COMMISSION REGULATION (EEC) No 1059/83

of 29 April 1983

on storage contracts for table wine, grape must, concentrated grape must and rectified concentrated grape must

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 3082/82 (2), and in particular Articles 7 (6), 8 (3), 9 (5), 12a (5) and 65 thereof,

Whereas Commission Regulation (EEC) No 2600/79 (3), as last amended by Regulation (EEC) No 3150/82 (4), laid down rules governing storage contracts for table wine, grape must, concentrated grape must and rectified concentrated grape must; whereas since this Regulation has been amended on numerous occasions, it should be redrafted and the opportunity should be taken of incorporating certain amendments which are necessary;

Whereas Commission Regulation (EEC) No 337/79 provides for the grant of private storage aid for table wine, grape must, concentrated grape must and rectified concentrated grape must; whereas in accordance with Articles 7 (1) and 8 (1) of that Regulation, the grant of aid is conditional upon the conclusion of storage contracts; whereas detailed rules should be laid down covering the conclusion, content, period of validity and effects of such contracts;

Whereas Article 9 (1) of Regulation (EEC) No 337/79 provides for contracts to be concluded between the intervention agencies and producers who request them; whereas the term 'producer' should be defined and, in view of the obligations which have to be imposed upon such persons, it should be laid down that they must be the owners of the products stored;

Whereas it is necessary to keep an effective check on the products which are the subject of storage contracts; whereas, to that end, it should be laid down that the intervention agency of a Member State may conclude contracts only for quantities stored on the territory of that Member State, and that it must be informed of any change concerning the product or the place of storage;

Whereas it is necessary, for the sake of uniformity, to lay down that contracts be concluded on terms which are the same throughout the Community and sufficiently precise to allow identification of the product in question;

Whereas experience of the various private storage schemes for agricultural products has shown that it should be specified to what extent Council Regulation (EEC, Euratom) No 1182/71 (5), is applicable for determining periods, dates and time limits relating to those schemes and that the dates on which the storage contracts are to commence and end should be stated precisely;

Whereas Article 3 (4) of Regulation (EEC, Euratom) No 1182/71 provides that where the last day of a period is a public holiday, Sunday or Saturday, the period is to end with the expiry of the last hour of the following working day; whereas the application of this provision to storage contracts may not be in the interest of operators and may in fact give rise to unequal treatment of them; whereas a derogation should consequently be provided for in respect of the determination of the final day of storage under contract;

Whereas, in order to ensure that the conclusion of contracts has an effect on market prices, it should be provided that a contract may be concluded only for a significant quantity;

Whereas storage aid should be limited to products which have an effect on market prices; whereas only products in bulk should therefore qualify for aid; whereas, for the same reason, contracts should cover only products of sufficiently high quality; whereas it should also be stipulated as regards table wines that the contracts must relate to wines whose preparation is already advanced, while at the same time nothing should be done to prevent the carrying out during the contract period of any oenological treatment or processes necessary to ensure the preservation of a product;

(1) OJ No L 54, 5. 3. 1979, p. 1.
(2) OJ No L 326, 23. 11. 1982, p. 1.
(3) OJ No L 297, 24. 11. 1979, p. 15.
(4) OJ No L 331 26. 11. 1982, p. 33.
(5) OJ No L 124 8. 6. 1971, p. 1.

Whereas, to encourage improvement in quality, the minimum alcoholic strength of wine and must which may be the subject of storage contracts should be fixed ; whereas, to the same end, provision should also be made to enable table wine which is the subject of long-term storage contracts to be made subject to more stringent conditions according to the quality of the harvest ;

Whereas, in order to avoid abuse, it should be stipulated that a table wine which has been the subject of a storage contract may not subsequently be recognized as a quality wine psr ;

Whereas, in order to prevent products covered by a contract from affecting the market situation, marketing and certain action preparatory thereto should be prohibited during the period for which the contract is concluded ;

Whereas, so that account may be taken of changes in the market situation, provision should be made that contracts contain a clause for their termination in certain circumstances ; whereas in particular there should be provision for premature termination of contracts if an appreciable change in quality of all or part of the product under contract makes it necessary for it to be put on the market immediately or renders it unfit for consumption in its current state ;

