COMMISSION REGULATION (EEC) No 2351/89

of 28 July 1989

amending Regulation (EEC) No 441/88 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 Regulation (EEC) No 1236/89 (2), and in particular Article 39 (9) thereof,

Whereas Council Regulation (EEC) No 2179/83 of 25 July 1983 laying down general rules for distillation operations involving wine and the by-products of wine-making (3) was last amended by Regulation (EEC) No 2505/88 (4); whereas that amendment causes certain provisions relating to the conditions for the payment of aid adopted previously in Commission Regulation (EEC) No 441/88 (5), as last amended by Regulation (EEC) No 1596/88 (6), to lapse; whereas that Regulation (EEC) No 441/88 should accordingly be adapted by providing in particular for a security to be lodged where certain evidence required for the payment of the aid is not yet available;

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

Regulation (EEC) No 441/88 is hereby amended as follows:

1. Article 16 (2) and (3) are replaced by the following:

'2. Distillers who wish to receive the aid provided for in paragraph 1 shall submit an application and the documents specified in Article 17 of Regulation (EEC) No 2179/83 at the latest by 31 December following the wine year in question.

3. The proof referred to in Article 17 (1) (c) of Regulation (EEC) No 2179/83 may be replaced by proof that a security has been lodged in favour of the intervention agency. Such security shall be equal to 110 % of the aid applied for.

In the case referred to in the frist subparagraph, proof that the distiller has paid in full the purchase price referred to in Article 13 shall be provided to the intervention agency at the latest by 31 March following the wine year in question. Within three months at the latest on such proof being supplied, the intervention agency shall release the security.

If the proof referred to in the second subparagraph is presented after 31 March but before 1 June of the following year and if that delay is not due to serious negligence on the part of the distiller, the intervention agency shall release 80 % of the security.

In all other cases the security shall be forfeit.

4. If the proof referred to in Article 17 (1) (c) of Regulation (EEC) No 2179/83 shows that the time limit laid down in Article 13 (2) has not been met but that the overrun does not exceed 30 days, the aid to be paid to the distiller shall be reduced by 20 %. No aid shall be due where the overrun exceeds 30 days.

5. 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 of the wine year following that of delivery of the wine, an amount equal to the aid, where appropriate through the intervention agency of the Member State of the producer.'

2. In Article 17:

— in the first subparagraph of paragraph 1, '31 October' is replaced by '30 November',

— paragraph 2 is replaced by the following:

'2. The price to be paid to the distiller by the intervention agency for products delivered shall be fixed when the distillation provided for in Article 39 of Regulation (EEC) No 822/87 comes into operation. If the distiller has not received the aid, Article 16 (2) to (5) shall apply *mutatis mutandis*.

If the proof referred to in Article 17 (1) (c) of Regulation (EEC) No 2179/83 shows that the time limit laid down in Article 13 (2) has not been met but that the overrun does not exceed 30 days, the price to be paid to the distiller for the alcohol delivered shall be reduced by 20 %. No amount shall be paid for the alcohol where the overrun exceeds 30 days.',

— the last subparagraph of paragraph 4 is deleted.

(1) OJ No L 84, 27. 3. 1987, p. 1.
(2) OJ No L 128, 11. 5. 1989, p. 31.
(3) OJ No L 212, 3. 8. 1983, p. 1.
(4) OJ No L 225, 15. 8. 1988, p. 14.
(5) OJ No L 45, 18. 2. 1988, p. 15.
(6) OJ No L 142, 9. 6. 1988, p. 17.

3. The second subparagraph of Article 18 (5) is replaced by the following:

'To receive the aid, fortifiers shall, at the latest by 31 December, submit an application to the competent intervention agency together with proof that the security referred to in Article 26 (4) of Regulation (EEC) No 2179/83 has been lodged.'

4. Article 18 (6) is replaced by the following:

'6. Subject to Article 23 of Regulation (EEC) No 2179/83, the security shall be released only if, within the 12 months following submission of the application, the documents referred to in Article 17 of Regulation (EEC) No 2179/83 are produced to the competent intervention agency.

The security shall be released in proportion to the quantities in respect of which the documents are produced.

If the proof referred to in the second indent of the fourth subparagraph of Article 26 (4) of Regulation (EEC) No 2179/83 shows that the time limit laid down in Article 13 (2) has not been met but that the overrun does not exceed 30 days, the amount to be relased shall be equal to 80 % of the security. The security shall be forfeit where the overrun exceeds 30 days.

If it is found that the fortifier has not paid the producer the purchase price, the intervention agency shall pays the producer, before 1 July of the wine year following that of delivery of the wine, an amount equal to the aid, where appropriate through the intervention agency of the Member State of the producer.'

5. Article 19 (1) is replaced by the following:

'1. Member States shall communicate to the Commission, together with the information referred to in Article 20 of Regulation (EEC) No 2179/83, the quantities of table wine and fortified wine distilled (under to distillation operation referred to in Article 39 of Regulation (EEC) No 822/87, broken down by colour.'

Article 2

This Regulation shall enter into force on 1 September 1989.

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

Done at Brussels, 28 July 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission