COMMISSION REGULATION (EEC) No 441/88

of 17 February 1988

laying down detailed rules for applying compulsory distillation as referred to in Article 39 of Council Regulation (EEC) No 822/87

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 Commission Regulation (EEC) No 3992/87 (2), and in particular Article 39 (9) thereof,

Whereas, as a result of changes in compulsory distillation as provided for in Article 39 of Regulation (EEC) No 822/87 and the consolidation of the Regulation on the common organization of the market in wine, for the sake of clarity Commission Regulation (EEC) No 854/86 (3) as last amended by Regulation (EEC) No 1410/87 (4) as regards the detailed rules for applying compulsory distillation should be consolidated;

Whereas the distillation operations referred to in Article 39 of Regulation (EEC) No 822/87 must be carried out 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 (5), as amended by Regulation (EEC) No 2687/84 (6);

Whereas the criteria required to establish a situation of serious imbalance on the market, triggering off compulsory distillation, should be defined;

Whereas, in order to avoid the risk that compulsory distillation leads to inadequate supplies for the following year, it should be made clear that the need to ensure balance for the following year must be taken into account when the quantity for compulsory distillation is fixed;

Whereas, in order to spread the burden of compulsory distillation equitably throughout the Community, the criteria for delimiting production regions with homogeneous characteristics must be defined;

Whereas, in order to take into account the increase in the amount for compulsory distillation in line with yield per hectare, as provided for in Article 39 (4) of Regulation (EEC) No 822/87, provision should be made for a breakdown of production by region according to yield classes to which percentages of production will be applied to obtain the anticipated quantity for each region;

Whereas, to achieve proper, uniform application of the compulsory distillation measure, the yield to be taken into account and the quantity of wine and products upstream of wine to which the percentage referred to in Article 39 (4) of Regulation (EEC) No 822/87 applies must be made clear; whereas for the 1987/88 wine year for technical production reasons grape musts intended for the production of concentrated musts, whether or not rectified, but not yet processed before 15 March must be included in quantities deductible from that quantity provided that the producer undertakes to process them by 31 August at the latest; whereas Commission Regulation (EEC) No 3929/87 of 17 December 1987 on harvest, production and stock declarations relating to wine-sector products (7) provides that producers are to declare the quantity of wine and of products upstream of wine and the yields for the quantities obtained;

Whereas the producers to be exempted from compulsory distillation should be defined with a view to bringing down the administrative costs of applying the measure;

Whereas the quantities of table wine obtained by applying the percentages fixed by the Commission to the production of each person subject to the compulsory distillation obligation must be known quickly in order to evaluate the impact of the measure on the market; whereas this may be achieved by requiring each person subject to the compulsory destillation obligation to report the quantities which he must deliver for distillation, while allowing the competent authorities themselves to calculate as a matter of course the quantities for each producer and to notify producers of their obligations;

Whereas the procedure for checking the characteristics of the wine delivered for distillation provided for in Regulation (EEC) No 2179/83 relates to individual deliveries only and does not settle the problem of deliveries carried out jointly by several producers; whereas the latter situation is likely, however, to be encountered frequently in view of the small quantities to be delivered by certain producers subject to the compulsory distillation obligation; whereas, in consequence, provision should be made, in that case and in view of the varying situations applying in the various Member States, for checks on the characteristics of wines delivered to be carried out in accordance with national provisions;

(1) OJ No L 84, 27. 3. 1987, p. 1.
(2) OJ No L 377, 31. 12. 1987, p. 20.
(3) OJ No L 80, 25. 3. 1986, p. 14.
(4) OJ No L 135, 23. 5. 1987, p. 11.
(5) OJ No L 212, 3. 8. 1983, p. 1.
(6) OJ No L 255, 25. 9. 1984, p. 1.
(7) OJ No L 369, 29. 12. 1987, p. 59.

Whereas the tolerances permitted should be determined so as to facilitate compliance with obligations without entailing unwarranted expenditure for the European Agricultural Guidance and Guarantee Fund (EAGGF);

Whereas, in order to ensure equal treatment for those subject to the obligation, producers who have disposed of their wine before compulsory distillation is triggered off should be permitted to fulfil their obligations; whereas it is also economically justifiable to allow producers whose wine can be disposed of without difficulty on the market on account of its quality to fulfil the obligation without being required to deliver their own wine; whereas, to achieve this result provisions should be made for producers to deliver, or have delivered, wine of other producers;

Whereas, in the absence of a Community definition of rosé wine and for reasons of clarity, it should be made clear that rosé table wines will be treated in the same way as red table wines on account of the close economic relationship existing between them;

Whereas the table wines considered for the purposes of this measure, as being in a close economic relationship with each type of wine should be determined;

Whereas the risk that products of the distillation of certain wines cause disturbance on the market for wine spirits with a designation of origin should be avoided; whereas, to this end, pursuant to Article 3 (2) of Regulation (EEC) No 2179/83, it should be laid down that a product with an alcoholic strength of less than 92 % vol may not be obtained by the direct distillation of such wines;

Whereas certain deadlines must be laid down for completion of the operation by producers and distillers in order to ensure maximum effectiveness of the measure;

Whereas distillers may, in accordance with Article 39 (7) of Regulation (EEC) No 822/87, either receive aid for the product to be distilled or deliver the product of distillation to the intervention agency; whereas the amount of aid must be fixed on the basis of the criteria referred to in Article 16 of Regulation (EEC) No 2179/83 when the measure is triggered off;

Whereas, in accordance with Article 17 of Regulation (EEC) No 2179/83, in order to receive aid, interested parties must submit an application together with certain supporting documents; whereas, to ensure the uniform functioning of the scheme in Member States, deadlines should be laid down for the submission of applications, for the payment of the aid due to distillers and for the submission of evidence that the purchase price has been paid;

Whereas the price to be paid by the intervention agencies for the products delivered to them must be fixed on the basis of the criteria referred to in Article 18 (2) of Regulation (EEC) No 2179/83 when the measure is triggered off;

Whereas the wine which must be delivered for compulsory distillation may be processed into wine fortified for distillation; whereas the provisions applicable to distillation operations should therefore be adopted, in accordance with rules laid down in Articles 25 and 26 of Regulation (EEC) No 2179/83;

Whereas, in order to enable the Commission to gain an overall view of compliance with compulsory distillation obligations, the Member States concerned must keep it regularly informed, on the basis of notifications from distillers, of the progress and results of distillation operations;

Whereas the production structures and administrative difficulties peculiar to Greece justify the introduction, in that Member State in wine years 1987/88 and 1988/89, of compulsory distillation arrangements which, while enabling a result to be obtained which approaches, in terms of quantity, that deriving from the application of the general arrangement limit the measure to producers who have an adequate quantity of table wine available, and authorize the Greek Government itself to fix the percentages of table wine production to be delivered for distillation by the producers concerned; whereas the percentages thus fixed must ensure equal treatment for the parties concerned and must be based on the criteria provided for in Article 39 of Regulation (EEC) No 822/87; whereas Greek producers who are not subject to the compulsory distillation obligation may qualify for the measures provided for in Title III of Regulation (EEC) No 822/87;

Whereas, pursuant to Article 47 of Regulation (EEC) No 822/87, the reference period for exclusion from intervention measures for producers subject to the obligation who have not made delivery should be determined; whereas the application of that Article is without prejudice to the obligation on Member States to apply national penalties necessary to ensure in accordance with Article 79 of Regulation (EEC) No 822/87, the strict non-discriminatory application of compulsory distillation;

Whereas it should be made clear that this Regulation is not applicable in Portugal before the end of the 1989/1990 wine year; whereas persons for whom distillation is compulsory should be prohibited from carrying out the distillation or having it carried out in Portugal;

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

For the purposes of (a) and (b) of the second subparagraph of Article 39 (1) of Regulation (EEC) No 822/87 the following definitions shall apply:

(a) availabilities recorded at the beginning of the wine year:

the quantity equal to the sum of the beginning-of-year stocks and production of table wine and wine suitable for yielding table wine, minus:

— the quantity of table wine and wine lees to be distilled under Article 35 (2) of Regulation (EEC) No 822/87 during the wine year,

— the production and trade losses anticipated for the wine year;

(b) normal utilization for the year:

the quantity of table wine equal to the sum of the quantities scheduled to be, during the wine year:

— used for direct human consumption,

— processed into products designated by codes 2205 or 2209 00 of the combined nomenclature,

— exported,

minus the quantity of wine to be imported which is classifiable as table wine.

Article 2

1. The average referred to in (c) of Article 39 (1) of Regulation (EEC) No 822/87 shall be determined by applying the following coefficients to the representative price for each type of table wine:

A I: 25
A II: 1
A III: 0,5
R I: 65
R II: 8,4
R III: 0,1

2. The condition laid down in Article 39 (1) (c) of Regulation (EEC) No 822/87 shall be considered to have been satisfied if, between 1 September and 31 December, the average referred to in paragraph 1 remains, for three consecutive weeks, at less than 82 % of the weighted average of the guide prices for each type of table wine to which the coefficients specified in paragraph 1 have been applied. Representative prices and guide prices shall be expressed in ECU per % vol alcohol. To this end, standard alcoholic strengths of 10 % vol for type A II and A III wines and 10,5 % vol for type R III wines shall be applied. If the representative price for a type of table wine is not available, the representative price used for that type of wine shall be the most recent one available.

Article 3

When the total quantity of table wine subject to compulsory distillation is being fixed, account shall be taken of the need to ensure a level of forseeable end-of-year stocks which will guarantee that the availabilities for the following wine year will in any case be sufficient to cover normal utilization.

Article 4

1. The production regions referred to in Article 39 (3) of Regulation (EEC) No 822/87 shall be designated to take account, on the one hand, of production and climatic conditions and, on the other, of the differences existing between Member States in terms of administrative structure and legal requirements, particularly as regards the internal organization of cooperative wineries and producer groups.

The said regions must coincide with administrative units larger than communes and comprise administrative units on which statistics are available for the reference wine years referred to in the second indent of the second subparagraph of Article 39 (3) of Regulation (EEC) No 822/87.

2. In respect of the wine years 1987/88 to 1989/90, the production regions referred to in Article 39 (3) of Regulation (EEC) No 822/87 shall be defined as follows:

— Region 1: the German sections of wine-growing zones A and B,

— Region 2: the wine-growing region of Luxembourg,

— Region 3: the French section of wine-growing zones B, C I (a), C II and C III (b),

— Region 4: wine-growing zone C I (b) and the Italian section of wine-growing zones C II and C III (b),

— Region 5: wine-growing zone C III (a) and the Greek section of wine-growing zone C III (b).

— Region 6: the Spanish section of wine-growing zones C.

3. Average production of table wine and products upstream of table wine in the regions referred to in paragraph 2 in the three consecutive wine years 1981/82, 1982/83 and 1983/84 was as follows:

— Region 1: 1 341 700 hl
— Region 2: 57 300 hl
— Region 3: 40 182 000 hl
— Region 4: 64 163 000 hl
— Region 5: 4 632 000 hl
— Region 6: 27 500 000 hl.

Article 5

1. On the basis of the notifications from the Member States provided for in the first subparagraph of Article 39 (5) of Regulation (EEC) No 822/87, the table wine production of each region shall be classified according to yield class. The definition of such classes shall take account of the quantity of table wine to be distilled in the region in question and the percentage of table wine production in the region which this quantity represents. The abovementioned classes shall be fixed on the basis of the yield classes, laid down in Regulation (EEC) No 3929/87.

2. Where compulsory distillation is introduced, a rising scale shall be fixed for each region based on the yield classes referred to in paragraph 1. The steps in this scale shall be fixed at levels which ensure that, taking into account the foreseeable exemptions under Article 9, the total volume resulting from applying the scale to the quantities falling within each yield class for a given region corresponds to the volume to be distilled in the said region.

Article 6

1. The quantity of a producer's production to be taken into account for the application of this Regulation shall be equal to the sum of the quantities of products in the 'Table wines' column of the production declaration given in Table B of Annex I to Regulation (EEC) No 3929/87 : grapes, grape musts, musts in fermentation, new wines still in fermentation, wines suitable for yielding table wine and table wines.

This volume shall be :

(a) increased by : — the quantity of wine suitable for yielding table wine entered in the 'Wines and other products' column of the abovementioned production declaration,

— the quantity of table wine made before 15 March from products upstream of wine acquired after the date on which a producer lodged his production declaration ;

(b) reduced by the quantity of products upstream of wine (grapes, grape musts, musts in fermentation, new wines still in fermentation, wines suitable for yielding table wines) in the 'Table wines' column and quantities of wine suitable or yielding table wine in the 'Wines and other products' column of the production declaration for which a producer provides proof before 15 March that they have been processed into products other than those entered in the 'Table wines' column of the abovementioned production declaration or that they have been disposed of to a third party before that date.

The proof referred to in (b) shall consist of the relevant entries in the records referred to in Article 14 of Commission Regulation (EEC) No 1153/75 (1). To enable the necessary checks to be carried out, producers disposing of products referred to in (b) after lodging their harvest declaration shall notify the name and address of the acquirer, the quantities involved and the date of disposal, to the competent authorities.

In addition, for the 1987/88 wine year, producers may deduct quantities of grape must intended for the preparation of concentrated must or rectified concentrated must not yet processed by 15 March from the quantity referred to in the first subparagraph provided that they undertake to process them by 31 August. If such processing has not taken place by the latter date, producers must deliver for compulsory distillation, in the form of wine, a quantity resulting from the application of the percentage provided for in Article 8 to the quantity of unprocessed must, plus 20 %. That quantity must be delivered by the date fixed by the competent national authority pursuant to Article 12 (5).

For the purposes of the preceding subparagraph and not withstanding Article 10 (1) and (2), the notifications referred to in the said provisions may be adjusted up to 15 June 1988. The Member States shall notify the Commission of the quantities adjusted.

2. For each producer who has obtained table wine from the processing and/or downgrading of one of the products entered in the 'Quality wines psr' column of the production declaration, the volume of production to be taken into consideration shall be the sum of all such products used to make that table wine during the period from 1 July preceding the wine year in question to 30 June of that wine year.

3. In the case of a producer who has made table wine from products bought after the final date for lodging his production declaration, the volume of production shall be the total quantity of products employed in vinification before 15 March and entered in the records referred to in Article 14 of Regulation (EEC) No 1153/75.

Article 7

The yield per hectare to be taken into consideration for each producer of table wine shall be the figure given in his grape harvest declaration, as provided for in Regulation (EEC) No 3929/87. Where this declaration is not required the yield shall be that stated on the wine production declaration provided for by that Regulation. In all cases, the yield must include all the grapes produced on the areas worked by the declarant.

However,

— in Member States where a member of a cooperative winery or group is not obliged to submit a harvest declaration, in accordance with Article 1 (2) of Regulation (EEC) No 3929/87, and cooperative wineries or producer groups lodge a single production declaration for all their members, the yield to be taken into consideration shall be that resulting from the weighted average of the yields of each consignment delivered by the members.

This average shall be determined in accordance with the method of calculation set out in the Annex to this Regulation,

(1) OJ No L 113, 1. 5. 1975, p. 1.

— the yield to be taken into consideration for producers who have made table wine by vinification of purchased products shall be that resulting from the weighted average of the yields of each consignment purchased and, where appropriate, the yield of the consignment of his own production.

This average shall be determined in accordance with the method set out in the Annex to this Regulation,

— in the case of a table wine made from grape varieties classified, in respect of the same administrative unit, as both wine grapes and grapes for other uses, the yield to be taken into consideration shall be based on the quantities normally made into wine as referred to in Article 36 (2) of Regulation (EEC) No 822/87,

— where the table wine is obtained from the processing and/or downgrading of one of the products entered in the 'Quality wines psr' column of the production declaration, the yield to be taken into consideration shall be that according to which the quality wine psr in question was obtained. Where the table wine is obtained by processing or downgrading several quality wines psr or a single quality wine psr from several vintages, the yield shall be fixed at a standard rate by the Member State concerned at a level not lower than that recorded for quality wines psr in the area of production in the wine year of distillation.

Article 8

The quantity to be distilled by each producer subject to the obligation shall be calculated by applying to the volume referred to in Article 6 a percentage determined by reference to :

— the yield per hectare relating to the volume of production in question, determined in accordance with Article 7,

— the rising scale established in accordance with Article 5 (2) for the region in which the producer's holding is situated.

Article 9

1. Exemption from the obligation specified in Article 39 of Regulation (EEC) No 822/87 shall be granted to producers who are required, after any deductions under the fourth subparagraph of Article 39 (4) of Regulation (EEC) No 822/87, to deliver a total of less than five hectolitres of table wine for compulsory distillation.