Whereas Article 8 of Regulation (EEC) No 337/79 makes provision for authorizing the processing of grape must covered by a long-term contract into concentrated grape must or recified concentrated grape must during the period of validity of the contract ; whereas, since the processing in question is a normal operation, it should be permitted permanently ;

Whereas it is essential that intervention agencies be notified of any processing of grape must under storage contract, so that they may carry out the necessary control procedures ;

Whereas the processing of grape must into concentrated grape must and rectified concentrated grape must results in a reduced volume of product in storage and consequently in a reduction of storage costs ; whereas, since the product obtained has a higher value, the reduction in storage costs is compensated for by the rise in interest ; whereas it is therefore justified, when the product is processed, to maintain throughout the period of validity of the contract the aid level calculated on the basis of the quantity of grape must under contract prior to processing ; whereas the products obtained must, moreover, present the characteristics required by the Community rules ;

Whereas the amount of private storage aid should take into account technical storage costs and interest ; whereas, while the former do not differ according to the type of product, the amount of the latter varies in accordance with the value of the product ; whereas in consequence, for ease of administration, the amount of aid per hectolitre per day should be fixed for separate groups of table wines and musts ; whereas the amount of aid for concentrated grape musts should, in accordance with the third subparagraph of Article 9 (4) of Regulation (EEC) No 337/79, be 1,5 times that for grape musts ;

Whereas, to ensure that this system is effective while taking into account the administrative requirements of the intervention agencies, time limits for the payment of the aid should be laid down ; whereas, in the case of long-term contracts, in order to help meet the cash-flow requirements of the producers concerned, the Member States should be authorized to introduce an advance payment scheme involving the lodging of adequate securities ;

Whereas, if at the time of expiry of storage contract for table wine the conditions for the conclusion of a new contract for the same product are satisified and the producer requests a new contract, the formalities for its conclusion may be simplified ;

Whereas the Management Committee for Wine has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION :

Article 1

This Regulation lays down rules for the conclusion of the storage contracts referred to in Articles 7, 8, 9 and 12a of Regulation (EEC) No 337/79, hereinafter called 'contracts'.

For the purposes of this Regulation :

(a) 'products' means table wines, grape musts, concentrated grape musts and rectified concentrated grape musts ;

(b) wines in 'close economic relationship' means, for table wines of type :

— A I, those white table wines with an actual alcoholic strength of more than 12 % vol not belonging to type A II or type A III,

— R I, those red wines with an actual alcoholic strength of more than 12 % vol but not more than 12,5 % vol and not belonging to type R III,

— R II, those red table wines with an actual alcoholic strength of more than 12,5 % vol not belonging to type R III.

The provisions relating to red table wines in this Regulation shall apply also to rosé table wines.

Article 2

1. Intervention agencies shall conclude contracts only with producers, whether as individuals or in groups.

For the purposes of this Regulation, 'producer' means any natural or legal person or group of such persons carrying out, or ordering to be carried out on their behalf, any of the following operations :

— the processing of fresh grapes into grape must,

— the processing of grape must into concentrated grape must or rectified concentrated grape must,

— the processing of fresh grapes, grape must or grape must in fermentation into table wine.

2. A producer may conclude contracts only in respect of products produced by him or under his responsibility and of which he remains the owner.

Article 3

The intervention agency of a Member State may conclude contracts only for products stored on the territory of that Member State.

Article 4

1. Every contract shall be drawn up in at least two copies. One copy shall be for the producer, the other being kept by the intervention agency.

2. Contracts shall include, as a minimum, the following information :

(a) the name and address of the producer or producers concerned ;

(b) the name and address of the intervention agency ;

(c) the nature of the product (table wine, grape must, concentrated grape must or rectified concentrated grape must) ;

(d) the place or places of storage ;

(e) particulars enabling the containers in which the product is stored to be identified ;

(f) quantity ;

(g) colour ;

(h) total sulphur dioxide content, expressed in milligrams per litre ;

(i) the amount of aid in ECU ;

(j) the first and last days of the storage period, without prejudice to Articles 9 and 11.

