COMMISSION REGULATION (EEC) No 2390/85

of 19 August 1985

laying down for the 1984/85 wine year detailed rules for the application of the additional measures applicable to holders of long-term storage contracts for table wine

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 798/85 (2), and in particular Articles 12a (5) and 65 thereof,

Having regard to Council Regulation (EEC) No 1223/83 of 20 May 1983 on the exchange rates to be applied in agriculture (3), as last amended by Regulation (EEC) No 1297/85 (4), and in particular Article 2 (2) thereof,

Whereas the measures employed to support the wine market have not yielded the desired results; whereas, in particular, the representative prices for table wines of types AI, RI and RII have remained lower than the respective activating prices since the beginning of the wine year; whereas, therefore, the first condition required under Article 12a (1) of Regulation (EEC) No 337/79 for the adoption of additional measures applicable to holders of long-term storage contracts is satisfied; whereas the second condition, namely that the representative price should remain lower than the activating price for three consectutive weeks, is likely to be fulfilled for table wines of types AI, RI and RII during the reference period;

Whereas these measures should provide for the possibility of removing from the market by distillation a quantity of wine and for the possibility of delaying for several months the marketing of the remaining quantity held by holders of long-term storage contracts, in anticipation of a recovery of the market; whereas, however, this latter measure might not achieve the desired objective; whereas provision for any further measures which may be necessary should therefore be made;

Whereas Article 6 of Regulation (EEC) No 337/79 provides that only producers fulfilling the obligations laid down in Article 39 and, where appropriate, Articles 40 and 41 of that Regulation during a reference period to be determined may qualify for the intervention measures; whereas that period must therefore be specified;

Whereas, pursuant to Article 12a (3) of Regulation (EEC) No 337/79, the distillation provided for by this Regulation may not exceed 18 % of the total quantity of table wine produced by each holder in the marketing year in which the long-term contract was concluded; whereas the quantity of table wine produced to which the said percentage is applied should be that shown in the production declaration provided for in Commission Regulation (EEC) No 2102/84 of 13 July 1984 on harvest, production and stock declarations relating to wine sector products (5), as amended by Regulation (EEC) No 2459/84 (6), and in the records provided for in Commission Regulation (EEC) No 1153/75 of 30 April 1975 prescribing the form of accompanying documents for wine producers and specifying the obligations of wine producers and traders other than retailers (7), as last amended by Regulation (EEC) No 3203/80 (8);

Whereas the distillation provided for by this Regulation should take place in accordance with the provisions of 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 (9), as amended by Regulation (EEC) No 2687/84 (10), whereas, pursuant to Articles 4, 5 and 26 of that Regulation, time limits should be fixed for the submission of applications for approval of supply contracts and declarations, for approval by the intervention agencies and for the distillation operations; whereas Article 8 of that Regulation specifies that the amount of the aid to be paid is to be fixed using the criteria set out therein;

Whereas additional information which should appear in the supply contract and in the declaration should also be specified;

(1) OJ No L 54, 5. 3. 1979, p. 1.
(2) OJ No L 89, 29. 3. 1985, p. 1.
(3) OJ No L 132, 21. 5. 1983, p. 33.
(4) OJ No L 137, 27. 5. 1985, p. 1.
(5) OJ No L 194, 24. 7. 1984, p. 1.
(6) OJ No L 231, 29. 8. 1984, p. 5.
(7) OJ No L 113, 1. 5. 1975, p. 1.
(8) OJ No L 333, 11. 12. 1980, p. 18.
(9) OJ No L 212, 3. 8. 1983, p. 1.
(10) OJ No L 255, 25. 9. 1984, p. 1.

