COMMISSION REGULATION (EEC) No 2710/87

of 9 September 1987

laying down for the 1986/87 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 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 42 (6) 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 2594/87 (6),

Whereas the measures employed to support the wine market have not fully yielded the desired results; whereas, in particular, the representative prices for table wines of types A I, R I and R II have remained lower than the respective activating prices since the beginning of the wine year; whereas, therefore, the first condition required under Article 42 of Regulation (EEC) No 822/87 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 consecutive weeks, is likely to be fulfilled for table wines of types A I, R I and R II during the reference period;

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 3950/86 of 23 December 1986 authorizing the conclusion of long-term private storage contracts for certain table wines for the 1986/87 wine year (7), which was laid down with a storage period of nine months in view; whereas it seems appropriate to permit that 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 these measures should make provision for removing from the market by distillation a quantity of wine and for 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 47 of Regulation (EEC) No 822/87 that only producers who have satisfied the obligations laid down in Article 35 and, where appropriate, Articles 36 and 39 of that Regulation during a reference period to be determined may qualify for the intervention measures; whereas that period must therefore be specified; whereas, in certain cases, such proof can only be furnished at a date falling after the activation of these measures and whereas this provision therefore threatens to delay their implementation; whereas, for this reason, the Member States should be empowered to authorize access to the said measures at an earlier date; whereas this facility should be subject to conditions ensuring that producers who have not complied with the said obligations are excluded from the measures in question;

Whereas, pursuant to Article 42 (3) of Regulation (EEC) No 822/87, 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 (8), as last amended by Regulation (EEC) No 2528/87 (9), as in the records provided for in Commission Regulation (EEC) No 1153/75 of 30 April 1975 prescribing the form of

(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 245, 29. 8. 1987, p. 11.
(7) OJ No L 365, 24. 12. 1986, p. 42.
(8) OJ No L 194, 24. 7. 1984, p. 1.
(9) OJ No L 240, 22. 8. 1987, p. 11.

accompanying documents for wine products and specifying the obligations of wine producers and traders other than retailers [1], as last amended by Regulation (EEC) No 418/86 [2];

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 [3], as last amended by Regulation (EEC) No 3805/85 [4]; whereas, pursuant to Articles 4, 5 and 26 of that Regulation, time limits should be fixed for the submission of applications for approval of delivery 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 must appear in the delivery contract and in the delcaration should also be specified;

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 some of the wines delivered for distillation under this Regulation may be fortified for distillation; whereas the provisions applicable to distillation operations should therefore be adjusted in conformity with the rules laid down in Article 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 [5], as last amended by Regulation (EEC) No 3949/86 [6]; whereas in order to take account of market trends, provision should be made for terminating contracts;

Whereas, since the storage contracts referred to in this Regulation were concluded during the 1986/87 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. Where a decision is taken to implement the supplementary measures reserved for holders of long-term storage contracts for table wine for the 1986/87 wine year provided for in Article 42 of Regulation (EEC) No 822/87, such implementation shall be governed by 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 referred to in Articles 35, 36 or 39 of Regulation (EEC) No 822/87 shall not be entitled to benefit from the measures provided for in this Regulation unless they provide proper evidence that they have complied with their obligations during the reference periods fixed respectively in Article 16 of Commission Regulation (EEC) No 2672/86 [7], Article 13 of Commission Regulation (EEC) No 2705/86 [8], and Article 22 of Commission Regulation (EEC) No 854/86 [9].

However, Member States may authorize approval of the contracts or delivery declarations referred to in Article 4 before producers have submitted the evidence referred to in the first subparagraph on condition that such contracts or delivery declarations contain a declaration by the producer by which he certifies that he has complied with the obligations referred to in the first subparagraph or is in the situation referred to in Article 11 (2) of Regulation (EEC) No 2179/83 and that he undertakes to deliver the residual quantities necessary in order to comply fully with his obligations within the period fixed by the competent national authority.

Article 2

1. The period of three consecutive weeks referred to in Article 42 (1) of Regulation (EEC) No 822/87 shall fall between 15 July and 30 November 1987.

2. Holders of long-term storage contracts for the types of table wine in respect of which the decision referred to in Article 1 (1) is adopted and for wines in close economic relationship with such wines may:

(a) for a quantity of wine not exceeding a percentage to be determined for the total quantity subject to contract of table wine which they have produced during the 1986/87 wine year, undertake distillation under the conditions laid down in Articles 3 to 10;

[1] OJ No L 113, 1. 5. 1975, p. 8.
[2] OJ No L 48, 26. 2. 1986, p. 8.
[3] OJ No L 212, 3. 8. 1983, p. 1.
[4] OJ No L 367, 31. 12. 1985, p. 39.
[5] OJ No L 116, 30. 4. 1983, p. 77.
[6] OJ No L 365, 24. 12. 1986, p. 40.
[7] OJ No L 244, 29. 8. 1986, p. 8.
[8] OJ No L 246, 30. 8. 1986, p. 61.
[9] OJ No L 80, 25. 3. 1986, p. 14.

(b) for a quantity of wine subject to cotract to be determined and which is not the subject of the measure provided for in (a), conclude a storage contract subject to the conditions laid down in Regulation (EEC) No 1059/83 and in Article 10 of this Regulation for a period to be determined.

The measures referred to in the first subparagraph may apply only to wines for which a long-term storage contract has been concluded as referred to in Regulation (EEC) No 3950/86. Such wines must possess the characteristics required under that Regulation save as regards their volitile acidity which may not exceed the limit laid down in Article 66 of Regulation (EEC) No 822/87.

3. The total quantity of table wine to which the percentage referred to in Article 42 of Regulation (EEC) No 822/87 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 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 reserved for holders of storage contracts referred to in paragraph 2 (b) for a wine or type of wine in close economic relationship with that type of wine may be taken if that type has remained at a price lower than the activating price during the period between adoption of the decision referred to in Article 42 (6) of Regulation (EEC) No 822/87 and 15 January 1988.

Article 3

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.

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 1987 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,

(f) a reference to the storage contract concluded in respect of the wine in question.

3. The intervention agency shall notify the producer of the outcome of the approval procedure by 9 January 1988 at the latest.

4. Distillation shall be carried out by 31 August 1988 at the latest.

Article 5

1. The minimum purchase price provided for in Article 42 (3) of Regulation (EEC) No 822/87 shall, without prejudice to the application of Article 44 of Regulation (EEC) No 822/87 be :

— 3,13 ECU per % vol per hectolitre in the case of table wines of types R I and R II and of wines in close economic relationship with those wines,

— 4,65 ECU per % vol per hectolitre in the case of table wines of type R III,

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

— 6,39 ECU per % vol per hectolitre in the case of table wines of type A II,

— 7,30 ECU per % vol per hectolitre in the case of table wines of type A III.

Those prices shall be 1,76, 2,75, 1,60, 3,58, 4,10 ECU respectively per % vol per hectolitre for wines obtained from grapes produced in Spain.

The minimum purchase price 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 aid referred to in Article 42 (4) of Regulation (EEC) No 822/87 shall be :

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

— 2,65 ECU per % vol per hectolitre if it is obtained from red table wines of types R I and R II,

— 4,19 ECU per % vol per hectolitre if it is obtained from red table wines of type R III,

— 2,36 ECU per % vol per hectolitre if it is obtained from white table wines of type A I and of wines suitable for yielding table wine,

— 5,96 ECU per % vol per hectolitre if it is obtained from white table wines of type A II,

— 6,88 ECU per % vol per hectolitre if it is obtained from white table wines of type A III.

For neutral spirits obtained from wines as referred to in the second subparagraph of paragraph 1, the aid shall be 1,26, 2,26, 1,09, 3,10, 3,63 ECU per % vol per hectolitre ;

(b) where the product obtained from distillation is a wine spirit with the quality characteristics laid down in the applicable national characteristics :

— 2,54 ECU per % vol per hectolitre if it is obtained from red table wines of types R I and R II,

— 4,08 ECU per % vol per hectolitre if it is obtained from red table wines of type R III,

— 2,25 ECU per % vol per hectolitre if it is obtained from white table wines of type A I and of wines suitable for yielding table wine,

— 5,85 ECU per % vol per hectolitre if it is obtained from white table wines of type A II,

— 6,77 ECU per % vol per hectolitre if it is obtained from white table wines of type A III.

For spirits obtained from wines as referred to in the second subparagraph of paragraph 1, the aid shall be 1,15, 2,15, 0,98, 2,99, 3,52 ECU per % vol per hectolitre ;

(c) where the product of distillation is a distillate or raw alcohol with an alcoholic strength of at least 52 % vol :

— 2,54 ECU per % vol per hectolitre if it is obtained from red table wines of types R I and R II,

— 4,08 ECU per % vol per hectolitre if it is obtained from red table wines of type R III,

— 2,25 ECU per % vol per hectolitre if it is obtained from white table wines of type A I and of wines suitable for yielding table wine,

— 5,85 ECU per % vol per hectolitre if it is obtained from white table wines of type A II,

— 6,77 ECU per % vol per hectolitre if it is obtained from white table wines of type A III.

For the distillate or raw alcohol with an alcoholic strength of at least 52 % vol obtained from wines as referred to in the second subparagraph of paragraph 1, the aid shall be 1,15, 2,15, 0,98, 2,99, 3,52 ECU per % vol per hectolitre.

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

3. 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 the third subparagraph of paragraph 1.

If this evidence is not provided within two months of the deadline and this delay is not due to serious negligence on the part of the distiller, the intervention agency shall recover 20 % of the aid paid. After this second deadline the intervention agency shall recover the whole of the aid.

If it is found that the distiller has not paid the purchase price to the producer, the intervention agency shall before 1 June 1989 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 provisions of this Regulation concerning red wines shall apply also to rosé wines.

2. The provisions of this Regulation concerning a particular type of table wine shall apply also to table wines in a close economic relationship with that type of table wine.

For the purposes of applying this Regulation wines in close economic relationship shall mean, for table wines of type :

— A I, those white table wines with an actual alcoholic strength of more than 12 % vol but not more than 12,5 % vol and not belonging to type A I or A III,

— R I, those red table wines with an actual alcoholic strength of more than 12 % vol but not more than 12,5 % vol and not belonging to type R III,

— R II, those red table wines with an actual alcoholic strength of more than 15 % vol not belonging to type R III.

3. In Spain producers may deliver for distillation the product obtained, in accordance with Article 125 of the Act of Accession, from the coupage of a wine suitable for yielding white table wine or of a white table wine which they themselves have produced with a wine suitable for yielding red table wine or with a red table wine which they themselves have produced. For this purpose the product shall be treated as a white table wine of type A I.

Article 7

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

2. Subject to the conditions laid down in 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, that the purchase price for the wine has been paid within the period laid down is furnished 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 8

In the case referred to in 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 that 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 approval of the contract except where the period remaining for the execution of the aforesaid provisions is longer.

Article 9

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 1987.

The intervention agency shall notify the producer of the outcome of the approval procedure by 9 January 1988 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 1988 at the latest.

3. The fortified wine must be distilled by 31 August 1988 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. For wine processed into fortified wine the fortifier shall receive aid per hectolitre per % vol of the actual alcoholic strength of the wine before processing, and in relation to the prices referred to in the first subparagraph of Article 5 (1), as follows:

— 2,49 ECU for red table wines of types R I and R II,

— 4,01 ECU for red table wines of type R III,

— 2,21 ECU for white table wines of type A I and for wines suitable for yielding table wine,

— 5,75 ECU for white table wines of type A II,

— 6,66 ECU for white table wines of type A III.

For wine fortified for distillation obtained from wines as referred to in the second subparagraph of Article 5 (1), the aid shall be 1,12, 2,11, 0,96, 2,94, 3,46 ECU per % per hectolitre.

To receive the aid the fortifier shall, by 31 August 1988 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 the said copies or summaries be endorsed by a supervisory authority.

The aid shall be paid at the latest 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 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 1988 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 prices of the wine has been paid to the producer within the period specified in the third subparagraph of Article 5 (1).

If the evidence specified in the first subparagraph is not provided by 31 December 1988 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 by 31 March 1989 at the latest the intervention agency shall recover an amount equal to 20 % of the aid paid.

If it is found that the fortifier has not paid the purchase price to the producer, the intervention agency shall, by 30 April 1989 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 10

1. Member States shall notify the Commission not later than 31 January 1988 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 1988 cases in which distillers or fortifiers have failed to fulfil their obligations, and the measures taken in consequence.

Article 11

1. The contracts referred to in Article 2 (2) (b) shall be concluded not later than 15 January 1988.

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 1986/87 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 12

Conversion into national currency of the amounts specified in Articles 5 and 8 shall be at the representative rate in force in the wine sector on 31 August 1987.

Article 13

This Regulation shall enter into force on 16 September 1987.

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

Done at Brussels, 9 September 1987.

For the Commission

Frans ANDRIESSEN

Vice-President