COMMISSION REGULATION (EEC) No 85/89

of 16 January 1989

opening compulsory distillation as provided for in Article 39 of Council Regulation (EEC) No 822/87 and derogating for the 1988/89 wine year from certain detailed rules for the application thereof

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal, and in particular Article 90 thereof,

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 2964/88 (2), and in particular Article 39 (9), (10) and (11) thereof,

Whereas the data available at present to the Commission, and in particular those in the forward estimate for the 1988/89 wine year, show that a feature of that year is an imbalance on the market for table wine and wine suitable for yielding table wine ; whereas the conditions laid down in Article 39 (1) of Regulation (EEC) No 822/87 for initiating compulsory distillation are therefore fulfilled ;

Whereas, in view of the prices and the desirable level of availabilities at the end of the year, the distillation of 9 million hectolitres of table wine appears necessary in the Community,

Whereas, in view of the derogation provided for in Article 39 (10) of Regulation (EEC) No 822/87, it should be specified that the quantity for preventive distillation is to be deducted from the quantity for compulsory distillation in Greece ;

Whereas the experience acquired in the 1987/88 marketing year of the option whereby grape must intended for the production after 15 March of products other than table wine may be deducted from the volume to be used for determining the quantity of wine to be delivered for distillation is inadequate for judging the effect of the measure ; whereas that option should be made available again in the 1988/89 marketing year so that its impact can be assessed ;

Whereas a large number of small producers of grapes belong to cooperative wineries or producer groups ; whereas the articles of association of these organizations are such that in certain production regions the delivery obligation provided for in Article 39 of Regulation (EEC) No 822/87 falls on the organization as a whole and in others falls on the producers individually ; whereas in consequence there is a danger that the exemption provided for small producers will differ greatly in effect between regions ; whereas both this fact and the difficulties that were produced by the introduction of a dual exemption arrangement within regions must be taken into account for the fixing of the minimum quantity for delivery by producers ;

Whereas experience has shown that the fulfilment of a producers's obligation through the delivery of wine obtained in a region of production other than that of the production of the said wine-grower has contributed to the imbalance on the market in certain regions ; whereas the obligation should be considered as fulfilled only where wine delivered and wine which is the subject of the obligation are obtained from the same region ;

Whereas application of the rule laid down at the second indent of the second subparagraph of Article 39 (6) of Regulation (EEC) No 822/87 leads, in order to ensure a smooth changeover between the guide price percentages set for the 1987/88 and 1990/91 wine years, to fixing at 25 % the percentage of the guide price for each of the wine types concerned to be used for determining the buying-in price of the table wine to be delivered for distillation ; whereas, however, since the volume to be compulsorily distilled for the 1988/89 wine year does not require application of this percentage application of the rule laid down in the second subparagraph of Article 39 (6) of Regulation (EEC) No 822/87 leads to fixing the price at 50 % of the guide price for each of the table wine types concerned ;

Whereas, in accordance with Article 39 (7) of Regulation (EEC) No 822/87, distillers may either receive aid in respect of the product to be distilled or deliver the product obtained from distillation to the intervention agency ; whereas the amount of the aid must be fixed on the basis of the criteria laid down in Article 16 of Council Regulation (EEC) No 2179/83 (3), as last amended by Regulation (EEC) No 2505/88 (4) ; whereas to avoid production of wine spirits of mediocre quality and since there are no provisions on the subject, provision should be made for wine spirits produced to comply with national provisions in force ;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Wine,

(1) OJ No L 84, 27. 3. 1987, p. 1.
(2) OJ No L 269, 29. 9. 1988, p. 5.
(3) OJ No L 212, 3. 8. 1983, p. 1.
(4) OJ No L 225, 15. 8. 1988, p. 14.

HAS ADOPTED THIS REGULATION:

Article 1

1. Distillation as provided for in Article 39 (1) of Regulation (EEC) No 822/87 is hereby decided on for the 1988/89 wine year.