2. Exemption from the obligation specified in Article 39 of Regulation (EEC) No 822/87 shall be granted to producers in Member States whose total wine production is less than 25 000 hectolitres.

Article 10

1. In each wine year during which the compulsory distillation referred to in Article 39 of Regulation (EEC) No 822/87 is introduced, producers subject to the obligation who have lodged a production declaration as provided for in Regulation (EEC) No 3929/87 shall, in accordance with Article 8, calculate the quantities that they are required to deliver for distillation and shall notify the result to the intervention agency or any other competent authority of the Member State in which their holding is located by 31 March at the latest.

The competent authority shall ascertain whether the quantities in the notification correspond to the quantity which the person making the declaration is required to deliver for distillation.

2. The competent authorities may themselves calculate, in accordance with Article 8, the quantities to be sent for distillation by certain categories of producers and notify them thereof. Such notifications shall be transmitted by 31 March at the latest.

Such notifications may be limited to certain categories of producer provided that the limitation is made on the basis of objective, non-discriminatory criteria.

3. Each producer who has obtained table wine from the processing and/or downgrading of one of the products entered in the 'Quality wines psr' column of the production declaration shall, in accordance with Article 8, calculate the quantities which he must deliver for compulsory distillation.

The producer shall notify the intervention agency or any other competent authority of the Member State on whose territory his holding is located :

— not later than 31 March, of the result of the calculation in respect of the quantities of table wine obtained from 1 July of the previous year to 15 March,

— not later than 15 July, of the result of the calculation in respect of the quantities of table wine obtained from 16 March to 30 June.

4. At the time the notification referred to in this Article is transmitted or received, the producer or, as the case may be, the competent authority shall enter in the registers provided for in Article 71 (2) of Regulation (EEC) No 822/87 the quantities of table wine which must be delivered for distillation.

5. Member States shall compile a summary statement of the figures obtained pursuant to paragraphs 1, 2 and the first indent of paragraph 3 and shall inform the Commission by 15 June of the quantities to be distilled, broken down by the yield classes fixed in accordance with Article 5 (1).

The volumes to be distilled as referred to in the second indent of paragraph 3 shall be notified to the Commission by 15 September.

Article 11

1. Should quantities of wine be transported together to the distillery, the wine's characteristics, including quantity, colour and alcoholic strength, shall be verified in accordance with the provisions adopted by the Member States concerned.

2. No downward tolerance shall apply to the quantity to be delivered for distillation by each producer subject to the obligation calculated in accordance with Article 8.

3. An upward tolerance of 2 % in relation to the quantity referred to in paragraph 2 shall apply:

— to the sum of the quantities of table wine delivered by serveral producers subject to the obligation, where the application for aid or the application to deliver distillation products to the intervention agency submitted by a distiller concernes the wines corresponding to those producers' obligations,

— to the quantity delivered by each producer subject to the obligation in other cases.

Article 12

1. Persons subject to the obligation specified in Article 39 (4) of Regulation (EEC) No 822/87 may deliver both table wine of their own production and table wine obtained from other producers as referred to in the second indent of Article 2 (1) (a) of Regulation (EEC) No 2179/83.

They may also:

— carry out distillation in their own distillation facilities,

— arrange for distillation to be carried out in the facilities of an approved distiller working under contract.

2. The obligation specified in Article 39 of Regulation (EEC) No 822/87 shall be considered to have been satisfied even if the table wine is delivered by another person who himself produced it.

In such cases, the certificate issued by the distiller pursuant to Article 15 of Regulation (EEC) No 2179/83 shall specify, in addition to the name and address of the producer delivering the wine, the name and address of the producer subject to the compulsory distillation requirement.

The second subparagraph of Article 13 (2) of Regulation (EEC) No 2179/83 shall apply only to producers subject to the obligation specified in Article 39 (4) of Regulation (EEC) No 822/87.

3. Member States shall, in particular for the purposes of applying the first subparagraph of paragraph 1 and paragraph 2, take the measures necessary to ensure that the quantities of wine delivered in performance of an obligation are those covered by the said obligation.

However, in cases where the wine has been obtained and delivered for distillation in a Member State other than that of the producer subject to the obligation:

— a certificate issued by the authority in the Member States of the producer subject to the obligation, as referred to in Article 10, and attesting that the quantity in question is that covered by the producer's obligation, must be presented to the distiller. A copy of this certificate must be forwarded to the competent authority of the Member State in which distillation takes place,

— the certificate referred to in Article 15 of Regulation (EEC) No 2179/83 shall be authenticated by the competent authority of the Member State in which distillation takes place,

— a copy of this certificate shall be forwarded by the said authority to the authority referred to in the first indent before 25 October of the following wine year.

4. Deliveries of table wine must be made not later than:

— 31 July if delivery is made to a distillery,

— 15 July if delivery is made to a fortifier of wine for distillation.

Deliveries may be made in the fortnight after the above dates. In that case the purchase price for the quantities concerned shall be reduced by an amount equal to 50 % of the aid fixed for the wine year in question. Both the aid and the price of the alcohol which is produced and delivered to the intervention agency shall be reduced by the same amount.

5. The distillation operations referred to in Article 39 of Regulation (EEC) No 822/87 may not be carried out after 31 August.

However, the distillation of wine delivered pursuant to Article 11 (2) or Article 23 of Regulation (EEC) No 2179/83 may be carried out up to the date fixed by the competent national authority, in accordance with the said Articles.

In the circumstances mentioned in the first paragraph of Article 23 of this Regulation, the competent authorities shall set time limits for distillation as necessary.

Distillers shall forward to the intervention agency, not later than the tenth day of each month in respect of the previous month, a statement of the quantities of table wine distilled and the quantities of products obtained by distillation, broken down according to the categories specified in the first subparagraph of Article 3 (1) of Regulation (EEC) No 2179/83.

Article 13

1. The purchase price provided for in Article 39 (6) of Regulation (EEC) No 822/87 shall be fixed at the time when the distillation measure referred to in the same Article becomes applicable.

2. The purchase price referred to in paragraph 1 shall be paid by the distiller to the producer within three months of the day on which each consignment of table wine enters the distillery.

Article 14

1. The provisions of this Regulation relating to red table wine shall apply also to rosé table wine.

2. The provisions of this Regulation relating to a given type of table wine shall apply also to table wine that is in a close economic relationship with that type of table wine. For the purposes of this Regulation, the following shall be considered as being in a close economic relationship with table wine of type :

— A I, white table wine that is not of type A I, A II or A III,

— R I, red table wine with an actual alcoholic strength of less than 12,5 % vol that is not of type R I or R III,

— R II, red table wine with an actual alcoholic strength of more than 15 % vol that is not of type R II or R III.

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

Article 15

Only products with an alcoholic strength of at least 92 % vol may be obtained by the direct distillation of wines made from grapes of varieties which are classified, simultaneously for the same administrative unit, both as wine grape varieties and as varieties intended for the manufacture of wine spirits.

Article 16

1. Distillers may receive aid in respect of the products obtained by the distillation referred to in Article 39 of Regulation (EEC) No 822/87. The amount of the aid shall be fixed at the time when such distillation becomes applicable.

No aid shall be due for the quantity of alcohol contained in the product obtained by distillation in excess of that contained in the quantities of wine delivered in compliance with the limits laid down in Article 11 (3).

2. Distillers who wish to receive the aid specified in paragraph 1 shall submit, by 31 October, an application and the documents specified in Article 17 of Regulation (EEC) No 2179/83.

3. The intervention agency shall pay the aid referred to in paragraph 1 within three months of submission of the application and documents referred to in paragraph 2.

The distiller must provide the intervention agency, before 1 February of the following year, with proof that he paid the producer the purchase price for the wine within the time limit laid down in Article 13 (2).

If such proof is not provided before 1 February, the intervention agency shall recover the aid paid. However, if the proof is provided after the expiry of this time limit but before 1 May, the intervention agency shall recover only 20 % of the aid paid.

If it is found that the distiller has not paid the producer the purchase price, the intervention agency shall pay the producer, before 1 June, an amount equal to the aid, if necessary through the intervention agency of his Member State.

Article 17

1. Where the distiller intends to take advantage of the provisions of the second indent of the first subparagraph of Article 39 (7) of Regulation (EEC) No 822/87, delivery to the intervention agency of products with an alcoholic strength of at least 92 % vol shall be made by 31 October or, if Article 11 (2) of Regulation (EEC) No 2179/83 applies, by the date set by the competent national authority.

In the circumstances mentioned in the first subparagraph of Article 23 (1) of this Regulation, the competent authorities shall set time limits for delivery as necessary.

The quantity of alcohol contained in the product delivered by the distiller to the intervention agency in accordance with the second indent of the first subparagraph of Article 39 (7) of Regulation (EEC) No 822/87 may not exceed that contained in the quantities of wine delivered in compliance with the limits laid down in Article 11 (3).

Pursuant to the first indent of the second subparagraph of Article 39 (7) of Regulation (EEC) No 822/87, Member States where the overall volume for compulsory distillation does not exceed 100 000 hectolitres may provide for their intervention agencies not to buy in the product referred to in the first subparagraph.

2. The price to be paid by the intervention agency to the distiller for the product delivered shall be fixed at the time when the distillation referred to in Article 39 of Regulation (EEC) No 822/87 becomes applicable.

If the distiller has received aid under Article 16, the price referred to in the first subparagraph shall be reduced by the amount of that aid.

If the distiller has not received the aid referred to in the second subparagraph, Article 16 (2) shall be applicable *mutatis mutandis.*

3. The prices referred to in paragraph 2 shall be for neutral spirits as defined in the Annex to Regulation (EEC) No 2179/83.

For other alcohol, the prices referred to in paragraph 2 shall be reduced, per % vol of alcohol and per hectolitre, by an amount fixed at the time when the distillation measure referred to in Article 39 of Regulation (EEC) No 822/87 becomes applicable.

4. The price shall be paid by the intervention agency to the distiller within three months of the day on which the alcohol was delivered.

The second, third and fourth subparagraphs of Article 16 (3) shall be applicable *mutatis mutandis.*

Article 18

1. In cases as referred to in Article 26 (1) of Regulation (EEC) No 2179/83 the contract or the declaration of delivery of wine for fortification for distillation shall be submitted for approval to the competent intervention agency by 30 June.

The intervention agency shall notify the producer of the outcome of the approval procedure within 15 days of the date on which the contract or declaration was submitted.

2. Fortification of wine for distillation may not take place after 31 July.

3. The fortified wine may not be distilled until approval of the contract or declaration has been given but must be distilled by 31 August at the latest.

4. The fortifier shall send the intervention agency, by the 10th day of each month, a statement of the quantities of wine delivered to him during the previous month.

5. Fortifiers of wine for distillation shall receive aid. This aid, calculated per hectolitre and per % vol of actual alcohol before the wine's conversion into wine fortified for distillation, shall be fixed at the time when the distillation measure referred to in Article 39 of Regulation (EEC) No 822/87 becomes applicable.

In order to receive the aid the fortifier shall submit the application and the documents specified in Article 17 of Regulation (EEC) No 2179/83 to the competent intervention agency by 31 October.

The aid shall be paid within three months of the date of submission of proof of the lodging of the security referred to in Article 26 (4) of Regulation (EEC) No 2179/83, but in all cases after the date on which the contract or declaration was approved.

6. Subject to Article 23 of Regulation (EEC) No 2179/83 the security shall be released only if, before 1 March of the following year, proof is produced:

— that all the wine covered by the contract or declaration has been distilled, and

— that the purchase price for the wine was paid to the producer within the time limit specified in Article 13 (2),

the security being released in proportion to the quantities in respect of which such proof is produced.

If the proof referred to in the first subparagraph is provided after the date specified in the first subparagraph but before 1 June, the amount to be released shall be 80 % of the security.

If it is found that the fortifier has not paid the producer the purchase price the intervention agency shall, before 1 July, pay the producer an amount equal to the aid, if necessary through the intervention agency of his Member State.

Article 19

1. Member States shall send the Commission, by the 20th day of each month in respect of the previous month, a statement of:

— the quantities of table wine and fortified wine distilled under the distillation operation referred to in Article 39 of Regulation (EEC) No 822/87, broken down by colour,

— the quantities of alcohol delivered to intervention agencies,

— the quantities of wine spirits produced and their alcoholic strength,

— the quantities of other products of at least 52 % vol alcoholic strength for which aid has been requested.

2. Member States shall notify the Commission, by 31 March, of cases where distillers or fortifiers of wine for distillation have not fulfilled their obligations and of the action being taken in consequence.

