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WORKING PAPER

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NOTE

From:	Presidency
To:	Delegations
N° Cion doc.:	9556/18 + REV 1 (en, de, fr) + COR 1
Subject:	Proposal for a 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 - Revised Presidency note

With a view to the meeting of the Special Committee on Agriculture on 19 April 2021, delegations will find in the Annex a revised Presidency note.

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In this SCA, the Presidency brings to the Member States, a consultation on aspects related to Blocks 2 and 1, to enable the Presidency to address these points in the next trilogue planned on 21 April 2021.

These points are:

- From Block 2 – Dealcoholisation of wines From
- From Block 1 – Disposal from public intervention; Additional import duties; Imports from third countries

1. Block 2 - Wine and geographical indications

At the SCA meeting on 12 April 2021, the Presidency sought agreement on a number of compromise proposals including certain issues relating to wine.

Some details and technical matters remained open and the Presidency promised to present the final outcome and seek SCA approval if needed. In this case, we have to highlight the issue of dealcoholized wines.

1.1 Dealcoholization of PDO/ PGI wines – Articles 80, 92 and 119; Annexes VII and VIII

The Presidency informed the SCA on 12 April 2021 (document WK 4670/21) about an agreement reached at the super-trilogue on 26 March 2021 providing that PDO and PGI wines can only be partially dealcoholized and sought validation of this outcome.

After the trilogue, the Commission prepared an alternative text for the relevant articles which reflected the compromise reached. As mentioned already in document WK 4670/21, the Commission's proposal included the redrafting of new Section E of Part I of Annex VIII (of the Commission's initial proposal), which had already been accepted by the Council and the EP, and amended also paragraph 1 of Section A of Part II of Annex VIII to be able to restore water to grapevine products that have been dealcoholized.

These elements of the proposal were discussed at the technical level on 13 April 2021. The Commission referred to recent discussions at the OIV and explained that, in order to rebalance dealcoholized wines and ensure a pleasant taste, it might be necessary to add certain oenological practices not permitted at the moment. It considered that the Commission needed more flexibility to define these oenological practices. Moreover, the Commission explained that Paragraph 1 of Section A of Part II of Annex VIII would need to be amended to allow for the restitution of water to grapevine products that have undergone a dealcoholisation process as this was not covered in the current text. At the same meeting, the European Parliament expressed its support for the Commission proposal.

On the Council side, in a spirit of compromise, the Presidency reconsidered its position and preference for the initial text. Given the position of the Commission and the European Parliament, the Presidency agreed to consult the SCA on 19 April on the following:

- I. amending Article 80 to address the limitations to oenological practices for grapevine products that undergo a dealcoholisation process;
- II. allowing partial dealcoholisation for PGIs and PDOs;
- III. dealing with labelling requirements for dealcoholized wine products in Article 119(1) on compulsory labelling particulars;
- IV. redrafting Part II of annex VII to make clear that dealcoholised wine products are part of the different grapevine products categories and do not constitute separate categories;
- V. redrafting the proposed Section E of Part I of Annex VIII in order set general principles for dealcoholised grapevine products and allowing completion of the list of the dealcoholisation processes through delegated acts¹, and
- VI. amending paragraph 1 of Section A of Part II of Annex VIII to be able to restore water to grapevine products that have been dealcoholised.

As promised, the Presidency will consult the SCA again on 19 April 2021 on the new wording of the compromise proposal.

The changes to the text compared to the text presented in document WK 4670/21 are highlighted in grey (below).

¹ These delegated acts are subject to scrutiny by the Council and Parliament.