2. The total quantity of table wine to be destilled shall be 9 million hectolitres.

3. The quantities to be distilled in the regions as referred to in Article 4 (2) of Commission Regulation (EEC) No 441/88 [1] shall be as follows:

— Region 1: 0 hectolitres,
— Region 2: 0 hectolitres,
— Region 3: 2 470 000 hectolitres,
— Region 4: 6 330 000 hectolitres,
— Region 5: 200 000 hectolitres,
— Region 6: 0 hectolitres.

In the case of Region 5, the quantity provided for preventive distillation in that Region pursuant to Commission Regulation (EEC) No 2722/88 [2] shall be deducted from the abovementioned quantity.

Article 2

By way of derogation from Article 6 (1) of Regulation (EEC) No 441/88 producers may deduct from the volume indicated in the first paragraph of that Article quantities of grape must intended for the preparation of products other than table wine not yet processed by 15 March, 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) of Regulation (EEC) No 441/88.

Article 3

By way of derogation from Article 9 (1) of Regulation (EEC) No 441/88 the quantity of table wine below which producers are exempted from the obligation to deliver shall be 5 hectolitres except for producers in the regions indicated in the first indent in the second subparagraph of Article 7 of that Regulation, for whom it shall be 25 hectolitres.

Article 4

1. The percentage referred to in the second indent in the second subparagraph of Article 39 (6) of Regulation (EEC) No 822/87 shall be 25.

2. Without prejudice to the application of Article 44 of Regulation (EEC) No 822/87, the buying-in prices for table wine to be delivered for compulsory distillation shall be:

— ECU 1,56 per % vol alcohol and per hectolitre for white table wine of type A I,
— ECU 1,68 per % vol alcohol and per hectolitre for red table wine of type R I or R II.

Article 5

The aid for which the distiller may qualify, as against the prices laid down in Article 4, shall be:

(a) where the product obtained from distillation complies with the definition of neutral spirits as set out in the Annex to Regulation (EEC) No 2179/83:
  — ECU 1,05 per % vol alcohol per hectolitre where it is obtained from white wine of type A I,
  — ECU 1,18 per % vol alcohol per hectolitre where it is obtained from red table wine of type R I or R II;

(b) where the product obtained from distillation is wine spirits complying with the quality criteria laid down by national provisions in force:
  — ECU 0,94 per % vol alcohol per hectolitre where it is obtained from white wine of type A I,
  — ECU 1,07 per % vol alcohol per hectolitre where it is obtained from red table wine of type R I or R II;

(c) where the product obtained from distillation is raw spirits with an alcoholic strength of at least 52 % vol:
  — ECU 0,94 per % vol alcohol per hectolitre where it is obtained from white wine of type A I,
  — ECU 1,07 per % vol alcohol per hectolitre where it is obtained from red table wine of type R I or R II.

Article 6

1. The price to be paid to the distiller by the intervention agency for the product delivered in accordance with the second indent of the first subparagraph of Article 39 (7) of Regulation (EEC) No 822/87, as against the prices laid down in Article 4, shall be:

— ECU 2,01 per % vol alcohol per hectolitre where it is obtained from white wine of type A I,
— ECU 2,14 per % vol alcohol per hectolitre where it is obtained from red table wine of type R I or R II.

These prices shall apply to neutral spirits complying with the definition as set out in the Annex to Regulation (EEC) No 2179/83.

[1] OJ No L 45, 18. 2. 1988, p. 15.
[2] OJ No L 241, 1. 9. 1988, p. 94.

2. For spirits other than those referred to in paragraph 1, the prices given in that paragraph shall be reduced by ECU 0,11 per % vol alcohol per hectolitre.

Article 7

The aid for which fortifiers of wine for distillation shall qualify, as against the prices laid down in Article 4, shall be :

— ECU 0,92 per % vol alcohol per hectolitre where it is obtained from white wine of type A I,

— ECU 1,04 per % vol alcohol per hectolitre where it is obtained from red table wine of type R I or R II.

Article 8

For the purposes of Article 12 (1) and (2) of Regulation (EEC) No 441/88 the obligation shall be deemed to have been fulfilled only where the wine delivered is obtained from the same region as that of the producer's own production.

Article 9

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, 16 January 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission