

COMMISSION REGULATION (EEC) No 2457/82**of 8 September 1982****laying down, for the 1982/83 wine-growing year, provisions concerning the distillation of the by-products of wine-making**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 337/79 on the common organization of the market in wine ⁽¹⁾, as last amended by Regulation (EEC) No 2144/82 ⁽²⁾, and in particular Articles 6 (3), 39 (8) and 65 thereof,

Having regard to Council Regulation (EEC) No 2144/82 of 27 July 1982 amending Regulation (EEC) No 337/79 on the common organization of the market in wine, and in particular Article 2 thereof,

Whereas Article 39 of Regulation (EEC) No 337/79, as amended by Regulation (EEC) No 2144/82, provides for substantial changes in the arrangements for the compulsory distillation of the by-products of wine-making; whereas, consequently, those provisions of Council Regulation (EEC) No 349/79 of 5 February 1979 on the distillation of the by-products of wine-making ⁽³⁾ and Council Regulation (EEC) No 2010/82 of 19 July 1982 determining, for the 1982/83 wine-growing year, the prices to be paid under the compulsory distillation of the by-products of wine-making and, notwithstanding Regulation (EEC) No 349/79, the amount of the contribution from the Guarantee Section of the European Agricultural Guidance and Guarantee Fund ⁽⁴⁾, which no longer correspond to the new arrangements laid down by Article 39 of Regulation (EEC) No 337/79 are no longer applicable; whereas those same Regulations do not lay down certain general rules which the new arrangements necessitate;

Whereas the new system for the common organization of the market in wine is applicable from 1 September 1982; whereas it has not been possible for the Council to adopt new general rules for the application of Article 39 of Regulation (EEC) No 337/79 in the interval between the entry into force of Regulation (EEC) No 2144/82 and 1 September 1982; whereas, in these circumstances, the Commission should adopt all the provisions relating to the distillation of

by-products of wine-making for the 1982/83 wine-growing year in order to enable the new rules to be applied from the scheduled data and to avoid difficulties in changing from the old system to the new one;

Whereas it is necessary to determine both the conditions for the fulfilment by producers of the obligations laid down in Article 39 (2) and (3) of Regulation (EEC) No 337/79, and the obligations incumbent on distillers;

Whereas experience has shown that it is not always easy for producers to calculate exactly the quantity of products which they must deliver to discharge their obligations; whereas the expiry of the period for making deliveries should not mean that producers who have delivered almost all the required quantity and have only minor adjustments to make suffer a penalty out of proportion to the infringement involved, particularly as regards the application of Article 6 (1) of Regulation (EEC) No 337/79; whereas, to this end, such producers should be considered as having discharged their obligation within the required period if the intervention agency authorizes them to deliver any quantities of products remaining due under arrangements to be fixed by the agency; whereas, however, quantities delivered after the period has expired should not be eligible for financing by the EAGGF;

Whereas, as a consequence of the derogation provided for in the second subparagraph of Article 39 (1) of Regulation (EEC) No 337/79, it is possible to obtain and to release to the market products for which the Community accompanying document for wine products cannot be used; whereas, to prevent any fraudulent use of the products in question, the Member States concerned should be obliged to introduce arrangements to control the movement of such products;

Whereas, for the purpose of determining the quantity of alcohol to be contained in products delivered in pursuance of the obligation to distil the by-products of wine-making, provision should be made, in accordance with Article 39 (2) of Regulation (EEC) No 337/79, for fixing the percentage which that quantity must represent in relation to the volume of alcohol naturally contained in the products used in the production of wine; whereas, for the 1982/83 wine-growing year, it would seem appropriate to fix this percentage at the maximum level provided for in the said Article;

⁽¹⁾ OJ No L 54, 5. 3. 1979, p. 1.

⁽²⁾ OJ No L 227, 3. 8. 1982, p. 1.

⁽³⁾ OJ No L 54, 5. 3. 1979, p. 84.

⁽⁴⁾ OJ No L 216, 24. 7. 1982, p. 4.

Whereas producers who deliver their marc for the manufacture of oenocyanine generally supply non-fermented grape marc; whereas the treatment which such marc undergoes for the extraction of oenocyanine makes it unsuitable for fermentation and distillation thereafter; whereas those producers should therefore be exempted in proportion to their production of grape marc; whereas this exemption cannot be calculated exactly; whereas, this being the case, it is preferable to provide for a fixed reduction in the general rate;

Whereas, in accordance with Article 11 (1) of Council Regulation (EEC) No 338/79 of 5 February 1979 laying down special provisions relating to quality wines produced in specified regions⁽¹⁾, as last amended by Regulation (EEC) No 2145/82⁽²⁾, a yield per hectare is fixed for each of the quality wines *psr*, which facilitates observance of the prohibition against the pressing of wine lees and over-pressing of grapes; whereas, moreover, the *marcs* and lees of quality white wines *psr* contain little alcohol; whereas, therefore, a reduced rate should be applied to these products;

Whereas the obligation to distil represents a considerable constraint for the isolated producer who makes only a small quantity of wine; whereas, as a result of that obligation, he would incur transport costs for his grape marc and wine lees which would be out of all proportion to the return which he could hope to obtain on the alcohol distilled therefrom; whereas such producers should therefore be exempted from the obligation to distil;

Whereas, for the purpose of determining the quantity of alcohol to be contained in the products to be delivered, it is also necessary to fix, in accordance with Article 39 (2) of Regulation (EEC) No 337/79, a standard natural alcoholic strength for each wine-growing year and each wine-growing zone; whereas, however, by virtue of Article 39 (4) of Regulation (EEC) No 337/79, producers in certain zones are not subject to the obligation in question; whereas, in the absence of precise information on the alcoholic strength of wines for the coming wine-growing year, this determination may be made by reference to the average strengths recorded in the wine-growing zones concerned in previous wine-growing years, taking into account improvements in quality; whereas, however, it is necessary to allow for the possibility of altering the alcoholic strength referred to above before the date on which distillation of the wine commences to take account of the quality of the vintage; whereas, moreover, experience has shown that provision should be made for the adoption of different alcoholic strengths

for administrative units which, having suffered from exceptionally bad weather conditions, are recognized as disaster areas by Member States;

Whereas the fixing of the buying-in price for by-products of wine-making should take account, on the one hand, of the need to ensure that all producers fulfil the obligation to distil in every respect and, on the other hand, of the level of the market price for alcohol distilled from wine;

Whereas, in order to ensure that the arrangements are as effective as possible, provision should be made for certain time limits on the operations to be carried out by producers and distillers; whereas it should also be laid down what constitutes proof in respect of the delivery of marc, lees and wine to distillers, such proof varying according to whether the distiller is established in the same Member State as the producer or in another Member State;

Whereas the need to improve the quality of wine requires that all marc and lees be distilled; whereas the distillation of wine at the beginning of the wine-growing year should therefore be prohibited;

Whereas distillers may, in accordance with Article 39 (6) of Regulation (EEC) No 337/79, either qualify for aid in respect of the product to be distilled or deliver to the intervention agency the product obtained by distillation;

Whereas the amount of the aid should be fixed in the light of the market prices for the various products obtainable by distillation; whereas, in order to avoid the production of poor-quality potable spirits, it should be stipulated, in the absence of Community provisions on this matter, that the potable spirits produced must comply with the national provisions in force;

Whereas, to qualify for the aid, the parties concerned must lodge an application accompanied by a number of supporting documents; whereas, to ensure that the system operates uniformly in all Member States, time limits for the lodging of applications and for the payment of aid to processors should be laid down;

Whereas a standard price should be paid by the intervention agencies for the products delivered to them; whereas, in fixing this price, account must be taken of the average cost of distilling the various products delivered;

Whereas, in certain regions of the Community, the relation between the quantities of marc and those of wine and lees is such that the average distillation costs differ from those used to calculate the standard price; whereas, as a result of this situation, it is, or is liable to be, economically impossible in certain of these regions to achieve the objective of the obligation to distil the by-products of wine-making;

⁽¹⁾ OJ No L 54, 5. 3. 1979, p. 48.

⁽²⁾ OJ No L 227, 3. 8. 1982, p. 10.

Whereas it is therefore to fix, at the same time, both a standard price and prices differentiated according to the origin of the alcohol, while leaving it to the Member States to decide whether such differentiated prices should be applied in regions where the application of the standard prices would lead to the difficulties referred to above;

Whereas recourse to this option must not increase the expenditure incurred by the intervention agency and, hence, by the EAGGF; whereas it is therefore necessary to correlate the prices differentiated according to the origin of the alcohol and the standard price; whereas this correlation must be such that the weighted average of the prices differentiated according to the origin of the alcohol is not more than the standard price;

Whereas, in the absence of an organized Community market in ethyl alcohol, the intervention agencies responsible for marketing such alcohol are obliged to resell it at less than the buying-in price; whereas provision should be made for the difference between the buying-in price and the selling price for such alcohol to be borne, at a standard rate, by the Guarantee Section of the EAGGF;

Whereas the provisions on the financing of intervention laid down in Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy⁽¹⁾, as last amended by Regulation (EEC) No 2788/72⁽²⁾, should cover the distillation of the by-products of wine-making;

Whereas, in order to ensure appropriate supervision of distillation operations, distillers should be subject to a system of approval;

Whereas, in cases where the by-products of wine-making are withdrawn under supervision in accordance with Article 39 (4) and (5) of Regulation (EEC) No 337/79, it is important to ensure that all the by-products of the processing of grapes have been completely withdrawn by the end of the 1982/83 wine-growing year;

Whereas, in order that the Commission may keep a general watch on compliance with the obligation to distil the by-products of wine-making, the Member States concerned must notify it regularly, on the basis of reports from distillers, of the progress and outcome of distillation operations;

Whereas Article 6 of Regulation (EEC) No 337/79 provides that only producers fulfilling the obligations laid down in Article 39 of that Regulation during a reference period to be determined may qualify for the

intervention measures; whereas that period must therefore be specified;

Whereas 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

This Regulation lays down general rules and detailed arrangements for the distillation provided for in Article 39 of Regulation (EEC) No 337/79 for the 1982/83 wine-growing year.

Article 2

1. Persons subject to Article 39 (2) or (3), hereinafter called 'producers', shall discharge their obligations by delivering by 31 August 1983 at the latest to an approved distiller, free at the distillery, marc, lees and, where applicable, wine, in accordance with the provisions of Article 3.

Notwithstanding the first subparagraph, and in application of the second subparagraph of Article 39 (1) of Regulation (EEC) No 337/79, producers in the Greek and Italian islands, except Sicily and Sardinia, located in wine-growing zones C III (a) and C III (b):

- are authorized to overpress grapes and to press wine lees,
- may be released from their obligation by delivering the liquid product obtained by the operation referred to in the first indent to an approved distiller, free at the distillery, by 31 August 1983 at the latest.

The Member States concerned shall introduce a system for monitoring the production and movement of the product referred to in the second subparagraph and shall inform the Commission thereof. The system should provide at least for a document for movement of the said product to distilleries, and may involve:

- an obligation upon the producer to notify the competent authority in advance if he intends to carry out the operation referred to in the first indent of the second subparagraph,
- the addition of an indicator to the product obtained,
- the use, subject to any adaptations necessary, of the VA 1 accompanying document referred to in Article 2 of Commission Regulation (EEC) No 1153/75⁽³⁾.

⁽¹⁾ OJ No L 94, 28. 4. 1970, p. 13.

⁽²⁾ OJ No L 295, 30. 12. 1972, p. 1.

⁽³⁾ OJ No L 113, 1. 5. 1975, p. 1.

2. The minimum alcoholic strength of the products delivered for distillation shall be fixed by the Member States.

3. The competent intervention agency may allow producers who have delivered, by the time limit set in paragraph 1, at least (90 %) of the quantity of products which they are obliged to deliver to discharge their obligation by delivering the remaining quantity before a date to be fixed by the competent national authority.

In such cases :

- the buying-in price paid for the remaining quantities and the price for the alcohol produced therefrom which is delivered to the intervention agency shall be reduced by an amount equal to the EAGGF financial contribution referred to in Article 11,
- there shall be no EAGGF contribution to intervention agencies' expenditure on the alcohol delivered to them,
- no aid shall be paid for products of distillation not delivered to intervention agencies, and
- the obligation shall be considered to have been discharged by the time limit referred to in the first subparagraph.

Article 3

1. Subject to the provisions of paragraphs 2 and 3, the quantity of alcohol contained in the products delivered for distillation shall be :

- 8 % of the volume of alcohol naturally contained in the grapes used to produce the wine, if the wine has been produced by direct vinification of grapes,
- 3 % of the volume of alcohol naturally contained in the products used to produce the wine, if the wine has been obtained by vinification of grape must, grape must in fermentation or new wine still in fermentation.

2. The percentage referred to in the first indent of paragraph 1 shall be reduced to :

- three, for producers who deliver marc for the manufacture of oenocyanin,
- five, for producers of quality white wines psr, for the part of their harvest for which this designation can be used.

3. The obligation referred to in Article 39 (2) of Regulation (EEC) No 337/79 shall not apply to isolated producers who do not obtain more than 25 hectolitres of wine.

Producers subject to the obligation indicated in Article 40 of Regulation (EEC) No 337/79 shall, for that part

of their production covered by that obligation, be required to deliver for distillation as referred to in Article 39 (2) of that Regulation only the by-products of wine-making.

Article 4

For the determination of the volume of alcohol contained in the products delivered for distillation as referred to in Article 39 of Regulation (EEC) No 337/79, the standard natural alcoholic strength by volume shall be :

- 8.5 for zone B,
- 9.0 for zones C I,
- 9.5 for zone C II,
- 10.0 for zones C III.

However, if the quality of the vintage so requires, these strengths may be altered before the distillation operations referred to in Article 8 begin, in order to take account of that quality. They may also be altered for administrative units or parts thereof which have been recognized by the Member States under national legislation as disaster areas.

Article 5

The price to be paid by the distiller to the producer for marc, lees, the liquid product obtained by overpressing grape marc and wine lees and, where applicable, wine delivered for distillation, hereinafter called 'the buying-in price for wine deliveries', shall be 1.00 ECU per % vol alcohol per hectolitre. It shall apply to bulk merchandize, free at the distillery.

Article 6

1. On delivery of the products referred to in Article 2, the distiller shall provide the producer with a certificate stating the quantity and alcoholic strength of the products delivered.

By way of derogation from the first subparagraph, if a producer subject to the obligation referred to in Article 39 (2) or (3) of Regulation (EEC) No 337/79 has marc, lees or wine distilled in another Member State, the distiller shall require the intervention agency of the Member State in which distillation takes place to certify in Section 23 of the accompanying document for the products to be distilled that the products have been taken over by the distillery. The distiller shall forward to the producer a copy of the accompanying document thus certified, within 30 days of reception of the products to be distilled.

2. Not later than three months after the producer has delivered the products, the distiller shall pay him an advance of at least 80 % of the buying-in price for wine deliveries. The balance shall be paid to the producer not later than 31 December 1983.

Article 7

Distillers shall notify the intervention agency, no later than the 10th day of each month, of the quantities distilled during the previous month, specifying :

- the quantity of alcohol obtained of 92 % vol or more,
- the quantity of alcohol obtained of 86 % vol or more but less than 92 % vol,
- the quantity and the alcoholic strength of the potable spirits obtained, broken down into marc spirit and wine spirit.

Article 8

The distillation operations referred to in Article 39 of Regulation (EEC) No 337/79 must be carried out by 30 September 1983 at the latest.

Wine delivered in order to meet the obligation referred to in Article 39 (2) of Regulation (EEC) No 337/79 may not be distilled until 1 January 1983.

Article 9

1. A distiller :

- who does not intend to deliver to the intervention agency products obtained with an alcoholic strength of 92 % or more, or
- who has obtained a product with an alcoholic strength of less than 92 % vol but not less than 86 %, or
- who has obtained a product with an alcoholic strength of not less than 52 % vol but not more than 85 % vol which meets the national quality provisions applicable as appropriate to marc spirit or wine spirit,

shall receive aid, subject to the conditions laid down in paragraph 2.

The amount of the aid shall be :

- 0.33 ECU per % vol alcohol per hectolitre for the product of distillation of grape marc which meets the national quality provisions applicable to marc spirit,
- 0.37 ECU per % vol alcohol per hectolitre for the product of distillation of wine and lees which meets the national quality provisions applicable to wine spirit,

— 0.39 ECU per % vol alcohol per hectolitre for products with an alcoholic strength of 86 % vol or more.

2. Distillers who wish to receive the aid referred to in paragraph 1 shall by 31 October 1983 submit an application to the intervention agency of the Member State in which distillation took place, accompanied by :

- (a) copies of the accompanying documents relating to transport of the by-products of wine-making or wine delivered to him or a summary of the content of those documents ;
- (b) a statement, endorsed by a supervisory authority designated by the Member State, of the quantities :
 - of marc spirit,
 - of wine spirit,
 - of products with an alcoholic strength of 86 % vol or more obtained by distillation of the by-products of wine-making or of wine ;
- (c) proof that he has paid the producer the advance referred to in Article 6 (2) by the stipulated time limit.

The Member States may require that the copies or summary referred to at point (a) in the first subparagraph be endorsed by a supervisory authority. When the product delivered to the distiller is that referred to in the second subparagraph of Article 2 (1), the accompanying document shall be replaced by the national movement control document referred to in the third subparagraph of Article 2 (1).

3. The intervention agency shall pay the aid referred to in paragraph 1 not more than 90 days after submission of the application and of the documents referred to in paragraph.

The distiller must provide the intervention agency before 1 February 1984 with proof that he has paid the producer the balance mentioned in Article 6 (2) by the stipulated time limit. If such proof is not provided the intervention agency shall recover from the distiller an amount equal to the balance and pay it to the producer in question.

Article 10

1. Distillers who do not receive the aid referred to Article 9 may deliver to the intervention agency products with an alcoholic strength of 92 % vol or more obtained directly or indirectly by distillation.

Delivery to the intervention agency shall be made not later than 30 September 1983 or, if Article 2 (3) is applied, on the date fixed by the competent national authority.

2. The price to be paid by the intervention agency, hereinafter called 'the standard price of alcohol from wine deliveries', shall be 1.60 ECU per % vol alcohol per hectolitre.

Where, because of application of the standard price of alcohol from wine deliveries, it is, or is liable to be, impossible, in certain regions of the Community, for one or more of the by-products of wine-making to be distilled, the Member States may decide to differentiate by origin the prices for alcohol taken over by the intervention agencies.

These differentiated prices shall be :

- 1.69 ECU per % vol alcohol per hectolitre for alcohol produced by distillation of marc,
- 1.45 ECU per % vol alcohol per hectolitre for alcohol produced by distillation of wine, lees or the liquid obtained by overpressing grape marc or wine lees.

3. The prices stated in paragraph 2 shall apply to a neutral alcohol with an alcoholic strength of 96 % vol or more.

For alcohol with a strength of less than 96 % vol but not less than 92 % vol, the prices given in paragraph 2 shall be reduced by 0.05 ECU per % vol per hectolitre.

4. The prices given in paragraphs 2 and 3 shall be for bulk merchandize free at the intervention agency store.

5. The intervention agency shall pay the price to the distiller within 90 days of the day of delivery of the alcohol.

Article 11

The Guarantee Section of the EAGGF shall contribute to intervention agencies' expenditure on the taking over of alcohol.

The contribution shall be at a flat rate of 0.59 ECU per % vol alcohol per hectolitre of alcohol taken over.

Articles 4 and 5 of Regulation (EEC) No 729/70 shall apply to that contribution.

Article 12

1. For the purposes of this Regulation, an approved distiller shall be one appearing on a list compiled by the competent authorities of each Member State.

2. Approval shall be withdrawn if the distiller does not pay the producer the purchase price for the wine deliveries. It may be withdrawn if the distiller does not meet the obligations incumbent on him under the Community legislation, in particular those relating to notifications.

Article 13

1. For the application of Article 39 (4) of Regulation (EEC) No 337/79, the Member States shall set up a system for checking the withdrawal of by-products. This system shall be such as to ensure that all by-products from any processing of grapes are withdrawn by 1 September 1983.

2. Only those producers whose vineyards are located in wine-growing areas where distillation represents a disproportionate burden may exercise the option mentioned in Article 39 (5) of Regulation (EEC) No 337/79. A list of the areas of production concerned shall be drawn up by the competent authorities of the Member States.

The Member States shall set up a monitoring system involving at least :

- establishing the quantity of marc and lees to be withdrawn in relation to quantity of grapes used,
- establishing the quantity of alcohol contained in the marc and lees to be withdrawn,
- weighing the products withdrawn.

Article 14

1. By the 20th day of each month at the latest the Member States shall communicate the following information to the Commission for the previous month :

- the quantities of alcohol delivered to intervention agencies following distillation under Article 39 of Regulation (EEC) No 337/79,
- the quantities of marc spirit or wine spirit produced and the quantities of alcohol contained therein,
- the quantities of other products produced of a strength of 86 % vol or more for which aid has been requested.

2. The Member States shall, for alcohol taken over by their intervention agencies, notify the Commission, before 1 October 1982, of the selling prices obtaining throughout the 1981/82 wine-growing year and of the characteristics and quantities of the products sold at those prices.

3. The Member States shall inform the Commission before 1 March 1984 of any cases in which distillers have not fulfilled their obligations and of the measures taken in consequence.

Article 15

The amounts referred to in Articles 5, 9 and 10 shall be converted into national currency at the representative rate applying on 16 December 1982 in the wine sector, which shall apply from 1 September 1982 for this purpose.

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

Done at Brussels, 8 September 1982.

Article 16

The reference period mentioned in Article 6 (1) of Regulation (EEC) No 337/79 shall be the period 1 September 1981 to 31 August 1982.

Article 17

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

It shall apply with effect from 1 September 1982.

For the Commission

Poul DALSAGER

Member of the Commission
