COMMISSION REGULATION (EEC) No 2246/90

of 31 July 1990

amending Regulation (EEC) No 986/89 on the accompanying documents for carriage of wine products and the relevant records to be kept

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 1325/90 (2), and in particular Article 71 (3) thereof,

Whereas in order to ensure uniform application of the validation rules for approved commercial documents accompanying carriage of wine sector products within the Community operators should be obliged to validate these documents in an approved manner;

Whereas in order to prevent the originals of documents accompanying carriage of wine sector products from being confused with copies thereof all such copies should be marked with the word 'copy' or an equivalent indication;

Whereas to align the rules on completion of documents accompanying carriage of wine sector products imported into the Community with those on completion of documents accompanying carriage of products originating in the Community it should be specified that approved commercial documents and where appropriate commercial documents made out to accompany products imported under cover of a document meeting the requirements of Commission Regulation (EEC) No 3590/85 (3), as last amended by Regulation (EEC) No 2039/88 (4), should carry certain indications specified by that Regulation;

Whereas the approved commercial document or accompanying document under certain conditions carries the same weight as a certificate of appellation of origin, in the case of quality wines psr, or of designation of provenance, in the case of table wines designated using a geographical term; whereas in order to enable the competent authorities properly to verify the certificate and its use in the wine trade a copy of this certificate should be made out that must also be presented to the competent authority or an agency delegated by it so that the prescribed entries on the original can also be entered on it; whereas the existence of such a copy means that the original of the approved commercial document or accompanying document can travel with the exported product and the copy can serve as a supporting document for the entries in the consignor's withdrawal records;

Whereas retail shops supplied by one or more central warehouses belonging to the same undertaking often market large quantities of wine sector products that should not escape effective supervision; whereas it should therefore be specified that such central warehouses are to enter their deliveries to such retail stores as a withdrawal in their records so that these retail sales can be indirectly followed;

Whereas to facilitate the keeping of records by undertakings marketing small quantities of quality wines psr it should be permissible under certain conditions for quality wines psr of different origins put up in containers of 60 litres or less that are acquired from a third party and held for sale to be entered in the same account;

Whereas Member States may authorize a longer time limit, not exceeding 30 days, than that stipulated in Article 18 (1) of Commission Regulation (EEC) No 986/89 (5), as amended by Regulation (EEC) No 2600/89 (6), for entry of the required particulars in records, provided that a check can still be made on entries, withdrawals and certain handling operations at any time on the basis of other supporting documents; whereas to boost the adequacy of control procedures it should be specified that the controlling authorities have a right to assess the validity of such other documents;

Whereas a check has shown that an error was made in the German and Italian versions of Regulation (EEC) No 986/89; whereas these versions must therefore be amended;

Whereas the approved commercial document is to be made out in line with the specimen shown in Annex I and following the instructions given in Annex II to Regulation (EEC) No 986/89; whereas it should be specified that the layout of this specimen is to be strictly adhered to so that it can be properly checked when used in intra-Community trade;

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 132, 23. 5. 1990, p. 19.
(3) OJ No L 343, 20. 12. 1985, p. 20.
(4) OJ No L 179, 9. 7. 1988, p. 29.
(5) OJ No L 106, 18. 4. 1989, p. 1.
(6) OJ No L 251, 29. 8. 1989, p. 5.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 986/89 is hereby amended as follows:

1. Article 2 (3) is replaced by the following:

'3. The original of the duly completed approved commercial document and the copy thereof shall be validated prior to each transport operation:

— by endorsement by the competent authority or an agency or body empowered by the latter in the Member State within which carriage commences,

or

— by the seller or consignor applying to it the stamp specified by or stamping device approved by that authority or that agency or body.'

2. The word 'or' is inserted between the first and second indents of Article 3 (2) (e).

3. The following paragraph is added to Article 5:

'4. Any prescribed copy of an approved commercial document or of an accompanying document shall be marked "copy" or shall bear an equivalent marking.'

4. The following paragraph is inserted after Article 6 (2):

'2a. For all carriage within the customs territory of the Community of products from a third country released for free circulation, the approved commercial document, or where appropriate the commercial document, shall bear:

— the number of the V I 1 document completed in accordance with Commission Regulation (EEC) No 3590/85,

— the date of completion of that document,

— the name and head office of the authority of the third country which completed that document or authorized the completion of that document by a producer.'

