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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 2179/83

of 25 July 1983

laying down general rules for distillation operations involving wine and the by-products of wine-making

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 1595/83 (2), and in particular Articles 11 (4), 12a (4), 15 (8), 39 (7), 40 (5) and 41 (6) thereof,

Having regard to the proposal from the Commission,

Whereas 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), and Council Regulation (EEC) No 349/79 of 5 February 1979 on the distillation of the by-products of wine-making (5) laid down the conditions in which certain distillation operations referred to in Regulation (EEC) No 337/79 were to be carried out; whereas account being taken, on the one hand, of the amendments which have been made to the latter Regulation since the adoption of the abovementioned Regulations and, on the other hand, of the experience gained, it is necessary to amend these general rules and to bring them together in a single Regulation;

Whereas trade in new wines still in fermentation is of negligible importance; whereas it is desirable to ensure that such trade is not used by certain operators solely to secure access to voluntary distillation operations and that wine marketed at this stage of production cannot in this way elude compulsory distillation; whereas, in the same concern to prevent abuse of intervention measures it is desirable to lay down special derogations to deal with the possibility of speculative movements in the trade in wine products;

Whereas it is necessary to determine the products which may be obtained by distillation, and in particular to define minimum qualitative characteristics for neutral alcohol; whereas, in fixing these characteristics, account must be taken of present technological developments and of the need to ensure the production of alcohol which can be sold normally on the markets for the various uses;

Whereas, as regards voluntary distillation it should be laid down that producers must conclude delivery contracts with distillers which are subject to approval by the intervention agency, in order to allow supervision of the operations and a check on the compliance of both parties with their obligations; whereas this system also makes it possible to follow more clearly the quantitative effects of distillation operations on the market; whereas, however, adjustment of the contracts system is needed to take account of the existence both of producers who wish to entrust distillation to a jobbing distiller and of producers who have distillation plant themselves;

Whereas, on the basis of experience gained, it is desirable to allow a certain tolerance in the quantity and actual alcoholic strength by volume of the wine in the delivery contract;

Whereas Article 6 of Regulation (EEC) No 337/79 makes recourse to the distillation operations provided for in Articles 11, 12a and 15 of that Regulation conditional on the producer's compliance with certain obligations; whereas, therefore, provision should be made for the intervention agency to

(1) OJ No L 54, 5. 3. 1979, p. 1.
(2) OJ No L 163, 22. 6. 1983, p. 48.
(3) OJ No L 54, 5. 3. 1979, p. 64.
(4) OJ No L 216, 24. 7. 1982, p. 2.
(5) OJ No L 54, 5. 3. 1979, p. 84.

receive proof that the producer has met these obligations; whereas the necessary provisions should be adopted to ensure that no financial contribution is payable by the Community in cases where producers have not met the abovementioned obligations;

Whereas the prices set for wines for distillation in Articles 11, 12a and 15 of Regulation (EEC) No 337/79 are usually such that the products obtained by distillation cannot be disposed of under market conditions; whereas, therefore, criteria should be adopted for fixing the amount of the aid so as to make possible the disposal of the products obtained;

Whereas, as regards the payment of aid to distillers by the intervention agencies, it is necessary to set time limits which take account both of the need to avoid creating financial problems for the distillers and of the time needed for the completion of the administrative and supervisory tasks entrusted to the intervention agencies; whereas provision should be made for advance payment of aid to the distiller; whereas, to ensure that the intervention agency is not exposed to unjustified risks, it is necessary to provide for a system of securities;

Whereas the quantities of wine which may be delivered for distillation as referred to in Article 15 (1) or (2) of Regulation (EEC) No 337/79 are limited; whereas, therefore, the Commission should be regularly supplied with particulars of the quantities of wine intended for distillation, so that it can decide, at short notice if required, to halt the submission of contracts and declarations and prevent the prescribed quantities from being exceeded;

Whereas experience has shown that, where compulsory distillation is concerned, it is not always easy for producers to calculate exactly the quantities of products which they have to deliver in order to meet their obligation; whereas provision should be made to ensure that the expiry of the period for delivery does not entail, for producers who have delivered almost all the quantities required and have only to make some adjustments, consequences which are out of proportion to the infringement committed, particularly as regards the application of Article 6 (1) of Regulation (EEC) No 337/79; whereas, to this end, it would seem advisable to consider that such producers have fulfilled their obligations within the time limits, provided that in due course they deliver the quantities outstanding; whereas, however, in such cases an adjustment should be made to the financial contribution payable by the European Agricultural Guidance and Guarantee Fund (EAGGF) in respect of the quantities delivered after expiry of the time limit;

Whereas, as a consequence of the derogation provided for in the second subparagraph of Article 39 (1) of Regulation (EEC) No 337/79, it is possible to obtain and to release to the market products for which the Community accompanying document for wine products cannot be used; whereas, to prevent any fraudulent use of the products in question, the Member States concerned should be obliged to introduce arrangements to control the movement of such products;

