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WORKING PAPER

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NOTE

From:	General Secretariat of the Council
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 - Presidency note

The Annex to this document contains some further modifications to the Amending Regulation for which the Presidency will seek delegations' approval at the SCA meeting on 21 June 2021.

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Amending Regulation (CMO) – Document for the SCA of 21 June

In this SCA, the Presidency brings to the Member States a consultation on certain elements related to Block 2 on the outcome of the 22nd Technical Meeting on 9 June 2021, to be presented as possible A-points in the super-trilogue

Another technical meeting is planned for the afternoon of 17 June, so this document may still be revised with the inclusion of possible technical points addressed at that meeting and resulting in ad referendum agreements.

1. Article 93(1a) – DOs and GIs - Definitions (Reg. 1308/2013) Article 5 – Requirements for DOs and GIs (Reg. 1151/2012)

After the discussions carried out in the technical meetings, and in view of the need for consistency between the PDO/PGI definitions between wine (Regulation 1308/2013) and food products (Reg. 1151/2012), the COM submitted a proposal to redraft Articles 93 (Reg. 1308/2013) and 5 (Reg. 1151/2012).

This current proposal introduces the term "names traditionally used" into the definition for PDO and PGI products, whether they relate to wines or food products.

On the other hand, the addition of this explicit reference, in the new definition of PDO wine, to "names traditionally used" has two consequences that must be taken into account: it creates a discrepancy with the definition of PGI of wine in Art. 93(1)(b) of Regulation 1308/2013 (and also with the definitions of food PDO and PGI in Article 5 of Regulation 1151/2012) and makes Art. 93(2) of Regulation 1308/2013 obsolete.

This discrepancy with Article 93(1)(b) of Regulation (EU) No 1308/2013 is because, although traditionally used names are by default included in both definitions (PDO wine and PGI wine), only one of the two explicitly mentions them, thus creating grounds for possible divergent interpretations (the PGI definition, by not explicitly referring to traditionally used names, could be considered as not including them). Hence the need to delete this paragraph.

The compromise text now presented follows the Council's General Approach, with the difference concerning the inclusion of the mention "names traditionally used", which is no longer an exception in paragraph 2, and which justifies the deletion of this paragraph in Article 93. This mention is now part of the introductory paragraph for both DO and GI, and for both regulations.

In the view of the Presidency, this seems to be a good compromise, which is proposed for the validation of the MS.

(Reg. 1308/2013 - EP AM 235rev, 80, 81, 82; Council AM)
(Reg. 1151/2012 – EP AM 251; Council AM)

The Commission presented a compromise wording proposal and a comparison with the Council General Approach is outlined in grey and bold:

Compromise legal text

(9) Article 93 [of Regulation (EU) No 1308/2013] is amended as follows:

(a) in paragraph 1, point (a) **and (b) are replaced** by the following:

'(a) 'a designation of origin' means a name, **including a name traditionally used**, which identifies a product, referred to in Article 92(1):

- (i) whose quality or characteristics are essentially or exclusively due to a particular geographical environment, with its inherent natural and human factors;
- (ii) as originating in a specific place, region or, in exceptional cases, a country;
- (iii) produced from grapes which originate exclusively from that geographical area;
- (iv) the production of which takes place in that geographical area; and
- (v) which is obtained from vine varieties belonging to *Vitis vinifera* or a cross between the *Vitis vinifera* species and other species of the genus *Vitis*;

'(b) "a geographical indication" means an indication, **including a name traditionally used**, referring to a region, a specific place or, in exceptional and duly justifiable cases, a country, used to describe a product referred to in Article 92(1) fulfilling the following requirements:

- (i) it possesses a specific quality, reputation or other characteristics attributable to that geographical origin;
- (ii) at least 85 % of the grapes used for its production come exclusively from that geographical area;
- (iii) its production takes place in that geographical area; and
- (iv) it is obtained from vine varieties belonging to *Vitis vinifera* or a cross between the *Vitis vinifera* species and other species of the genus *Vitis*;

(b) **paragraph 2 is deleted**

(c) paragraph 4 is replaced by the following:

'4. Production, as referred to in points (a)(iv) and (b)(iii) of paragraph 1, shall cover all the operations involved, from the harvesting of the grapes to the completion of the wine-making processes, with the exception of the harvesting of the grapes not coming from the geographical area concerned as referred to in point (b)(ii) of Article 93(1) and with the exception of any post production processes.'

Compromise legal text

(2) Article 5 [of Regulation (EU) No 1151/2012] is amended as follows:

1. For the purpose of this Regulation, 'designation of origin' is a name, **including a name traditionally used**, which identifies a product:
 - (a) originating in a specific place, region or, in exceptional cases, a country;
 - (b) whose quality or characteristics are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors; and
 - (c) the production steps of which all take place in the defined geographical area.
2. For the purpose of this Regulation, 'geographical indication' is a name, **including a name traditionally used**, which identifies a product:
 - (a) originating in a specific place, region or country;
 - (b) whose given quality, reputation or other characteristic is essentially attributable to its geographical origin; and
 - (c) at least one of the production steps of which take place in the defined geographical area.

2. Article 98 – Objection procedure (Reg. 1308/2013)

Article 98 was already the subject of an agreement on a text proposed by the Council. The European Commission and the European Parliament now consider that it should be supplemented on certain points to bring it into line with Regulation (EC) No 787/2019 (spirit drinks Regulation). In this context, the European Commission has provided a justifying framework which is set out below.

"The EP would like to add to Article 98, as modified by the Commission Proposal and by the accepted Council amendment (line 136 and 137 of the 4C document), the provisions included in Article 12 (on objection procedures) of the Delegated Commission Regulation (EU) 2019/33 on wine GI. This would complete the upgrade of some provisions of the mentioned Delegated Act on wine GI into Regulation (EU) No 1308/2013 (see the EP paper on Codification of DA) with a view to align wine legislation on GI to the other GI sectors legislation and to have all the procedural rules on objections in the same piece of legislation.

The reason for this general transfer of provisions is in the nature of certain rules of Delegated Regulation (EU) 2019/33, which are in fact more Basic act type rules than Delegated act type rules. By adopting Delegated Regulation (EU) 2019/33 the Commission intended to improve the consistency between the GI wine legislation and the legislation of the other GI sectors, in particular food and spirit drinks. Since it was not possible to open Regulation (EU) No 1308/2013, the Commission applied the delegated powers conferred to it in that same Regulation to achieve the mentioned objective. As a result, the same kind of rules are found in the Basic act of the food and spirit drinks GI legislation and in the GI wine Delegated Regulation. The amendment of the EP aims at aligning the wine GI legislation to the other GI sectors also as regards the legal status and qualification of its provisions.

Both food and spirit drinks basic acts include detailed procedural rules on objections or opposition (Article 51 of Regulation (EU) No 1151/2012 and Article 27 of Regulation (EU) 2019/787, respectively). It is therefore appropriate that also Regulation (EU) No 1308/2012

contain, in its section on wine GI, the same kind of detailed rules on objections. This formal alignment suits perfectly with one of the aims of this CMO revision of the wine GI chapter, which is precisely the harmonisation of the rules on oppositions in wine and food GI sectors.

The EP proposes to move Article 12 of Delegated Regulation (EU) 2019/33 as such, without making a selection of the most important rules. This is consistent with the structure of the Article on opposition rules in Regulation (EU) No 1151/2012 and in Regulation (EU) 2019/787. In particular, in the spirit drinks Regulation, the more recent one, the legislator made the choice of maintaining all the procedural rules in the basic act in order to have them in the same piece of legislation and therefore to make their consultation easier. The choice of transferring all the rules contained in Article 12 of the Delegated Regulation (EU) 2019/33 seems therefore logic.

One additional, and substantial, reason justifying the inclusion of the text of Article 12 of the Delegated Regulation (EC) 2019/33 is the need to change the deadline for the Commission to make the assessment of the admissibility of the opposition. In the current system, deadline to lodge oppositions is set to 2 months after the publication of the application in the EU OJ for wine. Then, the Commission has a deadline to decide whether the application is admissible or not, which is set to 4 months after the publication of the application in the EU OJ. This deadline gives 2 months to the Commission to make the assessment on admissibility. The new harmonised objections/oppositions food/wine system settled in this CMO revision provides for the same deadline to lodge oppositions in wine and food: 3 months after the publication of the application in the EU OJ. Consequently, keeping the deadline of 4 month after the publication of the application in the EU OJ for the Commission to make the assessment would unjustifiably reduce the Commission assessment period, jeopardizing the efficiency of the procedure. As correctly indicated in the wording proposed by the EP, the deadline for the Commission to make the assessment on admissibility should therefore be changed and set to 5 months after the publication of the application in the EU OJ (highlighted yellow).“

For the Presidency, this reasoning makes sense, as it contributes to better harmonisation of regulation and represents a good compromise text to be presented to the Member States for their validation.

(Reg. 1308/2013 – Council AM – Art 98)

The Commission presented a compromise wording proposal, adding paragraphs 2 to 5 (highlighted in bold and grey/yellow) to the initial Council proposal:

Article 98
Objection procedure

1. Within three months from the date of publication in the Official Journal of the European Union, of the single document referred to in point (d) of Article 94(1), the authorities of a Member State or of a third country, or any natural or legal person ~~having a legitimate interest and resident~~ **residing** or established in a third country **and having a legitimate**

interest, may submit a **reasoned** statement of objection to the Commission opposing the proposed protection. ~~A statement of objection shall be duly substantiated.~~

Any natural or legal person ~~having a legitimate interest and resident~~ **residing** or established in a Member State other than the Member State that forwarded the application for protection **and having a legitimate interest**, may submit the statement of objection via the authorities of the Member State in which it is resident or established within a time limit permitting a statement of objections to be ~~submitted lodged within the time limit referred to in~~ **pursuant to** the first subparagraph.

2. **If the Commission considers that the objection is admissible it shall invite the authority or natural or legal person that lodged the objection and the authority or natural or legal person that lodged the application for protection to engage in appropriate consultations for a period of three months. The invitation shall be issued within a period of **five months** from the date on which the application for protection, to which the substantiated statement of objection relates, is published in the Official Journal of the European Union and it shall be accompanied by a copy of the substantiated statement of objection. At any time during these three months, the Commission may, at the request of the authority or natural or legal person that lodged the application, extend the deadline for the consultations by a maximum of three months.**
3. **The authority or person that lodged the objection and the authority or person that lodged the application for protection shall start such consultations without undue delay. They shall provide each other with the relevant information to assess whether the application for protection complies with the conditions of this Regulation and the provisions adopted pursuant thereto.**
4. **If the parties reach an agreement, either the applicant established in the third country or the authorities of the Member State or of the third country from which the application for protection was lodged shall notify the Commission of the results of the consultations carried out and of all the factors which enabled that agreement to be reached, including the opinions of the parties. If the details published in accordance with Article 97(4) have been substantially amended, the Commission shall repeat the scrutiny referred to in Article 97(2) after a national procedure ensuring adequate publication of those amended details has been carried out. Where, following the agreement, there are no amendments to the product specification or where the amendments are not substantial, the Commission shall adopt a decision in accordance with Article 99(1) conferring protection on the designation of origin or geographical indication notwithstanding the reception of an admissible statement of objection.**
5. **If no agreement is reached, either the applicant established in the third country or the authorities of the Member State or of the third country, from which the application for protection was lodged shall notify the Commission of the results of the consultations carried out and of all the related information and documents. The Commission shall adopt a decision in accordance with Article 99(2) either conferring protection or rejecting the application.**

3. Regulation 251/2014, on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products

Regulation 251/2014 regarding on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products, was the subject of a review at technical meetings. The aim was its harmonisation with Regulations 1308/2013 and 1151/2012. On the basis of the European Commission's initial proposal and the proposed amendments tabled by the European Parliament, the European Commission submitted a new harmonised proposal, for a possible compromise and which was considered a good basis for agreement.

The European Parliament for its part withdrew its proposals concerning Article 3 (Definition and classification of aromatised wine products) and Annex II Part Ca.

The Presidency believes this is a good compromise in principle, which is submitted for the validation of the MS.

Further below are listed the points where a comprehensive compromise could be reached on this Regulation 251/2014:

- 3.1 Article 5 – Sales denominations
- 3.2 Article 7a – Nutritional declaration
Article 7b – List of ingredients
- 3.3 Annex I (Technical definitions, requirements and restrictions), paragraph (1), part (a), new iiiia – Spirit drinks <1% volume
- 3.4 Annex II (Sales denominations and descriptions of aromatised wine products), part A, paragraph (3), indent 1 – Vermouth
- 3.5 Annex II (Sales denominations and descriptions of aromatised wine products), part B, paragraph (8), indent 1 – Glühwein

3.1. Article 5 – Sales denominations

The sales denominations required by EU law should not be removed from the label also for control purposes. However, it could be accepted that MS allow on their own initiative for the addition of the sales denominations required by third countries to the sales denominations required by Union law.

The approval of this amendment requires a minor adjustment to integrate in Article 33 the reference, in coherence with the new empowerment under Article 5(5b).

(Reg. 251/2014 – EP AM 202 and 203)

The Commission presented a compromise wording proposal, redrafting the initial EP amendments proposals, regarding these 2 new paragraphs:

Article 5
Sales denominations

(...)

5a. In the case of aromatised wine products produced in the Union and destined for export to third countries whose legislation requires different sales denominations, Member States may allow that those sales denominations accompany the sales denominations set out in Annex II. Those additional sales denominations may appear in languages other than the official languages of the Union.

5b. The Commission shall be empowered to adopt delegated acts in accordance with Article 33 to supplement Annex II to this Regulation in order to take into account technical progress, scientific and market developments, consumers' health or consumer need for information.

Article 33
Exercise of the delegation

1. (...)

2. (...)

2a. The power to adopt delegated acts referred to in Articles 5(5b) and 6a(4) shall be conferred on the Commission for a period of five years from [entry into force of Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Articles 4(2), **5(5b), 6a(4)**, 28, 32(2) and 36(1) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect the day following the publication in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of the delegated acts already in force.

4. (...)

5. *A delegated act adopted pursuant to Articles 4(2), **5(5b), 6a(4)**, 28, 32(2) and 36(1) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months on the initiative of the European Parliament or the Council.*

**3.2. Article 7a – Nutritional declaration
Article 7b – List of ingredients**

This drafting proposal introduces compulsory nutrition information on aromatised wines, just mirroring what was already done in the compromise for wine, including all the flexibility to provide information off-label.

New Articles 7a (EP AM 205) and 7b (EP AM 206) were merged and became the new Article 6a proposed by the European Commission.

The approval of this amendment requires a minor adjustment to integrate in Article 33 the reference, in coherence with the new empowerment under Article 6a(4). (See the text in the previous point.)

