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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 3307/85

of 18 November 1985

amending Regulation (EEC) No 337/79 on the common organization of the market in wine

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas taking into account the progress made in wine technology and in a wish to strengthen, in the interests of the consumer, requirements for the use of certain oenological practices, it has proved necessary to make various adaptations to Council Regulation (EEC) No 337/79 (4), as last amended by Regulation (EEC) No 798/85 (5);

Whereas, in order not to penalize economically producers growing varieties which are authorized temporarily, the time limit for eliminating these varieties should be changed;

Whereas experience shows that in certain zones of production the acidification of wine is often a necessity; whereas therefore such acidification should be authorized subject to certain conditions; whereas moreover, as additional acidification pursuant to Article 34 (2) of Regulation (EEC) No 337/79 has to be carried out rapidly during the harvest, responsibility for the decision to have recourse to it should be transferred to the Member States, subject to the relevant conditions; whereas it is moreover appropriate to permit, on the one hand, deacidification of wines in order to correct the acidity level if the deacidification of products upstream of wine has proved to be insufficient and, on the other hand, acidification of wine to a greater extent in order to give the winemaker more flexibility;

Whereas, with the aim of facilitating the checking of the observance of Community provisions with respect to oenological practices, authorization should be given for enriching products in the wine sector with a view to producing a beverage intended for direct human consumption, only in the winegrowing zone where the fresh grapes used were harvested; whereas, for the same reasons, the concentration of table wine should be restricted to the wine growing zone where the fresh grapes used were harvested; whereas amendments concerning acidification and deacidification require an adaptation to the rules laying down the time limits for carrying out these operations; whereas the producers' obligations should also be stipulated with respect to entries in the documents accompanying the transport;

Whereas technical developments in the treatment of lees have enabled certain problems of cellarage techniques to be resolved and the provision of conditions responding better to helath requirements; whereas these new techniques may be authorized; whereas, however, these techniques may not be applied in a manner incompatible with striving to obtain a product of suitable quality, to the extent that, in any case compulsory distillation under Article 39 of Regulation (EEC) No 337/79 concerns only a very small volume, and this ensures that the measure will have the intended effect;

Whereas the maximum sulphur dioxide levels for wines intended for direct human consumption other than sparkling and liqueur wines were fixed by Article 44 of Regulation (EEC) No 337/79;

Whereas, pursuant to the abovementioned Article, the Council asked the Commission to draw up a report on scientific knowledge and technological development in respect of the use of sulphur dioxide in oenology;

Whereas this report shows that a reduction in the said maximum levels is compatible with present-day oenological knowledge and technological progress in respect of the majority of wine types; whereas, it is moreover desirable to limit the use of all food additives to the minimum necessary; whereas a reduction in maximum total sulphur dioxide levels of 15 milligrams per litre should therefore be introduced for

(1) OJ No C 206, 14. 8. 1981, p. 4; OJ No C 18, 23. 1. 1982, p. 4; OJ No C 62, 5. 3. 1984, p. 29.
(2) OJ No C 327, 14. 12. 1981, p. 114; OJ No C 104, 16. 4. 1984, p. 96.
(3) OJ No C 310, 30. 11. 1981, p. 9; OJ No C 103, 16. 4. 1984, p. 21.
(4) OJ No L 54, 5. 3. 1979, p. 1.
(5) OJ No L 89, 29. 3. 1985, p. 1.

all wines with the exception of certain wines with special characteristics and of sparkling wines, the latter products being subject to corresponding measures under Regulation (EEC) No 3310/85 [1];

Whereas Article 51 of Regulation (EEC) No 337/79 lays down the principle that products which have undergone oenological practices not allowed in the Community may not be offered or disposed of for direct human consumption;

Whereas systematic exclusion from disposal for consumption is justified only in cases where the quality of the wine is in jeopardy or where the consumer's health is a risk; whereas provision should, however, be made for the adoption of appropriate measures in other cases;

Whereas after a period of rapid change in technology and in methods of analysis, enough is now known about rectified concentrated must for it to be defined more closely; whereas, in addition, provision should be made for the possibility for the Council, acting on a proposal from the Commission by a qualified majority, to amend, if necessary, the definition of the product in question on the basis of the development of the abovementioned knowledge;

Whereas in order to ensure the development of consumption of semisparkling wines and aerated semi-sparkling wines in new forms of distribution, marketing of those wines should be authorized in containers holding not more than 60 litres.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 337/79 shall be amended as follows:

1. Article 1 (4) (c) shall be replaced by the following:

'(c) Definitions of the products set out in the second indent of (b) originating in third countries, with the exception of table wine and wine suitable for yielding table wine and any amendment to the definition of rectified concentrated grape must referred to in Annex II point 5a, shall be adopted by the Council, acting by a qualified majority on a proposal from the Commission.'

