

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(82) 831 final.

Brussels, 14 December 1982

Proposal for a  
COUNCIL REGULATION (EEC)

Laying down general rules for distillation operations involving wine and  
the by-products of wine-making

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(submitted to the Council by the Commission)

COM(82) 831 final



EXPLANATORY MEMORANDUM

In 1977 (1) and again in 1980 (2) the Commission presented to the Council proposals to improve and consolidate the general rules relating to certain distillation operations. No agreement has yet been reached within the Council.

The Council has since adopted far-reaching amendments to the basic Regulation, particularly in respect of distillation (3).

This being the case, the Commission is putting forward a new proposal for a regulation laying down the general rules relating to certain distillation operations involving wine and the by-products of wine-making; this new regulation will replace current Regulations No 343/79 and No 349/79.

At the same time the Commission is withdrawing the proposal which it put forward in 1980 and which has become irrelevant (2).

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

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(1) COM (77) 667 final of 13 December 1977

(2) COM (80) 232 final of 8 May 1980.

(3) Regulation No 2144/82 of 17 July 1982, OJ No L 227 of 3.8.1982.

PROPOSAL FOR  
COUNCIL REGULATION (EEC)

laying down the general rules for certain distillation operations  
involving wine and the by-products of wine-making.

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 337/79 of 5 February 1979 on the common organization of the market in wine (1), as last amended by Regulation (EEC) No 3082/82 (2), and in particular Articles 11(3), 12a(4), 15(8), 39(7), 40(5) and 41(6) 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 sector (3), as last amended by Regulation (EEC) No 2008/82 (4), and Council Regulation (EEC) No 349/79 of 5 February 1979 on the distillation of the by-products of wine-making (5) laid down the conditions in which certain distillation operations referred to in Regulation (EEC) No 337/79 were to be carried out; whereas account being taken, on the one hand, of the amendments which have been made to the latter Regulation since the adoption of the abovementioned Regulations and, on the other hand, of the experience gained, it is necessary to amend these general rules and to bring them together in a single regulation;

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(1) OJ No L 54, 5. 3.1979, p.1  
(2) OJ No L 326, 23.11.1982, p.1  
(3) OJ No L 54, 5. 3.1979, p.64  
(4) OJ No L 216, 24. 7.1982, p.2  
(5) OJ No L 54, 5. 3.1979, p.84

Whereas it is necessary to determine the products which may be obtained by distillation;

Whereas it is necessary to foresee the quantitative effects which distillation operations will have on the market; whereas, for this purpose, it would seem appropriate to require that producers wishing to deliver wine for one of the distillation operations provided for in Articles 11, 12a and 15 of Regulation (EEC) No 337/79 should submit a declaration of delivery for approval by the intervention agency;

Whereas Article 6 of Regulation (EEC) No 337/79 makes recourse to the distillation operations provided for in Articles 11, 12a and 15 of that Regulation conditional on the producer's compliance with certain obligations; whereas therefore, provision should be made for both the distiller and the intervention agency to receive proof that the producer has met these obligations; whereas the necessary provisions should be adopted to ensure that no financial contribution is payable by the Community in cases where producers have not met the abovementioned obligations;

Whereas the prices set for wines for distillation in Articles 11, 12a and 15 of Regulation (EEC) No 337/79 are usually such that the products obtained by distillation cannot be disposed of under market conditions; whereas, therefore, criteria should be adopted for fixing the amount of the aid so as to make possible the disposal of the products obtained;

Whereas provision should be made that the minimum price guaranteed to producers should be paid to the latter by the distiller, as a general rule, within a period which enables producers to make a profit comparable to that which they would have made from a commercial sale; whereas, as regards the payment of aid to distillers by the intervention agencies, it is necessary to set time limits which take account both of the need to avoid creating financial problems for distillers and of the time needed for the completion of the administrative and supervisory tasks entrusted to the intervention agencies; whereas provision should be made for advance payment of aid to the distiller; whereas, to ensure that the intervention agency is not exposed to unjustified risks, it is necessary to provide for a system of contracts and securities;

Whereas the quantities of wine which may be delivered for distillation as referred to in Article 15(1) or (2) of Regulation (EEC) No 337/79 are limited; whereas, therefore, the Commission should be regularly supplied with particulars of the quantities of wine intended for distillation, so that it can decide, at short notice if required, to halt the submission of declarations and prevent the prescribed quantities from being exceeded;