Article 20

Conversion into national currencies of amounts to be fixed pursuant to this Regulation shall be at the representative rates applying for the wine sector on the date of the entry into force of the Regulation whereby the distillation measure referred to in Article 39 of Regulation (EEC) No 822/87 becomes applicable.

Article 21

For the 1987/88 and 1988/89 wine years, the following provisions shall apply in Greece pursuant to the first subparagraphs of Article 39 (10) of Regulation (EEC) No 822/87 :

(a) The persons subject to the distillation requirement referred to in this Regulation shall be those producers, including wine cooperatives and producers' associations, who have obtained in the course of the wine year a quantity of table wine to be fixed by the Greek authorities before 10 March of the year in question ;

(b) The Greek Government shall set, before 10 March and in accordance with the criteria laid down in Article 39 (4) of Regulation (EEC) No 822/87, the percentages of table wine production that the producers specified in (a) must deliver for distillation, while ensuring equality of treatment of producers subject to the obligation ; these percentages must ensure that the quantity distilled in Greece as a whole represents the sum of the quantities to be distilled in that Member State ;

(c) The Greek Government shall notify the Commission, before 15 March, of the measures which it has adopted pursuant to this Article.

Article 22

Pursuant to Article 47 (1) of Regulation (EEC) No 822/87 and without prejudice to Article 11 (2) of Regulation (EEC) No 2179/83, producers shall not be eligible for the intervention measures provided for in Title III of Regulation (EEC) No 822/87 and decided on for the following year if they have carried out no deliveries during the period from 1 March of the wine year in question to :

— 15 August in the case of producers who deliver to a distillery,

— 31 July in the case of producers who deliver to a fortifier of wine for distillation,

— 31 August in the case of producers who make use of the provisions of the second subparagraph of Article 12 (1) of this Regulation.

Article 23

Expiry of the time limits referred to in Article 12 (4) or, in the case of producers exercising the option provided for in the second subparagraph of Article 12 (1), of the time limits referred to in the first subparagraph of Article 12 (5) or of those fixed by the Member State pursuant to Article 11 of Regulation (EEC) No 2179/83 shall have no bearing whatsoever on the accomplishment of the requirement that the quantities due from each producer be distilled.

After expiry of the said time limits, the purchase price for the quantities delivered and the price of the alcohol which is produced from those quantities and which is delivered to the intervention agency shall be reduced by an amount equal to the aid laid down for that distillation operation in respect of neutral spirits. No aid shall be paid for distillation products which are not delivered to the intervention agency.

Article 24

1. This Regulation shall not be applicable in Portugal until the end of the 1989/90 wine years.

2. Notwithstanding the second indent of Article 12 (1) persons subject to the obligation specified in Article 39 (4) of Regulation (EEC) No 822/87 may not carry out distillation in Portugal during the period laid down in paragraph 1.

Notwithstanding the first and second subparagraphs of Article 12 (2) delivery may not be made during the wine years referred to in paragraph 1 by producers whose production was obtained in Portugal.

Article 25

1. Regulation (EEC) No 854/86 is hereby repealed.

2. References to the Regulation (EEC) No 854/86 shall be construed as references to this Regulation.

Article 26

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, 17 February 1988.

For the Commission

Frans ANDRIESSEN

Vice-President

ANNEX

Method for calculating the weighted average of yields referred to in Article 7 first and second indent

1. The following formula shall be used for calculating the weighted average (M) referred to in Article 7, the first and second indents :

$$M = \frac{Q}{S} \text{ [hl/ha]}$$

or

$$S = \frac{V_1}{r_1} + \frac{V_2}{r_2} + \frac{V_3}{r_3} + \ldots \frac{V_n}{r_n}$$

V_1 = volume of the first consignment delivered to the cooperative or purchased by the declarant (in hectolitres of wine) as entered in the production declaration.

r_1 = yield fixed in accordance with Article 7, first subparagraph, with which the first consignment was produced (in hectolitres/hectare).

$Q = V_1 + V_2 + V_3 + \ldots + V_n$ (in hectolitres of wine).

2. In the case of cooperative wineries and producer groups as referred to in Article 7, first indent, whose total volume of production as referred to in Article 6 (1) is obtained by all the members delivering their entire production, Q represents the total volume of products delivered to the cooperative winery or producer group and S represents the wine-growing area cultivated by all of the members producing the said products.