Whereas the obligation to distil represents a considerable constraint for the isolated producer who makes only a small quantity of wine; whereas, as a result of that obligation, he would incur transport costs for his grape marc and wine lees which would be out of all proportion to the return which he could hope to obtain on the alcohol distilled therefrom; whereas such producers should therefore be exempted from the obligation to distil;

Whereas, to simplify administration and to ensure fairness of treatment, the quantities of wine covered by the obligations to distil referred to in Articles 40 and 41 of Regulation (EEC) No 337/79 should not be included in the calculation of the quantities of wine to be delivered for compulsory distillation;

Whereas producers who deliver their marc for the manufacture of oenocyanin generally supply non-fermented grape marc; whereas the treatment which such marc undergoes for the extraction of oenocyanin makes it unsuitable for fermentation and distillation thereafter; whereas those producers should therefore be exempted in proportion to their production of grape marc;

Whereas, in accordance with Article 11 (1) of Council Regulation (EEC) No 338/79 of 5 February 1979 laying down special provisions relating to quality wines produced in specified regions [1], as last amended by Regulation (EEC) No 2145/82 [2], a yield per hectare is fixed for each quality wine psr, which facilitates observance of the prohibition against the pressing of wine lees and overpressing of grapes; whereas, moreover, the marcs and lees of white quality wines psr contain little alcohol; whereas, therefore, it is desirable for a reduced rate to be applied to these products;

(1) OJ No L 54, 5. 3. 1979, p. 48.
(2) OJ No L 227, 3. 8. 1982, p. 10.

Whereas, if the wine to be delivered for distillation is used for the manufacture of wine vinegar, the volume of alcohol delivered to intervention agencies is likely to be reduced; whereas, therefore, producers should be allowed to discharge their obligation to distil by delivering to the vinegar industry the wine which would otherwise be necessary to make up the quantity for compulsory distillation;

Whereas, where the by-products of wine-making are withdrawn under supervision in accordance with Article 39 (4) and (5) of Regulation (EEC) No 337/79, it is important to ensure that all by-products of the processing of grapes have been withdrawn by the end of the wine year in which they were produced; whereas, for this purpose, provision should be made for an appropriate monitoring system, without this giving rise to disproportionately high administrative costs, especially in Member States whose wine production is very low;

Whereas, the proof required that marc, lees or wine have been delivered to a distiller should differ 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 39 (6), Article 40 (4) or Article 41 (5) of Regulation (EEC) No 337/79, either qualify for aid in respect of the product to be distilled or deliver to the intervention agency the product obtained by distillation; whereas the amount of the aid should be fixed in the light of the market price for the various products which may be obtained by distillation;

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 the lodging of applications and for the payment of aid to distillers should be laid down; whereas it is also advisable to make proportional allowance for distillers who, although they have met their principal obligations, are late in furnishing proof thereof;

Whereas the price to be paid by the intervention agencies for the products delivered to them should be fixed in the light of the average cost of transport and distillation of the product in question;

Whereas a single standard price should be fixed for products delivered to intervention agencies in connection with the distillation operation referred to in Article 39 of Regulation (EEC) No 337/79, irrespective of the origin of the products;

Whereas, in certain regions of the Community, the relation between the quantities of marc and those of wine and lees is such that the average distillation costs differ from those used to calculate the standard price; whereas, as a result of this situation, it is, or is liable to be, economically impossible in certain of these regions to achieve the objective of the obligation to distil the by-products of wine-making; whereas it is therefore necessary to fix, at the same time, both a standard price and prices differentiated according to the origin of the product obtained from the distillation, while leaving it to the Member States to decide whether such differentiated prices should be applied in regions where application of the standard price would lead to the difficulties referred to above;

Whereas recourse to this option must not increase the expenditure incurred by the intervention agency and, hence, by the EAGGF; whereas it is necessary to correlate the prices differentiated according to the origin of the alcohol and the standard price; whereas this correlation must be such that the weighted average of the prices differentiated according to the origin of the alcohol does not exceed the standard price;

Whereas, in the absence of an organized Community market in ethyl alcohol, the intervention agencies responsible for marketing the alcohol which they are obliged to take over following the distillation operations referred to in Articles 39 and 40 of Regulation (EEC) No 337/79 have to re-sell it at less than the buying-in price; whereas provision should be made for the difference between the buying-in price and the selling price for such alcohol to be borne, at the standard rate, by the Guarantee Section of the EAGGF;

Whereas, to ensure sound management of the stocks of alcohol taken over by the intervention agencies of the Member States, it is desirable that the latter should periodically supply the Commission with certain information;

Whereas, for the purposes of the payment of the aid, the calculation of the quantities of products which may be delivered to the intervention agencies and the verification of compliance with the obligations regarding distillation, it is necessary to know the

characteristics of the products delivered for distillation; whereas, therefore, 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, however, where this document does not exist, provision should be made for analysis by an official laboratory of certain elements of the products to be distilled;

Whereas steps should be taken to cover unforeseeable circumstances or *force majeure* which may prevent distillation from taking place as planned;

Whereas, to take account of the actual situation on the market in wine for distillation, both distillers and makers of fortified wine should be permitted to fortify such wine for distillation and the necessary adjustments should be made to the overall arrangements;

Whereas 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 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 or of the products obtained therefrom;

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

Whereas, in order to ensure the smooth transition from the former system to the new system introduced by this Regulation, provision should be made for a procedure to enable the Commission to adopt any transitional measure necessary,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down:

(a) in Title I, the general rules for the distillation operations provided for in Articles 11, 12a and 15 of Regulation (EEC) No 337/79;

(b) in Title II, the general rules for the distillation operations provided for in Articles 39, 40 and 41 of Regulation (EEC) No 337/79;

(c) in Title III, the general rules applicable to all the distillation operations covered by Titles I and II.

