

**Annex 1
to Decision No 7/94
of the EEA Joint Committee**

PROTOCOL 47 ON THE ABOLITION OF TECHNICAL BARRIERS TO TRADE IN WINE to the EEA Agreement shall be amended as as specified below.

A. MAIN PART

1. The main part shall be amended as follows:

(a) In the first paragraph the words "the Appendix" shall be replaced by "Appendix 1".

(b) The following shall be inserted as a new second paragraph:

"The Contracting Parties shall establish mutual assistance between control authorities in the wine sector in accordance with the provisions laid down in Appendix 2."

(c) In the last paragraph the words "the Appendix" shall be replaced by "Appendix 1".

B. APPENDIX 1

1. The title "APPENDIX" shall be replaced by "APPENDIX 1".

2. The text of point 4 (Council Regulation (EEC) No 358/79) shall be deleted.

3. The text of point 5 (Commission Regulation (EEC) No 2510/83) shall be deleted.

4. The text of point 7 (Council Regulation (EEC) No 3309/85) shall be deleted.

5. The text of point 11 (Council Regulation (EEC) No 1627/86) shall be deleted.

6. The following indents shall be added in point 15 (Council Regulation (EEC) No 822/87) before the adaptations:

"– 391 R 1734: Council Regulation (EEC) No 1734/91 of 13 June 1991 (OJ No L 163, 26.6.1991, p. 6),

– 392 R 1756: Council Regulation (EEC) No 1756/92 of 30 June 1992 (OJ No L 180, 1.7.1992, p. 27),

– 393 R 1566: Council Regulation (EEC) No 1566/93 of 14 June 1993 (OJ No L 154, 25.6.1993, p. 39),

– 393 R 3111: Commission Regulation (EEC) No 3111/93 of 10 November 1993 (OJ No L 278, 11.11.1993, p. 48)."

7. The following indent shall be added in point 16 (Council Regulation (EEC) No 823/87) before the adaptation:

"– 391 R 3896: Council Regulation (EEC) No 3896/91 of 16 December 1991 (OJ No L 368, 31.12.1991, p. 3)."

8. The text of point 17 (Commission Regulation (EEC) 1069/87) shall be deleted.
9. The following indents shall be added in point 19 (Council Regulation (EEC) No 4252/88):
 - "– 391 R 1735: Council Regulation (EEC) No 1735/91 of 13 June 1991 (OJ No L 163, 26.6.1991, p. 9),
 - 392 R 1759: Council Regulation (EEC) No 1759/92 of 30 June 1992 (OJ No L 180, 1.7.1992, p. 31),
 - 393 R 1568: Council Regulation (EEC) No 1568/93 of 14 June 1993 (OJ No L 154, 25.6.1993, p. 42),
 - 393 R 3111: Commission Regulation (EEC) No 3111/93 of 10 November 1993 (OJ No L 278, 11.11.1993, p. 48)."
10. The following indents shall be added in point 22 (Council Regulation (EEC) No 2392/89) before the adaptations:
 - "– 391 R 2356: Council Regulation (EEC) No 2356/91 of 29 July 1991 (OJ No L 216, 3.8.1991, p. 1),
 - 391 R 3897: Council Regulation (EEC) No 3897/91 of 16 December 1991 (OJ No L 368, 31.12.1991, p. 5)."
11. The following indents shall be added in point 23 (Council Regulation (EEC) No 3677/89) before the adaptation:
 - "– 391 R 2201: Council Regulation (EEC) No 2201/91 of 22 July 1991 (OJ No L 203, 26.7.1991, p. 3),
 - 392 R 2795: Council Regulation (EEC) No 2795/92 of 21 September 1992 (OJ No L 282, 26.9.1992, p. 5),
 - 393 R 2606: Council Regulation (EEC) No 2606/93 of 21 September 1993 (OJ No L 239, 24.9.1993, p. 6)."
12. The text of point 24 (Commission Regulation (EEC) No 743/90) shall be deleted.
13. The following shall be added in point 25 (Commission Regulation (EEC) No 2676/90):
 - ", as amended by:
 - 392 R 2645: Commission Regulation (EEC) No 2645/92 of 11 September 1992 (OJ No L 266, 12.9.1992, p. 10)."
14. The following indents shall be added in point 26 (Commission Regulation (EEC) No 3201/90) before the adaptations:
 - "– 391 R 3298: Commission Regulation (EEC) No 3298/91 of 12 November 1991 (OJ No L 312, 13.11.1991, p. 20),
 - 392 R 0153: Commission Regulation (EEC) No 153/92 of 23 January 1992 (OJ No L 17, 24.1.1992, p. 20),

