COMMISSION REGULATION (EC) No 2367/1999

of 5 November 1999

introducing preventive distillation as provided for in Article 38 of Council Regulation (EEC) No 822/87 for the 1999/2000 wine year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organisation of the market in wine [1], as last amended by Regulation (EC) No 1677/1999 [2], and in particular Article 38(5) thereof,

Whereas:

(1) Commission Regulation (EEC) No 2721/88 [3], as last amended by Regulation (EEC) No 26/92 [4], lays down detailed rules for voluntary distillation as provided for in Articles 38, 41 and 42 of Regulation (EEC) No 822/87. Commission Regulation (EC) No 1681/1999 [5] fixes the prices, the aid and certain other factors applicable to preventive distillation for the 1999/2000 wine year;

(2) in view of the level of end-of-year stocks, the harvest forecasts and the difficulties on certain markets, it is necessary to provide rapidly for preventive distillation. The data on supplies are however still incomplete. Preventive distillation should therefore be opened and an overall volume should be fixed for the Community and broken down by production region, without however precluding the possibility of adapting these volumes once the full data on supplies are known. The volume should be fixed at 10 000 000 hectolitres of table wine. The economic situation of wines may vary in the different production areas of a Member State. The authorities of the Member States should therefore be allowed to allocate different quantities to different production areas. In order to prevent discrimination between producers, the Commission should be informed as to how this allocation is justified by the particular conditions on the wine market in the different production areas and must be able to comment on such allocations;

(3) given the low yields obtained in Spanish and Portuguese wine-growing areas, a different volume for products obtained from grapes harvested in Portugal and a maximum percentage of production which can be distilled in the case of products obtained from grapes harvested in the Spanish wine-growing zone C should be set so as to give comparable results in terms of a percentage of production for the entire Community. Considering that there are no data on supplies of table wine in Austria, Germany and Luxembourg, a specific regime should be set for these countries;

(4) to apply this Regulation it is necessary to know the areas cultivated for production in order to determine the quantity which producers may have distilled. A large number of Greek producers do not have the necessary data owing to the administration's delay in introducing the planned administrative structures. So that the abovementioned producers are not prevented from qualifying under the measure, provision should be made for the reference areas to be determined on the basis of a flat-rate yield for Greece as a whole;

(5) in order to increase the efficiency of this measure, application should be extended to a period long enough to take account of the time required to make wine in certain regions, and contracts or declarations should be approved rapidly up to a certain level to enable growers and distillers who so wish to start deliveries and distillation as early as possible. Proper performance of the contracts and declarations signed by the producers should also be ensured by means of a security which will guarantee delivery of wine to a distillery;

(6) whereas Member States should be required promptly to communicate to the Commission the quantities for which contracts have been signed so that the Commission may set a single acceptance rate for contracts or declarations submitted if the overall quantity applied for throughout the Community exceeds the 10 000 000 hectolitres provided for;

(7) with a view to the sound management of the quantities in question, it is necessary to derogate from specific provisions of Regulation (EEC) No 2721/88 and to provide that the quantities applied for in the contracts and declarations may be reduced;

(8) 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

1. Preventive distillation of table wine and of wine suitable for yielding table wine as provided for in Article 38 of Regulation (EEC) No 822/87 is hereby introduced for the 1999/2000 wine year.

[1] OJ L 84, 27.3.1987, p. 1.
[2] OJ L 199, 30.7.1999, p. 8.
[3] OJ L 241, 1.9.1988, p. 88.
[4] OJ L 3, 8.1.1992, p. 14.
[5] OJ L 199, 30.7.1999, p. 15.

Distillation shall be restricted to 10 000 000 hectolitres.

This quantity shall be broken down by production region as referred to in Article 4 of Commission Regulation (EEC) No 441/88 [1] as follows:

(hectolitres)

Region 1 (Germany)	148 000
Region 2 (Luxembourg)	8 000
Region 3 (France)	2 098 000
Region 4 (Italy)	4 000 000
Region 5 (Greece)	248 000
Region 6 (Spain)	3 050 000
Region 7 (Portugal)	300 000
Austria	148 000

The Member States may allocate the reserved quantity among the different production areas in their territory, without excluding any specific areas from application of the measure. Within one month following the entry into force of this Regulation, they shall forward to the Commission the list of production regions and the quantity allocated to each, explaining the specific production conditions which warrant this breakdown. The Commission shall, where necessary, make comments on the breakdown and inform the Member State concerned thereof within two weeks.

The quantity of table wine or of wine suitable for yielding table wine which producers may have distilled in accordance with Regulation (EEC) No 2721/88 shall be limited to 30 hectolitres per hectare.

However, for products obtained from grapes harvested in Portugal, this quantity shall be limited to 21 hectolitres per hectare and, for products obtained from grapes harvested in the Spanish wine-growing zone C, this quantity shall be limited to 40 % of the table wine produced from these products by each producer.

Notwithstanding Article 2(1) of Regulation (EEC) No 2721/88, the quantity of table wine or wine suitable for yielding table wine obtained from grapes harvested in Luxembourg, Germany and Austria that producers may have distilled shall be limited solely to a percentage of their production of table wine. This percentage is fixed at 40 %.

The quantity of table wine produced to which the percentages referred to in the preceding sixth and seventh subparagraphs apply shall be, for each producer, that resulting from the sum of the quantities appearing as wine in the table wine column of the production declaration presented pursuant to Commission Regulation (EC) No 1294/96 [2] where so required.

2. The area to be used when calculting the quantity of table wine or wine suitable for yielding table wine which greek producers may have distilled shall be obtained by dividing by 57 the quantity given as wine in the table wine column of the production declaration presented pursuant to Regulation (EC) No 1294/96.

3. Notwithstanding Article 6(1) of Regulation (EEC) No 2721/88, producers who have produced table wine or wine suitable for yielding table wine may submit, not later than 28 January 2000, a preventive distillation contract or declaration to the competent authorities of the Member State, giving the details specified in article 6(2) of that Regulation.

Contracts and declarations must be accompanied by proof that a security equal to EUR 5 per hectolitre has been lodged.

4. Notwithstanding Article 6(3) and (4) of Regulation (EEC) No 2721/88, the Member States may authorise the approval of contracts or declarations as soon as they are submitted, for a quantity not exceeding half of the quantity specified in each contract or declaration, without prejudice to the application of Article 2(2) of that Regulation. For the purposes of applying Article 8(1) of Council Regulation (EEC) No 2045/89 [3] the partial approval of contracts or declarations referred to above and partial approval as referred to in Article 1(6) of this Regulation may be treated as separate contracts and declarations. In such cases, in compliance with article 9 of Regulation (EEC) No 2046/89 and notwithstanding Article 9(2) of Regulation (EEC) No 2721/88, the Member States may authorise release of the security covering the first partial contract as soon as proof has been supplied that the producer has been paid the minimum purchase price.

5. The Member States shall inform the Commission of the total volume covered by preventive distillation contracts or declarations not later than 11 February 2000.

If the overall volume covered by contracts or declarations submitted exceeds 10 000 000 hectolitres and/or the volume established in advance for one or more regions, the Commission shall fix the single acceptance rate to be applied to all contracts and declarations for each region and shall notify each Member State thereof by fax not later than 18 February 2000. In order to ensure that maximum use is made of the overall volume of 10 000 000 hectolitres in the event that the overall volume is exceeded while all or part of the volume allocated to one or more specific regions remains unused, the Commission shall distribute the remaining available volume for that region or those regions among the other regions before fixing the single acceptance rate for each region, using the following method:

— if available, an initial instalment of not more than 25 000 hectolitres, as needed, to each region which has exceeded its volume, and

— the remainder in proportion to the quantities fixed in the third subparagraph of paragraph 1.

[1] OJ L 45, 18.2.1988, p. 15.
[2] OJ L 166, 5.7.1996, p. 14.
[3] OJ L 202, 14.7.1989, p. 14.

6. Notwithstanding Article 6(1) of Regulation (EEC) No 2721/88, Member States shall take the administrative measures necessary to approve the above contracts and declarations with the single acceptance rate not later than 10 March 2000, for the quantities not yet approved when the contracts or declarations were submitted.

Securities shall be released for quantities applied for and not accepted.

7. Quantities covered by contracts and declarations must be delivered to the distillery by 30 June 2000.

8. The security shall be released for the quantities delivered when the producer presents proof of delivery to a distillery. If no deliveries have taken place within the time limit, the security shall be forfeited.

9. Member States may restrict the number of contracts or declarations a producer may sign for the distillation operation concerned.

Article 2

This Regulation shall enter into force on the third day following 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, 5 November 1999.

For the Commission

Franz FISCHLER

Member of the Commission