COMMISSION REGULATION (EEC) No 327/88

of 3 February 1988

authorizing additional distillation to that referred to in Article 41 of Council Regulation (EEC) No 822/87 for the 1987/88 wine year

THE COMMISSION 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 3146/87 (2), and in particular Articles 41 (10) 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 Commission Regulation (EEC) No 2786/87 (7) authorized distillation restricted to holders of long-term storage contracts for table wines for the 1986/87 wine year; whereas such distillation may apply only to wines which are covered by storage contracts and which are of high quality; whereas the production period for wines having come to an end, it has been noted that for this wine year, in certain cases, the quality of table wines has fallen well below average; whereas it is desirable that wines of inferior quality should be allowed to be distilled instead of wines for which there is a demand on the market;

Whereas in the circumstances a measure should be introduced enabling producers who may distil pursuant to Regulation (EEC) No 2786/87 to submit contracts replacing those concluded under the abovementioned Regulation; whereas a price should be fixed for such distillation which takes account of quality;

Whereas Article 41 (4) of Regulation (EEC) No 822/87 set at 6 200 000 hectolitres the quantity of table wine which may be the subject of the measures provided for; whereas four million hectolitres are to be distilled pursuant to Commission Regulation (EEC) No 4023/87 (8); whereas, therefore, the measures should be limited to 2 200 000 hectolitres;

Whereas such distillation should be governed by the same general rules as those laid down in Council Regulation (EEC) No 2179/83 of 25 July 1983 (9), as last amended by Regulation (EEC) No 3805/85 (10);

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. Additional distillation pursuant to the second subparagraph of Article 41 (1) is hereby authorized up to 2 200 000 hectolitres for producers who have submitted for approval a contract or a declaration by virtue of the distillation authorized by Regulation (EEC) No 2786/87 and who have not yet delivered the wine to the distillery.

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 Article 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 (11), Article 13 of Commission Regulation (EEC) No 2705/86 (12), and Article 22 of Commission Regulation (EEC) No 854/86 (13).

Article 2

1. The producers referred to in Article 1 may submit for approval delivery contracts or declarations of delivery for distillation drawn up in accordance with Articles 4 (1) and 5 (1) of Regulation (EEC) No 2179/83 by 7 March 1988 at the latest.

(1) OJ No L 84, 27. 3. 1987, p. 1.
(2) OJ No L 300, 23. 10. 1987, p. 4.
(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 268, 19. 9. 1987, p. 9.
(8) OJ No L 378, 31. 12. 1987, p. 48.
(9) OJ No L 212, 3. 8. 1983, p. 1.
(10) OJ No L 367, 31. 12. 1985, p. 39.
(11) OJ No L 244, 29. 8. 1986, p. 8.
(12) OJ No L 246, 30. 8. 1986, p. 61.
(13) OJ No L 80, 25. 3. 1986, p. 14.

Approval of such contracts or declarations shall cancel the contracts concluded by the same producer under Regulation (EEC) No 2786/87 for the quantity corresponding to that approved, provided the wines covered by the initial contracts have not yet been delivered to the distiller.

2. The table wine which is the subject of the contract or the declaration referred to in paragraph 1 must have been produced in the course of the 1987/88 wine year by the producer concluding the contract or submitting the declaration and must belong to the same type of table wine as that covered by the contract or the declaration referred to in Article 1.

3. The quantity of table wine which may be the subject of the contract or the declaration may not exceed that specified in the contract referred to in Article 1.

4. Delivery contracts may be approved only if they are concluded by the producer with the same distiller as the distiller with whom the contract provided for by Regulation (EEC) No 2786/87 was concluded.

Article 3

The distillation referred to in Article 1 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 Article 2 (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 distillation contract concluded by the producer under Regulation (EEC) No 2786/87.

2. Member States shall communicate to the Commission not later than 25 March 1988 the information relating to the quantities of table wine specified in the contracts submitted to the intervention agency.

3. Where it emerges from the information referred to in paragraph 2 that the total quantity of table wines specified in the contracts submitted to the intervention agency exceeds 2 200 000 hectolitres, the contracts may be approved only for a certain percentage of the quantity provided for.

This percentage shall be fixed by the Commission in accordance with the procedure laid down in Article 83 of Regulation (EEC) No 822/87.

4. The intervention agency shall notify the producer of the outcome of the approval procedure by 13 May 1988 at the latest.

5. Approval shall be conditional on the requirements laid down in Article 10a of Commission Regulation (EEC) No 3929/87 [1] being met.

6. 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 Article 44 of Regulation (EEC) No 822/87 be:

— 2,68 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,

— 2,49 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,

— 5,57 ECU per % vol per hectolitre in the case of table wines of type A II,

— 6,36 ECU per % vol per hectolitre in the case of table wines of type A III.

Those prices shall be 1,66, 1,54, 3,45 and 3,94 ECU respectively per % vol per hectolitre for wines obtained from grapes produced in Spain.

The minimum purchases 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:

— 2,19 ECU per % vol per hectolitre if it is obtained from red table wines of types R I and R II,

— 2,00 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,

— 5,12 ECU per % vol per hectolitre if it is obtained from white table wines of type A II,

— 5,93 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 1,15, 1,03, 2,97 and 3,47 ECU per % vol per hectolitre;

[1] OJ No L 369, 29. 12. 1987, p. 59.

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

— 2,08 ECU per % vol per hectolitre if it is obtained from red table wines of types R I and R II,

— 1,89 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,

— 5,01 ECU per % vol per hectolitre if it is obtained from white table wines of type II,

— 5,82 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 1,04, 0,92, 2,86 and 3,36 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 ;

— 2,08 ECU per % vol per hectolitre if it is obtained from red table wines of types R I and R II,

— 1,89 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,

— 5,01 ECU per % vol per hectolitre if it is obtained from white table wines of type A II,

— 5,82 ECU per % vol per hectolitre if it is obtained from white table wines of type A III.

For the distilate 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 1,04, 0,92, 2,86 and 3,36 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 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 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 13 % vol and not belonging to type A I or A III,

— R I, those red table wines with an actual alcoholic strength of 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 proof 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 proof 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 (6).

Where such proof 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 Article 1 (2):

— the proof referred to in Article 1 (2) shall be submitted before 1 June 1988,

— proof 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 proof 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 sumbmitted to the competent intervention agency by 29 February 1988 at the latest.

The intervention agency shall notify the producer of the outcome of the approval procedure by 13 May 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:

— 2,04 ECU for red table wines of types R I and R II,

— 1,85 ECU for white table wines of type A I and for wines suitable for yielding table wine,

— 4,93 ECU for white table wines of type A II,

— 5,72 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 1,02, 0,90, 2,81 and 3,30 ECU per % vol 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 proof 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, proof 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 this proof 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 proof is presented after the time limit by 31 March 1989 at the latest the intervention agency shall recover 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 17 June 1988 of the quantities of wine specified in the approved contracts.

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

Conversion into national currency of the amounts specified in Articles 5 and 9 shall be at the representative rate in force in the wine sector on 1 September 1987.

Article 12

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 3 February 1988.

For the Commission

Frans ANDRIESSEN

Vice-President