(Reg. 251/2014 – EP AM 205 and 206)

The Commission presented a compromise wording proposal, redrafting the initial EP amendments proposals and merging them:

Article 6a

Nutrition declaration and ingredients list

- 1. *The labelling of aromatised wine products marketed in the Union or for export shall contain the following mandatory particulars:***
 - (a) *the nutrition declaration pursuant to Article 9(1), point (I), of Regulation (EU) No 1169/2011; and***
 - (b) *the list of ingredients pursuant to Article 9(1), point (b), of Regulation (EU) No 1169/2011.'***
- 2. *By way of derogation from paragraph 1, point (a), the nutrition declaration may be limited to the energy value on the label or packaging, which may be expressed by using the symbol (E) for Energy. In that case, the nutrition declaration shall be provided additionally by electronic means identified on the label or packaging. This nutrition declaration shall not be displayed with other information intended for sales or marketing purposes and no user data shall be collected or tracked.***
- 3. *By way of derogation from paragraph 1, point (b), the list of ingredients may be provided by electronic means identified on the label or packaging. In this case, the following requirements apply:***

- (a) no user data shall be collected or tracked;*
 - (b) the list of ingredients shall not be displayed with other information intended for sales or marketing purposes; and*
 - (c) the indication of the particulars referred to in Article 9(1), point (c), of Regulation (EU) No 1169/2011 shall appear directly on the package or on a label attached thereto. This indication shall comprise the word 'contains' followed by the name of the substance or product as listed in Annex II of Regulation (EU) No 1169/2011.*
- 4. The Commission is empowered to adopt delegated acts in accordance with Article 33 to further detail the rules for the indication and designation of ingredients for the application of paragraph 1, point (b).'**

3.3. Annex I (Technical definitions, requirements and restrictions), paragraph (1), part (a), new iiiia – Spirit drinks <1% volume

The Commission can accept in principle the European Parliament's proposal to add spirit drinks as flavouring agents within a predetermined threshold. The proposed compromise, redrafting the initial European Parliament amendment, concerns merely the form.

(Reg. 251/2014 – EP AM 207)

The Commission presented a compromise wording proposal, redrafting the initial EP amendment:

(7a) in the first paragraph of Part (a) of Annex I, the following point is added:

(iii a) spirit drinks in a quantity not exceeding 1% of the overall volume.

3.4. Annex II (Sales denominations and descriptions of aromatised wine products), part A, paragraph (3), indent 1 - Vermouth

According to the European Parliament's proposal, the addition of alcohol to vermouth is a possibility and not an obligation.

A compromise wording proposal was agreed in principle, redrafting the initial European Parliament amendment.

(Reg. 251/2014 – EP AM 209)

A compromise wording proposal is presented, redrafting the initial European Parliament's amendment (changes to the status quo are highlighted in bold, crossing-out and grey):

ANNEX II

SALES DENOMINATIONS AND DESCRIPTIONS OF AROMATISED WINE PRODUCTS

A. SALES DENOMINATIONS AND DESCRIPTIONS OF AROMATISED WINES

(...)

3) Vermouth

Aromatised wine:

- to which alcohol ~~has~~ **may have** been added, and
- whose characteristic taste has been obtained by the use of appropriate substances of *Artemisia* species.

(...)

3.5. Annex II (Sales denominations and descriptions of aromatised wine products), part B, paragraph (8), indent 1 – Glühwein

The European Parliament proposed to open the possibility of mixing red and white wine when producing Glühwein aromatised wine. The European Commission can support the amendment proposed by the European Parliament but, for good legal drafting purposes, proposed a compromise wording that was agreed in principle, redrafting the initial European Parliament's amendment.

(Reg. 251/2014 – EP AM 210)

A compromise wording proposal is presented, redrafting the initial European Parliament's amendment (changes to the status quo are highlighted in bold and grey):

ANNEX II

SALES DENOMINATIONS AND DESCRIPTIONS OF AROMATISED WINE PRODUCTS

B. SALES DENOMINATIONS AND DESCRIPTIONS OF AROMATISED WINE BASED DRINKS

(...)

8) Glühwein

Aromatised wine-based drink

- which is obtained exclusively from red or white wine **or both**,

(...)