5. Article 9 is amended as follows:

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

'— if the particulars of the documents have been certified as accurate on the original of the document or on a copy thereof by the competent authority or an agency or body empowered by the competent authority,

or';

(b) paragraph 2 is replaced by the following:

'2. Where approved commercial documents or accompanying documents are completed in accordance with the first indent of paragraph 1, the consignor may request the competent authority or the agency or body empowered by the competent authority responsible in the territory concerned for the consignment of the product by presenting the original of the completed document and a copy thereof:

(a) to enter the following in the appropriate place on the front of the original and the copy of the approved commercial document or the accompanying document:

— for quality wines psr: "This document attests the designation of origin of the quality wines psr indicated herein",

— for table wines designated using a geographical ascription: "This document attests the provenance of the table wines indicated herein";

(b) to validate this statement by means of a stamp, with the date and signature of the person responsible.

These statements shall also be entered and confirmed on the originals and on the copies of approved commercial documents or accompanying documents where the procedure provided for in the second and third indents of paragraph 1 is applied.'

(c) paragraph 7 is replaced by the following:

'7. Approved commercial documents or accompanying documents shall attest the designation of origin of imported wine where the document is drawn up in accordance with Article 6 (2a).'

6. The first subparagraph of Article 10 (2) is replaced by the following:

'Where the consignee is established outside the customs territory of the Community, the original of the commercial document, approved commercial document or accompanying document and a copy of that document shall be presented in support of the export declaration to the competent customs office of the Member State of export. The customs office shall ensure on the one hand that the type, the date and the number of the document presented are indicated on the export declaration and on the other hand that the type, the date and the number of the export declaration are indicated on the original and on the copy of the commercial document, approved commercial document or accompanying document.

The customs office shall enter on the latter document and on a copy of the latter and stamp as authentic one of the following: "EXPORTE", "UDFORT", "AUSGEFÜHRT", "EXPORTED", "ESPORTATO", "UITGEVOERD", "ΕΞΑΧΘΕΝ" or "EXPORTADO" and shall hand that document and the copy thereof bearing the stamp and the abovementioned endorsement to the exporter or his representative. The latter shall have the original of the document accompany the product exported during carriage.'

7. In point (b) of the first paragraph of Article 12 :

   (a) only concerns the German version ;

   (b) only concerns the Italian version.

8. Article 14 is amended as follows :

   (a) The following subparagraph is added to paragraph 2 :

   '(c) Where retail stores which sell direct to the end user form part of one and the same undertaking and are supplied by one or more central warehouses belonging to that undertaking, such central warehouses shall, without prejudice to Article 13 (2) (b), be subject to the obligation to keep records ; deliveries intended for the abovementioned retail stores shall be entered as withdrawals in such records.'

   (b) in paragraph 3 :

   (i) the first indent of the first subparagraph is replaced by the following :

   '— each of the categories set out either in Annex I to Regulation (EEC) No 822/87 or in Article 2 of Council Regulation (EEC) No 2391/89 (*),

   (*) OJ No L 232, 9. 8. 1989, p. 10.'

   (ii) The following is added after the first subparagraph :

   'Quality wines psr of different origins, put up in containers of no more than 60 litres 1 labelled in accordance with Community provisions, that are acquired from a third party and held with a view to sale may be entered in the same account provided that the competent authority or any agency or body empowered by that authority has given its agreement and that entries and withdrawals of each quality wine psr appear therein individually ; this also holds for table wines designated by the name of a geographical area.'

9. The words 'and that these documents are considered reliable by the competent authority or an agency or a body empowered by that authority' are added at the end of the second subparagraph of Article 18 (1).

10. In Article 20 (3) (d), the words 'containers of a content less than or equal to five litres' are replaced by 'containers of a content less than or equal to 10 litres'.

11. Point 1 of chapter A of Annex II is replaced by the following :

   '1. The layout of the form for the approved commercial document given in Annex I must be complied with strictly. However, the size of the boxes marked by the lines on that form for indicating the particulars required is given for guidance only.'

Article 2

This Regulation shall enter into force on 1 September 1990.

Article 1 (1) shall apply from 1 January 1991.

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

Done at Brussels, 31 July 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission