Commission Regulation (EC) No 555/2008 of 27 June 2008 laying down detailed rules for implementing Council Regulation (EC) No 479/2008 on the common organisation of the market in wine as regards support programmes, trade with third countries, production potential and on controls in the wine sector

COMMISSION REGULATION (EC) No 555/2008

of 27 June 2008

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 479/2008 of 29 April 2008 on the common organisation of the market in wine, amending Regulations (EC) No 1493/1999, (EC) No 1782/2003, (EC) No 1290/2005, (EC) No 3/2008 and repealing Regulations (EEC) No 2392/86 and (EC) No 1493/1999[(1)], and in particular Articles 22, 84, 89, 97, 107, 117, 121(b) and (c) thereof,

Whereas:

(1) Regulation (EC) No 479/2008 has modified the previous regime for the wine sector as laid down in Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine[(2)] and has repealed that Regulation as from 1 August 2008.

(2) The existing implementing rules covering the wine sector are contained in several regulations which have been amended frequently. These implementing rules as regards market mechanisms, trade with third countries, production potential and controls in the wine sector need to be changed as a result of the modifications made to the wine regime by Regulation (EC) No 479/2008, as well as in the light of experience. Detailed rules for the implementation of Regulation (EC) No 479/2008 should be adopted.

(3) The following Commission Regulations should therefore be repealed and replaced by a new Regulation:

- (EC) No 1227/2000 of 31 May 2000 laying down details rules for the application of Council Regulation (EC) No 1493/1999 on the common organisation of the market in wine, as regards production potential[(3)],
- (EC) No 1623/2000 of 25 July 2000 laying down detailed rules Regulation (EC) No 1493/1999 on the common organisation of the market in wine with regard to market mechanisms[(4)],
- (EC) No 2729/2000 of 14 December 2000 laying down detailed implementing rules on controls in the wine sector[(5)],

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— (EC) No 883/2001 of 24 April 2001 laying down detailed rules for implementing Council Regulation (EC) No 1493/1999 as regards trade with third countries in products in the wine sector[6].

(4) Title II of Regulation (EC) No 479/2008 contains provisions on a new support programme to be decided at Member States level to finance specific support measures to assist the wine sector. It is appropriate to fill out that framework by enacting implementing rules.

(5) There should be a procedure for the first submission of the support programme. There should be as well a procedure for annually amending support programmes for the following year, so that they can be adjusted to take account of any new conditions which could not have been foreseen when they were initially presented. All such changes should be subject to certain limits and conditions to ensure the approved support programmes maintain their overall objectives.

(6) By virtue of Article 5(1) of Regulation (EC) No 479/2008, Member States may choose to draw up the support programmes at the geographic level deemed most appropriate. Since Member States are responsible for the approval of plans, they should in this case lay down rules on the submission and approval of plans and the minimum content of the plans concerned.

(7) Article 10 of Regulation (EC) No 479/2008 provides for a new support measure for promotion on third-country markets. It is necessary to lay down detailed rules concerning the setting up of this new measure.

(8) In order to prevent any risk of distortion of competition, rules should be drawn up on the way the specific origin of products covered by information and promotion campaigns is to be referred to.

(9) In the interests of legal certainty, the messages disseminated under the promotion campaign should comply with the legislation of the third countries targeted.

(10) Criteria governing the selection of applications and their scrutiny by the Member States should be established with a view to ensuring that the Community rules are complied with and that the supported measures to be implemented are effective.

(11) With a view to ensuring that the Community measures are effective, the Member States must ensure that the promotion campaign approved are consistent with, and complement, their national and regional promotion programmes. In order to build synergies, Member States may draw up collective promotion campaign and provision should be made to allow cooperation between the Member States concerned. Preference should be given to micro, small and medium-sized enterprises who are more in need of Community support than bigger ones.

(12) To avoid any double payment with the promotion measures funded under Council Regulation (EC) No 3/2008 of 17 December 2007 on information provision and promotion measures for agricultural products on the internal market and in third countries[7] or Council Regulation (EC) No 1698/2005 of 20 September 2005 on support

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for rural development by the European Agricultural Fund for Rural Development (EAFRD)[8], mutual exclusion should be set.

(13) Article 11 of Regulation (EC) No 479/2008 provides for a support measure for restructuring and conversion of vineyards. In particular, the second subparagraph of Article 11(3) of that Regulation provides that the support for the restructuring and conversion of vineyards shall not cover the normal renewal of vineyards which have come to the end of their natural life.

(14) In addition, Member States may adopt rules on the minimum size of the parcel involved so as to ensure that the system has a genuine effect on production potential.

(15) In applying Article 11 of Regulation (EC) No 479/2008, Member States have a wide margin of discretion in deciding on the detailed scope and levels of support, including notably the payment of flat-rate amounts, the setting of maximum levels of support per hectare and the modulation of support on the basis of objective criteria, within the constraints laid down in Chapter I of Title II of that Regulation and the provisions adopted in pursuance thereof. Nevertheless, common rules should be laid down. Measures should be defined, with time limits, for their execution and appropriate monitoring. The rules should also cover the use of replanting rights which arise from grubbing-up if provided for in the project, so as to allow for higher levels of support to be granted on account of the higher costs involved.

(16) In the interest of verification, payment of the support should normally be made after a specific measure or the complete set of measures, has been executed. However, payment may be made in advance of execution of a measure or the complete set of measures, provided that a security is lodged to ensure that execution of the measure takes place.

(17) Detailed provisions should be established as to participation in the financing of the system for restructuring and conversion. Measures have to be taken to ensure the effective spending of funds reserved for the system, provision being made in particular for advance payments.

(18) Article 12 of Regulation (EC) No 479/2008 provides for a new support measure for green harvesting. In view of subsidiarity, Member States should be made responsible for the administrative arrangements concerning the application procedure for green harvesting. They should be free to determine the date until which they request producers to complete the operations, so as to have sufficient time, in view of the time constraints and proximity of harvesting period, for the necessary control before payments.

(19) Taking into account the funds involved in the green harvesting scheme, systematic on-the-spot verification of the areas concerned should be foreseen after the execution. This verification must ensure that total destruction of grapes has been carried out. They should also ensure that phytosanitary and environmental requirements are duly respected. In the interests of verification, payment of the premium should be made after having controlled that green harvesting took place.

(20) In addition, maximum levels of support should be fixed in order to ensure that support does not become a permanent alternative outlet for products compared to placing them on the market.

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(21) Article 13 of Regulation (EC) No 479/2008 provides for a new support measure for the setting-up of mutual funds. It is necessary to lay down detailed rules concerning this new measure. As far as possible these rules should provide for flexibility and for rapid application in crises and therefore should allow decisions to be taken by Member States and producer organisations themselves. Nevertheless the rules should prevent abuses and provide for limits, including in financial terms. As producers in the new Member States have in general a lower degree of organisation than in other Member States, a higher ceiling of support should be provided in the former.

(22) Article 14 of Regulation (EC) No 479/2008 provides for a new support measure for harvest insurance. It is necessary to lay down detailed rules concerning the setting up of this new measure. As far as possible these rules should provide for flexibility. Nevertheless the rules should prevent abuses and provide for limits, including in financial terms.

(23) Article 15 of Regulation (EC) No 479/2008 provides for a new support measure for tangible and intangible investments in enterprises. It is necessary to lay down detailed rules concerning the setting up of this new measure in coherence with the same measure available in the Rural Development menu. The types of eligible investments should be set out, including those for the development of new products, processes and technologies, indicative eligible costs should be defined.

(24) Article 16 of Regulation (EC) No 479/2008 provides for a support measure for by-product distillation. It is necessary to lay down detailed rules concerning the setting up of this new measure in particular conditions of disposal of by-products as well as the purpose and the level of the maximum amount of the aid for distillation of marcs, wine and lees.

(25) Article 17 of Regulation (EC) No 479/2008 provides for a transitional support measure for potable alcohol distillation. It is necessary to lay down detailed rules concerning the setting up of this new measure in particular the purpose and the possible adjustments of the aid.

(26) Article 18 of Regulation (EC) No 479/2008 provides for a transitional support measure for crisis distillation. It is necessary to lay down detailed rules concerning the setting up of this measure in particular the procedure and the modalities of the aid as well as criteria to be taken into account when fixing the amount of the aid.

(27) Article 19 of Regulation (EC) No 479/2008 provides for a transitional support measure for must utilisation for enrichment. It is necessary to lay down detailed rules concerning the setting up of this measure in particular the purpose and the level of the maximum amount of the aid as well as to provide for specific checks to be done on the product used to increase the alcoholic strength.

(28) It is imperative, for the purpose of monitoring the implementation of Title II of Regulation (EC) No 479/2008 and of the proper management of the market, that the Commission has the appropriate data available as to the execution of the support programmes. In this context, it is necessary to lay down the details of the information

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to be set out on the reporting and evaluation of support programmes in order to assess their effectiveness and efficiency.

(29) The general rules concerning budgetary discipline, and in particular those relating to incomplete or incorrect declarations on the part of Member States, should apply in addition to the specific rules established by this Regulation.

(30) Details of the financial administration of the system should be governed by the rules adopted for the implementation of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy[9].

(31) Article 76(1) of Regulation (EC) No 479/2008 lays down that, for juices and musts for which the application of customs duties depends on the import price of the product, the actual amount of this price is verified either by checking every consignment or by using a flat-rate import value. The current features of the arrangements for importing grape juices and musts into the Community, in particular the irregularity of such imports, in terms of both volume and frequency and the places of import and the origin of these products, do not permit the calculation of representative flat-rate import values to reflect the actual amount of the import price. Under these circumstances, this price should be verified by checking every consignment.

(32) The import price on the basis of which imported products are classed in the Common Customs Tariff should be equal to the fob price of those products plus the cost of insurance and transport to the place of entry into Community customs territory.

(33) Article 82(3) of Regulation (EC) No 479/2008 provides that the imported products covered by that Article should be accompanied by a certificate and an analysis report issued by a body or service designated by the third country from which the products are exported. The requirements which the analysis report should meet should be laid down.

(34) To simplify controls provision should be made for dispensing with the certificate and analysis report in the case of products which are imported from third countries in limited quantities and packed in small containers.

(35) For the sake of harmonisation, the exemption from the requirement to present a certificate and analysis report for wine products being imported into the Community should be in line with the customs rules on exemption and the arrangements applicable to documents accompanying consignments of wine products within the Community.

(36) The use of computerised procedures is gradually replacing the manual input of data in the different areas of administrative activity. It should therefore also be possible to use computerised and electronic procedures when issuing and using V I 1 and V I 2.

(37) Some third countries, having established an effective system for inspecting their wine producers, implemented by their bodies or services, referred to in Article 82(3) of Regulation (EC) No 479/2008, have expressed an interest in the possibility of authorising the producers themselves to issue certificates and analysis reports. With a view to facilitating trade with those third countries, provided that they have concluded undertakings with the Community which include clauses concerning closer cooperation on the prevention of fraud and that they maintain good trade relations with the