I) Limits of oenological practices in Article 80

(xx) Article 80 is amended as follows:

- a) in paragraph 1, subparagraph 3 is replaced by the following:

‘Authorised oenological practices shall only be used for the purposes of ensuring proper vinification, proper preservation, ~~or~~ proper refinement of the product ~~or proper dealcoholisation~~ **or for the purpose of ensuring best quality of products obtained by dealcoholisation in accordance with the processes to be defined by means of delegated acts pursuant to Article 75(2) and in accordance with Section E of Part I of Annex VIII.**’

- a) in paragraph 3, point (d) is replaced by the following:

‘(d) allow the preservation of the natural and essential characteristics of the wine and, **for grapevine products other than those which have undergone a dealcoholisation treatment, in accordance with the processes to be defined by means of delegated acts pursuant to Article 75(2) and in accordance with Section E of Part I of Annex VIII,** not cause a substantial change in the composition of the product concerned;’

I) Coverage of partially dealcoholised products by PDO/PGI

In Art 1(1) of the draft amending Regulation, the following point (8a) new is added:

(8a) In Article 92(1), the following subparagraph is added:

“**However, rules laid down in this section do not apply to products referred to in points (1), (4) to (6), (8) and (9) of Part II of Annex VII when such products have undergone a total dealcoholisation treatment in accordance with the processes to be defined by means of delegated acts pursuant to Article 75(2) and in accordance with Section E of Part I of Annex VIII.**”

II) Labelling provision related to dealcoholised wine products

In Art 1(1) of the draft amending Regulation, letter (a) is replaced by a new text in point (18):

(18) Article 119 is amended as follows: *[initial COM proposal on point (a) to be dropped]*

(a) — ~~In paragraph 1 the introductory sentence is replaced by the following:~~

~~‘Labelling and presentation of the products referred to in points 1 to 11, 13, 15, 16, 18 and 19 of Part II of Annex VII marketed in the Union or for export shall contain the following compulsory particulars:’~~

(a) In paragraph 1, point (a) is replaced by the following:

“(a) the designation for the category of the grapevine product in accordance with Part II of Annex VII. **For grapevine products categories defined under points (1) and (4) to (9) of Part II of Annex VII, when such products have undergone a dealcoholisation treatment in accordance with the processes to be defined by means of delegated acts pursuant to Article 75(2) and in accordance with Section E of Part I of Annex VIII,** the designation of the category is accompanied by:

- (i) the term “dealcoholised” if the product reaches an actual alcoholic strength of no more than 0,5% by volume, and
- (ii) the term “partially dealcoholised” if the product reaches an actual alcoholic strength above 0,5% by volume and below the minimum actual alcohol strength of the category before dealcoholisation.”

(b) Paragraph 2 is replaced by the following:

‘2. By way of derogation from point (a) of paragraph 1, **for grapevine products other than those which have undergone a dealcoholisation treatment in accordance with the processes to be defined by means of delegated acts pursuant to Article 75(2) and in accordance with Section E of Part I of Annex VIII,** the reference to the category of the grapevine product may be omitted for wines whose labels include the name of a protected designation of origin or a protected geographical indication.

(c) The following paragraph 4 is added ...”

III) Rewording of Part II of Annex VII of the CMO

In Art 1(1) point (32) is replaced by the following: *[where the second provision (b) is the relevant for dealcoholised wines. Provision (a) has already been endorsed as A point at the 1st Trilogue of 02/12/2020]*

(32) Annex VII is amended as follows:

(a) in Part I, point III.1(A), the row for the United Kingdom is deleted;

(b) in Part II, the following introductory paragraph is added:

“The categories of grapevine products shall be those listed in points 1 to 17. The categories of grapevine products defined in points (1) and (4) to (9) may undergo a total or partial dealcoholisation treatment in accordance with the processes to be defined by means of delegated acts pursuant to Article 75(2) and in accordance with Section E of Part I of Annex VIII, after having reached fully their respective characteristics as described in those points.”

IV) Changes to Part I of Annex VIII to provide for general principles for dealcoholised wines

Annex VIII is amended as follows:

(a) the title of Part I is replaced by:

‘Enrichment, acidification, de-acidification in certain wine-growing zones and dealcoholisation’;

E. Dealcoholisation

1. The partial or total dealcoholisation of the grapevine products referred to in points 1 and 4 to 9 of Part II of Annex VII is allowed, provided that:

- 1. the dealcoholisation processes shall not be used on grapevine product presenting organoleptic defects;**
- 2. the elimination of ethanol in grapevine products must not be done in conjunction with the increase of the sugar content in the grape must;**
- 3. the dealcoholisation processes shall not result in organoleptic defects of the grapevine product.**

2. The partial or total dealcoholisation referred to in paragraph 1 shall use processes and practices to be authorised by the Commission by means of delegated acts pursuant to Article 75(2).

V) Allowing the restitution of water lost during dealcoholisation

Paragraph 1 of Section A of Part II of Annex VIII is modified as follows:

“PART II

Restrictions

A. General

1. All authorised oenological practices shall exclude the addition of water, except where required on account of a specific technical necessity or, in the case of grapevine products that undergo the dealcoholisation process to be defined by means of delegated acts pursuant to Article 75(2) and in accordance with Section E of Part I of Annex VIII, on account of the loss of water resulting from the dealcoholisation process.”

2. Block 1 - Market management and exceptional measures

At the super-trilogue on 26 March 2021, the negotiators exchanged views on market management and exceptional measures and agreed that more time and discussion is needed before reaching an agreement. All three institutions agreed to the need to maintain the market orientation of the CAP, respect WTO rules and international agreements and to take into consideration the budgetary impact.

2.1 Disposal from public intervention - Article 16 [AM 232]

The aim of amendment 232 to Article 16 CMO was to disclose the identity of operators having made use of public intervention, either by offering product for the buying-in or by buying product when it is disposed of. To this end, the European Parliament proposed that Member States notify to the Commission the identity of companies that have used public intervention as well as buyers of public intervention stocks, and subsequently the Commission makes that information public, together with other details such as the relevant volumes, and the buying and selling prices.

The Council, in the consultation that the Presidency made in the SCA of 18 January 2021, the SCA considered this amendment as “not acceptable”, because it’s against the principles of privacy and data protection. And this was confirmed in the Council of Ministers on 23 March 2021.

The Commission explained at the technical meeting that they already publish in the Market Observatories the details of volumes offered to intervention (when buying in at fixed price) and the result of the tenders (both for buying in and selling) including volumes and prices. With regard to the identity of operators, this information is not needed for the proper operation of the instrument, and does not contribute to the primary goal of stabilising EU markets.

In response to the positions of the Council and the Commission, the European Parliament presented a revised text. However, in that text, the identification provisions regarding beneficiaries and reporting obligations to the Commission are maintained, which go into details of operators, albeit in an anonymous form. On the other hand, European Parliament adds obligations regarding the destination market and the use of products purchased from the intervention. The Presidency considered that this text maintains the constraints identified by the Council, and the Commission supported this view. In a spirit of compromise, and following the discussion at the technical level, in order to reach a possible agreement, the Presidency proposes the following alternative formulation, based on the Parliament revised proposal:

Article 16

General principles on disposal from public intervention

Compromise proposal on Article 16 [...]

~~2a. — Member States shall notify to the Commission all the information about the sellers to the public intervention as well as buyers, in order to respect the principles laid down in paragraph 1.~~

3. Each year the Commission shall publish details of the conditions under which products bought in under public intervention were **bought, if applicable, and** sold in the previous year. **Those details shall include anonymised information about the sellers and buyers, showing the size of the participating companies, the relevant volumes, and the buying and selling prices, and, with regard to sales, the destination market and use of the product.”**

2.2 Additional import duties - Article 182(1) [EP AM 133-136]

Following a confirmed commitment by the three institutions at the super-trilogue on 26 March 2021 to ensure respect of WTO and international agreements, it was proposed to reformulate the text of Article 182(1) in order to meet the concerns in terms of the safeguard clauses and the additional import duties referred to in amendments 133 to 136 of the European Parliament, without however calling into question the WTO rules and the principles of international trade agreements that the EU is involved in. For this purpose, the Commission has proposed that the current method of calculating trigger volumes should be included in the current wording of Article 182, to allow for a better clarification of this rule, in accordance with Article 5 of the WTO Agreement on Agriculture. The Presidency considers that it is a good principle for agreement, as an alternative to the 4 Parliament amendments, and which is described below.

