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COMMISSION REGULATION (EEC) No 3233/92

of 5 November 1992

laying down detailed rules for implementing the specific wine sector aid arrangements for the Azores and Madeira

(OJ L 321, 6.11.1992, p. 11)

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COMMISSION REGULATION (EEC) No 3233/92

of 5 November 1992

laying down detailed rules for implementing the specific wine sector aid arrangements for the Azores and Madeira

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1600/92 of 15 June 1992 introducing specific measures for the Azores and Madeira relating to certain agricultural products [1], and in particular Articles 23 and 29 (3) 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 [2], as last amended by Regulation (EEC) No 2205/90 [3], and in particular Articles 2 (4) and 12 thereof,

Whereas Article 21 of Regulation (EEC) No 1600/92 introduces an aid scheme to support production of Madeira liqueur wines within the limits of the region's traditional requirements; whereas the scheme comprises aid for the purchase of rectified concentrated must produced elsewhere in the Community, aid for the purchase of vinous alcohol obtained from Community distillation operations at a sum determined by tendering procedure and aid for the ageing of liqueur wines paid over three wine years in respect of wines whose ageing period is a minimum of five years and paid each year for a maximum quantity of 20 000 hectolitres; whereas the necessary detailed rules of application should be adopted;

Whereas, in order to supply Madeira with vinous alcohol; the conditions for tendering for the supply operation should be defined; whereas the tendering cover the determination of the price for purchasing alcohol obtained from Community distillation operations under conditions which do not disturb the Community market in alcohol and spirit drinks and should cover delivery to Madeira; whereas provision should be made to guarantee that the product is indeed used to produce liqueur wines in Madeira;

Whereas, in order to ensure that the aid scheme for the ageing of liqueur wines can be administered in a proper and uncomplicated manner, contracts should be concluded between the interested producers and the competent agency in Madeira for ageing the wine for at least five years; whereas, in the same spirit, payment of the aid should be distributed equally over the contract period and made contingent on the lodging on a one-off performance security for a reasonable sum;

Whereas Articles 22 and 29 of Regulation (EEC) No 1600/92 introduce a per hectare aid scheme in the Azores and Madeira for the continued cultivation of vines for the production of quality wines psr in traditional production zones; whereas the detailed rules needed to administer the scheme and to ensure monitoring of the conditions adopted by the Council should be laid down;

Whereas the rates to be used to convert into national currency the amounts fixed pursuant to the above aid schemes should be determined; whereas, in order to avoid the risk of monetary distortion, the rate to be used should be closer to economic reality than the agricultural conversion rate while respecting application of the correcting factor referred to in Article 2 (2) of Regulation (EEC) No 1676/86; whereas Article 3a of Commission Regulation (EEC) No 3152/85 [4],

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[1] OJ No L 173, 27. 6. 1992, p. 1.
[2] OJ No L 164, 24. 6. 1985, p. 1.
[3] OJ No L 201, 31. 7. 1990, p. 9.
[4] OJ No L 310, 21. 11. 1985, p. 1.

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as last amended by Regulation (EEC) No 3237/90 [1], laying down detailed rules for the application of Regulation (EEC) No 1676/85, provides for the publication of such a rate;

Whereas the measures provided for by Regulation (EEC) No 1600/92 are applicable from 1 July 1992; whereas the detailed rules in this Regulation should be applicable from that date;

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

HAS ADOPTED THIS REGULATION:

TITLE I

Aid for the purchase of rectified concentrated musts for Madeira

Article 1

1. Producers located in the region of Madeira who wish to receive aid for the purchase of rectified concentrated musts for use in vinification to sweeten Madeira liqueur wines, pursuant to Article 21 (2) of Regulation (EEC) No 1600/92, shall lodge with the competent agency prior to a date determined by the latter but by 31 October at the latest an application comprising at least the following:

— a copy of the purchase contract for rectified concentrated must of Community origin,

— the quantity of rectified concentrated musts for which aid is requested expressed in hectolitres and % by volume,

— the date of reception of the musts,

— the starting date scheduled for making the wines and the place where this is to be done.

2. The aid shall be ECU 10 per hectolitre.

3. Aid shall be granted for a maximum quantity of 3 600 hectolitres per marketing year.

Article 2

1. The competent agency shall take all the necessary steps to ensure the accuracy of the applications and to check that the musts for which aid is requested are used accordingly.

2. The competent agency shall pay the aid to the producer before the end of the wine year in question, without prejudice to possible delays caused by additional checks.

TITLE II

Aid for the purchase of vinous alcohol from intervention agencies

Article 3

1. For the purposes of Article 21 (3) of Regulation (EEC) No 1600/92, the amount of the aid for the supply of vinous alcohol to the market in liqueur wines in Madeira shall be determined periodically by invitations to tender for the supply of neutral alcohol obtained from Community wine distillation operations up to a limit of 7 000 hectolitres per wine year.