2. Article 31 (3) (b) shall be replaced by the following:

'(b) vine varieties classified as temporarily authorized after 31 December 1976, must be completed within twenty five years from the date on which the variety was thus classified.';

3. Article 34 shall be replaced by the following:

'Article 34

1. Fresh grapes, grape must, grape must in fermentation, new wine still in fermentation and wine may be subject to:

— partial deacidification in wine-growing zones A, B, C I (a) and C I (b);

— acidification and deacidification in wine-growing zones C II and C III (a), without prejudice to the provisions of paragraph 3;

— acidification in wine-growing zone C III (b).

Acidification of products other than the wine referred to in the first subparagraph may only be carried out up to a limit of 1,50 g/l expressed in tartaric acid, or 20 milliequivalents per litre.

Acidification of wines may only be carried out up to a limit of 2,50 g/l expressed in tartaric acid, or 33,3 millieuquivalents per litre.

Deacidification of wines may only be carried out up to a limit of 1 g/l expressed in tartaric acid, or 13,3 milliequivalents per litre.

Moreover, grape must intended for concentration may be the subject of partial deacidification.

2. In years when climatic conditions have been exceptional, Member States may authorize acidification of the products referred to in paragraph 1 in wine-growing zones C I (a) and C I (b), under the conditions referred to in paragraph 1 as regards zones C II, C III (a) and C III (b);

3. Acidification and enrichment, except by way of derogation to be decided case by case, and acidification and deacidification of one and the same product shall be mutually exclusive processes.

4. The derogations referred to in paragraph 3 and other detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 67.';

4. Article 36 shall be amended as follows:

(a) the first subparagraph shall be replaced by the following:

'1. None of the processes referred to in Articles 33 and 34, with the exception of the acidification and deacidification of wines, shall be authorized unless carried out as a single operation at the time when the fresh grapes, grape must, partially fermented grape must or new wine still in fermentation are being turned into wine suitable for yielding table wine, into table wine, or into any other beverage intended for direct human consumption referred to in Article 1 (2) other than sparkling wine or aerated sparkling wine, in the wine-growing zone where the fresh grapes used were harvested.

[1] See page 19 of this Official Journal.

The same shall apply to the concentration, acidification and deacidification of wine suitable for yielding table wines.

The concentration of table wines must take place in the wine-growing zone where the fresh grapes used were harvested.

Acidification and deacidification of wines may take place only in the wine making undertaking and in the wine-growing zone where the grapes used to produce the wine in question were harvested.

Each of the processes referred to in the first subparagraph must be notified to the competent authorities. The same shall apply in respect of the quantities of sucrose or concentrated grape must or rectified concentrated grape must held in the exercise of their profession by natural or legal persons or groups of persons, in particular producers, bottlers, processors and merchants to be determined, at the same time and in the same place as fresh grapes, grape must, grape must in fermentation or wine in bulk. The notification of these quantities may, however, be replaced by entry in a goods inwards and stock utilization register.

Each of the processes referred to in Article 34 must be recorded on the document referred to in Article 53 under cover of which the products having undergone the processes are put into circulation.';

(b) Paragraph 2 shall be replaced by the following:

'2. Those processes may, subject to derogation justified by exceptional climatic conditions, only be carried out:

— before 1 January, in wine-growing zones C,

— before 16 March, in wine-growing zones A and B,

and only for products of the wine harvest immediately preceding those dates.

However, concentration by cooling and acidification and deacidification of wines may be practised throughout the year,';

5. Article 39 shall be amended as follows:

(a) in paragraph 1, the following subparagraph shall be inserted after the first subparagraph:

'Filtering and centrifuging of wine lees shall not be considered as pressing where, firstly, the products obtained are of sound, genuine and merchantable quality and, secondly, the lees are not reduced to the dry state.';

(b) in paragraph 2 the first and second subparagraphs shall be replaced by the following:

'2. Any natural or legal person or group of persons, with the exception of the persons and groups referred to in paragraph 4, having made wine shall be required to deliver for distillation all the by-products of the winemaking and, if necessary, wine from his or their own production.

The quantity of alcohol contained in the products delivered for distillation shall be at least equal to a percentage to be determined of the volume of alcohol contained in the wine produced. The assessment of that volume shall be made on the basis of a standard natural minimum alcoholic strength by volume laid down for each wine-growing year in each wine-growing zone.';

(c) the following shall be added to paragraph 3:

'Grape marc and wine lees delivered for distillation must meet certain minimum standards to be determined. Where the standards are not met, the marc and lees shall, by way of derogation from the first subparagraph, be disposed of by delivery to a processing establishment other than a distillery or by destruction under supervision.';

(d) paragraph 8 shall be replaced by the following:

'8. The amount of aid, the prices and the proportion of expenditure referred to in paragraph 7 shall be fixed in accordance with the procedure laid down in Article 67.

Detailed rules for the application of this Article, the standard natural alcoholic strength by volume referred to in paragraph 2 and the minimum standards to be met by marc and lees referred to in paragraph 3 shall be adopted in accordance with the same procedure.';

6. Article 44 shall be amended as follows:

(a) Paragraph 1 (a) and (b) shall be replaced by the following:

'(a) 160 milligrams per litre for red wines;

(b) 210 milligrams per litre for white and rosé wines';

(b) Paragraph 2 (a) shall be replaced by the following:

'(a) 210 milligrams per litre for red wines; 260 milligrams per litre for white and rosé wines;';

(c) In paragraph 4, the figure 25 shall be replaced by the figure 40;

(d) Paragraph 5 shall be replaced by the following:

'5. The Commission shall submit to the Council before 1 April 1990, in the light of the experience acquired, a report on the maximum sulphur dioxide levels in wine, accompanied, where appropriate, by proposals on which the Council shall act by a qualified majority before 1 September 1990.';

(e) Paragraph 6 shall be replaced by the following:

'6. Detailed rules for the application of this Article, the decision referred to in paragraph 4, and transitional measures concerning wines originating in the Community produced before 1 September 1986 and imported wines shall be adopted in accordance with the procedure laid down in Article 67.';

7. Article 46 shall be amended as follows:

(a) Paragraph 3 shall be replaced by the following:

'3. The use of calcium tartrate or tartaric acid is referred to in Annex III (1) (m) and (2) (l) for deacidification purposes shall be permitted until 31 August 1990 and, with regard to tartaric acid, solely in the case of products:

— made from vine varieties which yield relatively acidic grapes,

and

— made from grapes harvested in certain wine-growing regions, to be defined, in the northern part of wine-growing zone A.

The use of Aleppo pine resin referred to in Annex III (1) (n) shall be allowed only for the purpose of obtaining a 'retsina' table wine. This oenological practice may be carried out only:

— in the geographical territory of the Hellenic Republic,

— on a grape must produced from grapes for which the varieties, the production area and the wine-making area have been determined by the Greek provisions in force on 31 December 1980,

— by adding a quantity of resin equal to or less than 1 000 grams per hectolitre of the product used,

— before fermentation or, provided that the actual alcoholic strength by volume does not exceed one-third of the total alcoholic strength by volume, during fermentation.

If the Hellenic Republic intends to amend, after 31 December 1980, provisions referred to in the second subparagraph, second indent, it shall inform the Commission accordingly. In this case it may be decided, in accordance with the procedure referred to in Article 67, to change that date.

In the case of the treatments referred to in paragraph 2 (p) of Annex III, Member States may decide that calcium phitate is to be used instead of potassium ferrocyanide in all red wines produced in their territory.

The use of sodium alginate referred to in Annex III (2) (t) for the manufacture of certain sparkling wines shall be permitted until 31 August 1990.

Member States may authorize the use, as referred to in point 2 (x) of Annex III, of copper sulphate for the purpose of eliminating defects in the taste or smell of wine in production regions where copper sulphate has not been used for the treatment of the vines.

The use of silver chloride and copper sulphate for one and the same wine shall be prohibited.';

(b) the following indent shall be inserted in paragraph 6 after the first indent:

'— the conditions under which Member States may permit in respect of wine produced on their territory the use, until a date to be fixed, of malic acid for acidification purposes,';

8. Article 49 (2) (b) shall be replaced by the following:

'(b) where the variety in question has been classified as temporarily authorized after 31 December 1976, for a period of twenty-five years from the date on which the variety was so classified.';

9. Article 51 shall be amended as follows:

(a) the first subparagraph of paragraph 1 shall be replaced by the following:

'1. Unless otherwise decided by the Council acting by qualified majority on a proposal from the Commission, products falling within headings 22.04 and 22.05 of the Common Customs Tariff, whether imported or not, which have undergone oenological practices not allowed by Community rules or, where such rules do not exist, by national rules, may not be offered or disposed of for direct human consumption.';

(b) the following subparagraph shall be added to paragraph 2:

'The conditions under which Member States may authorize the holding, circulation and use of products not complying with the provisions of this Regulation, other than those referred to in the first subparagraph of paragraph 1, or with provisions adopted pursuant to this Regulation, shall be adopted in accordance with the same procedure.';

10. Annex II shall be amended as follows:

(a) Point 5a shall be replaced by the following:

'5a. Rectified concentrated grape must, the liquid uncaramelized product which:

— is obtained by partial dehydration of grape must carried out by any authorized method other than direct heat in such a way that the figure indicated by a refractometer (used in accordance with

the method prescribed in Annex III to Regulation (EEC) No 516/77) at a temperature of 20° C is not less than 70,5 %; Member States may, however, allow a different figure for products used within their territory, provided it is not lower than 51,9 %;