Article 182

Additional import duties

1. The Commission may adopt implementing acts determining the products of the cereals, rice, sugar, fruit and vegetables, processed fruit and vegetables, beef and veal, milk and milk products, pigmeat, sheepmeat and goatmeat, eggs, poultry and bananas sectors, as well as of grape juice and grape must, to which, when imported subject to the rate of duty laid down in the Common Customs Tariff, an additional import duty shall apply in order to prevent or counteract adverse effects on the Union market which may result from those imports, if:

(a) the imports are made at a price below the level notified by the Union to the WTO (the trigger price); or

(b) the volume of imports in any year exceeds a certain level (the trigger volume).

~~(ba) the volume of imports in a given year at preferential rates agreed upon between the Union and third countries in the scope of free trade agreements exceeds a certain level ('market exposure volume')."~~

~~(bb) non-compliance with Union standards in terms of plant protection and animal welfare by third countries."~~

The trigger volume shall be ~~based on market access opportunities defined as imports expressed as a percentage of the corresponding domestic consumption during the three previous years~~ **calculated in accordance with Article 5 of the WTO Agreement on Agriculture.**

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

2. Additional import duties shall not be imposed where the imports are unlikely to disturb the Union market, or where the effects would be disproportionate to the intended objective.
3. For the purposes of point (a) of the first subparagraph of paragraph 1, import prices shall be determined on the basis of the c.i.f. import prices of the consignment under consideration. C.i.f. import prices shall be checked against the representative prices for the product on the world market or on the Union import market for that product.
4. The Commission may adopt implementing acts laying down the measures necessary for the application of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

2.3 Imports from third countries – Art. 188a (new) [AM 137-138]

Similarly to point 2.2, with a view to accommodate the concerns raised by the European Parliament in Article 188a (new) while ensuring respect of WTO rules and international obligations, the Council proposed address the concerns of the European Parliament by means of political statements²³. The European Parliament and the Commission agreed with this approach. And in order to move forward in this direction, to propose to the European Parliament to drop amendments 137 and 138, the Presidency presents 2 proposals for joint statements, which will be presented to the institutions in the next trilogue.

² The European Parliament and the Commission have not been consulted yet. The issue is to be discussed at the political level in the next CMO trilogue.

³ For ease of reference, the text of the draft political statements was communicated also separately in WK 5023/2021 ADD 1. There is no change compared to the text in ADD 1.

Draft outline of a possible [joint] statement by the Council [the European Parliament and the Commission] concerning the application of EU health and environmental standards to imported agricultural products:

The Council of the European Union, the European Parliament and the European Commission recognise the need to seek greater equivalence between the health and environmental standards that apply to agricultural products in the European Union and those that apply to imported agricultural products. In order to tackle sustainable development issues, especially climate change and biodiversity loss, and match citizens' expectations for higher quality and more sustainable food, the European Union has continually raised these standards for many years. The European Green Deal and its sectoral strategies, including the Commission communication on the Farm to Fork Strategy, strive to achieve this goal. The Council of the European Union, the European Parliament and the European Commission agree to promote the application of these or equivalent standards to agricultural and agrifood imports in full respect of WTO rules.

Draft outline of a possible [joint] statement by the Council [and the European Parliament] concerning the application of EU health and environmental standards to imported agricultural products:

The Council and the European Parliament invite the Commission to present, before [the end of 2021], a report containing an assessment of the application of EU health and environmental standards (including animal welfare standards as well as processes and production methods) to imported agricultural and agrifood products, and to propose, where appropriate, measures to ensure better equivalence in their application, including through trade agreements, in full respect of WTO rules. These measures should cover all relevant public policy areas including - but not limited to - the Common Agricultural Policy, the Health and Food safety Policy, the environmental policy and the Common Commercial Policy.