2. The tender shall be for the determination of the price of purchasing the neutral alcohol held by intervention agencies and obtained from Community distillation operations and its delivery to Madeira for use in the making of liqueur wines in accordance with the traditional methods practised in the region.

[1] OJ No L 310, 9. 11. 1990, p. 18.

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3. Taking into account the tenders received, the Commission shall, in accordance with the procedure referred to in Article 23 of Regulation (EEC) No 1600/92, decide to:

— award the tenders, or

— not award the tenders.

4. Where the Commission decides to award a tender the successful tenderer shall be the one making the highest bid. If bids are for the same price the successful tenderer shall be decided by the drawing of lots.

5. The main factors determining the decision in accordance with paragraph 3 shall be:

— the prices applicable to the purchase by the intervention agencies of the alcohol obtained from Community distillation operations;

— the various costs associated with the supply;

— the necessity not to disturb the Community market in alcohol and spirit drinks.

6. The Commission shall inform the tenderers of the action taken as regards their bids without delay by written telecommunication and shall notify the Member States holding the alcohol and the successful tenderer of its decision. In the event that the supply is awarded the Commission shall notify the agency holding the alcohol and the competent agency for verifying execution of the supply to Madeira of the identity of the successful tenderer.

7. Within twenty days of the date of the notification awarding the tender the successful tenderer shall supply proof to the agency holding the alcohol that it has lodged the performance security with the competent agency.

Article 4

The Annex to the Regulation opening the specific invitation to tender shall act as the invitation to tender and shall contain the following information:

— the formalities for submitting tenders and the information they should contain,

— the use and final destination of the alcohol to be sold,

— the amount of the performance security,

— the Commission department to which tenders are to be addressed,

— the address of the body holding the alcohol for the benefit of which the above securities are to be lodged,

— the address of the store where the alcohol is being held,

— the time limits for removal of the alcohol from the stores and for its use,

— the formalities for obtaining samples for analysis.

Article 5

1. All the alcohol must be removed from the intervention stores within the time limit indicated in the invitation to tender.

2. The alcohol shall be removed against presentation of a removal order issued by the agency holding the alcohol after payment for the quantity corresponding to the removal. The quantity shall be determined to the nearest hectolitre of alcohol at 100 % vol. The removal order shall indicate the time limit by which the removal of the alcohol from the intervention agency's stores must be carried out.

3. Ownership of the alcohol for which a removal order is issued shall be transferred on the date of issue of the order. From that date on the successful tenderer shall bear all risks, in particular theft, loss or destruction of the product; he shall also be liable for all storage and financial costs relating to quantities which are not removed.

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Article 6

1. The alcohol shall be supplied within the time limit indicated in the invitation to except in the event of *force majeure*.

2. The performance security shall be released by the competent agency once the successful tenderer has provided the proof required for that purpose under Title V of Commission Regulation (EEC) No 2220/85 [1] for the quantity removed.

3. Proof of performance shall be provided by production of a contract of sale, commercial sales invoices or declaration of use of the alcohol in question made out to an operator established in Madeira and indicating that the product must be used for the making of Madeira liqueur wines by traditional methods. The contract, invoices or declarations must be stamped by the competent agency responsible for monitoring the progress of this type of operation.

TITLE III

Aid for the ageing of Madeira liqueur wines

Article 7

1. Aid for the ageing of Madeira liqueur wines as provided for in Article 21 (5) or Regulation (EEC) No 1600/92 shall be granted for batches of liqueur wines produced by traditional methods in the region whose ageing period is a minimum of five years. A batch is understood to be a quantity of wine put into store on the same date for ageing purposes whose ageing period continues uninterrupted for at least five years.

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2. Aid for the ageing of Madeira liqueur wines shall be granted to producers in the region who make application to the competent agency in the first two months of each year.

Such aid shall be paid on a priority basis in respect of wines of the most recent harvest. Applications concerning wines produced in previous harvest years shall be accepted where the quantity in question is less than 20 000 hl, priority consideration being given to the youngest wines.

If the total quantity for which applications are submitted is greater than 20 000 hl, a reduction percentage shall be applied.

The total amount of product in respect of which a producer submits an aid application may not be greater than that which is the subject of the production declaration operated in accordance with Commission Regulation (EEC) No 3929/87 [2] for the wine year in question.

The Portuguese authorities shall notify to the Commission:

— the total quantities for which contracts have been concluded each year,

— the rules for implementation of the provisions set out in this paragraph.

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3. Operators who wish to be eligible for the aid scheme shall conclude an ageing contract for a minimum period of five years with the competent agency.