- 392 R 3650: Commission Regulation (EEC) No 3650/92 of 17 December 1992 (OJ No L 369, 18.12.1992, p. 25),
 - 393 R 1847: Commission Regulation (EEC) No 1847/93 of 9 July 1993 (OJ No L 168, 10.7.1993, p. 33)."
15. The following new points shall be added after point 28 (Commission Regulation (EEC) No 3825/90):
- "29. 390 R 3827: Commission Regulation (EEC) No 3827/90 of 19 December 1990 on transitional arrangements for the description of certain quality wines produced in specified areas (OJ No L 366, 29.12.1990, p. 59), as amended by:
- 391 R 0816: Commission Regulation (EEC) No 816/91 of 2 April 1991 (OJ No L 83, 3.4.1991, p. 8),
 - 391 R 2271: Commission Regulation (EEC) No 2271/91 of 29 July 1991 (OJ No L 208, 30.7.1991, p. 36),
 - 391 R 3245: Commission Regulation (EEC) No 3245/91 of 7 November 1991 (OJ No L 307, 8.11.1991, p. 15).
30. 390 R 2776: Commission Regulation (EEC) No 2776/90 of 27 September 1990 on transitional measures to be applied in the wine sector after the unification of Germany in the territory of the former German Democratic Republic (OJ No L 267, 29.9.1990, p. 30).
The provision of the Regulation shall, for the purpose of the present Agreement, be read with the following adaptation:
- Article 1(1) and (3) shall not apply.
31. 391 R 2384: Commission Regulation (EEC) No 2384/91 of 31 July 1991 on the transitional measures applicable to the wine-growing sector in Portugal during the 1991/1992 wine year (OJ No L 219, 7.8.1991, p. 9).
The provision of the Regulation shall, for the purpose of the present Agreement, be read with the following adaptations:
- (a) Article 2(3) shall not apply.
 - (b) Article 3 shall not apply.
32. 391 R 3223: Commission Regulation (EEC) No 3223/91 of 5 November 1991 authorizing the United Kingdom to permit under certain conditions an additional increase in the alcoholic strength of certain table wines (OJ No L 305, 6.11.1991, p. 14).
33. 391 R 3895: Council Regulation (EEC) No 3895/91 of 11 December 1991 laying down rules for the description and presentation of special wines (OJ No L 368, 31.12.1991, p. 1).
34. 391 R 3901: Commission Regulation (EEC) No 3901/91 of 18 December 1991 laying down certain detailed rules on the description and presentation of special wines (OJ No L 368, 31.12.1991, p. 15).
35. 392 R 0506: Commission Regulation (EEC) No 506/92 of 28 February 1992 on transitional measures regarding the total acidity content of wines produced in Spain and released to the Spanish market for 1992 (OJ No L 55, 29.2.1992, p. 77).

36. 392 R 0761: Commission Regulation (EEC) No 761/92 of 27 March 1992 laying down transitional measures relating to coupage of table wine in Spain for 1992 (OJ No L 83, 28.3.1992, p. 13).
37. 392 R 1238: Commission Regulation (EEC) No 1238/92 of 8 May 1992 determining the Community methods applicable in the wine sector for the analysis of neutral alcohol (OJ No L 130, 15.5.1992, p. 13).

The provision of the Regulation shall, for the purpose of the present Agreement, be read with the following adaptation:

Article 1(2) shall not apply.

38. 392 R 2332: Council Regulation (EEC) No 2332/92 of 13 July 1992 on sparkling wines produced in the Community (OJ No L 231, 13.8.1992, p. 1), as amended by:
- 393 R 1568: Council Regulation (EEC) No 1568/93 of 14 June 1993 (OJ No L 154, 25.6.1993, p. 42).
39. 392 R 2333: Council Regulation (EEC) No 2333/92 of 13 July 1992 laying down general rules for the description and presentation of sparkling wines and aerated sparkling wines (OJ No L 231, 13.8.1992, p. 9).

The provision of the Regulation shall, for the purpose of the present Agreement, be read with the following adaptations:

(a) The first indent of Article 3(4) shall not apply.

(b) Article 5(2) shall be completed as follows:

"g. In the case of quality sparkling wine referred to in Article 1, second paragraph, (b) of Regulation (EEC) No 2332/92, originating in:

- Austria: "Qualitätsschaumwein" or "Qualitätssekt".

(c) Article 6 (6) shall be completed as follows:

"c. The term "Hauersekt" shall be reserved for quality sparkling wines equivalent to quality sparkling wines produced in a specified region in accordance with Article 6(4) of this Regulation and with Regulation (EEC) No 2332/92, provided that they are:

- produced in Austria,
- produced from grapes harvested in the same vineyard where the producer makes wine from grapes intended for the preparation of quality sparkling wines,
- marketed by the producer and made available with labels indicating the vineyard, the vine variety and the year,
- regulated by Austrian rules".

40. 392 R 3459: Commission Regulation (EEC) No 3459/92 of 30 November 1992 authorizing the United Kingdom to permit an additional increase in the alcoholic

strength of table wines and of quality wines produced in a specified region (OJ No L 350, 1.12.1992, p. 60).

41. 393 R 0586: Commission Regulation (EEC) No 586/93 of 12 March 1993 providing for an exception in respect of the volatile acid content of certain wines (OJ No L 61, 13.3.1993, p. 39).
42. 393 R 2238: Commission Regulation (EEC) No 2238/93 of 26 July 1993 on the accompanying documents for the carriage of wine products and the relevant records to be kept (OJ No L 200, 10.8.1993, p. 10.).

The provision of the Regulation shall, for the purpose of the present Agreement, be read with the following adaptations:

(a) Article 1(1)(a), 1(1)(b) first indent, 1(1)(c) and 1(2) shall not apply;

(b) Article 2(e) and 2(f) shall not apply;

(c) Article 3(1) first subparagraph shall be supplemented as follows:

"The document must be completed in accordance with the model set out in Annex III.";

(d) Article 3(2), 3(3) and 3(4) last paragraph shall not apply;

(e) Article 4(1) shall not apply;

(f) Article 5(2) shall not apply;

(g) Article 6(1) second subparagraph shall not apply;

(h) Article 7(1)(a)(i) first and second indent, 7(1)(a)(ii), 7(1)(c) first indent, 7(5) and 7(6) shall not apply;

(i) Article 7 shall be supplemented as follows:

"In the case of tariff concessions mutually granted for wine in trade between the Community and Austria, the origin or the provenance must be attested on the accompanying document as follows:

- For wines originating in the Community: "This document attests the origin of the quality wines psr/quality sparkling wines psr/retsina wines ⁽¹⁾ set out herein.

⁽¹⁾ Delete as appropriate".

- For wines originating in Austria: "This wine is a quality wine/sparkling wine ⁽¹⁾ as defined in the provisions of the 1985 Austrian Law on wine.

⁽¹⁾ Delete as appropriate".

(j) Article 8(1) and 8(5) shall not apply;

(k) Title II shall not apply;

(l) Article 19(2) shall not apply."

16. The following heading and new points shall be added after point 42:

"ACTS OF WHICH THE CONTRACTING PARTIES SHALL TAKE NOTE

The Contracting Parties take note of the content of the following acts:

43. List published pursuant to Article 22 of Commission Regulation (EEC) No 986/89 of 10 April 1989 on the accompanying documents for carriage of wine products and the relevant records to be kept (OJ No C 330, 19.12.1991, p. 3).
44. List of quality wines produced in specified regions (OJ No C 333, 24.12.1991, p. 4).
45. List of table wines designated as "Landwein", "vin de pays", "vino tipico", "ονομασ_α κατ_παρ_δοσηη" or "ο_νος τοπικ_ς", "vino de la tierra", "vinho regional" (OJ No C 155, 20.6.1992, p. 14).
46. List of Austrian wines (OJ No C...).".

C. The following shall be added to the Protocol as a new Appendix 2:

"APPENDIX 2

Establishing mutual assistance between control authorities in the wine sector

Title I

Preliminary Provisions

Article 1

Definitions

For the purposes of this Appendix:

- (a) "rules concerning trade in wine" shall mean any provision laid down in this Protocol;
- (b) "competent authority" shall mean each of the authorities or each of the departments designated by a Contracting Party to ensure compliance with the rules concerning trade in wine;
- (c) "liaison authority" shall mean the competent body or authority designated by a Contracting Party to liaise as appropriate with the liaison authorities of other Contracting Parties;
- (d) "applicant authority" shall mean a competent authority which has been designated by a Contracting Party for this purpose and which makes a request for assistance in areas covered by this Appendix;

- (e) "requested authority" shall mean a competent body or authority which has been designated by a Contracting Party for this purpose and which receives a request for assistance in areas covered by this Appendix;
- (f) "contravention" shall mean any violation of the rules concerning trade in wine, as well as any attempted violation of such rules.

Article 2

Scope

1. The Contracting Parties shall assist each other, in the manner and under the conditions laid down in this Appendix. The correct application of the rules concerning trade in wine shall be ensured in particular through mutual assistance, detection and investigation of contraventions of these rules.
2. Assistance in matters concerning such rules, as provided for in this Appendix, shall apply to any authority of the Contracting Parties. It shall not prejudice the rules relating to criminal proceedings or mutual assistance among Contracting Parties at judicial level in criminal matters.

Title II

Controls to be carried out by the Contracting Parties

Article 3

Principles

1. The Contracting Parties shall take the necessary measures to ensure the assistance, as provided for in Article 2, through appropriate control measures.
2. Such controls shall be carried out either systematically or by sampling. In the case of sampling, Contracting Parties shall ensure by their number, nature and frequency that controls are representative.
3. Contracting Parties shall ensure that the competent authorities have a sufficient number of suitable, qualified and experienced staff to carry out efficiently the controls referred to in paragraph 1. They shall take all appropriate measures to facilitate the work of the officials of their competent authorities, in particular with regard to the following purposes:

- having access to the vineyards, wine-making and storage installations and for installations for processing wine-sector products and vehicles for transporting those products;
- having access to the commercial premises (or warehouses) and vehicles of anyone holding, with a view to sale, marketing or transporting wine-sector products or products which may be intended for use in the wine sector;
- having the possibility of undertaking a survey of wine-sector products and substances or products which may be used for the preparation of such products;
- having the possibility of taking samples of products held with a view to sale, marketed or transported;
- having the possibility of examining accounts or other documents for the purposes of controls and of taking copies or extracts thereof;
- having the possibility of taking appropriate protective measures regarding the preparation, holding, transport, description, presentation, export to other Contracting Parties and marketing of a wine-sector product or a product intended for use in the preparation of such a product, if there is reason to believe that there has been a serious infringement of this Protocol, in particular in the case of fraudulent treatment or risks to public health.

Article 4

Control authorities

1. Where a Contracting Party designates several competent authorities, it shall ensure the co-ordination of the work of those authorities.
2. Each Contracting Party shall designate a single liaison authority. The authority designated shall:
 - forward the applications for cooperation with a view to implementing this Appendix to the liaison authorities of other Contracting Parties;
 - receive such applications from the latter authorities and forward them to the competent authority or authorities of the Contracting Party concerned under which it comes;
 - represent that Contracting Party vis-à-vis other Contracting Parties in the context of the co-operation covered by Title III;
 - notify the other Contracting Parties of the measures taken pursuant to Article 3.

