



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 13.03.2001
COM(2001) 138 final

Proposal for a

COUNCIL REGULATION

**authorising the offer and delivery for direct human consumption of certain
imported wines which may have undergone oenological processes
not provided for in Regulation (EC) No 1493/1999**

(presented by the Commission)

EXPLANATORY MEMORANDUM

Wines originating in third countries which have undergone oenological processes not allowed by Community rules may not, except by way of derogation to be decided by the Council, be offered for direct human consumption in the Community. The derogation procedure is provided for in Article 45(2) of Regulation (EC) No 1493/1999 on the common organisation of the market in wine. Such a derogation is currently in force for wines originating in the United States which have undergone oenological processes allowed in that country but prohibited in the Community, pursuant to Council Regulation (EEC) No 1873/84 authorising the offer or disposal for direct human consumption of certain imported wines which may have undergone oenological processes not provided for in Regulation (EEC) No 337/79. For certain oenological processes, this authorisation is only valid until 31 December 2003 at the latest. However, the above Regulation was repealed, along with a number of other Regulations, by Article 81 of Regulation (EC) No 1493/1999 with effect from 1 August 2000. Commission Regulation (EC) No 1608/2000, which lays down transitional measures pending the definitive measures implementing Regulation (EC) No 1493/1999, allows the temporary continuation in force of certain provisions of Regulation (EEC) No 1873/84 until the adoption of this Regulation, but not later than 31 December 2003.

Negotiations involving in particular the respective oenological processes of both parties are currently underway between the Community, represented by the Commission, and the United States of America on an agreement on trade in wine. The Agriculture Council meeting on 23 October 2000 took note of the Commission's report on the negotiations as provided for in the Regulation and confirmed its wish to make headway. With a view to ensuring the smooth progress of these negotiations, the status quo should be maintained and the United States oenological processes referred to in the Annex to Regulation (EEC) No 1873/84 should still be authorised on a transitional basis until the entry into force of the agreement resulting from those negotiations, but not later than 31 December 2003, as agreed by the Council in the previous Regulation. The Council should therefore decide to maintain this derogation following the procedure laid down in Article 133 of the Treaty, in accordance with Regulation (EC) No 1493/1999.

The Commission proposes that the status quo be maintained until the close of the negotiations currently underway between the Community and the United States to conclude an agreement on trade in wine, but not beyond 31 December 2003 at the latest. The proposal presented to the Council adopts the terms of Article 1 and of the Annex to the repealed Regulation (EEC) No 1873/84 without any modification.

This proposal has no financial implications for the Community budget.

Proposal for a

COUNCIL REGULATION

authorising the offer and delivery for direct human consumption of certain imported wines which may have undergone oenological processes not provided for in Regulation (EC) No 1493/1999

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine¹, and in particular Article 45(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Article 45(2) of Regulation (EC) No 1493/1999, which replaced Regulation (EEC) No 822/87², as last amended by Regulation (EC) No 1677/1999³, with effect from 1 August 2000, lays down that the derogations referred to in paragraph 1 for imported products are to be adopted in accordance with the procedure laid down in Article 133 of the Treaty.
- (2) Article 68(1) of Regulation (EC) No 1493/1999 lays down that the products referred to in Article 1(2)(a) and (b) of that Regulation may be imported only if they are accompanied by a certificate attesting that they comply with the provisions governing production, marketing and, where appropriate, delivery for direct human consumption in the third countries in which they originate.
- (3) Council Regulation (EEC) No 1873/84 authorising the offer or disposal for direct human consumption of certain imported wines which may have undergone oenological processes not provided for in Regulation (EEC) No 337/79⁴, as last amended by Regulation (EC) No 2839/98⁵, provides for a derogation authorising the import into the Community of United States wines which have undergone certain oenological processes not provided for by Community rules. For certain oenological processes, this authorisation is only valid until 31 December 2003 at the latest.
- (4) Article 81 of Regulation (EC) No 1493/1999 repealed, with effect from 1 August 2000, a number of Council Regulations including Regulation (EEC) No 1873/84. Commission Regulation (EC) No 1608/2000 laying down transitional measures

¹ OJ L 179, 14.7.1999, p. 1.

² OJ L 84, 27.3.1987, p. 1.

³ OJ L 199, 30.7.1999, p. 8.

⁴ OJ L 176, 3.7.1984, p. 6.

⁵ OJ L 354, 30.12.1998, p. 12.

pending the definitive measures implementing Regulation (EC) No 1493/1999⁶, as last amended by Regulation (EC) No/2001⁷, provides that certain provisions of Regulation (EEC) No 1873/84 are to remain in force until the adoption of this Regulation by the Council, but not later than 31 December 2003.

- (5) Negotiations are currently underway between the Community, represented by the Commission, and the United States on an agreement on trade in wine. These involve in particular the respective oenological processes of both parties. At its meeting on 23 October 2000 the Agriculture Council took note of the Commission's report on the negotiations provided for in the second subparagraph of Article 1(1) of Regulation (EEC) No 1873/84 and confirmed its wish to make headway in the negotiations and to set out the approach to be followed in them.
- (6) With a view to ensuring the smooth progress of these negotiations, the provisions of Regulation (EEC) No 1873/84 should be extended and the United States oenological processes referred to in 1(b) of the Annex to Regulation (EEC) No 1873/84 should be authorised on a transitional basis until the entry into force of the agreement resulting from the negotiations, but not later than 31 December 2003, as agreed by the Council in Regulation (EC) No 2839/98.
- (7) In view of developments in the regulatory framework and in oenological processes, technical aspects of the Annex should be updated to make it consistent with the current rules in force in this area,

HAS ADOPTED THIS REGULATION:

Article 1

1. Notwithstanding Article 45(1) of Regulation (EEC) No 1493/1999, it shall be permitted to offer or deliver for direct human consumption in the Community products falling within CN codes 2204 10, 2204 21, 2204 29 and 2204 30 10 and derived from grapes harvested and vinified on the territory of the United States of America for which, in accordance with United States provisions, one or more of the oenological processes listed in 1(a) and (b) of the Annex to this Regulation may have been used during manufacturing or storage operations.

However, this authorisation shall only be valid, as regards use of the oenological processes listed in 1(b) of the Annex, until the entry into force of the agreement resulting from the negotiations with the United States on an agreement on trade in wine, but not later than 31 December 2003.

2. Member States may not prohibit the offer or delivery for direct human consumption of wine derived from grapes harvested and vinified on the territory of the United States of America in accordance with the provisions in force in that country on the grounds that one or more of the oenological processes listed in 2(a) and (b) of the Annex may have been used.

⁶ OJ L 185, 25.7.2000, p. 24.

⁷ OJ L,2001, p. ...

3. Wines derived from grapes harvested and vinified on the territory of the United States of America which have been the subject of the addition of sugar in aqueous solution may not be offered or delivered for direct human consumption in the Community.

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

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

Done at Brussels,

*For the Council
The President*

ANNEX

1. Oenological processes permitted

- (a) without any time limit:
 - catalase derived from *Aspergillus niger*,
 - glucose oxydase derived from *Aspergillus niger*,
 - ferrous sulphate,
 - soya flour;
- (b) until 31 December 2003 at the latest:
 - dimethylpolysiloxane,
 - polyoxyethylene-40-monostearate,
 - sorbitan monostearate,
 - fumaric acid,
 - ion-exchange resins,
 - lactic acid,
 - malic acid.

2. Oenological processes which are identical to, or comparable with, those permitted in the Community

- (a) oenological processes which are identical:
 - acacia (gum arabic),
 - activated carbon,
 - animal albumen (including ovalbumin powder and ovalbumin solution),
 - ammonium phosphate (dibasic),
 - ascorbic acid,
 - bentonite (Wyoming clay),
 - bentonite slurry,
 - carbon dioxide,
 - casein,
 - citric acid,
 - compressed air (aeration),
 - copper sulphate,
 - diatomaceous earth,
 - enzymes: pectolytic, derived from *Aspergillus niger*,
 - edible gelatin,

- gelatin slurry,
- isinglass,
- nitrogen,
- potassium bitartrate,
- potassium caseinate,
- potassium disulphite,
- potassium sorbate,
- silica gel (colloidal silicon dioxide - 30%),
- sorbic acid,
- tannin,
- tartaric acid,
- calcium carbonate, possibly containing small quantities of double calcium salt of tartaric L (+) and malic L (-) acid,
- calcium sulphate, for the manufacture of liqueur wines,
- polyvinylpyrrolidone (PVPP),
- oxygen;

(b) oenological processes which are comparable:

- agar agar,
- ammonium carbonate,
- ammonium phosphate (monobasic),
- granular cork,
- milk powder,
- oak chips and sawdust, uncharred and not treated,
- potassium carbonate,
- carageenan,
- cellulase derived from *Aspergillus niger*,
- cellulose,
- autolyzer yeast,
- substances composed of potassium ferrocyanide and aqueous ferrous sulphate, possibly combined with copper sulphate and activated carbon.

FINANCIAL STATEMENT

1. BUDGET HEADING: 16	APPROPRIATIONS: EUR 1 153 million			
2. TITLE: Proposal for a Council Regulation authorising the offer and delivery for direct human consumption of certain imported wines which may have undergone oenological processes not provided for in Regulation (EC) No 1493/1999.				
3. LEGAL BASIS: Article 133 of the Treaty				
4. AIMS: To extend the status quo until the entry into force of the agreement with the United States on trade in wine, but not later than 31 December 2003.				
5. FINANCIAL IMPLICATIONS	12 MONTH PERIOD (EUR million)	CURRENT FINANCIAL YEAR 2001 (EUR million)	FOLLOWING FINANCIAL YEAR 2002 (EUR million)	
5.0 EXPENDITURE	-	-	-	
- CHARGED TO THE EC BUDGET (REFUNDS/INTERVENTIONS)				
- NATIONAL AUTHORITIES				
- OTHER				
5.1 REVENUE	-	-	-	
- OWN RESOURCES OF THE EC (LEVIES/CUSTOMS DUTIES)				
- NATIONAL				
	2003	2004	2005	2006
5.0.1 ESTIMATED EXPENDITURE	-	-	-	-
5.1.1 ESTIMATED REVENUE	-	-	-	-
5.2 METHOD OF CALCULATION:				
6.0 CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?				
				-
6.1 CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?				
				-
6.2 WILL A SUPPLEMENTARY BUDGET BE NECESSARY?				
				-
6.3 WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?				
				-
OBSERVATIONS: Existing arrangements are being extended without any modification.				