Whereas some of the wines delivered for distillation under this Regulation may be made into fortified wine ; whereas the provisions applicable to distillation operations should therefore be adjusted in conformity with the rules laid down in Articles 25 and 26 of Regulation (EEC) No 2179/83 ;

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

Whereas storage contracts must be concluded in accordance with 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 [1], as amended by Regulation (EEC) No 1997/84 [2] ;

Whereas during the storage period there is a natural alteration in the volatile acidity of the wine which might exceed the limit provided for in Commission Regulation (EEC) No 3537/84 of 17 December 1984 authorizing the conclusion of long-term private storage contracts for certain table wines for the 1984/85 wine year [3], which was laid down with a storage period of nine months in view ; whereas it seems appropriate to permit that, when a storage contract is concluded for four months, and provided the wine covered by the new contract is the same as the wine covered by the previous contract, the wine should be considered to have fulfilled the required conditions even if the volatile acidity content is higher than that laid down by the said Regulation, provided that the limit laid down for table wine of the type in question has not been exceeded and that all other administrative and technical conditions are complied with ; whereas, to allow for market development, it should be possible to terminate contracts ;

Whereas, since the storage contracts referred to in this Regulation were concluded during the 1984/85 wine year, the last representative rate applicable during the said wine year should be used ;

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

HAS ADOPTED THIS REGULATION :

Article 1

1. This Regulation lays down detailed rules for the application of additional measures, as provided for in Article 12a of Regulation (EEC) No 337/79, in respect of holders of long-term storage contracts for table wine for the 1984/85 wine year.

2. In accordance with Article 6 (1) of Regulation (EEC) No 337/79, producers who were subject to the obligations referred to in Articles 39, 40 or 41 of Regulation (EEC) No 337/79 during 1984/85 wine year shall not be entitled to benefit from the measures provided for in this Regulation unless they provide evidence that they have complied with their obligations :

— under Articles 39 and 40, between 1 September 1984 and the dates fixed respectively in Article 2 (1) of Commission Regulation (EEC) No 2461/84 [4] and Articles 2 (1) and 8 (2) of Commission Regulation (EEC) No 2462/84 [5], or, where appropriate, the dates fixed by the competent authority in accordance with Article 11 (2) of Regulation (EEC) No 2179/83 ;

— under Article 41, between 19 January 1985 and the dates fixed in Article 10 (5) of Commission Regulation (EEC) No 147/85 [6].

Article 2

1. The period of three consecutive weeks referred to in Article 12a (1) of Regulation (EEC) No 337/79 shall fall between 15 July and 30 November 1985.

2. If the Decision referred to in Article 12a (5) of Regulation (EEC) No 337/79 is adopted, holders of long-term storage contracts for the types of table wine in respect of which the Decision is adopted and for wines in close economic relationship with such wines may :

(a) for a quantity of wine subject to contract not exceeding a percentage to be determined of the total quantity of table wine which they have produced during the 1984/85 wine year, undertake distillation under the conditions laid down in Articles 3 to 9 ;

(b) for a quantity of wine subject to contract to be determined and which is not the subject of the measure provided for in (a), conclude a storage contract under the conditions laid down in Regulation (EEC) No 1059/83 and in Article 9 of this Regulation, for a period to be determined.

[1] OJ No L 116, 30. 4. 1983, p. 77.
[2] OJ No L 186, 13. 7. 1984, p. 28.
[3] OJ No L 330, 18. 12. 1984, p. 14.
[4] OJ No L 231, 29. 8. 1984, p. 12.
[5] OJ No L 231, 29. 8. 1984, p. 18.
[6] OJ No L 16, 19. 1. 1985, p. 25.

3. The total quantity of table wine to which the percentage referred to in Article 12a (3) of Regulation (EEC) No 337/79 applies shall be, in the case of each producer, the sum of the quantities stated in his production declaration and the quantities produced by him after the date on which the production declaration provided for in Regulation (EEC) No 2102/84 was submitted which are entered in the records referred to in Article 14 of Regulation (EEC) No 1153/75.

4. Other additional measures applicable to holders of the storage contracts referred to in paragraph 2 (b) in respect of a given type of wine or a wine in close economic relationship therewith may be taken if the representative price for that type of wine had remained lower than the activating price during the period between the date of adoption of the Decision referred to in Article 12a (5) of Regulation (EEC) No 337/79 and 15 January 1986.

Article 3

1. The distillation referred to in Article 2 (2) (a) shall be carried out in accordance with the provisions of Regulation (EEC) No 2179/83 and of this Regulation.

