



Council of the European Union  
General Secretariat

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**Interinstitutional files:  
2018/0218(COD)**

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**Brussels, 30 October 2019**

**WK 10483/2019 ADD 2**

**LIMITE**

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### WORKING PAPER

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#### **CONTRIBUTION**

From:	General Secretariat of the Council
To:	Delegations
N° prev. doc.:	7451/1/19 REV 1 + COR 1
N° Cion doc.:	9556/18 + REV 1 (en, de, fr) + COR 1
Subject:	Regulation on common market organisation (CMO) of agricultural products - Bulgarian comments

Delegations will find attached comments from the Bulgarian delegation.

During the last meeting of the Working Party on Agricultural Products we discussed the *draft Regulation of the European Parliament and of the Council 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, (EU) No 228/2013 laying down specific measures for agriculture in the outermost regions of the Union and (EU) No 229/2013 laying down specific measures for agriculture in favour of the smaller Aegean islands*. Related to the draft Bulgaria would like to express several issues concerning wine and sugar sectors:

#### **A. Sector Wine**

Article 191 of Regulation No. 1308/2013

##### *Article 191 Derogations for imported products and special security in the wine sector*

*Derogations from point 5 of Section B or Section C of Part II of Annex VIII for imported products may be adopted in accordance with Article 43 (2) TFEU, pursuant to the international obligations of the Union.*

*In the case of derogations from point 5 of Section B of Part II of Annex VIII, importers shall lodge a security for those products with the designated customs authorities at the time of release into free circulation. The security shall be released on the presentation of proof by the importer, to the satisfaction of the customs authorities of the Member State of release into free circulation, that:*

*(a) the products have not benefited from the derogations; or,*

*(b) if they have benefited from the derogations, the products have not been vinified, or if they have been vinified, the resulting products have been appropriately labelled.*

*The Commission may adopt implementing acts laying down rules to ensure the uniform application of this Article, including on the amounts of the security and appropriate labelling. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).*

**\*\***

Comment 1: the text requires a security to be lodged by the importers but there are **no** rules for the following:

- There is **neither** implementing act laying down the amount of the security **nor** methodology how to calculate the rate of that security;
- There is **no** time limit for presenting the proofs by the importer if he wants to release his security;
- It is **not** clear how long can customs hold this security before releasing it or forfeiting it (bearing in mind that there are some products in wine sector which mature for a very long period of time);
- There is **no** rules of procedure for dealing with this security;
- There is **no** clearness if the security should be forfeited what the nature of it will be – a duty or an additional duty or penalty fee or something else;
- There is **no** rule whether the forfeited security should include interest or not. If the interest should be collected what are the time frames for it (from the date the goods are released for free circulation or from the date the competent authority found out the restriction were infringed). What should be the rate of that interest?

Comment 2: Specific question: The article speaks only about the process of vinification (the process of transformation of one product into other product) but there are situation in which there is **no** transformation/vinification (i.e. wine on tap/ in bulk is only bottled without any transformation). Should we think about extending the restrictions?

Comment 3: If the customs should control the goods on national level there will be close co-operation with national competent authorities with expertise in wine sector. But customs need clarification how it can control effectively the process before releasing or forfeiting the security in the following scenarios:

- Simple scenario: the goods (for example grapes) from third country are released for free circulation into one Member State. The end use of the product (wine-producing) will be in other Member State. How can first Member State control the process into second Member State and how customs can (before releasing the security) be sure that the prohibitions are observed?
- Complicated scenario: the goods (for example grapes) from third country are released for free circulation into one Member State. Those grapes are turned into grape must in second Member State. The end use of the product (wine-producing from grape must) will be in third Member State. How can the first Member State control the process into second and third Member State and how can before releasing the security be sure that the prohibitions are observed in next countries?

## **B. Sector Sugar**

Article 1 of the draft Regulation, point (30), letter (b) in conjunction with point (34). Those points are linked to Regulation No. 1308/2013 as follows:

Point (30) (b) - Annex III, Part B, Section I.

Point (34) – Annex X, point II, paragraph 2.

Now Annex III, Part B, Section I contains legal and technical definition for standard quality for sugar beet. It should:

*“(a) **be of sound, fair and marketable quality**;*

*(b) **have a sugar content of 16 % at the reception point.**”*

The draft Regulation proposes this text to be deleted (Article 1, point 30, b).

In the same time the new (34) proposal is *“in paragraph 2 of point II of Annex X, the phrase “sugar beet of a standard quality as defined in point B of Annex III” is replaced by “**sugar beet of sound, fair and marketable quality having a sugar content of 16 % at the reception point**”*

Strictly reading the 2 texts there is a full similarity between them.

We do not understand why we should delete the first text (legal definition in Annex III) if we use exactly the same technical criteria to describe what standard quality for sugar beet is.

Moreover the text of Annex X, Point II, paragraph 2 (which stays unchanged) states clearly that adjustments should be done to the **standard quality of sugar beet**.

*(“The price shall be adjusted by price increases or reductions, agreed by the parties in advance, to allow for deviations from the **standard quality**.”)*

Our opinion is that Point (30) (b) - Annex III, Part B, Section I. should not be accepted and the legal definition of standard quality for sugar beet should remain.

If our proposal for point (30, b) is accepted then the change in point (34) becomes obsolete.