



Council of the European Union  
General Secretariat

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**Brussels, 03 June 2021**

**WK 7370/2021 INIT**

**LIMITE**

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### WORKING PAPER

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#### **NOTE**

|               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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| From:         | Presidency                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| To:           | Special Committee on Agriculture (SCA)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 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<br>- Presidency note on core points of the CMO Regulation |

With a view to the meeting of the Special Committee on Agriculture on 7 June 2021, delegations will find in the Annex a Presidency note with suggestions on the core points of the CMO Regulation.

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WK 7370/2021 INIT

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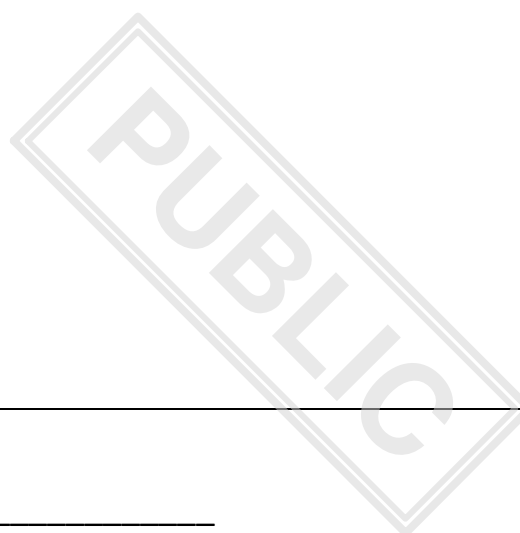
**EN**

**Core Points Council proposal and EP proposal on 27 May 2021**  
**CMO Regulation**

|           | PRES Proposal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | EP Proposal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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| <b>1)</b> | <b>Supply agreements of bulk wines</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|           | <p>Can be accepted on the basis of European Commission drafting proposal</p> <p>➤ <u>new EC redrafted version not yet presented to EP or MS.</u></p> <p style="text-align: center;"><b>Article 147a (new)</b><br/> <b>Payment delays for sales of bulk wine</b></p> <p>By way of derogation from Article 3(1) of Directive (EU) 2019/633, Member States may, upon request of an interbranch organisation recognised under Article 157 operating in the wine sector, provide that the prohibition referred to in point (a) of the first subparagraph of Article 3 of Directive (EU) 2019/633 does not apply to payments made under supply agreements for the sales transactions of bulk wines between producers or resellers of wine and their direct buyers provided that:</p> <p>(a) specific terms to make payments after 60 days are included in standard contracts for transactions of bulk wines which have been made binding by the Member State pursuant to Article 164 of Regulation (EU) No 1308/2013 before 30 October 2021 and that this extension of the standard contracts is renewed by the Member States from that date without any significant changes to the terms of payment to the disadvantage of suppliers of bulk wines; and</p> <p>(b) that the supply agreements between suppliers of bulk wines and their direct buyers are multiannual or become multiannual.</p> | <p style="text-align: center;"><b>Article 147a (new)</b><br/> <b>Supply agreements of bulk wines</b></p> <p>Upon the request of an interbranch organisation recognised under Article 157 operating in the wine sector, Member State may lay down binding rules on standard contracts for the sales transactions of bulk wines between producers or resellers of wine and their direct buyers, containing, by way of derogation from Article 3(1) of Directive (EU) 2019/633, specific terms of payment longer than 60 days, provided those supply agreements are multiannual and are compatible with Union rules. Those standards contracts shall be made binding by the Member State pursuant to this Article before 1 July 2022 and those rules on the standard contracts may only be renewed by the Member State from that date provided that no significant changes to the terms of payment are introduced to the disadvantage of producers or resellers of wine.</p> |
| <b>2)</b> | <b>Value sharing from IBOS on PDO/PGI</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|           | <p>Article 172b can be accepted on the basis of European Commission drafting proposal valid in terms of competition rules.</p> <p>➤ <u>EC shared with PCY new redrafted version not yet presented to EP or MS.</u></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>EP Redraft of its own proposal on Art. 172b:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

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|           | <p style="text-align: center;"><b>Article 172b</b><br/><b>Guidance by interbranch organisations for the sale of grapes for PDO/PGI wines</b></p> <p>By way of derogation from Article 101(1) TFEU, interbranch organisations recognised under Article 157 operating in the wine sector may provide non-mandatory price guidance indicators concerning the sale of grapes for the production of PDO/PGI wines provided that such guidance does not eliminate competition in respect of a substantial proportion of the products in question.</p>                                                                                                                                              | <p style="text-align: center;"><b>Article 172b</b><br/><b>Value sharing for products with a protected designation of origin or protected geographical indication</b></p> <p>For products with a protected designation of origin or a protected geographical indication recognised under Union law, interbranch organisations recognised under Article 157 may adopt <b>indicators and may propose guidance</b> <del>rules</del> on value sharing between operators at the different stages of production and, where appropriate, of processing and marketing <b>involved in the interbranch organisation</b>, <del>for which they may, by way of derogation from Article 101(1) TFEU, request extension on the basis of Article 164(1) of this Regulation.</del> Such agreements, decisions or concerted practices shall be proportionate to the objective pursued and shall not:</p> <ul style="list-style-type: none"> <li>(a) entail the fixing of prices of the final products sold to consumers;</li> <li>(b) eliminate competition in respect of a substantial proportion of the products in question;</li> <li>(c) create an excessive imbalance between the different stages of the value chain of the sector in question.”</li> </ul> |
| <b>3)</b> | <b>International Trade Policy</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|           | <p>International Trade Policy concerns addressed under Joint Political Statements and <b>no</b> article 188a included in the CMO Regulation.</p> <ul style="list-style-type: none"> <li>- Joint Statement by the Council of the European Union, the European Parliament and the European Commission concerning the application of EU health and environmental standards to imported agricultural products <b>and including the concerns on imported tolerances for pesticides proposed by the European Parliament under article 188a.</b></li> <li>- Bilateral Joint Statement by the Council of the European Union and the European Parliament, concerning the application of EU</li> </ul> | <p>International Trade Policy concerns addressed under Joint Political Statements and article 188a included in the CMO Regulation.</p> <p><b><i>Draft joint statements to be discussed after final decision on keeping or not article 188a</i></b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

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|  | <p>health and environmental standards to imported agricultural products inviting the COM to present by the end of the first quarter of 2022 a report containing an assessment of the rationale and legal feasibility.</p> <p><b><i>Draft joint statements presented to MS at the Council meeting of 28 May, along with redrafted article 188a and EP reasoning.</i></b></p> |  |
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**Supporting text to the 7 June SCA, regarding the document:  
“Core Points Council proposal and EP proposal on 27 May 2021 -  
CMO Regulation”**

The compromise package now being put forward by the Presidency addresses the political outstanding issues following the Supertrilogue meeting of 25 May, namely on provisions related to:

- “Supply agreements of bulk wines/Payment delays for sales of bulk wine” (Article 147a);
- “Value sharing from IBO on PDO/PGI” (Article 172b) and
- “International Trade Policy” (Joint Political Statements/Article 188a).

Presidency also informed at the Supertrilogue that the Council didn’t accept the European Parliament’s proposals on article 11 (products eligible for intervention – sugar) and on article 206a (resale at a loss).

**1. Article 147a - Supply agreements of bulk wines/Payment delays for sales of bulk wine**

The approach to supply agreements for sales of wine in bulk, was a European Parliament’s amendment on new subparagraph 4(ca) of Article 164 (“Extension of rules”). However, the European Parliament considered that it would be preferable to refer this matter to a new Article 147a, which allowed for an agreement on Article 164, as it was already presented to Members States in the document WK 6866/2021 INIT. In this context, the European Parliament also presented a draft for this new article, also presented in the mentioned document.

The Presidency understood that what the European Parliament wanted with this new article was not a derogation from the rule in the UTPs directive, but a need to complement the derogation which already exists in the directive for grapes and musts, but which does not exist for bulk wines.

The Presidency understands that it may be a solution in order to avoid asymmetries in the derogations applicable to operators along the wine value chain.

In addition, the European Parliament's proposal does not seem to go in the direction of reducing the level of protection afforded by the directive to winegrowers and grape producers. It is a relationship between the wine makers and their bulk wine customers. For the Presidency this is positive, as it is important to maintain this protection conferred on vine growers.

The European Commission considered that it would be possible to accept this proposal, until the first opportunity arises to revise the UTP directive to include bulk wine.

In the light of the above, as part of a broader compromise, the Presidency is now submitting a proposal for Article 147a for validation by the Member States.

## **2. Article 172b - Value sharing from IBO on PDO/PGI**

The European Parliament proposed to address the possibility for PDO/PGI wine inter-branch organisations to provide guidance to their members on value sharing along the chain.

The issue was considered sensitive by the European Commission because it may in some way be linked to price fixing.

These concerns were conveyed by the European Commission and the Presidency in the Supertrilogue, however, European Parliament has clarified that this is not about price fixing, but only about non-binding guidelines, and that it is a matter of great importance for European Parliament to conclude favourably.

The Presidency indicated to the European Parliament that in the spirit of compromise could consider a drafting proposal by the European Commission which would be acceptable for the purposes of competition rules.

For the sake of compromise, it was possible for the European Commission to work on a proposal which the Presidency is now presenting to the Member States for validation.

## **3. International Trade Policy**

Concerns on International Trade issues were addressed at the super trilogue of 26 March and the Presidency confirmed at that occasion that the Council shares the European Parliament objectives of competitiveness for European producers vis-à-vis their competitors in the international market, which must be addressed under the framework of international institutions and rules.

