COMMISSION REGULATION (EC) No 1491/2002

of 20 August 2002

laying down detailed rules for the application of the specific measures for wine in the outermost regions introduced by Council Regulations (EC) No 1453/2001 and (EC) No 1454/2001

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1453/2001 of 28 June 2001 introducing specific measures for certain agricultural products for the Azores and Madeira and repealing Regulation (EC) No 1600/92 (Poseima) [1], and in particular Articles 9, 20 and 31 thereof,

Having regard to Council Regulation (EC) No 1454/2001 of 28 June 2001 introducing specific measures for certain agricultural products for the Canary Islands and repealing Regulation (EC) No 1601/92 (Poseican) [2], as amended by Commission Regulation (EC) No 1195/2002 [3], and in particular Articles 12 and 13 thereof,

Whereas:

(1) Article 9 of Council Regulation (EC) No 1453/2001 provides for the grant in Madeira and the Azores of flat-rate per hectare aid to encourage the continued cultivation of vines for the production of quality wines psr in the traditional production areas.

(2) Articles 20 and 31 provide for the grant of certain aids for the continued preparation and marketing of traditional liqueur wines within the limits of the requirements arising from the methods traditionally used in Madeira, and for the ageing of 'verdelho' wine in the Azores.

(3) For Madeira, the scheme comprises aid for the purchase of rectified concentrated musts in the rest of the Community, for the purchase of wine alcohol, for the ageing of liqueur wines and for the shipment and the marketing of these wines on the Community market.

(4) Temporarily, pending the results of a study on supply costs, the present amount of the aid for the purchase of rectified concentrated musts and of the aid for the purchase of wine alcohol in Madeira should be continued.

(5) In the Azores, the scheme provides for aid for the ageing of 'verdelho' wine requiring three years' ageing or more to be paid each year during three marketing years.

(6) With a view to the sound and straightforward management of the aid scheme for the ageing of liqueur wines, provision should be made for a contract to be concluded for a period of five years between the producers concerned and the competent body in Madeira.

(7) In the same spirit, aid payments must be spread evenly over the period of performance of the contract and be made subject to the lodging on one occasion only of a performance guarantee for a reasonable amount.

(8) The flat-rate per hectare aid to encourage the continued cultivation of vines for the production of quality wines psr in the traditional production areas will be granted, on application, to producer groups and producer organisations and, during a transitional period to be determined, to individual producers.

(9) Detailed rules should be laid down for the management of these arrangements and for checks.

(10) These rules must cover the minimum information that must appear in aid applications in order that areas given over to winegrowing can be identified, together with the checks to be carried out.

(11) To ensure the continuity of these aid schemes, provision should be made for the detailed rules in this Regulation to apply from 1 January 2002.

(12) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Wine,

HAS ADOPTED THIS REGULATION:

CHAPTER I

Scope

Article 1

This Regulation lays down detailed rules for the application of Articles 9, 20 and 31 of Council Regulation (EC) No 1453/2001 and Article 13 of Council Regulation (EC) No 1454/2001.

CHAPTER II

Aid for the purchase of rectified concentrated musts and wine alcohol in Madeira

Article 2

1. Producers established in the Madeira archipelago wishing to qualify for aid for the purchase of rectified concentrated musts for use in wine-making to sweeten Madeira liqueur wines, or aid for the purchase of wine alcohol, in accordance with Article 20(2) and (3) of Regulation (EC) No 1453/2001,

[1] OJ L 198, 21.7.2001, p. 26.
[2] OJ L 198, 21.7.2001, p. 45.
[3] OJ L 174, 4.7.2002, p. 11.

shall submit to the competent body, by a date specified by the latter, and at the latest on 31 October, an application containing at least the following:

— a copy of the contract for the purchase of rectified concentrated musts or the purchase of wine alcohol in the rest of the Community,

— the quantity of rectified concentrated musts or wine alcohol for which aid is requested, expressed in hectolitres and in % vol,

— the date of taking over of the musts or wine alcohol,

— the date set for the start of the operations to prepare liqueur wines, and the place at which these operations are to be carried out.

2. The amount of the aid shall be EUR 12,08 per hectolitre.

3. The aid for the purchase of rectified concentrated musts shall be paid in respect of a maximum quantity of 3 600 hectolitres, and that for the purchase of wine alcohol shall be paid in respect of a maximum quantity of 8 000 hectolitres, in each marketing year.

Article 3

1. The competent body shall take all necessary steps to verify the accuracy of the applications and check that the rectified concentrated musts and the wine alcohol covered by the aid applications are actually used in the proper way.

