

COMMISSION OF THE EUROPEAN COMMUNITIES

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COM(82) 107 final

Brussels, 10 March 1982

Proposal for a

COUNCIL REGULATION (EEC)

Laying down general rules on the distillation of table wines as provided
for in Article 15 of Regulation (EEC) No 337/79

(submitted to the Council by the Commission)

COM(82) 107 final



EXPLANATORY MEMORANDUM

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After two years of availability of exceptional quantities of wine as a result of a record harvest followed by a very large one, the outlook for equilibrium on the Community market was apparently more reassuring when the 1981/82 wine year opened. An examination of the trend of production in the two main wine-producing countries and of prices at the various marketing locations shows, however, that the equilibrium that was expected at the beginning of the marketing year cannot be attained by the normal management measures alone. The last two harvests have engendered a very serious imbalance between available supplies in Italy and those in France. In 1980, French production at 69 million hl was average, whereas the 84 million hl produced in Italy was not far from the record. In 1981, French production, at 57 million hl, was very low while the Italian harvest of 70 million hl was of average size. In Italy prices have dropped sharply, particularly in a number of marketing locations where wine not entering into international trade is sold, whereas in France prices have remained fairly satisfactory. Thus action to relieve the market (particularly last year's exceptional distillation and distillation under special price-support guarantee arrangements¹⁾ hardly operated at all in France, where market prices matched or exceeded the intervention prices. At the same time, in Italy the volume withdrawn from the market was limited by the restriction imposed by the Community regulations on the quantity of each producer's wine that can be distilled. The lack of interest in France and the limitation imposed by the regulations in Italy meant that the quantitative results anticipated could not be attained.

Thus the distillation under special price-support guarantee arrangements, which should in theory account for 12 million hl of wine, will in practice only account for roughly 5 million hl, as French producers will be sending very little of their wine for distillation.

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1) "Garantie de bonne fin"

The apparent overall balance however masks differing pictures for different types of wine. The relatively modest production of white table wine and increased consumer demand for it has resulted in prices considered satisfactory by the producers. For red wine, however, the quantities available are very much in excess of demand and average prices in Italy have never exceeded 70% of the guide price applied since 16 December 1981. This level is quite inadequate and there is a risk of serious tension arising. The Commission feels that the present unbalanced market situation justifies, for red table wine, use of the exceptional distillation measures provided for in Article 15 of Regulation (EEC) No 337/79. As for methods to be used, the Commission considers that at the present time a limitation of the volume distilled by fixing a maximum percentage of each producer's harvest, the method used for the last exceptional distillation, is unlikely to relieve the market at points where relief is most needed. The commission proposes therefore that the volume to be distilled should be limited by fixing a relatively short period, adjusted to the purpose in view, for the signing of contracts and by providing that the quantities specified in contracts may be reduced if necessary.

The quantity of red table wine that will have to be distilled if a durable rationalization of the market is to be obtained is about 7 million hl. The price that the Commission proposes is that adopted for the distillation under special price-support guarantee arrangements agreed in September 1981, i.e. 83% of the guide price.

Given the situation on the market in distillates, a mixed system is proposed for the distilled products. For distillates of 85% alcohol by volume or less, which it will be possible for the distillers to dispose of directly, a marketing aid will be given. Distillates with an alcohol content of 86% by volume or more will be shipped to the intervention agencies, which will be reimbursed by the EAGGF Guarantee Section.

Proposal for a
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laying down general rules on the distillation of table wines as provided for in
Article 15 of Regulation (EEC) No 337/79

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 organiza-
tion of the market in wine⁽¹⁾, as last amended by
Regulation (EEC) No 3577/81⁽²⁾, and in particular
Article 15 (1) thereof,

Having regard to the proposal from the Commission,

Whereas Article 15 of Regulation (EEC) No 337/79
provides that provisions concerning the distillation of
table wines may be adopted where application of the
market support measures provided for in that Regula-
tion is unlikely to be effective in restoring price
levels;

Whereas this is the case at present in respect of red table wines
in view of the fact that, despite a low harvest in the current year,
the stocks from previous years have created supplies which considerably
exceed the normal requirements for the present year; whereas, moreover,
the support measures already taken have not succeeded in restoring
reasonable price levels or reducing the surplus by a sufficient amount;

(1) OJ No L 54, 5.3.1979, p. 1

(2) OJ No L 359, 15.12.1981, p. 1

Whereas the conditions under which these distillation operations may take place should be laid down; whereas, in particular, the price of the wines going for distillation should not be such as to encourage the production of wine principally for distillation, although it should be sufficiently attractive for the operation to be effective;

Whereas Article 67 of the 1979 Act of Accession provides that in fixing the level of the various amounts laid down within the common agricultural policy, account shall be taken, for Greece, of the accession compensatory amount, to the extent necessary for the proper functioning of the common agricultural policy; whereas the present situation on the market for red table wines is such that a minimum buying-in price, less the accession compensatory amount, should not be fixed for distillation operations carried out in Greece; whereas any risk of deflection of trade seems ruled out by the fact that the distillation capacity in Greece is limited and that no wine is sent to that country for distillation;

Whereas a complete rationalization of the market must be brought about while ensuring that the quantity needed to achieve this is not exceeded;

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

Whereas provision should be made for producers to conclude delivery contracts with distillers subject to approval by the intervention agency, in order to facilitate monitoring of the progress of operations and of the observance of 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 and, where necessary, to limit the volume of wines which may be distilled;

Whereas, however, the contracts system must be adapted in order to take into account the fact that there are producers who intend to have their wine distilled on their behalf and producers who themselves possess distillation plants; whereas, in the case of the latter producers, the absence of a contractual obligation necessitates an official analysis of certain characteristics of the wine to be distilled;

Whereas provision should be made for the minimum price guaranteed to the producer to be paid to him within a period comparable to that normally applicable in commercial sales;

Whereas the price of wine intended for distillation is not such as to enable the products obtained from this operation to be marketed normally; whereas direct marketing by distillers is possible in the case of distilled wine of 85% vol or less but not in that of a product of 86% vol or more; whereas, therefore, in the case of wine intended for processing into the initial product, an aid should be fixed to enable it to be marketed and provision should be made for the distilled wine, once it has been processed into a product of 86% vol or more, to be delivered to an intervention agency and for fixing the price at which it is to be accepted; whereas this operation should be financed by the European Agricultural Guidance and Guarantee Fund;

Whereas provision should be made for producers who have concluded a delivery contract to terminate it where the market situation would enable them to dispose of the wine more profitably;

Whereas, on the basis of experience gained, a certain margin should be allowed for the quantity of wine specified in the delivery contracts; whereas, moreover, provision should be made, in the event of chance circumstances or *force majeure*, for aid to be paid in respect of the quantity of wine which has actually been distilled;

Whereas, in order to allow the distillation measure to achieve its full purpose and in order to take account of the reality of the market of wines intended for distillation, it appears appropriate to allow these wines to be processed into wine fortified for distillation both by distillers and by manufacturers ;

Whereas the manufacture of wine fortified for distillation must take place in the vicinity of the place where the table wine is held, in order to limit transport costs to distilleries a long distance away ; whereas authorization of the manufacture of wine fortified for distillation in a Member State other than that in which the producer's winery is located is not justified economically and is likely to create serious monitoring problems ; whereas it seems appropriate, therefore, to stipulate that the manufacture of wine fortified for distillation may take place only in the country where the table wine has been produced ; whereas it is further appropriate that Member States should be able to restrict the places at which wine fortified for distillation may be processed in order to ensure the most appropriate form of supervision ;

Whereas, in each Member State concerned, a body should be made responsible for implementing the provisions in question ;

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:

Article 1

1. Producers wishing to distil red table wines produced by them, pursuant to Article 15 of Regulation (EEC) No 337/79, shall conclude contracts for the delivery of table wines, hereinafter referred to as "contracts", with an approved distiller and shall submit them to an intervention agency by 31 March 1982 at the latest.
2. Member States shall inform the Commission each day of the quantities of table wine covered by the contracts presented on the previous day to intervention agencies.
3. If the information referred to in paragraph 2 shows that the contracts submitted to intervention agencies account for a quantity of less than 7 million hectolitres by the date referred to in paragraph 1, the Commission may decide to extend the deadline under the procedure provided for in Article 67 of Regulation (EEC) No 337/79.
4. If the information referred to in paragraph 2 shows that, before the final date for submission of contracts to intervention agencies, the contracts submitted account for a quantity greater than 7 million hectolitres, the Commission shall decide to terminate the submission of contracts.
5. Where the total quantity of table wines covered by the contracts submitted to the intervention agencies exceeds 7 million hectolitres, the Commission may decide under the procedure provided for in Article 67 of Regulation (EEC) No 337/79 that distillation shall be confined to that quantity. In that case, the quantity covered by each contract shall be reduced proportionately.
6. For the purposes of this Regulation, each producer may send not less than 50 hectolitres of table wine for distillation.

Article 2

1. **Delivery** contracts shall not be valid under this Regulation unless approved, before 16 April 1982 by the intervention agency of the Member State in which the wine is held when the contract is concluded. These contracts shall include:

- (a) the obligation for the distiller to purchase the quantity of table wine entered in the contract,
- (b) — either the obligation for the distiller to process the wine into a product with an alcoholic strength by volume of 86 % or more,
— or the obligation for him to process the wine into a product with an alcoholic strength by volume of 85 % or less.

2. Where distillation takes place in a Member State other than that in which the contract is approved, the intervention agency which approved the contract shall forward a copy of it to the intervention agency of the first Member State.

Article 3

1. **Producers :**

- who themselves possess distillation plants and who intend to carry out the distillation referred to in Article 1, or
- who intend to have their wine distilled on their behalf in an approved distiller's plant,

shall so inform, before 31 March 1982, the intervention agency of the Member State in whose territory their winery is located by means of a declaration of delivery for distillation, hereinafter called 'declaration'. If the distilling plant is located in another Member State, they shall also inform the intervention agency of that Member State by means of a copy of the declaration.

2. For the purposes of this Regulation, the contract referred to in Article 1 (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 accompanied by a contract for delivery for distillation on the producer's behalf concluded between the producer and the distiller.

3. The declaration referred to in paragraph 1 shall not be valid under this Regulation unless approved before 16 April 1982 by the intervention agency of the Member State on whose territory the producer's winery is located.

This declaration shall comprise :

- either the obligation for the distiller to process the wine into a product with an alcoholic strength by volume of 86 % or more,
- or the obligation for the distiller to process the wine into a product with an alcoholic strength by volume of 85 % or less.

4. In the case referred to in the first indent of paragraph 1, a sample of the wine to be distilled shall be taken, under the supervision of an official body of the Member State on whose territory the producer's winery is situated, for analysis, by an official laboratory, of its actual alcoholic strength by volume, total acidity, volatile acidity and sulphur dioxide content.

The producer shall forward the results of this analysis, certified by an official body, to the intervention agency of the Member State where the distillation took place.

5. A representative of an official body shall check the quantity of wine distilled and the date of distillation.

6. Producers who have lodged a declaration shall be obliged to distil, or to arrange for the distillation of, the wine covered by that declaration.

Article 4

1. The minimum buying-in price for table wines for distillation shall be fixed at 2.45 ECU per hectolitre per % vol.

These wines must have an actual alcoholic strength by volume of more than 9.5 %.

2. The prices referred to in paragraph 1 shall apply to bulk merchandise ex producer's premises.

Article 5

1. The intervention agency of the Member State in which the distillation has taken place shall pay an aid for the wine distilled where it has been processed into a product with an alcoholic strength of 85% vol or less.
2. The aid is hereby fixed at 1.80 ECU per hectolitre per % vol.
3. Distillation products with an alcoholic strength of 86% vol or more shall be delivered by the distiller to an intervention agency.
4. When making a delivery as referred to in paragraph 3, the distiller shall furnish proof that he has paid the producer, as a minimum, the price referred to in Article 4 within thirty days at the latest following entry into the distillery of the total quantity of wine covered by the contract.
5. The intervention agency is obliged to purchase the products offered to it by the distiller.

In the case of products with an alcoholic strength of 96% vol or more and meeting the analysis requirements laid down by the Member State concerned, the price paid by the intervention agency shall be 2.90 ECU per hectolitre per % vol.

In the case of products with an alcoholic strength of less than 96% vol but not less than 86% vol, the price referred to in subparagraph 2 shall be reduced by 0.17 ECU per hectolitre per % vol.

These prices shall apply to bulk merchandise free at the storage facility of the intervention agency.

6. Financing by the European Agricultural Guidance and Guarantee Fund, Guarantee Section, of intervention agencies' costs arising from products accepted is hereby fixed at 2.15 ECU per hectolitre per % vol.
7. Regulation (EEC) No 729/70 shall apply to the EAGGF financing referred to in paragraph 6.

Article 6

1. When the purpose of distillation is to obtain a product of an alcoholic strength of 85% vol or less, payment of the minimum buying-in price referred to in Article 4 and of the aid referred to in Article 5 shall be governed by this Article.
2. When the total quantity of wine covered by the contract enters the distillery, the distiller shall pay the producer at least the difference between the minimum buying-in price referred to in Article 4 and the aid referred to in Article 5.
3. By way of derogation from paragraph 2, the distiller shall pay to the producer the minimum buying-in price referred to in Article 4 when the total quantity of wine covered by the contract enters the distillery in cases where distillation takes place in a Member State other than that of the intervention agency which approved the contract or where a clause to this effect has been included in the delivery contract.
4. When proof is supplied that the total quantity of wine appearing in the contract has been distilled, the intervention agency shall pay to the producer or, in the case referred to in paragraph 3, to the distiller, the amount referred to in Article 5 (2).

Where the amount is paid to the distiller, the latter shall supply proof that he has paid to the producer the minimum buying-in price referred to in Article 4.

5. The producer or, in the case referred to in paragraph 3, the distiller, may ask for the amount of aid referred to in Article 5 (2) to be paid to him in advance on condition that he has lodged a security equal to 110 % of the amount in the name of the intervention agency. This security shall be given in the form of a guarantee by an establishment meeting the criteria laid down by the Member State to which the intervention agency is responsible.

The advance payment to the producer may not be made until after the date of the approval provided for in Article 2 (1) or Article 3 (3).

The advance payment to the distiller may not be made unless proof is supplied that the whole of the minimum price has been paid to the producer at the latest 30 days following the date on which the total quantity of wine appearing in the contract entered the distillery.

Subject to Article 12, the security provided for in the first subparagraph shall not be released unless, within a specified period, evidence is provided that the total quantity of wine appearing in the contract has been distilled.

When the security is released, the intervention agency shall make the adjustments required to take account of the margins provided for in Article 11.

Article 7

By way of derogation from Article 6, Member States may make provision for the minimum buying-in price referred to in Article 4 to be paid to the producer by the intervention agency in a single instalment and within a prescribed period after distillation of the total quantity of wine covered by the contract.

In such cases

- the distiller shall owe to the intervention agency the difference between the minimum buying-in price referred to in Article 4 and the aid referred to in Article 5;
- the producer may ask for the minimum buying-in price referred to in Article 4 to be advanced to him in accordance with the terms of Article 6(4).

Article 8

1. When the purpose of distillation is to obtain a product of an alcoholic strength of 86% vol or more, payment of the minimum buying-in price referred to in Article 4 and payment for the products delivered to intervention agencies shall be governed by this Article.

2. The minimum buying-in price referred to in Article 4 shall be paid by the distiller to the producer within thirty days at the latest following the date of entry into the distillery of the total quantity of wine covered by the contract.
3. The buying-in price for the products referred to in Article 5(3), on delivery by the distiller to the intervention agency, shall be paid by the intervention agency to the distiller within sixty days at the latest following delivery of the merchandise, provided that proof is furnished that the minimum buying-in price has been paid to the producer within the period referred to in paragraph 2.

Article 9

Distillation operations may not take place after
31 August 1982.

Article 10

Should the average prices, for not less than 50 % of the quantities quoted of a type of table wine, exceed 90 % of the activating price for that type of wine, it may be decided that delivery contracts for wines of this type may be terminated wholly or in part at the request of the producer.

Termination of the contract shall be permitted only in cases where the amounts paid by the intervention agency are refunded.

Article 11

A margin of 10 % more or less than the quantity of wine indicated in the contracts referred to in Article 1, subject to the amount provided for in Article 1 (6), shall be permitted for the quantity of wine actually delivered to the distillery.

The intervention agency shall pay the aid provided for in Article 5 for the quantity of wine which has actually been distilled, within the margin referred to in the first subparagraph.

Article 12

Where, owing to chance circumstances or *force majeure*, all or some of the wine covered by a contract referred to in Article 1 cannot be distilled, the distiller or the producer shall immediately so inform:

- the intervention agency of the Member State in whose territory the distillation plant is located, and
- if the producer's winery is located in another Member State, the intervention agency of that Member State.

In the cases referred to in the first paragraph, the intervention agency shall pay the aid referred to in Article 5 in respect of that quantity of wine which has actually been distilled.

Article 13

The wine intended for distillation as provided for in Article 1 (1) may be processed into wine fortified for distillation by the distiller or by an approved manufacturer other than the producer.

If the operation is carried out by a manufacturer, **Articles 1, 2, 4, 5, 6, 9, 10, 11 and 12 shall apply subject to the provisions of the following Articles.**

Article 14

1. In the case referred to in the second subparagraph of Article 13, the contracts provided for in Article 1 shall be concluded between a producer and a manufacturer.

2. These contracts shall involve the manufacturer in the obligation:

- (a) to purchase the quantity of wine appearing therein and to process all of it into wine fortified for distillation;
- (b) to deliver the wine fortified for distillation to an approved distiller;
- (c) to pay to the producer not less than the price specified in Article 4.

Article 15

1. In the case referred to in the second subparagraph of Article 13, wine fortified for distillation may be produced only in the territory of the Member State where the producer's winery is located and within a specified period of time.

2. The manufacture of wine fortified for distillation, as referred to in paragraph 1, shall be subject to official supervision. For this purpose :

- the document(s) and the register(s) provided for in Article 53 of Regulation (EEC) No 337/79 shall state the increase in actual alcoholic strength by volume, expressed as % vol, giving the strength before and after the addition of the distillate to the wine ;
- before the wine is processed into wine fortified for distillation, a sample shall be taken under the supervision of an official body for analysis by an official laboratory, or by a laboratory operating under official supervision, of the actual alcoholic strength by volume. Two copies of the results of this analysis shall be sent to the manufacturer of the wine fortified for distillation, who shall forward one copy to the intervention agency of the Member State where the wine fortified for distillation was produced.

3. Member States may restrict the places at which wine fortified for distillation may be processed to the extent that such restriction is necessary to ensure the most appropriate form of supervision.

Article 16

In the case referred to in the second subparagraph of Article 13, the price specified in Article 4 shall be paid by the manufacturer when the total quantity of wine appearing in the contract has entered his installations.

Article 17

In the case referred to in the second subparagraph of Article 13, wine fortified for distillation shall be distilled before a specified date. The product obtained from the distillation of wine fortified for that purpose shall have an alcoholic strength by volume of 85 % or less.

Article 18

1. The intervention agency of the Member State where the wine fortified for distillation has been manufactured shall pay to the manufacturer the amount referred to in Article 5(2) in accordance with Article 6(4) or (5) as the case may be.

