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REPORT FROM THE COMMISSION TO THE COUNCIL  
AND THE EUROPEAN PARLIAMENT

**concerning the activities of the Commission's  
body of specific officials for controls in the wine  
sector for the period running from 1 May 1992  
to 31 December 1994 inclusive**

**pursuant to Article 17(2) of Council Regulation EEC N°  
2048/89**

## SUMMARY

The attached report on the activities of the body of officials responsible for controls in the wine sector that the Commission is to present to the Council and to the European Parliament covers the period between 1 May 1992 and 31 December 1994.

The work of Commission inspectors has covered several major areas: permanent abandonment, control of harvest and production declarations, and the yield per hectare of quality wines psr, to cite only the most important.

The report sets out in detail the inspectors' observations on the application of these measures. Their main conclusions are summarized below.

The main observations with regard to the control of **permanent abandonment** established by the Member States were that, when checks are made outside the vines' growing period, the productive capacity of the vines cannot be assessed; the yields of grubbed-up parcels are often purposely overestimated; annual declarations are often ignored and grubbing operations are often incomplete (stocks not completely removed).

The **control of harvest and production declarations** revealed the following major problems: derogations from the requirement to submit a harvest declaration when the harvester supplies the whole of the harvest to a wine maker, allowing changes to the areas concerned and therefore to the yields; the negligence to cover intermediate harvesting centres in the regulations meaning that they do not need to draw up declarations; the lack of a vineyard register indicating the actual composition of vineyards (cadastral parcels) from which the products are harvested.

The measures adopted by the Member States to restrict yields of **quality wines psr** undermine in several ways the principle according to which an overrun of the maximum per-hectare yield results in the loss of the appellation for the whole harvest, the principal being: fixing high maximum yields, irrespective of yields over the previous ten years; systematic recourse to "exceptional" years, from the point of view of climatic conditions, to justify increasing yields; the lack of uniformity between Member States as regards the legal uses of production above the thresholds.

**The other conclusion that can be drawn from the enquiries carried out is that the control procedures set up by the Member States to ensure correct application of Community rules are inadequate.**

This results from the lack of human and material resources devoted to controls and to their dispersal around several organizations, the coordination of which is limited and, in certain cases, non-existent.

It must be recognized that the legislation adopted since the establishment of the common organization of the market (COM) in wine, and the complementary national legislation, is extremely complex, reflecting the complexity of the sector itself.

The use of certain instruments, e.g. the vineyard register, designed to provide the information necessary to improve the effectiveness of controls, on which work has still not been completed or, in certain cases, even begun, remains limited, for reasons which the Commission has decided to investigate in the coming weeks by means of a full audit.

In its proposal for a Regulation on the reform of the common organization of the market in wine, the Commission stressed that effective **Community control** of compliance with the rules and commitments made was a necessary condition for the success of the reform. It also emphasized that implementation of the reform had to be accompanied by the drawing up of a simplified vineyard register allowing to control the accuracy of declarations of area devoted to wine growing (COM (94) 117 final, Titles IX and X).

The importance of establishing a Community control structure is also recognized by the European Parliament<sup>1</sup> which, after examining the Commission's first report (to the Council and to Parliament) on the activities of the body of officials responsible for controls in the wine sector, approved without reservation the Commission's conclusions and stated that:

- "the Commission's body of specific officials must be strengthened by making provision for more specialists within the wine sector";
- "the body should be set up on a permanent footing with a proper status which will guarantee its officials a long-term career";
- "the body must be given the technical resources (reference laboratories) and funds which will directly help to reduce EAGGF expenditure by cutting back on unlawful premiums, aids and interventions".

Despite the efforts of the Directorate-General for Agriculture to develop the body of officials for controls in the wine sector, set up by Regulation (EEC) No 2048/89, the current situation is far from satisfying the demands of the European Parliament, the difficulties being linked essentially to the precarious status of the personnel and, above all, to the lack of posts allocated to the body. The control body has been maintained, with two officials only, by allocating to it the posts of two permanent officials normally allocated to the EAGGF for other control work.

Given the limited staff and resources available, the control body is unable to carry out the tasks currently assigned to it by the Council.

The reform of the COM cannot be implemented without a reinforcement of Community controls on the smooth and uniform application of measures adopted to correct the current imbalance in the sector.

The Commission is convinced of this, and Parliament, in its resolution<sup>2</sup> on the Commission communication to the Council on the development and future of wine sector policy (COM (93) 380 final), reiterates its point of view, stressing that "in order to guarantee the success of the reform and to ensure that wine-sector regulations are enforced in a consistent way, it is essential for controls to be placed on a systematic basis by setting up a central Community arbitration laboratory and **strengthening the Community's body of control officers so that, equipped with the necessary human and material resources, they will be able to work together with national and regional authorities, carrying out operations related to the**

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<sup>1</sup>OJ No C 20, 24.1.1994, p. 511.

<sup>2</sup>OJ No C 91, 28.3.1994, p. 55.

**inspection and the suppression and punishment of fraud." Parliament also added that an operative viticultural land register should be introduced and the change in the areas under vines monitored by means of aerial photographic surveying. Hence the importance of the Commission's proposal on the vineyard register.**

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## PREFACE

Council Regulation (EEC) No. 2048/89 of 19 June 1989 laying down general rules on controls in the wine sector<sup>1</sup> instituted a Community control body and laid down the requisite legal foundations for its activity. This Community control body was actually set up within the EAGGF, as the latter is responsible for all agricultural inspections, in May 1991.

Its members were recruited from specialized officials working in the national inspectorates. The turn-over of the Community control body's staff over its two-and-a-half years of operation has been considerable, due to their precarious status (auxiliaries) and the one-year limit on their contracts imposed by the Commission. The very small number of staff assigned to this body and their precarious status has considerably weakened the Community control body's role. Nevertheless, many of the controls called for in the Regulation's appendix have been carried out.

In compliance with the provisions of Article 17(2) of the Regulation, the Commission submitted to the Council and European Parliament a first annual report on the Community control body's activities covering its first year of operation, i.e., from 1 May 1991 to 30 April 1992 inclusive.<sup>2</sup>

This document met with a generally very favourable reception in the Council and Parliament, both of which agreed on the need to continue and improve the control body's activities, notably by bolstering its administrative structure and staff number and improving exchange of information with the relevant national inspectorates. The conclusions of the report met general agreement, especially as regards the need for greater uniformity in the way the Member States carry out their controls.

This report was also analyzed in depth by the Management Committee for Wine, as part of the periodic examination of progress made in checking wine sector activities laid down in Article 17(1) of Regulation (EEC) No. 2048/89. Several more detailed reports on the activities examined by the control body were presented to the national delegations at the Committee's meeting.

The present report describes the Community control body's activities for the period of operation from 1 May 1992 to 31 December 1994 inclusive.

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<sup>1</sup>OJ No L 202, 14.7.1989, p. 32.

<sup>2</sup>Document SEC(92) 2014 final, 5.11.1992.

## 1. INTRODUCTION

### 1.1. Regulations and Control

1. The wine sector can be singled out from the rest of the agrifood sectors as requiring complex organization by the national administrations to manage and control compliance with the battery of viti- and viticultural measures currently in existence. Quite logically, this need is most acute in the wine-producing countries.

This situation is directly related to the scope and complexity of Community vineyard and wine-making regulations and national implementing regulations. Thus, several dozen Community sectoral regulations - both basic legislation and amendments - were in force in 1994.

Community regulations cover almost all of the areas affecting the sector, whether the vineyard per se (land suitable for growing wine, wine varieties, growing practices, and changes in production potential) wine-making (harvesting and production, processing, storage and circulation of the products, qualitative characteristics, labelling, etc.), intervention measures (structural measures, market measures), trading, pricing, etc. The result is a huge tangle of interlocking regulations which operators have to comply with however difficult it may be. If the regulations are to be simplified, this is definitely an area ripe for such change. Indeed, the proposed reform of the Common Organization of the Market (COM) has just such an aim in mind.

2. The vulnerability of the wine regulations to fraud is consequently great, not only because of the particular nature of the products involved, which are easily adulterated or substituted, but also because of the complexity of the regulations themselves, which makes detection of such frauds more difficult. Indeed, the more complicated a regulation, the harder it is to check compliance.

Moreover, the sector's operators encounter major difficulties in complying with all of the provisions in effect, including the provisions creating obligations to declare and register winery operations. Indeed, many operators find themselves in a situation in which they have unwittingly infringed these provisions.



## 1.2. Improving Controls

1. To cover all of the fronts on which infringements may occur, the national authorities need to spread their efforts using sufficient investigative means (e.g. specialized personnel and technical back-up) and targeting the areas, aspects and operations for control on the basis of a risk analysis.

Regulation (EEC) No. 2048/89 established the bases for improving compliance with wine-sector rules. In short, this regulation:

- pinpointed the areas of control that were considered especially sensitive and on which the authorities responsible for carrying out controls had to concentrate their efforts;
  - established that if controls were not conducted systematically they had to be representative;
  - called for the authorities responsible for carrying out controls to be given the staff needed to perform inspections efficaciously;
  - stipulated the powers that inspectors must have to do their jobs well;
  - laid down rules for mutual assistance between the Member States' various authorities; and finally,
  - created a Community control structure, attached to the Commission, that was responsible for ensuring that the wine regulations were applied uniformly in the Member States.
2. Today, more than five years after the Regulation's entry into force, some improvements have occurred, but they are of limited scope and their effects have barely been felt.

Thus, the Community control body has been set up and its activities in all the Member States, especially in the producer countries, have helped to dynamize the national authorities. In addition, the Community control body's findings have brought to light some cases of fraud and led to the correction of some weaknesses in the regulations.

The creation of liaison authorities in the various Member States has somewhat improved interdepartmental coordination as well as mutual cooperation between the authorities of different Member States. Still, the lack of means of inspection, the restricted powers of certain departments' inspectors, the lack of specialization in the wine sector characterizing some of the authorities responsible for control and the low degree of coordination achieved so far considerably limit the scope and efficacy of controls.

## 2. THE COMMUNITY CONTROL BODY

### 2.1. Tasks

Regulation (EEC) No. 2048/89 laying down general rules for controls in the wine sector created within the Commission a **community control body of specific officials to ensure the uniform application by the Member States of the rules in the wine sector.**

This body's tasks cover all areas of the COM in wine, especially the following aims:

- collaborating with the competent authorities of the Member States in controls scheduled by the national bodies or conducted at the Commission's request;
- evaluating the established control arrangements, inspection procedures and findings, in order to contribute to the harmonization of controls throughout the European Union; and
- promoting cooperation and information exchange between the authorities of the various Member States in order to contribute to the uniform application of the wine rules and facilitate the circulation of wine-sector products.

### 2.2. Staff

1. As the Council decided when approving Regulation (EEC) No. 2048/89, once the Community control body was set up (in 1991) its members were taken on as auxiliary staff under the EEC Staff Regulations. While this arrangement has the advantage of making it possible to recruit people with experience in conducting inspections, auxiliary staff may not remain under contract for more than a year.

Major problems have developed as a result of this situation, i.e.:

- The staff did not have enough time to hone their experience and expertise over such a short period of time. By the time they had been trained they had to leave the Commission.
- It was difficult to recruit highly qualified, experienced persons for such short-term contracts.
- The Community control body's staff had to be changed annually. This meant a break in continuity and additionally wasted time for the EAGGF, which was also responsible for recruitment.

However, in 1993 the Community control body was given two permanent staff positions and all the existing auxiliary posts were eliminated. The Community control body is thus currently staffed by only two people.

2. We can hope that this precarious situation will disappear. Indeed, in its Communication to the Council of 22.7.1993 on the reform of the COM in wine the Commission stressed the need to step up controls in all areas of the proposed reform and to implement scrupulously the provisions of Regulation (EEC) No. 2048/89. This necessarily means increasing the Community control body's staff.

In its examination of this Communication in 1993 the European Parliament supported the activities carried out by the Community control body and called upon the Commission to ensure the body's perpetuation by increasing its staff considerably and giving them a stable employment status. The Parliament considered that 36 officials were required.

### 2.3. Investigative powers

On paper, the Commission's specific officials have the same rights and powers to carry out their work as their national counterparts, with a few restrictions. Thus,

- according to the rules, the Commission's officials do not have autonomous powers, but collaborate in the controls organized by the national authorities, which are also responsible for conducting the surveillance. As in most cases the Community inspectors may choose, or even propose, the operations in which they would like to participate and have access to the premises and documents that are useful for inspections on an equal footing with the national inspectors, this limitation does not necessarily curtail their investigative powers, provided, however, that the national officials are willing to cooperate.
- when samples are deemed necessary, the Community inspectors must ask their national counterparts to take the samples. Once the samples are collected, they remain at the disposal of the Community officials. It is up to the latter to decide which laboratory will analyze the samples and what tests must be performed. Since the Commission officials are free to choose what samples must be collected, this is merely a formal restriction.
- another restriction results from the application of the principle of the secrecy of preliminary inquiries in courts of law ("secret d'instruction"), which exists in many Member States' legal systems. This principle can limit Community officials' investigative powers if it is invoked arbitrarily by a Member State

to block Community inspectors when controls might reveal some criminal violations. Since virtually any infringement of the provisions for which the Community officials are responsible can trigger a preliminary inquiry by the courts, such an attitude renders the Community structure totally ineffective.

#### **2.4. Working methods**

1. An annual programme of work specifying the areas for control and missions to be undertaken is drawn up. The period in which the controls are to take place is chosen for each specific area of activity so as to dovetail with the national inspection services' normal activities. The missions are divided up amongst the countries according to each country's importance with regard to the management of the market and the merits of the subject being covered.

Special unscheduled missions may be carried out within the framework of mutual assistance between control authorities when serious differences arise between Member States concerning batches that fail to meet standards or when motivated suspicions of wide-scale irregularities exist.

2. The findings of each mission are sent to the Member State's liaison authority with a request that its remarks be sent on to the Commission.

Some cases come in for special internal follow-up, notably when infringement of Community rules, frauds impinging on the Community's budget or weaknesses or loopholes in the regulations themselves are detected.

#### **2.5. Missions undertaken**

In the period covered by this report the Commission officials conducted a total of 73 missions in the Member States as listed in Annex I. Most of the missions were planned under the Community control body's annual programme of work; others were triggered by investigations launched by the Community control body in response to information about purported frauds received by the Commission; still others concerned bilateral disputes that arose as a result of the detection of products that did not conform to wine-sector rules. The Community control body also contributed ideas on the reform of the COM.

Annex II to this report lists the findings and results by subject. How mutual assistance between the various national control authorities functioned and the Community control body's main activities in this area are analyzed in Chapter 4.

## 2.6. Cooperation

The Community control body worked harmoniously and productively with practically all of the Member States' control bodies. The national authorities were willing to cooperate with the Community control body and saw in the latter's creation and operation an opportunity to promote and improve controls of the wine sector.

The Community inspectors also met with a favourable welcome from the producers and their trade organizations. All parties seemed to recognize the need for objective Community controls to protect the sector and, by extension, defend their interests. Of course, contrary reactions were also seen, notably from producers who were found to be perpetrating frauds.

## 3. THE NATIONAL CONTROL STRUCTURES

### 3.1. The types of authorities

1. National wine-sector control authorities and their powers differ considerably from one Member State to the next, in line notably with whether or not the Member State is a wine-producing country and the countries' different internal administrative and political structures.
2. In the wine-producing countries, up to seven authorities (or their homologous services in the regions) are engaged in the administrative management and control of the wine sector. Despite the diversity within this group of Member States, their relevant national authorities can be put into the following categories overall:
  - a) **offices in charge of vineyards:** sometimes specialized but usually responsible for all the other agricultural sectors as well, these bodies manage and inspect the vineyards' potentials, monitor any possible modifications (grubbing up, replanting, new planting), implement structural intervention measures (grubbing up with premiums, vineyard restructuring) and sometimes check harvest declarations as well.

- b) **offices responsible for carrying out controls on wines:** Sometimes specialized in wines or including specialized sections, but usually having oversight over all agrifood products, these bodies are responsible for preventing and suppressing agrifood fraud in general and wine-sector fraud in particular. They check the product in the various stages of its production and wholesaling. They are responsible in particular for checking the annual production and storage declarations, the movement of goods, the proper keeping of registers, oenological practices, wine quality and labelling.
- c) **offices in charge of quality wines:** These bodies check designated wines; they sometimes have oversight over table wines with indications of their places of origin and local wines. They inspect both vineyards and wineries, checking agricultural practices (vine varieties, growing methods, yields per hectare, harvesting), production processes (pressing, ageing, and bottling) and wine quality (approval).
- d) **offices responsible for consumer protection:** These bodies check produce and foodstuffs for hygiene and freedom from disease. The inspections of wine are carried out primarily at the market stage and focus on product quality and labelling.
- e) **agricultural intervention agencies:** These agencies, which are sometimes specialized in wine, are responsible for implementing Community intervention measures and paying out the corresponding aid. The inspections in connection with the granting of aid are carried out by the intervention agencies themselves, the vineyard authorities (structural measures), or the offices or departments responsible for carrying out controls (market measures).
- f) **miscellaneous specialized offices:** These include offices that monitor distilleries and the authorities responsible for controlling the commercialisation of vinous alcohol.
- g) **Customs:** Customs inspections of wine are primarily administrative (conformity of transport documents); samples are occasionally taken.

The vineyard register offers a striking example of the different bodies that are responsible for this instrument for verifying and managing the wine-production potentials in the different Member States:

- in Germany: the vineyard register comes under the jurisdiction of the Länder (Hessen, Rhineland-Palatinate) or regions (Unterfranken, Baden, Württemberg), with responsibility being delegated to research institutes (Baden and Württemberg), vineyard offices (Hessen), a local administration (Unterfranken), and a chamber of agriculture (Rhineland-Palatinate).
  - in France: the vineyard register comes under national jurisdiction and is the responsibility of the Finance Ministry (Customs).
  - in Luxembourg: the Vine and Wine Institute manages the register.
  - in Italy: the vineyard register comes under national jurisdiction (EIMA - an intervention agency) but its constitution and management have been contracted out to a private consortium.
  - in Spain: responsibility for the vineyard register has just been shifted from the national institute for wines of designated origin, INDO, to Spain's Autonomous Communities, but the actual realisation has been entrusted to a private consortium.
  - in Portugal: the vineyard register comes under national jurisdiction (Vine and Wine Institute).
  - in Greece: the vineyard register comes under national jurisdiction (Ministry of Agriculture), but does not actually exist.
3. The non-producing Member States have as a rule a total of three different authorities that carry out almost all of the wine-sector inspections. These entities are similar to those described under 2(b), (d) and (g).

### 3.2. Operation

The foregoing review shows that diversity is the rule when it comes to the authorities that are responsible for controls in the wine sector in the Member States, with managerial and inspection powers shared and, alas, sometimes overlapping. What is more, apart from a few rare exceptions, the authorities in charge of the inspections are not specialized in the wine sector, but handle many areas of activity and are responsible for verifying operations in other sectors as well (e.g., agriculture, food, and consumer goods). Finally, the inspectors' powers vary according to the body to which they belong. Indeed, some offices act more like advisors to producers, whereas others take a more punitive line.

Each Member State also has a contact body that is responsible for liaising between the Member State's various control services and the Commission. In practice, however, inter-departmental coordination must clear major hurdles resulting notably from the fact that the offices are supervised by

various administrations (central, regional, and various ministerial departments) and guided by different priorities of action.

Given these objective difficulties, satisfactory levels of inspection will be achieved only if specific national bodies specialized in wine-sector control are set up and endowed with broad investigative powers encompassing all the areas covered by the regulation and sufficient powers and means to carry out their tasks. This could be accomplished by bolstering one or the other of the authorities that already exist, especially in the wine-producing Member States.

### 3.3. Activities (general aspects)

1. Article 3 of Regulation (EEC) No. 2048/89 states the principles for improving wine-sector controls in the Member States, i.e. the circumscription of the areas to be controlled - more particularly, ensuring that inspections are carried out according to criteria of representativeness - and the need to have sufficient staff to carry out the inspections efficaciously.

During its various missions the Community control body collected, more or less systematically, general documentation about the national inspectorates' activities, working procedures and field staff.

It is clear that, for a given area, the inspections carried out by the Member States' national authorities are far from uniform; the type, intensity, and efficacy of the tests are not always the same.

2. In 1992, the Commission asked the liaison authorities in the Twelve Member States to provide statistics on the inspections carried out in 1991 and the programmes of work scheduled for 1992, by type of verification, the aim being to be able to assess the distribution and intensity of the controls conducted in the European Community. The Member States' responses concerning their control statistics revealed that:

- the preciseness of the information furnished varied considerably from one Member State to the next. Whilst some countries provided detailed statistics broken down by competent department and type of verification, others kept their responses brief.
- it was extremely difficult to compare the statistics provided by the various national authorities, especially given the vagueness of the types of inspections carried out and the methods or procedures.

In general, the information about the national authorities' agendas that was submitted to the Commission was limited to an outline of the priority areas in which inspections were planned. Rough



schedules were sometimes attached, but they did not contain any specific references to the criteria of representativeness that were to be met.

3. Achieving true Community-wide harmonization of wine-sector control requires in-depth evaluation of the COM's control requirements by specific area, a systematic inventory of all the control procedures used by the various national services and, finally, detailed knowledge of the staff assigned to carrying out wine-sector inspections by department and by area. If the EAGGF has the funds to call upon outside experts' services, it will commission the relevant in-depth study in 1995. Moreover, the national inspectorates' annual activity reports and programmes should be transmitted to the Commission's departments annually, as the Commission suggested in its COM reform proposal. Last but not least, all the Member States are amiss in that they either have no working vineyard register, which is supposed to cover all vineyard operations in compliance with Council Regulation (EEC) No. 2392/86 of 24 July 1986<sup>1</sup> and Commission Regulation (EEC) No. 649/87 of 3 March 1987<sup>2</sup>, or, where such a register does exist, rarely use it for control purposes.

#### 4. COOPERATION BETWEEN THE NATIONAL AUTHORITIES

##### 4.1. The regulatory framework

###### 4.1.1. *Mutual assistance*

Title IV of Regulation (EEC) No. 2048/89 lays down how the competent authorities in the various Member States are to assist each other. Two types of procedures are established, one for 'assistance on request' (Article 8), the other for 'spontaneous assistance' (Article 9). The Commission's role is to foster information exchange. To this end, it must be informed of all the cases in which the marketing of a product may be of specific interest to other Member States or a product fails to conform to wine-sector rules ((Article 8(1) and Article 9(2)).

###### 4.1.2. *Information to be exchanged*

According to Article 10 of the Regulation, when a Member State finds that a product imported from another Member State does not comply with wine-sector rules, the competent authorities shall provide each other with information about the disputed product's composition and organoleptic

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<sup>1</sup>OJ No L 208, 31.7.1986, p. 1.

<sup>2</sup>OJ No L 62, 5.3.1987, p.10.

characteristics, its designation and presentation, and how far it complies with the rules laid down for its production and marketing. Moreover, this information shall be accompanied by documents or other evidence and details of any administrative measures or legal action relating thereto. The authorities involved must subsequently inform each other without delay of the progress of the investigations and any administrative or legal action taken subsequent to the operations concerned.

#### *4.1.3. Sampling*

Commission Regulation (EEC) No. 2347/91 of 29 July 1991<sup>1</sup> lays down official rules for taking samples as part of the cooperation between the Member States' competent authorities. The aim is to ensure that official analyses are representative and their results verifiable throughout the European Community (see the first recital).

#### *4.1.4. Methods of Analysis*

Article 74(1) of Regulation (EEC) No. 822/87 requires the adoption of methods of analysis to determine the composition of wine products and rules for ascertaining whether the products have undergone processes contrary to authorized oenological practice.

Commission Regulation (EEC) No. 2676/90 of 17 September 1990<sup>2</sup> lays down the Community test methods applying to the wine sector. In addition, this Regulation specifies that, inasmuch as the Community has not yet laid down maximum levels for substances whose presence indicates that certain oenological practices have been used and has not yet adopted tables enabling analysis data to be compared, the Member States are authorized to set these limits themselves (see the second recital).

Moreover, pursuant to Article 74(2) of Regulation (EEC) No. 822/87, when methods of analysis or Community rules do not exist, IWO-recognized or ISO-recommended methods shall apply. If neither of the latter exist, an analytical method allowed by the Member State concerned may be used or, if necessary, any other appropriate test method, that is, a method that is accurate, repeatable and reproducible.

#### *4.1.5. The Community test laboratory*

Article 16 of Regulation (EEC) No. 2048/89 stipulates that the Commission shall set up an analytical data bank for wine-sector products at the Joint Research Centre (JRC) in Ispra. Commission Regulation

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<sup>1</sup>OJ No L 214, 2.8.1991, p. 32.

<sup>2</sup>OJ No L 272, 3.10.1990, p. 1.

(EEC) No. 2347/91 of 29 July 1991<sup>1</sup> lays down the rules for sampling wine-sector products either within the framework of Member State cooperation or for analysis by nuclear magnetic resonance (NMR), including for the Community data bank. Commission Regulation (EEC) No. 2348/91 of 29 July 1991<sup>2</sup> sets out how the data bank for NMR test results is to be set up and operated.

To meet these regulatory requirements the Commission has set up within the JRC's Institute for the Environment a special section, the European Office for Wine, Alcohol and Spirit Drinks (BEVABS), the main purpose of which is to carry out the scientific and technical tasks that the Commission requires to ensure that Community wine-sector legislation is implemented and observed correctly. The BEVABS's creation was delayed somewhat because of administrative problems (hiring of qualified staff) and technical problems (divergent results of analyses conducted in the Member States and checks performed at the JRC, notably due to the calibration of instruments, different alcohol distillation systems, internal reference standards, and failure to comply with the technical protocol). Most of these difficulties have been overcome and the data for the 1991 and 1992 wine years have just been validated by the scientific subcommittee.

BEVABS has also participated in a study to detect the watering down of wines by mass spectrometry (MS) analysis of the wine's <sup>18</sup>O/<sup>16</sup>O isotope ratio and will supplement the existing NMR data bank with the isotope ratios measured in the same samples.

The Office may also create a data bank containing the results of these isotope distribution analyses, if need be.

Similarly, it is prepared to conduct most of the conventional analyses of wines and spirits. This ability might lead to its arbitrating over litigious analyses, if the Member States accept such a role for it.

#### *4.1.6. The use and disposal of products not complying with wine-sector rules*

Article 73(1) of Regulation (EEC) No. 822/87 states that wine-sector products that have been subjected to oenological practices not allowed by Community regulations or, in their absence, national regulations, 'may not be offered or disposed of for direct human consumption'. The same applies to products that are not of sound and fair merchantable quality and products that do not meet Community definitions.

Article 73(2) lays down the adoption of Community rules governing the holding, transport, and use of products that do not comply with the Regulation's provisions and criteria to avoid excessive hardship in individual cases. No Community legislation to implement these provisions has been adopted to date, despite the bilateral disputes that have arisen in this area.

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<sup>1</sup>OJ No L 214, 2.8.1991, p. 32.

<sup>2</sup>OJ No L 214, 2.8.1991, p. 39.

Given the fact that, since 1 January 1993 customs procedures to turn back goods can no longer be applied, the use or disposal of unauthorized products is still not covered by binding rules. If a dispute arises, it is always possible to ask for a counter-appraisal by laboratories that, until now, had to be national. To ensure that justice is meted out more fairly, it would be useful to use the BEVABS as a Community arbitration laboratory.

#### **4.2. Matters of contention**

Since its creation the Community control body has acted as a clearing house for the bilateral disputes sent to the Commission by national authorities. The bulk of cases of which the Commission has been informed concerned wine-sector products that were presumed to have undergone illicit oenological practices in a Member State other than the one that filed the complaint. Less frequently seen were irregular presentations of wine.

Most of the files were opened by the German control authorities, followed by the French. Most of the contested products come from Italy, followed by Spain and France.

The Community control body has examined all the files and carried out investigations of some suspect operators in order to verify on site the conditions under which the consignments were bottled, manufactured, etc. In addition, it contacted the national laboratories in order to shed light on the interpretation of specific analytical results.

#### **4.3. Remarks**

Information exchange among the authorities of the various Member States and between such authorities and the European Commission when defective products are detected in a Member State other than the State of production continues to be plagued by practical problems. The following problems may be quoted:

- a) The information does not always contain all the elements stipulated in Article 10 of Regulation (EEC) No. 2048/89. What is more, it is often not accompanied by documents or other useful pieces of evidence that would enable the recipient control authorities to follow up matters more effectively;
- b) When products that do not conform to Community rules are sent back to the Member State of origin, the official notification of this delivery often reaches the national inspection service after the products have been unloaded. It is thus impossible to guarantee that their destination has been that which had been intended.

- c) The authorities receiving a request for information sometimes fail to inform the applicant authorities of inspections and the action taken in their wake, or else do so late or incompletely.
- d) The instructions for collecting official samples and sending them to the requesting Member States within the framework of cooperation between competent authorities provided for in Regulation (EEC) No. 2347/91 are not always followed. Exchanges of samples are often delayed because requests are not sufficiently precise or are not duly justified.
- e) The procedures for information exchange between the liaison authority and control authorities of the same country are not properly defined in some of the Member States. This gives rise to additional administrative delays in the settlement of bilateral disputes.
- f) The Commission services do not always receive copies of the national authorities' correspondence with each other under mutual assistance.
- g) The possibility of having national inspectors participate in verifications in other Member States has never been used because of linguistic, financial and/or administrative barriers (for example, in the reporting of violations).

In respect to methods of analysis, it has to be said that the method for detecting the watering down of wines by determination of the oxygen isotope ratio by mass spectrometry (SMRI) is still in an experimental phase. At present, its results can be interpreted differently by the Member States because of the absence of an EU- or internationally-approved official method and the limited number of reference values obtained for genuine products.

It is urgent that the Commission and Member States concerned take steps to adopt common rules on the method of analysis and interpretation of results so as to avoid technical barriers to the free movement of wine-sector products.

Indeed, in those cases where official analytical methods have been established to determine the presence of specific substances in wines but maximum allowed levels have not been set or comparative tables of the analytical data have not been compiled by either Community legislation or the International Vine and Wine Office (IWO), it has come about that the same test results have been given significantly different interpretations by the control authorities of different Member States. This is the case for most of the disputes mentioned in this document.

Consequently, the same wine-sector product may be considered legal in one Member State and illegal in another Member State even though the

two Member States' inspection services apply the same assay method and obtain the same results.

The explanation for such a situation lies in the provisions of Article 74 of Regulation (EEC) No. 822/87 authorizing the Member States to apply their own methods of analysis for substances characteristic of specific oenological practices if such methods have not been established by the Community.

The Community has yet to set such criteria. In the interim, in order to avoid contradictory situations, the Management Committee for Wines has approved a declaration urging the control authorities to take a 'position of prudence' in such situations and to consult scientists with competence in the area.

## 5. CONCLUSIONS

1. The wine sector is characterized by a complex structure that is governed by very detailed regulations covering all facets of the sector (vineyards, wine-making, intervention measures, marketing of goods, etc.). These regulations are based on the Member States' traditional practices. The way the sector has been organized administratively in each wine-producing Member State reflects this complexity.
2. The wine-sector rules are particularly vulnerable to irregularities because of the complexity of the sector and the regulations themselves as well as the special nature of the products. The result of this regulatory maze is that efficacious verification of compliance is hard to achieve.
3. The Community body of specific officials for controls in the wine-sector that was instituted by Regulation (EEC) No. 2048/89 has not met the Council's objectives. The difficulties it has encountered are linked to the precarious status of its personnel and the small number of officials assigned. This situation was admittedly improved by a decision to assign permanent staff to the Community control body (to the detriment of the other activities of the EAGGF). In any case, the number of officials was reduced to two.

Seventy-three missions were carried out during the period covered by this report. The main subjects of investigation were the permanent abandonment of vineyards, harvest and production declarations, hectare yields of quality wines psr, enrichment, and estimates of production yields. These missions revealed loopholes in certain regulations, possible flaws in the inspections organized by certain Member States, and irregularities.

Cooperation with the Member States' control authorities was generally harmonious and productive.

4. National wine-sector control structures differ considerably from one Member State to the next. Usually, a variety of authorities is the rule, with managerial and investigative powers being shared, sometimes overlapping. Only rarely are the authorities specialized in the wine sector.
5. Practical problems continue to dog cooperation between the national authorities responsible for conducting controls as well as between the national authorities and the Commission. These problems basically have to do with the lack of precision in communications and information requests, in the case of the return of products that do not conform to Community wine-sector rules the failure to follow sample collection procedures, the slowness of information exchange between the liaison authority and the control authorities, and the assay methods themselves, as the interpretation of their results gives rise to diverging conclusions resulting from a lack of bilaterally- and/or Community-approved reference values.
6. The Member States, on the other hand, have been extremely slow about rendering their vineyard registers fully operational. One Member State has not even begun to set up its register. What is more, where the vineyard register is available, even if only partially, it is not used enough to improve the reliability of controls. The EAGGF will commission in 1995, using external staff (provided that funds are available), a complete, detailed audit of the progress made in implementing the vineyard register in all the Member States.
7. Finally, the regulatory framework must be simplified, for it is obvious that the less complicated the regulations, the more effective controls will be. That was the position taken by the Commission in its 22 July 1993 communication to the Council about the reform of the COM in wine.

## ANNEX I

### LIST OF MISSIONS CONDUCTED BY THE COMMUNITY CONTROL BODY DURING THE PERIOD COVERED BY THE REPORT

1/5/1992 - 31/12/1992

No.	DATE	COUNTRY/REGION	PURPOSE
1	5/5/92	BELGIUM/BRUSSELS	Labelling of wines
2	7/5/92	BELGIUM/BRUSSELS	Labelling of wines
3	11-15/5	SPAIN/RIOJA	Illicit plantings
4	11-15/5	PORTUGAL/LISBON	Permanent abandonment
5	18-22/5	FRANCE/VAUCLUSE- DROME	Registers, illicit plantings
6	18-22/5	UNITED-KINGDOM/LONDON	Labelling of wines
7	21/5	BELGIUM	Labelling of wines
8	1-5/6	ITALY/SICILY	Illicit plantings
9	2-5/6	GERMANY/RHINELAND- PALATINATE	Distillation
10	8-12/6	PORTUGAL/LISBON	Distillation
11	18-20/6	LUXEMBOURG	Permanent abandonment
12	29/6-3/7	SPAIN/RIOJA	Illicit plantings
13	14-17/7	ITALY/TUSCANY	Permanent abandonment
14	20-23/7	IRELAND/DUBLIN	Registers, labelling of wines
15	24/7	UNITED KINGDOM/LONDON	Registers, labelling of wines
16	31/8-4/9	FRANCE/DROME	Illicit plantings
17	31/8-6/9	ITALY/EMILIA-ROMAGNA	Presumed watered-down wines
18	14-18/9	GREECE/CRETE	Harvest inspections
19	14-18/9	SPAIN/JEREZ	Harvest inspections
20	20-30/9	ITALY/SICILY	Harvest inspections
21	5-8/10	PORTUGAL/DOURO	Harvest inspections



22	19-23/10	FRANCE/ALSACE	Harvest inspections
23	20-22/10	GERMANY/AHR-MIDDLERHINE	Harvest inspections
24	26-30/10	SPAIN/BARCELONA	Enrichment
25	16/11	ITALY/ASTI	Wine laboratory visit
26	16-20/11	FRANCE/BEAUJOLAIS	Harvest inspections
27	23/11	BELGIUM	Labelling of wines
28	25-26/11	LUXEMBOURG	Accompanying documents, registres
29	30/11-4/12	GERMANY/HESSEN	Registers
30	2/12	NETHERLANDS/EINDHOVEN	Accompanying documents, labelling of wines
31	7/12	ITALY/APULIA	Distillation
32	9-11/12	DENMARK/SVENDBORG	Registers, Labelling of wines
33	14-18/12	SPAIN/LA MANCHA	Distillation
34	14-18/12	FRANCE/CHARENTES	Article 36 wines

1/1/1993 - 31/12/1993

No.	DATE	COUNTRY/REGION	PURPOSE
1	11-15/1	GERMANY/RHINELAND-PALATINATE	Declarations (Reg. (EEC) No. 3929/87)
2	1-5/2	SPAIN/LA MANCHA	Declarations (Reg. (EEC) No. 3929/87)
3	8-11/2	FRANCE/LANGUEDOC	Declarations (Reg. (EEC) No. 3929/87)
4	8-12/2	PORTUGAL/RIBATEJO	Declarations (Reg. (EEC) No. 3929/87)
5	22-26/2	GREECE/ATTIKA	Declarations (Reg. (EEC) No. 3929/87)
6	23-26/2	FRANCE/PROVENCE	Declarations (Reg. (EEC) No. 3929/87)
7	1-5/3	ITALY/EMILIA-ROMAGNA	Declarations (Reg. (EEC) No. 3929/87)
8	1-5/3	GERMANY/SAXONY-SACHSEN-ANHALT	Declarations (Reg. (EEC) No. 3929/87)

9	15-19/3	SPAIN/PENEDES	Declarations (Reg. (EEC) No. 3929/87)
10	16-19/3	ITALY/VENETIA	Declarations (Reg. (EEC) No. 3929/87)
11	24/3	BELGIUM	Wine laboratory visit
12	21-23/3	NETHERLANDS/THE HAGUE-AMSTERDAM	Registers, labelling of wines
13	3-7/5	GERMANY/SARRE-RHINELAND-PALATINATE	Accompanying documents, labelling of wines, vineyard register
14	17/5	NETHERLANDS/THE HAGUE-AMSTERDAM	Reimportation of alcohol
15	23-28/5	SPAIN/VALENCIA	Permanent abandonment
16	21-25/6	PORTUGAL/BEIRA	Permanent abandonment
17	28/6-2/7	FRANCE/LANGUEDOC	Permanent abandonment
18	19-23/7	GREECE/CORINTH	Permanent abandonment
19	6-10/9	FRANCE/GARD	Stock declarations, storage aids
20	7-9/9	GERMANY/WÜRZBURG	German inspectors' annual meeting
21	16-17/9	ITALY/NAPLES	Utilization of alcohol
22	20-24/9	PORTUGAL/RIBATEJO	Stock declarations, storage aids
23	27/9-1/10	ITALY/EMILIA-ROMAGNA-VENETIA	Stock declarations, storage aids
24	10-15/10	GREECE/CHALKIS-CORINTH	Enrichment
25	15-19/11	ITALY/CALABRIA	Permanent abandonment

1/1/1994 - 31/12/1994

No.	DATE	COUNTRY/REGION	PURPOSE
1	21-25/2	ITALY/TUSCANY	Accompanying documents
2	14-18/3	ITALY/ABRUZZI	Inspection of a cooperative
3	21-25/3	SPAIN/CASTILLA LEON	Accompanying documents
4	27-29/4	FRANCE/SUZE-LA-ROUSSE	Seminar: 'Vine and Wine Law'

5	30/4-3/5	PORTUGAL/MADEIRA	Accompanying documents
6	8-9/8	ITALY/ISPRA	NMR data bank
7	16-19/8	FRANCE/BEAUJOLAIS	Yield estimates
8	22-26/8	PORTUGAL/DAO	Yield estimates
9	19-23/9	ITALY/PIEDMONT	Yield estimates
10	10-14/10	ITALY/EMILIA- ROMAGNA	Enrichment
11	14-18/11	GRECE/BEOTIA	Grubbing up & replanting
12	22-23/11	GERMANY/BREMEN	German inspectors' anual meeting
13	16/12	ITALY/ISPRA	Assessment of pollen spread-based yield estimate method
14	19-20/12	ITALY/ROME	Vineyard register

## ANNEX II

### SUBJECTS COVERED BY THE COMMUNITY CONTROL BODY DURING THE PERIOD COVERED BY THE REPORT

#### 1. VERIFICATION OF PERMANENT ABANDONMENT OF GRAPE VINES

##### 1.1. The Community framework

1. The major structural imbalance in the wine-sector market has made the adoption of measures to bring production down in line with demand essential. To this end, a policy to reduce the wine-making potential was set up. Council Regulation (EEC) No. 1442/88 of 24 May 1988<sup>1</sup> and Commission Regulation (EEC) 2729/88 of 31 August 1988<sup>2</sup> set up a permanent abandonment premium scheme in respect of vineyards for the 1988/89 to 1995/96 wine years inclusive. The vineyard owners who benefit from this premium give up their right to replant grape vines following their grubbing-up and had the possibility of benefiting, until the 1992/93 wine year, from a preferential scheme of compulsory distillation of table wines as of the wine year following the one in which their vines were grubbed up.
2. Vineyards of all categories are eligible for the permanent abandonment premiums. Exclusions were adopted for certain size categories because of their small size, a history of infringements, planting dates or their state of neglect. In addition, the Member States are free to exclude from the scope of the measure specific 'protected areas'.
3. The amount of the permanent abandonment premium per hectare varies according to the type of production, the productivity of the grubbed land, and the Member State.<sup>3</sup> Up to and including the 1992/93 wine year the premium was increased if the land abandoned permanently accounted for the farmer's total vineyard acreage. Starting with the 1993/94 wine year the premium is supplemented if the grubbing-up is part of a vineyard restructuring programme.

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<sup>1</sup>OJ No L 132, 28.5.1988, p. 3.

<sup>2</sup>OJ No L 241, 1.9.1988, p. 108.

<sup>3</sup>The premiums are lower in Portugal.

## 1.2. Remarks

1. The limited availability of the means of control seems to be the greatest obstacle to the correct application of the permanent abandonment programme. The material difficulties of setting up far-reaching, systematic checks before and after grubbing are such that the conditions for granting the premiums are not verified strictly. The Court of Auditors has drawn attention to this in its annual reports. The Member States must give this problem serious consideration if it is to be solved.
2. The national arrangements made to manage and control the scheme's application do not meet all of the Community's requirements. Sharing knowledge of the various measures taken in the Member States may help the national officials to improve their own measures.
3. Inspections of the plots scheduled for grubbing should be conducted preferably during the vine's vegetative growth period or at least before the vines are pruned so as to gauge better the crop's vigour and thus its potential yield.
4. In Spain, Italy and Portugal the acreages or yields per hectare of the plots scheduled for grubbing were wittingly overestimated. Additional guarantees had to be introduced to avoid this risk. The figures in the wine-growers' annual harvest and production declarations had to be taken into account by the inspection services in all cases. The regulation was amended accordingly in 1993.<sup>1</sup>
5. The time limit for the completion of grubbing (15 May) led to delays in dealing with demands and with payment. In addition, official confirmation of grubbing within two months of notification proved impossible in regions where large areas were grubbed up under the premium scheme, due to shortage of control staff. The time limit for grubbing and the two month confirmation period had to be extended. In 1993 the regulation was amended to take account of the second point<sup>1</sup>.
6. In France, Greece and Italy some cases of grubbing up that have been certified as complying with the rules have not always led to the complete elimination of the vine stocks due to the failure to pull up main roots and wood left lying around on the plots. The definition of grubbing-up given in the Regulation was clarified in 1993<sup>1</sup>.
7. Eligibility for an additional premium if the applicant's entire vineyard is grubbed up is very difficult to check. The lack of

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<sup>1</sup>Council Regulation (EEC) No 1990/93 of 19 July 1993 (OJ No L 182, 24.7.1993, p. 7).

sufficient information about the farms does not permit the competent services to be certain that the abandonment is total. Under these conditions, granting an additional premium for total abandonment is not justified. This additional premium was discontinued in 1993.<sup>1</sup>

8. Setting up a full, computerized vineyard register would allow to correct a large portion of the current failings. Using such a tool would make it possible, amongst other things, to improve the management and preventive inspection of requests, check vineyard composition and manage wine-growers' replanting rights. In the interim, the inspection services should use the vineyard files and the viticultural land registers - even where incomplete - that exist in some regions.

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<sup>1</sup>Council Regulation (EEC) No 1990/93 of 19 July 1993 (OJ No L 182, 24.7.1993, p. 7).

## 2. VERIFICATION OF HARVEST AND PRODUCTION DECLARATIONS

### 2.1. The Community framework

1. Commission Regulation (EEC) No. 3929/87 of 17 December 1987<sup>1</sup> provides for annual declarations of harvests, production and stocks in the wine sector. These provisions may be considered the basic instrument for managing and monitoring the wine sector given the importance of the information they provide, including particulars of each individual operator and information about the sector as a whole.

The importance of these provisions as a basic legal instrument prompted the legislator to provide for Community sanctions (Article 11 of the Regulation) against operators who do not submit their declarations or fill them in incorrectly. These sanctions consist in exclusion from all voluntary market measures for two wine years.

2. Concerning table wine market management, the Member States calculate each operator's rights and distillation obligations from the production figures, the wine-growing areas where the products come from, and yields per hectare declared annually. What is more, the annual harvest and production declarations are the quality wines psr's 'birth certificates' and indispensable tools to ensure that the operators comply with national and Community provisions regarding quality wines.

### 2.2. Remarks

1. According to the Community control body's findings, Regulation (EEC) No. 3929/87 as currently drafted is a weak basis for collecting reliable information about the areas in production and yields per hectare of table wines and quality wines psr obtained by the operators. Gaps and vague wording in the text have had as a consequence that each Member State set up its own system of declarations, sometimes correcting some of the deficiencies in the Community regulation. The Regulation is full of inadequacies.
2. The difficulties surrounding grape harvest declarations stem mainly from the following:
  - a) The lack of precise criteria for defining the vineyards that are subject to the rights and obligations entailed by the COM. Consequently, wherever the vineyard register is not

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<sup>1</sup>OJ No L 369, 29.12.1987, p. 59.

yet operational, the inspection services are not in a position to know all of the wine growers that are required to declare their grape harvests and thus to enforce this obligation.

- b) Derogations from the requirement to submit harvest declarations, especially the exemption for the members of wine cooperatives and members of groups of wine producers. In the absence of individual harvest declarations, the wine-makers for whom the grapes are intended can easily change the surface areas of origin and thus the yields of the various categories or types of wines.
  - c) The regulation's omission of harvesting centres that buy grapes from harvesters and resell the must to wine-makers before 15 December. Since these intermediaries are not bound to make any declaration, they form a screen between the harvesters and wine-makers and can manipulate, that is, lower, the yield figures at will when delivering must to the wine-makers.
  - d) The non-obligation to declare the registered plots from which the grapes are harvested. In the absence of a vineyard register giving a true picture of the composition of the growers' vineyards, this omission prevents verification of the total area declared under vines and thus of actual yields.
  - e) The obligation, which has since been abolished<sup>1</sup>, to declare harvested yields in equivalent volumes of wine (hectolitres/hectare) instead of by weight of grapes (quintals/hectare). There was no way for harvesters who did not make their own wine to know the grape-to-wine transformation coefficients attained by the wine-makers to whom they delivered their grapes. It thus followed that the yield figures that the harvesters supplied with their deliveries to the wineries were always rough figures and when the wine-makers deduced from these figures the acreages corresponding to the grapes, those figures were likewise inaccurate.
2. Wine production declaration problems arise when the weighted average yields of the grapes being vinified has to be determined, which, by definition, must correspond to the average yield of the wine-maker who makes wine out of his own grape harvest or purchased grapes. The wine-maker must take into consideration

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<sup>1</sup>Commission Regulation (EEC) No 1991/94, 27 July 1994 (OJ No L 200, 3.8.1994, p. 10).



and declare as many weighted average yields as the different categories of products he produces (table wines, quality wines psr, and other wines).

The difficulties stem from the following:

- a) To be able to calculate the weighted average yield, the wine-maker must know the exact figures of both the quantities of the various batches of grapes or must he uses and the acreages from which they originate.

If the winery is not a grape producer as well, it is completely dependent on its suppliers' stated yields per hectare to calculate the acreages corresponding to its deliveries.

The difficulties mentioned in Item 2 above often lead to inaccuracies in the surface areas under production and thus the non-compliance of the wine production declaration, for an error in the acreage attributed to one of the deliveries is enough to make the winery's weighted average yield wrong, too.

- b) According to the wine production declaration given in Table B of Annex I of Regulation (EEC) No. 3929/87, the weighted average yield concerns all of the products upstream from the wine (grapes and must) used by the producer. These include the products that have been vinified since the start of the wine year as well as those present in the winery's holdings at the date of the declaration, even if the latter have not been vinified.

What is more, pursuant to the provisions of Commission Regulation (EEC) No. 441/88 of 17 February 1988 laying down the rules for the application of the compulsory distillation of table wines<sup>1</sup>, the producer's distillation obligation is calculated from his weighted average yield of products upstream from the table wine. Commission Regulation (EEC) No. 2587/94 of 25 October 1994<sup>2</sup> stipulates that in the case of vinification of purchased products, only the batches that have actually been made into wine are included in the calculation of the average yield.

### 3. Quality wines psr declaration

Knowing and controlling harvesters and wine-makers' harvests and production of quality wines psr on the basis of their declarations

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<sup>1</sup>OJ No L 45, 18.2.1988, p. 15.

<sup>2</sup>OJ No L 274, 26.10.1994, p. 2.

alone is difficult, for the Community system of declarations makes no allowance for the specific properties of these products.

Thus, the total harvest and production figures - all designations and products taken together - are supposed to be declared, with an indication of the average yield per hectare. In fact, no place is even provided for the name(s) of the designated wine(s) the declarer may claim to harvest/produce.

Managing and verifying the quality wine sector requires that the harvest/production be broken down by designation of origin and even within a given designation by type of product, according to the colour, vine variety or production subzone that is claimed. Splitting the amounts into those for which the designation of origin is claimed and those that the declarer has downgraded to table wines is necessary because different production rules, such as ceilings on yields per hectare or grape-to-wine transformation coefficients, apply to the various designations and products.

Lacking the above detailed information, the Community harvest and production declarations are not useful tools for managing and monitoring quality wines. At the limit, the overall figures that are declared are of statistical value only.

Aware of this limitation, some Member States have adopted different harvest/production declaration systems from that of the Community. Their approaches have been either to adapt the declarations to the needs of quality wines psr (France) or to design additional declarations for the services responsible for checking quality wines (Spain, Italy) so that the producers can put forward their claims of quality and the competent services can check observance of the conditions for producing and marketing quality wines psr. Still, the existence of separate national declarations for quality wines psr is a duplication of the Community declarations, which should suffice as a means of meeting the COM's declaration needs. Moreover, the two sets of declarations do not always take the same administrative path and not all the services responsible for controls get copies.

For the sake of simplicity and efficacy, the Community declarations should be adapted to allow for the particular needs of the quality wine psr sector.

### 3. QUALITY WINE PSR YIELDS PER HECTARE

#### 3.1. The Community framework

Council Regulation (EEC) No. 823/87 of 16 March 1987<sup>1</sup> contains the rules governing quality wines psr. Its fifteenth recital reads, 'Whereas, in order to maintain the quality standard of the wines in question and to avoid excessive yields liable to disrupt the Market, Member States should fix a maximum yield per hectare for each quality wine psr;...'

Consequently, Article 11(1) states, 'A yield per hectare expression in quantities of grapes, of grape must or of wine shall be fixed for each quality wine psr by the Member State concerned' and paragraph 2 specifies 'Use of the designation claimed shall be prohibited for the entire harvest if the yield referred to in paragraph 1 is exceeded, save where derogations are provided for, on a general or individual basis, by Member States under conditions which they shall lay down, if appropriate, according to wine-growing area; these conditions shall relate in particular to the use to which the wines or products in question are to be put.'

The Court of Justice, responding to a request of interpretation<sup>2</sup>, ruled that said Article 11 had to be interpreted to the effect that, in any event, no wine above the yield per hectare set by the Member State might be sold as a quality wine produced in a specified region (quality wine psr).

#### 3.2. Remarks

All the producer Member States have taken steps to limit the yields per hectare of quality wines psr. The maximum yields are as a rule set for each production zone and, within these areas, broken down by type of wine or vine variety. The yield thresholds are set in hl/ha or ql/ha, as maximum grape-to-wine transformation coefficients have also been set.

However, some national provisions tend to water down the principle according to which exceeding the maximum yield per hectare results in the loss of the designation of origin for the entire harvest. Thus,

- a) in a number of Member States (Germany, Spain, Greece, Luxembourg, Italy and Portugal) the maximum yields per hectare for certain designations have been set at high levels. These levels most likely were not set on the basis of the previous ten years' yields, but in order to avoid exceeding the maximum yields and thus the undesirable consequences of such a situation.

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<sup>1</sup>OJ No L 84, 27.3.1987, p. 59.

<sup>2</sup>Judgement of the European Court of Justice of 2.8.1993 in Case C-289/91.

- b) in some Member States (France and Italy) the maximum yield of each designated wine may be raised (this is usually the case) or lowered annually to allow for the particular conditions affecting each harvest, especially climatic variations. The result is that the maximum yields are regularly exceeded, as weather conditions are invoked, sometimes abusively, as reasons for calling the year 'exceptional'.
- c) in some Member States (France and Italy) the maximum yield per hectare may be raised by a certain percentage (20 or 25%) and
- if the harvest is such that the vineyard/winery's yield exceeds the maximum yield but remains below the above-mentioned additional margin only the overshoot between the two thresholds loses the right to the designation of origin.
  - if, on the contrary, the maximum yield increased by the above-mentioned additional margin is exceeded, the operator's entire harvest theoretically becomes ineligible for the quality wine psr label.
- d) There are differences between the Member States as to the authorized uses for the products that exceed the fixed maximum yields for quality wines psr. Thus,
- in Spain, Greece and Portugal either the excess quantities or the entire harvest must be downgraded to table wine.
  - in France the excess production must be delivered for distillation if the production below the cut-off point is to keep the right to the designation of origin.
  - in Italy, if an operator's harvest is between the maximum yield and the maximum yield increased by the above-mentioned percentage, the excess production may be downgraded to table wines, but up to a general maximum yield set for the vines that produce the table wines. All other surpluses must be delivered for distillation if the right to claim the designation of origin for the amount that does not exceed the maximum yield is to be retained.
  - finally, in the other producer Member States (Germany and Luxembourg) the amounts that exceed the maximum yields may be used for other purposes (production of fortified wines, wine vinegar, grape juice, sparkling wines, etc.) or carried over to the next wine year as a quality wine psr, provided that the following year's yield is below the allowed maximum.
- e) The wine cooperatives and other organizations that produce quality wines psr have special privileges concerning limits on yields because all of their suppliers' vineyards are added together in

calculating the average yields per hectare (weighted average yields) of the quality wines psr produced by the cooperative or organization. Consequently, the high yields registered by some harvesters may be offset by the poorer yields of other harvesters, thereby making quantitative production limits on each harvester's holding inoperative.

- f) Finally, in several regions of Germany, both vineyard land that is not actually planted in vines and vineyards that have not reached full production may enter into the calculation of yields per hectare of quality wines psr.

The above situation is complicated by other practical problems, of which we can mention the following:

- a) the unsuitability of annual harvest and production declarations for quality wine psr management and control.
- b) the control services' ignorance of each grower's holding, given the vague definition of the vineyard and the unavailability of the vineyard register data, even in countries where this tool has been set up.
- c) the almost total absence of field inspections of the declared acreages.
- d) the non-existence of physical verification of the grape yields obtained in the harvester's vineyards. Although in some grape-producing regions in the Member States the vintages are officially weighted as they arrive at the wine cooperative, this does not guarantee that the delivered grapes come solely and entirely from the vineyards tended by each of the operators.
- e) the limited number of staff available for inspections during the grape-picking period.

## 4. CONTROLS ON ENRICHMENT

### 4.1. The Community framework

1. Enrichment and the limits placed on it have been addressed by several Community regulations. The basic provisions for all wines are laid down in Articles 18 to 20 inclusive of Regulation (EEC) No. 822/87. Special provisions for quality wines psr are contained in Articles 7 and 8 of Regulation (EEC) No. 823/87.

The rules for declaring, performing and verifying enrichment operations are laid down in Commission Regulation (EEC) No. 2240/89<sup>1</sup> of 25 July 1989.

2. The rules for granting aid for the utilization of concentrated grape must (CM) and rectified concentrated must (RCM) to enrich wines are given in Article 45 of Regulation (EEC) No. 822/87 and Commission Regulation (EEC) No. 2640/88<sup>2</sup> of 25 August 1988. These aids are intended to smooth over the disparities in the costs of the different enrichment products (sucrose versus CM or RCM) and are granted to the users of CM or RCM according to the amounts they use.

### 4.2. Remarks

1. Enriching wines by adding either sucrose (chaptalization) or CM or RCM is a widespread practice in most of the Community's wine-producing Member States, i.e. Germany, France, Greece, Italy and Luxembourg.

The practice was originally a means of improving the quality of wines where production conditions were unfavourable so as to meet the mean level of quality demanded by consumers. Chaptalization is often necessary on the northern borders of the grape-growing area.

Although the regulations consider it a practice that is supposed to remain the exception to the rule, it is actually the rule in many vineyard regions in the Community. This spread of enrichment has been both the cause and the result of the high yields per hectare registered in many regions, the corollary of which has been a considerable drop in the grapes' natural sugar content.

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<sup>1</sup>OJ No L 215, 26.7.1989, p. 16.

<sup>2</sup>OJ No L 236, 26.8.1988, p. 20.

In addition, a side-effect of the aid granted for the use of CM or RCM has been to encourage enrichment in regions that formerly did not resort to this practice.

2. Chaptalization is banned in the Community's southern Member States (Greece, Italy and Portugal) and the south of France. In these countries, still wines may be enriched only by the addition of CM or RCM. Spain is the exception to the rule, in that any artificial augmentation of a wine's natural alcoholic strength, whether by chaptalization or the addition of CM or RCM, is prohibited.

In contrast, chaptalization is virtually the only accepted enrichment procedure in the Community's northern wine-producing countries (Germany, Luxembourg and the United Kingdom) and the north of France and is widely used by operators in these areas, who cite historical or cultural reasons for the practice.

Authorized subtractive enrichment methods, such as concentration by cooling, are barely used, for they reduce the volume of wine.

3. Most of the wine-making Member States have taken national measures to supervise enrichment operations through administrative verifications, physical inspections or laboratory analyses. They basically aim to guarantee that:

- the operation has been duly declared and entered in the accounting documents in advance;
- the enriched product has the required minimum natural alcoholic strength;
- the enrichment does not exceed the imposed limits;
- only authorized enrichment processes are used;
- the operation is performed only once in the course of the fermentation; and
- when subsidized CM or RCM is used, the rules governing this procedure are observed.

4. In Germany, inspections focus primarily on the superior quality wines psr ('mit Prädikat'), for which enrichment is prohibited. In contrast, the other quality wines psr and table wines alike undergo few inspections in the course of their chaptalization.

The absence of advance notification of enrichment has been found in many German regions, as well as irregular records of inputs and the utilization of sugar for enrichment. The national authorities feel that advance notification would create unnecessary problems for operators and is of little use to the inspection services, since practically all of the country's wineries resort to enrichment in the

post-harvesting period. In addition, the authorities accept the enrichment operations to be entered in the wineries' registers after 15 December instead of prior to this date, as required by law.

5. In Spain, all enrichment operations are prohibited. However, only few ad hoc inspections to discover possible illicit enrichment are conducted. The inspection services tolerate enrichment operations to a certain extent when unusual weather conditions adversely affect the harvest, making enrichment necessary.
6. In France, where both enrichment methods are practised, depending on the region, random and targeted physical spot-controls of wine-making operations are carried out by three inspection services. However, given the large number of producers who resort to enrichment, the inspectors manage to check only a very small fraction of all the operations.

The obligations to provide advance notification of and register enrichment operations seem to be met by French operators. Still, producers' organizations in a number of regions have called for relaxation of the rules governing chaptalization, for instance, the obligation to submit advance notification prior to each input of sugar and the ban on fractionated enrichment. Many operators have followed the organizations' orders and make only one comprehensive enrichment declaration for the entire wine-year prior to the first enrichment operation. Fractionated enrichment, for its part, is practised widely in one French region.

The national authorities are opposed to allowing a single total enrichment declaration at the start of the wine year but have welcomed the idea of careful examination of the possibility of implementing fractionated enrichment because of its oenological merits, the ultimate aim being to have a suitable regulatory framework.

7. In Greece, physical inspections of enrichment during wine-making operations are conducted systematically by two inspection services. The operation may not be performed without an inspector present. Samples of the must to be enriched, the concentrated must or rectified concentrated must that is used and the wine after fermentation are collected systematically. Both advance declarations of enrichment and official laboratory reports concerning all the operations are required for the payment of aid for the utilization of concentrated grape must or rectified concentrated must.



8. In Italy, random and targeted spot checks of enrichment during operations are performed by two inspection services. The national provisions conform to Community provisions in this area.

## 5. VINEYARD YIELD ESTIMATION

### 5.1. Introduction

The reform of the COM in wine that is currently being discussed by the Council attaches considerable importance to the problem of controlling production yields. Lowering the yields per hectare, with compensation for the loss of income resulting from the drop in production (Aspect A of the future regional viticultural adaptation programmes), is one of the methods foreseen to achieve this aim.

Three missions to evaluate on site a method for estimating the yields of individual plots and the entire region several weeks before harvesting were carried out, one in the Beaujolais region (France), one in Dao (Portugal), and one in Piedmont (Italy).

The regions in which the methods were tested were chosen because of their diverse characteristics (vine varieties, designations, experience in vintage forecasting, vineyard layout, etc.) and various degrees of availability of statistics (vineyard register) so as to have a selection of regions presenting different problems for the evaluation exercise.

### 5.2. The yield estimation methods used

According to the information available at the time of the missions, two methods for estimating yields are used routinely.

#### 5.2.1. *The "Beaujolais method"*

The yield estimation method used in the Beaujolais region is based on the sampling of bunches of grapes in the vineyard.

The plot's estimated yield is extrapolated from the samples' weights and the number of bunches counted for each vine that is sampled.

#### 5.2.2. *The "Swiss method"*

This method was developed by the Changins Federal Agricultural Research Station (Nyons) and is likewise based on grape sampling.

It consists in determining first the average number of bunches for five groups of 10 consecutive vines, then the number of set grapes in an average bunch for 10 vine stocks taken at random.

### 5.3. Remarks

The counts made during these missions likewise showed up a certain number of difficulties inherent in making such an estimate.

The first problem concerns weather conditions, which are always unpredictable and can have a major impact on forecasts. For example, a hail storm can destroy a vineyard's entire crop between the date of estimation and harvesting.

Inversely, rain can inflate the estimate, if rainfall is heavy at the time of sampling, or the harvest, if rainfall is heavy at grape-picking time.

Actual production can also be modified if the grower decides not to pick all of the grapes on the plot, but sort the vintage according to specific criteria of quality. However, this practice is still little used.

Choosing which plots are representative of a region is a difficult task. The situation, size, cropping method, vine maintenance, vine age, grower's concern for quality, etc., are all factors that must be given careful consideration to avoid giving too much weight to any one factor and putting the subsequent extrapolation for the entire region out of balance.

Experienced field personnel and a complete, up-to-date vineyard register are indispensable for this. However, most of the time the region does not have a network of representative plots suitable as a basis for estimating regional production or even the production of a designated area. Setting up such a network has proved difficult because of the great many designations that exist in some regions.

The bunch counts per vine stock are also sources of error, especially if the operators have little training in sampling techniques. The bunches' lack of uniformity can result in different figures, depending on the technician who does the counting.

In taking one bunch per vine one often tends unconsciously to select a bountiful, shapely bunch, which also tends to result in overestimation of the plot's potential.

The Swiss method proved too fastidious for routine use, as too much time is required to count the individual grapes. On the other hand, counting the number of bunches in a sample of 50 vine stocks seems to be necessary to allow for the diversity that characterizes most vineyards. The remarks about bunch counts and selection that were made with respect to the Beaujolais method apply here, too.

Knowledge of the factor of growth corresponding to the lapse of time between the moment of estimation and harvesting is another source of error. However, even estimates made close to the harvest period were no better than the others.

Plot sampling has often been hampered by inaccuracies in the statistics. For example, the plots had sometimes been cleared or the vineyard's actual composition was different from the reported composition. In addition, statistics concerning the number of missing vines were seldom updated.

Given all these complications, the estimates made during the missions and actual production were found to diverge greatly. If the actual harvest figures supplied to the Commission are reliable, most of the estimates are off by more than 20% (both under- and overestimation).

#### **5.4. Conclusions**

The following conclusions can be drawn from the exercise conducted during the previous wine year:

The plot estimates tend to be higher than the yields actually measured at harvest time.

As a rule of thumb, the margin of error in the estimated yield of a homogeneous plot is in the 10- to 30-percent range.

It is difficult to estimate a grower's entire yield if his vineyards do not consist of similar, homogeneous plots.

In theory, such estimates require estimation of the yields of all the land under cultivation. This is not feasible for most operations, which consist of various plots that are usually characterized by different conditions (exposure, vine age, vine variety, designation, slope, etc.).

However, the inaccuracies of the individual estimates for each plot make total vineyard estimates even less reliable.

When it comes to an entire region, estimates will be strongly dependent on the representativeness of the plots that are selected.

The JRC in Ispra is currently working on a yield-forecasting method based on a pollen count. The principle is to predict yields on the basis of a pollen count at flowering and a historical relationship between the amount of pollen released at flowering and the actual yield at harvesting. The amount of pollen that is disseminated during flowering is greatly influenced by weather conditions during flowering; it also depends on such additional factors as the size of the vineyard and the number of inflorescences at flowering, which can be greatly reduced by events prior to flowering, such as adverse weather conditions (spring frosts or hail) or infestation by parasites.

This method also suffers from some financial and technical drawbacks that will make it difficult to apply Community-wide.

At this stage we can already conclude that verifying the estimated losses of income that would result from voluntary reductions in production yields such as proposed in the draft reform of the COM in wine would be difficult.

If such a measure is maintained in the new COM in wine, we recommend making it verifiable. This could be done, for example, by making it more Draconian, that is to say, by subsidizing only a total reduction in a plot's output<sup>1</sup> based on the region's historical average yield (or the average yield of the vineyard operation, based on its harvest declarations).

It would then "suffice" simply to check for the absence of a production on the plot or plots that the operator agreed not to use for production. We must, however, admit that this measure runs counter to a certain peasant mentality that is averse to wasting the fruit of the vine.

Another disadvantage of this all-or-nothing measure concerns the producers, who, being mindful of the quality of their wines and having already resorted to (partial) green cropping to increase the sugar concentrations in the bunches that remain on the vine, would not be eligible to subsidies, since the thinning would not be total. However, the amount of this loss would probably be insignificant compared with the price of the quality wine that would be produced.

On the other hand, this measure does have the additional advantage of keeping plant cover in vine-growing areas such as La Mancha that are vulnerable to the risk of erosion.

For the sake of completeness, we must point out that intermediate measures, such as weighing a partial green crop, limiting the number of bunches per vine stock, etc., may be considered.

Whilst such measures appear possible in theory, in practice they pose once again the problem of effective control.

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<sup>1</sup>This means practising total green cropping, that is, harvesting the entire plot before the grapes ripen so that they cannot be vinified fraudently. With regard to the compensation for the commensurate loss of income that is currently being considered in the draft reform, this measure will likely interest cheap table-wine producers only, that is to say, precisely those wine-makers who are responsible for the surpluses that the Community is trying to eliminate.

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