COMMISSION REGULATION (EEC) No 2607/85

of 16 September 1985

laying down, for the 1985/86 wine year, detailed implementing rules concerning the distillation provided for in Article 11 of Regulation (EEC) No 337/79

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 11 (5) and 65 thereof,

Whereas Article 11 (1) of Regulation (EEC) No 337/79 provides that preventive distillation of table wines and wines suitable for producing table wines may be decided on whenever such measure seems necessary in the light of harvest forecasts or in order to improve the quality of products marketed; whereas initial harvest forecasts point to heavy production in terms of quantity and it is therefore appropriate, given the surpluses on the wine market, to implement this measure;

Whereas Article 6 of Regulation (EEC) No 337/79 lays down that only those producers who have fulfilled their obligations under Article 39 and, where appropriate, Articles 40 and 41 of the said Regulation for a reference period to be determined are entitled to benefit from the intervention measures; whereas the said reference period should therefore be fixed;

Whereas it is necessary to rationalize the market without exceeding the quantities compatible with sound market management; whereas for this purpose the maximum quantity of table wine which may be distilled by each producer should be limited according to the cultivated area devoted to the production of table wine; whereas, however, to take account of national provisions on the recognition of quality wines psr in some Member States, the maximum quantities of table wine which may be distilled in the zones concerned should be related not to the area devoted to the production of table wine but to each producer's total cultivated area; whereas, however, in cases in which it is not possible to relate the quantity precisely to the area from which the wine comes, the quantity eligible for distillation should be limited to a percentage of the quantity of table wine produced during the 1985/86 wine year: whereas this percentage should be such as to achieve similar results to those obtained in the context of a limit related to the area cultivated; whereas the percentage should therefore be set by taking into account the recorded average yield per hectare; whereas the yield in the Greek parts of zone C III is considerably below that in the rest of the Community so that a different percentage should be set for these parts of the zone;

Whereas the quantity of table wine produced to which this percentage is to apply is that set down 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 (3), as last amended by Regulation (EEC) No 2391/85 (4), and the records provided for in Commission Regulation (EEC) No 1153/75 of 30 April 1975 prescribing the form of the accompanying documents for wine products and specifying the obligations of wine producers and traders other than retailers (5), ad last amended by Regulation (EEC) No 3203/80 (6);

Whereas preventive distillation must be carried out 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 (7), as amended by Regulation (EEC) No 2687/84 (8); whereas, in addition, attention should be drawn in the context of such distillation to the consequences arising from non-submission of a declaration or from the submission of incomplete or incorrect declarations laid down by Regulation (EEC) No 2102/84;

Whereas it should be specified that delivery contracts and declarations must contain the information necessary for identification of the wines to which they relate;

(1) OJ No L 54, 5. 3. 1979, p. 1.
(2) OJ No L 89, 29. 3. 1985, p. 1.
(3) OJ No L 194, 24. 7. 1984, p. 1.
(4) OJ No L 225, 23. 8. 1985, p. 13.
(5) OJ No L 113, 1. 5. 1975, p. 1.
(6) OJ No L 333, 11. 12. 1980, p. 18.
(7) OJ No L 212, 3. 8. 1983, p. 1.
(8) OJ No L 255, 25. 9. 1984, p. 1.

Whereas certain time limits for the operation should be laid down for both producers and distillers to ensure that the measure is as effective as possible;

Whereas the price of wine for distillation normally prevents the sale of the products of distillation at market prices; whereas an aid, fixed on the basis of the criteria set out in Article 8 of Regulation (EEC) No 2179/83 while taking into account also the current uncertainty over prices on the market for distillation products, is therefore needed;

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

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

Whereas it is necessary to avoid the risk of products of the distillation of certain wines disturbing the market in wine spirits with a designation of origin; whereas to this end, pursuant to Article 3 (2) of Regulation (EEC) No 2179/83, provision should be made that products obtained from distilling such wine should not have an alcoholic strength of less than 92 % vol;

Whereas provision should be made for the minimum price guaranteed to producers to be paid to them, as a general rule, within a period which will enable them to obtain a profit comparable to that which they would have obtained from a commercial sale; whereas, in these circumstances, it is essential to pay the aid due to them for the distillation in question at the earliest opportunity, while guaranteeing that operations are correctly carried out by means of an appropriate system of securities;

Whereas some wine delivered for preventive distillation can be fortified; whereas the provisions applicable to distillation operations should be adapted accordingly, in accordance with the rules laid down in Articles 25 and 26 of Regulation (EEC) No 2179/83;

Whereas, in order to draw up an accurate forward estimate, it is essential to know the quantities of wine likely to be the subject of preventive distillation; whereas provisions should therefore be made to provide the Commission with information about these quantities in good time;

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

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

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation lays down detailed implementing rules for the 1985/86 wine year concerning the arrangements referred to in Article 11 of Regulation (EEC) No 337/79 for the preventive distillation of table wine and wines suitable for yielding table wine.

2. In accordance with Article 6 (1) of Regulation (EEC) No 337/79, producers who, during the 1984/85 wine year, were subject to the obligations laid down in Articles 39, 40 or 41 of that Regulation shall be entitled to benefit from the distillation measures provided for in this Regulation on condition that they furnish proof that they have fulfilled their obligations:

— under Article 39 and 40, between 1 September 1984 and the dates fixed in Articles 2 (1) and 11 (2) of Commission Regulation (EEC) No 2461/84 [1] and Articles 2 (1) and 8 (2) of Commission Regulation (EEC) No 2462/84 [2] respectively or, where appropriate, by 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 [3].

Article 2

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 not later than 15 January 1986.

2. Products who have obtained table wine during the 1985/86 wine year by processing in full the grapes intended for the production of table wine which they

(1) OJ No L 231, 29. 8. 1984, p. 12.
(2) OJ No L 231, 29. 8. 1984, p. 18.
(3) OJ No L 16, 19. 1. 1985, p. 25.

harvested on their own holding may conclude one or more contracts or submit one or more declarations covering a quantity of table wine or wine suitable for yielding table wine which shall not exceed :

— 13 hectolitres per hectare of vineyard cultivated for the production of table wine in the French part of wine-growing zone B and in wine-growing zones C I, C II and C III,

— 6 hectolitres per hectare of vineyard cultivated in wine-growing zone A and the German part of wine-growing zone B.

Producers who have obtained table wine during the 1985/86 wine year by processing purchase products, or by processing part of the grapes intended for the production of table wine which they harvested on their own holding, and cooperative wineries and groups, may conclude one or more contracts or submit one or more declarations covering a quantity of table wine or wine suitable for yielding table wine which shall not exceed :

— 26 % in the Greek part of wine-growing zone C III, and

— 13 % in the other wine-growing zones,

of the quantity of table wine produced by them during the wine year.

However, for the quantity of table wine or wine suitable for yielding table wine produced in 1985/86 on areas in respect of which their members were, at the time of entry into force of this Regulation, required to deliver their entire harvest, cooperative wineries or groups may conclude one or more contracts or submit one or more declarations covering a quantity of table wine or wine suitable for yielding table wine which shall, in respect of those areas, not exceed :

— 13 hectolitres per hectare of vineyard cultivated for the production of table wine in the French part of wine-growing zone B and in wine-growing zones C I, C II and C III,

— 6 hectolitres per hectare in wine-growing zone A and in the German part of wine-growing zone B.

For the quantity of table wine or wine suitable for yielding table wine obtained during the 1985/86 wine year from areas in respect of which their members were not, at the time of entry into force of this Regulation, required to deliver their entire harvest, cooperative wineries or groups may conclude one or more contracts or submit one or more declarations covering a quantity of table wine or wine suitable for yielding table wine which shall not exceed :

— 26 % in the Greek part of wine-growing zone C III, and

— 13 % in the other wine-growing zones,

of that portion of the quantity of table wine produced by them during the wine year.

The quantity of wine delivered for distillation may not be less than 5 hectolitres.

3. The quantity of table wine produced to which the percentages referred to in the second and fourth subparagraphs of paragraph 2 apply shall, for each producer, be the sum of the quantities entered as wine in the table wine column of the production declartion which he has submitted in accordance with Regulation (EEC) No 2102/84 and the quantities obtained by him after the date of submission of the said declaration and set down in the records provided for in Article 14 of Regulation (EEC) No 1153/75.

4. 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, stating whether it is table wine or wine suitable for yielding table wine ;

(b) the name and address of the producer ;

(c) the place where the wine is stored ;

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

(e) the address of the distillery ;

(f) the type of table wine in the case of types A II, A III and R III.

5. Approval shall be conditional on observance of the conditions set out in Article 10a of Regulation (EEC) No 2102/84.

6. The intervention agency shall notify the producer of the results of the approval procedure not later than 15 February 1986.

Article 3

1. Distillation operations may not be carried out after 31 August 1986.

2. Only a product with an alcoholic strength of not less than 92 % vol may be obtained by the direct distillation of wines obtained from grapes of varieties classified for the same administrative unit as both wine grape varieties and varieties for the production of wine spirits.

Article 4

1. Without prejudice to the application of Article 14b of Regulation (EEC) No 337/79, the minimum purchase price referred to in Article 11 (2) of that Regulation shall be :

— 2,22 ECU per % vol per hectolitre for red table wines of types R I and R II,

— 3,30 ECU per % vol per hectolitre for red table wines of type R III,

— 2,06 ECU per % vol per hectolitre for white table wines of type A I and for wines suitable for yielding table wine,

— 4,62 ECU per % vol per hectolitre for white table wines of type A II,

— 5,27 ECU per % vol per hectolitre for white table wines of type A III.

2. The minimum purchase price referred to in paragraph 1 shall be paid by the distiller to the producer within three months of the date of reception at the distillery of each lot of wine delivered.

Article 5

1. The amount of the aid referred to in Article 11 (3) of Regulation (EEC) No 337/79 shall be as follows :

(a) where the product of the distillation corresponds to the definition of neutral spirits given in the Annex to Regulation (EEC) No 2179/83 :

— 1,72 ECU per % vol per hectolitre for products derived from red table wines of types R I and R II,

— 2,82 ECU per % vol per hectolitre for products derived from red table wines of type R III,

— 1,56 ECU per % vol per hectolitre for products derived from white table wines of type A I and from wines suitable for yielding table wine,

— 4,16 ECU per % vol per hectolitre for products derived from white table wines of type A II,

— 4,82 ECU per % vol per hectolitre for products derived from white table wines of type A III ;

(b) where the product of the distillation is a wine spirit having the quality characteristics provided for in the relevant national provisions :

— 1,61 ECU per % vol per hectolitre for products derived from red table wines of types R I and R II,

— 2,71 per % vol per hectolitre for products derived from red table wines of type R III,

— 1,45 ECU per % vol per hectolitre for products derived from white table wines of type A I and from wines suitable for yielding table wine,

— 4,05 ECU per % vol per hectolitre for products derived from white table wines of type A II,

— 4,71 ECU per % vol per hectolitre for products derived from white table wines of type A III ;

(c) where the product of the distillation is a distillate or raw alcohol, having an alcoholic strength of 52 % vol or more :

— 1,61 ECU per % vol per hectolitre for products derived from red table wines of types R I and R II,

— 2,71 ECU per % vol per hectolitre for products derived from red table wines of type R III,

— 1,45 ECU per % vol per hectolitre for products derived from white table wines of types A I and from wines suitable for yielding table wine,

— 4,05 ECU per % vol per hectolitre for products derived from white table wines of type A II,

— 4,71 ECU per % vol per hectolitre for products derived from white table wines of type A III.