Whereas experience has shown that, where compulsory distillation is concerned, it is not always easy for producers to calculate exactly the quantities of products which they have to deliver in order to meet their obligation; whereas provision should be made to ensure that the expiry of the period for delivery does not entail, for producers who have delivered almost all the quantities required and have only to make some adjustments, consequences which are out of proportion to the infringement committed, particularly as regards the application of Article 6(1) of Regulation (EEC) No 337/79; whereas, to this end, it would seem advisable to consider that such producers have fulfilled their obligations within the time limits, provided that the intervention agencies authorize them to deliver the quantities outstanding, in accordance with procedures laid down by the agencies; whereas, however, in such cases no financial contribution should be payable by the European Agricultural Guidance and Guarantee Fund (EAGGF) in respect of the quantities delivered after the time limit;

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

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

Whereas, to simplify administration and to ensure fairness of treatment, the quantities of wine covered by the obligations to distil referred to in Articles 40 and 41 of Regulation (EEC) No 337/79 should not be included in the calculation of the quantities of wine to be delivered for compulsory distillation;

Whereas producers who deliver their marc for the manufacture of oenocyanin generally supply non-fermented grape marc; whereas the treatment which such marc undergoes for the extraction of oenocyanin makes it unsuitable for fermentation and distillation thereafter; whereas those producers should therefore be exempted in proportion to their production of grape marc;

Whereas, in accordance with Article 11(1) of Council Regulation (EEC) No 338/79 of 5 February 1979 laying down special provisions relating to quality wines produced in specified regions (6), as last amended by Regulation (EEC) No 2145/82 (7), a yield per hectare is fixed for each quality wine psr, which facilitates observance of the prohibition against the pressing of wine lees and overpressing of grapes; whereas, moreover, the marcs and lees of white quality wines psr contain little alcohol; whereas, therefore, a reduced rate should be applied to these products;

Whereas, if the wine to be delivered for distillation is used for the manufacture of wine vinegar, the volume of alcohol delivered to intervention agencies is likely to be reduced; whereas, therefore, producers should be allowed to discharge their obligation to distil by delivering to the vinegar industry the wine which would otherwise be necessary to make up the quantity for compulsory distillation;

Whereas, where the by-products of wine-making are withdrawn under supervision in accordance with Article 39(4) and (5) of Regulation (EEC) No 337/79, it is important to ensure that all by-products of the processing of grapes have been withdrawn by the end of the wine year in which they were produced; whereas, for this purpose, provision should be made for an appropriate monitoring system;

(6) OJ No L 54, 5.3.1979, p.48

(7) OJ No L 227, 3.8.1982, p.10



Whereas, the proof required that mar, lees or wine have been delivered to a distiller should differ according to whether the distiller is established in the same Member State as the producer or in another Member State;

Whereas distillers may, in accordance with Article 39(6), Article 40(4) or Article 41(5) of Regulation (EEC) No 337/79, either qualify for aid in respect of the product to be distilled or deliver to the intervention agency the product obtained by distillation; whereas the amount of the aid should be fixed in the light of the market price for the various products which may be obtained by distillation;

Whereas, to qualify for the aid, the parties concerned must lodge an application accompanied by a number of supporting documents; whereas, to ensure that the system operates uniformly in all Member States, time limits for the lodging of applications and for the payment of aid to distillers should be laid down; whereas it is also advisable to make proportional allowance for distillers who, although they have met their principal obligations, are late in furnishing proof thereof;

Whereas the price to be paid by the intervention agencies for the products delivered to them should be fixed in the light of the average cost of transport and distillation of the the product in question; whereas, to avoid any discrimination between operators because of the distance between their premises and the various warehouses of the intervention agencies, provision should be made for adjustments to the buying-in price for products to be delivered;

Whereas a single standard price should be fixed for products delivered to intervention agencies in connection with the distillation operation referred to in Article 39 of Regulation (EEC) No 337/79, irrespective of the origin of the products;

Whereas, in certain regions of the Community, the relation between the quantities of marc and those of wine and lees is such that the average distillation costs differ from those used to calculate the standard price; whereas, as a result of this situation, it is, or is liable to be, economically impossible in certain of these regions to achieve the objective of the obligation to distil the by-products of wine-making; whereas it is therefore necessary to fix, at the same time, both a standard price and prices differentiated according to the origin of the alcohol, while leaving it to the Member States to decide whether such differentiated prices should be applied in regions where application of the standard price would lead to the difficulties referred to above;

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

Whereas, to avoid the risk of any disturbance of the market in spirituous beverages, it should be possible to stipulate that only neutral alcohol may be produced by the distillation of wines suitable for the production of certain spirituous beverages with a registered designation of origin; whereas, in the case of producers who have distillation facilities and distil their own product, provision should be made for supervision by an official body and for analysis of certain characteristics of the products to be distilled;

Whereas, in the absence of an organized Community market in ethyl alcohol, the intervention agencies responsible for marketing the alcohol which they are obliged to take over following the distillation operations referred to in Articles 39 and 40 of Regulation (EEC) No 337/79 have to re-sell it at less than the buying-in price; whereas provisions should be made for the difference between the buying-in price and the selling price for such alcohol to be borne, at a standard rate, by the Guarantee Section of the EAGGF;

Whereas, for the purposes of the payment of the aid, the calculation of the quantities of products which may be delivered to the intervention agencies and the verification of compliance with the obligations regarding distillation, it is necessary to know the characteristics of the products delivered for distillation; whereas, therefore, a system of checks should be introduced, based as a general rule on verification that the characteristics of the wine delivered are as indicated on the accompanying document;

Whereas steps should be taken to cover unforeseeable circumstances or force majeure which may prevent distillation from taking place as planned;

Whereas, to take account of the actual situation on the market in wine for distillation, both distillers and makers should be authorized to fortify such wine for distillation and the necessary adjustments should be made to the overall arrangements;

Whereas Member States should be able to restrict the places at which wine may be fortified for distillation in order to ensure the most appropriate form of supervision;

Whereas the addition of an indicator to wine for distillation is an effective method of supervision; whereas it should be stipulated that the presence of such an indicator shall be no bar to free movement of such wine or of the products obtained therefrom,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down:

- (a) in Title I, the general rules for the distillation operations provided for in Articles 11, 12a and 15 of Regulation (EEC) No 337/79;
- (b) In Title II, the general rules for the distillation operations provided for in Articles 39, 40 and 41 of Regulation (EEC) No 337/79;
- (c) in Title III, the general rules applicable to all the distillation operations covered by Titles I and II.

Article 2

1. For the purposes of this Regulation:

- (a) producer means any natural or legal person or group of persons who make wine or any natural or legal person subject to the obligations referred to in Article 39 of Regulation (EEC) No 337/79.
- (b) distiller means any natural or legal person or group of persons who
  - distil, either on their own behalf or on behalf of others, wine or fortified wine or the by-products of winemaking or of any other form of processing of grapes, and
  - have been approved by the competent authorities in the Member State on whose territory the distillation plant is located;
- (c) competent intervention agency means:
  - where the reception and approval of declarations relating to the delivery of wine for distillation or fortification are concerned, the intervention agency designated by the Member State on whose territory the wine is located at the time when the declaration is submitted;
  - in all other cases, the intervention agency designated by the Member State on whose territory the distillation or fortification of wine is carried out.

2. For the purposes of applying Title I, any natural or legal person, other than the processor fortifying wine for distillation, who:
- buys wine in order to have it distilled by a distiller, and
  - pays to the producer, for wine bought from the latter, not less than the price specified in Article 11(2), Article 12a(3) or Article 15(5) of Regulation (EEC) No 337/79, as the case may be, where the price in question applies to bulk merchandise ex producer's premises,
- shall be considered as a producer.

Article 3

1. Only the following may be obtained by the distillation operations referred to in Article 1:
- (a) neutral alcohol with an alcoholic strength of at least 96% vol, or
  - (b) wine spirit or marc spirit meeting the qualitative requirements laid down in the Community rules or, where no such rules apply, by the national provisions applicable thereto, or
  - (c) raw alcohol with an alcoholic strength of at least 52% vol.

Where the product specified at point (c) in the first subparagraph is obtained, it may be used only:

- (i) for the production of an alcoholic beverage under official supervision;
- (ii) for processing into one of the products specified at point (a) and (b), under official supervision,
- (iii) for industrial purposes subject to conditions to be laid down.

Member States shall take the necessary measures to ensure compliance with the obligation laid down in the second subparagraph.

2. If wine suitable for production of certain spirituous beverages with a registered designation of origin is delivered to undergo one of the distillation operations specified in Article 1, it may be decided that only a product as specified at point (a) in the first subparagraph of paragraph 1 may be obtained by the distillation of such wine.

TITLE I

General rules relating to the voluntary distillation of wine.

Article 4

1. Any producer intending to deliver wine of his own production for one of the distillation operations specified in Article 1(a) for which he satisfies the conditions laid down in the Community rules shall submit to the competent intervention agency, by a date to be specified, a written declaration relating to the delivery of the wine for distillation, hereinafter referred to as the "declaration".
2. The declaration referred to in paragraph 1 shall specify at least the quantity, the colour and the actual alcoholic strength by volume of the wine. The producer may not deliver the wine for distillation unless the declaration has been approved by the competent intervention agency by a date to be specified.
3. Except in the case of the distillation referred to in Article 12a of Regulation (EEC) No 337/79, the quantity of wine delivered for distillation must be not less than a minimum quantity to be determined, and in no circumstances less than 10 hl.
4. The distiller shall pay to the producer for the wine delivered to him at least the price specified, in Article 11(2), Article 12a(3) or Article 15(5) of Regulation (EEC) No 337/79, as the case may be, such prices to apply to bulk merchandise ex producer's premises.
5. The minimum buying-in price referred to in paragraph 4 shall be paid by the distiller to the producer within three months of each consignment of wine entering the distillery.

Article 5

1. Producers subject to the obligations referred to in Article 6(1) of Regulation (EEC) No 337/79 shall provide the distiller to whom they deliver wine to undergo one of the distillation operations specified in Article 1(a) with proof that they have satisfied the said obligations during the reference period fixed in accordance with Article 6(3) of the said Regulation.
  2. For each producer from whom he has received deliveries of wine, the distiller shall forward to the competent intervention agency, within a period set by the latter, a file containing:
    - (a) the proof referred to in paragraph 1;
    - (b) for each delivery, a statement of the quantity, colour and actual alcoholic strength by volume of the wine, together with the number of the document provided for in Article 53(1) of Regulation (EEC) No 337/79 and used for the transport of the wine to the distiller's premises.
- The distiller shall submit to the intervention agency, by a date to be fixed, an aid application either for all the wine delivered by the producer or for each delivery of wine from the same producer and shall provide proof that the corresponding quantities of wine have been distilled.
3. If distillation is carried out by the producer himself in his capacity as an approved distiller, the file, aid application and proof of distillation referred to in paragraph 2 shall be submitted to the competent intervention agency by the producer.
  4. Where the distiller is established in a Member State other than that where the producer's winery is located, the intervention agency of the Member State in which distillation takes place shall forward a copy of the file referred to in the first subparagraph of paragraph 2 to the intervention agency of the Member State on whose territory the producer's winery is located. The latter agency shall make the necessary checks and shall communicate the result of these checks to the former agency.
  5. The intervention agency shall pay the distiller the aid specified for the distillation in question within two months of the submission of the proof referred to in the second subparagraph of paragraph 2.

6. Should the verification of the file and the application reveal that, in respect of all or part of the wine delivered, the producer does not satisfy the conditions laid down by the Community rules for the distillation in question, the competent intervention agency shall inform the distiller and the producer accordingly. In such cases, the minimum buying-in price referred to in Article 4(4) shall be reduced in respect of all or part of the wine delivered, by an amount equal to that of the aid.

#### Article 6

1. The aid to be paid to the distiller for the wine which has undergone one of the distillation operations provided for in Articles 11, 12a and 15 of Regulation (EEC) No 337/79 shall be fixed per % vol. of alcohol and per hectolitre of the product of distillation on the basis of the minimum buying-in price fixed for the distillation in question, the standard transport and processing costs, the technical losses and the market price for the products of distillation.
2. The aid granted in respect of wine spirits may not exceed the aid granted in respect of neutral wine alcohol.

The aid granted in respect of raw wine alcohol may not exceed the aid granted in respect of wine spirits.

#### Article 7

1. The distiller may request that an amount equal to the aid referred to in Article 6 be advanced to him on condition that:
  - he has submitted to the intervention agency for approval, before a date to be fixed, a delivery contract concluded with a producer;
  - he has lodged, on behalf of the intervention agency, a security equal to 120% of the aid.

The security referred to in the second indent of the first subparagraph shall be provided in the form of a guarantee given by an establishment meeting the criteria laid down by the Member State to which the intervention agency belongs.



The intervention agency shall inform the interested parties, within a period to be specified, of the outcome of the approval procedure.

Advances may be paid only after the date on which the delivery contract was approved.

2. Subject to Article 20, the security referred to in paragraph 1 shall be released only if, within periods to be specified, proof has been supplied that:
- a quantity of wine representing not less than 90% and not more than 110% of the quantity stated in the contract has been distilled;
  - the minimum buying-in price has been paid to the producer within the stipulated period.

For wine delivered to distilleries, a tolerance of 0.5% vol. in the actual alcoholic strength stated in the delivery contract shall be permitted.

3. At the time when the security is released, the intervention agency shall make the necessary adjustments to take account of the tolerances specified in paragraph 2.

#### Article 8

1. In the case of the distillation referred to in Article 15(1) and (2) of Regulation (EEC) No 337/79, the producer may not deliver for distillation a quantity of table wine greater than the quantity specified in the declaration.
2. During the distillation referred to in paragraph 1, the Member States shall periodically communicate to the Commission particulars of the quantities of table wine specified in the declarations submitted to the intervention agency.
3. Once the communications referred to in paragraph 2 indicate that the quantities specified in the declarations have exceeded a quantity to be determined under the implementing rules, the Commission shall decide to halt the submission of declarations.

4. Should the total quantity of table wine stated in the declarations submitted to the intervention agencies exceed the quantity determined in accordance with paragraph 3, it may be decided under the implementing rules that only the latter quantity should undergo distillation. In such cases, the quantities which have been entered in the declarations and may be delivered for distillation shall be reduced proportionally.

## TITLE II

General rules relating to compulsory distillation.

### Article 9

1. Producers subject to an obligation to distil under Articles 39, 40 or 41 of Regulation (EEC) No 337/79 shall discharge their obligation by delivering to a distiller, before a date to be fixed, the quantities of product to be distilled as determined in accordance with the foregoing Articles and with the measures taken in implementation thereof.
2. The competent intervention agency may allow producers who are subject to one of the obligations referred to in paragraph 1, and who have delivered by the date fixed in accordance with paragraph 1 at least 90% of the quantity of products which they are obliged to deliver, to discharge their obligation by delivering the remaining quantity before a date to be fixed by the competent national authority.

In such cases:

- the buying-in price for the remaining quantities referred to in the first subparagraph and the price for the alcohol produced therefrom and delivered to the intervention agency shall be reduced by an amount equal to the aid fixed, in respect of the distillation operation in question, for neutral alcohol in accordance with the provisions of Article 14;
- for alcohol delivered to the intervention agency in accordance with the second indent of the first subparagraph of Article 39(6) and the second indent of the first subparagraph of Article 40(4) of Regulation (EEC) No 337/79, there shall be no EAGGF contribution to expenditure by the intervention agency;
- no aid shall be paid for products of distillation not delivered to intervention agencies;
- the obligation shall be considered to have been discharged by the time limit set in accordance with paragraph 1.

Where use is made of this provision, the Member State concerned shall inform the Commission of the implementing provisions which it has adopted.

Article 10

1. The price to be paid by the distiller to the producer for the products delivered to the former for distillation under Article 39 of Regulation (EEC) No 337/79 must not be lower than the buying-in price fixed annually by 1 August for the following wine year.

This price shall be fixed per % vol per hectolitre of alcohol contained in the products in question. It shall be not less than 30% or more than 40 % of the guide price for table wine of type A I applicable as from 16 December thereafter.

2. The buying-in price referred to in paragraph 1 and the prices referred to in Article 40(3) and Article 41(4) of Regulation (EEC) No 337/79 shall apply to bulk merchandise ex producer's premises.

Article 11

1. Pursuant to the second subparagraph of Article 39(1) of Regulation (EEC) No 337/79, and in respect of the wine years 1983/84 to 1986/87, producers in the Greek and Italian islands, except Sicily and Sardinia, located in wine-growing zones C III a) and C III b);
  - shall be authorized to overpress grapes and to press wine lees,
  - may be released from their obligation by delivering to a distiller the liquid product obtained by the operation referred to in the first indent.

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

- an obligation upon the producer to notify the competent authority in advance if he intends to carry out the operation referred to in the first indent of the second subparagraph,

- the addition of an indicator to the product obtained;
- the use of the document referred to in Article 53(1) of Regulation (EEC) No 337/79 for the transport of the products obtained to the distillery, subject to any adaptations necessary.

2. The obligations referred to in Article 39 of Regulation (EEC) No 337/79 shall not apply to:

- producers who have not made wine or processed grapes in any other manner on cooperative premises and who, during the wine year in question, produced not more than 10 hectolitres of wine or must;
- wine producers subject to the obligations laid down in Article 40(1) or (2) or Article 41, in respect of that part of their harvest which is covered by such obligations;
- producers who withdraw wine under supervision in accordance with Article 12(1) of this Regulation.

It may be decided that the exemption referred to in the first indent of the first sub-paragraph shall apply, subject to conditions to be determined, to producers who have not made wine or processed grapes in any other manner on cooperative premises and who, during the wine year in question, produce more than 10 hectolitres but not more than 25 hectolitres of wine or must.

3. The percentage mentioned in the second subparagraph of Article 39(2) shall be reduced in the case of:

- (a) producers who deliver marc for the manufacture of oenocyanin,
- (b) producers of quality wines psr, in respect of the part of the harvest which qualifies for this description.

4. In the case of producers who deliver wine of their own production to the vinegar industry, the quantity of alcohol, expressed in terms of pure alcohol, contained in the wine delivered to the vinegar factory shall be deducted from the quantity of alcohol, expressed in terms of pure alcohol, contained in the wine to be delivered under Article 39(2) of Regulation (EEC) No 337/79.

Article 12

1. Only those producers whose vineyards are located in wine-growing areas where distillation represents a disproportionate burden may exercise the option mentioned in Article 39(5) of Regulation (EEC) No 337/79.

A list of the wine-growing areas concerned shall be drawn up by the competent authorities of the Member States. The latter shall inform the Commission of this list.

2. For the purposes of implementing Article 39(4) and (5) of Regulation (EEC) No 337/79

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

shall be fixed for each wine-growing year by detailed implementing rules or, failing this, by provisions which the Member States concerned shall adopt and notify to the Commission.

By means of the detailed rules or provisions referred to in the first subparagraph a system shall be introduced for monitoring withdrawals of the by-products of the processing of grapes, as referred to in Article 39(4) and (5) of Regulation (EEC) No 337/79, for the purpose of ensuring that all the said by-products have been withdrawn by the end of the wine-growing year in which they were produced.

The monitoring system referred to in the second subparagraph shall involve at the least the weighing of the products withdrawn. This may be done by the sampling of representative lots.

Article 13

1. The distiller shall provide the producer, as proof of delivery, with a certificate stating at least the nature, the quantity and the alcoholic strength by volume of the product delivered, together with the date of delivery.

However, if a producer delivers the products which he is to have distilled to a distillery located in a Member State other than that in which the said products were obtained,

the distiller shall require the intervention agency of the Member State in which distillation takes place to certify, on the official document covering transport of the products, that the latter have been taken over by the distillery. The distiller shall forward to the producer a copy of the

said document, thus certified, within one month of reception of the products to be distilled.

2. The minimum buying-in price laid down for the distillation operation in question shall be paid by the distiller to the producer within three months of each consignment of products entering the distillery.

#### Article 14

1. The aid to be paid to the distiller for products which have undergone one of the distillation operations referred to in Articles 39, 40 and 41 of Regulation (EEC) No 337/79 shall be fixed per % vol of alcohol and per hectolitre of the product of distillation on the basis of the minimum buying-in price fixed for the distillation in question, the standard transport and processing costs, the technical losses and the market price for the products of distillation.
2. The aid granted in respect of spirituous beverages may not exceed the amount of the aid granted in respect of neutral alcohol.

The aid granted in respect of raw alcohol may not exceed that of the aid granted in respect of spirituous beverages.

#### Article 15

1. In order to qualify for the aid referred to, as the case may be, in Article 39(6), Article 40(4) or Article 41(5), of Regulation (EEC) No 337/79, the distiller shall submit an application to the intervention agency before a date to be fixed and shall provide proof of distillation.

The intervention agency shall pay the distiller the aid fixed for the distillation operation in question within two months of submission of the proof of distillation.

2. The distiller must provide the intervention agency, before a date to be fixed, with proof that he has paid the producer the minimum buying-in price for the product to be distilled within the period specified.

If such proof is not provided before the date fixed in accordance with the first subparagraph, the aid paid shall be recovered by the intervention agency. If, however, the proof is provided after the time limit but by another time limit to be set and if the delay is not due to serious negligence by the distiller, the intervention agency shall recover 20% of the aid paid.

In the circumstances referred to in the first sentence of the second subparagraph, the intervention agency shall, by a date to be fixed, pay the producer a sum equal to the aid.

#### Article 16

1. Distillers who do not qualify for aid may deliver to the intervention agency products with an alcoholic strength of 92% or more.

The operations necessary to obtain the product referred to in the first subparagraph may be carried out either at the premises of the distiller who delivers the said product to the intervention agency or at the premises of a jobbing distiller.

2. The buying-in prices referred to in the third and fourth subparagraphs of Article 39(6), the third and fourth subparagraphs of Article 40(4) and the third and fourth subparagraphs of Article 41(5) of Regulation (EEC) No 337/79 shall be fixed per hectolitre and per % vol of pure alcohol.

They shall apply to bulk merchandise free at the warehouse of the intervention agency. They shall be fixed on the basis of the minimum buying-in price for the products for the distillation operation in question standard transport costs for the products to be distilled and for the products of distillation, processing costs and technical losses.



3. At the same time as the standard price fixed in accordance with paragraph 2, differentiated prices may be fixed for products delivered to the intervention agency under the third subparagraph of Article 39(6) of Regulation (EEC) No 337/79, depending on whether the product has been distilled from grape marc, wine lees or wine, so that account is taken, where appropriate, of the differing costs and losses.

The Member States may decide to apply differentiated prices where the application of the standard price would make it impossible, or could make it impossible, to have one or more of the by-products of wine-making distilled in certain regions of the Community. The level of prices fixed for the products distilled from the various by-products must be such that the weighted average of these prices does not exceed the standard price.

#### Article 17

The amount of the contribution from the EAGGF to expenditure incurred by intervention agencies in taking over the products of the distillation operations referred to in Articles 39 and 40 of Regulation (EEC) No 337/79 shall be fixed at a standard rate per hectolitre and per % vol of alcohol on the basis of the buying-in price for neutral alcohol taken into intervention and the price for such alcohol on the Community market.

#### TITLE III

##### Common provisions

#### Article 18

The distillation operations referred to in this Regulation may be carried out only during periods to be determined.

#### Article 19

1. The characteristics of the products delivered for distillation, and in particular the quantity, the colour and the alcoholic strength, shall be checked when the products enter the distillery on the basis of the official document covering the transport of the said products.

The Member States may provide for such checks to be made by sampling.

If, in accordance with the Community provisions in force, an accompanying document has not been made out, the product to be distilled shall be checked under arrangements that the Member States shall establish and communicate to the Commission. These arrangements must guarantee the same degree of effectiveness as those provided for in the first subparagraph.

2. If the distillation is carried out by the producer himself in his capacity as an approved distiller, a sample of the product for distillation shall be taken under the supervision of an official body of the Member State on whose territory the producer's winery is located, so that an official laboratory may establish by analysis the actual alcoholic strength by volume, the volatile acidity and the sulphur dioxide content.

The result of this analysis, endorsed by an official body, shall be forwarded by the producer to the intervention agency of the Member State where the distillation takes place.

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

#### Article 20

1. Where, owing to unforeseeable circumstances or for reasons of force majeure all or part of the product to be distilled cannot undergo distillation:
  - the producer, if the unforeseeable circumstances or force majeure affected the product to be distilled while the latter was legally at his disposal, shall without delay inform the intervention agency of the Member State in which his winery is located;
  - the distiller, in all other cases, shall without delay inform the intervention agency of the Member State in which the distillery is located.
2. In the circumstances referred to in paragraph 1, the intervention agency, once informed, shall decide on the measures which it considers necessary. In particular, it may defer the time limits.

In the circumstances referred to in the first indent of paragraph 1, and where the producer's winery and the distillery are located in two different Member States, the intervention agencies of the two Member States concerned shall cooperate, by the direct exchange of information, for the purpose of implementing paragraphs 1 and 2.

In the circumstances referred to in the second indent of paragraph 1, the intervention agency, once informed, may also authorize the distiller, subject to the agreement of the producer in the case of a jobbing distiller, to transfer to another distiller his rights and obligations in respect of the quantity of products not yet distilled.

3. The Member States shall inform the Commission of cases in which paragraph 1 is applied and of the action taken in response to requests that the clauses relating to unforeseeable circumstances and force majeure should be invoked.

#### Article 21

1. A list of the distillers approved to perform the distillation operations referred to in this Regulation shall be drawn up by the competent authorities of the Member States. These authorities may not include on the list approved distillers who are unable to obtain, by means of the distillation operations referred to in Title II, product alcoholic strength of at least 92% vol.

Member States shall forward to the Commission, on 31 December 1983 at the latest, the list drawn up in accordance with the first sub-paragraph and shall notify the Commission of any subsequent amendments. The Commission shall publish that list and any amendments thereto in the Official Journal of the European Communities.