For table wine, contracts shall also specify ;

(k) the total alcoholic strength by volume ;

(l) the actual alcoholic strength by volume ;

(m) the total acidity, expressed in grams per litre or in milliequivalents per litre ;

(n) the volatile acidity, expressed in grams per litre or in milliequivalents per litre ;

(o) the type to which the wine belongs or with which it is in close economic relationship.

For grape must, concentrated grape must and rectified concentrated grape must, contracts shall also specify :

(p) the reading obtained at a temperature of 20 °C with a refractometer, used in accordance with the method referred to in Annex II to Regulation (EEC) No 337/79.

3. Member States may also :

(a) require additional information identifying the product in question, in particular :

— the vine variety,

— the production region of the grapes ;

(b) in the case of white table wine, waive the requirement to state the volatile acidity.

Article 5

Except in the case of storage contracts concluded pursuant to Article 12a of Regulation (EEC) No 337/79, contracts shall cover a minimum quantity of 100 hectolitres in the case of table wine, 30 hectolitres in the case of grape must and 10 hectolitres in the case of concentrated grape must and rectified concentrated grape must.

Article 6

1. Contracts shall cover only products which are in bulk and, in the case of table wine, which satisfy the conditions laid down for products which can be offered or disposed of for direct human consumption pursuant to Article 51 of Regulation (EEC) No 337/79.

2. With the exception of types R III, A II and A III, table wines may not have an actual alcoholic strength of less than 10 % vol.

More stringent conditions governing the quality of table wines which are liable to be the subject of a long-term storage contract may be laid down each year having regard to the quality of the harvest.

3. Grape musts may not have a natural alcoholic strength by volume lower than the minimum natural alcoholic strength laid down for the wine-growing zone in which they originate.

4. Applications for contracts shall be accompanied by :

— an analyst's report, drawn up not longer than one month prior to the date on which the application is received, giving at least the information specified in Article 4 (2), with the exception of that specified in Article 4 (2) (b), (i) and (j),

— a statement in the case of table wine that the first racking has taken place.

5. A contract for a table wine may not be concluded before the date of the first racking of the wine in question.

6. A table wine which has been the subject of a storage contract may not subsequently be recognized as a quality wine psr or used in making a quality wine psr. This provision shall not prejudice the application of Article 6 (1) (a) of Council Regulation (EEC) No 338/79 (1).

Article 7

1. Member States shall take all measures to ensure that the necessary checks are made. In particular, they shall verify the identity and volume of the product under contract as well as conformity with Article 15.

2. Producers shall permit, at any time, checks for the purposes of paragraph 1.

Article 8

1. The periods, dates and time limits referred to in this Regulation shall be determined in accordance with Regulation (EEC, Euratom) No 1182/71. However, Article 3 (4) of that Regulation shall not apply to the determination of the duration of the storage period.

2. The first day of the period of storage shall be the day following the date of conclusion of the contract.

3. However, if a contract is concluded for a storage period beginning after the day following that on which it is signed, the first day of the storage period may not be later than :

— 16 February, for long-term storage contracts,

— the eighth day following the date on which the contract is signed, for short-term storage contracts,

— the day following the last date fixed for conclusion of the storage contracts referred to in the first indent of the second subparagraph of Article 12a (2) of Regulation (EEC) No 337/79, for the said storage contracts.

(1) OJ No L 54, 5. 3. 1979, p. 48.

Article 9

Except in the case of contracts concluded pursuant to Article 12a of Regulation (EEC) No 337/79, contracts for table wines shall stipulate that the payment of aid by the intervention agency and the corresponding obligations on producers may be terminated in respect of all or part of the quantities stored if the conditions set out in Article 9 (3) of Regulation (EEC) No 337/79 are fulfilled.

The decision to terminate payment of the aid and the corresponding obligations on producers shall be taken in accordance with the detailed rules of application.

Article 10

1. Producers who have concluded long-term storage contracts for grape must may process all or part of the said must into concentrated grape must or rectified concentrated grape must during the period of validity of the contracts.