The contract shall be concluded on the basis of an application for aid submitted once at the beginning of the above period. The application must state at least:

(a) the producer's name and address;

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[1] OJ No L 205, 3. 8. 1985, p. 5.
[2] OJ No L 369, 29. 12. 1987, p. 59.

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(b) the number of batches to which the ageing contract relates with a precise identification of each batch (vat number, quantity stored, precise location, etc);

(c) for each batch: the harvest year, the technical characteristics of the liqueur wine (total alcoholic strength, actual alcoholic strength, sugar content, total acidity, volatile acidity);

(d) for each batch: the nature of the containers,

(e) for each batch: indication of the first and last day of the storage period.

4. Performance in accordance with the ageing contract shall confer the right to payment of the total amount of aid determined at the time the contract was signed. The aid shall be paid in instalments of one third of the total during the first, third and fifth years of storage.

5. Acceptance of the contract shall be subject to the lodging of a performance security for the contract period corresponding to 40 % of the total amount of the aid. The security shall be lodged in accordance with the provisions of Regulation (EEC) No 2220/85.

6. The competent agency shall verify compliance with the ageing contract by means, in particular, of checks of the producer's records and on-site inspections.

The performance security shall be released on confirmation that the contract has been duly performed.

If the competent agency discovers that the liqueur wine which is the subject of the contract is not fit to be offered or delivered for immediate human consumption, it shall cancel the contract.

Except in the event of *force majeure*, such cancellation of the contract shall entail the recovery of payments made and the seizure of the performance security.

Where *force majeure* is invoked, such cases shall be notified to the competent agency within three working days of their occurrence.

TITLE IV

Aid for the production of quality wines psr in Madeira and the Azores

Article 8

The flat rate per hectare aid for continuing to cultivate vines suitable for the production of quality wines psr provided for in Articles 22 and 29 of Regulation (EEC) No 1600/92 shall be granted at the request of vinegrowers or their groups or organizations for areas planted with vine varieties suitable for the production of quality wines psr.

These areas must:

(a) have been fully utilized and harvested and had all normal cultivation work carried out;

(b) have been covered by harvest and production declarations as specified in Commission Regulation (EEC) No 3929/87;

(c) meet maximum yield requirements set by the Member State as indicated in Article 22 of Regulation (EEC) No 1600/92.

Article 9

1. The application for the per hectare aid shall be lodged by the interested party with the competent authority during the period fixed by the latter and by 15 May at the latest of each year for the following wine year. However, for the 1992/93 wine year applications shall be submitted by 15 January 1993 at the latest.

2. The application shall state at least the following:

(a) the name, first name and address of the producer, group or organization;

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(b) the areas cultivated for the production of quality wines psr, in hectares and ares, with their land register reference or an indication recognized as equivalent by the agency responsible for verification of the areas;

(c) the grape variety used;

(d) an estimate of the potential crop.

Article 10

The Member State shall, after recording the actual harvest and yields on the areas concerned, pay the aid prior to 1 April of the wine year for which it is granted.

Article 11

The Member State shall notify the Commission by 30 April at the latest of the areas for which aid applications were lodged and aid actually paid.

TITLE V

General provisions

Article 12

The rate to be applied for conversion into national currency

(a) of the aid for the purchase of rectified concentrated musts referred to in Title I shall be the agricultural conversion rate valid on the day on which the application for aid is submitted;

(b) of the aid for the supply of vinous alcohol held by the intervention agencies referred to in Title II shall be the representative market rate referred to in Article 3a of Regulation (EEC) No 3152/85 valid on the date on which the time limit fixed for the submission of bids under the invitation to tender expires;

(c) of the aid for the ageing of liqueur wines referred to in Title III shall be, for the payment of each instalment, the representative market rate referred to in Article 3a of Regulation (EEC) No 3152/85 valid on the date on which the aid instalment is paid; for the lodging of the performance security provided for in Article 7, the rate to be used shall be the representative market rate valid on the first day of the annual period for the submission of aid applications;

(d) of the flat rate per hectare aid referred to in Title IV shall be the agricultural conversion rate valid on the first day of the wine year for which the aid is paid.

Article 13

1. Portugal shall ensure, by documentary investigation and on-the-spot checks, that the information provided in support of aid applications is accurate.

2. In cases where aid has been paid unduly the competent departments shall recover the amounts paid, plus interest running from the date of payment until that of actual recovery. The interest rate shall be that in force for similar recovery operations under national law.

3. The aid recovered and any interest shall be made over to the paying departments or agencies, which shall make a deduction proportionate to the Community financing rate from the volume of expenditure financed by the European Agricultural Guidance and Guarantee Fund.

Article 14

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

It shall apply from 1 July 1992.

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