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Corrigendum : The French cover page is replaced by an English cover page. Concerns only the EN version.

COMMUNICATION FROM THE COMMISSION TO THE COUNCIL

On reaching an agreement conferring special status on the European Union within the International Organisation of Vine and Wine (OIV)

1. Introduction

The International Organisation for Vine and Wine (OIV) is an intergovernmental scientific and technical organisation active in the sector of vines, wine, wine-based drinks, table grapes, raisins and other vine products. It was set up by an international agreement signed on 3 April 2001 in Paris and is the successor to the International Vine and Wine Office, set up in 1924 by an international arrangement on 29 November 1924.

As of 1 January 2016, the OIV had 45 member countries, including the main producer-countries, with the exception of USA, Canada and China. 19 EU Member States are members of the OIV: Belgium, Bulgaria, Germany, France, Greece, Italy, Luxembourg, Malta, the Netherlands, Austria, Portugal, Romania, Sweden, Slovakia, Slovenia, Spain, the Czech Republic, Hungary and Cyprus. The OIV has financial resources of almost EUR 2.5 million a year, which come mainly from the subscriptions of members and observers.

The OIV's objectives are specified in its founding agreement:

- to inform its members of measures whereby the concerns of producers, consumers and other players in the vine and wine products sector may be taken into consideration;
- to assist other international organisations, both intergovernmental and non-governmental, especially those which carry out standardisation activities;
- to contribute to international harmonisation of existing practices and standards and, as necessary, to the preparation of new international standards in order to improve the conditions for producing and marketing vine and wine products, and to help ensure that the interests of consumers are taken into account.

In order to achieve these objectives, the OIV carries out numerous activities related to vines and vine products, in particular promotional, informational, and standardisation activities.

As part of its contribution to the international harmonisation of existing practices and standards, the OIV draws up - among other things - recommendations (called 'resolutions') in the following areas:

- conditions for grape production;
- oenological practices;
- the definition and/or the description of products, labelling, and marketing conditions;
- methods for the analysis and assessment of vine products.

The OIV's work in setting standards is based on the work of scientific experts from Member States. In particular, it takes the form of publications that are periodically updated on the basis of resolutions adopted by the organisation. To date, the OIV has published several standards codes: the International Oenological Codex, the International Code of Oenological Practices, the Compendium of International Methods of Analysis of Wine and Musts, the Compendium of international methods of analysis of spirituous beverages, the International Standard for labelling wines and spirits of vitivinicultural origin, the OIV standard for international wine and spirituous beverages of vitivinicultural origin competitions, the OIV descriptor list for grape varieties and *Vitis*, species, the description of world vine varieties, and the International list of vine varieties and their synonyms. It has also produced several resolutions and works on different subjects connected to the world of wine.

A detailed presentation of the structure and procedural rules of the OIV is available on the organisation's website at: www.oiv.org.

2. EU powers in the areas covered by the OIV

At EU-level, the OIV's main standards codes (International Oenological Codex, International Code of Oenological Practices, the Compendium of International Methods of Analysis of Wine and Musts, the International Standard for labelling wines and spirits of vitivinicultural origin, and the Compendium of international methods of analysis of spirituous beverages) fall under the remit of the common agricultural policy or the harmonisation of laws for the establishment and functioning of the internal market.

EU legislation in the areas covered by the OIV includes in particular:

- Commission Regulation (EC) No 2870/2000 of 19 December 2000 laying down Community reference methods for the analysis of spirit drinks (OJ L 333, 29.12.2000, p. 20).
- Council Directive 2001/112/EC of 20 December 2001 relating to fruit juices and certain similar products intended for human consumption (OJ L 10, 12.1.2002, p. 58),
- 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 and repealing Council Regulation (EEC) No 1576/89 (OJ L 39, 13.2.2008, p. 16),
- Commission Regulation (EC) No 606/2009 of 10 July 2009 laying down certain detailed rules for implementing Council Regulation (EC) No 479/2008 as regards the categories of grapevine products, oenological practices and the applicable restrictions (OJ L 193, 24.7.2009, p. 1),
- Commission Regulation (EC) No 607/2009 of 14 July 2009 laying down certain detailed rules for the implementation of Council Regulation (EC) No 479/2008 as regards protected designations of origin and geographical indications, traditional terms, labelling and presentation of certain wine sector products (OJ L 193, 24.7.2009, p. 60).
- Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors (OJ L 157, 15.6.2011, p. 1).
- Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004, (OJ L 304, 22.11.2011, p. 18).
- Commission Implementing Regulation (EU) No 203/2012 of 8 March 2012 amending Regulation (EC) No 889/2008 laying down detailed rules for the

implementation of Council Regulation (EC) No 834/2007, as regards detailed rules on organic wine (OJ L 71, 9.3.2012, p. 42),

- Regulation (EC) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).
- Regulation (EU) No 251/2014 of the European Parliament and of the Council of 26 February 2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and repealing Council Regulation (EEC) No 1601/91 (OJ L 84, 20.3.2014, p. 14).

Even though the OIV's resolutions are not in themselves binding at EU-level under Regulation (EU) No 1308/2013, some of the resolutions adopted and published by the OIV have an impact on EU legislation. The CMO Regulation provides for references to the OIV resolutions in the following provisions:

- certain methods of analysis for determining the composition of the products of the wine sector adopted and published by the OIV upon which the Commission must base itself unless they would be ineffective or inappropriate in view of the objective pursued by the Union (Article 80(5) of the CMO Regulation),
- certain purity and identification specifications of substances used in oenological practices so that the rules adopted and published by the OIV become ipso facto binding on this matter within the EU (Article 9 of Commission Regulation (EC) No 606/2009 of 10 July 2009 laying down certain detailed rules for implementing Council Regulation (EC) No 479/2008 as regards the categories of grapevine products, oenological practices and the applicable restrictions),
- oenological practices adopted and published by the OIV that the Commission must take into account when it authorises such practices (Article 80(3)(a) of the CMO Regulation), and
- the same oenological practices where used, prior to their authorisation according to Article 80(3) of the CMO Regulation, for the production of wines imported into the EU (Article 90(2) of the CMO Regulation).

Similarly, under Regulation (EC) No 2870/2000, some of the resolutions adopted and published by the OIV have an impact on EU legislation. Article 3 of Regulation (EC) 2870/2000 provides for reference to OIV resolutions where Community analytical reference methods are not laid down for the detection and quantification of substances contained in a particular spirit drink.

Consequently, to the extent that OIV resolutions may affect the *acquis* or alter its scope, and where it is made necessary by the exercise of its internal competence, the EU - under Article 3(2) of the TFEU - has exclusive competence in the area. For this reason, before these resolutions are voted on in the OIV, the Council must take, under Article 218(9) of the TFEU, a common position on behalf of the EU.

3. EU Participation

3.1. Current situation

The EU currently has no official status in the OIV. On a totally informal basis, Commission representatives have usually been invited to attend and take part in expert groups, sub-committees and committees. They are also sometimes asked to attend (without being able to intervene in) the General Assembly, where resolutions are adopted by the OIV's members. They do not participate in the work of the Executive Committee and pay no contribution to the OIV.

This *ad hoc* and limited participation does not allow the Commission to be fully informed about the development of new resolutions.

3.2. The need for EU participation

Given the impact of the OIV's work on the EU acquis and EU competences in the areas covered by the OIV, it is necessary for the EU's role in the OIV to be strengthened and formalised.

Under Article 8 of the Final Act establishing the OIV, an international intergovernmental organisation can take part in the work of the OIV or become a member of it.

From a legal perspective, the EU's membership in the OIV would be the natural consequence of the EU acquis and the EU's competences in the areas covered by the OIV. However, when the question of EU membership of the OIV was discussed in the Council in 2009, the majority of Member States were opposed.

The OIV's Rules of Procedure, adopted by its General Assembly, provides for a special status for the participation of international intergovernmental organisations. Thus, Article 4 of the OIV's Rules of Procedure sets out:

‘An international intergovernmental organisation may request that it be granted a special status enabling it to:

- a) intervene in the work of the committees, sub-committees and expert groups;
- b) attend the meetings of the General Assembly and the Executive Committee.

Following a proposal of the Executive Committee and the agreement of the General Assembly, a special agreement shall be entered into between the OIV and the organisation in question. The special agreement shall define, in each particular case, the specific conditions of collaboration, including the amount of its annual financial contribution.

In the event of non-payment of three successive financial contributions, the Director-General of the OIV shall notify the international intergovernmental organisation in question of the situation. If the situation is not regularised during the two years following 31 December of the third year of non-payment, the international intergovernmental organisation in question shall be automatically excluded from the organisation.’

While reserving the position on the possibility of proposing to the Council that the EU begin negotiations to become a full member of the OIV, the Commission considers that it is necessary for the EU to ask the OIV to grant it special status.

This status would allow the Commission, as representative of the Union under Article 17 of the TEU, to be fully informed of the development of new resolutions, to be able to coordinate the EU's common position with respect to these resolutions, and to attend and take part in - on behalf of the Union and on a formal basis - the work of the committees, sub-committees and expert groups, and to attend the meetings of the General Assembly and the Executive Committee. This would ensure a single EU representation within the OIV without calling into question the role within the OIV of scientific experts from EU Member States.

Moreover, the granting of this status would also allow EU representatives to get access - under the same conditions as OIV members - to all the documents enabling the EU to formulate its positions under optimum conditions. Thus, the special status proposed would facilitate the preparation of decisions that the Council will have to take under Article 218(9) of the TFEU.

The effects of granting this status will be limited to the specific conditions laid down in the special arrangement that accompanies the draft exchange of letters attached to this communication. It will have no legal effect beyond these specific conditions.

3.3. Procedure for obtaining the EU's special status within the OIV

An informal information note from the Commission giving notice of the start of discussions with the OIV was sent to the Council and to the Parliament on 25 April 2012.

On 26 May 2015, the Commission then sent the Council and the Parliament a draft exchange of letters, along with a special arrangement connected to the EU's special status within the OIV and in line with the special agreement under Article 4 of the OIV's Rules of Procedure, and additional explanations about the special status on 1 July 2015¹. In the Council's draft conclusions of 21 September 2015, the Council approved the Commission's initiative to begin discussions with the OIV, and asked the Commission to submit the amended draft exchange of letters after the discussions².

The draft EU letter and the related special arrangement were sent to the OIV on 14 October 2015 and a draft OIV letter was sent to the Commission on 27 January 2016. The final version of the draft exchange of letters, accompanied by the special arrangement, is attached to this communication. The signing of this exchange of letters will give the EU a special status within the OIV.

4. Conclusion

In light of the above, the Commission will propose to the OIV that the EU be accorded the special status provided for in Article 4 of the OIV's Rules of Procedure. The exchange of letters between the OIV and the EU, along with the special arrangement setting out the specific conditions for working together, will be signed by the Commission representing the EU in the context of this procedure. The Commissioner responsible for agriculture and rural development will have the power to sign the exchange of letters on behalf of the Commission and under its responsibility.

In light of Article 16 of the TEU, the Commission invites the Council to approve these conclusions and support it in their implementation.

¹ Council documents 9226/15 and 10432/15

² Council document 11788/1/15 REV 1.