COMMISSION REGULATION (EEC) No 2544/87

of 21 August 1987

laying down, for the 1987/88 wine year, detailed implementing rules for distillation as provided for in Article 38 of Regulation (EEC) No 822/87

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal,

Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organization of the market in wine (1), as last amended by Regulation (EEC) No 1972/87 (2), and in particular Articles 47 (3), 38 (5) and 81 thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy (3), as last amended by Regulation (EEC) No 1636/87 (4),

Having regard to Council Regulation (EEC) No 1678/85 of 11 June 1985 fixing the conversion rates to be applied in agriculture (5), as last amended by Regulation (EEC) No 1953/87 (6),

Whereas Article 38 (1) of Regulation (EEC) No 822/87 provides that preventive distillation of table wine and wine suitable for yielding table wine may be decided whenever such a measure seems necessary in the light of harvest forecasts or in order to improve the quality of products placed on the market;

Whereas Article 47 of Regulation (EEC) No 822/87 lays down that only those producers who have fulfilled their obligations under Article 35 and, where appropriate, Articles 36 and 39 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 such measures should enable market conditions to be improved without the quantities compatible with sound market management being exceeded; whereas, to that end, provision should be made to limit the maximum quantitiy of table wine which may be distilled by each producer according to the area cultivated for 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 cultivated for 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, provision should be made for the quantity eligible for distillation to be limited to a percentage of the quantity of table wine produced during the 1987/88 wine year; whereas that 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 taking into account the average yield per hectare recorded; whereas the yield in the Greek parts of zone C III and in the Spanish parts of the wine-growing zones is considerably below that recorded in the rest of the Community so that a different percentage should be set for those parts of the zones;

Whereas the quantity of table wine produced to which that 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 (7), as last amended by Regulation (EEC) No 2528/87 (8), 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 (9), as last amended by Regulation (EEC) No 418/86 (10);

Whereas, in certain cases, evidence of having fulfilled the obligations provided for in Article 39 and, where appropriate, in Articles 40 and 41 of Regulation (EEC) No 822/87 may only be provided at the date subsequent to the triggering of the measure; whereas Article 4 (2) 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 (11), as last amended by Regulation (EEC) No 3805/85 (12), provides that the producer may not deliver contract or declaration

(1) OJ No L 84, 27. 3. 1987, p. 1.
(2) OJ No L 184, 3. 7. 1987, p. 26.
(3) OJ No L 164, 24. 6. 1985, p. 9.
(4) OJ No L 153, 13. 6. 1987, p. 1.
(5) OJ No L 164, 24. 6. 1985, p. 11.
(6) OJ No L 185, 4. 7. 1987, p. 68.
(7) OJ No L 194, 24. 7. 1984, p. 1.
(8) OJ No L 240, 22. 8. 1987, p. 11.
(9) OJ No L 113, 1. 5. 1975, p. 8.
(10) OJ No L 48, 26. 2. 1986, p. 8.
(11) OJ No L 212, 3. 8. 1983, p. 1.
(12) OJ No L 367, 31. 12. 1985, p. 39.

has been approved by the intervention agency; whereas, in accordance with Article 10a of Regulation (EEC) No 2102/84, such approval is subject to presentation of the production declaration; whereas production declarations may be made up to 15 December in the Federal Republic of Germany and up to 30 November in the other Member States; whereas those provisions are likely to hold up distillation operations; whereas, therefore, provision should be made to allow the Member States to authorize approval of contracts at an earlier date provided that a system is introduced to enable, where necessary, producers to be penalized for not complying with the above-mentioned provisions and those of this Regulation, and in particular Article 2 (1) thereof;

Whereas preventive distillation must be carried out in accordance with the provisions of Regulation (EEC) No 2179/83; whereas, in addition, attention should be drawn in the event of such distillation to the consequences provided for in Regulation (EEC) No 2102/84 for failure to submit a declaration or the submission of incomplete or inaccurate declarations;

Whereas it should be specified that delivery contracts and declarations must contain in particular the information required to identify the wines to which they relate;

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

Whereas, for wine obtained from grapes produced in Spain, a price must be fixed taking account of the level of guide prices in that Member State;

Whereas the price of wine for distillation normally does not permit the sale of the products of distillation to 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 of prices on the market for distillation products, is therefore needed; whereas in Spain the level of purchase prices for wine differs from that fixed in the Community as constituted on 31 December 1985; whereas the amounts of the aid applicable in Spain should consequently be fixed at a level taking account of the difference between the prices;

Whereas Article 38 of Regulation (EEC) No 822/87 provides for the opening of distillation for 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 types of 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 Spanish red-white coupage wine and in the interests of clarity, it should be made clear that rosé table wines are to be treated in the same way as red table wines and that Spanish coupage wines are to be treated in the same way as white table wines of types AI on account of the close economic relationship existing 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 that end, pursuant to Article 3 (2) of Regulation (EEC) No 2179/83, provision should be made that products obtained from the direct distillation of 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 time limit enabling them to obtain a profit comparable to that which they would have obtained from a commercial sale; whereas, in those circumstances, it is essential to pay the aid due to them for the distillation in question at the earliest opportunity, while ensuring that operations are correctly carried out by means of an appropriate system of securities;

Whereas, to qualify for the aid, parties concerned must submit an application together with certain supporting documents; whereas, to ensure uniform operation of the system in the Member States, provision should be made for time limits for the submission of the application and for the payment of the aid due to the distiller and for the presentation of evidence of payment of the purchase price;

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 esential to know the quantities of wine likely to be the subject of preventive distillation; whereas provision should therefore be made for the Commission to be supplied with information about such 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 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. Where a preventive distillation operation for table wine and wine suitable for yielding table wine as provided for in Article 38 of Regulation (EEC) No 822/87 is opened, it shall be carried out in accordance with the provisions of this Regulation.

2. In accordance with Article 47 (1) of Regulation (EEC) No 822/87, producers who, during the 1986/87 wine year, were subject to the obligations laid down in Article 35, 36 or 39 of Regulation (EEC) No 822/87, 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 2672/86 (1), Article 13 of Commission Regulation (EEC) No 2705/86 (2), and Article 22 of Commission 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.

Article 2

1. For the purposes of this Regulation :

(a) producers who have obtained table wine during the 1987/88 wine year by processing in full the grapes intended for the production of table wine which they harvested on their own holdings may send for distillation a quantity of table wine or wine suitable for yielding table wine not exceeding the quantities to be determined 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 CI, CII and CIII or per hectare of vineyard cultivated in wine-growing zone A and the German part of wine-growing zone B ;

(b) producers who have obtained table wine during the 1987/88 wine year by processing purchased products or by processing part of the grapes intended for the production of table wine which they harvested on their own holdings, and cooperative wineries, and groups, may send for distillation a quantity of table wine or wine suitable for yielding table wine not exceeding percentages to be determined of the quantity of table wine which they produced during the wine year in the Greek part of wine-growing zone CIII in the Spanish part of the other wine-growing zone or in the other wine-growing zones.

(c) however, for the quantity of table wine or wine suitable for yielding table wine produced in 1987/88 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 send for distillation a quantity of table wine or wine suitable for yielding table wine not exceeding, in respect of those areas, quantities to be determined per hectare of the area of vineyard cultivated for the production of table wine in the French part of wine-growing zone B and in the wine-growing zones CI, CII and CIII or per hectare of vineyard cultivated in wine-growing zone A and in the German part of wine-growing zone B ;

(d) for the quantity of table wine or wine suitable for yielding table wine obtained during the 1987/88 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 send for distillation a quantity of table wine not exceeding percentages to be laid down of the portion of the quantity of table wine produced by them during the wine year in the Greek part of wine-growing zone CIII, in the Spanish part of the wine-growing zones or in the other wine-growing zones ;

(e) the quantity of wine delivered for distillation may not be less than five hectolitres.

Producers who intend to send wine for distillation may conclude one or more delivery contracts or submit one or more declarations.

2. The quantity of table wine produced to which the percentages referred to in paragraph 1 (b) and (d) apply shall for each producer, be the sum of the quantities entered as wine in the table wine column of the production declaration which he has submitted in accordance with Regulation (EEC) No 2102/84 where he is so required 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.

Approval of the delivery contracts or declarations referred to in paragraph 1 shall be authorized before the producer has submitted the production declaration provided for by Regulation (EEC) No 2102/84 on the condition that :

(1) OJ No L 244, 29. 8. 1986, p. 8.
(2) OJ No L 246, 30. 8. 1986, p. 61.
(3) OJ No L 80, 25. 3. 1986, p. 14.

— the total quantities set out in the contract or declaration do not exceed those resulting from the application of the percentages referred to in paragraph 1 to the quantities of table wine obtained by the producer since the start of the 1987/88 wine year and set down in the records provided for in Article 14 of Regulation (EEC) No 1153/75;

— payment of the aid to the distiller or the release of the security shall be subject to the submission by the producer of the production declaration provided for in Regulation (EEC) No 2102/84.

Article 3

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 15 January 1988 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, 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.

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

4. The intervention agency shall notify the producer of the outcome of the approval procedure by 15 February 1988 at the latest.

Article 4

1. Distillation operations may not be carried out after 31 August 1988.

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

Article 5

1. Without prejudice to the application of Article 44 of Regulation (EEC) No 822/87, the minimum purchase price referred to in Article 38 (2) of that Regulation shall be:

— 2,18 ECU per % vol per hectolitre for red table wines of types R I and R II,

— 3,23 ECU per % vol per hectolitre for red table wines of type R III,

— 2,02 ECU per % vol per hectolitre for white table wines of type A I and for wines suitable for yielding table wine,

— 4,52 ECU per % vol per hectolitre for white table wines of type A II,

— 5,17 ECU per % vol per hectolitre for white table wines of type A III.

Those prices shall be 1,48, 2,20, 1,37, 3,07, 3,52 ECU respectively per % vol per hectolitre for wines obtained from grapes produced in Spain.

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 6

1. The amount of the aid referred to in Article 38 (3) of Regulation (EEC) No 822/87 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:

— 1,68 ECU per % vol per hectolitre for products derived from red table wines of types R I and R II,

— 2,75 ECU per % vol per hectolitre for products derived from red table wines of type R III,

— 1,52 ECU per % vol per hectolitre for products derived from white table wines of type A I and from wines suitable for yielding table wine,

— 4,06 ECU per % vol per hectolitre for products derived from white table wines of type A II,

— 4,72 ECU per % vol per hectolitre for products derived from white table wines of type A III.

For neutral spirits obtained from wines as referred to in the second subparagraph of Article 5 (1), the amount of the aid shall be 0,97, 1,70, 0,86, 2,59 and 3,04 respectively per % vol per hectolitre;

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

— 1,57 ECU per % vol per hectolitre for products derived from red table wines of types R I and R II,

— 2,64 ECU per % vol per hectolitre for products derived from red table wines of type R III,

— 1,41 ECU per % vol per hectolitre for products derived from white table wines of type A I and from wines suitable for yielding table wine,

— 3,95 ECU per % vol per hectolitre for products derived from white table wines of type A II,

— 4,61 ECU per % vol per hectolitre for products derived from white table wines of type A III.