2. The producers concerned shall communicate in writing to the intervention agency the date when the processing referred to in paragraph 1 commences.

The communication must reach the intervention agency at least 15 days before the date of commencement of the processing operations.

Within one month of the day of completion of the processing operations, producers shall send the intervention agency an analysis report concerning the product thus obtained, including as a minimum the data referred to in Article 4 (2), with the exception of Article 4 (2), (b), (i) and (j).

3. Where the processing referred to in paragraph 1 is carried out, the amount of storage aid for the product under contract shall be equal to the amount referred to in Article 12 (c). The aid shall be calculated, for the entire storage period, on the basis of the quantity of grape must covered by the contract before processing.

Article 11

1. If, during the period of validity of a contract, there is an appreciable change in the quality of the product to which it relates, the producer shall inform the intervention agency without delay. This notification shall be supported by an analyst's report.

2. If, at the time of an inspection carried out by the intervention agency or any other inspecting agency, it appears that a product under contract has, during the period of validity of that contract, undergone an appreciable change in quality, the intervention agency shall so inform the producer without delay. This notification shall be supported by an analyst's report.

3. The intervention agency may, in view of the circumstances referred to in paragraphs 1 and 2, decide to terminate the contract prematurely at a date it shall determine for the amount of product the quality of which has changed. It may, for this purpose, call for any necessary checks to be carried out.

Article 12

Storage aid shall be payable throughout the Community at the following standard rates per hectolitre per day :

(a) for table wines of types R I, R II, R III and A I and for table wines which stand in close economic relationship to those types of table wines : 0,0118 ECU ;

(b) for table wines of types A II and A III and for tables wines which stand in close economic relationship to those types of table wine : 0,0174 ECU ;

(c) for grape musts
- — which have been obtained from vine varieties other than Sylvaner, Müller-Thurgau or Riesling : 0,0141 ECU,
- — which have been obtained from the Sylvaner, Müller-Thurgau or Riesling vine varieties : 0,0208 ECU ;

(d) for concentrated grape musts
- — obtained by concentration of the musts referred to in the first indent of (c) : 0,0472 ECU,
- — obtained by concentration of the musts referred to in the second indent of (c) : 0,0521 ECU ;

(e) for rectified concentrated grape musts : 0,0472 ECU.

Article 13

The representative rate to be used for the conversion into national currency of the amounts referred to in Article 12 shall, for each day of storage under contract, be the representative rate applicable to the wine sector on that day.

Article 14

1. Intervention agencies shall pay the aid not later than three months after the expiry date of a contract.

However, in the case of long-term contracts concluded during the 1982/83 wine year, Member States may continue to pay the aid in three instalments of which the first two shall be paid not later than four weeks after the last day of each quarter and the last not later than four weeks after the day on which the contract expires.

2. Notwithstanding the first subparagraph of paragraph 1, in the case of long-term contracts concluded during the 1983/84 and subsequent wine years Member States may authorize the insertion of an additional clause in a contract, at the request of the producer, which provides for the payment of two advance instalments on the aid due, to be calculated by three-month periods and paid in each case not later than three months after the last day of each three-month period. In such cases :

- — payment of the advances shall be conditional on the lodging by the producer, before the last day of each three-month period, of a security equal to 110 % of the corresponding instalment and deposited in the name of the intervention agency,
- — the remaining balance shall be paid not later than three months after the date of expiry of the contract.

'Three-month period' shall mean any of the successive periods of three months starting with the first day of storage as referred to in Article 8 (2) and (3). The amount paid shall be that due for the three-month period most recently expired.

3. The securities referred to in paragraph 2 shall be lodged in the form of a guarantee given by an institution meeting criteria laid down by the Member State to which the intervention agency belongs.

Securities shall be released once the balance of aid has been paid. Where entitlement to the aid is lost in accordance with Article 17 (1) (a), the whole security shall be forfeit.

Where the application of Article 17 (1) (b) leads to the determination of an amount of aid lower than the sum already paid, the security shall be reduced by 110 % of the amount paid in excess of the aid due. Securities reduced in this way shall be released not later than three months after the date of expiry of the contract.