2. The wines which may be distilled are those which have been the subject of long-term storage.

Article 4

1. The contracts and declarations referred to in Articles 4 (1) and 5 (1) respectively of Regulation (EEC) No 2179/83 shall be submitted for approval to the competent intervention agency by 10 December 1985 at the latest.

2. The contracts and declarations referred to in paragraph 1 shall specify at least :

(a) the quantity, colour and actual alcoholic strength by volume of the wine to be distilled ;

(b) the name and address of the producer ;

(c) the place where the wine is stored ;

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

(e) the address of the distillery.

3. The intervention agency shall notify the producer of the outcome of the approval procedure by 10 January 1986 at the latest.

4. Distillation shall be carried out by 31 August 1986 at the latest.

Article 5

1. The minimum purchase price provided for in Article 12a (3) of Regulation (EEC) No 337/79 shall be :

— 2,85 ECU per % vol per hectolitre in the case of table wines of type AI and of wines in close economic relationship with those wines ;

— 3,13 ECU per % vol per hectolitre in the case of table wines of types RI and RII and of wines in close economic relationship with those wines.

The minimum purchase price specified in the first subparagraph shall be paid by the distiller to the producer within three months of the date on which each consignment of wine delivered enters the distillery.

2. The amount of the aid provided for in Article 8 of Regulation (EEC) No 2179/83 shall be :

(a) for the wines specified in the first indent of paragraph 1 :

— 2,36 ECU per % vol per hectolitre of the product of distillation if it meets the definition of neutral spirits given in the Annex to Regulation (EEC) No 2179/83 ;

— 2,25 ECU per % vol per hectolitre of the product of distillation if it is a wine spirit with the quality characteristics laid down in the applicable national provisions ;

— 2,25 ECU per % vol per hectolitre of the product of distillation if it is a distillate or raw alcohol with an alcoholic strength of at least 52 % vol ;

(b) for the wines specified in the second indent of paragraph 1 :

— 2,65 ECU per % vol per hectolitre of the product of distillation if it meets the definition of neutral spirits given in the Annex to Regulation (EEC) No 2179/83 ;

— 2,54 ECU per % vol per hectolitre of the product of distillation if it is a wine spirit with the quality characteristics laid down in the applicable national provisions ;

— 2,54 ECU per % vol per hectolitre of the product of distillation if it is a distillate or raw alcohol with an alcoholic strength of at least 52 % vol.

The aid shall be paid for the quantity of wine actually distilled within the limit of the tolerances referred to in Article 6 (2) of Regulation (EEC) No 2179/83 and within the limit of the maximum quantities which may be distilled.

3. The distiller must provide the intervention agency, within four months following the date on which evidence that the total quantity of wine mentioned in the contract has been distilled is supplied, with evidence that be paid the producer the purchase price of the wine within the period laid down in the second subparagraph of paragraph 1.

If this evidence is not provided within the period laid down, the aid paid over shall be recovered by the intervention agency. If, however, the evidence is submitted after this period expires but before 28 February 1987 the intervention agency shall recover an amount equal to 20 % of the aid paid over.

If it is found that the distiller has not paid the producer the purchase price, the intervention agency shall before 1 May 1987 pay the producer an amount equal to the aid, if necessary through the intervention agency of the producer's Member State.

Article 6

1. The advance referred to in Article 9 (1) of Regulation (EEC) No 2179/83 shall be paid over within three months of submission of evidence that the security has been lodged.

2. For the release of the security referred to in paragraph 1, the evidence that the total quantity of wine has been distilled and, where applicable, the evidence of payment of the purchase price of the wine within the period specified shall be provided not later than the end of the fifth month following the final date for distillation operations specified in Article 4 (4).

However, if the evidence referred to in the first subparagraph is produced after the time limit specified therein but before 1 May 1987, 80 % of the security shall be released and the difference shall be forfeit.

If the evidence is not provided before 1 May 1987 the entire security shall be forefeit.