2. The aid shall be calculated by hectolitre and by % vol of the actual alcoholic strength of the wine before it is fortified for distillation.

3. The margin provided for in Article 11 shall apply to the quantities of table wine delivered to the manufacturer's installations.

The aid shall be paid for the quantity of table wine which, after being fortified for distillation, has actually been distilled.

Article 19

For the purposes of this Regulation, 'an approved distiller' shall mean a distiller included on a list to be compiled by the competent authorities of the Member States.

A person on whose behalf distillation is carried out shall be treated in the same way as a distiller within the meaning of the first paragraph.

Such distillation must be carried out by an approved distiller.

For the purposes of this Regulation 'an approved manufacturer' shall mean a manufacturer included on a list to be compiled by the Member States.

Approval of a distiller or of a manufacturer may be withdrawn by the competent authority if he does not satisfy the obligations incumbent upon him, pursuant to Community provisions.

Article 20

1. The intervention agencies responsible for implementing this Regulation shall be those appointed by the Member States in accordance with Article 8 of Regulation (EEC) No 343/79.

2. Without prejudice to Article 2 (1), Article 3 (3) and Article 18 (1), the competent intervention agency shall be that of the Member States in whose territory distillation takes place.

Article 21

Member States shall take the measures necessary to ensure that this Regulation and, in particular, checks to prevent the deflection of table wine from its end-use of distillation, are implemented. To this end Member States may stipulate that an indicator may be used.

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

Article 22

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

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

Done at Brussels,

FINANCIAL STATEMENT

Date : 25 February 1982

1. BUDGET HEADING : 1611 Distillation of wine

APPROPRIATIONS : 1982: 220 mECU¹

2. TITLE : Draft Council Regulation laying down general rules on the distillation of table wines as provided for in Regulation (EEC) No 337/79, Article 15

3. LEGAL BASIS : Article 15 of Regulation 337/79

4. AIMS OF PROJECT : To meet the serious crisis on the red wine market by recourse to extra distillation

5. FINANCIAL IMPLICATIONS	PERIOD OF 12 MONTHS	CURRENT FINANCIAL YEAR (82)	FOLLOWING FINANCIAL YEAR (83)
5.0 EXPENDITURE			
- CHARGED TO THE EC BUDGET (REFUNDS/INTERVENTIONS)	138 m ECU	138 m ECU	
- NATIONAL ADMINISTRATION	(maximum)	(maximum)	token entry
- OTHER			
5.1 RECEIPTS			
- OWN RESOURCES OF THE EC (LEVIES/CUSTOMS DUTIES)			
- NATIONAL			
	...1984.....	...1985.....1986.....
5.0.1 ESTIMATED EXPENDITURE	Measure affects one marketing year only		
5.1.1 ESTIMATED RECEIPTS			

5.2 METHOD OF CALCULATION

Total amounts of wine to be distilled: a maximum of 7 million hectolitres of red wine (10°), half (3.5 m hl) for distillation to wine spirits and half to alcohol of over 86°.

Expenditure: wine spirits 3.5 m hl x 10° x 1.80 ECU/hl = 63 m ECU
 alcohol 3.5 m hl x 10° x 2.15 ECU/hl = 75 m ECU

138 m ECU (max)

6.0 CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET ?

YES/NO /

6.1 ~~CAN THE PROJECT BE FINANCED FROM TRANSFERRED RESOURCES OF THE CURRENT BUDGET ?~~

YES/NO /

6.2 WILL A SUPPLEMENTARY BUDGET BE NECESSARY ?

YES/NO /

6.3 WILL FUTURE BUDGET APPROPRIATIONS BE NECESSARY ?

YES/NO /

OBSERVATIONS : 1. 220 million ECU for all distillation and an estimated 128 million ECU for extra distillation. If the maximum quantity is distilled, the difference (i.e. 138 - 128 = 10 million ECU) could be met from savings on other distillation operations.