2. The competent authority may withdraw approval from a distiller, either temporarily or permanently, if the latter does not meet his obligation under the Community rules.

Article 22

1. Wine which is to undergo one of the distillation operations referred to in this Regulation may be fortified for distillation. In such cases, the product of distillation of such fortified wine must be one of the products specified at point (b) of the first subparagraph of Article 3"(1).
2. Wine shall be fortified for distillation only under official supervision.

For this purpose:

- the document(s) and register(s) required under Article 53 of Regulation (EEC) No 337/79 shall show the increase in actual alcoholic strength by volume, expressed in % vol by indicating the strength before and after addition of the distillate to the wine;
  - a sample of the wine shall be taken under official supervision before it is fortified in order that the actual alcoholic strength by volume may be determined analytically by an official laboratory or a laboratory working under official supervision;
  - two copies of the analysis report referred to in the second indent shall be sent to the processor fortifying the wine and the processor shall transmit one of these copies to the intervention agency of the Member State in which the wine is fortified.
3. Wine shall be fortified for distillation during the same period as that laid down in accordance with Article 18 for the distillation operation in question. Article 23 shall apply, subject to any necessary adjustments.
  4. Wine fortified for distillation shall be distilled in accordance with detailed rules to be laid down. Such distillation shall take place within a period to be set.
  5. Member States may restrict the number of locations at which wine may be fortified for distillation, should this be necessary to ensure that the most suitable method of supervision can be used.

Article 23

1. When the option mentioned in Article 22(1) is exercised and where the wine is not fortified for distillation by the distiller or on his behalf, the producer shall submit to the competent intervention agency, for approval before a date to be fixed, a written declaration to the effect that the wine has been delivered for fortification.

Wine may be fortified for distillation only by an operator approved by the competent authorities of the Member State on whose territory the operation is carried out.

2. The declaration referred to in paragraph 1 shall be governed by the provisions of Article 4, subject to the necessary adjustments.
3. The processor fortifying the wine for distillation shall pay the producer, for the wine delivered, at least the price referred to, as the case may be, in Article 11(2), Article 12a(3), Article 15(5), Article 39(6), Article 40(3) or Article 41(2) of Regulation (EEC) No 337/79; these prices shall apply to bulk merchandise ex producer's premises.

Subject to the necessary adjustments, the processor fortifying the wine for distillation shall be subject to the same obligations as the distiller under Articles 4, 5, 9, 13 and 15.

The aid to be paid to the processor fortifying wine for the various distillation operations shall be fixed per ‰ vol of actual alcoholic strength and per hectolitre of wine before fortification, on the basis of the minimum buying-in price for the distillation operation in question, standard transport and processing costs and the market price for the product of distillation.

4. The aid shall be paid by the competent intervention agency to the processor fortifying wine for distillation on condition that he provides a security equal to 120% of the aid to be received.

Where the processor fortifies wine for the distillation operations governed by various provisions of Regulation (EEC) No 337/79, a single security shall be provided; it shall be equal to 120% of all the aid to be paid to the processor in respect of the said distillation operations.

The securities referred to in the first and second subparagraphs shall be provided in accordance with the second subparagraph of Article 7(1).

Subject to the provisions of Article 20, the security shall be released only if, within periods to be set, proof has been furnished that the fortified wine has been distilled; the security shall be released in proportion to the quantities in respect of which such proof has been furnished.

Article 24

1. The States shall take the necessary measures to ensure that the provisions of this Regulation are applied, and in particular measures to prevent products delivered to distilleries from being diverted to other uses.

The States may, for this purpose, require that an indicator be used, subject to conditions to be laid down by implementing rules or, failing this, by national provisions. Member States may not, on the ground of the presence of an indicator, prevent movement within their territory of products intended for distillation or of distilled products obtained from the latter.

2. Member States which exercise the option set out in the second paragraph of paragraph 1 shall inform the Commission accordingly and shall notify the Commission of the provisions which they have adopted for this purpose. The Commission shall inform the other Member States.

Article 25

In the absence of any provisions to the contrary, any periods, dates or time limits referred to in this Regulation or fixed pursuant thereto shall be laid down in accordance with Regulation (EEC, Euratom) No 1182/71.<sup>(8)</sup>

Article 26

Regulations (EEC) No 343/79 and (EEC) No 349/79 are hereby repealed.

Article 27

This Regulation shall enter into force on 1 September 1983.

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

Done at

For the Council

The President

(8) OJ No L 124, 8.6.1971, p.1