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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	1 April 2022
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 1.4.2022 amending Delegated Regulation (EU) No 664/2014 supplementing Regulation (EU) No 1151/2012 of the European Parliament and of the Council with regard to the establishment of the Union symbols for protected designations of origin, protected geographical indications and traditional specialities guaranteed and with regard to certain rules on sourcing, certain procedural rules and certain additional transitional rules

Delegations will find attached document C(2022) 1932 final.

Encl.: C(2022) 1932 final



Brussels, 1.4.2022
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COMMISSION DELEGATED REGULATION (EU) .../...

of 1.4.2022

amending Delegated Regulation (EU) No 664/2014 supplementing Regulation (EU) No 1151/2012 of the European Parliament and of the Council with regard to the establishment of the Union symbols for protected designations of origin, protected geographical indications and traditional specialities guaranteed and with regard to certain rules on sourcing, certain procedural rules and certain additional transitional rules

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) 2021/2117 of the European Parliament and of the Council of 2 December 2021¹ has amended the system of the amendments to the product specification of Protected Designation of Origin, Protected Geographical Indications and Traditional Specialities Guaranteed provided for in Article 53 of Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs². ‘Non-minor’ and ‘minor’ amendments have been replaced by ‘Union’ and ‘Standard’ amendments, with different scopes and procedures.

Regulation (EU) No 1151/2012 empowers the Commission to adopt delegated and implementing acts supplementing the existing rules and setting out the procedures for the approval of Union and Standard amendments to the product specification of Protected Designation of Origin, Protected Geographical Indications and Traditional Specialities Guaranteed in the food sector.

Delegated Commission Regulation (EU) No 664/2014 supplementing Regulation (EU) No 1151/2012 with regard to several subjects, contains rules on amendments which refer to the ‘non-minor’ and ‘minor’ amendments.

The purpose of this delegated act is therefore to amend the existing Delegated Commission Regulation (EU) No 664/2014 in order to adapt it to the new rules on Union and Standard amendments and allow the system of amendments functioning properly.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Consultations, involving experts from all the 27 Member States have been carried out within the Expert Group for Sustainability and Quality of Agriculture and Rural Development.

During these meetings, the Commission presented amended versions of the text taking broadly into account the observations and comments made in each of the meetings or sent in writing to the Commission services.

The Commission services had also meetings with stakeholders in the context of the Civil Dialogue Group on Quality and Promotion.

This consultation process led to a broad consensus on the draft Delegated Regulation.

The feedback mechanism took place on the Better Regulation Portal from 9 February to 9 March 2022. All comments have been considered.

¹ Regulation (EU) 2021/2117 of the European Parliament and of the Council of 2 December 2021, amending Regulations (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products, (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs, (EU) No 251/2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and (EU) No 228/2013 laying down specific measures for agriculture in the outermost regions of the Union (OJ L 435, 6.12.2021, p. 262).

² OJ L 343, 14.12.2012, p. 1.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

This delegated act contains provisions amending the rules on ‘non-minor’ and ‘minor’ amendments in the Commission Delegated Regulation (EU) No 664/2014. The amended rules are necessary to ensure the proper functioning of the new system of ‘Union and Standard amendments of the product specification of Protected Designation of Origin, Protected Geographical Indications and Traditional Specialities Guaranteed under Regulation (EU) No 1151/2012.

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amending Delegated Regulation (EU) No 664/2014 supplementing Regulation (EU) No 1151/2012 of the European Parliament and of the Council with regard to the establishment of the Union symbols for protected designations of origin, protected geographical indications and traditional specialities guaranteed and with regard to certain rules on sourcing, certain procedural rules and certain additional transitional rules

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs¹, and in particular Article 53(3), first subparagraph, thereof,

Whereas:

- (1) Regulation (EU) 2021/2117 of the European Parliament and of the Council² amended Article 53(2) of Regulation (EU) No 1151/2012 as regards the system of amendments to a product specification. As from 8 June 2022 ‘non-minor’ and ‘minor’ amendments are replaced by ‘Union’ and ‘standard’ amendments, respectively, with different scope and procedures.
- (2) Commission Delegated Regulation (EU) No 664/2014³ contains provisions that supplement the rules on non-minor and minor amendments. In order to ensure the functioning of the new system of amendments, the existing rules on non-minor and minor amendments in that Regulation should be replaced by new rules.
- (3) For the efficiency of the procedure, rule on the admissibility of applications for approval of Union amendment should be established. For the same reasons, when an application for approval of a Union amendment also contains standard amendments,

¹ OJ L 343, 14.12.2012, p. 1.