Title III

Mutual assistance between control authorities

Article 5

Assistance on request

1. At the request of the applicant authority, the requested authority shall furnish it with all relevant information to enable it to verify the correct application of the rules concerning trade in wine, including information concerning operations noted or planned which contravene or would contravene such rules.
2. At the reasoned request of the applicant authority, the requested authority shall perform or take necessary steps to perform special surveillance or controls enabling the desired objectives to be achieved.
3. The requested authority as referred to in paragraphs 1 and 2 shall act as if on its own account or at the request of an authority in its own country.

4. In agreement with the requested authority, the applicant authority may designate its own officials or officials of another competent authority of the Contracting Party it represents:
- either to obtain on the premises of the competent authorities coming under the Contracting Party in which the requested authority has its seat, information relating to the verification of the correct application of the rules concerning trade in wine or to control activities, including the making of copies of transport and other documents or extracts from the register;
 - or to be present during activities requested pursuant to paragraph 2.

The copies referred to in the first indent may be made only with the agreement of the requested authority.

5. An applicant authority which wishes to send to a Contracting Party an official designated in accordance with paragraph 4, first subparagraph, to be present at the control operations referred to in the second indent of that subparagraph shall advise the requested authority accordingly in good time before the start of those operations.

The officials of the requested authority shall at all times be in charge of carrying out control operations.

The officials of the applicant authority shall:

- produce written authorization specifying their identity and status,
- have, within the limits imposed by the Contracting Party of the requested authority on its own officials in carrying out the controls concerned:

=the rights of access provided for in Article 3(3),

=the right to be informed of the results of controls carried out by the officials of the requested authority pursuant to Article 3(3),

- adopt, in the course of controls, an attitude compatible with the rules and practices which must be followed by officials of the Contracting Party within the territory of which the control operations are carried out.

6. The reasoned requests referred to in this Article shall be forwarded to the requested authority of the Contracting Party in question via the liaison authority of that Contracting Party. The same shall apply for:

- the answers to those requests, and
- communications concerning the application of paragraphs 2, 4 and 5.

By way of derogation from the first subparagraph and in the interests of quicker and more effective co-operation between them, a Contracting Party may, in certain appropriate cases, permit a competent authority to:

- make its reasoned request or communication directly to a competent authority of another Contracting Party;
- reply directly to reasoned requests or communications received from a competent authority of another Contracting Party.

Article 6

Urgent notification

Where a competent authority of a Contracting Party has grounds for suspicion or learns:

- that a product referred to in this Protocol does not comply with the rules concerning trade in wine or has been the subject of fraudulent action to obtain or market such a product, and
- that such failure to comply with the rules is of specific interest to one or more other Contracting Parties and is such as to lead to administrative measures or legal action,

that competent authority shall, via the liaison authority under which it comes, notify the liaison authority of the Contracting Party concerned without delay.

Article 7

Form and substance of requests for assistance

1. Requests pursuant to this Appendix shall be made in writing. Documents necessary for the execution of such requests shall accompany the request. When required because of the urgency of the situation, oral requests may be accepted but must be confirmed in writing immediately.
2. Requests pursuant to paragraph 1 shall include the following information:
 - the name of the applicant authority making the request;
 - the measure requested;
 - the object of, and the reason for, the request;
 - laws, rules, and other legal instruments involved;

- indications as exact and comprehensive as possible on the natural or legal persons being the target of the investigations;
 - a summary of the relevant facts.
3. Requests shall be submitted in an official language of the requested authority or in a language acceptable to such authority.
 4. If a request does not meet the formal requirements, its correction or completion may be demanded; the ordering of precautionary measures may, however, take place.

Article 8

Form in which information is to be communicated

1. The requested authority shall communicate results of enquiries to the applicant authority in the form of documents, certified copies of documents, reports and the like.
2. The documents provided for in paragraph 1 may be replaced by computerized information produced in any form for the same purpose.

Article 9

Exceptions to the obligation to provide assistance

1. The Contracting Party or the requested authority may refuse to give assistance as provided for in this Appendix, where to do so would:
 - be likely to prejudice sovereignty, public policy (l'ordre public), security or other essential interests; or
 - involve currency or tax regulations.
2. Where the applicant authority asks for assistance which it would itself be unable to provide if so asked, it shall draw attention to the fact in its request. It shall then be left to the requested authority to decide how to respond to such a request.
3. If assistance is withheld or denied, the decision and the reasons therefor must be notified to the applicant authority without delay.

Article 10

Common provisions

1. The information referred to in Article 5 and Article 6 shall be accompanied by documents or other evidence and details of any administrative measures or legal action and shall relate in particular to:
 - composition and organoleptic characteristics;
 - description and presentation;
 - compliance with the rules laid down for preparation and marketing of the product in question.
2. The liaison authorities concerned by a case for which the mutual assistance procedure referred to in Articles 5 and 6 is initiated shall inform each other without delay of:
 - the progress of investigations, particularly in the form of reports and other documents or information media, and
 - any administrative or legal action taken subsequent to the operations concerned.
3. Travel costs incurred in the application of this Appendix shall be borne by the Contracting Party which has appointed an official for the measures referred to in Article 5(2) and (4).
4. This Article shall not prejudice national provisions concerning the secrecy of legal proceedings.

Title IV

General provisions

Article 11

Collection of samples

1. In the context of the application of Titles II and III, the competent authority of a Contracting Party may request the competent authority of another Contracting Party to collect samples in accordance with the relevant provisions in that Contracting Party.
2. The requested authority shall hold the samples collected pursuant to paragraph 1 and shall determine, inter alia, the laboratory to which they are to be submitted for examination. The applicant authority may designate another laboratory to analyse parallel samples. For this

purpose, the requested authority shall forward an appropriate number of samples to the applicant authority.

3. In the case of disagreement between the applicant authority and the requested authority with regard to the results of the examination referred to in paragraph 2, an arbitration analysis shall be carried out by a mutually designated laboratory.

Article 12

Obligation to observe confidentiality

1. Any information communicated in whatever form pursuant to this Appendix shall be of a confidential nature. It shall be covered by the obligation of official secrecy and shall enjoy the protection extended under the relevant laws applicable in the Contracting Party which received it or the corresponding provisions applying to the Community authorities, as the case may be.
2. This Appendix shall not oblige a Contracting Party whose legislation or administrative practices impose stricter limits for the protection of industrial and commercial secrecy than those laid down in this Appendix to supply information, where the applicant Contracting Party does not take steps to comply with these stricter limits.

Article 13

Use of information

1. Information obtained shall be used solely for the purposes of this Appendix and may be used within each Contracting Party for other purposes only with the prior written consent of the administrative authority which furnished the information and shall be subject to any restrictions laid down by that authority.
2. Paragraph 1 shall not impede the use of information in any judicial or administrative proceedings subsequently instituted for offence under ordinary criminal law, provided that it has been obtained in the framework of an international legal assistance procedure.
3. The Contracting Parties may, in their records of evidence, reports and testimonies and in proceedings and charges brought before the courts, use as evidence information obtained and documents consulted in accordance with the provisions of this Appendix.

Article 14

Information obtained pursuant to this Appendix – conclusive force

The findings of the specific officials of the competent authorities of a Contracting Party in the course of application of this Appendix may be invoked by the competent authorities of the other Contracting Parties. In such cases, they shall have no less value because of the fact that they do not come from the Contracting Party in question.

Article 15

Persons subject to controls

Natural or legal persons and groups of such persons whose activities may be the subject of the controls referred to in this Appendix shall not obstruct such controls and shall be required to facilitate them at all times.

Article 16

Implementation

1. The Contracting Parties shall transmit to each other:
 - lists of the liaison authorities designated to act as correspondents for the purpose of the operational implementation of this Appendix;
 - lists of laboratories authorized to carry out analyses pursuant to Article 11(2).
2. The Contracting Parties shall consult each other and subsequently keep each other informed of the detailed rules of implementation which are adopted in accordance with the provisions of this Appendix. In particular, they shall transmit to each other national provisions and a summary of administrative and judicial decisions of particular relevance to the correct application of the rules concerning trade in wine.

Article 17

Complementarity

This Appendix shall complement and not impede application of any agreements on mutual assistance which have been concluded or may be concluded between two or more Contracting Parties. Nor shall it preclude more extensive mutual assistance granted under such agreements."