2. The aid shall be calculated on the basis of the amount corresponding to the wine actually delivered, allowance being made for the tolerances referred to in Article 6 (2) of Regulation (EEC) No 2179/83.

Article 6

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

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

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

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

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

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

Article 7

Within four months of the date of submission of proof that the total quantity of wine covered by the contract has been distilled, the distiller shall be required to supply the intervention agency with proof that he has paid the minimum purchase price referred to in Article 4 (1) within the period referred to in Article 4 (2).

If such proof is not submitted within the period set, the aid shall be recovered by the intervention agency. However, if this proof is submitted after expiry of that period but not later than 28 February 1987 the intervention agency shall recover 20 % of the aid paid.

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

Article 8

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

2. Subject to Article 23 of Regulation (EEC) No 2179/83, the security referred to in the first paragraph shall be released only if proof that the total quantity of wine has been distilled and, where appropriate, proof of payment of the purchase price for the wine within the period set is provided before 1 November 1986.

If the proof referred to in the first subparagraph is provided after the deadline set in that subparagraph but before 1 February 1987, the amount to be released shall be 80 % of the security.

Article 9

1. In the case referred to in Article 26 of Regulation (EEC) No 2179/83, the contract or declaration relating to delivery for fortification shall be submitted for approval to the competent intervention agency not later than 15 January 1986.

The intervention agency shall inform the producer of the result of the approval procedure not later than 15 February 1986.

2. The wine may be fortified for distillation only after approval of the contract or declaration and not later than 31 July 1986.

3. Fortified wine may not be distilled after 31 August 1986.

4. The fortifier shall send to the intervention agency not later than the 10th of each month a statement of the quantities of wine which were delivered to him during the previous month.

5. For wine fortified for distillation, the fortifier shall receive an aid, calculated per hectolitre and per % vol actual alcoholic strength before fortification, of :

— 1,58 ECU for red table wines of type R I and R II,

— 2,66 ECU for red table wines of type R III,

— 1,42 ECU for white table wines of type A I and for wines suitable for yielding table wine,

— 3,98 ECU for white table wines of type A II,

— 4,63 ECU for white table wines of type A III.

To receive the aid, the fortifier must submit an application to the competent intervention agency not later than 28 June 1986, attaching copies of the accompanying documents relating to the transport of the wine for which the aid is applied for or a summary of those documents.

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

The aid shall be paid not later than 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 has been approved.

6. Subject to Article 23 of Regulation (EEC) No 2179/83, the security shall be released only if, before 1 December 1986, proof is furnished :

— that the total quantity of wine covered by the contract or declaraton has been fortified and distilled,

— that the purchase price of the wine has been paid to the producer within the period referred to in Article 4 (2),

in proportion to the quantities for which proof is furnished.

If the proof referred to in the first subparagraph is furnished after the date referred to in that subparagraph, but before 1 March 1987, the amount to be released shall be 80 % of the security.

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

Article 10

1. Member States shall notify the Commission :

— not later than 20 January 1986 of the quantities of wine and fortified wine covered by delivery contracts submitted for approval,

— not later than 25 February 1986 of the quantities of wine and fortified wine covered by approved delivery contracts.

2. Distillers shall send the intervention agency, not later than the 10th of each month, a statement of the quantities of wine distilled during the previous month, itemized according to the categories referred to 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 of each month for the previous month, of the quantities, broken down by colour, of wine and fortified wine distilled and the quantities, expressed in pure alcohol, of products obtained, distinguishing between the latter in accordance with paragraph 2.

4. Member States shall report to the Commission, not later than 30 September 1986, any cases in which the distiller or fortifier has failed to meet his obligations and the measures taken in consequence.

Article 11

The amounts referred to in this Regulation shall be converted into national currency at the representative rates applying in the wine sector on 1 September 1985.

Article 12

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

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

Done at Brussels, 16 September 1985.

For the Commission

Frans ANDRIESSEN

Vice-President