Article 2

1. For the purposes of this Regulation the following definitions shall apply:

(a) producer:

— for the purposes of Title I: any natural or legal person or group of persons having produced wine from fresh grapes, grape must or partially fermented grape must, obtained personally or purchased,

— for the purposes of Title II: any natural or legal person or group of persons having produced wine from fresh grapes, grape must or partially fermented grape must or from new wine still in fermentation, obtained personally or purchased, or any natural or legal person or group of persons subject to the obligations referred to in Article 39 of Regulation (EEC) No 337/79;

(b) 'distiller': any natural or legal person or group of persons:

— distilling wine, or fortified wine or the by-products of wine making or of any other form of processing grapes, and

— approved by the competent authorities in the Member State in the territory of which the distillation plant is located;

(c) 'maker of fortified wine': any natural or legal person or group of persons other than a distiller:

— engaged in processing wine into fortified wine, and

— approved by the competent authorities in the Member State in the territory of which the processing plant is located;

(d) 'competent intervention agency':

— where the reception and approval of contracts or declarations relating to the delivery of wine for distillation and reception and approval of contracts relating to the delivery of wine for fortification are concerned, the intervention agency designated by the Member State on the territory of which the wine is located at the time when the contract or declaration is submitted,

— in all other cases, the intervention agency designated by the Member States in the ter-

ritory of which the distillation of the wine is carried out.

By way of derogation from the first indent of the first subparagraph (a), it may be decided under the implementing rules that for one or more of the wine-growing zones or parts of zones, the status of 'producers' be confined to those producers satisfying criteria to be specified, in cases where, in the said wine-growing zones or parts of zones, trade in the products used for making wines delivered for distillation might encourage abuse of the system.

2. For the purposes of this Regulation, distillers shall be deemed to be natural or legal persons or groups of persons other than makers of fortified wine if they:

— are approved by the competent authorities of the Member State in which they are established,

— buy from a producer as defined in paragraph 1 (a) wine or the by-products of wine-making or of any other form of processing of grapes with a view to having them distilled for their own account by an approved distiller, and

— pay the producer for the product purchased, not less than the minimum buying-in price for the distilled product in question.

Persons or groups, deemed to be distillers shall assume the distiller's rights and obligations.

Article 3

1. Only the following may be obtained by the distillation operations referred to in Article 1:

(a) neutral alcohol as defined in the Annex, or

(b) wine spirit or marc spirit meeting the qualitative requirements laid down in Community rules or, where no such rules exist, by the national provisions applicable thereto, or

(c) a distillate or raw alcohol with an alcoholic strength of at least 52 % by volume.

Where the product specified in point (c) in the first subparagraph is obtained, it may be used only under official supervision for:

(i) the production of an alcoholic beverage,

(ii) processing into one of the products specified at point (a) and (b),

(iii) the production of alcohol for industrial purposes.

Member States shall take the necessary measures to ensure compliance with the obligation laid down in the second subparagraph.

2. If wine suitable for production of certain spirituous beverages with a registered designation or origin is delivered to undergo one of the distillation operations specified in Article 1, it may be decided that only a product with an alcoholic strength of at least 92 % by volume may be obtained by the distillation of such wine.

3. Before 1 September 1988 the Council, acting by a qualified majority on a proposal from the Commission, shall decide on a reduction by 30 grams per hectolitre or less in the maximum methanol content mentioned in the definition of neutral alcohol set out in the Annex, in so far as this reduction is compatible with technological progress.

TITLE I

General rules relating to the voluntary distillation of wine

Article 4

1. Any producer intending to deliver wine of his own production for one of the distillation operations specified in Article 1 (a) for which he satisfies the conditions laid down in the Community rules shall conclude a delivery contract, hereinafter referred to as the 'contract', with a distiller and submit it to the competent intervention agency for approval, by a date to be specified.

Producers subject to the obligations referred to in Article 6 (1) of Regulation (EEC) No 337/79 shall also provide the competent intervention agency with proof that they have fulfilled those obligations during the reference period set in accordance with Article 6 (3) of that Regulation.

2. The contract shall specify at least the quantity, the colour and the actual alcoholic strength by volume of the wine.

The producer may not deliver the wine for distillation unless the contract has been approved by the competent intervention agency by a date to be specified.

Where distillation is carried out in a Member State other than that in which the contract is approved, the intervention agency which has approved the contract shall forward a copy thereof to the intervention agency of the first Member State.

In the case of distillation pursuant to Article 15 (1) or (2) of Regulation (EEC) No 337/79, it may be decided that a contract submitted by a producer who during the same wine year has obtained approval for a contract relating to a delivery for distillation pursuant to Article 11 of that Regulation, shall not be approved unless he provides proof that at least a quantity to be specified of the wine to which the contract approved under Article 11 refers has been delivered to a distiller or a maker of fortified wine.

3. The distiller shall pay to the producer for the wine delivered to him at least the price specified in Articles 11 (2), 12a (3) or 15 (5) of Regulation (EEC) No 337/79, as the case may be, such prices to apply to bulk merchandise ex producer's premises.

4. The minimum buying-in price referred to in paragraph 3 shall be paid by the distiller to the producer within a period to be determined.

Article 5

1. Producers referred to in Article 4 (1):

— who themselves possess distillation plants and who intend to carry out the distillation referred to in Article 1 (a), or

— who intend to have their wine distilled on their behalf in the plant of an approved distiller working under contract,

shall submit for approval to the competent intervention agency, before a date to be specified, a declaration of delivery for distillation, hereinafter referred to as the 'declaration'.

Producers subject to the obligations referred to in Article 6 (1) of Regulation (EEC) No 337/79 shall also provide the competent intervention agency with proof that they have fulfilled those obligations during the reference period set in accordance with Article 6 (3) of that Regulation.

2. For the purposes of this Regulation, the contract shall be replaced:

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

— in the case specified in the second indent of the first subparagraph 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.

Article 4 (2) shall apply, the references to the contract being deemed also to refer to the declaration.

Article 6

1. Except in the case of the distillation operation referred to in Article 12a of Regulation (EEC) No 337/79, the quantity of wine delivered for distillation must be not less than a minimum quantity to be determined, and in no circumstances less than 10 hectolitres.

2. For wine delivered to distilleries, a shortfall tolerance of 10 % shall be permitted in the quantity of wine mentioned in the contract or declaration, within the limit referred to in paragraph 1.

No aid shall be payable for quantities of distilled wine in excess of those specified in the contract or declaration in the case of distillation pursuant to Article 15 of Regulation (EEC) No 337/79, or in excess of 110 % of the specified quantity in other cases.

For wine delivered to distilleries, a tolerance of 1 % by volume in the actual alcoholic strength stated in the contract or declaration shall be permitted.

Article 7

1. For each producer from whom he has received deliveries of wine, the distiller shall:

— for each delivery, communicate to the competent intervention agency the quantity, colour and actual alcoholic strength by volume of the wine, together with the number of the document provided for in Article 53 (1) of Regulation (EEC) No 337/79 and used for the transport of the wine to the distiller's premises,

— provide the competent intervention agency with proof that the corresponding quantities of wine have been distilled.

2. If distillation is carried out by the producer himself in his capacity as a distiller or by a distiller acting on the producer's behalf, the information and proof referred to in paragraph 1 shall be submitted to the competent intervention agency by the producer.

3. The intervention agency shall pay the distiller or, in the cases referred to in paragraph 2, the producer, the aid specified for the distillation operations in question within three months following the day of the submission of proof that the total quantity of wine mentioned in the contract or declaration, taking account of the tolerances referred to in Article 6 (2), has been distilled.

The distiller shall be obliged to provide the intervention agency, within a time limit to be specified, with proof that he has paid the producer the minimum buying-in price for the wine referred to in the first subparagraph within the period laid down.

The measures to be taken in the event of default on the payment of the minimum buying-in price or of lack of proof of payment thereof shall be adopted under the implementing rules.

4. Should verification of the file reveal that, in respect of all or part of the wine delivered, the producer does not satisfy the conditions laid down by the Community rules for the distillation operations in question, the competent intervention agency shall inform the distiller and the producer accordingly. In such cases, the minimum buying-in price referred to in Article 4 (3) shall be reduced in respect of all or part of the wine delivered, by an amount equal to that of the aid.

Article 8

The aid to be paid to the distiller or, in the cases referred to in Article 7 (2), to the producer, for wine which has undergone one of the distillation operations provided for in Articles 11, 12a and 15 of Regulation (EEC) No 337/79 shall be fixed per % of alcohol by volume and per hectolitre of the distilled product on the basis of the minimum buying-in price fixed for the distillation operation in question, the standard transport and processing costs, the technical losses and the market price for the products of distillation.

However, the aid granted in respect of neutral wine alcohol may not be less than the aid granted in respect of the other products referred to in Article 3 (1).

Article 9

1. The distiller or, in the case referred to in Article 7 (2), the producer may request that an amount equal to the lesser sum of distillation aid fixed for the distillation operation in question in accordance with Article 8 be advanced to him on condition that he has lodged for the benefit of the intervention agency a security equal to 110 % of the aid.

The security referred to in the first subparagraph shall be provided in the form of a guarantee given by an establishment meeting the criteria laid down by the Member State to which the intervention agency belongs.

Advances may be paid only after the date on which the delivery contract or declaration was approved.

2. Subject to Article 23, the security referred to in paragraph 1 shall be released only if, within periods to be specified, proof has been supplied that:

— the total quantity of wine stated in the contract or declaration has been distilled,

— the minimum buying-in price has been paid to the producer within the period fixed in accordance with Article 4 (4).

At the time when the security is released, the intervention agency shall make the necessary adjustments to take account of the tolerances specified in Article 6 (2).

Article 10

1. In the case of the distillation operations referred to in Article 15 (1) and (2) of Regulation (EEC) No 337/79, the producer may benefit from the measure only in respect of a quantity of table wine no greater than the quantity specified in the contract or declaration.

2. During the distillation operations referred to in paragraph 1, the Member States shall periodically communicate to the Commission particulars of the quantities of table wine specified in the contracts and declarations submitted to the intervention agency.

3. Once the communications in paragraph 2 indicate that the quantities specified in the contracts and declarations have exceeded a quantity to be

determined under the implementing rules the Commission shall decide to halt the submission of contracts and declarations.

4. Should the total quantity of table wine stated in the contracts and declarations submitted to the intervention agencies exceed the quantity determined in accordance with paragraph 3, it may be decided under the implementing rules that only the latter quantity should undergo distillation. In such cases, the quantities which have been entered in the contracts and declarations and which may be delivered for distillation shall be reduced proportionately.

TITLE II

General rules relating to compulsory distillation

Article 11

1. Producers subject to an obligation to distil under Articles 39, 40 and 41 of Regulation (EEC) No 337/79 shall discharge their obligation by delivering to a distiller, before a date to be fixed, the quantities of product to be distilled as determined in accordance with the abovementioned Articles and with the measures taken in implementation thereof.

2. Producers who are subject to one of the obligations referred to in paragraph 1, and who have delivered by the date fixed in accordance with paragraph 1 at least 90 % of the quantity of products which they are obliged to deliver, may discharge this obligation by delivering the remaining quantity before a date to be fixed by the competent national authority.

In such cases:

— the buying-in price for the remaining quantities referred to in the first subparagraph and the price for the alcohol produced therefrom and delivered to the intervention agency shall be reduced by an amount equal to the aid fixed, in respect of the distillation operation in question, for neutral alcohol in accordance with Article 16,

— for alcohol delivered to the intervention agency in accordance with the second indent of the first subparagraph of Article 39 (6) and the second indent of the first subparagraph of Article 40 (4) of Regulation (EEC) No 337/79, the EAGGF contribution to expenditure by the intervention agency determined in accordance with Articles 39 and 40 of Regulation (EEC) No 337/79 shall be adjusted,

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

— the obligation shall be considered to have been discharged by the time limit set in accordance with paragraph 1.

Article 12

1. The price to be paid by the distiller to the producer for the products delivered to the former for distillation under Article 39 of Regulation (EEC) No 337/79 must not be lower than the buying-in price fixed annually by 1 August for the following wine year.

This price shall be fixed per % vol per hectolitre of alcohol contained in the products in question. It shall be not less than 30 % of the guide price for table wine of type AI or more than 40 % of that price.

However, for the 1983/84 marketing year the guide price referred to in the second subparagraph shall be the guide price applicable as from 16 December 1983.

2. The buying-in price referred to in paragraph 1 shall apply to bulk merchandise ex distiller's premises.

The buying-in prices referred to in Article 40 (3) and Article 41 (4) of Regulation (EEC) No 337/79 shall apply to bulk merchandise ex producer's premises.

Article 13

1. Pursuant to the second subparagraph of Article 39 (1) of Regulation (EEC) No 337/79, and in respect of the wine years 1983/84 to 1986/87, producers in the Greek and Italian islands, except Sicily and Sardinia, located in wine-growing zones C III a) and C III b):

— shall be authorized to overpress grapes and to press wine lees,

— may be released from their obligation by delivering to a distiller the liquid product obtained by the operation referred to in the first indent.

The Member States concerned shall introduce a system for monitoring the production and movement of the product referred to in the second indent of the first subparagraph and shall inform the Commission thereof. This system shall provide at least for a document for the movement of the said product to distilleries and may involve:

— an obligation upon the producer to notify the competent authority in advance if he intends to carry out the operation referred to in the first indent of the first subparagraph,

— the addition of an indicator to the product obtained,

— the use of the document referred to in Article 53 (1) of Regulation (EEC) No 337/79 for the transport of the products obtained to the distillery, subject to any adaptations necessary.

2. The obligations referred to in Article 39 of Regulation (EEC) No 337/79 shall not apply to:

— producers who have not made wine or processed grapes in any other manner on cooperative premises and who, during the wine year in question, produced not more than 25 hectolitres of wine or must;

— producers who withdraw wine under supervision in accordance with Article 14 (1) of this Regulation.

For that part of their production subject to the distillation operations provided for in Article 40 (1) or (2) or that provided for in Article 41 of Regulation (EEC) No 337/79, producers shall only be obliged to deliver, under the distillation operation provided for in Article 39 (2) of the said Regulation, the by-products of wine-making.

It may be decided that the exemption referred to in the first indent of the first subparagraph shall apply, subject to conditions to be determined, to producers who have not made wine or processed grapes in any other manner on cooperative premises and who, during the wine year in question, produce more than 25 hectolitres but not more than 40 hectolitres of wine or must.

3. The percentage mentioned in the second subparagraph of Article 39 (2) of Regulation (EEC) No 337/79 shall be reduced in the case of:

(a) producers who deliver marc for the manufacture of oenocyanin;

(b) producers of white quality wines psr, in respect of the part of their production which qualifies for this description.

4. In the case of producers who deliver wine of their own production to the vinegar industry, the quantity of alcohol, expressed in terms of pure alcohol, contained in the wine delivered to the vinegar factory shall be deducted from the quantity of alcohol, expressed in terms of pure alcohol, contained in the wine to be delivered for distillation to discharge the obligation referred to in Article 39 (2) of Regulation (EEC) No 337/79.

Article 14

1. Only those producers established in wine-growing areas where distillation represents a disproportionate burden may exercise the option mentioned in Article 39 (5) of Regulation (EEC) No 337/79.

A list of the wine-growing areas concerned shall be drawn up by the competent authorities of the Member States. The latter shall inform the Commission of this list.

2. For the purposes of implementing Article 39 (4) and (5) of Regulation (EEC) No 337/79, the average minimum alcoholic strength of the by-products of wine-making to be withdrawn shall be laid down in implementing rules.

The by-products shall be withdrawn without delay and no later than the end of the wine year in which they were obtained. Withdrawal, together with an indication of the estimated quantities, shall either be entered in the registers kept in accordance with Article 53 (2) of Regulation (EEC) No 337/79 or be certified by the competent authority.

Member States whose wine production exceeds 25 000 hectolitres a year shall, by means of sampling, check at least whether the average minimum alcoholic strength referred to in the first paragraph has been complied with and whether the by-products have been withdrawn in full and within the time limits set.

Article 15

1. The distiller shall provide the producer, as proof of delivery, with a certificate stating at least the nature, the quantity and the alcoholic strength by volume of the product delivered, together with the date of delivery.

If distillation is carried out by the producer himself in his capacity as a distiller, the certificate referred to in the first subparagraph shall be delivered by the competent body designated by the Member State.

However, if a producer delivers the products which he is to have distilled to a distillery located in a

Member State other than that in which the said products were obtained, the distiller shall require the intervention agency of the Member State in which distillation takes place to certify, on the official document provided for in Article 53 (1) of Regulation (EEC) No 337/79, covering transport of the products, that the latter have been taken over by the distillery. The distiller shall forward to the producer a copy of the said document, thus certified, within one month of receipt of the products to be distilled.

2. The minimum buying-in price laid down for the distillation operation in question shall be paid by the distiller to the producer within time limits to be determined.

Article 16

The aid to be paid to the distiller for products which have undergone one of the distillation operations referred to in Articles 39, 40 and 41 of Regulation (EEC) No 337/79 shall be fixed per % vol of alcohol and per hectolitre of the product of distillation, on the basis of the minimum buying-in price fixed for the distillation operation in question, the standard transport costs where they are to be taken into account, the standard processing costs, the technical losses and the market price for the products of distillation.

However, the aid granted in respect of neutral alcohol may not be less than the aid granted in respect of the other products referred to in Article 3 (1).

Article 17

1. In order to qualify for the aid referred to, as the case may be, in Articles 39 (6), 40 (4) or 41 (5) of Regulation (EEC) No 337/79, the distiller shall submit an application to the intervention agency before a date to be fixed and shall provide proof of distillation.

The intervention agency shall pay the distiller the aid fixed for the distillation operation in question within three months of submission of the proof of distillation.

2. The distiller must provide the intervention agency, within a period to be fixed, with proof that he has paid the producer the minimum buying-in price for the product to be distilled within the period specified.

The measures to be taken in the event of default on the payment of the minimum buying-in price or of lack of proof of payment thereof shall be adopted under the implementing rules.

Article 18

1. Distillers may deliver to the intervention agency products with an alcoholic strength of 92 % vol or more.

The operations necessary to obtain the product referred to in the first subparagraph may be carried out either at the premises of the distiller who delivers the said product to the intervention agency or at the premises of a jobbing distiller.

2. The buying-in prices referred to in the third and fourth subparagraphs of Article 39 (6), the third and fourth subparagraphs of Article 40 (4) and the third and fourth subparagraphs of Article 41 (5) of Regulation (EEC) No 337/79 shall be fixed per hectolitre and per % vol of pure alcohol.

They shall apply to bulk merchandise free at the warehouse of the intervention agency. They shall be fixed on the basis of the minimum buying-in price for the products for the distillation operation in question, standard transport costs for the products to be distilled where these are to be taken into account, standard transport costs for the products of distillation, standard processing costs and technical losses.

If the distiller has qualified for aid under the conditions laid down in Article 17, the prices referred to in the first subparagraph shall be reduced by an amount equal to the amount of the aid.

3. At the same time as the standard price fixed in accordance with paragraph 2, differentiated prices may be fixed for products delivered to the intervention agency under the third subparagraph of Article 39 (6), of Regulation (EEC) No 337/79, depending on whether the product has been distilled from grape marc, wine lees or wine, so that account is taken, where appropriate, of the differing costs and losses.

The Member States may decide to apply differentiated prices where the application of the standard price would or could make it impossible to have one or more of the by-products of wine-making distilled in certain regions of the Community. The level of prices fixed for the product distilled from the var-

ious by-products must be such that the weighted average of these prices does not exceed the standard price.

Article 19

The amount of the contribution from the EAGGF, Guarantee Section, to expenditure incurred by intervention agencies in taking over the products of the distillation operations referred to in Articles 39 and 40 of Regulation (EEC) No 337/79 shall be fixed at a standard rate per hectolitre and per % vol of alcohol on the basis of the buying-in price for neutral alcohol taken into intervention and the price for such alcohol on the Community market.

Article 20

The Member States shall notify the Commission every two months of the stocks and strength of the alcohol held by their intervention agencies following distillation under Articles 39, 40 or 41 of Regulation (EEC) No 337/79.

TITLE III

Common provisions

Article 21

The distillation operations referred to in this Regulation may be carried out only during periods to be determined.

Article 22

1. The characteristics of the products delivered for distillation, and in particular quantity, colour and alcoholic strength, shall be checked when the products enter the distillery on the basis of the document provided for in Article 53 (1) of Regulation (EEC) No 337/79 covering the transport of the said products.

The Member States may provide for such checks to be made by sampling.

2. If, in accordance with the Community provisions in force, the document referred to in paragraph 1 has not been made out, a sample of the product for distillation shall be taken under the supervision of an official body of the Member State in whose territory the producer's winery is located, so that an official laboratory may establish by analysis the actual alcoholic strength by volume and any other data required for the distillation in question.

The result of this analysis, endorsed by an official body, shall be forwarded by the producer to the intervention agency of the Member State where the distillation takes place.

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

Article 23

1. Where, owing to unforeseeable circumstances or for reasons of *force majeure*, all or part of the product to be distilled cannot undergo distillation:

— the producer, if the unforeseeable circumstances or *force majeure* affected the product to be distilled while it was legally at his disposal, shall without delay inform the intervention agency of the Member State in which his winery is located,

— the distiller, in all other cases, shall without delay inform the intervention agency of the Member State in which the distillery is located.

In the circumstances referred to in the first subparagraph, the intervention agency, once informed, shall decide on the measures which it considers necessary. In particular, it may defer the time limits.

2. In the circumstances referred to in the first indent of the first subparagraph of paragraph 1, and where the producer's winery and the distillery are located in two different Member States, the intervention agencies of the two Member States concerned shall cooperate, by the direct exchange of information, for the purpose of implementing paragraph 1.

In the circumstances referred to in the second indent of the first subparagraph of paragraph 1, the intervention agency, once informed, may also authorize the distiller, subject to the agreement of the producer in the case of a jobbing distiller, to transfer to another distiller his rights and obligations in respect of the quantity of products not yet distilled.

3. The Member States shall inform the Commission of cases in which paragraph 1 is applied and of the action taken in response to requests that the clauses relating to unforeseeable circumstances and *force majeure* should be invoked.

Article 24

1. The competent authorities of the Member States shall approve the distillers established in their territory who intend to perform the distillation operations referred to in this Regulation and shall draw up a list of the approved distillers. However, these authorities may decide not to include on the list approved distillers who are unable to obtain, by means of the distillation operations referred to in Title II, products of an alcoholic strength of at least 92 % vol.

Member States shall forward to the Commission, on 31 December 1983 at the latest, the list drawn up in accordance with the first subparagraph and shall notify the Commission of any subsequent amendments. The Commission shall publish that list and any amendments thereto in the *Official Journal of the European Communities*.

2. The competent authority may withdraw approval from a distiller, either temporarily or permanently, if the latter does not meet his obligations under the Community rules.

Article 25

1. Wine which is to undergo one of the distillation operations referred to in this Regulation may be fortified for distillation. In such cases, the product of distillation of such fortified wine must be one of the products specified at point (b) of the first subparagraph of Article 3 (1).

2. Wine shall be fortified for distillation only under official supervision.

For this purpose:

— the document(s) and register(s) required under Article 53 of Regulation (EEC) No 337/79 shall show the increase in actual alcoholic strength by volume, expressed in % vol, 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 report on the analysis referred to in the second indent shall be sent to the maker of the fortified wine and the maker shall transmit one of these copies to the intervention agency of the Member State in which the wine is fortified.

3. Wine shall be fortified for distillation during the same period as that laid down in accordance with Article 21 for the distillation operation in question.

However, in the case of wine fortified for the distillation referred to in Article 40 of Regulation (EEC) No 337/79, a shorter period shall be set.

Article 23 shall apply, subject to any necessary adjustments.

4. Wine fortified for distillation shall be distilled in accordance with detailed rules to be laid down. Such distillation shall take place within a period to be set.

5. 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.

Article 26

1. When the option mentioned in Article 25 (1) is exercised and where the wine is not fortified for distillation by the distiller or on his behalf, the producer shall conclude a delivery contract with an approved maker and shall submit it for approval to the competent intervention agency before a date to be fixed.

However, if the producer is approved as a maker of fortified wine and intends himself to make fortified wine, the contract referred to in the first subparagraph shall be replaced by a declaration of delivery.

2. The contracts and declarations referred to in paragraph 1 shall be governed by Articles 4, 5 and 6, subject to the necessary adjustments.

3. The maker of fortified wine shall pay the producer, for the wine delivered, at least the price referred to, as the case may be, in Articles 11 (2), 12a (3), 15 (5), 39 (6), 40 (3) or 41 (2) of Regulation (EEC) No 337/79; these prices shall apply to bulk merchandise:

— free at distiller's installations in the case of the distillation referred to in Article 39 of Regulation (EEC) No 337/79,

— ex producer's premises in other cases.

Subject to the necessary adjustments, the maker of fortified wine shall be subject to the same obligations as the distiller under Articles 4, 7, 12, 15 and 17.

The aid to be paid to the maker of fortified wine for the respective distillation operations shall be fixed per % vol of actual alcoholic strength and per hectolitre of wine before fortification, on the basis of the minimum buying-in price for the distillation operation in question, standard transport costs, where these are to be taken into account, standard processing costs and the market price for the product of distillation.

4. The aid shall be paid by the competent intervention agency to the maker of fortified wine on condition that he provides a security equal to 110 % of the aid to be received.

Where the maker fortifies wine for the distillation operations governed by various provisions of Regulation (EEC) No 337/79, a single security shall be provided; it shall be equal to 110 % of all the aid to be paid to the maker in respect of the said distillation operations.

The securities referred to in the first and second subparagraphs shall be provided in accordance with the second subparagraph of Article 9 (1).

Subject to the provisions of Article 23, the security shall be released only if, within periods to be set, proof has been furnished that the fortified wine has been distilled; the security shall be released in proportion to the quantities in respect of which such proof has been furnished.

Article 27

1. Member States shall take the necessary measures to ensure that the provisions of this Regulation are applied, and in particular measures to prevent products delivered to distilleries from being diverted to other uses.

Member States may, for this purpose, require that an indicator be used, subject to conditions to be laid down by implementing rules or, failing this, by national provisions. Member States may not, on the ground of the presence of an indicator, prevent the movement within their territory of products intended for distillation or distilled products obtained therefrom.

2. Member States which exercise the option set out in the second subparagraph of paragraph 1 shall inform the Commission accordingly and shall notify the Commission of the provisions which they have adopted for this purpose. The Commission shall inform the other Member States.

Article 28

In the absence of any provisions to the contrary, any periods, dates or time limits referred to in this Regulation or fixed pursuant thereto shall be laid down in accordance with Regulation (EEC, Euratom) No 1182/71 (1).

Article 29

Regulations (EEC) No 343/79 and (EEC) No 349/79 are hereby repealed.

Article 30

If serious difficulties arise such as to impede the correct operation of the arrangements laid down by this Regulation, the requisite transitional measures shall be adopted in accordance with the procedure laid down in Article 67 of Regulation (EEC) No 337/79. Such measures may apply only in respect of operations relating to the 1983/84 wine-growing year.

Article 31

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

It shall apply from 1 September 1983;

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

Done at Brussels, 25 July 1983.

For the Council
The President
C. SIMITIS

(1) OJ No L 124, 8. 6. 1971, p. 1.

ANNEX

DEFINITION OF NEUTRAL ALCOHOL AS REFERRED TO IN ARTICLE 3 (1), FIRST SUBPARAGRAPH, (a)

1.	**Organoleptic characteristics:**	No extraneous flavour detectable in the raw material
2.	**Minimum alcoholic strength by volume:**	96 % vol
3.	**Maximum values of residue elements:**	
	— *Total acidity* expressed in g of acetic acid per hl of alcohol at 100 % vol	1,5
	— *Esters* expressed in g of ethyl acetate per hl of alcohol at 100 % vol	1,3
	— *Aldehydes* expressed in g of acetaldehyde per hl of alcohol at 100 % vol	0,5
	— *Higher alcohols* expressed in g of methyl-2 propanol-1 per hl of alcohol at 100 % vol	0,5
	— *Methanol* expressed in g per hl of alcohol at 100 % vol	50
	— *Dry extract* expressed in g per hl of alcohol at 100 % vol	1,5
	— *Volatile bases containing nitrogen* expressed in g of nitrogen per hl of alcohol at 100 % vol	0,1
	— *Furfural*	Not detectable