

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(80) 232 final

Brussels, 8th May 1980

PROPOSAL FOR A COUNCIL REGULATION (EEC)
LAYING DOWN GENERAL RULES ON CERTAIN DISTILLATION OPERATIONS
FOR WINES AND THE BY-PRODUCTS OF WINEMAKING

(presented by the Commission to the Council)

COM(80) 232 final

EXPLANATORY MEMORANDUM

Council Regulation (EEC) No 453/80¹, amending Regulation (EEC) No 337/79 on the common organization of the market in wine, was adopted as part of the package of wine measures on 18 February 1980 and had the effect of amending some Articles of the basic Regulation concerning certain distillation operations. The relevant general rules should therefore also be amended.

It has still not been possible to reach agreement within the Council on the Commission's 1977 proposal² for improving the general rules for distilling wines and replacing Regulation (EEC) No 1931/76 (subsequently consolidated as Regulation (EEC) No 343/79). Certain amendments of the basic Regulation were required to overcome the main difficulties encountered, and these amendments have now been introduced.

Then, more recently, at the time when the Regulation introducing exceptional distillation operations³ was adopted, the Special Committee on Agriculture asked the Working Group on Wine to recommence study of the proposal for a regulation to amend Regulation (EEC) No 1931/76, possibly on the basis of new proposals from the Commission.

The Commission is accordingly putting forward a new proposal for a regulation laying down general rules on distillation operations for wines and the by-products of winemaking to replace the existing Regulations Nos 343/79 and 349/79. At the same time it is withdrawing the 1977 proposal which has become superfluous².

The adoption of this proposal for a regulation does not involve any financial consequences for the Community budget.

¹OJ No L 57, 29.2.1980, p. 32

²COM(77) 667 final of 13 December 1977

³R. 564/80 of 3.3.1980 - OJ No L 62, 7.3.1980, p. 1

PROPOSAL FOR A
COUNCIL REGULATION (EEC)

laying down general rules on certain distillation operations for wines
and the by-products of winemaking

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 337/79 of 5 February 1979 on the common organization of the market in wine¹, as last amended by Regulation (EEC) No 459/80², and in particular Articles 11(3), 12(3), 13(3), 39(2) and (6), 40(4) and 41(3) thereof,

Having regard to the proposal from the Commission,

Whereas Council Regulation (EEC) No 343/79 of 5 February 1979 laying down general rules governing certain distillation operations in the wine sector³, as amended by Regulation (EEC) No 1709/79⁴, and Council Regulation (EEC) No 349/79 of 5 February 1979 on the distillation of the by-products of winemaking⁵, laid down the conditions under which the distillation operations referred to in Articles 11, 12, 13, 39, 40 and 41 of Regulation (EEC) No 337/79 must take place; whereas as a result of the amendments to the latter Regulation which have been made since the Regulations referred to above were adopted and of the experience gained, it has become apparent that the said general rules should be amended; whereas the opportunity should be taken to bring together the matters governed by Regulations (EEC) Nos 343/79 and 349/79 within a single text;

¹OJ No L 54, 5. 3.1979, p. 1

²OJ No L 57, 29. 2.1980, p. 32

³OJ No L 54, 5. 3.1979, p. 64

⁴OJ No L 198, 4. 8.1979, p. 3

⁵OJ No L 54, 5. 3.1979, p. 84

Whereas the products which may be obtained by means of the various distillation operations should be specified; whereas, however, in order to avoid any serious disturbance on the market for certain of the said products, provision should be made for prohibiting the production of such products by the said distillation operations, particularly as regards the distillation of wine suitable for producing certain potable spirits of designated origin;

Whereas provision should be made for producers who intend to deliver wine for distillation under the provisions of Articles 11, 12 and 13 of Regulation (EEC) No 337/79 to conclude contracts with distillers subject to approval by the intervention agency, in order to facilitate supervision of the operations and of compliance with the obligations of both parties; whereas this system would have the added advantage of making it easier to monitor the quantitative effects of distillation on the market; whereas, where a producer intends to undertake distillation in his own plant or to have distillation carried out on his behalf, the object of the contract may also be attained by means of a declaration which replaces the contract and enables comparable supervision to be exercised;

Whereas intervention agencies require powers of supervision and verification if they are to approve contracts, to supervise distillation operations, to calculate the aid and pay it to the distiller; whereas to this end, provision must be made for the parties concerned to communicate certain information to the intervention agency;

Whereas provision should be made for the minimum price guaranteed to the producer to be paid to him within time limits comparable to those habitual in respect of commercial sales;

Whereas the prices for wines to be distilled, provided for in Articles 11, 12 and 13 of Regulation (EEC) No 337/79, do not normally allow the products obtained by distillation to be sold on the market; whereas it is therefore necessary to determine the criteria for fixing the amount of aid necessary to make it possible to dispose of the said products;

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Whereas it is necessary to allow a tolerance on the quantity of wine specified in the delivery contracts; whereas experience shows that the said tolerance should generally be fixed at 5 %, but that the intervention agencies should be empowered to grant exceptions if circumstances so justify;

Whereas it is necessary to determine the conditions under which producers must fulfil the obligation laid down in Articles 39(2), 40 and 41(1) of Regulation (EEC) No 337/79 and to determine the obligations of distillers;

Whereas it is necessary to set out the intervention agencies' obligations in respect of the buying-in of the products obtained by compulsory distillation;

Whereas the price to be paid to the producers for the alcohol contained in the products subjected to compulsory distillation must be lower, account being taken of the value of the by-products, than the price applicable in respect of the distillation operations provided for in Articles 40 and 41 of Regulation (EEC) No 337/79;

Whereas the fixing of a price to be paid by the distiller to the producer for the products subjected to compulsory distillation makes it necessary that the intervention agencies buy in the vinous alcohol resulting from this distillation at a price which takes into account the costs of processing the products in question; whereas, for products distilled under the distillation arrangements referred to in Article 39 of Regulation (EEC) No 337/79, this price can be differentiated according to whether marc, lees or wine is distilled in order to take into account, where necessary, the differing costs and losses;

Whereas in certain regions of the Community the relation between quantities of marc and those of wine and lees is such that the average distillation costs differ from those used to calculate the fixed price; whereas this situation makes or is likely to make it economically impossible in certain of these regions to achieve the objective of the obligation to distil the by-products of winemaking;

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Whereas it is therefore essential to make provision for a fixed price be established at the same time as prices differentiated according to the origin of the alcohol, while leaving it to the Member States to decide whether to apply the latter in regions where application of the fixed price leads 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 European Agricultural Guidance and Guarantee Fund; whereas it is therefore necessary to correlate the prices differentiated according to the origin of the alcohol and the fixed 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 fixed price;

Whereas, in the absence of an organized Community market in ethyl alcohol, the intervention agencies responsible for marketing such alcohol may be obliged to resell it at a price lower than the buying-in price; whereas provision should be made in such an event for the difference between the buying-in price and the selling price for that alcohol to be borne, subject to a maximum amount, by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund, provided that the contribution does not exceed the difference;

Whereas the buying-in price for alcohol from the different types of distillation differs and, accordingly, the losses liable to be borne by the intervention agencies also differ according to the type of distillation; whereas provision should therefore be made for the intervention agencies' accounts to show clearly the quantities and prices of the products bought-in and sold in respect of each type of compulsory distillation;

Whereas the fixing of the buying-in price for products subjected to the distillation referred to in Article 39(2) of Regulation (EEC) No 337/79 and for alcohol, and the maximum amount of the contribution from the Guarantee Section of the European Agricultural Guidance and Guarantee Fund towards the expenditure incurred by the intervention agencies is closely linked to the fixing of the guide price; whereas the same timetable and the same deadlines should therefore be adopted for such operations;

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Whereas the provisions concerning the financing of intervention laid down in Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy⁶, as last amended by Regulation (EEC) No 929/79⁷, must be extended to cover the distillation referred to in Articles 39, 40 and 41 of Regulation (EEC) No 337/79;

Whereas, in accordance with the first indent of Article 39(4) of Regulation (EEC) No 337/79, the producer may free himself of the obligation to distil by producing potable spirits; whereas paragraph 2 of the same Article requires the distillation of wine in the absence of grape marc or wine lees; whereas in these circumstances it is logical to permit, where this option is exercised, the production of either potable wine spirits or other potable spirits; whereas, however, it should be ensured that potable wine spirits are not produced by using the by-products of winemaking for the purposes prohibited in Article 39(1) of Regulation (EEC) No 337/79;

Whereas, where a rate additional to that laid down in Article 39 of Regulation (EEC) No 337/79 is fixed, it is logical to allow producers subject to the requirement in Article 40 of the said Regulation to fulfil this requirement by producing potable wine spirits;

Whereas, in order to avoid production of poor-quality potable spirits, it should be laid down that the potable spirits produced should comply with Community provisions or, in their absence, with national provisions on the subject; whereas, in order to ensure compliance with the said provisions, supervision arrangements must be provided for;

⁶OJ No L 94, 28. 1.1970, p. 13
⁷OJ No L 117, 12. 5.1979, p. 4

Whereas, pursuant to the second indent of Article 39(4) of Regulation (EEC) No 337/79 a producer may be released from the obligation to distil by having the by-products of his winemaking withdrawn under official control; whereas this is justified since marc and lees can only be stored in large quantities and under certain technical conditions, and the cost of transporting them could be excessive for producers who are located far from distilleries;

Whereas producers who deliver their grape 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 regions⁸, as last amended by Regulation (EEC) No 459/80⁹, a yield per hectare is fixed for each of the quality wines p.s.r., 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 p.s.r. contain little alcohol; whereas, therefore, a reduced rate should be applied to these products;

Whereas a reduced rate, corresponding to the quantity of alcohol contained in the by-products, is justified for producers of wines made from table grapes since such wines are distilled in any event;

⁸OJ No L 54, 5.3.1979, p. 48
⁹OJ No L 57, 29.2.1980, p. 32

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Whereas the use of wine delivered for wine vinegar manufacture in connection with compulsory distillation has the effect of reducing the quantity of alcohol delivered to intervention agencies and, thus, limits the agencies' losses for which an EAGGF contribution is provided; whereas it therefore seems proper to allow producers to be released from the requirement to distil any wine required to make up the compulsory deliveries if the said wine is employed for the vinegar industry;

Whereas the obligation to distil represents a considerable burden for the independent 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 provision should be made for extending this exemption under conditions to be determined;

Whereas experience has shown that compliance with the obligation referred to in Article 40 of Regulation (EEC) No 337/79 by independent producers for whom the additional rate referred to in the said Article corresponds to a quantity of alcohol of 10 litres or less of pure alcohol means that the said producers incur transport costs and the supervisory authority incurs administrative expenditure out of all proportion to the quantity yielded by the measure; whereas these producers should accordingly be released from the obligation referred to above;

Whereas the quantity of alcohol bought-in by intervention agencies should be restricted as far as possible; whereas it is therefore appropriate, in cases where the products obtained by distilling wines made from table grapes can be marketed by the distillers in question, to make it economically possible for such sales to take place; whereas it is therefore necessary to provide that distillers may qualify for aid if they do not intend to offer products distilled from wines made from table grapes to the intervention agency; whereas the amount of the said aid should be known in good time and should therefore be fixed by the Council according to the same criteria as those employed for the optional distillation operations, at the same time and for the same year as the "price for alcohol from wines made from table grapes";

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Whereas, to enable the distillation operations to take place under normal conditions and in order to be able to make use of all available distilling capacity, an approved distiller who has concluded a distillation contract with a producer should be able to transfer his rights and obligations under the said contract to another approved distiller;

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

Whereas it has been found useful in case of transport over long distances in order to preserve wines intended for distillation in good condition, to add a wine distillate to them, whereby they become fortified; whereas it is necessary to provide for supervision of this process, so that no practices which are not permitted by the Community provisions take place; whereas the aid payable or, as appropriate, the EAGGF contribution should be calculated in respect of the wine before it is so fortified;

Whereas the addition of an indicator to the wine to be distilled is an efficient monitoring method; whereas it should be stated that the presence of such an indicator must not prevent the movement of these wines or of the products obtained therefrom;

HAS ADOPTED THIS REGULATION :

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Article 1

This Regulation lays down :

(a) in Title I, general rules on the following distillation operations :

- the preventive distillation of wines provided for in Article 11 of Regulation (EEC) No 337/79,
- the distillation of table wines under the additional measures provided for in Article 12 of Regulation (EEC) No 337/79,
- the distillation of wine suitable for producing certain potable wine spirits provided for in Article 13 of Regulation (EEC) No 337/79,

(b) in Title II, general rules concerning

- the distillation, as provided for in Article 39 of Regulation (EEC) No 337/79, of grape marc and wine lees derived from winemaking, or, failing that, wine,
- the distillation, additional to that of grape marc and wine lees derived from winemaking, provided for in Article 40 of Regulation (EEC) No 337/79 and
- the distillation of wines made from table grapes, provided for in Article 41 of Regulation (EEC) No 337/79,

(c) in Title III, general provisions common to the distillation operations referred to in Titles I and II.

Article 2

For the purposes of this Regulation

- (a) "producer" means a natural or legal person or group of such persons engaging in wine making as defined in Article 3 of Commission Regulation (EEC) No 3282/73¹ in its version in force on 1 September 1980,
- (b) "distiller" means a natural or legal person or group of such persons distilling wines, wine lees or grape marc on his own account or for the account of another person,
- (c) "approved distiller" means a distiller approved by the competent authorities of the Member State on whose territory his distillation plant is located,
- (d) "competent intervention agency" means
 - for the purpose of approving delivery contracts and of supervising the production of wine fortified for distillation: the intervention agency designated by the Member State on whose territory the wine is located at the time the contracts are concluded;
 - for all other purposes : the intervention agency designated by the Member State on whose territory distillation is carried out.

Article 3

The distillation referred to in Article 1 shall produce only the following products :

- (a) a neutral vinous alcohol of a strength of at least 96 % vol, or
- (b) a potable wine spirit of a quality complying with the Community provisions or, in the absence of such provisions, with national provisions, or
- (c) a raw vinous alcohol of an alcoholic strength of at least 52 % vol, which must
 - i) either be used under official supervision in order to produce an alcoholic beverage, or
 - ii) undergo, also under official supervision, operations intended to process it into one of the products listed under (a) or (b).

¹ OJ No L 337, 6.12.1973, p. 20.

Article 4

1. The distillation operations referred to in Article 1 may be restricted to production of one or two only of the products listed in Article 3.
2. A decision may be taken to restrict distillation of wine suitable for producing certain potable spirits of designated origin to production of neutral vinous alcohol with an alcoholic strength of not less than 96 % vol.

TITLE I

General rules on the optional distillation of wines

Article 5

1. Producers who intend to deliver their wine for distillation under one of the operations referred to in Article 1(a) shall conclude a delivery contract, hereinafter called "contract", with an approved distiller and shall submit it for approval, by a date to be fixed, to the competent intervention agency.
2. Such contract shall, except in respect of the distillation referred to in Article 12 of Regulation (EEC) No 337/79, cover a minimum quantity to be determined, which shall in any event not be less than 10 hl. It shall include the information necessary to identify the wine to be distilled and shall specify the respective obligations of the contracting parties.
3. The contract shall be valid only if it is approved by the competent intervention agency before a date to be fixed.

If the producer's winery is located in a different Member State from the distiller's plant, a copy of the contract, approved by the competent intervention agency, shall be transmitted to the intervention agency of the Member State on whose territory distillation is carried out.

4. If the contract is discharged prematurely, the parties shall without delay so inform the intervention agency which approved the contract.

Article 6

1. Any producer

- who is himself an approved distiller and has a distillation plant and intends to carry out distillation as referred to in Article 1(a) of all or part of his wine, or
- who intends to have his wine distilled on his behalf in an approved distiller's plant,

shall so inform the intervention agency of the Member State in whose territory his winery is located by means of a declaration of delivery for distillation, hereinafter called "declaration", which shall include the information necessary to identify the wine to be distilled. If the distilling plant is located in another Member State, he shall also inform the latter Member State's intervention agency by sending it a copy of the declaration.

2. Producers who have submitted a declaration shall be bound to distil or have distilled the wine covered by the declaration.

3. For the purposes of this Regulation, the contract referred to in Article 5(1) shall be replaced,

- in the case specified in the first indent of paragraph 1, by the declaration,
- in the case specified in the second indent of paragraph 1, by the declaration, together with a contract for delivery for distillation on the producer's behalf concluded between the producer and the distiller.

Article 7

The characteristics of the wine covered by the contract, and in particular the quantity and actual alcoholic strength by volume thereof, shall be checked at the time the wine enters the distillery by authorities designated by the Member States.

Additional checks may be laid down for wine covered by the declaration referred to in Article 6.

Article 8

1. The distiller shall pay to the producer, for the wine delivered, not less than the price referred to, as appropriate, in Articles 11(2), 12(2) or 13(2) of Regulation (EEC) No 337/79, these prices to apply to bulk merchandise ex producer's premises.

2. The distiller shall pay the producer :

- for each delivery of wine, at least the difference between the agreed purchase price and the aid referred to in Article 10, within thirty days following entry of the wine into the distillery or into his warehouse,
- the remainder, for the whole of the wine, within a period to be determined following the final delivery of wine.

Article 9

The distiller shall, within seven days, communicate in writing to the competent intervention agency ;

(a) the date when all the wine supplied pursuant to the contract entered the distillery or warehouse, by submitting

- in the case of a single delivery, a copy of the accompanying document provided for in Article 53 of Regulation (EEC) No 337/79,
- in the case of deliveries by instalments, an account stating in respect of each delivery the consignor, the quantity of wine, the colour of the wine, the actual alcoholic strength by volume and the number of the accompanying document provided for in Article 53 of Regulation (EEC) No 337/79.

(b) the date on which all the wine referred to in a) was distilled, stating the quantity and actual alcoholic strength by volume of the resultant product.

Furthermore, the distiller shall provide the competent intervention agency with proof of the payment referred to in the first indent of Article 8(2).

Article 10

1. The intervention agency shall effect any necessary checks and, except where an irregularity or breach of the provisions of this Regulation is found, shall pay the aid laid down for the distillation operation in question not later than thirty days after receipt of all the communications and of the proof referred to in Article 9.

2. The amount of the aid shall be fixed per hectolitre of wine and by percentage volume of alcoholic strength on the basis of the minimum purchase price laid down for the type of distillation in question, of the flat-rate transport and processing costs, of the losses during manufacture and of the price of the products so obtained.

The aid may be differentiated according to the product obtained.

3. The aid payable for potable wine spirits or raw vinous alcohol may not exceed the amount of aid payable for neutral wine spirits.

4. Account shall be taken in fixing the amount of aid payable in the case of potable wine spirits or of raw vinous alcohol :

- of the need to ensure that the aid should not have any significant or lasting effect on the competitive relationship between spirituous beverages based on wine distillates and those obtained from other raw materials,
- of the estimated quantity of wine distillates available, so as to avoid any risk of disturbing the market for that product.

5. For the quantity of wine actually delivered to the distiller under the contract, a tolerance of 5 % of the quantity of wine stated in the contract shall be allowed. Where the quantity of wine delivered is less than that contracted for, this tolerance may be extended to 10% if the intervention agency considers that this is justified in the circumstances.

6. The aid to be paid to the distiller shall be calculated per hectolitre of wine and by percentage volume of actual alcoholic strength for the quantity of wine actually distilled, subject to the tolerances provided for in paragraph 5.

However, the aid for the distillation referred to in Article 12 of Regulation (EEC) No 337/79 shall be limited to the quantity stated in the contract.

7. Where distillation takes place in a Member State other than that in which the producer's winery is located, the competent intervention agencies of the two Member States concerned shall collaborate by means of a direct exchange of information in order to effect the checks referred to in paragraph 1.

TITLE II

General rules on the compulsory distillation of the by-products of winemaking
and on the distillation of wines obtained from table grapes

Article 11

1. Producers who are required

- in accordance with Article 39(2) of Regulation (EEC) No 337/79, to distil the grape marc and wine lees they have obtained as by-products of wine-making or, failing that, a corresponding quantity of wine from their own production or
- in accordance with Article 40 of the said Regulation, to distil wine from their own production

shall fulfil their obligation by delivering the said products by a date to be determined to an approved distiller, free at distillery.

Producers who are required, in accordance with Article 41(1) of the Regulation cited above, to distil wines made from table grapes, shall fulfil their obligation by delivering the said wines to an approved distiller.

2. The distiller shall :

- (a) provide the producer with proof that he has delivered the products in question,
- (b) pay the producer not less than the price referred to in Article 12(c) for the product delivered,
- (c) distil the products delivered to him by a date to be determined.

Furthermore, in the case of the distillation operations referred to in the first subparagraph of paragraph 1, and without prejudice to the provisions of Article 15, the distiller shall

- (a) process the product delivered into a product with an actual alcoholic strength of not less than 96 % vol or, in cases where he is not technically equipped to obtain such a product, deliver the product he has obtained to another approved distiller under the control of the intervention agency in order to obtain a product with an actual alcoholic strength of not less than 96 % vol,

(b) deliver the product obtained by distillation to the intervention agency.

3. The competent intervention agency shall purchase from the distiller the product he has obtained by means of one of the distillation operations referred to in the first subparagraph of paragraph 1 and shall pay him the price referred to in Article 13.

The distiller may also offer to the competent intervention agency the product obtained by the distillation operation referred to in the second subparagraph of paragraph 1. The agency shall be under an obligation to purchase such product, provided that this is a neutral vinous alcohol with an alcoholic strength of at least 96% vol.

Article 12

The price payable by the distiller to the producer in respect of the distillation referred to in title II of this Regulation shall not be less than :

- (a) for the distillation in accordance with Article 39(2) of Regulation (EEC) No 337/79 of grape marc, wine lees and, as the case may be, wine, the price fixed annually before 1 August for the following marketing year by the Council acting by a qualified majority on a proposal from the Commission. This price shall be fixed according to the actual alcoholic strength by volume of the product in question. It shall not be less than 30 % of the guide price for table wine of type A I applicable with effect from the following 16 December nor shall it exceed 40 % of the said price. It is hereinafter referred to as the "price of products for compulsory distillation".
- (b) for the distillation of wine carried out in accordance with Article 40(1) of Regulation (EEC) No 337/79, the prices referred to in Article 40(3) of that Regulation.
- (c) for the distillation of wine made from table grapes referred to in Article 41(1) of Regulation (EEC) No 337/79, the price referred to in Article 41(2) of that Regulation.

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Article 13

1. The prices payable by the competent intervention agency to the distiller when buying-in the product obtained from the distillation referred to in Title II shall be fixed annually by the Council, acting by a qualified majority on a proposal from the Commission, at the same time and for the same wine-growing year as the price paid for the by-products of winemaking intended for compulsory distillation.

They shall be fixed per hectolitre and by % volume of pure alcohol, on the basis of the prices payable to the producer, as referred to in Article 12, the flat-rate transport and processing costs and manufacturing losses.

They shall apply to bulk merchandise free at the competent intervention agency's warehouse. They are hereinafter referred to as follows :

(a) for the distillation in accordance with Article 39(2) of Regulation (EEC) No 337/79 of grape marc, wine lees and, as the case may be, wine, "price for alcohol from compulsory distillation"

(b) for the distillation of wine referred to in Article 40(1) of Regulation (EEC) No 337/79 "price for alcohol from additional compulsory distillation"

(c) for the distillation of wine referred to in Article 40(1) of Regulation (EEC) No 337/79 under the provisions of the first indent of paragraph 2 of the same Article, "special price for alcohol from additional compulsory distillation"

(d) for the distillation of wine made from table grapes referred to in Article 41(1) of Regulation (EEC) No 337/79, "price for alcohol from wine made from table grapes".

2. The price for alcohol from compulsory distillation shall be fixed at a standard rate. However, it may be differentiated according to whether marc, lees or wine are distilled, in order to take account, where necessary, of the differing costs and losses.

The differentiated prices shall be fixed at the same time as the standard price. The Member States may decide to apply the differentiated prices when application of the standard price would or might render it impossible to have one or more by-products of winemaking distilled in certain Community regions. The level of the prices fixed for the product of distillation of the various by-products must be such that their weighted average does not exceed the price for alcohol from compulsory distillation referred to in the first subparagraph hereof.

Article 14

1. The maximum level of the EAGGF Guarantee Section's contribution to expenditure incurred by intervention agencies for each of the distillation operations referred to in Title II of this Regulation shall be fixed annually, at the same time and for the same marketing year as the price of products for compulsory distillation. This amount shall be fixed per hectolitre and by percentage volume of pure alcohol.
2. The contribution from the Guarantee Section of the EAGGF shall be paid, subject to the maximum level referred to in paragraph 1, only where, during the financial year in question, an intervention agency's expenditure on buying-in the product of each type of distillation referred to in this Title is greater than the income from sales of the said products on the market. The intervention agencies' accounts must clearly show the quantities and prices of the products bought and sold in respect of each type of distillation referred to in this Title.

If the difference referred to in the first subparagraph is less than the maximum amount multiplied by the number of hectolitres of product sold, expressed as pure alcohol, the contribution shall be equal to that difference.

3. Articles 4 and 5 of Regulation (EEC) No 729/70 shall apply to the EAGGF contribution referred to in this Article.

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Article 15

1. Producers shall be released from the obligations laid down in Article 39(2) and in Article 40(1) of Regulation (EEC) No 337/79 if an approved distiller manufactures from those producers' own products :
 - potable spirits obtained from grape marc with or without addition of wine lees, or,
 - potable spirits obtained directly from wine.
2. For each administrative unit whose wine production customarily goes for processing into potable wine spirits, the Member States shall determine what minimum percentage of potable spirits other than wine spirits must be produced where the option provided for in paragraph 1 is exercised.

That percentage shall correspond to the average quantity of pure alcohol contained in the marc and lees produced in the administrative unit concerned.
3. The quantity of alcohol, expressed as pure alcohol, contained in the by-products of winemaking or wine used for the production of potable spirits pursuant to paragraph 1 shall be deducted from the quantity of alcohol which is required to be delivered pursuant to Article 39(2) of Regulation (EEC) No 337/79.
4. Where the option provided for in paragraph 1 is exercised, the distiller shall be under an obligation:
 - (a) to furnish the producer with proof that the latter has delivered the products concerned,
 - (b) to pay the producer at least the prices referred to in Article 12(a) and (b);
 - (c) to inform the intervention agency of the total quantities of potable spirits produced in accordance with this Article, broken down into potable spirits of wine and other potable spirits.

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5. Production of potable spirits may have the effect mentioned in paragraph 1 only if :

(a) the quality of the potable spirits obtained complies with Community provisions or, in the absence of such provisions, with the relevant national provisions, the distiller being required to provide proof thereof to the competent agency,

(b) it is carried out under the supervision of the competent intervention agency, the distiller being required to permit such supervision at any time during distillation.

Article 16

1. Producers shall be freed from the obligation laid down in Article 39(2) of Regulation (EEC) No 337/79 if the by-products of winemaking are withdrawn under supervision.

2. The quantity and the quality of marc and lees withdrawn must be in a ratio, to be determined by the Member States, with the quantity of wine produced in respect of which the obligation to distil marc and lees is not fulfilled.

3. Only those producers whose vineyards are situated in wine-growing areas where distillation represents a disproportionate financial burden may exercise the option referred to in paragraph 1. The list of the areas concerned shall be drawn up by the competent authorities of the Member States, who shall communicate it to the Commission.

Article 17

1. The following shall be paid at a reduced rate:

(a) producers who deliver their marc for the manufacture of oenocyanine,

(b) producers of white quality wines p.s.r. for the proportion of their harvest which would qualify for that designation,

(c) producers of wines made from table grapes for the proportion of their production which is distilled in accordance with Article 41(1) of Regulation (EEC) No 337/79.

2. For producers who deliver wine of their own production to the vinegar industry, the quantity of alcohol, expressed as pure alcohol, contained in the wines intended for vinegar production shall be deducted from the quantity of alcohol to be delivered pursuant to Article 39(2) of Regulation (EEC) No 337/79.

3. The obligation laid down in Article 39(2) of Regulation (EEC) No 337/79 shall not apply to independent producers who, during the wine-growing year in question, do not make more than 10 hectolitres of wine.

However, it may be decided that the exemption in the above subparagraph shall apply, under conditions to be determined, to independent producers who, during the wine-growing year in question, make between 10 and 25 hectolitres of wine.

4. The obligation laid down in Article 40(1) of Regulation (EEC) No 337/79 shall not apply to independent producers for whom the additional rate referred to in that Article corresponds to a quantity of alcohol not exceeding 10 litres of pure alcohol.