The Presidency highlighted that the Council acknowledges that the European Union is a net exporter and also depends on its external trade partner's compliance with these international rules and agreements. The European Union must prevent grounds for retaliation as a result of unilateral political signals which could result in susceptibility for those trading partners.

In this sense, and as agreed in the super trilogue in March, the Presidency expressed to the European Parliament that the Council considers that the best way to address the concerns expressed by the text of Article 188a would be through the Joint Political

Statement of the 3 institutions, providing the European Commission with objective and clear guidelines for future action on trade policy.

The European Parliament insisted then on its intention to maintain Article 188a, and presented a revised version on 10 May for this article.

In order to set the best way to tackle this 'Trade' topic in the ongoing negotiations, on the 17 May SCA, the Presidency presented to the Member States for consideration the two working alternatives (WK 6461/2021 INIT), having article 188a included at the CMO or exclusively with joint political declarations.

The Member States' choice was clear in expressing that the issues raised by the European Parliament should be addressed through a joint statement, thus not accepting the EP proposal to include Article 188a in the CMO Regulation.

Work has been done by legal and technical services of the three institutions in drafting a proposal for the declaration that could reflect the concerns and the best way to address them. A drafting proposal was circulated at the Council meeting of 27 May.

At the Supertrilogue, the European Parliament insisted in keeping article 188a and presented a redraft version, and asked the Presidency to present to Member States the European Parliament reasoning for keeping this proposal to be included under CMO regulation. The European Parliament's document including the 25 May redrafted article 188a and the reasoning, was also circulated to Member States at the Council meeting of 27 May.

On that occasion, the Member States maintained the same opinion as regards international trade policy and reinforced their choice of resorting only to Joint Political Statements.

For the purpose of this compromise, the drafting proposal for the declaration to be signed by the three institutions concerning the application of EU health and environmental standards to imported agricultural products, as well as the bilateral declaration concerning the application of EU health and environmental standards to imported agricultural products, are again submitted to the Member States for their consideration.

The Presidency invites the Member States to confirm their views on this issue.

## **DRAFT PROPOSAL OF JOINT STATEMENTS ON EXTERNAL TRADE FOR THE ACHIEVEMENT OF THE EUROPEAN GREEN DEAL**

### **Draft proposal of a possible joint statement by the Council of the European Union, the European Parliament and the European 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 coherence between health and environmental standards that apply to agricultural products in the European Union and those that apply to imported agricultural products, in conformity with international trade rules. In order to tackle sustainable development issues, especially climate change and biodiversity loss, which are issues of global concern, and to match Citizens' expectations for higher quality and more sustainable foods the European Union has continually raised these standards for many years. The European Green Deal and its sectoral strategies, including the European Commission communication "Farm to Fork strategy", strive to achieve this goal, and will result in a further raising of these standards applied within the EU.

The Council of the European Union, the European Parliament and the European Commission agree that import tolerances for pesticides should be kept under review in conformity with international trade rules and following a case-by-case risk assessment. In addition to health and good agricultural practices aspects currently considered when assessing import tolerance applications, environmental aspects should also be taken into account when assessing requests for import tolerances for substances that are no longer approved in the EU.

The Council of the European Union, the European Parliament and the European Commission recognise the need to engage proactively at the multilateral level in increasing the ambition on international environmental objectives when enforcing and improving international trade rules. As stated in the European Commission Trade Policy Review Communication, it is also appropriate for the European Union, under certain circumstances as defined by WTO rules, to require that imported agricultural products comply with certain production requirements so as to ensure the effectiveness of the health, animal welfare and environmental standards that apply to agricultural products in the European Union and to contribute to the full

delivery of the European Green Deal and Farm to Fork Strategy communications. Given the importance of its market in international trade, the European Union can use its leverage capacity to raise health and environmental standards globally and thus contribute to achieving international environmental objectives such as those of the Paris Agreement.

The Council of the European Union, the European Parliament and the European Commission welcome the broader approach put forward in the Trade Policy Review, regarding the need for more engagement at the multilateral level to address key issues, such as strategic stocks, in particular because food is an essential good. Improving global food security implies reducing instability in agricultural markets by more cooperation at multilateral level going beyond reduction of market distortions, which is a necessary but not sufficient factor in stabilising international markets.

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**Draft proposal of a possible joint statement by the Council of the European Union and the European Parliament concerning the application of EU health and environmental standards to imported agricultural products:**

The Council of the European Union and the European Parliament invite the European Commission to present by the end of the first quarter of 2022 a report containing an assessment of the rationale and legal feasibility of applying EU health and environmental standards (including animal welfare standards as well as processes and production methods) to imported agricultural and agri-food products as well as identifying the concrete initiatives to ensure better consistency in their application, in conformity with WTO rules. This report 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.