² Regulation (EU) 2021/2117 of the European Parliament and of the Council of 2 December 2021, amending Regulations (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products, (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs, (EU) No 251/2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and (EU) No 228/2013 laying down specific measures for agriculture in the outermost regions of the Union (OJ L 435, 6.12.2021, p. 262).

³ Commission Delegated Regulation (EU) No 664/2014 of 18 December 2013 supplementing Regulation (EU) No 1151/2012 of the European Parliament and of the Council with regard to the establishment of the Union symbols for protected designations of origin, protected geographical indications and traditional specialities guaranteed and with regard to certain rules on sourcing, certain procedural rules and certain additional transitional rules (OJ L 179, 19.6.2014, p. 17).

standard amendments should be deemed as not existing and should not be considered as approved in the context of the Union amendment.

- (4) The procedure for the approval of a standard amendment and a temporary amendment should be established to allow Member States to carry out an appropriate assessment of the applications and to guarantee a consistent approach across Member States. The accuracy and exhaustiveness of the assessment by the Member States should be equivalent to the accuracy and exhaustiveness required for the assessment process within the procedure governing applications for registration of a geographical indication.
- (5) It is necessary to lay down rules to establish coordination between the procedures for amendments to a product specification in cases where applications concerning a Union amendment and a standard amendment are pending at the same time before the Commission and the Member State's competent authority, respectively. Since both applications amend the same product specification, while following two different parallel procedures having a different timing, rules should be laid down that avoid inconsistencies.
- (6) Transitional rules should be adopted to ensure smooth transition from the current rules of Delegated Regulation (EU) No 664/2014 to the rules set out in this regulation.
- (7) Since amendments to a product specification introduced by Regulation (EU) 2021/2117 apply from 8 June 2022, this Regulation should apply from the same date,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Delegated Regulation (EU) No 664/2014

Delegated Regulation (EU) No 664/2014 is amended as follows:

- (1) Article 6 is replaced by the following:

'Article 6

Applications for Union amendments to a product specification

For the purposes of Article 53 of Regulation (EU) No 1151/2012, an application for approval of a Union amendment to a product specification shall contain Union amendments only. If an application for approval of a Union amendment also contains standard or temporary amendments, the procedure for a Union amendment shall apply only to the Union amendment. Standard or temporary amendments included in the application shall be deemed as not submitted.';

- (2) the following Articles are inserted:

'Article 6a

Admissibility of applications for approval of Union amendments

1. Applications for approval of a Union amendment to a product specification shall be considered admissible if they have been submitted in accordance with Article 53 of Regulation (EU) No 1151/2012 and communicated to the Commission in accordance with Article 12(1) of Commission Implementing Regulation (EU) No 668/2014* and comply with Article 10 of that Implementing Regulation.

The approval by the Commission of an application for approval of a Union amendment to a product specification shall only cover the Union amendments set out in the application.

2. If the Commission considers that an application is inadmissible, it shall inform the authorities of the Member State or the third country concerned or the applicant established in a third country, as the case may be, of the reasons for the inadmissibility.

* Commission Implementing Regulation (EU) No 668/2014 of 13 June 2014 laying down rules for the application of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs (OJ L 179, 19.6.2014, p. 36).’.

Article 6b

Standard amendments to the product specification of a protected designation of origin or protected geographical indication

1. For the purposes of Article 53 of Regulation (EU) No 1151/2012, applications for approval of a standard amendment to a product specification shall be submitted to the authorities of the Member State in whose territory the geographical area of the product concerned is located. If the application for approval of a standard amendment to a product specification does not come from the applicant group that had submitted the application for protection of the name or names to which the product specification refers, the Member State shall give that applicant group the opportunity to comment on the application, if that applicant group still exists.

The application for approval of a standard amendment shall provide a description of the standard amendments and demonstrate that the proposed amendments qualify as standard in accordance with Article 53(2) of Regulation (EU) No 1151/2012. A summary of the reasons for which the amendments are required shall also be provided.

2. Where the Member State considers that the requirements of Regulation (EU) No 1151/2012 and of the provisions adopted pursuant to that Regulation are met, it may approve the standard amendment. The approval decision shall include the amended consolidated product specification and, where relevant, the amended consolidated single document or shall include the electronic reference to the published version of the consolidated product specification and, where relevant, single document.

The approval decision shall be made public. The approved standard amendment shall be applicable in the Member State concerned from the date on which the approval

decision was made public. The Member State shall communicate approved standard amendments to the Commission not later than 1 month following the date on which the national approval decision was made public. The Member State shall communicate, without undue delay, to the Commission any final and unappealable national judgments annulling a decision approving a standard amendment.

3. Decisions approving standard amendments concerning products originating in third countries shall be communicated to the Commission by an applicant group having a legitimate interest, either directly or via the authorities of the third country concerned, not later than 1 month following the date on which the relevant decision was made public.
4. The communication of an approved standard amendment to the Commission shall be considered to be duly made when it complies with Article 10a of Implementing Regulation (EU) No 668/2014.
5. In the event that the standard amendment implies an amendment of the single document, the Commission shall publish the description of the standard amendment and the amended single document in the *Official Journal of the European Union*, C series, within 3 months from the date on which it has received the communication of that standard amendment.

In the event that the standard amendment does not imply an amendment of the single document, the Commission shall make public, via the digital systems referred to in Article 12(1), first subparagraph, point (a), of Implementing Regulation (EU) No 668/2014, the description of the standard amendment within 3 months from the date on which it has received the communication of that standard amendment.

The national authority referred to in paragraphs 2 and 3 or the applicant group referred to in paragraph 3 that communicated a standard amendment to the Commission shall remain responsible for its content.

6. Standard amendments shall be applicable in the territory of the Union from the date on which they were published pursuant to paragraph 5, first subparagraph, or made public pursuant to paragraph 5, second subparagraph.
7. Where the geographical area covers more than one Member State, each Member State concerned shall apply the procedure for standard amendments separately. The standard amendment shall be applicable in the territory of the Member States concerned only after the last national approval decision becomes applicable. The Member State being the last to approve the standard amendment shall send the Commission the relevant communication not later than 1 month following the date on which its approval decision was made public.

If one or more of the Member States concerned do not adopt the national approval decision referred to in the first subparagraph, any of the Member States concerned may submit that application under the Union amendment procedure.

8. Paragraph 7 shall apply *mutatis mutandis* where a part of the geographical area concerned is located in the territory of a third country.

Article 6c

Relationship between Union and standard amendments

1. Where a standard amendment implying an amendment of the single document is approved, while an application for approval of a Union amendment is pending with the Commission, the Member State concerned shall update the single document included in the application for approval of a Union amendment accordingly. If the pending Union amendment has been published in the *Official Journal of the European Union*, for opposition, the updated version of the single document shall be published in the *Official Journal of the European Union*, L series, as an annex to the implementing regulation approving the Union amendment.
2. Where the amended version of the single document included in an application for standard amendment approved at national level does not take into account the latest Union amendments that have been approved, that standard amendment shall not be published in the *Official Journal of the European Union*. The Member State that had approved that standard amendment shall send to the Commission the consolidated version of the single document as amended by both the Union and the standard amendments for publication in the *Official Journal of the European Union*.

Article 6d

Temporary amendments to a product specification of a protected designation of origin or protected geographical indication

1. Temporary amendments to a product specification shall be approved and made public by the Member State in whose territory the geographical area of the product concerned is located. Temporary amendments shall be communicated to the Commission together with the reasons supporting them not later than 1 month following the date on which the national approval decision was made public. A temporary amendment shall be applicable in the Member State concerned from the date on which the decision approving the amendment was made public.
2. Where the geographical area covers more than one Member State, each of the Member States concerned shall apply the procedure for temporary amendments referred to in paragraph 1 separately.
3. Temporary amendments concerning products originating in third countries shall be communicated to the Commission, together with the reasons supporting them, by an applicant group having a legitimate interest, either directly or via the authorities of that third country, not later than 1 month following their approval.
4. The communication of an approved temporary amendment to the Commission shall be considered to be duly made when it complies with Article 10b of Implementing Regulation (EU) No 668/2014.
5. The Commission shall make public the communication of temporary amendments via the digital systems referred to in Article 12(1), first subparagraph, point (a), of Implementing Regulation (EU) No 668/2014 within 3 months from the date on which it has received the communication of a temporary amendment. A temporary amendment shall be applicable in the territory of the Union from the date on which it was made public by the Commission.

The national authority referred to in paragraphs 1 and 3 or the applicant group referred to in paragraph 3 that communicated a temporary amendment to the Commission shall remain responsible for its content.

Article 2

Transitional rules

Article 6 of Delegated Regulation (EU) No 664/2014, in its version before the date of application of this Regulation, shall continue to apply to applications for non-minor and minor amendments, as well as to the communications of temporary amendments, to the product specification of protected designations of origin, protected geographical indications and traditional specialities guaranteed pending with the Commission before 8 June 2022.

Article 3

Entry into force and application

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 8 June 2022.

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

Done at Brussels, 1.4.2022

For the Commission
The President
Ursula VON DER LEYEN