COMMISSION REGULATION (EEC) No 3253/86

of 27 October 1986

amending Regulation (EEC) No 3024/86 laying down, for the 1986/87 wine year, detailed implementing rules for distillation as 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 3805/85 [2], and in particular Article 11 (5) thereof,

Whereas the second subparagraph of Article 2 (2) of Commission Regulation (EEC) No 3024/86 [3] provides that Member States may approve the delivery contracts or declarations of a producer before the latter has submitted evidence that he fulfilled his obligations during the previous wine year on condition that the said producer lodges a security; whereas certain producers, in particular those operating on a very small scale, encounter serious difficulties in lodging the security required and may in this way be excluded from the preventive distillation operation; whereas the requirement that a security be lodged should therefore be eliminated and provisions introduced whereby producers can gain access to the measure before being in possession of the aforesaid evidence whilst ensuring that producers who have not fulfilled their obligations are excluded from the measure; whereas, however, where a production declaration is not submitted, the requirement that a security be lodged should be maintained in order to prevent incorrect application of the measure;

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

Regulation (EEC) No 3024/86 is hereby amended as follows:

1. Article 1 is replaced by the following:

'*Article 1*

1. Where a preventive distillation operation for table wine and wine suitable for yielding table wine as provided for in Article 11 of Regulation (EEC) No 337/79 is opened, it shall be carried out in accordance with the provisions of this Regulation.

2. In accordance with Article 6 (1) of Regulation (EEC) No 337/79, producers who, during the 1985/86 wine year, were subject to the obligations laid down in Article 39, 40 or 41 of Regulation (EEC) No 337/79 shall be eligible for the measures provided for in this Regulation only if they submit evidence that they have fulfilled their obligations during the reference periods fixed in Article 16 of Commission Regulation (EEC) No 2260/85 [1], Article 13 of Commission Regulation (EEC) No 2261/85 [2], and Article 22 of Regulation (EEC) No 854/86 [3].

However, Member States may authorize the approval of the delivery contracts or declarations referred to in Article 2:

— before the producer has submitted the evidence referred to in the first subparagraph on condition that such delivery contracts or declarations include a declaration by the producer certifying that he has fulfilled the obligations referred to in the first subparagraph or that he is in the situation referred to in Article 11 (2) of Regulation (EEC) No 2179/83 and undertakes to deliver the residual quantity necessary to complete the obligation within the period fixed by the competent national authority,

— before the producer has submitted the production declaration provided for in Regulation (EEC) No 2102/84 on condition that the producer in question lodges a security of an amount equal to 80 % of the minimum purchase price for the type of wine to be distilled referred to in Article 5. The security shall be released immediately after verification of the accuracy of the production declaration and of compliance with the maximum quantities of wine eligible for the distillation operation referred to in paragraph 1. Failing this, the security shall be forfeited in whole or in part. Verification must take place not later than 60 days after submission of the production declaration by the producer in question.

[1] OJ No L 211, 8. 8. 1985, p. 12.
[2] OJ No L 211, 8. 8. 1985, p. 18.
[3] OJ No L 80, 23. 5. 1986, p. 14.'

2. In Article 2 (1), 'Where the decision referred to in Article 11 (1) of Regulation (EEC) No 337/79 is taken' is replaced by 'For the purposes of this Regulation:'.

3. In Article 2 (2), the text following the first sentence is deleted.

[1] OJ No L 54, 5. 3. 1979, p. 1.
[2] OJ No L 367, 31. 12. 1985, p. 39.
[3] OJ No L 281, 2. 10. 1986, p. 8.

4. The first paragraph of Article 8 is replaced by the following:

'Distillers who have not applied for the advance referred to in Article 9 (1) of Regulation (EEC) No 2179/83 shall, where appropriate, be required to furnish to the intervention agency within a period of four months following the date of arrival of the wine at the distillery evidence that they have paid the producer the purchase price for the wine within the period laid down in Article 5 (2).'

5. The following Article 8a is inserted:

'Article 8a

In the case referred to in the first indent of the second subparagraph of Article 1 (2):

— the evidence referred to in Article 1 (2) shall be submitted before 1 June 1987,

— evidence that the wine has been distilled cannot be submitted by the distiller before the evidence referred to in Article 1 (2),

— payment of the purchase price referred to in Article 5 (1) shall take place within a period of one month following submission of the evidence referred to in Article 1 (2) to the authority competent for approving the contract except where the period remaining for the execution of the aforesaid provision is longer.'

6. Article 9 (2) is replaced by the following:

'2. Subject to the terms of Article 23 of Regulation (EEC) No 2179/83, the security referred to in paragraph 1 shall be released only if evidence that the total quantity of wine has been distilled and, where appropriate, evidence that the purchase price for the wine has been paid within the period laid down is submitted not later than the end of the fifth month following the final date for distillation operations referred to in Article 4 (4). Where such evidence is not furnished within the period laid down but within the following two months and where such delay is not the result of serious negligence on the part of the distiller, the intervention agency shall release 80 % of the security'.

Article 2

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, 27 October 1986.

For the Commission

Frans ANDRIESSEN

Vice-President