COUNCIL REGULATION (EEC) No 2505/88

of 26 July 1988

amending Regulation (EEC) No 2179/83 laying down general rules for distillation operations involving wine and the by-products of wine-making

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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 2253/88 (2), and in particular Articles 35 (7), 36 (5), 39 (8), 41 (8), 42 (4) and 79 (2) thereof,

Having regard to the proposal from the Commission,

Whereas, where wine-growers' cooperatives have formed themselves into associations, the administrative and material operations for the delivery of wine for distillation may be facilitated if the associations in question are allowed to carry out such operations; whereas it therefore seems advisable to allow, for a limited period at the end of which the results will be assessed, Member States, under certain conditions, to authorize the associations to substitute themselves for the wine-growers' cooperatives party thereto for the purposes of the conclusion of contracts and the delivery of wine; whereas it must be stipulated that the same guarantees offered by the normal procedure with regard to compliance with obligations and the limitation of advantages for the producers must be ensured;

Whereas the checks on products intended for distillation should be reinforced;

Whereas it is particularly important to lay down specific rules to ensure that wine delivered for one of the optional distillation operations comes from the producers' own production; whereas, to that end, provision should be made that such producer must furnish proof that he has actually produced and that he holds the wine to be delivered; whereas rules should also be drawn up ensuring a sufficient check on the essential elements of the distillation contracts;

Whereas, following administrative problems encountered in the past, proof of distillation and payment of the minimum purchase price for the wine to the producer must be required before the aid is paid to the distiller.

Whereas the tolerances laid down at present for quantities and alcoholic strengths appearing in delivery contracts have proved to be too high; whereas they should accordingly be reduced; whereas it should also be specified that the maximum and minimum limits laid down for certain distillation operations must not be exceeded following the application of the abovementioned tolerances;

Whereas the factors used to calculate the aid should be defined more precisely;

Whereas compulsory distillation is a vital factor in achieving balance on the market in table wine and an indirect factor in the structural adjustment of wine-growing potential to requirements; whereas it is therefore vital that compulsory distillation be enforced very strictly and that all persons subject to the obligation to distil actually deliver for distillation the quantities corresponding to their obligation; whereas exclusion from intervention measures under Article 47 of Regulation (EEC) No 822/87 has proved insufficient in certain cases to ensure that obligations are met by persons subject thereto; whereas provision must therefore be made for additional Community measures to be adopted for producers who do not fulfill their obligations before the fixed time-limit but who do fulfil them before another date to be specified;

Whereas, in order to prevent a disproportionate burden, certain small producers are exempt from the obligation to deliver their by-products of wine-making for distillation; whereas it should be stipulated that such producers are nevertheless free to deliver their by-products.

Whereas it should be stipulated that, in respect of that part of their wine production actually delivered for distillation under Articles 36 and 39 of Regulation (EEC) No 822/87, producers are required to deliver only by-products of wine-making for distillation as provided for in Article 35 of that Regulation.

Whereas in certain wine-growing areas, distillation of by-products represents, for certain producers of small quantities subject to the obligation to distil, a disproportionate burden; they should therefore be granted, at the request of the Member State from which they come, the option of freeing themselves from their obligation by withdrawal under control;

Whereas, since the Community is responsible for the disposal of certain wine alcohols, it is incumbent upon it to obtain a better insight into the transactions carried out on the alcohol market; whereas for this reason, the information that the Member States communicated to the Commission on the subject of alcohol deriving from compulsory distillation should be extended to alcohol deriving from voluntary distillation, held by the intervention agencies;

(1) OJ No L 84, 27. 3. 1987, p. 1.
(2) OJ No L 198, 26. 7. 1988, p. 35.

Whereas the characteristics which products that could be delivered for distillation must present should be better defined;

Whereas the physical checks on products entering for distillation should be carried out under procedures ensuring adequate representativity;

Whereas the consequences of the producer's non-compliance with his obligations must be set out; however, provision should be made for the Commission to adopt rules to be applied, in respect of rights to aid, to distillers who do not comply with certain administrative time-limits, in particular to take into account the proportionality principle;

Whereas to take into account certain practices existing in certain Member States with regard to the transport of products to the distillery, in particular where small quantities are involved, Member States should be authorized to allow them to be transported in bulk;

Whereas certain definitions and administrative procedures should be laid down;

Whereas in these circumstances, Regulation (EEC) No 2179/83 [1], as last amended by Regulation (EEC) No 3805/85 [2], should be amended accordingly; whereas on that occasion it is appropriate to amend it also to take into account the consolidation of the basic Regulation in the wine sector affected by Regulation (EEC) No 822/87.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2179/83 is hereby amended as follows:

1. Article 1 is replaced by the following.

   'Article 1

   This Regulation lays down:

   (a) in Title I, the general rules for the distillation operations provided for in Articles 38, 41 and 42 of Regulation (EEC) No 822/87;

   (b) in Title II, the general rules for the distillation operations provided for in Articles 35, 36 and 39 of Regulation (EEC) No 822/87;

   (c) in Title III, the general rules applicable to all the distillation operations covered by Titles I and II.'

2. In Article 2:

   (a) the second indent of paragraph 1 (a) is replaced by the following:

   — 'for the purposes of Title II: any natural or legal person or group of such persons having produced wine from fresh grapes, grape must or partially fermented grape must or from new wine still in fermentation, obtained personally or purchased, or any natural or legal person or group of such persons subject to the obligations referred to in Article 35 of Regulation (EEC) No 822/87;'

   (b) the following paragraphs are inserted:

   '3. Member States may, in accordance with rules which they determine, lay down that, for the purposes of the conclusion of contracts and the delivery of wine for distillation, associations of wine-growers' cooperatives shall on request be regarded as producers in respect of those quantities of wine produced and handed over by member cooperatives. The latter shall in any case continue to hold the rights and be bound by the obligations laid down in Community regulations.

   Should an association intend during a specified wine year to carry out, in agreement with the wine-growers' cooperatives concerned, a distillation operation referred to in Article 1 (a), it shall inform the intervention agency in writing. In that case:

   — member cooperatives may not individually sign distillation contracts or make deliveries for the distillation in question;

   — the quantities of wine delivered for distillation by the said association shall be booked to the member cooperatives on whose behalf the delivery is made.

   With regard to the application of Article 47 of Regulation (EEC) No 822/87, failure to comply with the obligations laid down therein by one or more member cooperatives shall mean, irrespective of the consequences for the latter, that the association is excluded from deliveries for the distillation in question, within the limit of the quantities of wine to be delivered on behalf of the wine-growers' cooperatives which committed the infringement.

   Member States which exercise the option set out in this paragraph shall inform the Commission accordingly and shall notify it of the provisions which they have adopted for this purpose. The Commission shall inform the other Member States.

   4. Paragraph 3 shall apply until 31 August 1992.

   Before 31 March 1992, the Commission shall submit to the Council a report on application of the aforementioned paragraph, accompanied, if necessary by an appropriate proposal. The Council shall then act on any measures to apply as from 1 September 1992.'

[1] OJ No L 212, 3. 8. 1983, p. 1.
[2] OJ No L 367, 31. 12. 1985, p. 39.

3. Article 4 is replaced by the following:

'*Article 4*

1. Any producer intending to deliver a wine of his own production for one of the distillation operations specified in Article 1 (a) for which he satisfies the conditions laid down for each wine year and each distillation in the Community rules shall conclude a delivery contract, hereinafter referred to as the "contract", with a distiller and submit it to the competent intervention agency for approval, by a date to be specified.

At the same time he shall provide proof that he has actually produced, and that he holds, the quantity of wine to be delivered.

Producers subject to the obligations referred to in Article 47 (1) of Regulation (EEC) No 822/87 shall also provide the competent intervention agency with proof that they have fulfilled those obligations during the reference period set in accordance with the said Article.

2. The contract shall specify for the wine concerned at least:

(a) the quantity;

(b) the various characteristics, in particular:

— colour,

— actual alcoholic strength by volume.

The producer may not deliver the wine for distillation unless the contract has been approved by the competent intervention agency by a date to be specified.

Where distillation is carried out in a Member State other than that in which the contract is approved, the intervention agency which approved the contract shall forward a copy thereof to the intervention agency of the first Member State.

In case of distillation pursuant to Article 41 (1) or (2) of Regulation (EEC) No 822/87, it may be decided that a contract submitted by a producer who, during the same wine year, has obtained approval for a contract relating to a delivery for distillation pursuant to Article 38 of that Regulation shall not be approved unless he provides proof that at least a quantitiy to be specified of the wine to which the contract approved under Article 38 refers has been delivered to a distiller or a maker of fortified wine.

Where the option provided for in Article 41(3) of Regulation (EEC) No 822/87 is exercised, submission of proof as referred to in the fourth subparagraph of this paragraph shall be required.

3. The distiller shall pay to the producer for the wine delivered to him at least the price specified in Article 38 (2), 41 (6), or 42 (3) of Regulation (EEC) No 822/87, as the case may be, such prices to apply to bulk merchandise ex producer's premises.

4. The minimum buying-in price referred to in paragraph 3 shall be paid by the distiller to the producer within a period to be determined.

5. Member States shall carry out, by means of representative spot checks, physical checks on at least the following elements:

— actual production and holding by the producer of the quantity of wine intended for delivery;

— colour of wine entered in the contract;

— actual alcoholic strength by volume entered in the contract; however, a variation of 0,8 % volume is permitted between the actual alcoholic strength determined at the time of checking.

The checks shall be carried out at any time between the submission of the contract for approval and the entry of the wine into the distillery.

Detailed rules concerning the representativeness of the spot checks referred to in the first subparagraph of paragraph 1 shall be adopted under the procedure laid down in Article 83 of Regulation (EEC) No 822/87'.

4. In Article 5:

(a) The second subparagraph of paragraph 1 is replaced by the following:

'Producers subject to the obligations referred to in Article 47 (1) of Regulation (EEC) No 822/87 shall also provide the competent intervention agency with proof that they have fulfilled those obligations during the reference period set in accordance with Article 47 (3) of that Regulation.'

(b) The last subparagraph of paragraph 2 is replaced by the following:

'Article 4 shall apply, the reference to the contract being deemed also to refer to the declaration.'

5. Article 6 is replaced by the following:

'*Article 6*

1. For each producer from whom he has received deliveries of wine, the distiller shall, in respect of each delivery, communicate to the competent intervention agency the quality, colour and actual alcoholic strength by volume of the wine, together with the number of the document provided for in Article 71 (1) of Regulation (EEC) No 822/87 and used for the transport of the wine to the distiller's premises.

2. If distillation is carried out by the producer himself in his capacity as a distiller or by a distiller acting on the producer's behalf, the information referred to in paragraph 1 shall be submitted to the competent intervention agency by the producer.

3. The distiller shall provide the intervention agency, within a time-limit to be specified, with:

— proof that the total quantity of wine stipulated in the contract or declaration has been distilled within the time-limit laid down;

— proof that he has paid the producer the minimum purchase price referred to in Article 4 (3), within the time-limit laid down.

In the case referred to in paragraph 2, only the proof referred to in the first indent shall be supplied by the producer to the intervention agency.

4. The intervention agency shall pay the distiller or, in the cases referred to in paragraph 2, the producer, the aid calculated in accordance with Article 7 within three months of submission of the proof referred to in paragraph 3.'

6. Article 7 is replaced by the following:

'Article 7

The aid to be paid to the destiller or, in the cases referred to in Article 6 (2), to the producer, for wine which has undergone one of the distillation operations provided for in Articles 38, 41 and 42 of Regulation (EEC) No 822/87 shall be fixed, per % volume of alcohol and per hectolitre of the product of distillation, on the basis of the minimum purchase price fixed for the distillation operation in question, the standard transport and processing costs, the technical losses and the market price for the products of distillation.

Aid granted where neutral spirits are obtained from wine may not be less than aid granted where the other products referred to in Article 3 (1) are obtained.'

7. Article 8 is replaced by the following:

'Article 8

1. The characteristics of the wine delivered for distillation may not differ from those indicated in the contract or in the declaration, pursuant to Article 4 (2).

However, as regards the alcoholic strength, a discrepancy of 0,8 % volume shall be permitted between the actual alcoholic strength by volume as set out in the contract or declaration and the actual alcoholic strength by volume as determined when the wine enters the distillery.

2. No aid shall be due:

— where the quantity of wine actually delivered for distillation is less than 95 % of that shown in the contract or declaration.

— for that quantity of wine exceeding 105 % of the quantities shown in the contract or declaration.

— for that quantity of wine exceeding the maximum quantity laid down for the distillation operation in question.

3. Except in the case of distillation as provided for in Article 42 of Regulation (EEC) No 822/87, the quantity of wine delivered for distillation must not be less than a minimum quantity to be determined.'

