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## REGULATIONS

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## I

*(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)*

## REGULATIONS

## COUNCIL REGULATION (EC) No 479/2008

of 29 April 2008

**on the common organisation of the market in wine, amending Regulations (EC) No 1493/1999, (EC) No 1782/2003, (EC) No 1290/2005, (EC) No 3/2008 and repealing Regulations (EEC) No 2392/86 and (EC) No 1493/1999**

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 36 and 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament <sup>(1)</sup>,

Having regard to the opinion of the European Economic and Social Committee <sup>(2)</sup>,

Whereas:

(1) The Community regime applying to the wine sector is laid down in Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine <sup>(3)</sup> and its implementing regulations.

(2) Wine consumption in the Community has been steadily diminishing and the volume of wine exported from the

Community since 1996 has been increasing at a much slower rate than the respective imports. This has led to a deterioration of the balance between supply and demand which in turn puts producers' prices and incomes under pressure.

(3) Not all the instruments currently included in Regulation (EC) No 1493/1999 have proved effective in steering the wine sector towards a competitive and sustainable development. The market mechanism measures have often proved mediocre in terms of cost effectiveness to the extent that they have encouraged structural surpluses without requiring structural improvements. Moreover, some of the existing regulatory measures have unduly constrained the activities of competitive producers.

(4) Thus the current legal framework does not appear to enable the objectives set out in Article 33 of the Treaty, and in particular stabilising the wine market and ensuring a fair standard of living for the agricultural community concerned, to be attained in a sustainable manner.

(5) In the light of the experience gained it is therefore appropriate fundamentally to change the Community regime applying to the wine sector with a view to achieving

<sup>(1)</sup> Opinion of 12 December 2007 (not yet published in the Official Journal).

<sup>(2)</sup> Opinion of 12 December 2007 (not yet published in the Official Journal).

<sup>(3)</sup> OJ L 179, 14.7.1999, p. 1. Regulation as last amended by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1).

the following objectives: increasing the competitiveness of the Community's wine producers; strengthening the reputation of Community quality wine as the best in the world; recovering old markets and winning new ones in the Community and worldwide; creating a wine regime that operates through clear, simple and effective rules that balance supply and demand; creating a wine regime that preserves the best traditions of Community wine production, reinforcing the social fabric of many rural areas, and ensuring that all production respects the environment. It is therefore appropriate to repeal Regulation (EC) No 1493/1999 and to replace it by this Regulation.

- (6) This Regulation has been preceded by an evaluation and consultation process to better identify and target the needs of the wine sector. An external evaluation report was commissioned and published in November 2004. To give stakeholders an opportunity to express their opinions, the Commission organised a seminar on 16 February 2006. A communication from the Commission *Towards a sustainable European wine sector* was published on 22 June 2006 along with an impact assessment listing a number of options for a reform of the wine sector.
- (7) From July to November 2006, discussions took place at Council level. In December 2006, the European Economic and Social Committee and the Committee of the Regions adopted reports on the proposed wine reform options as set out in the communication from the Commission. On 15 February 2007, the European Parliament adopted its own-initiative report on the communication outlining conclusions which have been taken into account in this Regulation.
- (8) Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) <sup>(1)</sup> should eventually cover the wine sector as well. The Single CMO Regulation includes provisions of a horizontal nature, in particular on trade with third countries, competition rules, controls and penalties, exchange of information between the Commission and the Member States. To allow for easy future incorporation into the Single CMO Regulation, the provisions of this Regulation dealing with these horizontal issues should be aligned as much as possible on those contained in the Single CMO Regulation.
- (9) It is important to provide for support measures which are liable to strengthen competitive structures. While those measures should be financed and defined by the Community, it should be left to Member States to select the appropriate set of measures to meet the needs of their regional bodies, taking their particularities into account,

where necessary, as well as to integrate them into national support programmes. Member States should be responsible for the implementation of such programmes.

- (10) The financial key to allocating the funds for the national support programmes among Member States should be related to the historical share of the wine budget as the main criterion, the area planted with vines and the historical production. However, this key should be adjusted with respect to situations where using the historical share of the wine budget as the main criterion would lead to an undue distribution of the funds.
- (11) One key measure eligible for national support programmes should be the promotion and marketing of Community wines in third countries. Restructuring and conversion activities should continue to be covered on account of their positive structural effects on the wine sector. Support should also be available for investments in the wine sector which are geared towards improving the economic performance of the enterprises as such. Support for by-product distillation should be a measure available to Member States which desire to use such an instrument to ensure the quality of wine, while preserving the environment.
- (12) Preventive instruments such as harvest insurance, mutual funds and green harvesting should be eligible for support under the support programmes so as to encourage a responsible approach to crisis situations.
- (13) Keeping some traditional measures for a transitional period is justified so as to alleviate the otherwise abrupt termination of the usual market measures so far financed through Community funds. The measures concerned are support for potable alcohol distillation, support for crisis distillation and support for the use of concentrated grape must.
- (14) Lastly, for various reasons Member States may prefer granting decoupled aid under the Single Payment Scheme to farmers. This possibility should therefore be open to Member States, and because of the particularities of the Single Payment Scheme any such transfer should be irreversible and reduce correspondingly the budget available for the national support programmes in subsequent years.
- (15) The financing of the eligible measures by the Community should, where practicable, be dependent on compliance by the producers concerned with certain environmental rules in force. Any non-compliance detected should give rise to corresponding reductions in payments.

<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1. Regulation as last amended by Regulation (EC) No 248/2008 (OJ L 76, 19.3.2008, p. 6).

- (16) Support for the wine sector should also come from structural measures under Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) <sup>(1)</sup>.
- (17) The following measures pursuant to Regulation (EC) No 1698/2005 should be of interest for the wine sector: setting up of young farmers and investments in technical facilities and marketing improvements, vocational training, information and promotion support for producers' organisations after entering quality schemes, agri-environment support, early retirement to be granted to farmers who decide to stop all commercial farming activity for the purpose of transferring the holding to other farmers.
- (18) In order to increase the financial means available under Regulation (EC) No 1698/2005, a gradual transfer of funds to the budget under that Regulation should be put into place where the relevant amounts are sufficiently important.
- (19) Certain regulatory measures should apply in the wine sector, in particular for reasons of health, quality and consumer expectations.
- (20) Member States producing more than 50 000 hectolitres per year should continue to be responsible for classifying the wine grape varieties from which wine may be made on their territories. Certain wine grape varieties should be excluded.
- (21) Certain products covered by this Regulation should be marketed in the Community in accordance with a specific classification of grapevine products and the corresponding specifications.
- (22) Products covered by this Regulation should be produced in accordance with certain rules on oenological practices and restrictions, which guarantee that health concerns as well as consumer expectations as regards quality and production methods are met. For reasons of flexibility, keeping those practices updated and approving new ones should be taken care of at the level of implementing measures except in the politically sensitive areas of enrichment and acidification, for which the Council should remain competent as regards changes.
- (23) Increasing the alcohol content of wine should be subject to certain limits and should, where applied, be carried out by adding concentrated grape must or rectified concentrated grape must to wine or sucrose where this has been permitted. The limits on permitted enrichment increments should be made stricter than has been the case to date.
- (24) In view of the poor quality of wine obtained from over-pressing, this practice should be prohibited.
- (25) In order to meet the international standards in this field, the Commission should as a general rule base itself on the oenological practices recommended by the International Organisation of Vine and Wine (OIV).
- (26) Coupage of a wine originating in a third country with a Community wine and coupage between wines originating in third countries should continue to be prohibited in the Community. Similarly, certain types of grape must, grape juice and fresh grapes originating in third countries should not be turned into wine or added to wine in the territory of the Community.
- (27) The concept of quality wines in the Community is based, *inter alia*, on the specific characteristics attributable to the wine's geographical origin. Such wines are identified for consumers via protected designations of origin and geographical indications, although the current system is not fully developed in this respect. In order to allow for a transparent and more elaborate framework underpinning the claim to quality by the products concerned, a regime should be established under which applications for a designation of origin or a geographical indication are examined in line with the approach followed under the Community's horizontal quality policy applicable to foodstuffs other than wine and spirits in Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs <sup>(2)</sup>.
- (28) In order to preserve the particular quality characteristics of wines with a designation of origin or a geographical indication, Member States should be allowed to apply more stringent rules in that respect.
- (29) To qualify for protection in the Community, designations of origin and geographical indications should be recognised and registered at Community level. To ensure that the respective names meet the conditions laid down by this Regulation, applications should be examined by the national authorities of the Member State concerned, subject to compliance with minimum common provisions, including a national objection procedure. The Commission should subsequently scrutinize these decisions to ensure that applications satisfy the conditions laid down by this Regulation and that the approach is uniform across the Member States.

<sup>(1)</sup> OJ L 277, 21.10.2005, p. 1. Regulation as last amended by Regulation (EC) No 146/2008 (OJ L 46, 21.2.2008, p. 1).

<sup>(2)</sup> OJ L 93, 31.3.2006, p. 12. Regulation as amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

- (30) Protection should be open to designations of origin and geographical indications of third countries where these are protected in their country of origin.
- (31) The registration procedure should enable any natural or legal person having a legitimate interest in a Member State or a third country to exercise his rights by notifying his objections.
- (32) Registered designations of origin and geographical indications should enjoy protection against uses which unduly take advantage of the reputation that complying products command. So as to promote fair competition and not to mislead consumers, this protection should also affect products and services not covered by this Regulation, including those not found in Annex I to the Treaty.
- (33) Procedures should be provided for to permit amendment of product specifications after protection, and cancellation of the designation of origin or geographical indication, in particular if compliance with the corresponding product specification is no longer ensured.
- (34) The designations of origin and geographical indications protected on Community territory should be subject to controls, where possible in compliance with Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules <sup>(1)</sup>, including a system of checks to ensure compliance with the product specifications of the wines concerned.
- (35) Member States should be authorised to charge a fee to cover the costs incurred, including those incurred in examining applications for protection, statements of objections, applications for amendments and requests for cancellations under this Regulation.
- (36) Existing designations of origin and geographical indications in the Community should for reasons of legal certainty be exempt from the application of the new examination procedure. The Member States concerned should, however, provide the Commission with the basic information and acts under which they have been recognised at national level failing which they should lose their protection as designations of origin or geographical indications. The scope for cancellation of existing designations of origin and geographical indications should be limited for reasons of legal certainty.
- (37) Quality policy is regulated at national level in certain Member States according to national provisions and practices. Such provisions and practices may continue.
- (38) Certain terms are traditionally used in the Community and convey information to consumers about particularities and quality of wines complementing the information conveyed by designations of origin and geographical indications. So as to ensure the working of the internal market and fair competition and to avoid consumers being misled, those traditional terms should be eligible for protection in the Community.
- (39) The description, designation and presentation of products covered by this Regulation can have significant effects on their marketability. Differences between the laws of the Member States on the labelling of wine products may impede the smooth functioning of the internal market.
- (40) Rules should therefore be laid down which take into account the legitimate interests of consumers and producers. For this reason, Community rules concerning labelling are appropriate.
- (41) These rules should provide for the obligatory use of certain terms so as to identify the product in accordance with the sales categories and provide consumers with certain important items of information. The use of certain other optional pieces of information should also be addressed at Community level.
- (42) Save as otherwise provided, labelling rules in the wine sector should be complementary to those laid down in Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs <sup>(2)</sup>, which apply horizontally. Experience has shown that a differentiation in terms of labelling rules according to the category of wine product is often not expedient. The rules should therefore in principle apply to all the different categories of wine, including imported products. In particular, they should allow the indication of a wine grape variety and a vintage on wines without a designation of origin or a geographical indication, subject to requirements and exceptions concerning the veracity of the labelling and the respective monitoring as well as the risk of confusion of consumers.
- (43) The existence and formation of producers' organisations continue to have the potential to contribute to the attainment of the needs of the wine sector as defined at Community level. Their usefulness should lie in the scope

<sup>(1)</sup> OJ L 165, 30.4.2004, p. 1; corrected by OJ L 191, 28.5.2004, p. 1. Regulation as last amended by Council Regulation (EC) No 301/2008 (OJ L 97, 9.4.2008, p. 85).

<sup>(2)</sup> OJ L 109, 6.5.2000, p. 29. Directive as last amended by Commission Directive 2007/68/EC (OJ L 310, 28.11.2007, p. 11).



- and efficiency of the services they offer to their members. The same holds true for inter-branch organisations. Member States should therefore recognise organisations which meet certain requirements defined at Community level.
- (44) In order to improve the operation of the market for wines, Member States should be able to implement decisions taken by inter-branch organisations. The scope of such decisions should, however, exclude practices which could distort competition.
- (45) The creation of a single Community market involves the introduction of a trading system at the external borders of the Community. This should include import duties and should, in principle, stabilise the Community market. The trading system should be based on the Community's international obligations, in particular those flowing from the World Trade Organisation (WTO) agreements.
- (46) Monitoring trade flows is above all a matter of management which should be addressed in a flexible way. Accordingly, a decision on the introduction of licence requirements should be taken by the Commission taking account of the need for import and export licences for managing the markets concerned and, in particular, for monitoring the imports of the products in question. General conditions concerning such licences should, however, be laid down in this Regulation.
- (47) Where provision is made for import and export licences, the lodging of a security should be required in order to guarantee that the transactions for which such licences are granted are carried out.
- (48) The import duty system makes it possible to dispense with all other protective measures at the external borders of the Community. The internal market and duty mechanism could, in exceptional circumstances, prove to be inadequate. In such cases, in order not to leave the Community market defenceless against possible disturbances, the Community should be able to take all necessary measures without delay. Such measures should comply with the international commitments of the Community.
- (49) In order to prevent or counteract adverse effects on the Community market which could result more particularly from imports of grape juice and grape must products, such imports should be subject to payment of an additional duty, if certain conditions are fulfilled.
- (50) To ensure the proper functioning of the market in wine and, in particular, avoid market disturbances, the possibility of prohibiting the use of inward and outward processing arrangements should be provided for. To succeed, this type of market management instrument usually needs to be applied without major delays. The Commission should therefore be entrusted with the relevant powers.
- (51) Products imported from third countries should be subject to the Community rules on product categories, labelling and designations of origin and geographical indications. They should be accompanied by an analysis report.
- (52) It is appropriate, under certain conditions, to confer on the Commission the power to open and administer tariff quotas resulting from international agreements concluded in accordance with the Treaty or from acts of the Council.
- (53) The surplus production of wine in the Community has been made worse as a result of violations of the transitional prohibition on new plantings. A significant number of unlawful plantings exist in the Community, which constitutes a source of unfair competition and exacerbates the problems of the wine sector.
- (54) A distinction should be made between unlawful areas planted before and after 31 August 1998, in so far as the producers' obligations towards those areas are concerned. Unlawful areas from before 1 September 1998 should be afforded a last opportunity for regularisation under the conditions of Article 2(3) of Regulation (EC) No 1493/1999. Accordingly, the corresponding provision in this Regulation should have retroactive effect.
- (55) So far, unlawful areas from before 1 September 1998 are not subject to any grubbing-up obligation. The producers concerned should be obliged to regularise them against payment of a fee. If the areas concerned are not regularised by 31 December 2009, producers should be under an obligation to grub up the areas concerned at their own expense. Non-compliance with this mandatory grubbing-up should entail penalty payments.
- (56) Those areas which have been planted in violation of the relevant prohibition after 31 August 1998 should be grubbed up, this being the sanction laid down in Regulation (EC) No 1493/1999. Non-compliance with this mandatory grubbing-up should entail penalty payments.
- (57) Pending the implementation of the regularisation and grubbing-up measures, wine from areas planted in violation of the prohibition and not regularised in accordance with Regulation (EC) No 1493/1999 should not be put on the market other than for distillation at the expense of the producer concerned. The presentation of distillation contracts by producers should ensure better monitoring of this rule than has been the case hitherto.
- (58) While the transitional prohibition on new plantings has had some effect on the balance between supply and demand in the wine market, it has at the same time created an obstacle for competitive producers who wish to respond flexibly to increased demand.

- (59) As a market balance has not yet been found, and as the accompanying measures such as the grubbing-up scheme need time to take effect, it is expedient to keep the prohibition on new plantings in place until 31 December 2015, at which juncture, however, it should be definitely lifted in order to permit competitive producers to respond freely to market conditions. However, Member States should be given the possibility to extend the prohibition for their territories until 31 December 2018 if they consider doing so necessary.
- (60) The existing permission for new planting of areas intended for graft nurseries, land consolidation and compulsory purchase as well as wine-growing experiments has proved not to disturb unduly the wine market and should therefore be continued subject to the necessary controls.
- (61) Replanting rights should continue to be awarded where producers undertake to grub up equivalent areas planted with vines, as the net effect of such plantings on production tends to be nil.
- (62) Furthermore, it should be possible for Member States to authorise the transfer of replanting rights to another holding, subject to strict controls, provided that this transfer is in pursuit of quality, concerns the areas intended for graft nurseries or is connected with the transfer of part of the holding. These transfers should be maintained within the same Member State.
- (63) In order to improve the management of wine-growing potential and to promote the efficient use of planting rights and thus to further mitigate the effect of the transitional restriction on plantings, the systems of national or regional reserves should continue to exist.
- (64) Member States should maintain broad discretion in the management of the reserves, subject to the necessary controls, so as to permit them better to align the use of the rights to plant such reserves with local needs. This should include the opportunity to purchase planting rights, to fund the reserve and to sell planting rights from the reserve. To this end, Member States should continue to be allowed not to apply the reserve system, provided that they can prove that they already have an efficient system of managing planting rights.
- (65) The grant of specific benefits to young wine producers may facilitate not only their establishment but also the structural adjustment of their holdings after their initial establishment, and such producers should therefore be eligible for the grant of rights from the reserves free of charge.
- (66) To ensure that resources are used in the most efficient manner and better to align supply with demand, planting rights should be used by their holders within a reasonable time. Failing that, they should be allocated or reallocated to the reserves. For the same reasons, rights in the reserves should be awarded within a reasonable time.
- (67) Member States where the planting right regime did not apply by 31 December 2007 should be exempt from the transitional prohibition on new plantings.
- (68) As a further accompanying measure aimed at creating a wine sector which is attuned to market conditions, a grubbing-up scheme should be introduced. Where producers consider that the conditions in certain areas are not conducive to viable production, they should be given the option of cutting their costs and permanently withdrawing these areas from wine production and should be enabled either to pursue alternative activities on the relevant area or to retire from agricultural production altogether.
- (69) Experience has shown that to leave it to Member States to allow grubbing-up against payment of a premium risks rendering the measure and the attendant effects on supply ineffective. Therefore, in contrast to the current regime, producers should generally be eligible for entering the grubbing-up scheme and have the sole right to decide whether to apply. In return, they should be granted a premium per hectare of grubbed-up vines. However, Member States where wine production is below 50 000 hectolitres per year should not have access to the grubbing-up scheme, as they do not substantially affect production in the Community.
- (70) Member States should be able to fix, on the basis of objective criteria, the specific levels of the grubbing-up premium within certain scales determined by the Commission.
- (71) In order to guarantee the responsible treatment of the grubbed-up areas, entitlement to the premium should be dependent on compliance by the producers concerned with the applicable environmental rules. Any non-compliance detected should give rise to a commensurate reduction of the grubbing-up premium.
- (72) To avoid environmental problems, Member States should be able to exclude grubbing-up in mountain, steep-slope and some small-island areas and in the case of environmental concerns in accordance with specific conditions. In accordance with the policy for the outermost regions of the Community, the grubbing-up scheme shall not apply in the Azores, Madeira and the Canary Islands. Member States should be enabled to discontinue grubbing-up where the total grubbed-up area reaches 8 % of their areas planted with vines (10 % at regional level).
- (73) Where in a Member State the area grubbed-up would exceed 15 % of its total area planted with vines, it should be made possible to cap the grubbing-up at 15 % in that Member State so as to avoid disproportionate concentration of the grubbing-up resources at the expense of other



Member States. In addition, it should be made possible to stop grubbing-up in a given year when the area grubbed-up in that year reaches 6 % of its total area planted with vines.