Article 18

1. Distillers who do not intend to offer the product obtained by distilling wines made from table grapes to the competent intervention agency, in accordance with the provisions of the second subparagraph of Article 11(3), shall qualify for aid.
2. The amount of this aid shall be fixed by the Council, acting by a qualified majority on a proposal from the Commission, at the same time and for the same wine-growing year as the price for alcohol from wine made from table grapes, in accordance with the provisions of Article 10(2), (3) and (4).
3. Distillers who intend to qualify for the aid referred to in paragraph 1 shall so inform the competent agency by means of a declaration. The declaration shall include the information necessary to identify the wine to be distilled.
4. The check on the characteristics of the wine covered by the declaration and in particular of its actual alcoholic strength by volume shall be effected at the time of its entry into the distillery by authorities designated by the Member States.

5. The distiller shall communicate to the competent intervention agency in writing and within seven days, the information referred to in the first subparagraph of Article 9.
6. The aid shall be paid by the competent intervention agency in accordance with the provisions of Article 10(1); it shall be calculated per hectolitre of wine and by percentage volume of actual alcoholic strength for the quantity of wine actually distilled.
7. Where distilling takes place in a Member State other than that in which the producer's premises are located, the competent intervention agencies of the two Member States in question shall collaborate by means of a direct exchange of information in order to effect the checks required by this Article.

TITLE III

COMMON PROVISIONS

Article 19

The distillation operations referred to in this Regulation must take place during periods to be determined.

Article 20

1. Where, owing to unforeseen circumstances or for reasons of force majeure, all or part of the product to be distilled cannot be so distilled the distiller or the producer shall, without delay, inform :
 - the intervention agency of the Member State on whose territory the distillation plant is located
 - and
 - if the producer's winery is located in another Member State, the intervention agency of this second Member State.
2. If the product which cannot be distilled has already entered into the distillery or warehouses operated by the distiller, the competent intervention agency may, on application by the distiller, authorize him to transfer to another approved distiller his rights and obligations in respect of the quantity of product not yet distilled.

3. If, owing to unforeseen circumstances or force majeure, the producer or the distiller cannot comply with the time limits fixed the competent intervention agency may grant him extra time.
4. In the circumstances referred to in paragraph 1, the intervention agency shall pay the aid laid down for the quantity of wine which has actually been distilled.

Article 21

1. A list of approved distillers shall be drawn up by the competent authorities of the Member States. The said authorities shall transmit it to the Commission by 31 December 1980 and shall communicate any subsequent alterations to the Commission.

The Commission shall publish the said communications in the Official Journal of the European Communities.

2. Approval of a distiller may be withdrawn by the competent authority if the distiller does not comply with his obligations under the Community provisions.

Article 22

1. Wine intended for distillation may be fortified for distillation.
2. In the circumstances referred to in paragraph 1, any documents and records provided for under Article 53 of Regulation (EEC) No 337/79 shall show the increase in the actual alcoholic strength, expressed in % volume, by stating the corresponding strength before and after addition of the distillate to the wine.
3. The aid payable or, as appropriate, the contribution by the EAGGF shall be calculated per hectolitre and by % volume actual alcoholic strength of the wine before it is fortified for distillation.

For this purpose a sample shall be taken by a representative of an official body so that the actual alcoholic strength may be determined by analysis in an official laboratory or a laboratory operating under official control. Two copies of the report on this analysis shall be transmitted to the distiller, who shall send one of these to the competent intervention agency.

4. Such wine shall be fortified for distillation under official control.

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Article 23

1. The Member States shall take the measures necessary to ensure that this Regulation is applied, and in particular measures to ensure that wine delivered to a distillery is not deflected from its end-use of distillation. To this end the Member States may stipulate that an indicator be used.

The Member States may not prevent the movement within their territory of a table wine intended for distillation or of distilled products obtained from this wine because of the presence of an indicator.

2. The Member States which stipulate the use of an indicator as provided for in the first subparagraph of paragraph 1 shall so inform the Commission and shall communicate the measures they have taken for the purpose. The Commission shall inform the other Member States accordingly.

Article 24

Regulations (EEC) Nos 343/79 and 349/79 are hereby repealed.

Article 25

This Regulation shall enter into force on 1 September 1980.

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

Done at Brussels,

For the Council

The President