8. Article 9 is replaced by the following:

'Article 9

1. The distiller or, in the case referred to in Article 6 (2), the producer, may request that an amount equal to the lowest aid fixed for the destillation operation in question be advanced to him, on condition that he has lodged a guarantee in favour of the intervention agency. That guarantee shall be equal to 110 % of the said amount in request of all distillation operations, with the exception of the distillation operation provided for in Article 38 of Regulation (EEC) No 822/87, for which the guarantee shall be equal to 120 % of the said amount.

The amount referred to in the first subparagraph shall be calculated per % volume of alcohol indicated in respect of the wine referred to in the contract or delivery declaration and per hectolitre of that wine.

The amount may only be paid if the contract or delivery declaration has been approved.

2. The guarantee shall be released by the intervention agency after submission, within the time-limit laid down, of the proof referred to in Article 6 (3) and, where appropriate, in accordance with detailed rules to be adopted under the procedure provided for in Article 83 of Regulation (EEC) No 822/87.'

9. Article 10 (1) is replaced by the following:

'1. In the case of the distillation operations referred to in Article 41 (1) and (2) of Regulation (EEC) No 822/87, the producer may benefit from the measure only in respect of a quantity of table wine no greater than the quantity specified in the contract or declaration.'

10. Article 11 is replaced by the following:

'Article 11

1. Producers subject to an obligation to distil under Articles 35, 36 and 39 of Regulation (EEC) No 822/87 shall discharge their obligations by delivering to a distiller, before a date to be specified, the quantities of product to be distilled as determined in accordance with the abovementioned Articles and with the measures taken in implementation thereof.

2. Producers subject to one of the obligations referred to in paragraph 1 who have delivered, by the

date fixed in accordance with paragraph 1, at least 90 % of the quantity of product which they are obliged to deliver may discharge that obligation by delivering the remaining quantity before a date to be fixed by the competent national authority.

In such cases:

— the purchase price for the remaining quantities referred to in the first subparagraph and the price for the alcohol produced therefrom and delivered to the intervention agency shall be reduced by an amount equal to the aid fixed, in respect of the distillation operation in question, for neutral spirits in accordance with Article 16;

— for alcohol delivered to the intervention agency in accordance with the second indent of the first subparagraph of Article 35 (6) and the second indent of the first subparagraph of Article 36 (4) of Regulation (EEC) No 822/87, the EAGGF contribution to expenditure by the intervention agency determined in accordance with Articles 35 and 36 of the said Regulation shall be adjusted;

— no aid shall be paid for products of distillation not delivered to intervention agencies;

— the obligation shall be considered to have been discharged by the time-limit set in accordance with paragraph 1;

— the time-limit for distillation, the time-limit for submission of proof of payment of the price referred to in the first indent and the time-limit for delivery of the alcohol to the intervention agency shall be adjusted by the competent authority to the extension of the time-limit for delivery.

3. The measures applicable to producers who have not discharged their obligations by the date referred to in paragraph 1 but by another date to the specified shall be adopted in accordance with the procedure provided for in Article 83 of Regulation (EEC) No 822/87.'

11. Article 12 is replaced by the following:

'Article 12

1. The buying-in price referred to in Article 35 (5a) of Regulation (EEC) No 822/87 shall apply to bulk merchandise ex distiller's premises.

However, where the transport costs payable by the producer are borne by the distiller, the amount of these costs shall be deducted from the buying-in price to be paid by the distiller.

2. The buying-in price referred to in Articles 36 (3) and 39 (6) of Regulation (EEC) No 822/87 shall apply to bulk merchandise ex producer's premises.'

12. Article 13 is replaced by the following:

'Article 13

1. The obligations provided for in Article 35 of Regulation (EEC) No 822/87 shall not apply to:

— producers who withdraw by-products of wine-making under supervision in accordance with Article 14 (1);

— producers of quality sparkling wines of the aromatic type and of quality sparkling wines of the aromatic type produced in specified regions as referred to in the first subparagraph of Article 18 (1) of Regulation (EEC) No 358/79 who have prepared such wines from grape must or partially fermented grape must which has been purchased and has undergone stabilizing procedures to eliminate the lees.

Producers who have not made wine or processed grapes in any other manner on cooperative premises and who, during the wine year in question, do not produce more than 25 hectolitres of wine or must shall be free not to deliver any quantities.