For potable spirits obtained from wines as referred to in the second subparagraph of Article 5 (1), the amounts of the aid shall be 0,86, 1,59, 0,75, 2,48 and 2,93 ECU respectively per % vol per hectolitre;

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

— 1,57 ECU per % vol per hectolitre for products derived from red table wines of types R I and R II,

— 2,64 ECU per % vol per hectolitre for products derived from red table wines of type R III,

— 1,41 ECU per % vol per hectolitre for products derived from white table wines of type A I and from wines suitable for yielding table wine,

— 3,95 ECU per % vol per hectolitre for products derived from white table wines of type A II,

— 4,61 ECU per % vol per hectolitre for products derived from white table wines of type A III.

For distillates or raw alcohol with an alcoholic strength of 52 % vol or more obtained from wines as referred to in the second subparagraph of Article 5 (1), the amounts of the aid shall be 0,86, 1,59, 0,75, 2,48 and 2,93 ECU respectively per % vol per hectolitre.

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 7

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 % which are not of type R III.

3. In Spain, a producer may deliver for distillation the product obtained, in accordance with Article 125 (1) of the Act of Accession, from the coupage of a wine suitable for yielding white table wine or with a white table wine from his own production with a wine suitable for yielding red table wine or with a red table wine from his own production. To that end it shall be treated in the same way as a white table wine of type A I.

Article 8

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).

If this evidence is furnished within the two months following the imposed period and the delay is not due to serious neglect of the distillers, the intervention agency shall either pay the amount minus 20 % or recover 20 % of the aid already paid. Once the second period has expired, the intervention agency shall either pay no further aid or recover the aid already paid in full.

It 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 1989, an amount equal to the aid, where appropriate through the intervention agency of the producer's Member State.

Article 9

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 1988,

— 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.

Article 10

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 evidence that the security has been lodged.

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 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 11

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 by 15 January 1988 at the latest.

The intervention agency shall inform the producer of the outcome of the approval procedure by 15 February 1988 at the latest.

2. The wine may be fortified for distillation only after approval of the contract or declaration and not later than 31 July 1988.

3. Fortified wine may not be distilled after 31 August 1988.

4. The fortifier shall send to the intervention agency not later than the 10th of each month a statement of the quantites 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 :

— 1,54 ECU for red table wines of type R I and R II,

— 2,59 ECU for red table wines of type R III,

— 1,38 ECU for white table wines of type A I and for wines suitable for yielding table wine,

— 3,88 ECU for white table wines of type A II,

— 4,53 ECU for white table wines of the type A III.

For wine fortified for distillation obtained from wines as referred to in the second subparagraph of Article 5 (1), the amounts of the aid shall be 0,84, 1,56, 0,73, 2,43 and 2,88 ECU respectively per % vol per hectolitre.

To receive the aid, the fortifier must submit an application to the competent intervention agency by 28 June 1988 at the latest, attaching copies of the accompanying documents relating to the carriage of the wine for which the aid is applied or a summary of those documents.

Member States may require that the said copies or summary be endorsed by a supervisory authority.

The aid shall be paid not later than three months after the date of submission of evidence 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 is approved.

6. Subject to Article 23 of Regulation (EEC) No 2179/83, the security shall be released only if, before 30 November 1988, evidence is furnished :

— that the total quantity of wine covered by the contract or declaration 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 5 (2).

If such evidence is not provided by 31 December 1988 at the latest, the intervention agency shall recover the aid from the fortifier.

If, however, such evidence is submitted after the time limit laid down has expired but by 21 February 1989 at the latest, the intervention agency shall recover an amount equal to 20 % for the aid paid.

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 May 1989, an amount equal to the aid, where appropriate through the intervention agency of the producer's Member State.

Article 12

1. Member States shall notify the Commission :

— by 20 January 1988 at the latest, of the quantities of wine and fortified wine covered by delivery contracts submitted for approval,

— by 25 February 1988 at the latest, 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 inform the Commission not later than 30 September 1988 of any cases in which the distiller or fortifier has failed to meet his obligations and the measures taken in consequence.

Article 13

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 1987.

Article 14

This Regulation shall enter into force on the third day following 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, 21 August 1987.

For the Commission

Frans ANDRIESSEN

Vice-President