4. In the case referred to in Article 11 (3) the aid payable shall be in proportion to the actual duration of the contract. Payment of such aid shall be made not later than three months after the day on which the contract expires.

Article 15

Throughout the period of validity of a contract :

(a) the producer may not put up for sale, sell or in any other way market the prouduct under contract ;

(b) without prejudice to Article 10, the products under contract may undergo only such oenological treatments or processes as are necessary for their preservation :

(c) the products under contract may not be drawn off into containers of less than 50 litres capacity.

Notwithstanding (a) in the first subparagraph, the producer may, during the period of validity of a contract, undertake to send table wine covered by it for distillation for which the wine's purchase price has been fixed under Regulation (EEC) No 337/79 or a Regulation adopted pursuant thereto.

Products may not simultaneously be the subject both of a private storage contract and of the arrangements referred to in Article 5 (1) of Council Regulation (EEC) No 565/80 [1].

Article 16

1. The producer shall inform the intervention agency, within a period to be laid down by the Member State concerned, of any change made during the contract period in respect of :

(a) the place of storage ; or

(b) the manner in which the product is put up, if such change involves a change in the number of containers in which it is stored.

2. Where the producer intends to transport the product under contract to a place of storage located elsewhere or to premises that do not belong to him, the product may be transported only once the intervention agency, informed pursuant to paragraph 1, has authorized it.

Article 17

1. Except in case of *force majeure :*

(a) if the producer fails to fulfil his obligations under Articles 7 (2), 15 and 16 and, where relevant, Article 10 (2), no aid shall be payable ;

(b) if the producer fails to fulfil one of his obligations under this Regulation or under the contract, other than those referred to in (a) above, the aid payable shall be reduced by an amount determined by the competent authority in relation to the seriousness of the breach committed.

2. In case where *force majeure* is recognized, the intervention agency shall take such action as it considers necessary having regard to the circumstances involved.

3. Member States shall inform the Commission of the results of all claims under these provisions as to *force majeure.*

Article 18

If, on the expiry of the period of validity of a contract for table wine, the conditions for the conclusion of a contract are still fulfilled,

— a further contract may be concluded for the table wine in question,

— intervention agencies may, on application by the producer, extend the old contract for a further period by amending it as appropriate.

A new analyst's report shall be required only if the last report submitted in respect of the same table wine is more than six months old.

Article 19

1. Each Member State shall appoint an intervention agency empowered to implement the measures provided for in Articles 7, 8, 9 and 12a of Regulation (EEC) No 337/79 and in this Regulation.

2. Each Member State shall inform the Commission without delay of the name and address of that agency.

3. Member States in which contracts are concluded shall, not later than the 10th day of each month, communicate to the Commission in respect of the preceding month :

(a) the quantities of products under contract at the beginning of the month in question ;

(b) the quantities of products for which contracts have been concluded or have expired during the month in question ;

(c) the quantities of products under contract at the end of the month in question ;

(d) the quantities of grape must processed into concentrated grape must or rectified concentrated grape must during the period of validity of the contract, and the quantities so obtained.

Article 20

1. Regulation (EEC) No 2600/79 is hereby repealed.

Article 4 thereof shall, however, remain applicable until 31 August 1983.

2. Reference in any other Community act to Regulation (EEC) No 2600/79 or to Articles thereof shall be construed as references to this Regulation or the corresponding Articles thereof.

Article 21

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

However,

— Article 4 shall apply with effect from 1 September 1983,

— Article 12 shall apply with effect from 16 December 1982,

— Article 14 (1) and (4) shall apply to contracts concluded from 16 December 1982 onwards.

Notwithstanding the first subparagraph of Article 14 (1) intervention agencies shall, for contracts expiring in the period from 16 December 1982 to the date of entry into force of this Regulation, pay the aid by 15 July 1983 at the latest.

[1] OJ No L 62, 7. 3. 1980, p. 5.

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

Done at Brussels, 29 April 1983.

For the Commission

Poul DALSAGER

Member of the Commission