— has undergone authorized treatment for deacidification and elimination of constituents other than sugar;

— has the following characteristics:

  — a pH of not more than 5,

  — an optical density at 425 nm for a thickness of 1 cm of not more than 0,100,

  — a sucrose content undetectable by a method of analysis to be definied,

  — an ethanol content of not more than 0,5 g/kg of total sugars,

  — a total nitrogen content of not more than 100 mg/kg of total sugars,

  — a Folin-Ciocalteau index of not more than 400,

  — a titratable acidity of not more than 10 milliequivalents/kg of total sugars,

  — a sulphur dioxide content of not more than 25 mg/kg of total sugars,

  — a sulphate content of not more than 2 milliequivalents/kg of total sugars,

  — a chloride content of not more than 1 milliequivalents/kg of total sugars,

  — a phosphate content of not more than 1 milliequivalent/kg of total sugars,

  — a total cation content of not more than 8 milliequivalents/kg of total sugars,

  — a conductivity at 25° Brix and 20° C of not more than 50μS/cm,

  — a hydroxymethylfurfural content of not more than 25 mg/kg of total sugars,

— is derived exclusively from the vine varieties referred to in Article 49,

— is produced within the Community,

— is obtained from grape must having at least the minimum natural alcoholic strength by volume laid down for the wine-growing zone in which the grapes were harvested.

An actual alcoholic strength of the concentrated rectified grape must of not more than 1 % vol shall be permissible.';

(b) in points 15 and 16, the last indent shall be replaced by the following:

'— is put up in containers of not more than 60 litres.';

(c) Point 18 shall be replaced by the following:

'18. Wine lees: the residue accumulating in vessels containing wine after fermentation, during storage or after authorized processing, and the residue obtained from filtering or centrifuging this product.

The following shall also be considered as wine lees:

— the residue accumulating in vessels containing grape must during storage or after authorized processing;

— the residue obtained from filtering or centrifuging this product.';

(d) Point 19 shall be replaced by the following:

'19. Grape marc: the residue from the pressing of fresh grapes, whether or not fermented.';

(e) In point 21 the maximum volatile acidity of 2,40 g/l shall be replaced by 1,50 g/l;

11. Annex III shall be amended as follows:

(a) Points 1 (d) and 2 (e) shall be replaced by the following, preceded by '(d)' and '(e)' respectively:

'use of carbon dioxide, or argon or nitrogen either alone or combined, in order solely to create an inert atmosphere and to treat the product shielded from the air;';

(b) Point 1 (f) shall be replaced by the following:

'(f) use of one or more of the following practices to encourage the growth of yeasts:

  — addition of:

    — diammonium phosphate or ammonium sulphate up to 0,3 g/l;

    — ammonium sulphite or ammonium bisulphite up to 0,2 g/l;

  These products may also be used together up to a total of 0,3 g/l, without prejudice to the abovementioned limit of 0,2 g/l;

  — addition of thiamin hydrochloride up to 0,6 mg/l expressed as thiamin;';

(c) in point 1 (j) and point 2 (m) the words in brackets in the fourth indent shall be deleted;

(d) Points 1 (m) and 2 (l) shall be replaced by the following, preceded by '(m)' and '(l)' respectively:

'use of one or more of the following substances for deacidification purposes under the conditions laid down in Articles 34 and 36:

— neutral potassium tartrate,

— potassium bicarbonate,

— calcium carbonate, which may contain small quantities of the double calcium salt of L(+) tartaric and L(−) malic acids,

— calcium tartrate or tartaric acid, under the conditions laid down in the first subparagraph of Article 46 (3);';

(e) Point 2 (b) shall be replaced by the following:

'(b) aeration or bubbling using argon or nitrogen;';

(f) Point 2 (k) shall be replaced by the following:

'(k) the use for acidification purposes under the conditions referred to in Articles 34 and 36:

— of tartaric acid,

or

— of malic acid under the conditions adopted pursuant to the second indent of Article 46 (6);';

(g) The following point 2 (t) shall be inserted:

'(t) use, for the manufacture of sparkling wines obtained by fermentation in bottle and with the lees separated by disgorging:

— of calcium alginate,

or

— of potassium alginate,

or

— of sodium alginate under the conditions laid down in the fifth subparagraph of Article 46 (3);';

(h) Point 2 (u) shall be deleted.

Article 2

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

It shall apply with effect from 1 September 1986, with the exception of:

— points 3, 4, 7 and 11 of Article 1, which shall apply with effect from 1 September 1985.

— point 10 (a) of Article 1 which shall apply from 1 September 1987.

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

Done at Brussels, 18 November 1985.

For the Council

The President

M. FISCHBACH