- (74) The agricultural area formerly used for vine-growing, once grubbed up, should qualify as an eligible area under the Single Payment Scheme and be granted the average regional decoupled direct payment which, for budgetary reasons, should not exceed a certain sum.
- (75) The proper working of the single market would be jeopardised by the unqualified granting of national aids. The provisions of the Treaty governing State aids should therefore in principle apply to the products covered by the common market organisation for wine. However, the provisions on the grubbing-up premium and certain measures under the support programmes should not by themselves preclude the granting of national aid for the same purposes.
- (76) For a better management of wine-growing potential, it is desirable that Member States communicate to the Commission an inventory of their production potential. The information contained in it should be based on the vineyard register, which should be maintained and regularly updated. Details of the register should be established by a Commission implementing regulation. Council Regulation (EEC) No 2392/86 of 24 July 1986 establishing a Community vineyard register<sup>(1)</sup> should therefore be repealed. To encourage Member States to communicate the inventory, support for restructuring and conversion should be limited to those Member States which have communicated the inventory.
- (77) So that the information necessary for making the relevant policy and administrative choices is available, producers of grapes for wine making, of must and of wine should submit harvest declarations. Member States should be able to require merchants of grapes for wine making to declare each year the quantities marketed from the latest harvest. Producers of must and wine, and merchants other than retailers, should declare their stocks of must and wine.
- (78) In order to provide for a satisfactory level of traceability of the products concerned, in particular in the interest of consumer protection, provision should be made for all the products covered by this Regulation to have an accompanying document when circulating within the Community.
- (79) In order to address justified cases of crisis even after the end of the transitional crisis distillation support measure foreseen under the support programmes in 2012, Member

States should be able to provide aid for crisis distillation within an overall budgetary limit of 15 % of the respective value of the Member State's relevant yearly budget for its national support programme. Any such aid should be notified to the Commission and approved under this Regulation before it is granted.

- (80) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>(2)</sup>.
- (81) Expenditure incurred by the Member States as a result of the obligations arising from the application of this Regulation should be financed by the Community in accordance with Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy<sup>(3)</sup>.
- (82) Member States and the Commission should keep each other supplied with the information necessary for applying this Regulation.
- (83) To guarantee compliance with the obligations laid down by this Regulation there is a need for controls and the application of penalties in the event of non-compliance with such obligations. The power to set up the corresponding rules including those concerning the recovery of undue payments and the reporting obligations of the Member States, should therefore be conferred on the Commission.
- (84) Member States' authorities should be responsible for ensuring compliance with this Regulation, and arrangements should be made for the Commission to be able to monitor and ensure such compliance.
- (85) To make provision for the incorporation of the wine sector into the Single Payment Scheme, all actively cultivated wine-growing areas should be made eligible for the Single Payment Scheme provided for in Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers<sup>(4)</sup>.
- (86) Vine-growers in Bulgaria, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Romania, Slovenia and Slovakia should benefit from the introduction of the wine component in the Single Payment Scheme under the same conditions as vine-growers in the Community as constituted at 30 April 2004. Therefore,

<sup>(2)</sup> OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

<sup>(3)</sup> OJ L 209, 11.8.2005, p. 1. Regulation as last amended by Regulation (EC) No 1437/2007 (OJ L 322, 7.12.2007, p. 1).

<sup>(4)</sup> OJ L 270, 21.10.2003, p. 1. Regulation as last amended by Commission Regulation (EC) No 293/2008 (OJ L 90, 2.4.2008, p. 5).

<sup>(1)</sup> OJ L 208, 31.7.1986, p. 1. Regulation as last amended by Regulation (EC) No 1631/98 (OJ L 210, 28.7.1998, p. 14).

the wine component in the Single Payment Scheme should not be subject to the application of the schedule of increments provided for in Article 143a of Regulation (EC) No 1782/2003.

(87) Regulation (EC) No 1782/2003 and Council Regulation (EC) No 3/2008 of 17 December 2007 on information provision and promotion measures for agricultural products on the internal market and in third countries <sup>(1)</sup> should be amended accordingly.

(88) The change from the arrangements in Regulation (EC) No 1493/1999 and the other Regulations in the wine sector to those in this Regulation could give rise to difficulties which are not dealt with in this Regulation. In order to deal with that eventuality, provision should be made for the Commission to adopt the necessary transitional measures. The Commission should also be authorised to solve specific practical problems,

HAS ADOPTED THIS REGULATION:

#### TITLE I

### INTRODUCTORY PROVISIONS

#### Article 1

#### Subject matter and scope

1. This Regulation lays down specific rules applying to the production and marketing of the products referred to in part XII of Annex I to Regulation (EC) No 1234/2007.

2. As regards the products referred to in paragraph 1, this Regulation provides for:

- (a) support measures;
- (b) regulatory measures;
- (c) rules on trade with third countries;
- (d) rules governing production potential.

#### Article 2

#### Definitions

For the purposes of this Regulation, the definitions laid down in Annex I shall apply.

<sup>(1)</sup> OJ L 3, 5.1.2008, p. 1.

#### TITLE II

### SUPPORT MEASURES

#### CHAPTER I

### Support programmes

#### Section 1

### Introductory provisions

#### Article 3

#### Scope

This Chapter lays down the rules governing the attribution of Community funds to Member States and the use of those funds by Member States through national support programmes (hereinafter referred to as support programmes) to finance specific support measures to assist the wine sector.

#### Article 4

#### Compatibility and consistency

1. Support programmes shall be compatible with Community law and consistent with the activities, policies and priorities of the Community.

2. Member States shall be responsible for the support programmes and ensure that they are internally consistent and drawn up and implemented in an objective manner, taking into account the economic situation of the producers concerned and the need to avoid unjustified unequal treatment between producers.

Member States shall be responsible for providing for, and carrying out, the necessary controls and penalties in case of non-compliance with the support programmes.

3. No support shall be granted:

- (a) for research projects and measures to support research projects;
- (b) for measures which are contained in Member States' rural development programmes under Regulation (EC) No 1698/2005.

## Section 2

**Submission and content of support programmes**

## Article 5

**Submission of support programmes**

1. Each producer Member State referred to in Annex II shall, for the first time by 30 June 2008, submit to the Commission a draft five-year support programme containing measures in accordance with this Chapter.

The support measures in the support programmes shall be drawn up at the geographical level which the Member States deem most appropriate. Before being submitted to the Commission, the support programme shall be subject to consultation with the competent authorities and organisations at the appropriate territorial level.

Each Member State shall submit one single draft support programme, which may accommodate regional particularities.

2. Support programmes shall become applicable three months after their submission to the Commission.

However, if the submitted support programme does not comply with the conditions laid down in this Chapter, the Commission shall inform the Member State thereof. In such case, the Member State shall submit a revised support programme to the Commission. The revised support programme shall become applicable two months after its notification unless an incompatibility persists in which case this subparagraph shall apply.

3. Paragraph 2 shall apply *mutatis mutandis* to changes in respect of support programmes submitted by Member States.

4. Article 6 shall not apply where a Member State's only measure in a support programme consists of the transfer to the Single Payment Scheme referred to in Article 9. Article 21 shall apply in such case only in respect of paragraph 1 thereof and in relation to the year in which the transfer takes place.

## Article 6

**Content of support programmes**

Support programmes shall consist of the following elements:

- (a) a detailed description of the measures proposed as well as their quantified objectives;
- (b) the results of consultations held;
- (c) an appraisal showing the expected technical, economic, environmental and social impact;
- (d) a schedule for implementing the measures;

- (e) a general financing table showing the resources to be deployed and the envisaged indicative allocation of the resources between the measures in accordance with ceilings provided for in Annex II;
- (f) the criteria and quantitative indicators to be used for monitoring and evaluation as well as the steps taken to ensure that the support programmes are implemented appropriately and effectively;
- (g) the designation of competent authorities and bodies responsible for implementing the support programme.

## Article 7

**Eligible measures**

1. Support programmes shall contain one or more of the following measures:

- (a) Single Payment Scheme support in accordance with Article 9;
- (b) promotion in accordance with Article 10;
- (c) restructuring and conversion of vineyards in accordance with Article 11;
- (d) green harvesting in accordance with Article 12;
- (e) mutual funds in accordance with Article 13;
- (f) harvest insurance in accordance with Article 14;
- (g) investments in accordance with Article 15;
- (h) by-product distillation in accordance with Article 16;
- (i) potable alcohol distillation in accordance with Article 17;
- (j) crisis distillation in accordance with Article 18;
- (k) use of concentrated grape must in accordance with Article 19.

2. Support programmes shall not contain measures other than those listed in Articles 9 to 19.

## Article 8

**General rules concerning support programmes**

1. The allocation of the available Community funds as well as the budgetary limits are provided for in Annex II.

2. Community support shall only relate to eligible expenditure incurred after the submission of the relevant support programme as referred to in Article 5(1).

3. Member States shall not contribute to the costs of measures financed by the Community under the support programmes.

4. By way of derogation from paragraph 3, Member States may grant national aid in accordance with the relevant Community rules on State aid for the measures referred to in Articles 10, 14 and 15.

The maximum aid rate as laid down in the relevant Community rules on State aid shall apply to the global public financing including both Community and national funds.

### Section 3

#### Specific support measures

##### Article 9

#### Single Payment Scheme and support to vine-growers

1. Member States may provide support to vine-growers by allocating to them payment entitlements within the meaning of Chapter 3 of Title III of Regulation (EC) No 1782/2003 in accordance with point O of Annex VII to that Regulation.

2. Member States intending to make use of the possibility referred to in paragraph 1 shall foresee such support in their support programmes including, as regards subsequent transfers of funds to the Single Payment Scheme, by way of changes to those programmes in accordance with Article 5(3).

3. Once effective, support as referred to in paragraph 1 shall:

- (a) remain in the Single Payment Scheme and no longer be available, or be made available under Article 5(3), for the measures listed in Articles 10 to 19 in subsequent years of the operation of the support programmes;
- (b) commensurately reduce the amount of funds available for measures listed in Articles 10 to 19 in the support programmes.

##### Article 10

#### Promotion on third-country markets

1. Support under this Article shall cover information or promotion measures concerning Community wines in third countries, thereby improving their competitiveness in those countries.

2. The measures referred to in paragraph 1 shall relate to wines with a protected designation of origin or geographical indication or wines with an indication of the wine grape variety.

3. The measures referred to in paragraph 1 may consist only of:

- (a) public relations, promotional or advertisement measures, in particular highlighting the advantages of the Community products, especially in terms of quality, food safety or environmental friendliness;
- (b) participation at events, fairs or exhibitions of international importance;
- (c) information campaigns, in particular on the Community systems covering designations of origin, geographical indications and organic production;
- (d) studies of new markets, necessary for the expansion of market outlets;
- (e) studies to evaluate the results of the promotional and information measures.

4. The Community contribution to promotion activities shall not exceed 50 % of the eligible expenditure.

##### Article 11

#### Restructuring and conversion of vineyards

1. The objective of measures relating to the restructuring and conversion of vineyards shall be to increase the competitiveness of wine producers.

2. Restructuring and conversion of vineyards shall be supported in accordance with this Article only if Member States submit the inventory of their production potential in accordance with Article 109.

3. Support for restructuring and conversion of vineyards may only cover one or more of the following activities:

- (a) varietal conversion, including by means of grafting-on;
- (b) relocation of vineyards;
- (c) improvements to vineyard management techniques.

The normal renewal of vineyards which have come to the end of their natural life shall not be supported.

4. Support for restructuring and conversion of vineyards may only take the following forms:

- (a) compensation of producers for the loss of revenue due to the implementation of the measure;
- (b) contribution to the costs of restructuring and conversion.

5. Compensation of producers for the loss of revenue as referred to in paragraph 4(a) may cover up to 100 % of the relevant loss and take either of the following forms:

- (a) notwithstanding the provisions of Chapter II of Title V, the permission for the co-existence of both old and new vines for a fixed period which shall not exceed three years, until the end of the transitional regime concerning planting rights;
- (b) financial compensation.

6. The Community contribution to the actual costs of restructuring and conversion of vineyards shall not exceed 50 %. In regions classified as convergence regions in accordance with Regulation (EC) No 1083/2006<sup>(1)</sup>, the Community contribution to the costs of restructuring and conversion shall not exceed 75 %.

#### Article 12

##### Green harvesting

1. For the purposes of this Article, green harvesting means the total destruction or removal of grape bunches while still in their immature stage, thereby reducing the yield of the relevant area to zero.

2. Support for green harvesting shall contribute to restoring the balance of supply and demand in the market in wine in the Community in order to prevent market crises.

3. Support for green harvesting may be granted as compensation in the form of a flat rate payment per hectare to be determined by the Member State concerned.

The payment shall not exceed 50 % of the sum of the direct costs of the destruction or removal of grape bunches and the loss of revenue related to the destruction or removal of grape bunches.

4. The Member States concerned shall establish a system based on objective criteria to ensure that the green harvesting measure does not lead to compensation of individual wine producers in excess of the ceiling referred to in the second subparagraph of paragraph 3.

#### Article 13

##### Mutual funds

1. Support for the setting-up of mutual funds shall provide assistance to producers seeking to insure themselves against market fluctuations.

<sup>(1)</sup> Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund (OJ L 210, 31.7.2006, p. 25). Regulation as last amended by Regulation (EC) No 1989/2006 (OJ L 411, 30.12.2006, p. 6).

2. Support for the setting-up of mutual funds may be granted in the form of temporary and degressive aid to cover the administrative costs of the funds.

#### Article 14

##### Harvest insurance

1. Support for harvest insurance shall contribute to safeguarding producers' incomes where these are affected by natural disasters, adverse climatic events, diseases or pest infestations.

2. Support for harvest insurance may be granted in the form of a financial Community contribution which must not exceed:

- (a) 80 % of the cost of the insurance premiums paid for by producers for insurance against losses as a result of adverse climatic events which can be assimilated to natural disasters;
- (b) 50 % of the cost of the insurance premiums paid for by producers for insurance against:
  - (i) losses referred to in (a) and against other losses caused by adverse climatic events;
  - (ii) losses caused by animals, plant diseases or pest infestations.

3. Support for harvest insurance may only be granted if the insurance payments concerned do not compensate producers for more than 100 % of the income loss suffered, taking into account any compensation the producers may have obtained from other support schemes related to the insured risk.

4. Support for harvest insurance shall not distort competition in the insurance market.

#### Article 15

##### Investments

1. Support may be granted for tangible or intangible investments in processing facilities, winery infrastructure and marketing of wine which improve the overall performance of the enterprise and concern one or more of the following:

- (a) the production or marketing of products referred to in Annex IV;
- (b) the development of new products, processes and technologies related to the products referred to in Annex IV.



2. Support under paragraph 1 at its maximum rate shall be limited to micro, small and medium-sized enterprises within the meaning of Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises<sup>(1)</sup>. For the territories of the Azores, Madeira, the Canary Islands, the smaller Aegean islands within the meaning of Council Regulation (EC) No 1405/2006 of 18 September 2006 laying down specific measures for agriculture in favour of the smaller Aegean islands<sup>(2)</sup> and the French overseas departments, no size limits shall apply for the maximum rate. For enterprises that are not covered by Article 2 (1) of Title I of Annex to Recommendation 2003/361/EC with less than 750 employees or with a turn-over of less than EUR 200 million, the maximum aid intensity shall be halved.

Support shall not be granted to enterprises in difficulty within the meaning of the Community guidelines on State aid for rescuing and restructuring firms in difficulty.

3. The eligible expenditure shall exclude the elements referred to in Article 71(3)(a) to (c) of Regulation (EC) No 1698/2005.

4. The following maximum aid rates in relation to the eligible investment costs shall apply to the Community contribution:

- (a) 50 % in regions classified as convergence regions in accordance with Regulation (EC) No 1083/2006;
- (b) 40 % in regions other than convergence regions;
- (c) 75 % in the outermost regions in accordance with Council Regulation (EC) No 247/2006 of 30 January 2006 laying down specific measures for agriculture in the outermost regions of the Union<sup>(3)</sup>;
- (d) 65 % in the smaller Aegean islands within the meaning of Regulation (EC) No 1405/2006.

5. Article 72 of Regulation (EC) No 1698/2005 shall apply *mutatis mutandis* to support referred to in paragraph 1.

#### Article 16

##### By-product distillation

1. Support may be granted for the voluntary or obligatory distillation of by-products of wine-making which has been carried out in accordance with the conditions laid down in point D of Annex VI.

The amount of aid shall be fixed per % volume and per hectolitre of alcohol produced. No aid shall be paid for the volume of alcohol contained in the by-products to be distilled which exceeds 10 % in relation to the volume of alcohol contained in the wine produced.

<sup>(1)</sup> OJ L 124, 20.5.2003, p. 36.

<sup>(2)</sup> OJ L 265, 26.9.2006, p. 1.

<sup>(3)</sup> OJ L 42, 14.2.2006, p. 1. Regulation as last amended by Commission Regulation (EC) No 1276/2007 (OJ L 284, 30.10.2007, p. 11).

2. The maximum applicable aid levels shall be based on collection and processing costs and fixed in accordance with the procedure referred to in Article 113(1).

3. The alcohol resulting from the supported distillation referred to in paragraph 1 shall be used exclusively for industrial or energy purposes so as to avoid distortion of competition.

#### Article 17

##### Potable alcohol distillation

1. Support may be granted until 31 July 2012 to producers, for wine which is distilled into potable alcohol in the form of a per-hectare aid.

2. The relevant contracts concerning the distillation of wine as well as the relevant proofs of delivery for distillation shall be submitted before support is granted.

#### Article 18

##### Crisis distillation

1. Support may be granted until 31 July 2012 for voluntary or obligatory distillation of surplus wine decided upon by Member States in justified cases of crisis so as to reduce or eliminate the surplus and at the same time ensure supply continuity from one harvest to the next.

2. The maximum applicable aid levels shall be fixed in accordance with the procedure referred to in Article 113(1).

3. The alcohol resulting from the supported distillation referred to in paragraph 1 shall be used exclusively for industrial or energy purposes so as to avoid distortion of competition.

4. The share of the available budget used for the crisis distillation measure shall not exceed the following percentage shares as calculated against the globally available funds laid down in Annex II per Member State in the respective budget year:

- 20 % in 2009,
- 15 % in 2010,
- 10 % in 2011,
- 5 % in 2012.

5. Member States may increase the available funds for the crisis distillation measure beyond the annual ceilings given in paragraph 4 by way of contributing national funds in accordance

with the following limits (expressed in terms of percentage of the respective annual ceiling given in paragraph 4):

- 5 % in the wine year 2010,
- 10 % in the wine year 2011,
- 15 % in the wine year 2012.

Member States shall, where applicable, notify the Commission of the addition of national funds referred to in the first subparagraph and the Commission shall approve the transaction before such funds are made available.

#### *Article 19*

##### **Use of concentrated grape must**

1. Support may be granted until 31 July 2012 to wine producers who use concentrated grape must including rectified concentrated grape must to increase the natural alcoholic strength of products in accordance with the conditions laid down in Annex V.
2. The amount of the aid shall be fixed per % volume potential alcoholic strength and per hectolitre of the must used for enrichment.
3. The maximum applicable aid levels for this measure in the different wine growing zones shall be fixed in accordance with the procedure referred to in Article 113(1).

#### *Article 20*

##### **Cross-compliance**

Where farmers are found not to have complied on their holding, at any time during three years from payment under the support programmes for restructuring and conversion or at any time during one year from payment under the support programmes for green harvesting, with the statutory management requirements and the good agricultural and environmental condition referred to in Articles 3 to 7 of Regulation (EC) No 1782/2003, the amount of the payment shall, where non-compliance is the result of an action or omission directly imputable to the farmer, be reduced or cancelled, partially or wholly depending on the severity, extent, permanence and repetition of the non-compliance, and the farmer shall, where applicable, be ordered to reimburse it in accordance with the conditions set out in those provisions.

#### Section 4

##### **General provisions**

#### *Article 21*

##### **Reporting and evaluation**

1. Each year and for the first time by 1 March 2010, Member States shall submit to the Commission by 1 March a report on

the implementation of the measures provided for in their support programmes during the previous financial year.

Those reports shall list and describe the measures for which Community assistance under the support programmes was granted and shall in particular provide details on the implementation of the promotion measures referred to in Article 10.

2. Member States shall submit to the Commission, by 1 March 2011 and, a second time, by 1 March 2014, an evaluation of the costs and benefits of the support programmes as well as an indication of how to increase their efficiency.

The Commission shall submit to the European Parliament and the Council, by 31 December 2011, a report on the implementation of the promotion measures referred to in Article 10.

#### *Article 22*

##### **Implementing measures**

The measures necessary for the implementation of this Chapter shall be adopted in accordance with the procedure referred to in Article 113(1).

Those measures may include, in particular:

- (a) the format of presentation of the support programmes;
- (b) rules concerning changes to support programmes after they have become applicable;
- (c) detailed rules for the implementation of the measures provided for in Articles 10 to 19;
- (d) the conditions under which assistance through Community funds is to be communicated and publicised;
- (e) details on reporting.

#### CHAPTER II

##### **Financial transfer**

#### *Article 23*

##### **Financial transfer to rural development**

1. As from the budget year 2009, the amounts fixed in paragraph 2, based on historical expenditure under Regulation (EC) No 1493/1999 for intervention measures to regulate agricultural markets as referred to in Article 3(1)(b) of Regulation (EC) No 1290/2005, shall be available as additional Community funds for measures in wine-producing regions under the rural development programming financed under Regulation (EC) No 1698/2005.

2. The following amounts shall be available in the given calendar years:

- 2009: EUR 40,5 million,
- 2010: EUR 80,9 million,
- from 2011 onwards: EUR 121,4 million.

3. The amounts set in paragraph 2 shall be allocated among Member States in accordance with Annex III.

Member States which have no amounts entered in the current table in Annex III because of the small size of the otherwise resulting amounts in accordance with the financial key applied to determine the amounts for Annex III (less than EUR 2,5 million to be transferred in 2009) may decide to transfer those amounts now included in Annex II wholly or partially to Annex III for use in their rural development programmes. In such case the Member States concerned shall notify the Commission of this transfer by 30 June 2008 and the Commission shall modify paragraph 2 as well as Annexes II and III accordingly.

### TITLE III

## REGULATORY MEASURES

### CHAPTER I

#### General rules

#### Article 24

#### Classification of wine grape varieties

1. Subject to paragraph 2, Member States shall classify which wine grape varieties may be planted, replanted or grafted on their territories for the purpose of wine production.

Only wine grape varieties meeting the following conditions may be classified by Member States:

- (a) the variety concerned belongs to the *Vitis vinifera* or comes from a cross between the species *Vitis vinifera* and other species of the genus *Vitis*;
- (b) the variety is not one of the following: Noah, Othello, Isabelle, Jacques, Clinton and Herbemont.

Where a wine grape variety is deleted from the classification referred to in the first subparagraph, grubbing-up of this variety shall take place within 15 years of its deletion.

2. Member States whose wine production does not exceed 50 000 hectolitres per wine year, calculated on the basis of the average production during the latest five wine years, shall be exempted from the classification obligation referred to in paragraph 1.

However, also in the Member States referred to in the first subparagraph only wine grape varieties complying with

paragraph 1(a) and (b) may be planted, replanted or grafted for the purpose of wine production.

3. By way of derogation from the first and second subparagraphs of paragraph 1 and the second subparagraph of paragraph 2, the planting, replanting or grafting of the following wine grape varieties shall be allowed for scientific research and experimental purposes:

- (a) wine grape varieties which are not classified as far as Member States referred to in paragraph 1 are concerned;
- (b) wine grape varieties which do not comply with paragraph 1 (a) and (b) as far as Member States referred to in paragraph 2 are concerned.

4. Areas planted with wine grape varieties for the purpose of wine production planted in contravention of paragraphs 1 to 3 shall be grubbed up.

However, there shall be no obligation to grub up such areas where the relevant production is intended exclusively for consumption by the wine-producers' households.

5. Member States shall take the necessary measures to check compliance by producers with paragraphs 1 to 4.

#### Article 25

#### Production and marketing

1. Products listed in Annex IV and produced in the Community shall be made from wine grape varieties classifiable according to Article 24(1).

2. A designation for a category of a grapevine product as provided for in Annex IV may be used in the Community only for the marketing of a product which conforms to the corresponding conditions laid down in that Annex.

However, notwithstanding Article 59(1)(a), Member States may allow the use of the term 'wine' if:

- (a) it is accompanied by the name of a fruit in the form of a composite name to market products obtained by the fermentation of fruit other than grapes; or
- (b) it is part of a composite name.

Any confusion with products corresponding to the wine categories in Annex IV shall be avoided.

3. Categories of grapevine products listed in Annex IV may be modified in accordance with the procedure referred to in Article 113(2).

4. Except for bottled wine in respect of which there is evidence that bottling was performed before 1 September 1971, wine produced from wine grape varieties listed in the classifications drawn up in accordance with the first subparagraph of Article 24

(1) but not conforming to one of the categories laid down in Annex IV shall be used only for consumption by individual wine-producers' households, for the production of wine vinegar or for distillation.

## CHAPTER II

### **Oenological practices and restrictions**

#### Article 26

##### **Scope**

This Chapter concerns the authorised oenological practices and the applicable restrictions applying to the production and commercialisation of products covered by this Regulation as well as the procedure for deciding on those practices and restrictions.

#### Article 27

### **Oenological practices and restrictions**

1. Only oenological practices authorised under Community law as laid down in Annex V or decided upon in accordance with Articles 28 and 29 shall be used in the production and conservation in the Community of products covered by this Regulation.

The first subparagraph shall not apply to:

- (a) grape juice and concentrated grape juice;
- (b) grape must and concentrated grape must intended for the preparation of grape juice.

2. Authorised oenological practices shall only be used for the purposes of ensuring proper vinification, proper preservation or proper refinement of the product.

3. Products covered by this Regulation shall be produced in the Community in accordance with the relevant restrictions laid down in Annex VI.

4. Products covered by this Regulation, which have undergone unauthorised Community oenological practices or, where applicable, unauthorised national oenological practices or which contravene the restrictions laid down in Annex VI, shall not be marketed in the Community.

#### Article 28

### **Stricter rules decided by Member States**

Member States may limit or exclude the use of certain oenological practices and provide for more stringent restrictions for wines authorised under Community law produced in their territory with a view to reinforcing the preservation of the essential characteristics of wines with a protected designation of

origin or protected geographical indication and of sparkling wines and liqueur wines.

Member States shall communicate those limitations, exclusions and restrictions to the Commission, which shall bring them to the attention of the other Member States.

#### Article 29

### **Authorisation of oenological practices and restrictions**

1. Except for the oenological practices concerning enrichment, acidification and de-acidification laid down in Annex V for the specific products covered therein as well as the restrictions listed in Annex VI, the authorisation of oenological practices and restrictions as regards the production and conservation of products covered by this Regulation shall be decided in accordance with the procedure referred to in Article 113(2).

2. Member States may allow the experimental use of unauthorised oenological practices under conditions to be determined in accordance with the procedure referred to in Article 113(2).

#### Article 30

### **Authorisation criteria**

When authorising oenological practices in accordance with the procedure referred to in Article 113(2), the Commission shall:

- (a) base itself on the oenological practises recommended and published by the International organisation of vine and wine (OIV) as well as on the results of experimental use of as yet unauthorised oenological practices;
- (b) take into account the protection of human health;
- (c) take into account possible risks of consumers being misled due to their established expectations and perceptions, having regard to the availability and feasibility of informational means to exclude such risks;
- (d) allow the preservation of the natural and essential characteristics of the wine and not cause a substantial change in the composition of the product concerned;
- (e) ensure an acceptable minimum level of environmental care;
- (f) respect the general rules concerning oenological practices and restrictions laid down respectively in Annexes V and VI.

#### Article 31

### **Methods of analysis**

The methods of analysis for determining the composition of the products covered by this Regulation and the rules whereby it may be established whether these products have undergone

processes contrary to the authorised oenological practices shall be those recommended and published by the OIV.

Where there are no methods and rules recommended and published by the OIV, corresponding methods and rules shall be adopted in accordance with the procedure referred to in Article 113(2).

Pending the adoption of such rules, such methods and rules to be used shall be the ones allowed by the Member State concerned.

#### Article 32

##### Implementing measures

The measures necessary for the implementation of this Chapter and Annexes V and VI, save as otherwise provided in these Annexes, shall be adopted in accordance with the procedure referred to in Article 113(2).

Those measures may include, in particular:

- (a) provisions to the effect that the Community oenological practices listed in Annex IV to Regulation (EC) No 1493/1999 are considered authorised oenological practices;
- (b) authorised oenological practices and restrictions including enrichment, acidification and de-acidification concerning sparkling wines, quality sparkling wines and quality aromatic sparkling wines;
- (c) authorised oenological practices and restrictions concerning liqueur wines;
- (d) subject to point C of Annex VI, provisions regulating the blending and coupage of musts and wines;
- (e) where Community rules on that matter do not exist, the purity and identification, specification of substances used in oenological practices;
- (f) administrative rules for carrying out the oenological practices authorised;
- (g) the conditions governing the holding, circulation and the use of products not complying with Article 27 and possible exemptions from the requirements of that Article, as well as the establishment of criteria for the purpose of avoiding hardship in individual cases;
- (h) the conditions under which Member States may authorise the holding, circulation and use of products not complying with this Chapter other than Article 27, or with provisions implementing this Chapter.

#### CHAPTER III

##### Designations of origin, geographical indications and traditional terms

#### Article 33

##### Scope

1. Rules relating to designations of origin, geographical indications and traditional terms laid down in Chapters IV and V shall apply to the products referred to in paragraphs 1, 3 to 6, 8, 9, 11, 15 and 16 of Annex IV.
2. The rules referred to in paragraph 1 shall be based on:
  - (a) the protection of legitimate interests of:
    - (i) consumers; and
    - (ii) producers;
  - (b) ensuring the smooth operation of the common market in the products concerned;
  - (c) promoting the production of quality products, whilst allowing national quality policy measures.

#### CHAPTER IV

##### Designations of origin and geographical indications

#### Section 1

##### Definitions

#### Article 34

##### Definitions

1. For the purposes of this Regulation, the following definitions shall apply:
  - (a) 'designation of origin' means the name of a region, a specific place or, in exceptional cases, a country used to describe a product referred to in Article 33(1) that complies with the following requirements:
    - (i) its quality and characteristics are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors;
    - (ii) the grapes from which it is produced come exclusively from this geographical area;
    - (iii) its production takes place in this geographical area;
    - (iv) it is obtained from vine varieties belonging to *Vitis vinifera*;



- (b) 'geographical indication' means an indication referring to a region, a specific place or, in exceptional cases, a country, used to describe a product referred to in Article 33(1) which complies with 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 this geographical area;
  - (iii) its production takes place in this geographical area;
  - (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*.

2. Certain traditionally used names shall constitute a designation of origin where they:

- (a) designate a wine;
- (b) refer to a geographical name;
- (c) meet the requirements referred to in paragraph 1(a)(i) to (iv);
- (d) undergo the procedure conferring protection on designations of origin and geographical indications laid down in this Chapter.

3. Designations of origin and geographical indications, including those relating to geographical areas in third countries, shall be eligible for protection in the Community in accordance with the rules laid down in this Chapter.

## Section 2

### Application for protection

#### Article 35

#### Content of applications for protection

1. Applications for protection of names as designations of origin or geographical indications shall include a technical file containing:

- (a) the name to be protected;
- (b) the name and address of the applicant;
- (c) a product specification as referred to in paragraph 2;
- (d) a single document summarising the product specification referred to in paragraph 2.

2. The product specification shall enable interested parties to verify the relevant conditions of production of the designation of origin or geographical indication.

It shall consist at least of:

- (a) the name to be protected;
- (b) a description of the wine(s):
  - (i) for wines with a designation of origin, its principal analytical and organoleptic characteristics;
  - (ii) for wines with a geographical indication, its principal analytical characteristics as well as an evaluation or indication of its organoleptic characteristics;
- (c) where applicable, the specific oenological practices used to make the wine(s) as well as the relevant restrictions on making the wine(s);
- (d) the demarcation of the geographical area concerned;
- (e) the maximum yields per hectare;
- (f) an indication of the wine grape variety or varieties the wine (s) is obtained from;
- (g) the details bearing out the link referred to in Article 34(1)(a)(i) or, as the case may be, in Article 34(1)(b)(i);
- (h) applicable requirements laid down in Community or national provisions or, where foreseen by Member States, by an organisation which manages the protected designation of origin or geographical indication, having regard to the fact that such requirements shall be objective and non-discriminatory and compatible with Community law;
- (i) the name and address of the authorities or bodies verifying compliance with the provisions of the product specification and their specific tasks.

#### Article 36

#### Application for protection relating to a geographical area in a third country

1. Where the application for protection concerns a geographical area in a third country, it shall contain in addition to the elements provided for in Article 35 proof that the name in question is protected in its country of origin.

2. The application shall be sent to the Commission, either directly from the applicant or via the authorities of the third country concerned.

3. The application for protection shall be filed in one of the official languages of the Community or accompanied by a certified translation into one of those languages.

*Article 37***Applicants**

1. Any interested group of producers, or in exceptional cases a single producer, may apply for the protection of a designation of origin or geographical indication. Other interested parties may participate in the application.
2. Producers may lodge an application for protection only for wines which they produce.
3. In the case of a name designating a trans-border geographical area or a traditional name connected to a trans-border geographical area, a joint application may be lodged.

**Section 3****Procedure conferring protection***Article 38***Preliminary national procedure**

1. Applications for protection of a designation of origin or a geographical indication of wines in accordance with Article 34 originating in the Community shall be subject to a preliminary national procedure in accordance with this Article.
  2. The application for protection shall be filed with the Member State in which territory the designation of origin or geographical indication originates.
  3. The Member State shall examine the application for protection as to whether it meets the conditions set out in this Chapter.
- The Member State shall carry out a national procedure ensuring adequate publication of the application and providing for a period of at least two months from the date of publication within which any natural or legal person having a legitimate interest and established or resident on its territory may object to the proposed protection by lodging a duly substantiated statement with the Member State.
4. If the Member State considers that the designation of origin or geographical indication does not meet the relevant requirements, including the eventuality that it is incompatible with Community law in general, it shall reject the application.
  5. If the Member State considers that the relevant requirements are met, it shall

- (a) publish the single document and the product specification at least on the Internet; and
- (b) forward to the Commission an application for protection containing the following information:
  - (i) the name and address of the applicant;

- (ii) the single document referred to in Article 35(1)(d);
- (iii) a declaration by the Member State that it considers that the application lodged by the applicant meets the conditions of this Regulation;
- (iv) the reference to publication, as referred to in (a).

This information shall be forwarded in one of the official languages of the Community or accompanied by a certified translation into one of those languages.

6. Member States shall introduce the laws, regulations or administrative provisions necessary to comply with this Article by 1 August 2009.

7. Where a Member State has no national legislation concerning the protection of designations of origin and geographical indications, it may, on a transitional basis only, grant protection in accordance with the terms of this Chapter at national level to the name with effect from the day the application is lodged with the Commission. Such transitional national protection shall cease on the date on which a decision on registration or refusal under this Chapter is taken.

*Article 39***Scrutiny by the Commission**

1. The Commission shall make the date of submission of the application for protection of the designation of origin or geographical indication public.
2. The Commission shall examine whether the applications for protection referred to in Article 38(5) meet the conditions laid down in this Chapter.
3. Where the Commission considers that the conditions laid down in this Chapter are met, it shall publish in the *Official Journal of the European Union* the single document referred to in Article 35(1)(d) and the reference to the publication of the product specification referred to in Article 38(5).

Where this is not the case, it shall be decided, in accordance with the procedure referred to in Article 113(2), to reject the application.

*Article 40***Objection procedure**

Within two months from the date of publication provided for in the first subparagraph of Article 39(3), any Member State or third country, or any natural or legal person having a legitimate interest, established or resident in a Member State other than that applying for the protection or in a third country, may object to the proposed protection by lodging a duly substantiated statement relating to the conditions of eligibility as laid down in this Chapter with the Commission.

In the case of natural or legal persons established or resident in a third country, such statement shall be lodged, either directly or via the authorities of the third country concerned, within the time limit of two months referred to in the first paragraph.

#### Article 41

### Decision on protection

On the basis of the information available to the Commission, it shall be decided, in accordance with the procedure referred to in Article 113(2), either to confer protection on the designation of origin or geographical indication which meets the conditions laid down in this Chapter and is compatible with Community law, or to reject the application where those conditions are not satisfied.

#### Section 4

### Specific cases

#### Article 42

### Homonyms

1. A name, for which an application is lodged, wholly or partially homonymous with that of a name already registered under this Regulation shall be registered with due regard for local and traditional usage and the risk of confusion.

A homonymous name which misleads the consumer into believing that products come from another territory shall not be registered even if the name is accurate as far as the actual territory, region or place of origin of the products in question is concerned.

The use of a registered homonymous name shall be subject to there being a sufficient distinction in practice between the homonym registered subsequently and the name already on the register, having regard to the need to treat the producers concerned in an equitable manner and not to mislead the consumer.

2. Paragraph 1 shall apply *mutatis mutandis* if a name, for which an application is lodged, is wholly or partially homonymous with a geographical indication protected as such under the legislation of Member States.

Member States shall not register non-identical geographical indications for protection under their respective legislation on geographical indications if a designation of origin or geographical indication is protected in the Community by virtue of the Community law relevant to designations of origin and geographical indications.

3. Save as otherwise provided for in Commission implementing measures, where the name of a wine grape variety contains or consists of a protected designation of origin or geographical indication that name shall not be used for purposes of labelling the products covered by this Regulation.

4. The protection of designations of origin and geographical indications for products covered in Article 34 shall be without prejudice to protected geographical indications applying in relation to spirit drinks within the meaning of Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks <sup>(1)</sup> and vice versa.

#### Article 43

### Grounds for refusal of protection

1. Names that have become generic shall not be protected as a designation of origin or geographical indication.

For the purposes of this Chapter, a 'name that has become generic' means the name of a wine which, although it relates to the place or the region where this product was originally produced or marketed, has become the common name of a wine in the Community.

To establish whether or not a name has become generic, account shall be taken of all relevant factors, in particular:

- (a) the existing situation in the Community, notably in areas of consumption;
- (b) the relevant national or Community legal provisions.

2. A name shall not be protected as a designation of origin or geographical indication where, in the light of a trademark's reputation and renown, protection is liable to mislead the consumer as to the true identity of the wine.

#### Article 44

### Relationship with trademarks

1. Where a designation of origin or a geographical indication is protected under this Regulation, the registration of a trademark corresponding to one of the situations referred to in Article 45 (2) and relating to a product falling under one of the categories listed in Annex IV shall be refused if the application for registration of the trademark is submitted after the date of submission of the application for protection of the designation of origin or geographical indication to the Commission and the designation of origin or geographical indication is subsequently protected.

Trademarks registered in breach of the first subparagraph shall be invalidated.

2. Without prejudice to Article 43(2), a trademark the use of which corresponds to one of the situations referred to in Article 45(2), which has been applied for, registered or

<sup>(1)</sup> OJ L 39, 13.2.2008, p. 16.

established by use, if that possibility is provided for by the legislation concerned, in the territory of the Community before the date on which the application for protection of the designation of origin or geographical indication is submitted to the Commission, may continue to be used and renewed notwithstanding the protection of a designation of origin or geographical indication, provided that no grounds for the trademark's invalidity or revocation exist as specified by the First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks <sup>(1)</sup> or Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark <sup>(2)</sup>.

In such cases the use of the designation of origin or geographical indication shall be permitted alongside the relevant trademarks.

## Section 5

### Protection and control

#### Article 45

##### Protection

1. Protected designations of origins and geographical indications may be used by any operator marketing a wine which has been produced in conformity with the corresponding product specification.
2. Protected designations of origins and geographical indications and the wines using those protected names in conformity with the product specification shall be protected against:
  - (a) any direct or indirect commercial use of a protected name:
    - (i) by comparable products not complying with the product specification of the protected name; or
    - (ii) in so far as such use exploits the reputation of a designation of origin or a geographical indication;
  - (b) any misuse, imitation or evocation, even if the true origin of the product or service is indicated or if the protected name is translated or accompanied by an expression such as 'style', 'type', 'method', 'as produced in', 'imitation', 'flavour', 'like' or similar;
  - (c) any other false or misleading indication as to the provenance, origin, nature or essential qualities of the product, on the inner or outer packaging, advertising material or documents relating to the wine product concerned, and the packing of the product in a container liable to convey a false impression as to its origin;

<sup>(1)</sup> OJ L 40, 11.2.1989, p. 1. Directive as amended by Decision 92/10/EEC (OJ L 6, 11.1.1992, p. 35).

<sup>(2)</sup> OJ L 11, 14.1.1994, p. 1. Regulation as last amended by Regulation (EC) No 1891/2006 (OJ L 386, 29.12.2006, p. 14).

- (d) any other practice liable to mislead the consumer as to the true origin of the product.

3. Protected designations of origin or protected geographical indications shall not become generic in the Community within the meaning of Article 43(1).

4. Member States shall take the steps necessary to stop unlawful use of protected designations of origin and geographical indications as referred to in paragraph 2.

#### Article 46

##### Register

The Commission shall establish and maintain an electronic register of protected designations of origin and geographical indications for wine which shall be publicly accessible.

#### Article 47

##### Designation of competent control authority

1. Member States shall designate the competent authority or authorities responsible for controls in respect of the obligations established by this Chapter in accordance with the criteria laid down in Article 4 of Regulation (EC) No 882/2004.
2. Member States shall ensure that any operator complying with this Chapter is entitled to be covered by a system of controls.
3. Member States shall inform the Commission of the competent authority or authorities referred to in paragraph 1. The Commission shall make their names and addresses public and update them periodically.

#### Article 48

##### Verification of compliance with specifications

1. In respect of protected designations of origin and geographical indications relating to a geographical area within the Community, annual verification of compliance with the product specification, during the production and during or after conditioning of the wine, shall be ensured by:
  - (a) the competent authority or authorities referred to in Article 47(1); or
  - (b) one or more control bodies within the meaning of point 5 of the second subparagraph of Article 2 of Regulation (EC) No 882/2004 operating as a product certification body in accordance with the criteria laid down in Article 5 of that Regulation.

The costs of such verification shall be borne by the operators subject to it.

2. In respect of protected designations of origin and geographical indications relating to a geographical area in a third country, annual verification of compliance with the product specification, during the production and during or after conditioning of the wine, shall be ensured by:

- (a) one or more public authorities designated by the third country; or
- (b) one or more certification bodies.

3. The certification bodies referred to in paragraphs 1(b) and 2(b) shall comply with, and from 1 May 2010 be accredited in accordance with, the European standard EN 45011 or ISO/IEC Guide 65 (General requirements for bodies operating product certification systems).

4. Where the authority or authorities referred to in paragraphs 1(a) and 2(a), verify compliance with the product specification, they shall offer adequate guarantees of objectivity and impartiality, and have at their disposal the qualified staff and resources needed to carry out their tasks.

#### Article 49

##### Amendments to product specifications

1. An applicant satisfying the conditions of Article 37 may apply for approval of an amendment to the product specification of a protected designation of origin or geographical indication, in particular to take account of developments in scientific and technical knowledge or to redefine the geographical area referred to in (d) of the second subparagraph of Article 35(2). Applications shall describe and give reasons for the amendments requested.

2. Where the proposed amendment involves one or more amendments to the single document referred to in Article 35(1)(d), Articles 38 to 41 shall apply *mutatis mutandis* to the amendment application. However, if the proposed amendment is only minor, it shall be decided, in accordance with the procedure referred to in Article 113(2), whether to approve the application without following the procedure laid down in Article 39(2) and Article 40 and in the case of approval, the Commission shall proceed to publication of the elements referred to in Article 39(3).

3. Where the proposed amendment does not involve any change to the single document, the following rules shall apply:

- (a) where the geographical area is in a given Member State, that Member State shall express its position on the amendment and, if it is in favour, shall publish the amended product specification and inform the Commission of the amendments approved and the reasons for them;
- (b) where the geographical area is in a third country, the Commission shall determine whether to approve the proposed amendment.

#### Article 50

##### Cancellation

It may be decided, in accordance with the procedure referred to in Article 113(2), at the initiative of the Commission or at a duly substantiated request of a Member State, of a third country or of a natural or legal person having a legitimate interest, to cancel the protection of a designation of origin or a geographical indication if compliance with the corresponding product specification is no longer ensured.

Articles 38 to 41 shall apply *mutatis mutandis*.

#### Article 51

##### Existing protected wine names

1. Wine names, which are protected in accordance with Articles 51 and 54 of Regulation (EC) No 1493/1999 and Article 28 of Regulation (EC) No 753/2002, shall automatically be protected under this Regulation. The Commission shall list them in the register provided for in Article 46 of this Regulation.

2. Member States shall, in respect of existing protected wine names referred to in paragraph 1, transmit to the Commission:

- (a) the technical files as provided for in Article 35(1);
- (b) the national decisions of approval.

3. Wine names referred to in paragraph 1, for which the information referred to in paragraph 2 is not submitted by 31 December 2011, shall lose protection under this Regulation. The Commission shall take the corresponding formal step of removing such names from the register provided for in Article 46.

4. Article 50 shall not apply in respect of existing protected wine names referred to in paragraph 1.

It may be decided, until 31 December 2014, at the initiative of the Commission and in accordance with the procedure referred to in Article 113(2), to cancel protection of existing protected wine names referred to in paragraph 1 if they do not meet the conditions laid down in Article 34.

#### Section 6

##### General provisions

#### Article 52

##### Implementing measures

The measures necessary for the implementation of this Chapter shall be adopted in accordance with the procedure referred to in Article 113(1).



Those measures may in particular include derogations from the applicability of the rules and requirements laid down in this Chapter:

- (a) in so far as pending applications for protection of designations of origin or geographical indications are concerned;
- (b) in so far as the production of certain wines with a protected designation of origin or geographical indication in a geographical area in proximity of the geographical area where the grapes originate is concerned;
- (c) in so far as traditional production practices of certain wines with a protected designation of origin are concerned.

#### Article 53

##### Fees

Member States may charge a fee to cover their costs, including those incurred in examining applications for protection, statements of objections, applications for amendments and requests for cancellations under this Regulation.

#### CHAPTER V

##### Traditional terms

#### Article 54

##### Definition

1. 'Traditional term' shall mean a term traditionally used in Member States for products referred to in Article 33(1) to designate:

- (a) that the product has a protected designation of origin or geographical indication under Community or Member State law;
- (b) the production or ageing method or the quality, colour, type of place, or a particular event linked to the history, of the product with a protected designation of origin or geographical indication.

2. Traditional terms shall be recognised, defined and protected in accordance with the procedure referred to in Article 113(1).

#### Article 55

##### Protection

1. A protected traditional term may only be used for a product which has been produced in conformity with the definition referred to in Article 54(2).

Traditional terms shall be protected against unlawful use.

Member States shall take the steps necessary to stop the unlawful use of protected traditional terms.

2. Traditional terms shall not become generic in the Community.

#### Article 56

##### Implementing measures

The measures necessary for the implementation of this Chapter shall be adopted in accordance with the procedure referred to in Article 113(1), in particular concerning:

- (a) the procedure conferring protection;
- (b) the specific level of protection.

#### CHAPTER VI

##### Labelling and presentation

#### Article 57

##### Definitions

For the purposes of this Regulation:

- (a) 'labelling' shall mean any words, particulars, trademarks, brand name, pictorial matter or symbol placed on any packaging, document, notice, label, ring or collar accompanying or referring to a given product;
- (b) 'presentation' shall mean any information conveyed to consumers by virtue of the packaging of the product concerned including the form and type of bottles.

#### Article 58

##### Applicability of horizontal rules

Save as otherwise provided for in this Regulation, Directive 89/104/EEC, Council Directive 89/396/EEC of 14 June 1989 on indications or marks identifying the lot to which a foodstuff belongs<sup>(1)</sup>, Directive 2000/13/EC and Directive 2007/45/EC of the European Parliament and of the Council of 5 September 2007 laying down rules on nominal quantities for prepacked products<sup>(2)</sup> shall apply to the labelling and presentation of products falling within their scopes.

<sup>(1)</sup> OJ L 186, 30.6.1989, p. 21. Directive as last amended by Directive 92/11/EEC (OJ L 65, 11.3.1992, p. 32).

<sup>(2)</sup> OJ L 247, 21.9.2007, p. 17.

*Article 59***Compulsory particulars**

1. Labelling and presentation of the products referred to in paragraphs 1 to 11, 13, 15 and 16 of Annex IV marketed in the Community or for export shall contain the following compulsory particulars:

- (a) the designation for the category of the grapevine product in accordance with Annex IV;
- (b) for wines with a protected designation of origin or geographical indication:
  - (i) the term 'protected designation of origin' or 'protected geographical indication'; and
  - (ii) the name of the protected designation of origin or geographical indication;
- (c) the actual alcoholic strength by volume;
- (d) an indication of provenance;
- (e) an indication of the bottler or, in the case of sparkling wine, aerated sparkling wine, quality sparkling wine or quality aromatic sparkling wine, the name of the producer or vendor;
- (f) an indication of the importer in the case of imported wines;
- (g) in the case of sparkling wine, aerated sparkling wine, quality sparkling wine or quality aromatic sparkling wine, an indication of the sugar content.

2. By way of derogation from paragraph 1(a) the reference to the category of the grapevine product may be omitted for wines whose labels include the protected name of a designation of origin or geographical indication.

3. By way of derogation from paragraph 1(b) the reference to the terms 'protected designation of origin' or 'protected geographical indication' may be omitted in the following cases:

- (a) where a traditional term as referred to in Article 54(1)(a) is displayed on the label;
- (b) where, in exceptional circumstances to be determined in accordance with the procedure referred to in Article 113(1), the name of the protected designation of origin or protected geographical indication is displayed on the label.

*Article 60***Optional particulars**

1. Labelling and presentation of products referred to in Article 59(1) may in particular contain the following optional particulars:

- (a) the vintage year;

- (b) the name of one or more wine grape varieties;
- (c) in the case of wines other than the ones referred to in Article 59(1)(g), terms indicating the sugar content;
- (d) for wines with a protected designation of origin or geographical indication, traditional terms as referred to in Article 54(1)(b);
- (e) the Community symbol indicating the protected designation of origin or geographical indication;
- (f) terms referring to certain production methods;
- (g) for wines bearing a protected designation of origin or geographical indication the name of another geographical unit that is smaller or larger than the area underlying the designation of origin or geographical indication.

2. Without prejudice to Article 42(3), as regards the use of particulars referred to in paragraph 1(a) and (b) for wines without a protected designation of origin or geographical indication:

- (a) Member States shall introduce laws, regulations or administrative provisions to ensure certification, approval and control procedures so as to guarantee the veracity of the information concerned;
- (b) Member States may, on the basis of non-discriminatory and objective criteria and with due regard to loyal competition, for wine produced from wine grape varieties on their territory, draw-up lists of excluded wine grape varieties, in particular if:
  - (i) there is a risk of confusion of consumers as to the true origin of the wine due to the fact that the given wine grape variety forms an integral part of an existing protected designation of origin or geographical indication;
  - (ii) the relevant controls would not be cost-effective due to the fact that the given wine grape variety represents a very small part of the Member State vineyard;
- (c) mixtures of wines from different Member States shall not give rise to labelling of the wine grape variety or varieties unless the Member States concerned agree otherwise and ensure the feasibility of the relevant certification, approval and control procedures.

*Article 61***Languages**

1. Compulsory and optional particulars referred to in Articles 59 and 60 shall, where expressed in words, appear in one or more of the official languages of the Community.

2. Notwithstanding paragraph 1, the name of a protected designation of origin or geographical indication or a traditional term as referred to in Article 54(1)(a) shall appear on the label in the language or languages for which the protection applies.

In the case of protected designations of origin or geographical indications or national specific designations using a non-Latin alphabet, the name may also appear in one or more official languages of the Community.

#### Article 62

##### **Enforcement**

The competent authorities of the Member States shall take measures to ensure that a product referred to in Article 59(1) not labelled in conformity with this Chapter is not placed on, or is withdrawn from, the market.

#### Article 63

##### **Implementing measures**

The measures necessary for the implementation of this Chapter shall be adopted in accordance with the procedure referred to in Article 113(1).

Those measures may in particular include:

- (a) details on the indication of provenance of the relevant product;
- (b) the terms of use of the optional particulars listed in Article 60;
- (c) specific requirements relating to the indications concerning the vintage year and the wine grape variety displayed on labels as referred to in Article 60(2);
- (d) further derogations in addition to those referred to in Article 59(2) which provide that the reference to the category of the grapevine product may be omitted;
- (e) rules concerning protection to be conferred in relation to the presentation of a given product.

#### CHAPTER VII

##### **Producer and inter-branch organisations**

#### Article 64

##### **Producer organisations**

- 1. Member States may recognise producer organisations which:
  - (a) are constituted by producers of products covered by this Regulation;
  - (b) are formed on the initiative of producers;

- (c) pursue a specific aim, which may in particular relate to one or more of the following:
  - (i) adapting production jointly to the requirements of the market and improving the product;
  - (ii) promoting concentration of supply and the placing on the market of the products produced by its members;
  - (iii) promoting the rationalisation and improvement of production and processing;
  - (iv) reducing production costs and market management costs and stabilising producer prices;
  - (v) promoting and providing technical assistance for the use of environmentally respectful cultivation practices and production techniques;
  - (vi) promoting initiatives for the management of by-products of wine making and the management of waste in particular to protect the quality of water, soil and landscape and preserving or encouraging biodiversity;
  - (vii) carrying out research into sustainable production methods and market developments;
  - (viii) contributing to the achievement of support programmes as referred to in Chapter I of Title II;
- (d) apply rules of association which require their members, in particular, to:
  - (i) apply the rules adopted by the producer organisation relating to production reporting, production, marketing and protection of the environment;
  - (ii) provide the information requested by the producer organisation for statistical purposes, in particular on growing areas and market evolution;
  - (iii) pay penalties for infringement of obligations under the rules of association;
- (e) have lodged an application for recognition as a producer organisation with the Member State concerned and the application contains the following items:
  - (i) evidence that the entity meets the requirements laid down in (a) to (d);
  - (ii) evidence that it has a minimum number of members, to be laid down by the Member State concerned;
  - (iii) evidence that it covers a minimum volume of marketable production in the area where the organisation operates, to be laid down by the Member State concerned;

- (iv) evidence that it can carry out its activities properly, both over time and in terms of effectiveness and concentration of supply;
- (v) evidence that it effectively enables its members to obtain technical assistance in using environmentally sound cultivation practices.

2. Producer organisations recognised in accordance with Regulation (EC) No 1493/1999 shall be considered as recognised producer organisations under this Article.

#### Article 65

##### Inter-branch organisations

1. Member States may recognise inter-branch organisations which:

- (a) are made up of representatives of economic activities in the production of, trade in, or processing of products covered by this Regulation;
- (b) are formed on the initiative of all or some of the representatives referred to in (a);
- (c) carry out one or more of the following measures in one or more regions of the Community, taking account of public health and the interests of consumers:
  - (i) improving knowledge and transparency of production and the market;
  - (ii) helping to better coordinate the way products are placed on the market, in particular by means of research and market studies;
  - (iii) drawing up standard forms of contract compatible with Community rules;
  - (iv) exploiting more fully the potential of production;
  - (v) providing the information and carrying out the research necessary to adjust production towards products more suited to market requirements and consumer tastes and expectations, in particular with regard to product quality and protection of the environment;
  - (vi) providing information on particular characteristics of wine with a protected designation of origin or geographical indication;
  - (vii) seeking ways of restricting the use of plant-health products and other inputs and ensuring product quality and soil and water conservation;
  - (viii) promoting integrated production or other environmentally sound production methods;

- (ix) encouraging moderate and responsible consumption of wine and informing on the harm linked to hazardous consumption patterns;
- (x) carrying out promotion actions for wine, especially in third countries;
- (xi) developing methods and instruments for improving product quality at all stages of production, vinification and marketing;
- (xii) exploiting, protecting and promoting the potential of organic farming;
- (xiii) exploiting, protecting and promoting quality labels and protected designations of origin and geographical indications;

- (d) have lodged an application for recognition with the Member State concerned and the application contains the following items:
  - (i) evidence that the entity meets the requirements laid down in (a) to (c);
  - (ii) evidence that the entity carries out its activities in one or more regions in the territory concerned;
  - (iii) evidence that the entity represents a significant share of the production of or trade in products covered by this Regulation;
  - (iv) evidence that the entity does not engage in the production or processing or marketing of products covered by this Regulation.

2. Organisations meeting the criteria set-out in paragraph 1, which have been recognised by Member States, shall be considered as recognised inter-branch organisations under this Article.

#### Article 66

##### Recognition procedure

1. Applications for recognition as a producer organisation or inter-branch organisation shall be lodged with and examined by the Member State where the organisation has its headquarters.
2. Member States shall take the decision whether to grant or refuse recognition of the organisation within four months of the lodging of the application.

#### Article 67

##### Marketing rules

1. In order to improve and stabilise the operation of the common market in wines including the grapes, musts and wines from which they derive, producer Member States, particularly by

way of implementing decisions taken by inter-branch organisations, may lay down marketing rules to regulate supply.

Such rules shall be proportionate to the objective pursued and shall not:

- (a) relate to any transaction after the first marketing of the produce concerned;
- (b) allow for price fixing, including where prices are set for guidance or recommendation;
- (c) render unavailable an excessive proportion of the vintage that would otherwise be available;
- (d) provide scope for refusing to issue the national and Community certificates required for the circulation and marketing of wines where such marketing is in accordance with those rules.

2. The rules referred to in paragraph 1 must be brought to the attention of operators by publication *in extenso* in an official publication of the Member State concerned.

#### Article 68

#### **Monitoring**

Member States shall:

- (a) carry out checks at regular intervals to ascertain that producer organisations and inter-branch organisations comply with the terms and conditions for recognition laid down in Articles 64 and 65;
- (b) withdraw recognition if a producer or inter-branch organisation no longer complies with the relevant requirements and impose penalties on such organisations in the event of non-compliance or irregularities.

#### Article 69

#### **Communication**

By 1 March each year and for the first time by 1 March 2009 Member States shall report to the Commission the decisions or actions they have taken in accordance with Articles 66, 67 and 68 during the previous calendar year.

#### TITLE IV

#### **TRADE WITH THIRD COUNTRIES**

#### CHAPTER I

#### **Common provisions**

#### Article 70

#### **General principles**

1. Save as otherwise provided for in this Regulation, the rates of duty in the Common Customs Tariff shall apply to the products covered by this Regulation.
2. Save as otherwise provided for in this Regulation or in provisions adopted pursuant thereto, the following shall be prohibited in trade with third countries:
  - (a) the levying of any charge having equivalent effect to a customs duty;
  - (b) the application of any quantitative restriction or measure having equivalent effect.

#### Article 71

#### **Combined Nomenclature**

The general rules for the interpretation of the Combined Nomenclature and the special rules for its application shall apply to the classification of products covered by this Regulation. The tariff nomenclature resulting from the application of this Regulation including, as the case may be, the definitions and categories in Annexes I and IV shall be included in the Common Customs Tariff.

#### CHAPTER II

#### **Import and export licences**

#### Article 72

#### **Import and export licences**

1. It may be decided, in accordance with the procedure referred to in Article 113(1), that imports into the Community or exports from the Community of one or more of the products falling under CN codes 2009 61, 2009 69 and 2204 shall be subject to the presentation of an import or export licence.
2. When applying paragraph 1, account shall be taken of the need for licences for the management of the markets concerned and, in particular, in the case of import licences, for monitoring the imports of the products in question.



## Article 73

**Issue of licences**

Import and export licences shall be issued by Member States to any applicant, irrespective of his place of establishment in the Community, unless a Council Regulation or any other act of the Council provides otherwise, and without prejudice to measures taken for the application of Chapter IV.

## Article 74

**Validity of licences**

Import and export licences shall be valid throughout the Community.

## Article 75

**Security**

1. Save as otherwise provided for in accordance with the procedure referred to in Article 113(1), import and export licences shall be issued subject to the lodging of a security guaranteeing that the products are imported or exported during the term of validity of the licence.

2. Except in cases of *force majeure*, the security shall be forfeited in whole or in part if the import or export is not carried out, or is carried out only partially, within the period of validity of the licence.

## Article 76

**Special security**

1. For juice and musts falling under CN codes 2009 61, 2009 69 and 2204 30 for which the application of the Common Customs Tariff duties depends on the import price of the product, the actual amount of that price shall be verified either by checking every consignment or by using a flat-rate import value calculated by the Commission on the basis of price quotations for the same products in the countries of origin.

Should the declared entry price of the consignment be higher than the flat-rate import value, if such applies, increased by a margin adopted in accordance with the procedure referred to in Article 113(1) that may not exceed the flat-rate value by more than 10 %, a security must be lodged equal to the import duties determined on the basis of the flat-rate import value.

If the entry price of the consignment is not declared, the application of Common Customs Tariff shall be dependent on the flat-rate import value or on the application, under conditions to be determined in accordance with the procedure referred to in Article 113(1), of the relevant provisions of customs legislation.

2. Should derogations by the Council referred to in points B.5 or C of Annex VI be applied to imported products, importers shall lodge a security for those products with the designated customs authorities at the time of release for free circulation. The security shall be released on presentation by the importer of proof, to the satisfaction of the customs authorities of the Member State of release for free circulation, that the musts were made into grape juice, used in other products outside the wine sector or, if vinified, have been appropriately labelled.

## Article 77

**Implementing measures**

The measures necessary for the implementation of this Chapter shall be adopted in accordance with the procedure referred to in Article 113(1).

Those measures may in particular include:

- (a) the setting of criteria for determining which control method is to be applied;
- (b) the factors that are to enter into the calculation of flat-rate import values;
- (c) the level of securities referred to in Articles 75 and 76 and rules governing the release thereof;
- (d) where applicable, the list of products in respect of which import or export licences are required;
- (e) where applicable, the conditions under which import or export licences shall be issued and their term of validity.

## CHAPTER III

**Safeguard and inward and outward processing**

## Article 78

**Safeguard measures**

1. Safeguard measures against imports into the Community shall be taken by the Commission, subject to paragraph 3 of this Article, in accordance with Council Regulation (EC) No 519/94 of 7 March 1994 on common rules for imports from certain third countries <sup>(1)</sup> and Council Regulation (EC) No 3285/94 of 22 December 1994 on the common rules for imports <sup>(2)</sup>.

2. Save as otherwise provided for pursuant to any other act of the Council, safeguard measures against imports into the Community provided for in international agreements concluded in accordance with Article 300 of the Treaty shall be taken by the Commission in accordance with paragraph 3 of this Article.

<sup>(1)</sup> OJ L 67, 10.3.1994, p. 89. Regulation as last amended by Regulation (EC) No 427/2003 (OJ L 65, 8.3.2003, p. 1).

<sup>(2)</sup> OJ L 349, 31.12.1994, p. 53. Regulation as last amended by Regulation (EC) No 2200/2004 (OJ L 374, 22.12.2004, p. 1).

3. Measures referred to in paragraphs 1 and 2 may be taken by the Commission at the request of a Member State or on its own initiative. If the Commission receives a request from a Member State, it shall take a decision thereon within five working days following receipt of the request.

The Member States shall be notified of such measures, which shall be immediately applicable.

Decisions taken by the Commission pursuant to paragraphs 1 and 2 may be referred to the Council by any Member State within five working days of the date on which they were notified. The Council shall meet without delay. It may, acting by qualified majority, amend or repeal the decisions in question within one month following the date on which they were referred to the Council.

4. Where the Commission considers that any safeguard measure taken in accordance with paragraphs 1 or 2 should be revoked or amended, it shall proceed as follows:

- (a) where the measure was enacted by the Council, the Commission shall propose to the Council that it be revoked or amended. The Council shall act by a qualified majority;
- (b) in all other cases, Community safeguard measures shall be revoked or amended by the Commission.

#### Article 79

##### **Additional import duties**

1. An additional import duty shall apply to imports, subject to the rate of duty laid down in Article 70(1), of grape juice and grape must where marked with a special safeguard clause indication (SSG) in the Agreement on Agriculture concluded during the Uruguay Round Multilateral Trade Negotiations, in order to prevent or counteract adverse effects on the market of the Community which may result from those imports, if:

- (a) the imports are made at a price below the level notified by the Community to the WTO; or
- (b) the volume of imports in any year exceeds a certain level.

The volume referred to in (b) shall be based on market access opportunities defined, where applicable, as imports as a percentage of the corresponding domestic consumption during the three previous years.

2. Additional import duties shall not be imposed where the imports are unlikely to disturb the Community market, or where the effects would be disproportionate to the intended objective.

3. For the purposes of paragraph 1(a), import prices shall be determined on the basis of the cif import prices of the consignment under consideration.

Cif import prices shall be checked against the representative prices for the product on the world market or on the Community import market for that product.

#### Article 80

##### **Suspension of inward and outward processing arrangements**

1. Where the Community market is disturbed or is liable to be disturbed by inward or outward processing arrangements, it may be decided, at the request of a Member State or on the Commission's initiative and in accordance with the procedure referred to in Article 113(1), to suspend fully or partially the use of inward or outward processing arrangements for the products covered by this Regulation. If the Commission receives a request from a Member State, a decision thereon shall be taken within five working days following receipt of the request.

The Member States shall be notified of such measures, which shall be immediately applicable.

Measures decided pursuant to the first subparagraph may be referred to the Council by any Member State within five working days of the date on which they were notified. The Council shall meet without delay. It may, acting by qualified majority, amend or repeal the measures in question within one month following the date on which they were referred to the Council.

2. To the extent necessary for the proper functioning of the common organisation of the wine market, the use of inward or outward processing arrangements for the products covered by this Regulation may be fully or partially prohibited by the Council, acting in accordance with the procedure laid down in Article 37(2) of the Treaty.

#### Article 81

##### **Implementing measures**

The measures necessary for the implementation of this Chapter shall be adopted in accordance with the procedure referred to in Article 113(1).

#### CHAPTER IV

##### **Rules applying to imports**

#### Article 82

##### **Import requirements**

1. Save as otherwise provided for, in particular in agreements concluded pursuant to Article 300 of the Treaty, the provisions concerning designations of origin and geographical indications and labelling set out in Chapters III and IV of Title III of this Regulation, where applicable, as well as Article 25(2) of this Regulation shall apply to products falling under CN codes 2009 61, 2009 69 and 2204 which are imported into the Community.

2. Save as otherwise provided in agreements concluded pursuant to Article 300 of the Treaty, products referred to in paragraph 1 of this Article shall be produced in accordance with oenological practices recommended and published by the OIV or authorised by the Community pursuant to this Regulation and its implementing measures.

3. The importation of the products referred to in paragraph 1 shall be subject to the presentation of:

- (a) a certificate evincing compliance with the provisions referred to in paragraphs 1 and 2, to be drawn up by a competent body, included on a list to be made public by the Commission, in the country from which the product comes;
- (b) an analysis report drawn up by a body or department designated by the country from which the product comes, in so far as the product is intended for direct human consumption.

#### Article 83

##### **Tariff quotas**

1. Tariff quotas for imports of products covered by this Regulation resulting from agreements concluded in accordance with Article 300 of the Treaty or from any other act of the Council shall be opened and administered in accordance with the procedure referred to in Article 113(1) of this Regulation.

2. Tariff quotas shall be administered in a manner which avoids any discrimination between the operators concerned, by applying one of the following methods or a combination of them or another appropriate method:

- (a) a method based on the chronological order of the lodging of applications (first come, first served principle);
- (b) a method of distribution in proportion to the quantities requested when the applications were lodged (simultaneous examination method);
- (c) a method based on taking traditional trade patterns into account (traditional/new arrival method).

3. The method of administration adopted for the management of tariff quotas shall, where appropriate, give due weight to the supply requirements of the Community market and the need to safeguard the equilibrium of that market.

#### Article 84

##### **Implementing measures**

The measures necessary for the implementation of this Chapter shall be adopted in accordance with the procedure referred to in Article 113(1).

Those measures may in particular include:

- (a) details on the import requirements;
- (b) guarantees covering the nature, provenance and origin of the product;
- (c) recognition of the document used for verifying the guarantees referred to in (b).

#### TITLE V

##### **PRODUCTION POTENTIAL**

#### CHAPTER I

##### **Unlawful plantings**

#### Article 85

##### **Unlawful plantings planted after 31 August 1998**

1. Producers shall grub up at their own cost areas planted with vines without a corresponding planting right, where applicable, after 31 August 1998.

2. Pending grubbing-up in accordance with paragraph 1, grapes and products made from grapes from areas referred to in that paragraph may be put into circulation only for the purposes of distillation at the exclusive expense of the producer. The products resulting from distillation may not be used in the preparation of alcohol having an actual alcoholic strength by volume of 80 % or less.

3. Without prejudice, where applicable, to earlier penalties imposed by Member States, Member States shall, from 31 December 2008 onwards, impose penalties on producers who have not complied with this grubbing-up obligation graduated according to the severity, extent and duration of the non-compliance.

4. Member States shall communicate to the Commission by 1 March each year the areas planted with vines without a corresponding planting right after 31 August 1998 as well as the areas grubbed up in accordance with paragraph 1.

5. The end of the transitional ban on new plantings on 31 December 2015, as provided for in Article 90(1), shall not affect the obligations provided for in this Article.

#### Article 86

##### **Obligatory regularisation of unlawful plantings planted before 1 September 1998**

1. Producers shall, against the payment of a fee and not later than 31 December 2009, regularise areas planted with vines without a corresponding planting right, where applicable, before 1 September 1998.

Without prejudice to any proceedings under clearance of accounts, the first subparagraph shall not apply to areas regularised on the basis of Article 2(3) of Regulation (EC) No 1493/1999.

2. The fee referred to in paragraph 1 shall be determined by Member States. It shall be equivalent to at least twice the average value of the corresponding planting right in the region concerned.

3. Pending regularisation under paragraph 1, grapes or products made from grapes from areas referred to that paragraph may be put into circulation only for the purpose of distillation at the exclusive expense of the producer. The products may not be used in the preparation of alcohol having an actual alcoholic strength of 80 % vol. or less.

4. Unlawful areas referred to in paragraph 1 which are not regularised in accordance with that paragraph by 31 December 2009 shall be grubbed up by the producers concerned at their own expense.

Member States shall impose penalties, graduated according to the severity, extent and duration of the non-compliance, on producers who do not comply with this grubbing-up obligation.

Pending the grubbing-up referred to in the first subparagraph, paragraph 3 shall apply *mutatis mutandis*.

5. Member States shall communicate to the Commission by 1 March of each of the relevant years:

- (a) the areas planted with vines without a corresponding planting right before 1 September 1998;
- (b) the areas regularised in accordance with paragraph 1, the fees as provided for in that paragraph as well as the average value of the regional planting rights as provided for in paragraph 2.

Member States shall, for the first time by 1 March 2010, communicate to the Commission the areas grubbed up in accordance with the first subparagraph of paragraph 4.

6. The end of the transitional ban on new plantings on 31 December 2015 as provided for in Article 90(1), shall not affect the obligations provided for in paragraphs 3, 4 and 5.

#### Article 87

##### **Control of non-circulation or distillation**

1. In relation to Article 85(2) and Article 86(3) and (4), Member States shall require proof of non-circulation of the products concerned or, where the products concerned are distilled, the submission of distillation contracts.

2. Member States shall verify non-circulation and distillation referred to in paragraph 1. They shall impose penalties in case of non-compliance.

3. Member States shall notify the Commission of the areas subject to distillation and the corresponding volumes of alcohol.

#### Article 88

##### **Accompanying measures**

Areas referred to in the first subparagraph of Article 86(1) as long as they are not regularised and areas referred to in Article 85(1) shall not benefit from any national or Community support measures.

#### Article 89

##### **Implementing measures**

The measures necessary for the implementation of this Chapter shall be adopted in accordance with the procedure referred to in Article 113(1).

Those measures may include:

- (a) details on the communication requirements of Member States including possible reductions of the budget allocations referred to in Annex II in case of non-compliance;
- (b) details on the penalties to be imposed by Member States in case of non-compliance with the obligations laid down in Articles 85, 86 and 87.

#### CHAPTER II

##### **Transitional planting right regime**

#### Article 90

##### **Transitional prohibition on planting vines**

1. Without prejudice to Article 24 and in particular paragraph 3 thereof, the planting of vines of wine grape varieties classifiable according to Article 24(1) shall be prohibited until 31 December 2015.

2. Until 31 December 2015, grafting-on of wine grape varieties classifiable according to Article 24(1) to varieties other than wine grape varieties referred to in that Article shall also be prohibited.

3. Notwithstanding paragraphs 1 and 2, plantings and grafting-on as referred to in those paragraphs shall be allowed if covered by:

- (a) a new planting right, as provided for in Article 91;
- (b) a replanting right, as provided for in Article 92;
- (c) a planting right granted from a reserve as provided for in Articles 93 and 94.

4. The planting rights referred to in paragraph 3 shall be granted in hectares.

5. Articles 91 to 96 shall apply until 31 December 2015.

6. Member States may decide to maintain the prohibition referred to in paragraph 1 in their territory or parts of their territory until 31 December 2018 at the latest. In such case the rules governing the transitional planting right regime as laid down in this Chapter including this Article shall apply accordingly in the given Member State.

#### Article 91

##### **New planting rights**

1. Member States may grant new planting rights to producers in respect of areas:

- (a) intended for new plantings carried out under measures for land consolidation or measures concerning compulsory purchases in the public interest adopted under national legislation;
- (b) intended for experimental purposes;
- (c) intended for graft nurseries; or
- (d) whose wine or vine products are intended solely for the consumption by the wine-grower's household.

2. New planting rights granted shall:

- (a) be exercised by the producer to whom they are granted;
- (b) be used before the end of the second wine year after the one in which they were granted;
- (c) be used for the purposes for which they were granted.

#### Article 92

##### **Replanting rights**

1. Member States shall grant replanting rights to producers who have grubbed up an area planted with vines.

However, grubbed-up areas for which a grubbing-up premium is granted in accordance with Chapter III shall not generate replanting rights.

2. Member States may grant replanting rights to producers who undertake to grub up an area planted with vines. In such cases, the grubbing-up of the pledged area shall be carried out at the latest at the end of the third year after which new vines for which the replanting rights had been granted have been planted.

3. Replanting rights granted shall correspond to the equivalent of the grubbed-up area in terms of pure crop.

4. The replanting rights shall be exercised on the holding in respect of which they were granted. Member States may further stipulate that such replanting rights may be exercised only on the area where the grubbing-up was carried out.

5. By way of derogation from paragraph 4, Member States may decide that replanting rights may be transferred, in whole or in part, to another holding in the same Member State in the following cases:

- (a) part of the holding concerned is transferred to that other holding;
- (b) areas on that other holding are intended for:
  - (i) the production of wines with a protected designation of origin or a protected geographical indication; or
  - (ii) the cultivation of graft nurseries.

Member States shall ensure that the application of the derogation provided for in the first subparagraph does not lead to an overall increase in production potential on their territory, in particular when transfers are made from non-irrigated to irrigated areas.

6. Paragraphs 1 to 5 shall apply *mutatis mutandis* to rights similar to replanting rights acquired under prior Community or national legislation.

7. Replanting rights granted under Article 4(5) of Regulation (EC) No 1493/1999 shall be used within the periods provided for therein.

#### Article 93

##### **National and regional reserve of planting rights**

1. In order to improve management of the production potential Member States shall create a national reserve or regional reserves of planting rights.

2. Member States which have established national or regional reserves of planting rights under Regulation (EC) No 1493/1999 may maintain those reserves as long as they apply the transitional planting right regime in accordance with this Chapter.

3. The following planting rights shall be allocated to the national or regional reserves if they are not used within the prescribed period:

- (a) new planting rights;
- (b) replanting rights;
- (c) planting rights granted from the reserve.



4. Producers may transfer replanting rights to the national or regional reserves. The conditions of such transfer, where necessary in return for a payment from national funds, shall be determined by the Member States taking into account the legitimate interests of the parties.

5. By way of derogation from paragraph 1, Member States may decide not to implement a reserve system provided that they can prove that an effective alternative system for managing planting rights exists throughout their territory. The alternative system may, where necessary, derogate from the relevant provisions of this Chapter.

The first subparagraph shall also apply to Member States which cease the operation of national or regional reserves under Regulation (EC) No 1493/1999.

#### Article 94

##### **Granting planting rights from the reserve**

1. Member States may grant rights out of a reserve:
  - (a) without payment, to producers who are under 40 years of age, who possess adequate occupational skill and competence, who are setting up for the first time and who are established as the head of the holding;
  - (b) against payment into national or, if appropriate, regional funds, to producers who intend to use the rights to plant vineyards whose production has an assured outlet.

Member States shall define the criteria for setting the amounts of the payment referred to in (b), which may vary depending on the final intended product of the vineyards concerned and on the residual transitional period during which the prohibition on new plantings as provided for in Article 90(1) and (2) applies.

2. Where planting rights granted from a reserve are used, Member States shall ensure that:

- (a) the location, the varieties used and the cultivation techniques used guarantee that the subsequent production is adapted to market demand;
- (b) the yields concerned are typical of the average in the region, in particular where planting rights originating in non-irrigated areas are used in irrigated areas.

3. Planting rights granted from a reserve which are not used before the end of the second wine year after the one in which they were granted shall be forfeited and re-allocated to the reserve.

4. Planting rights in a reserve which are not disbursed before the end of the fifth wine year following their allocation to the reserve shall be extinguished.

5. If regional reserves exist in a Member State, the Member State may lay down rules permitting the transfer of planting rights between regional reserves. If both regional and national reserves exist in a Member State, the Member State may also allow for transfers between those reserves.

Transfers may be subject to a reduction coefficient.

#### Article 95

##### **De minimis**

This Chapter shall not apply in Member States where the Community planting right regime did not apply by 31 December 2007.

#### Article 96

##### **Stricter national rules**

Member States may adopt stricter national rules in respect of the award of new planting rights or replanting rights. They may require that the respective applications and the relevant information to be supplied therein be supplemented by additional information necessary for monitoring the development of production potential.

#### Article 97

##### **Implementing measures**

The measures necessary for the implementation of this Chapter shall be adopted in accordance with the procedure referred to in Article 113(1).

Those measures may in particular include:

- (a) provisions to avoid excessive administrative charges when applying the provisions of this Chapter;
- (b) the co-existence of vines pursuant to Article 92(2);
- (c) the application of the reduction coefficient referred to in Article 94(5).

#### CHAPTER III

##### **Grubbing-up scheme**

#### Article 98

##### **Scope and definition**

This Chapter lays down the conditions under which vine-growers shall receive a premium in exchange for grubbing up vines (hereinafter referred to as the grubbing-up premium).

*Article 99***Duration of the scheme**

The grubbing-up scheme shall apply until the end of the wine year 2010/2011.

*Article 100***Conditions of eligibility**

The grubbing-up premium may be granted only if the area concerned complies with the following conditions:

- (a) it did not receive Community or national support for restructuring and conversion-type measures within the 10 wine years preceding the grubbing-up request;
- (b) it did not receive Community support under any other common market organisation within the five wine years preceding the grubbing-up request;
- (c) it is tended;
- (d) it is not smaller than 0,1 hectare. However, that minimum size may be 0,3 hectare, if a Member State so decides, for certain administrative regions of that Member State in which the average of the area planted with vines of a wine holding exceeds one hectare;
- (e) it has not been planted in violation of any applicable Community or national provision;
- (f) it is planted with a wine grape variety classifiable according to Article 24(1).

Notwithstanding point (e), areas regularised in accordance with Article 2(3) of Regulation (EC) No 1493/1999 and Article 86(1) of this Regulation shall be eligible for the grubbing-up premium.

*Article 101***Amount of the grubbing-up premium**

1. Scales for the grubbing-up premiums to be granted shall be fixed in accordance with the procedure referred to in Article 113 (1).
2. The specific amount of the grubbing-up premium shall be established by Member States within the scales referred to in paragraph 1 and on the basis of the historical yields of the holding concerned.

*Article 102***Procedure and budget**

1. Interested producers shall submit applications for the grubbing-up premium to the respective authorities in Member States not later than 15 September of each year. Member States

may fix an earlier date than 15 September provided that it is later than 30 June and provided that they take into due account, where applicable, their application of the exemptions provided for in Article 104.

2. Member States shall carry out administrative controls concerning the applications received, process eligible applications and notify to the Commission by 15 October each year the total area and amounts covered by those applications split by regions and by yield ranges.

3. The maximum annual budget for the grubbing-up scheme is set out in Annex VII.

4. By 15 November each year, in accordance with the procedure referred to in Article 113(1), a single percentage for acceptance of the amounts notified shall be set if the total amount notified to the Commission by Member States exceeds the available budget resources, regard being had, where applicable, to the application of Articles 104(2) and (3).

5. By 1 February each year, Member States shall accept the applications:

- (a) for the areas applied for in their entirety if the Commission has not set a percentage as referred to in paragraph 4; or
- (b) for the areas resulting from the application of the percentage referred to in paragraph 4 based on objective and non-discriminatory criteria and in accordance with the following priorities:
  - (i) Member States shall give priority to applicants whose application for the grubbing-up premium covers their entire vineyard;
  - (ii) Member States shall give second priority to applicants who are not less than 55 years old, or older where Member States so provide.

By 1 March each year, Member States shall notify the Commission of the applications accepted split by regions and by yield ranges and the total amount of grubbing-up premiums paid by region.

6. For the preceding wine year, Member States shall notify the Commission, by 1 December each year, of:

- (a) the areas grubbed-up split by regions and by yield ranges;
- (b) the total amount of grubbing-up premiums paid by region.

*Article 103***Cross-compliance**

Where farmers are found not to have complied on their holding, at any time during three years from payment of the grubbing-up premium, with the statutory management requirements and the

good agricultural and environmental condition referred to in Articles 3 to 7 of Regulation (EC) No 1782/2003, the amount of the payment shall, where non-compliance is the result of an action or omission directly imputable to the farmer, be reduced or cancelled, partially or wholly depending on the severity, extent, permanence and repetition of the non-compliance, and the farmer shall, where applicable, be ordered to reimburse it in accordance with the conditions set out in those provisions.

#### Article 104

##### Exemptions

1. A Member State may decide to reject any further applications referred to in Article 102(1) once the accumulated grubbed-up area on its territory reaches 8 % of its area planted with vines as referred to in Annex VIII.

A Member State may decide to reject any further applications referred to in Article 102(1) for a region once the accumulated grubbed-up area in that region reaches 10 % of the region's area planted with vines.

2. It may be decided, in accordance with the procedure referred to in Article 113(1), to stop the application of the grubbing-up scheme in a Member State if, taking into account the pending applications, continued grubbing-up would lead to a cumulated area grubbed-up of more than 15 % of the Member State's total area planted with vines as referred to in Annex VIII.

3. It may be decided, in accordance with the procedure referred to in Article 113(1), to stop the application of the grubbing-up scheme in a Member State for a given year if, taking into account the pending applications, continued grubbing-up would lead to an area grubbed-up of more than 6 % of the Member State's total area planted with vines as referred to in Annex VIII in that particular year of the scheme's operation.

4. Member States may declare vines in mountain and steep-slope areas ineligible for the grubbing-up scheme in accordance with conditions to be determined in accordance with the procedure referred to in Article 113(1).

5. Member States may declare areas ineligible for the grubbing-up scheme where application of the scheme would be incompatible with environmental concerns. Areas thus declared ineligible shall not exceed 3 % of the total area planted with vines as referred to in Annex VIII.

6. Greece may declare areas planted with vines on the Aegean islands and the Greek Ionian islands, with the exception of Crete and Eubia, ineligible under the grubbing-up scheme.

7. The grubbing-up scheme set out in this Chapter shall not apply in the Azores, Madeira and Canary Islands.

8. Member States deciding to make use of the possibility provided for in paragraphs 4 to 6 shall communicate, by

1 August each year and for the first time on 1 August 2008, to the Commission, concerning the grubbing-up measure to be implemented:

- (a) the areas declared ineligible;
- (b) the justification for ineligibility in accordance with paragraphs 4 and 5.

9. Member States shall grant producers in the areas ineligible or declared ineligible under paragraphs 4 to 7 priority under other support measures laid down in this Regulation, in particular, where applicable, the restructuring and conversion measure under the support programmes and rural development measures.

#### Article 105

##### De minimis

This Chapter shall not apply in Member States where wine production does not exceed 50 000 hectolitres per wine year. This production shall be calculated on the basis of the average production during the previous five wine years.

#### Article 106

##### Complementary national aid

Member States may grant complementary national aid not exceeding 75 % of the applicable grubbing-up premium in addition to the grubbing-up premium granted.

#### Article 107

##### Implementing measures

The measures necessary for the implementation of this Chapter shall be adopted in accordance with the procedure referred to in Article 113(1).

Those measures may in particular include:

- (a) details on the conditions of eligibility referred to in Article 100, in particular as regards proof that areas were properly tended in 2006 and 2007;
- (b) the premium scales and levels referred to in Article 101;
- (c) the criteria for exemption as referred to in Article 104;
- (d) the reporting requirements of Member States concerning the implementation of the grubbing-up scheme, including penalties in case of delays in reporting and the information which Member States give to producers concerning the availability of the scheme;

- (e) the reporting requirements as regards complementary national aid;
- (f) deadlines for payments.

## TITLE VI

**GENERAL PROVISIONS***Article 108***Vineyard register**

1. Member States shall maintain a vineyard register which contains updated information on the production potential.
2. Member States in which the total area planted with vines of wine grape varieties classifiable according to Article 24(1) is less than 500 hectares shall not be subject to the obligation laid down in paragraph 1.

*Article 109***Inventory**

Member States, which provide for the measure 'restructuring and conversion of vineyards' in their support programmes in accordance with Article 11, shall, on the basis of the vineyard register referred to in Article 108, submit to the Commission, by 1 March each year and for the first time by 1 March 2009, an updated inventory of their production potential.

*Article 110***Duration of vineyard register and inventory**

It may be decided, in accordance with the procedure referred to in Article 113(1), that Articles 108 and 109 no longer apply any time after 1 January 2016.

*Article 111***Compulsory declarations**

1. Producers of grapes for wine-making and producers of must and wine shall declare to the competent national authorities each year the quantities produced from the last harvest.
2. Member States may require merchants of grapes for wine-making to declare each year the quantities marketed from the last harvest.
3. Producers of must and wine, and merchants other than retailers, shall declare to the competent national authorities each year their stocks of must and wine, whether from the harvest of the current year or from the harvest of preceding years. Must and wine imported from third countries shall be stated separately.

*Article 112***Accompanying documents and register**

1. The products covered by this Regulation shall be put into circulation within the Community only with an officially authorised accompanying document.
2. Natural or legal persons or groups of persons who hold products covered by this Regulation in the exercise of their trade, in particular producers, bottlers and processors, as well as merchants to be determined in accordance with the procedure referred to in Article 113(1), shall keep inwards and outwards registers in respect of those products.

*Article 113***Committee procedure**

1. Where reference is made to this paragraph, Article 195(2) of Regulation (EC) No 1234/2007 shall apply.
2. Where reference is made to this paragraph:
  - (a) the Commission shall be assisted by a Regulatory Committee;
  - (b) Articles 5 and 7 of Decision 1999/468/EC shall apply;
  - (c) the period referred to in Article 5(6) of Decision 1999/468/EC shall be three months.

*Article 114***Financial resources**

The measures provided for in Chapter I of Title II, with the exception of the measure referred to in Article 7(1)(a), and Chapter III of Title V shall constitute intervention to regulate agricultural markets as referred to in Article 3(1)(b) of Regulation (EC) No 1290/2005.

*Article 115***Exchange of information between the Member States and the Commission**

1. Member States and the Commission shall provide each other with any information necessary for the application of this Regulation, notably for market monitoring and analysis and for complying with the international obligations concerning the products covered by this Regulation.
2. Detailed rules shall be adopted in accordance with the procedure referred to in Article 113(1) to determine what information is necessary for the application of paragraph 1 of this Article, as well as its form, content, timing and deadlines and the arrangements for transmitting or making information and documents available.

*Article 116***Monitoring**

For the purposes of applying this Regulation, Member States shall ensure that those administration and control procedures which relate to areas are compatible with the integrated administration control system (IACS) as regards the following elements:

- (a) the computerised data base;
- (b) the identification systems for agricultural parcels referred to in Article 20(1) of Regulation (EC) No 1782/2003;
- (c) the administrative checks.

Those procedures shall allow, without any problems or conflicts, a common functioning or the exchange of data with the IACS.

*Article 117***Controls and administrative penalties and their reporting**

With the exception of the matter covered by Article 145(n)(a) of Regulation (EC) No 1782/2003, the following shall be adopted in accordance with the procedure referred to in Article 113(1) of this Regulation:

- (a) the rules ensuring uniform application of Community provisions in the wine sector, in particular as regards controls, and rules governing the specific financial procedures for the improvement of controls;
- (b) the rules concerning administrative and physical controls to be conducted by the Member States with regard to the respect of obligations resulting from the application of this Regulation;
- (c) a system for applying administrative penalties where non-compliances with any of the obligations resulting from the application of this Regulation is found, taking into account the severity, extent, permanence and repetition of the non-compliance found;
- (d) the rules regarding recovery of undue payments resulting from the application of this Regulation;
- (e) the rules on reporting of the controls carried out as well as their results.

*Article 118***Designation of responsible national authorities**

1. Without prejudice to Article 47, Member States shall designate one or more authorities which shall be responsible for ensuring compliance with Community rules in the wine sector. In particular, Member States shall designate the laboratories authorised to carry out official analyses in the wine sector. The designated laboratories shall meet the general criteria

for the operation of testing laboratories set out in ISO/IEC 17025.

2. Member States shall inform the Commission of the names and addresses of the authorities and laboratories referred to in paragraph 1. The Commission shall make this information public.

*Article 119***National aid for distillation in case of crisis**

1. From 1 August 2012 Member States may grant national aid to wine producers for the voluntary or mandatory distillation of wine in justified cases of crisis.

2. The aid referred to in paragraph 1 shall be proportionate and allow this crisis to be addressed.

3. The overall amount of aid available in a Member State in any given year for such aid shall not exceed 15 % of the globally available funds per Member State laid down in annex II for that year.

4. Member States who wish to make use of the aid referred to in paragraph 1 shall submit a duly substantiated notification to the Commission. The decision on whether the measure is approved and aid may be granted shall be adopted in accordance with the procedure referred to in Article 113(1).

5. The alcohol resulting from distillation referred to in paragraph 1 shall be used exclusively for industrial or energy purposes so as to avoid distortion of competition.

*Article 120***Report from the Commission**

The Commission shall produce a report by the end of 2012, in particular taking into account the experience gained with the implementation of the reform.

*Article 121***Implementing measures**

The measures necessary for the implementation of this Title shall be adopted in accordance with the procedure referred to in Article 113(1).

Those measures may in particular include:

- (a) details of the vineyard register provided for in Article 108 and in particular of its use concerning monitoring and control of the production potential;
- (b) details of the inventory provided for in Article 109 and in particular of its use concerning monitoring and control of the production potential;
- (c) details concerning the measurement of areas;



- (d) penalties in case of non-compliance with the communication requirements;
- (e) the compulsory declarations provided for in Article 111;
- (f) the accompanying documents and the register provided for in Article 112;
- (g) details on the national aid referred to in Article 119.

## TITLE VII

## AMENDMENTS, TRANSITIONAL AND FINAL PROVISIONS

## CHAPTER I

**Amendments***Article 122***Amendment to Regulation (EC) No 1493/1999**

In the first subparagraph of Article 2(3) of Regulation (EC) No 1493/1999, the words '31 July 2002' shall be replaced by the following:

'31 July 2008'.

*Article 123***Amendments to Regulation (EC) No 1782/2003**

Regulation (EC) No 1782/2003 is hereby amended as follows:

1. point (a) of Article 33(1) shall be replaced by the following:
  - '(a) they have been granted a payment in the reference period referred to in Article 38 under at least one of the support schemes referred to in Annex VI or, in the case of olive oil, in the marketing years referred to in the second subparagraph of Article 37(1) or, in the case of sugar beet, cane and chicory, if they have benefited from market support in the representative period referred to in point K of Annex VII or, in the case of bananas, if they have benefited from compensation for loss of income in the representative period referred to in point L of Annex VII or, in the case of fruit and vegetables, if they were producers of fruit and vegetable products, ware potatoes and nurseries in the representative period applied by Member States for those products pursuant to point M of Annex VII or, in the case of wine, if they have received a payment entitlement as referred to in points N and O of Annex VII;'
2. the following subparagraph shall be added to Article 37(1):

'For wine the reference amount shall be calculated and adjusted in accordance with points N and O of Annex VII;'

3. the following paragraph shall be inserted in Article 41:

'1b. In the case of wine and taking into account the latest data made available to it by the Member States in accordance with Articles 9 and 102(6) of Council Regulation (EC) No 479 of 29 April 2008 on the common organisation of the market in wine (\*), the Commission shall, in accordance with the procedure referred to in Article 144(2) of this Regulation, adapt the national ceilings set out in Annex VIII to this Regulation. By 1 December of the year preceding the adaptation of the national ceilings Member States shall communicate to the Commission the regional average of the value of entitlements referred to in point N of Annex VII to this Regulation.'

(\*) OJ L 148, 6.6.2008, p. 1';

4. the following point shall be inserted in Article 43(2):

'(ad) in the case of wine, the number of hectares as calculated in accordance with points N and O of Annex VII;'

5. Article 44(2) shall be replaced by the following:

'2. "Eligible hectare" shall mean any agricultural area of the holding except areas under forests or used for non agricultural activities.';

6. Article 51 shall be replaced by the following:

'Article 51

**Agricultural use of the land**

Farmers may use the parcels declared in accordance with Article 44(3) for any agricultural activity.

By way of derogation from the first subparagraph, Member States may decide by 1 November 2007 that until a date to be fixed by the Member State but not later than 31 December 2010, the parcels in one or more regions of the Member States may continue not to be used for:

- (a) the production of one or more of the products referred to in Article 1(2) of Regulation (EC) No 2200/96 and in Article 1(2) of Regulation (EC) No 2201/96. However in this case, Member States may decide to allow secondary crops to be cultivated on the eligible hectares during a period of maximum three months starting each year on 15 August; however, at the request of a Member State, this date shall be modified in accordance with the procedure laid down in Article 144(2) for regions where cereals are normally harvested earlier for climatic reasons;
- (b) the production of ware potatoes; and/or
- (c) nurseries.';

7. the following subparagraph shall be added to Article 63(3):

'With regard to the inclusion of the wine component in the single payment scheme, Member States may decide, by 1 April 2009, to apply the derogation provided for in the first subparagraph.'

8. the following paragraph shall be added to Article 71c:

'In the case of wine and taking into account the latest data made available to it by the Member States in accordance with Articles 9 and 102(6) of Regulation (EC) No 479, the Commission shall, in accordance with the procedure referred to in Article 144(2) of this Regulation, adapt the national ceilings set out in Annex VIIIa to this Regulation. By 1 December of the year preceding the adaptation of the national ceilings Member States shall communicate to the Commission the regional average of the value of entitlements referred to in point N of Annex VII to this Regulation.'

9. in Article 145:

- the following point shall be inserted:

'(d)e detailed rules relating to the inclusion of wine support into the single payment scheme in accordance with Regulation (EC) No 479';

- the following point shall be inserted:

'(n)a with regard to wine, detailed rules relating to cross-compliance as laid down in Articles 20 and 103 of Regulation (EC) No 479';

10. in the second column of Annex IV, the last indent shall be replaced by the following indent:

- Maintenance of olive groves and vines in good vegetative condition';

11. the following points shall be added to Annex VII:

**N. Wine (grubbing-up)**

Farmers who participate in the grubbing-up scheme laid down in Chapter III of Title V of Regulation (EC) No 479 shall be allocated, in the year following the grubbing-up, payment entitlements equal to the number of hectares for which they have received a grubbing-up premium.

The unit value of these payment entitlements shall be equal to the regional average of the value of the entitlements of the corresponding region. However, the unit value shall in any case not exceed EUR 350/ha.

**O. Wine (transfer from support programmes)**

Where Member States choose to provide support in accordance with Article 9 of Regulation (EC) No 479, they shall establish the reference amount of each farmer as well as the applicable hectares referred to in Article 43(2) of this Regulation:

- on the basis of objective and non-discriminatory criteria,
- in respect of a representative reference period of one or more wine years starting from the wine year 2005/2006. However, the reference criteria used to establish the reference amount and applicable hectares shall not be based on a reference period including wine years after the wine year 2007/2008 where the transfer in support programmes concerns compensation to farmers who have hitherto received support for potable alcohol distillation or have been the economic beneficiaries of the support for the use of concentrated grape must to enrich wine under Regulation (EC) No 479,
- which shall not exceed the overall available amount for this measure referred to in Article 6(e) of Regulation (EC) No 479';

12. in Annex VIII,

- an asterisk shall be inserted after the word 'Italy' in the first column of the table,
- the following shall be added underneath the table:

'The amounts for Italy corresponding to years 2008, 2009 and 2010 shall be reduced by EUR 20 millions (see footnote to Annex II to Regulation (EC) No 479)'.

*Article 124*

**Amendment to Regulation (EC) No 1290/2005**

Article 12(2) of Regulation (EC) No 1290/2005, shall be replaced by the following:

'2. The Commission shall set the amounts which, pursuant to Articles 10(2), 143d and 143e of Regulation (EC) No 1782/2003, Article 4(1) of Council Regulation (EC) No 378/2007 of 27 March 2007 laying down rules for voluntary modulation of direct payments provided for in Regulation (EC) No 1782/2003 (\*) and Article 23(2) of Council Regulation (EC) No 479 of 29 April 2008 on the common organisation of the market in wine (\*\*), are made available to the EAFRD.

(\*) OJ L 95, 5.4.2007, p. 1.

(\*\*) OJ L 148, 6.6.2008, p. 1'.

## Article 125

**Amendments to Regulation (EC) No 3/2008**

Regulation (EC) No 3/2008 is hereby amended as follows:

## 1. in Article 2:

- point (c) of paragraph 1 shall be replaced by the following:

‘(c) information campaigns on the Community system covering wines with a protected designation of origin or geographical indication, wines with an indication of the wine grape variety and spirit drinks with a protected geographical indication;’

- paragraph 2 shall be replaced by the following:

‘2. On the internal market, the measures referred to in Article 1(1) may include actions of information on responsible drinking patterns and harm linked to hazardous alcohol consumption.

On the internal market, eligible measures may also take the form of participation in events, fairs and exhibitions of national and European importance, by means of stands aimed at enhancing the image of Community products.’

## 2. point (e) of Article 3(1) shall be replaced by the following:

‘(e) the desirability of providing information on the Community system covering wines with a protected designation of origin or geographical indication, wines with an indication of the wine grape variety and spirit drinks with a protected geographical indication and the need to inform on responsible drinking patterns and harm linked to hazardous alcohol consumption.’

## 3. the following subparagraph shall be added to Article 13(2):

‘The percentage provided for in the first subparagraph shall be 60 % for measures carried out in the Community concerning information on responsible drinking patterns and harm linked to hazardous alcohol consumption.’

## CHAPTER II

**Transitional and final provisions**

## Article 126

**Provisions facilitating transition**

In accordance with the procedure referred to in Article 113(1), measures may be adopted:

- (a) to facilitate the transition from the arrangements provided for in Regulation (EC) No 1493/1999 to those established by this Regulation;
- (b) where required, to resolve specific practical problems. Such measures, if duly justified, may derogate from certain provisions of this Regulation.

## Article 127

**Applicability of State aid rules**

1. Subject to paragraph 2, Articles 87, 88 and 89 of the Treaty shall apply to the production of and trade in the products covered by this Regulation.

2. Articles 87, 88 and 89 of the Treaty shall not apply to:

- (a) support referred to in Article 3 of this Regulation including support financed in accordance with Article 18(5);
- (b) complementary national aids referred to in Article 106;
- (c) national aid referred to in Article 119.

## Article 128

**Repeals, transitional continued applicability and references**

1. Subject to paragraphs 2 and 3, Regulations (EEC) No 2392/86 and (EC) No 1493/1999 shall be repealed.

2. Regulation (EC) No 2392/86 and Chapters I and II of Title V, Title VI, Articles 24 and 80 and the corresponding provisions in particular in the relevant Annexes to Regulation (EC) No 1493/1999 shall continue to apply until the corresponding Chapters of this Regulation start to apply in accordance with Article 129(2)(e).

3. The following measures set out in Regulation (EC) No 1493/1999 shall continue to apply in so far as measures eligible under that Regulation have been commenced or undertaken before 1 August 2008:

- (a) the measures under Chapters II and III of Title II (abandonment premiums and restructuring and conversion). However, no support shall be paid after 15 October 2008 under Chapter III of Title II;
- (b) the measures under Title III (market mechanisms);
- (c) the measures under Article 63 of Title VII (exports refunds).

4. References made to the repealed Regulation (EC) No 1493/1999 shall, where applicable, be construed as being made to this Regulation.

#### *Article 129*

#### **Entry into force and applicability**

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

2. It shall apply from 1 August 2008, except as follows:

- (a) Articles 5 to 8 shall apply from 30 June 2008;
- (b) Article 122 shall apply from 1 January 2008;
- (c) Article 123 shall apply from 1 January 2009;
- (d) Chapter III of Title V shall apply from 30 June 2008;
- (e) Chapters II, III, IV, V and VI of Title III, Articles 108, 111 and 112 and the corresponding provisions in particular in the relevant Annexes shall apply from 1 August 2009 save as otherwise provided by way of regulation to be adopted in accordance with the procedure referred to in Article 113(1).

3. Chapter II of Title V shall apply until 31 December 2015.

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

Done at Luxembourg, 29 April 2008.

*For the Council*

*The President*

D. RUPEL

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## ANNEX I

## DEFINITIONS

**General**

1. 'Wine year' shall mean the production year for the products covered by this Regulation. It begins on 1 August each year and ends on 31 July of the following year.

**Vine-related**

2. 'Grubbing-up' shall mean the complete elimination of all vine stocks on an area planted with vines.
3. 'Planting' shall mean the definitive establishment of vine plants or parts of vine plants, whether or not grafted, with a view to producing grapes or to establishing a graft nursery.
4. 'Grafting-on' shall mean the grafting of a vine which has already been subject to a previous grafting.

**Produce-related**

5. 'Fresh grapes' shall mean the fruit of the vine used in making wine, ripe or even slightly raisined, which may be crushed or pressed by normal wine-cellar means and which may spontaneously produce alcoholic fermentation.
6. 'Fresh grape must with fermentation arrested by the addition of alcohol' shall mean a product which:
  - (a) has an actual alcoholic strength of not less than 12 % vol. and not more than 15 % vol.;
  - (b) is obtained by addition to unfermented grape must, which has a natural alcoholic strength of not less than 8,5 % vol. and is exclusively derived from wine grape varieties classifiable according to Article 24(1):
    - (i) either of neutral alcohol of vinous origin, including alcohol obtained from the distillation of dried grapes, having an actual alcoholic strength of not less than 96 % vol.;
    - (ii) or of an unrectified product derived from the distillation of wine and having an actual alcoholic strength of not less than 52 % vol. and not more than 80 % vol.
7. 'Grape juice' shall mean the unfermented but fermentable liquid product which:
  - (a) is obtained by appropriate treatment rendering it fit for consumption as it is;
  - (b) is obtained from fresh grapes or from grape must or by reconstitution. Where obtained by reconstitution, it shall be reconstituted from concentrated grape must or concentrated grape juice.

An actual alcoholic strength of the grape juice of not more than 1 % vol. is permissible.

8. 'Concentrated grape juice' shall mean uncaramelised grape juice obtained by partial dehydration of grape juice carried out by any authorised method other than by direct heat in such a way that the figure indicated by a refractometer used in accordance with a method to be prescribed at a temperature of 20 °C is not less than 50,9 %.

An actual alcoholic strength of the concentrated grape juice of not more than 1 % vol. is permissible.

9. 'Wine lees' shall mean:
  - (a) the residue accumulating in vessels containing wine after fermentation, during storage or after authorised treatment;
  - (b) the residue obtained from filtering or centrifuging the product referred to in (a);



- (c) the residue accumulating in vessels containing grape must during storage or after authorised treatment;
  - (d) the residue obtained from filtering or centrifuging the product referred to in (c).
10. 'Grape marc' shall mean the residue from the pressing of fresh grapes, whether or not fermented.
11. 'Piquette' shall mean a product obtained:
- (a) by the fermentation of untreated grape marc macerated in water;
  - (b) by leaching fermented grape marc with water.
12. 'Wine fortified for distillation' shall mean a product which:
- (a) has an actual alcoholic strength of not less than 18 % vol. and not more than 24 % vol.;
  - (b) is obtained exclusively by the addition to wine containing no residual sugar of an unrectified product derived from the distillation of wine and having a maximum actual alcoholic strength of 86 % vol.;
  - (c) has a maximum volatile acidity of 1,5 grams per litre, expressed as acetic acid.
13. 'Cuvée' shall mean:
- (a) the grape must;
  - (b) the wine;
  - (c) the mixture of grape musts and/or wines with different characteristics,
- intended for the preparation of a specific type of the sparkling wines.

#### **Alcoholic strength**

14. 'Actual alcoholic strength by volume' shall mean the number of volumes of pure alcohol contained at a temperature of 20 °C in 100 volumes of the product at that temperature.
15. 'Potential alcoholic strength by volume' shall mean the number of volumes of pure alcohol at a temperature of 20 °C capable of being produced by total fermentation of the sugars contained in 100 volumes of the product at that temperature.
16. 'Total alcoholic strength by volume' shall mean the sum of the actual and potential alcoholic strengths.
17. 'Natural alcoholic strength by volume' shall mean the total alcoholic strength by volume of a product before any enrichment.
18. 'Actual alcoholic strength by mass' shall mean the number of kilograms of pure alcohol contained in 100 kilograms of product.
19. 'Potential alcoholic strength by mass' shall mean the number of kilograms of pure alcohol capable of being produced by total fermentation of the sugars contained in 100 kilograms of the product.
20. 'Total alcoholic strength by mass' shall mean the sum of the actual and potential alcoholic strength.
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## ANNEX II

**BUDGET FOR SUPPORT PROGRAMMES**

(referred to in Article 8(1))

in EUR 1 000

Budget year	2009	2010	2011	2012	2013	From 2014 onwards
BG	15 608	21 234	22 022	27 077	26 742	26 762
CZ	2 979	4 076	4 217	5 217	5 151	5 155
DE	22 891	30 963	32 190	39 341	38 867	38 895
EL	14 286	19 167	19 840	24 237	23 945	23 963
ES	213 820	284 219	279 038	358 000	352 774	353 081
FR	171 909	226 814	224 055	284 299	280 311	280 545
IT (*)	238 223	298 263	294 135	341 174	336 736	336 997
CY	2 749	3 704	3 801	4 689	4 643	4 646
LT	30	37	45	45	45	45
LU	344	467	485	595	587	588
HU	16 816	23 014	23 809	29 455	29 081	29 103
MT	232	318	329	407	401	402
AT	8 038	10 888	11 313	13 846	13 678	13 688
PT	37 802	51 627	53 457	65 989	65 160	65 208
RO	42 100	42 100	42 100	42 100	42 100	42 100
SI	3 522	4 820	4 987	6 169	6 091	6 095
SK	2 938	4 022	4 160	5 147	5 082	5 085
UK	160	221	227	284	280	280

(\*) The national ceilings in Annex VIII to Regulation (EC) No 1782/2003 for Italy corresponding to years 2008, 2009 and 2010 are reduced by EUR 20 millions and those amounts have been included in the budget amounts of Italy for the years 2009, 2010 and 2011 as laid down in this table.

## ANNEX III

## BUDGET ALLOCATION FOR RURAL DEVELOPMENT

(referred to in Article 23(3))

in EUR 1 000

Budget year	2009	2010	From 2011 onwards
BG	—	—	—
CZ	—	—	—
DE	—	—	—
EL	—	—	—
ES	15 491	30 950	46 441
FR	11 849	23 663	35 512
IT	13 160	26 287	39 447
CY	—	—	—
LT	—	—	—
LU	—	—	—
HU	—	—	—
MT	—	—	—
AT	—	—	—
PT	—	—	—
RO	—	—	—
SI	—	—	—
SK	—	—	—
UK	—	—	—

## ANNEX IV

## CATEGORIES OF GRAPEVINE PRODUCTS

1. **Wine**

Wine shall be the product obtained exclusively from the total or partial alcoholic fermentation of fresh grapes, whether or not crushed, or of grape must.

Wine shall:

- (a) have, whether or not following application of the processes specified in point B of Annex V, an actual alcoholic strength of not less than 8,5 % vol. provided that the wine derives exclusively from grapes harvested in wine-growing zones A and B referred to in Annex IX, and of not less than 9 % vol. in other wine-growing zones;
- (b) have, by way of derogation from the otherwise applicable minimum actual alcoholic strength, where it has a protected designation of origin or geographical indication, whether or not following application of the processes specified in point B of Annex V, an actual alcoholic strength of not less than 4,5 % vol.;
- (c) have a total alcoholic strength of not more than 15 % vol.. By way of derogation:
  - the upper limit for the total alcoholic strength may reach up to 20 % vol. for wines from certain wine-growing areas of the Community, to be decided in accordance with the procedure referred to in Article 113(2), which have been produced without any enrichment,
  - the upper limit for the total alcoholic strength may exceed 15 % vol. for wines with a protected designation of origin which have been produced without enrichment;
- (d) have, subject to derogations which may be adopted in accordance with the procedure referred to in Article 113(2), a total acidity content, expressed as tartaric acid, of not less than 3,5 grams per litre or 46,6 milliequivalents per litre.

'Retsina' shall be wine produced exclusively in the geographical territory of Greece using grape must treated with resin from the Aleppo pine. The use of Aleppo pine resin is permitted solely for the purpose of obtaining 'Retsina' wine under the conditions laid down in the Greek provisions applicable.

By way of derogation from point (b) 'Tokaji eszencia' and 'Tokajská esencia' are considered wine.

2. **New wine still in fermentation**

New wine still in fermentation shall be the product in which the alcoholic fermentation is not yet complete and which is not yet separated from its lees.

3. **Liqueur wine**

Liqueur wine shall be the product:

- (a) which has an actual alcoholic strength of not less than 15 % vol. and not more than 22 % vol.;
- (b) which has a total alcoholic strength of not less than 17,5 % vol., except for certain liqueur wines with a designation of origin or with a geographical indication appearing on a list to be drawn up in accordance with the procedure referred to in Article 113(2);
- (c) which is obtained from:
  - grape must in fermentation,
  - wine,
  - a combination of the above products, or
  - grape must or a mixture thereof with wine in so far as liqueur wines, to be determined in accordance with the procedure referred to in Article 113(2), with a protected designation of origin or geographical indication are concerned;

- (d) which has an initial natural alcoholic strength of not less than 12 % vol. excepting certain liqueur wines with a designation of origin or with a protected geographical indication appearing on a list to be drawn up in accordance with the procedure referred to in Article 113(2);
- (e) to which has been added:
  - (i) individually or in combination:
    - neutral alcohol of vine origin, including alcohol produced from the distillation of dried grapes, having an actual alcoholic strength of not less than 96 % vol.,
    - wine or dried grape distillate, having an actual alcoholic strength of not less than 52 % vol. and not more than 86 % vol.;
  - (ii) together with one or more of the following products where appropriate:
    - concentrated grape must,
    - a combination of one of the products referred to in point (e)(i) with a grape must referred to in the first and fourths indent of point (c);
- (f) to which, by way of derogation from point (e), has been added, in so far as certain liqueur wines with a protected designation of origin or geographical indication are concerned which appear on a list to be drawn up in accordance with the procedure referred to in Article 113(2):
  - (i) either of products listed in point (e)(i) individually or in combination; or
  - (ii) one or more of the following products:
    - wine alcohol or dried grape alcohol with an actual alcoholic strength of not less than 95 % vol. and not more than 96 % vol.,
    - spirits distilled from wine or from grape marc, with an actual alcoholic strength of not less than 52 % vol. and not more than 86 % vol.,
    - spirits distilled from dried grapes, with an actual alcoholic strength of not less than 52 % vol. and of less than 94,5 % vol.;
  - (iii) and one or more of the following products, where appropriate:
    - partially fermented grape must obtained from raisined grapes,
    - concentrated grape must obtained by the action of direct heat, complying, with the exception of this operation, with the definition of concentrated grape must,
    - concentrated grape must,
    - a combination of one of the products listed in point (f)(ii) with a grape must referred to in the first and fourth indents of point (c).

#### 4. Sparkling wine

Sparkling wine shall be the product:

- (a) which is obtained by first or second alcoholic fermentation:
  - from fresh grapes,
  - from grape must,
  - from wine;
- (b) which, when the container is opened, releases carbon dioxide derived exclusively from fermentation;



- (c) which has an excess pressure, due to carbon dioxide in solution, of not less than 3 bar when kept at a temperature of 20 °C in closed containers;
- (d) for which the total alcoholic strength of the *cuvées* intended for their preparation shall not be less than 8,5 % vol.

#### 5. **Quality sparkling wine**

Quality sparkling wine shall be the product:

- (a) which is obtained by first or second alcoholic fermentation:
  - from fresh grapes,
  - from grape must,
  - from wine;
- (b) which, when the container is opened, releases carbon dioxide derived exclusively from fermentation;
- (c) which has an excess pressure, due to carbon dioxide in solution, of not less than 3,5 bar when kept at a temperature of 20 °C in closed containers;
- (d) for which the total alcoholic strength of the *cuvées* intended for their preparation shall not be less than 9 % vol.

#### 6. **Quality aromatic sparkling wine**

Quality aromatic sparkling wines shall be the quality sparkling wine:

- (a) which is obtained only by making use, when constituting the *cuvée*, of grape must or grape must in fermentation which are derived from specific wine grape varieties on a list to be drawn up in accordance with the procedure referred to in Article 113(2). Quality aromatic sparkling wines traditionally produced using wines when constituting the *cuvée*, shall be determined in accordance with the procedure referred to in Article 113(2);
- (b) which has an excess pressure, due to carbon dioxide in solution, of not less than 3 bar when kept at a temperature of 20 °C in closed containers;
- (c) of which the actual alcoholic strength may not be less than 6 % vol.;
- (d) of which the total alcoholic strength may not be less than 10 % vol.

Specific rules concerning other supplementary characteristics or conditions of production and circulation shall be adopted in accordance with the procedure referred to in Article 113(2).

#### 7. **Aerated sparkling wine**

Aerated sparkling wine shall be the product which:

- (a) is obtained from wine without a protected designation of origin or a geographical indication;
- (b) releases, when the container is opened, carbon dioxide derived wholly or partially from an addition of that gas;
- (c) has an excess pressure, due to carbon dioxide in solution, of not less than 3 bar when kept at a temperature of 20 °C in closed containers.

#### 8. **Semi-sparkling wine**

Semi-sparkling wine shall be the product which:

- (a) is obtained from wine provided that such wine has a total alcoholic strength of not less than 9 % vol.;
- (b) has an actual alcoholic strength of not less than 7 % vol.;
- (c) has an excess pressure, due to endogenous carbon dioxide in solution of not less than 1 bar and not more than 2,5 bar when kept at a temperature of 20 °C in closed containers;
- (d) is put up in containers of 60 litres or less.

#### 9. **Aerated semi-sparkling wine**

Aerated semi-sparkling wine shall be the product which:

- (a) is obtained from wine;
- (b) has an actual alcoholic strength of not less than 7 % vol. and a total alcoholic strength of not less than 9 % vol.;
- (c) has an excess pressure of not less than 1 bar and not more than 2,5 bar when kept at a temperature of 20 °C in closed containers due to carbon dioxide in solution which has been wholly or partially added;
- (d) is put up in containers of 60 litres or less.

#### 10. **Grape must**

Grape must shall be the liquid product obtained naturally or by physical processes from fresh grapes. An actual alcoholic strength of the grape must of not more than 1 % vol. is permissible.

#### 11. **Partially fermented grape must**

Grape must in fermentation shall be the product obtained from the fermentation of grape must which has an actual alcoholic strength of more than 1 % vol. but less than three fifths of its total alcoholic strength by volume.

#### 12. **Partially fermented grape must extracted from raisined grapes**

Grape must in fermentation extracted from raisined grapes shall be the product obtained from the partial fermentation of grape must obtained from raisined grapes, the total sugar content of which before fermentation is at least 272 grams per litre and the natural and actual alcoholic strength of which shall not be less than 8 % vol. However, certain wines, to be determined in accordance with the procedure referred to in Article 113(2), that meet these requirements shall not be considered as grape must in fermentation extracted from raisined grapes.

#### 13. **Concentrated grape must**

Concentrated grape must shall be uncaramelised grape must which is obtained by partial dehydration of grape must carried out by any authorised method other than by direct heat in such a way that the figure indicated by a refractometer used in accordance with a method to be prescribed in accordance with Article 31 at a temperature of 20 °C is not less than 50,9 %.

An actual alcoholic strength of the concentrated grape must of not more than 1 % vol. is permissible.

#### 14. **Rectified concentrated grape must**

Rectified concentrated grape must shall be the liquid uncaramelised product which:

- (a) is obtained by partial dehydration of grape must carried out by any authorised method other than direct heat in such a way that the figure indicated by a refractometer used in accordance with a method to be prescribed in accordance with Article 31 at a temperature of 20 °C is not less than 61,7 %;
- (b) has undergone authorised treatment for de-acidification and elimination of constituents other than sugar;
- (c) has the following characteristics:
  - a pH of not more than 5 at 25 °Brix,
  - an optical density at 425 nm for a thickness of 1 cm of not more than 0,100 in grape must concentrated at 25 °Brix,
  - a sucrose content undetectable by a method of analysis to be defined,
  - a Folin-Ciocalteu index of not more than 6,00 at 25 °Brix,
  - a titratable acidity of not more than 15 milliequivalents per kilogram of total sugars,
  - a sulphur dioxide content of not more than 25 milligrams per kilogram of total sugars,
  - a total cation content of not more than 8 milliequivalents per kilogram of total sugars,
  - a conductivity at 25 °Brix and 20 °C of not more than 120 micro-Siemens/cm,
  - a hydroxymethylfurfural content of not more than 25 milligrams per kilogram of total sugars,
  - presence of mesoinositol.

An actual alcoholic strength of the rectified concentrated grape must of not more than 1 % vol. is permissible.

#### 15. **Wine from raisined grapes**

Wine from raisined grapes shall be the product which:

- (a) is produced without enrichment, from grapes left in the sun or shade for partial dehydration;
- (b) has a total alcoholic strength of at least 16 % vol. and an actual alcoholic strength of at least 9 % vol.;
- (c) has a natural alcoholic strength of at least 16 % vol. (or 272 grams sugar/litre).

#### 16. **Wine of overripe grapes**

Wine of overripe grapes shall be the product which:

- (a) is produced without enrichment;
- (b) has a natural alcoholic strength of more than 15 % vol.;
- (c) has a total alcoholic strength of not less than 15 % vol. and an actual alcoholic strength of not less than 12 % vol.

Member States may prescribe a period of ageing for this product.

**17. Wine vinegar**

Wine vinegar shall be vinegar which:

- (a) is obtained exclusively by acetous fermentation of wine;
  - (b) has a total acidity of not less than 60 grams per litre expressed as acetic acid.
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## ANNEX V

**ENRICHMENT, ACIDIFICATION AND DE-ACIDIFICATION IN CERTAIN WINE GROWING ZONES****A. Enrichment limits**

1. Where climatic conditions have made it necessary in certain wine-growing zones of the Community referred to in Annex IX, the Member States concerned may allow to supplement the natural alcoholic strength by volume of fresh grapes, grape must, grape must in fermentation, new wine still in fermentation and wine obtained from wine grape varieties classifiable according to Article 24(1).
2. The increase in natural alcoholic strength by volume shall be achieved by means of the oenological practices referred to in point B and shall not exceed the following limits:
  - (a) 3 % vol. in wine-growing zone A referred to in Annex IX;
  - (b) 2 % vol. in wine-growing zone B referred to in Annex IX;
  - (c) 1,5 % vol. in wine-growing zones C referred to in Annex IX.
3. In years when climatic conditions have been exceptionally unfavourable Member States may request that the limit(s) laid down in paragraph 2 be raised by 0,5 %. In response to such a request, the Commission should present the draft legislative measure to the Committee foreseen in Article 195(1) of Regulation (EC) No 1234/2007 as soon as possible. The Commission will endeavour to take a decision in accordance with the procedure referred to in Article 113(1) of this Regulation within four weeks after the request has been lodged.

**B. Enrichment processes**

1. The increase in natural alcoholic strength by volume provided for in point A shall only be effected:
  - (a) in respect of fresh grapes, grape must in fermentation or new wine still in fermentation, by adding sucrose, concentrated grape must or rectified concentrated grape must;
  - (b) in respect of grape must, by adding sucrose, concentrated grape must or rectified concentrated grape must, or by partial concentration including reverse osmosis;
  - (c) in respect of wine, by partial concentration through cooling.
2. The processes referred to in paragraph 1 shall be mutually exclusive where wine or grape must is enriched with concentrated grape must or rectified concentrated grape must and an aid is paid under Article 19.
3. The addition of sucrose provided for in paragraph 1(a) and (b) may only be performed by dry sugaring and only in the following areas:
  - (a) wine-growing zone A referred to in Annex IX;
  - (b) wine-growing zone B referred to in Annex IX;
  - (c) wine-growing zone C referred to in Annex IX, with the exception of vineyards in Italy, Greece, Spain, Portugal, Cyprus and vineyards in the French departments under jurisdiction of the courts of appeal of:
    - Aix-en-Provence,
    - Nimes,
    - Montpellier,
    - Toulouse,
    - Agen,
    - Pau,



- Bordeaux,
- Bastia.

However, enrichment by dry sugaring may be authorised by the national authorities as an exception in the above mentioned French departments. France shall notify the Commission and the other Member States forthwith of any such authorisations.

4. The addition of concentrated grape must or rectified concentrated grape must shall not have the effect of increasing the initial volume of fresh crushed grapes, grape must, grape must in fermentation or new wine still in fermentation by more than 11 % in wine-growing zone A, 8 % in wine-growing zone B and 6,5 % in wine-growing zone C referred to in Annex IX.
5. The concentration of grape must or of wine subjected to the processes referred to in paragraph 1:
  - (a) shall not have the effect of reducing the initial volume of these products by more than 20 %;
  - (b) shall, notwithstanding point A(2)(c), not increase the natural alcoholic strength of these products by more than 2 % vol.
6. The processes referred to in paragraphs 1 and 5 shall not raise the total alcoholic strength of the fresh grapes, grape must, grape must in fermentation, new wine still in fermentation, or wine:
  - (a) in wine-growing zone A referred to in Annex IX to more than 11,5 % vol.;
  - (b) in wine-growing zone B referred to in Annex IX to more than 12 % vol.;
  - (c) in wine-growing zone C I referred to in Annex IX to more than 12,5 % vol.;
  - (d) in wine-growing zone C II referred to in Annex IX to more than 13 % vol.; and
  - (e) in wine-growing zone C III referred to in Annex IX to more than 13,5 % vol.
7. By way of derogation from paragraph 6, Member States may
  - (a) for red wine raise the upper limit of total alcoholic strength of the products referred to in paragraph 6 to 12 % vol. in wine-growing zone A and 12,5 % vol. in wine-growing zone B referred to in Annex IX;
  - (b) raise the total alcoholic strength by volume of the products referred to in paragraph 6 for the production of wines with a designation of origin to a level to be determined by Member States.

### C. Acidification and de-acidification

1. Fresh grapes, grape must, grape must in fermentation, new wine still in fermentation and wine may be subject to:
  - (a) de-acidification in wine-growing zones A, B and C I referred to in Annex IX;
  - (b) acidification and de-acidification in wine-growing zones C I, C II and C III (a) referred to in Annex IX, without prejudice to paragraph 7; or
  - (c) acidification in wine-growing zone C III (b) referred to in Annex IX.
2. Acidification of the products, other than wine, referred to in paragraph 1 may be carried out only up to a limit of 1,50 g/l expressed as tartaric acid, or 20 milliequivalents per litre.
3. Acidification of wines may be carried out only up to a limit of 2,50 g/l expressed as tartaric acid, or 33,3 milliequivalents per litre.
4. De-acidification of wines may be carried out only up to a limit of 1 g/l expressed as tartaric acid, or 13,3 milliequivalents per litre.
5. Grape must intended for concentration may be partially de-acidified.

6. Notwithstanding paragraph 1, in years when climatic conditions have been exceptional, Member States may authorise acidification of the products referred to in paragraph 1 in wine-growing zones A and B, referred to in Annex IX, under the conditions referred to in paragraphs 2 and 3.
7. Acidification and enrichment, except by way of derogation to be decided in accordance with the procedure referred to in Article 113(2), and acidification and de-acidification of one and the same product shall be mutually exclusive processes.

**D. Processes**

1. None of the processes referred to in points B and C, with the exception of the acidification and de-acidification of wines, shall be authorised unless carried out, under conditions to be determined in accordance with the procedure referred to in Article 113(2), at the time when the fresh grapes, grape must, grape must in fermentation or new wine still in fermentation are being turned into wine or into any other beverage intended for direct human consumption referred to in Article 1(1) other than sparkling wine or aerated sparkling wine in the wine-growing zone where the fresh grapes used were harvested.
  2. The concentration of wines shall take place in the wine-growing zone where the fresh grapes used were harvested.
  3. Acidification and de-acidification of wines shall take place only in the wine making undertaking and in the wine-growing zone where the grapes used to produce the wine in question were harvested.
  4. Each of the processes referred to in paragraphs 1, 2 and 3 shall be notified to the competent authorities. The same shall apply in respect of the quantities of concentrated grape must rectified concentrated grape must or sucrose held in the exercise of their profession by natural or legal persons or groups of persons, in particular producers, bottlers, processors and merchants to be determined in accordance with the procedure referred to in Article 113(2), at the same time and in the same place as fresh grapes, grape must, grape must in fermentation or wine in bulk. The notification of these quantities may, however, be replaced by entry in a goods inwards and stock utilisation register.
  5. Each of the processes referred to in points B and C shall be recorded on the accompanying document, as provided for in Article 112, under cover of which the products having undergone the processes are put into circulation.
  6. Those processes, subject to derogations justified by exceptional climatic conditions, shall not be carried out:
    - (a) in wine-growing zone C referred to in Annex IX after 1 January;
    - (b) in wine-growing zones A and B referred to in Annex IX after 16 March andthey shall be carried out only for products of the grape harvest immediately preceding those dates.
  7. Notwithstanding paragraph 6, concentration by cooling and acidification and de-acidification of wines may be practised throughout the year.
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## ANNEX VI

**RESTRICTIONS****A. General**

1. All authorised oenological practises shall exclude the addition of water, except where required on account of a specific technical necessity.
2. All authorised oenological practises shall exclude the addition of alcohol, except for practices related to obtaining fresh grape must with fermentation arrested by the addition of alcohol, liqueur wine, sparkling wine, wine fortified for distillation and semi-sparkling wine.
3. Wine fortified for distillation shall only be used for distillation.

**B. Fresh grapes, grape must and grape juice**

1. Fresh grape must in which fermentation is arrested by the addition of alcohol shall be used only during the stage of preparation of products which do not fall under CN codes 2204 10, 2204 21 and 2204 29. This is without prejudice to any stricter provisions which Member States may apply to the preparation in their territory of products which do not fall under CN codes 2204 10, 2204 21 and 2204 29.
2. Grape juice and concentrated grape juice shall not be made into wine or added to wine. They shall not undergo alcoholic fermentation in the territory of the Community.
3. The provisions of paragraphs 1 and 2 shall not apply to products intended for the production, in the United Kingdom, Ireland and in Poland, of products falling within CN code 2206 00 for which Member States may allow the use of a composite name including the sales designation 'wine'.
4. Grape must in fermentation extracted from raisined grapes, shall be put on the market only for the manufacture of liqueur wines only in the wine-growing regions where this usage was traditional on 1 January 1985, and for the manufacture of wine of overripe grapes.
5. Unless otherwise decided by the Council in accordance with the international obligations of the Community, fresh grapes, grape must, grape must in fermentation, concentrated grape must, rectified concentrated grape must, grape must with fermentation arrested by the addition of alcohol, grape juice, concentrated grape juice and wine, or mixtures of those products, originating in third countries may not be turned into products referred to in Annex IV or added to such products in the territory of the Community.

**C. Blending of wines**

Unless otherwise decided by the Council in accordance with the international obligations of the Community, coupage of a wine originating in a third country with a Community wine and coupage between wines originating in third countries shall be prohibited in the Community.

**D. By-products**

1. Over-pressing of grapes shall be prohibited. Member States shall decide, taking account of local and technical conditions, the minimum quantity of alcohol that shall be contained in the marc and the lees after pressing of the grapes.

The quantity of alcohol contained in those by-products shall be decided by Member States at a level at least equal to 5 % in relation to the volume of alcohol contained in the wine produced.

2. Except for alcohol, spirits and piquette, wine or any other beverage intended for direct human consumption shall not be produced from wine lees or grape marc. The pouring of wine onto lees or grape marc or pressed aszú pulp shall be allowed under conditions to be determined in accordance with the procedure referred to in Article 113(2) where this practice is traditionally used for the production of 'Tokaji fordítás' and 'Tokaji máslás' in Hungary and 'Tokajský forditás' and 'Tokajský mášláš' in Slovakia.
3. The pressing of wine lees and the re-fermentation of grape marc for purposes other than distillation or production of piquette is prohibited. Filtering and centrifuging of wine lees shall not be considered as pressing where the products obtained are of sound, genuine and merchantable quality.

4. Piquette, where its production is authorised by the Member State concerned, shall be used only for distillation or for consumption in wine-producers' households.
  5. Without prejudice to the possibility for Member States to decide to require disposal of by-products by way of distillation, any natural or legal persons or groups of persons who hold by-products shall be required to dispose of them subject to conditions to be determined in accordance with the procedure referred to in Article 113(2).
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## ANNEX VII

**BUDGET FOR GRUBBING-UP SCHEME**

The budget available for the grubbing-up scheme referred to in Article 102(3) shall be:

- (a) for the wine year 2008/2009 (2009 budget year): EUR 464 million;
  - (b) for the wine year 2009/2010 (2010 budget year): EUR 334 million;
  - (c) for the wine year 2010/2011 (2011 budget year): EUR 276 million.
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## ANNEX VIII

**Areas which Member States may declare ineligible for the grubbing-up scheme****(referred to in Article 104(1), (2) and (5))***(in ha)*

Member State	Total area planted with vines	Areas referred to in Article 104(5)
BG	135 760	4 073
CZ	19 081	572
DE	102 432	3 073
EL	69 907	2 097
ES	1 099 765	32 993
FR	879 859	26 396
IT	730 439	21 913
CY	15 023	451
LU	1 299	39
HU	85 260	2 558
MT	910	27
AT	50 681	1 520
PT	238 831	7 165
RO	178 101	5 343
SI	16 704	501
SK	21 531	646

## ANNEX IX

## WINE-GROWING ZONES

(referred to in Annexes IV and V)

The wine-growing zones shall be the following:

1. Wine-growing zone A comprises:
  - (a) in Germany: the areas planted with vines other than those included in wine-growing zone B;
  - (b) in Luxembourg: the Luxembourg wine-growing region;
  - (c) in Belgium, Denmark, Ireland, the Netherlands, Poland, Sweden and the United Kingdom: the wine-growing areas of these countries;
  - (d) in the Czech Republic: the wine growing region of Čechy.
2. Wine-growing zone B comprises:
  - (a) in Germany, the areas planted with vines in the specified region Baden;
  - (b) in France, the areas planted with vines in the departments not mentioned in this Annex and in the following departments:
    - in Alsace: Bas-Rhin, Haut-Rhin,
    - in Lorraine: Meurthe-et-Moselle, Meuse, Moselle, Vosges,
    - in Champagne: Aisne, Aube, Marne, Haute-Marne, Seine-et-Marne,
    - in the Jura: Ain, Doubs, Jura, Haute-Saône,
    - in Savoie: Savoie, Haute-Savoie, Isère (commune de Chapareillan),
    - in the Val de Loire: Cher, Deux-Sèvres, Indre, Indre-et-Loire, Loir-et-Cher, Loire-Atlantique, Loiret, Maine-et-Loire, Sarthe, Vendée, Vienne, and the areas planted with vines in the arrondissement of Cosne-sur-Loire in the department of Nièvre;
  - (c) in Austria, the Austrian wine-growing area;
  - (d) in the Czech Republic, the wine-growing region of Morava and the areas planted with vines not included in paragraph 1(d);
  - (e) in Slovakia, the areas planted with vines in the following regions: Malokarpatská vinohradnícka oblasť, Južnoslovenská vinohradnícka oblasť, Nitrianska vinohradnícka oblasť, Stredoslovenská vinohradnícka oblasť, Východoslovenská vinohradnícka oblasť and the wine growing areas not included in paragraph 3(f);
  - (f) in Slovenia, the areas planted with vines in the following regions:
    - in the Podravje region: Štajerska Slovenija, Prekmurje,
    - in the Posavje region: Bizeljsko Sremič, Dolenjska and Bela krajina, and the areas planted with vines in the regions not included in paragraph 4(d);
  - (g) in Romania, in the area of Podişul Transilvaniei.
3. Wine-growing zone C I comprises:
  - (a) in France, areas planted with vines:
    - in the following departments: Allier, Alpes-de-Haute-Provence, Hautes-Alpes, Alpes-Maritimes, Ariège, Aveyron, Cantal, Charente, Charente-Maritime, Corrèze, Côte-d'Or, Dordogne, Haute-Garonne, Gers,

Gironde, Isère (with the exception of the commune of Chapareillan), Landes, Loire, Haute-Loire, Lot, Lot-et-Garonne, Lozère, Nièvre (except for the arrondissement of Cosne-sur-Loire), Puy-de-Dôme, Pyrénées-Atlantiques, Hautes-Pyrénées, Rhône, Saône-et-Loire, Tarn, Tarn-et-Garonne, Haute-Vienne, Yonne,

- in the arrondissements of Valence and Die in the department of Drôme (except for the cantons of Dieulefit, Loriol, Marsanne and Montélimar),
  - in the arrondissement of Tournon, in the cantons of Antraigues, Burzet, Coucouron, Montpezat-sous-Bauzon, Privas, Saint-Etienne de Lugdarès, Saint-Pierreville, Valgorge and la Voulte-sur-Rhône of the department of Ardèche;
- (b) in Italy, areas planted with vines in the Valle d'Aosta region and in the provinces of Sondrio, Bolzano, Trento and Belluno;
- (c) in Spain, areas planted with vines in the provinces of A Coruña, Asturias, Cantabria, Guipúzcoa and Vizcaya;
- (d) in Portugal, areas planted with vines in that part of the region of Norte which corresponds to the designated wine area of 'Vinho Verde' as well as the 'Concelhos de Bombarral, Lourinhã, Mafra e Torres Vedras' (with the exception of 'Freguesias da Carvoeira e Dois Portos'), belonging to the 'Região vitícola da Extremadura';
- (e) in Hungary, all areas planted with vines;
- (f) in Slovakia, areas planted with vines in the Tokajská vinohradnícka oblasť;
- (g) in Romania, areas planted with vines not included in paragraphs 2(g) or 4(f).
4. Wine-growing zone C II comprises:
- (a) in France, areas planted with vines:
- in the following departments: Aude, Bouches-du-Rhône, Gard, Hérault, Pyrénées-Orientales (except for the cantons of Olette and Arles-sur-Tech), Vaucluse,
  - in the part of the department of Var bounded in the south by the northern limit of the communes of Evenos, Le Beausset, Solliès-Toucas, Cuers, Puget-Ville, Collobrières, La Garde-Freinet, Plan-de-la-Tour and Sainte-Maxime,
  - in the arrondissement of Nyons and the cantons of Dieulefit, Loriol, Marsanne and Montélimar in the department of Drôme,
  - in those parts of the department of Ardèche not listed in paragraph 3(a);
- (b) in Italy, areas planted with vines in the following regions: Abruzzo, Campania, Emilia-Romagna, Friuli-Venezia Giulia, Lazio, Liguria, Lombardy except for the province of Sondrio, Marche, Molise, Piedmont, Tuscany, Umbria, Veneto except for the province of Belluno, including the islands belonging to those regions, such as Elba and the other islands of the Tuscan archipelago, the Ponziane islands, Capri and Ischia;
- (c) in Spain, areas planted with vines in the following provinces:
- Lugo, Orense, Pontevedra,
  - Ávila (except for the communes which correspond to the designated wine 'comarca' of Cebreros), Burgos, León, Palencia, Salamanca, Segovia, Soria, Valladolid, Zamora,
  - La Rioja,
  - Álava,
  - Navarra,
  - Huesca,

- Barcelona, Girona, Lleida,
  - in that part of the province of Zaragoza which lies to the north of the river Ebro,
  - in those communes of the province of Tarragona included in the Penedés designation of origin,
  - in that part of the province of Tarragona which corresponds to the designated wine 'comarca' of Conca de Barberá;
- (d) in Slovenia, areas planted with vines in the following regions: Brda or Goriška Brda, Vipavska dolina or Vipava, Kras and Slovenska Istra;
- (e) in Bulgaria, areas planted with vines in the following regions: Dunavska Ravnina (Дунавска равнина), Chernomorski Rayon (Черноморски район), Rozova Dolina (Розова долина);
- (f) in Romania, areas planted with vines in the following regions: Dealurile Buzăului, Dealu Mare, Severinului and Plaiurile Drâncei, Colinele Dobrogei, Terasele Dunării, the South wine region including sands and other favourable regions.
5. Wine-growing zone C III (a) comprises:
- (a) in Greece, areas planted with vines in the following nomoi: Florina, Imathia, Kilkis, Grevena, Larisa, Ioannina, Levkas, Akhaia, Messinia, Arkadia, Korinthia, Iraklio, Khandia, Rethimni, Samos, Lasithi and the island of Thira (Santorini);
  - (b) in Cyprus, areas planted with vines located at altitudes exceeding 600 metres;
  - (c) in Bulgaria, areas planted with vines not included in paragraph 4(e).
6. Wine-growing zone C III (b) comprises:
- (a) in France, areas planted with vines:
    - in the departments of Corsica,
    - in that part of the department of Var situated between the sea and a line bounded by the communes (which are themselves included) of Evenos, Le Beausset, Solliès-Toucas, Cuers, Puget-Ville, Collobrières, La Garde-Freinet, Plan-de-la-Tour and Sainte-Maxime,
    - in the cantons of Olette and Arles-sur-Tech in the department of Pyrénées-Orientales;
  - (b) in Italy, areas planted with vines in the following regions: Calabria, Basilicata, Apulia, Sardinia and Sicily, including the islands belonging to those regions, such as Pantelleria and the Lipari, Egadi and Pelagian islands;
  - (c) in Greece, areas planted with vines not listed in paragraph 5(a);
  - (d) in Spain: areas planted with vines not included in paragraphs 3(c) or 4(c);
  - (e) in Portugal, areas planted with vines in the regions not included in paragraph 3(d);
  - (f) in Cyprus, areas planted with vines located at altitudes not exceeding 600 metres;
  - (g) in Malta, areas planted with vines.
7. The demarcation of the territories covered by the administrative units referred to in this Annex is that resulting from the national provisions in force on 15 December 1981 and, for Spain, from the national provisions in force on 1 March 1986 and, for Portugal, from the national provisions in force on 1 March 1998.
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