COUNCIL REGULATION (EEC) No 2253/88

of 19 July 1988

amending Regulation (EEC) No 822/87 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 in view of the large surplus on the wine market, the conditions under which national aid may be granted for the planting of vineyards should be narrowly drafted;

Whereas because of the technical nature of the quantitative limits for certain oenological practices and processes referred to in Annex VI of Regulation (EEC) No 822/87 (4), as last amended by Regulation (EEC) No 1441/88 (5), provision should be made for the Council to amend those limits, acting by a qualified majority on a proposal from the Commission, in the light of scientific progress and experience;

Whereas experience shows that the use of copper sulphate should no longer be restricted, as laid down in Article 17(1) of Regulation (EEC) No 822/87, to regions in which it has not been used for the treatment of the vines;

Whereas Article 17(3) of Regulation (EEC) No 822/87 lays down the conditions under which calcium tartrate or tartaric acid may be used for deacidification; whereas the use of a homogeneous and finely pulverized preparation of tartaric acid and calcium carbonate should be permitted subject to the same conditions as calcium tartrate, and in equivalent quantities;

Whereas as part of the scheme for compulsory deliveries of wine for distillation a producer is obliged to deliver all by-products of winemaking for distillation; whereas, in order to avoid the overpressing of by-products, the producer must deliver a certain quantity expressed as a volume of alcohol; whereas if this quantity is not reached by the volume of alcohol contained in the by-products the producer is obliged to make up the difference by delivering wine; whereas there is at present a surplus of non-marketable wine and it is thus in the interest of the Community to avoid as much as possible the production of wine of lesser quality; whereas, therefore, the quantities of by-products of winemaking to be compulsorily delivered should be increased;

Whereas Regulation (EEC) No 1441/88 adjusted the price payable for wine delivered for distillation set out in Article 39 of Regulation (EEC) No 822/87; whereas in order to maintain the necessary balance between the prices applicable within the context of the various compulsory distillations, it is appropriate also to progressively reduce the price applicable to the distillation of by-products of the winemaking and that applicable to the distillation of wines referred to in Article 36 of the said Regulation;

Whereas compulsory distillation of wine from grapes of vine varieties not classified as wine varieties and wine from grapes of double or triple-purpose varieties, as referred to in Article 36 of Regulation (EEC) No 822/87, have to be effected by the end of the wine year in which those wines are produced; whereas in order to ensure that sanctions for exceeding this time-limit are in proportion to the infringement, and for the sake of harmonization with other distillation measures, it should be left for the Commission to set a time limit;

Whereas Article 44 of Regulation (EEC) No 822/87 lays down that in the case of certain distillation operations the buying-in price for wine obtained by producers who have brought about an increase in alcoholic strength by adding sucrose or must having benefited from the aid referred to in Article 45 of that Regulation is to be reduced in a manner which corresponds to the economic advantage thus obtained; whereas, therefore, the reduction in the buying-in price should be calculated on the basis of the

(1) OJ No C 139, 30. 5. 1988, p. 66.
(2) OJ No C 167, 27. 6. 1988.
(3) OJ No C 175, 4. 7. 1988, p. 33.
(4) OJ No L 84, 27. 3. 1987, p. 1.
(5) OJ No L 132, 28. 5. 1988, p. 1.

level of the aid referred to in Article 45 and whereas that reduction should be applied to all distillation operations, with the exception, for administrative reasons, of that provided for in Article 35 of Regulation (EEC) No 822/87;

Whereas, in view of the trend in trade in wine with certain third countries, rules should be laid down making it possible to import into the Community wines available in limited quantities and possessing, among other particular qualitative characteristics, a low total acidity content;

Whereas the use of concentrated rectified grape must in winemaking has assumed major proportions; whereas provision should be made for effective supervision of such use by the competent authorities, which requires analytical examination of rectified concentrated grape must in order to check its authenticity; whereas in order to carry out these examinations sufficiently frequently and efficiently the definition of rectified concentrated grape must should stress those characteristics which are determinant as regards its authenticity and which can be checked with certainty and speed;

Whereas under Article 26 of Regulation (EEC) No 822/87 certain oenological practices not permitted under that Regulation have been authorized for experimental purposes by the Member States; whereas the results obtained are such that those practices may be considered as providing better control of winemaking, and at the same time offering no danger to the health of consumers; whereas they should therefore be permitted at Community level and Annex VI to Regulation (EEC) No 822/87 should be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 822/87 is hereby amended as follows:

1. Article 14 is replaced by the following:

'*Article 14*

1. The granting of national aid for the planting of category 3 areas cultivated for the production of table wines shall be prohibited.

2. As regards the planting of wine-growing areas other than those referred to in paragraph 1, the granting of national aid shall be prohibited except where it is:

— laid down by specific Community provisions,

— allowed pursuant to Articles 92 to 94 of the Treaty and contains criteria which should, in particular, enable the objective of reducing production quantity or of improving quality to be attained without leading to increased production. These criteria shall be adopted in accordance with the procedure laid down in Article 83.

3. The prohibition referred to in paragraph 2 shall apply as from 1 September 1988. Measures in keeping with Community law which are authorized before that date may be applied after that date.

However, after 1 September 1996, all such measures must satisfy the conditions referred to in paragraph 2.'.

2. Article 15(5) is replaced by the following:

'5. The Council, acting by a qualified majority on a proposal from the Commission may:

(a) for the products referred to in pragraph 1, restrict or prohibit the use of the oenological practices and processes referred to in Annex VI,

(b) amend in the light of scientific progress and experience the quantitative limits for certain oenological practices and processes referred to in Annex VI.'.

3. In Article 17:

(a) paragraph 1 is deleted;

(b) the first subparagraph of paragraph 3 is replaced by the following:

'The use of calcium tartrate or tartaric acid or a homogeneous preparation of tartaric acid and calcium carbonate, as referred to in points 1(m) and 3(l) of Annex VI for deacidification purposes shall be permitted until 31 August 1990. However, the use of tartaric acid alone shall be allowed only for products:

— made from vine varieties which yield relatively acidic grapes,

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

4. In Article 35:

(a) the third subparagraph of paragraph 1 is deleted;

(b) paragraph 2 is 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 that winemaking.

The quantity of alcohol contained in the by-products must be, at least equal, in relation to the volume of alcohol contained in the wine produced, to:

— 10 % if the wine has been obtained by direct vinification of grapes,

— 5 % if the wine has been obtained by vinification of grape must, grape must in fermentation or new wine still in fermentation.

The assessment of the volume of alcohol contained in the wine produced, referred to in the second subparagraph, shall be made on the basis of a standard minimum natural alcoholic strength by volume laid down for each wine year in each wine-growing zone.

Derogations may be made from this paragraph for categories of producers to be determined, for certain production regions and for wines subject to the distillation referred to in Article 36.'.

(c) the following paragraph is inserted:

'5 a. The buying-in price of grape marc, wine lees and of wine delivered for distillation under this Article shall be equal to:

— 31 % for the 1988/89 wine year,

— 28,5 % for the 1989/90 wine year,

— 26 % from the beginning of the 1990/91 wine year,

of the guide price for table wine of type AI fixed for the wine year in question.

The price paid by the distiller may not be lower than the buying-in price.'.

(d) paragraph 7:

— the second indent is deleted,

— the third indent is replaced by the following:

'— the derogation referred to in paragraph 2;'.

5. Article 36(1), (2) and (3) are replaced by the following:

'1. Wine made from grapes belonging to varieties not listed as wine grape varieties in the classification of vine varieties for the administrative unit where they were harvested, and which is not exported during the wine year concerned shall be distilled by a date to be determined. Except by derogation, it may not be moved except to a distillery.

2. Where wine is produced from a grape variety listed in the classification for the same administrative unit as both a wine grape variety and a variety for use for another purpose, any wine which is produced in excess of the normal quantity and which is not exported during the wine year concerned shall be distilled by a date to be determined. Except by derogation, it may not be moved except to a distillery.

The quantity of wine normally produced shall be determined from:

— the quantities produced during a reference period to be determined antedating the 1980/81 wine year or, for Spain, antedating the 1984/85 wine year,

— the quantities of wine put to traditional uses.

3. The buying-in price of wine delivered for distillation under paragraphs 1 and 2 shall be equal to:

— 45 % for the 1988/89 wine year,

— 40 % for the 1989/90 wine year,

— 35 % from the beginning of the 1990/91 wine year,

of the guide price for table wine of type AI fixed for the wine year in question.

The price paid by the distiller may not be lower than the buying-in price.'.

6. Article 44 is replaced by the following:

'*Article 44*

For the wines obtained by producers who have increased the alcoholic strength by adding sucrose or must having benefited from the aid referred to in Article 45, the buying-in price fixed for each distillation, with the exception of that referred to in Article 35, shall be reduced within each wine-growing area by a similar flat-rate amount calculated on the basis of the level of the aid referred to in Article 45 and by the increase in the alcoholic strength prescribed for the wine-growing area concerned.

At the request of the producer concerned this reduction shall apply only within the limits of the quantities subject to the increased alcoholic strength referred to in the first subparagraph.

Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 83.'.

7. In Article 70(2) the second subparagraph of (a) is replaced by the following:

'(a) allowing certain wines originating in third countries as referred to in paragraph 1(b) possessing particular qualitative characteristics and bearing a geographical ascription to be delivered for direct human consumption:

— if their actual alcoholic strength by volume amounts to at least 8,5 % volume or their total alcoholic strength by volume exceeds 15 % volume without any enrichment,

or

— with regard to wines which may be treated as quality wines psr, their total acidity content, expressed as tartaric acid, is less than 4,5 but more than 3 grams per litre, i.e. less than 60 but more than 40 milliequivalents per litre.'.

8. In Annex I:

(a) point 7 is replaced by the following:

'7. 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 laid down in the Annex to Regulation (EEC) No 543/86 (*), at a temperature of 20 °C is not less than 61,7 %,

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

— has the following characteristics:

— a pH of not more than 5 at 25° Brix,

— an optical density at 425 nm for a thickness of 1 cm of not more than 0,100 in grape must concentrated at 25° Brix,

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

— a Folin-Ciocalteau index of not more than 6,00 at 25° Brix,

— a titratable acidity of not more than 15 milliequivalents per kilogram of total sugars,

— a sulphur dioxide content of not more than 25 milligrams per kilogram of total sugars,

— a total cation content of not more than 8 milliequivalents per kilogram of total sugars,

— a conductivity at 25° Brix and 20 °C of not more than 120 uS/cm,

— a hydroxymethylfurfural content of not more than 25 milligrams per kilogram of total sugars,

— presence of mesoinositol,

— is derived exclusively from the vine varieties referred to in Article 69,

— 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 rectified concentrated grape must of not more than 1 % volume is permissible.

(*) OJ No L 55, 1. 3. 1986, p. 41.'.

9. In Annex VI, point 1 is amended as follows:

(a) the following indent shall be added under (j):

'— an enzymatic preparation of betaglucanase, under conditions to be determined;'.

(b) the following indent shall be added under (m):

'— a homogeneous preparation of tartaric acid and calcium carbonate in equivalent proportions and finely pulverized, under the conditions laid down in the first subparagraph of Article 17(3);'.

(c) the following are added after (n):

'(o) the use of preparations of yeast cell wall, up to a maximum of 40 grams per hectolitre;

(p) the use of polyvinylpolypyrrolidone up to a maximum of 80 grams per hectolitre and under conditions to be determined.'.

(q) the use of lactic bacteria in a vinous suspension under conditions to be determined.'.

10. In Annex VI, point 3 is amended as follows:

(a) the following indent is added under (l):

'— a homogeneous preparation of tartaric acid and calcium carbonate in equivalent proportions and finely pulverized, under the conditions laid down in the first subparagraph of Article 17(3):'.

(b) the following indent is added under (m):

'— an enzymatic preparation of betaglucanase, under conditions to be determined;'.

(c) (s) is replaced by the following:

'(s) use of DL tartaric acid, also called racemic acid, or of its neutral salt of potassium, under conditions to be laid down, for precipitating excess calcium;'.

(d) (w) is replaced by the following:

'(w) use of copper sulphate to eliminate defects of taste or smell in the wine, up to a maximum of 1 gram per hectolitre and provided that the

copper content of the product so treated is not more than 1 milligram per litre;'.

(e) the following is added:

'(x) the use of preparations of yeast cell wall, up to a maximum of 50 grams per hectolitre;

(y) the use of polyvinylpolypyrrolidone, up to a maximum of 80 grams per hectolitre and under conditions to be determined;

(z) the use of lactic bacteria in a vinous suspension under conditions to be determined.'.

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 1988.

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

Done at Brussels, 19 July 1988.

For the Council

The President

Y. POTTAKIS