2. The competent body shall pay the aid to the producer before the end of the wine year concerned, without prejudice to any delays caused by further checks.

CHAPTER III

Aid for the ageing of Madeira liqueur wines and Azores wine

Article 4

1. Aid for the ageing of Madeira liqueur wines and Azores 'verdelho' wine, as provided for in Article 20(5) and Article 31 of Regulation (EC) No 1453/2001, shall be paid in respect of all quantities of wine which are placed in storage for the purpose of ageing on the same date and which are aged for an uninterrupted period of five years or more in the case of Madeira and three years in the case of the Azores.

2. Aid for the ageing of Madeira liqueur wines and Azores wine shall be granted to producers in those regions who submit an application to the competent body during the first two months of each year.

3. The aid shall be granted by priority for wines from the most recent harvest. Applications in respect of wines produced during previous marketing years shall be accepted where the quantitative limits laid down in Regulation (EC) No 1453/2001 are not reached, with priority being given to the youngest wines.

4. Where the overall quantity for which applications are submitted exceeds the quantitative limits laid down in Regulation (EC) No 1453/2001, a percentage reduction shall be applied. The total quantity of product for which a producer submits an aid application may not exceed that covered for the marketing year in question by a production declaration as provided for in Commission Regulation (EC) No 1282/2001 [1].

5. The Portuguese authorities shall make known to the Commission:

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

— the detailed rules for the application of this paragraph.

6. Operators wishing to qualify for the aid scheme shall conclude with the competent body an ageing contract for five or more years in the case of Madeira, and for three or more years in the case of the Azores.

7. Contracts shall be concluded on the basis of an aid application submitted once only at the start of the period referred to above. Applications shall contain at least the following:

(a) the name and address of the applicant producer;

(b) the number of lots covered by the ageing contract and precise particulars of each lot (in particular the tank number, the quantity stored, and the exact location);

(c) for each lot, the year of harvesting, the technical characteristics of the liqueur wine concerned and, in particular, its total alcoholic strength, actual alcoholic strength, sugar content, total acidity and volatile acidity;

(d) for each lot, the method of packaging;

(e) for each lot, the first and last day of the storage period.

8. Correct performance of the ageing contract shall confer entitlement to payment of the overall amount of the aid determined on the signing of the contract. In Madeira, one third of the aid shall be paid in the first, third and fifth years of storage. In the Azores, one third of the aid shall be paid in each storage year.

9. Acceptance of the contract shall be subject to the lodging of a performance guarantee covering the performance period for an amount corresponding to 40 % of the overall amount of the aid. The guarantee shall be lodged in accordance with Commission Regulation (EEC) No 2220/85 [2].

10. The competent body shall ensure that the terms of the ageing contract are observed by checking the producers' records and carrying out on-the-spot inspections.

11. Performance guarantees shall be released when it is established that the contract has been properly performed.

[1] OJ L 176, 29.6.2001, p. 14.
[2] OJ L 205, 3.8.1985, p. 5.

12. Where the competent body finds that the liqueur wine covered by a contract is unsuitable for offer or delivery for direct human consumption, it shall terminate the contract.

Except in cases of *force majeure*, termination of the contract shall entail the recovery of aid amounts paid and the forfeiture of the performance guarantee. The circumstances of *force majeure* relied upon shall be notified to the competent body within three working days following the date on which they occur.

CHAPTER IV

Aid for the shipping and marketing of Madeira wine

Article 5

1. The aid referred to in Article 20(6) of Regulation (EC) No 1453/2001 shall be granted up to and including the end of the 2005/06 wine year.

2. Where the aid is applied for in respect of packs of less than one litre, a reduction coefficient shall be applied to take account of the volume of the bottle.

3. The aid shall be paid to shippers who submit an application to the competent body in respect of each lot for the period laid down by that body. However, in the case of wine shipped and marketed from 1 January 2002, applications shall be submitted from 30 September 2002.

4. The application shall contain at least the following:

— a copy of section 3 of the accompanying administrative document (AAD), duly completed, with particulars of the consignor and the recipient (name, address, country), the volume of wine dispatched in litres equivalent, the customs code nomenclature, the stamp of the Madeira Wine Institute certifying the product and the stamp of the Madeira customs authorities certifying that the product has left the territory,

— a copy of the invoice from the carrier/shipping agent showing the final destination or the ocean bill of lading,

— a copy of the invoice to the buyer showing the volume in litres equivalent, which must correspond to that shown on the AAD.

CHAPTER V

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

Article 6

1. The aid provided for in Article 9 of Regulation (EC) No 1453/2001 and in Article 13 of Regulation (EC) No 1454/2001 shall be granted only to areas which:

— have been entirely cultivated and harvested and on which all normal cultivation work has been carried out, and

— whose produce is covered by harvest declarations as provided for in Regulation (EC) No 1282/2001.

2. For the purposes of determining the producers to whom the aid is to be granted:

— the transitional period referred to in Article 9(2) of Regulation (EC) No 1453/2001 and Article 13(2) of Regulation (EC) No 1454/2001 for payment to individual producers shall expire on 31 July 2007,

— producer organisations shall be those referred to in Article 39 of Regulation (EC) No 1493/1999 [1]. The Member States concerned shall lay down the criteria which producer groups must meet to qualify for the aid in question and shall notify the Commission thereof.

Article 7

1. Applications for per hectare aid shall be submitted by the person concerned to the competent authority during the period determined by the latter and not later than 15 May each year in respect of the following wine year. However, for the 2002/2003 wine year, applications shall be submitted by 30 September 2002.

2. Aid applications shall contain at least the following:

(a) the name, first name and address of the winegrower, or winegrowing group or organisation;

(b) the areas cultivated for the production of quality wines psr, in hectares and ares with the land register reference for those areas or information deemed to be equivalent by the body responsible for checking the areas;

(c) the grape variety used;

(d) an estimate of the production that may be harvested.

Article 8

After having established the actual harvest and the yield for the areas concerned, the Member State shall pay the aid by 1 April of the wine year for which the aid has been granted.

Article 9

The Member State shall notify the Commission by 30 April of the areas for which an aid application has been submitted and for which the aid has actually been paid.

CHAPTER VI

General provisions

Article 10

Controls and penalties

1. The national authorities shall take all the steps necessary to ensure that the conditions for granting the aid provided for in this Regulation are observed.

[1] OJ L 179, 14.7.1999, p. 1.

2. Aid applications shall be checked in a manner which ensures effective verification of compliance with the requisite conditions. The Member States shall define suitable methods and means for verifying each support measure as well as the recipients who shall be subject to checks. Wherever appropriate, Member States shall make use of the integrated administration and control system introduced by Council Regulation (EEC) No 3508/92 [1], as last amended by Commission Regulation (EC) No 495/2001.

3. Verification shall consist of administrative and on-the-spot checks.

4. Administrative checks shall be exhaustive and shall include cross-checks wherever appropriate, *inter alia*, with data from the integrated administration and control system in order to avoid all unjustified payments of aid.

5. Based on a risk analysis, the national authorities shall perform on-the-spot controls by sampling on a number of aid applications under Articles 2, 5 and 6 representing at least 10 % of the quantities or 5 % of the areas subsidised.

6. All ageing contracts as provided for in Article 4 shall be checked on the spot at the beginning, during and at the end of the contractual period.

7. Member States shall determine a system of penalties to be imposed in the event of breaches of the obligations entered into and the provisions applicable, and shall take all necessary steps to put the system into operation. The penalties shall be effective, commensurate with their purpose and have an adequately deterrent effect.

8. Any beneficiary found to have made a false declaration as a result of serious negligence shall be excluded from all measures for the wine sector under Poseima and Poseican for the calendar year in question. Where a false declaration was made intentionally, the beneficiary shall be excluded for the following year as well. This penalty shall apply without prejudice to additional penalties provided for under national rules.

9. Where aid has been paid unduly, the competent authorities shall take steps to recover the amounts paid, plus interest, calculated from the date of payment of the aid to the actual date of recovery. The interest rate applied shall be that applied for similar recovery operations under national law.

10. Aid recovered and, where appropriate, interest shall be paid to the paying agencies or authorities and deducted by them from expenditure financed by the European Agricultural Guidance and Guarantee Fund in proportion to the Community financing.

CHAPTER VII

Transitional and final provisions

Article 11

1. In respect of the 2001/2002 wine year, applications for the aid referred to in Articles 2 and 4 shall be submitted to the competent bodies no later than 30 September 2002.

2. Without prejudice to Article 10, the competent bodies shall pay the aid referred to in Articles 2 and 6 to producers and/or producer groups before 31 December 2002 and, in the case of the aid referred to in Articles 4 and 5, before a date determined by those bodies.

Article 12

Regulations (EEC) No 3233/92 [2] and (EEC) No 3234/92 [3] are repealed.

Article 13

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 January 2002.

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

Done at Brussels, 20 August 2002.

For the Commission
Franz FISCHLER
Member of the Commission

[1] OJ L 335, 5.12.1992, p. 1.

[2] OJ L 321, 6.11.1992, p. 11.
[3] OJ L 321, 6.11.1992, p. 16.