It may be decided that the second subparagraph shall apply, subject to conditions to be determined, to producers who have not made wine or processed grapes in any other manner on cooperative premises and who, during the wine year in question, produce more than 25 hectolitres but not more than 40 hectolitres of wine or must.

For that part of their production of wine actually delivered to a distillery under one of the distillation operations provided for in Articles 36 and 39 of Regulation (EEC) No 822/87, producers shall be required to deliver, under the distillation operation provided for in Article 35 (2) of that Regulation, only the by-products of wine-making.

2. The percentage mentioned in the second subparagraph of Article 35 (2) of Regulation (EEC) No 822/87 shall be reduced in the case of:

(a) producers who deliver marc for the manufacture of oenocyanin;

(b) producers of white quality wines psr, in respect of the part of their production which qualifies for this description.

3. In the case of producers who deliver wine of their own production to the vinegar industry, the quantity of alcohol, expressed in terms of pure alcohol, contained in the wine delivered to the vinegar factory shall be deducted from the quantity of alcohol, expressed in terms of pure alcohol, contained in the wine to be delivered for distillation to discharge the obligation referred to in Article 35 (2) of Regulation (EEC) No 822/87.'

13. Article 14 is replaced by the following:

'Article 14

1. Only the following producers may exercise the option mentioned in Article 35 (5) of Regulation (EEC) No 822/87:

— those established in wine-growing areas where distillation represents a disproportionate burden. A list of the wine-growing areas concerned shall be

drawn up by the competent authorities of the Member States. The latter shall inform the Commission of this list;

— those who have not carried out vinification or any other processing of grapes in cooperative plants and who have disproportionate distillation costs on account of their low volume of production and the location of the distilleries. The implementing rules governing this provision shall be adopted, at the request of the Member State concerned, in accordance with the procedure laid down in Article 83 of Regulation (EEC) No 822/87.

2. For the purposes of implementing Article 35 (4) and (5) of Regulation (EEC) No 822/87, the average minimum alcoholic strength of the by-products of wine-making to be withdrawn shall be laid down in accordance with the procedure laid down in Article 83 of Regulation (EEC) No 822/87.

The by-products shall be withdrawn without delay and no later than the end of the wine year in which they were obtained. Withdrawal, together with an indication of the estimated quantities, shall either be entered in the registers kept in accordance with Article 71 (2) of Regulation (EEC) No 822/87 or be certified by the competent authority.

Member States whose wine production exceeds 25 000 hectolitres a year shall, by means of sampling, check at least whether the average minimum alcoholic strength referred to in the first paragraph has been complied with and whether the by-products have been withdrawn in full and within the time limits set.'

14. Article 15 (1) is replaced by the following:

'1. The distiller shall provide the producer, as proof of delivery, with a certificate stating at least the nature, the quantity and the alcoholic strength by volume of the product delivered, together with the date of delivery.

However, if a producer delivers the products which he is to have distilled to a distillery located in a Member State other than that in which the said products were obtained, the distiller shall require the intervention agency of the Member State in which distillation takes place to certify, on the official document provided for in Article 71 (1) of Regulation (EEC) No 822/87, covering transport of the products, that the latter have been taken over by the distillery. The distiller shall forward to the producer a copy of the said document, thus certified, within one month of receipt of the products to be distilled.'

15. Article 16 is replaced by the following:

'Article 16

The aid to be paid to the distiller for products which have undergone one of the distillation operations provided for in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 shall be fixed, per % volume alcohol and per hectolitre of the product of distillation, on the basis of the minimum purchase price fixed for the distillation operation in question, the standard transport costs where they are to be taken into account, the standard processing costs, the technical losses and the market price for the products of distillation.

The aid granted in respect of neutral alcohol may not be less than the aid granted in respect of the other products listed in Article 3 (1).

No aid shall be due for quantities of wine delivered for distillation exceeding the obligation of the producer as provided for in Article 11 (1) by more than 2 %.'

16. Article 17 is replaced by the following:

'Article 17

1. In order to qualify for aid, the distiller shall submit an application to the intervention agency, by a date to be fixed, enclosing, in respect of the quantities for which the aid is requested:

(a) (i) with regard to wine and wine lees, a list of the deliveries made by each producer, indicating at least:

— the nature, quantity, colour and alcoholic strength by volume,

— the number of the document provided for in Article 71 (1) of Regulation (EEC) No 822/87 where that document is required for the transport of the products to the distiller's premises or, where it is not required, the reference to the document used in accordance with national provisions;

(ii) with regard to grape marc, a list of the names of the producers who have delivered marc to him and the quantities of alcohol contained in the marc delivered under the distillation operation provided for in Article 35 of Regulation (EEC) No 822/87, duly endorsed by the supervisory authority responsible for keeping accompanying documents relating to deliveries made:

(b) a declaration, endorsed by the competent authority designated by the Member State, indicating at least:

— the quantities of products obtained from distillation, broken down into the categories specified in Article 3 (1)

— the dates on which the products were obtained;

(c) evidence that he has paid the producer, within the time-limit laid down, the minimum purchase price stipulated for the distillation operation in question.

2. Where distillation is carried out by the producer himself, the documents referred to in paragraph 1 shall be replaced by a declaration, endorsed by the competent authority of the Member State, indicating at least:

— the nature, quantity, colour and alcoholic strength by volume of the produce to be distilled;

— the quantities of the products obtained from distillation, broken down into the categories specified in Article 3 (1);

— the dates on which the products were obtained.

3. The intervention agency shall pay the distiller or, in the cases referred to in paragraph 2, the producer the aid calculated in accordance with Article 16 within three months of submission of the application together with the requisite documents.'

17. Article 18 is replaced by the following:

'Article 18

1. Distillers may deliver to the intervention agency, within a time-limit to be determined, products with an alcoholic strength of 92 % volume or more.

The operations necessary to obtain the product referred to in the first subparagraph may be carried out either at the premises of the distiller who delivers the said product to the intervention agency or at the premises of a jobbing distiller.

2. The buying-in prices referred to in the third and fourth subparagraphs of Article 35 (6), the third and fourth subparagraphs of Article 36 (4) and the third and fourth subparagraphs of Article 39 (7) of Regulation (EEC) No 822/87 shall be fixed per hectolitre and per % volume of pure alcohol.

They shall apply to bulk merchandise free at the warehouse of the intervention agency. They shall be fixed on the basis of the minimum buying-in price for the products for the distillation operation in question, standard transport costs for the products to be distilled where these are to be taken into account, standard transport costs for the products of distillation, standard processing costs and technical losses.

If the distiller has qualified for aid under the conditions laid down in Article 17, the prices referred to in the first subparagraph shall be reduced by an amount equal to the amount of the aid.

3. At the same time as the standard price fixed in accordance with paragraph 2, differentiated prices shall be fixed for products delivered to the intervention agency under the third subparagraph of Article 35 (6) of Regulation (EEC) No 822/87, depending on whether the product has been distilled from grape marc, wine lees or wine, so that account is taken, where appropriate, of the differing costs and losses.

The Member States may decide to apply differentiated prices where the application of the standard price would or could make it impossible to have one or more of the by-products of wine-making distilled in certain regions of the Community. The level of prices fixed for the product distilled from the various by-products must be such that the weighted average of these prices does not exceed the standard price.'

18. Article 19 is replaced by the following:

'Article 19

The amount of the contribution from the EAGGF, Guarantee Section, to expenditure incurred by intervention agencies in taking over the products of the distillation operations referred to in Articles 35 and 36 of Regulation (EEC) No 822/87 shall be fixed at a standard rate per hectolitre and per % volume of alcohol on the basis of the buying-in price for neutral alcohol taken into intervention and the price charged for such alcohol on the Community market.'

19. Article 20 is deleted and replaced by the following, for insertion in Title III before Article 21:

'Article 20

For each of the distillation operations referred to in Articles 35, 36, 38, 39, 41 and 42 of Regulation (EEC) No 822/87, the Member States shall communicate the following information to the Commission every two months, distinguishing between neutral alcohol, raw alcohol and potable spirits:

— quantities produced during the previous period;

— quantities taken over by their intervention agencies on the basis of Community or national rules during the previous period;

— quantities disposed of by those intervention agencies during the previous period;

— quantities held by those intervention agencies at the end of the previous period.

In respect of quantities disposed of by these intervention agencies, they shall also communicate the selling prices charged, and shall state that the products have been consigned within the Community or exported, as the case may be.'

20. Article 21 is replaced by the following:

'Article 21

1. The distillation operations referred to in this Regulation may be carried out only during periods to be determined.

2. The characteristics which products delivered for distillation must present, in particular as regards volatile acidity level, shall be determined in accordance with the procedure laid down in Article 83 of Regulation (EEC) No 822/87.

