified for distillation was produced.

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

Article 14

In the case referred to in the second subparagraph of Article 11, the price specified in Article 5 shall be paid by the manufacturer when the total quantity of wine appearing in the contract has entered his installations.

Article 15

In the case referred to in the second subparagraph of Article 11, wine fortified for distillation shall be distilled before a specified date. The product obtained from the distillation of wine fortified for that purpose shall have an alcoholic strength by volume of 85 % or less.

Article 16

1. The intervention agency of the Member State where the wine fortified for distillation has been manufactured shall pay to the manufacturer the amount referred to in Article 6 (1) in accordance with the procedures referred to in Article 7 (2) or (3).

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

3. The margin provided for in Article 9 shall apply to the quantities of table wine delivered to the manufacturer's installations. The aid shall be paid for the quantity of table wine which, after being fortified for distillation, has actually been distilled.

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

Article 17

For the purposes of this Regulation, 'an approved distiller' shall mean 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 approved distiller.

For the purposes of this Regulation 'an approved manufacturer' shall mean a manufacturer included on a list to be compiled by the Member States.

Approval of a distiller or of a manufacturer may be withdrawn by the competent authority if he does not satisfy the obligations incumbent upon him, pursuant to Community provisions.

Article 18

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 3 (1), 4 (3) and 16 (1), the competent intervention agency shall be that of the Member States in whose territory distillation takes place.

Article 19

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 such wine, because of the presence of an indicator.

Article 20

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, 25 March 1982.

For the Council

The President

L. TINDEMANS