Article 7

1. In the case referred to in Article 26 (1) of Regulation (EEC) No 2179/83 the contract or declaration of delivery for the production of fortified wine shall be submitted to the competent intervention agency by 10 December 1985 at the latest.

The intervention agency shall notify the producer of the outcome of the approval procedure by 10 January 1986 at the latest.

2. The fortified wine may not be produced until after the contract or declaration has been approved but must be produced by 31 July 1986 at the latest.

3. The fortified wine must be distilled by 31 August 1986 at the latest.

4. The fortifier shall transmit to the intervention agency by the 10th of each month at the latest a statement of the quantities of wine delivered to him in the previous month.

5. The fortifier shall receive aid per hectolitre per % vol of the actual alcoholic strength of the wine before processing, as follows:

— 2,21 ECU for table wines of type AI and wines in close economic relationship with those wines;

— 2,49 ECU for table wines of types RT and RII and wines in close economic relationship with those wines.

To receive the aid the fortifier shall by 31 August 1986 at the latest submit an application to the competent intervention agency together with a copy of the transport documents accompanying the wine for which aid is requested or a summary of those documents.

Member States may require that copies or summaries as referred to in the second subparagraph be endorsed by a supervisory authority.

The aid shall be paid over at the latest three months after the date of submission of proof that the security referred to in Article 26 (4) of Regulation (EEC) No 2179/83 has been lodged and in any event after the date on which the contract or declaration was approved.

6. Subject to the provisions of Article 23 of Regulation (EEC) No 2179/83, the security shall be released only if by 31 December 1986 at the latest evidence is provided that:

— the total quantity of wine covered by the contract or declaration has been processed into fortified wine and distilled;

— the purchase price of the wine has been paid to the producer within the period specified in the second subparagraph of Article 5 (1).

If the evidence specified in the first subparagraph is not provided by 31 December 1986 at the latest the intervention agency shall recover the aid from the producer of the fortified wine.

If, however, the evidence is presented after the time limit but by 31 March 1987 at the latest the intervention agency shall recover an amount equal to 20 % of the aid paid over.

If it is found that the fortifier has not paid the purchase price to the producer, the intervention agency shall by 30 April 1987 at the latest pay the producer an amount equal to the aid, if necessary through the intervention agency of the producer's Member State.

Article 8

1. Member States shall notify the Commission not later than 31 January 1986 of the quantities of wine and fortified wine covered by approved delivery contracts and declarations.

2. Distillers shall send to the intervention agency, not later than the 10th day of each month, a statement of the quantities of wine distilled during the previous month, giving separate figures for each of the categories specified in the first subparagraph of Article 3 (1) of Regulation (EEC) No 2179/83.

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

4. Member States shall notify not later than 30 September 1986 cases in which distillers or fortifiers have failed to fulfil heir obligations and the measures taken in consequence.

Article 9

1. The contracts referred to in Article 2 (2) (b) shall be concluded not later than 15 January 1986.

The volatile acidity of the table wine covered by the contracts referred to in the first subparagraph may exceed the limits required by Commission Regulation (EEC) No 3676/83 [1] when long-term storage contracts are concluded.

If the holder of a long-term storage contract decides to take advantage of Article 2 (2) (b) in respect of all the wine covered by the contract, the intervention agency may extend the old contract for the new period by altering the relevant wording.

2. In the case of storage contracts as referred to in Article 2 (2) (b) the amount of the aid shall be that laid down for long-term storage contracts for the 1984/85 wine year.

3. The storage contracts referred to in Article 2 (2) (b) shall be terminated at the request of the producers concerned.

In that case :

— the storage aid shall remain payable for the period during which the wine was placed under such a contract ;

— wine subject to the contract may not be distilled as described in Article 2 (2) (a).

Article 10

Conversion into national currency of the amounts specified in Articles 5 and 7 shall be at the representative rate in force in the wine sector on 31 August 1985.

Article 11

This Regulation shall enter into force on 16 September 1985.

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

Done at Brussels, 19 August 1985.

For the Commission

Henning CHRISTOPHERSEN

Vice-President

[1] OJ No L 366, 28. 12. 1983, p. 47.