3. The characteristics of the products delivered for destillation, and in particular quantity, colour and alcoholic strength, shall be checked using as a basis:

— the document provided for in Article 71 (1) of Regulation (EEC) No 822/87 under cover of which transport is carried out;

— an analysis performed on samples collected when the product enters the distillery, under the supervision of an official body of the Member State in which the distillery is located. This procedure may take the form of representative spot checks;

— the contract concluded pursuant to Article 4.

The analyses shall be performed by approved laboratories, which shall forward the results to the intervention agency of the Member States where distillation takes place.

In accordance with the procedure laid down in Article 83 of Regulation (EEC) No 822/87 detailed rules shall be adopted concerning:

— application of the result of the analysis referred to in the second indent of the first subparagraph to the entire quantity convered by the contract or delivered, with particular reference to compliance with the principle of proportionality;

— the representativeness of the spot checks referred to in the second indent of the first subparagraph.

4. If, in accordance with the Community provisions in force, the document referred to in the first indent of paragraph 3 has not been made out, the characteristics of the product intended for distillation shall be checked using as a basis the analyses referred to in the second indent of that paragraph.

A representative of an official body shall check the quantity of product distilled and the date of distillation.'

21. Article 22 is replaced by the following:

'Article 22

1. Should verification of the file reveal that, in respect of all or part of the products delivered, the producer does not satisfy the conditions laid down by Community rules for the distillation operation in question, the competent intervention agency shall inform the distiller and the producer accordingly.

2. For the quantities of products referred to in paragraph 1, the distiller shall not be required to keep to the price referred to in Article 4 (3) or Article 12.

3. Without prejudice to Article 8 or Article 16 (3), should the producer or the distiller not satisfy, in respect of all or part of the products delivered for distillation, the conditions laid down by Community rules for the distillation operation in question:

— aid shall not be due for the quantities in question;

— the distiller may not deliver the products obtained from distillation of the quantities in question to the intervention agency.

If the aid has already been paid, the intervention agency shall recover it from the distiller.

If the products of distillation have already been delivered, the intervention agency shall recover an amount equal to the aid specified for the distillation operation in question from the distiller.

However, where the various time-limits laid down by this Regulation have not been met, a reduction of the aid may be decided upon. Detailed rules for the application of this subparagraph shall be adopted in accordance with the procedure laid down in Article 83 of Regulation (EEC) No 822/87.'

22. Article 25 is replaced by the following:

'Article 25

1. Wine which is to undergo one of the distillation operations referred to in this Regulation may be fortified for distillation. In such cases, the product of distillation of such fortified wine must be one of the products specified at point (b) of the first subparagraph of Article 3 (1).

2. Wine shall be fortified for distillation only under official supervision.

For this purpose:

— the document(s) and register(s) required under Article 71 of Regulation (EEC) No 822/87 shall show the increase in actual alcoholic strength by volume, expressed in % volume, by indicating the strength before and after addition of the distillate to the wine;

— a sample of the wine shall be taken under official supervision before it is fortified in order that the

actual alcoholic strength by volume may be determined analytically by an official laboratory or a laboratory working under official supervision;

— two copies of the report on the analysis referred to in the second indent shall be sent to the manufacturer of the fortified wine and the manufacturer shall transmit one of these copies to the intervention agency of the Member State in which the wine is fortified.

3. Wine shall be fortified for distillation during the same period as that laid down in accordance with Article 21 (1) for the distillation operation in question. However, in the case of wine fortified for the distillation referred to in Article 36 of Regulation (EEC) No 822/87, a shorter period shall be set.

Articles 22 and 23 shall apply, subject to any necessary adjustments.

4. Wine fortified for distillation shall be distilled in accordance with detailed rules to be laid down. Such distillation shall take place within a period to be set.

5. Member States may restrict the number of locations at which wine may be fortified for distillation, should this be necessary to ensure that the most suitable method of supervision can be used.'

23. Article 26 is replaced by the following:

'Article 26

1. When the option referred to in Article 25 (1) is exercised and where the wine is not fortified for distillation by the distiller or on his behalf, the producer shall conclude a delivery contract with an approved manufacturer and shall submit it for approval to the competent intervention agency before a date to be specified.

However, if the producer is approved as a manufacturer of fortified wine and intends to fortify the wine for distillation himself, the contract referred to in the first subparagraph shall be replaced by a declaration of delivery.

2. The contracts and declarations referred to in paragraph 1 shall be governed by Articles 4, 5 and 8, subject to the necessary adjustments.

3. The manufacturer of fortified wine shall pay the producer, for the wine delivered, at least the price referred to, as the case may be, in Articles 35 (5a), 36 (3), 38 (2), 39 (6), 41 (6) or 42 (3) of Regulation (EEC) No 822/87; these prices shall apply to bulk merchandise;

— free at distiller's premises in the case of the distillation referred to in Article 35 of Regulation (EEC) No 822/87;

— ex producer's premises in other cases.

Subject to the necessary adjustments, the manufacturer of fortified wine shall be subject to the same obligations as the distiller under Articles 4, 6, 12, 15 and 17.

The aid to be paid to the manufacturer of fortified wine for the respective distillation operations shall be fixed per % volume of actual alcoholic strength and per hectolitre of wine before fortification, on the basis of the minimum buying-in price for the distillation operation in question, standard transport costs, where these are to be taken into account, standard processing costs and the market price for the product of distillation.

4. The aid shall be paid by the competent intervention agency to the manufacturer of fortified wine on condition that he provides a guarantee equal to 110 % of the aid to be received.

Where the manufacturer fortifies wine for distillation operations governed by various provisions of Regulation (EEC) No 822/87, he may provide a single guarantee. In such case the guarantee shall be equal to 110 % of all the aid to be paid to the manufacturer in respect of the said distillation operations.

The guarantees referred to in the first and second subparagraphs shall be provided in accordance with the second subparagraph of Article 9 (1).

The guarantee shall be released by the intervention agency after:

— proof of distillation, within the time-limit laid down, of the total quantity of wine fortified for distillation specified in the contract or declaration; and

— proof of payment, within the time-limit laid down, of the minimum purchase price referred to in Articles 4 (3) and 15 (2);

has been submitted within the time-limit laid down, and where appropriate, in accordance with detailed rules to be adopted in accordance with the procedure laid down in Article 83 of Regulation (EEC) No 822/87.

In cases covered by the second subparagraph of paragraph 1, only the proof referred to in the first indent shall be supplied by the producer to the intervention agency.'

24. Article 26a is replaced by the following:

'Article 26a

1. Where fortified wine is distilled in a Member State other than that in which the contract or declaration was approved, the aid payable in respect of distillation operations may, by way of derogation from Article 26 (4), be paid to the distiller on condition that

he submits an application within two months following the deadline specified for carrying out the distillation operation in question to the intervention agency of the Member State in whose territory the distillation has taken place.

2. The application referred to in paragraph 1 shall be accompanied by the following:

— a document endorsed by the competent authorities of the Member State in the territory of which the wine was fortified, transferring entitlement to the aid from the manufacturer of the fortified wine to the distiller and showing the quantities of fortified wine concerned and the amount of the corresponding aid;

— a copy of the contract or declaration referred to in Article 26 (1), approved by the relevant intervention agency;

— a copy of the analysis report referred to in Article 25;

— proof of payment of the minimum purchase price of the wine to the producer;

— the document required under Article 71 of Regulation (EEC) No 822/87 for the transport of fortified wine to the distillery, showing the increase in actual alcoholic strength, by volume, expressed in % volume, by indicating the strength before and after addition of the distillate to the wine;

— proof of distillation of the fortified wine concerned.

3. In cases covered by paragraph 1 the manufacturer of fortified wine shall not be required to lodge the guarantee referred to in Article 26 (4).

4. The aid shall be paid by the intervention agency not later than three months after the application and the documents referred to in paragraph 2 have been submitted.'

25. In Article 27:

(a) the following subparagraph is added to paragraph 1:

'Member States may provide that, where products referred to in this Regulation are delivered for distillation by more than one producer, they shall be transported in bulk. In such cases, the checking of the characteristics of the products referred to in Article 21 shall be carried out in accordance with the detailed rules adopted by the Member States concerned.'

(b) paragraph 2 is replaced by the following:

'2. Member States which exercise the option set out in the second and third subparagraphs of paragraph 1 shall inform the Commission accordingly and shall notify the Commission of the provisions which they have adopted for this purpose. The Commission shall inform the other Member States in the case referred to in the second subparagraph of paragraph 1.'

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, 26 July 1988.

For the Council

The President

Y. PAPANTONIOU