

## PROTOCOL 47

### *ON THE ABOLITION OF TECHNICAL BARRIERS TO TRADE IN WINE*

The Contracting Parties shall authorize imports and marketing of wine products, originating in their territories, which are in conformity with the EC legislation, as adapted for the purposes of the Agreement, as set out in Appendix 1<sup>{1}</sup> to this Protocol related to product definition, oenological practices, composition of products and modalities for circulation and marketing.

{<sup>2</sup>}The Contracting Parties shall establish mutual assistance between control authorities in the wine sector in accordance with the provisions laid down in Appendix 2.

For the purpose of this Protocol "originating wine products" shall be understood as "wine products in which all the grapes or any materials derived from grapes used therein must be wholly obtained".

For all purposes other than trade between the EFTA States and the Community, the EFTA States may continue to apply their national legislation.

The provisions of Protocol 1 on horizontal adaptations shall apply to the acts referred to in Appendix 1<sup>{3}</sup> to this Protocol. The Standing Committee of the EFTA States shall fulfil the functions mentioned in points 4(d) and 5 of Protocol 1.

{<sup>4</sup>} For products covered by the acts referred to in this Protocol, Liechtenstein may apply Swiss legislation deriving from its regional union with Switzerland on the Liechtenstein market in parallel with the legislation implementing the acts referred to in this Protocol. Provisions on free movement of goods contained in this Agreement or in acts referred to shall be applicable as regards exports from Liechtenstein to the other Contracting Parties only to products which are in conformity with the acts referred to in this Protocol.

{<sup>5</sup>} However, this Protocol shall not apply to Liechtenstein as long as the application of the Agreement between the European Community and the Swiss Confederation on trade in agricultural products is extended to Liechtenstein.

#### APPENDIX 1<sup>{6}</sup>

1.        [] {<sup>7</sup>}
2.        [] {<sup>8</sup>}
3.        [] {<sup>9</sup>}
4.        [] {<sup>10</sup>}
5.        [] {<sup>11</sup>}

{<sup>1</sup>} Words "the Appendix" replaced by "Appendix 1" by Decision No 7/94 (OJ L 160, 28.6.1994, p. 1 and EEA Supplement No 17, 28.6.1994, p. 1), e.i.f. 1.7.1994.

{<sup>2</sup>} Paragraph added by Decision No 7/94 (OJ L 160, 28.6.1994, p. 1 and EEA Supplement No 17, 28.6.1994, p. 1), e.i.f. 1.7.1994.

{<sup>3</sup>} Words "the Appendix" replaced by "Appendix 1" by Decision No 7/94 (OJ L 160, 28.6.1994, p. 1 and EEA Supplement No 17, 28.6.1994, p. 1), e.i.f. 1.7.1994.

{<sup>4</sup>} Paragraph added by EEA Council Decision No 1/95.

{<sup>5</sup>} Text added by Decision No 97/2007 (OJ L 047, 21.2.2008, p. 3 and EEA Supplement No 9, 21.2.2008, p. 2), e.i.f. 28.9.2007.

{<sup>6</sup>} Appendix 1 replaced by Decision No 75/2006 (OJ L 245, 7.9.2006, p. 46 and EEA Supplement No 45, 7.9.2006, p. 39), e.i.f. 3.6.2006.

{<sup>7</sup>} Text of point 1 (Commission Regulation (EEC) No 2676/90) deleted by Decision No 102/2012 (OJ L 248, 13.9.2012, p. 40 and EEA Supplement No 50, 13.9.2012, p. 46), e.i.f. 1.4.2013.

{<sup>8</sup>} Text of point 2 (Council Regulation (EC) No 1493/1999) deleted by Decision No 102/2012 (OJ L 248, 13.9.2012, p. 40 and EEA Supplement No 50, 13.9.2012, p. 46), e.i.f. 1.4.2013.

{<sup>9</sup>} Text of point 3 (Commission Regulation (EC) No 1607/2000) deleted by Decision No 102/2012 (OJ L 248, 13.9.2012, p. 40 and EEA Supplement No 50, 13.9.2012, p. 46), e.i.f. 1.4.2013.

{<sup>10</sup>} Text of point 4 (Commission Regulation (EC) No 1622/2000) deleted by Decision No 102/2012 (OJ L 248, 13.9.2012, p. 40 and EEA Supplement No 50, 13.9.2012, p. 46), e.i.f. 1.4.2013.

{<sup>11</sup>} Text of point 5 (Commission Regulation (EC) No 884/2001) deleted by Decision No 102/2012 (OJ L 248, 13.9.2012, p. 40 and EEA Supplement No 50, 13.9.2012, p. 46), e.i.f. 1.4.2013.

6. [ ] {<sup>12</sup>}

7. [ ] {<sup>13</sup>}

8. {<sup>14</sup>} **32013 R 1308**: Regulation (EU) 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).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

a) Only the following provisions of the Regulation shall apply:

Article 1 (2) (l) cf. Annex I Part XII,

Article 3 (1) cf. Annex II Part IV,

Article 75 (3) (f), (g), (h), (k) and (m), (4) and (5) (d),

Article 78 (1) (b) and (2) cf. Annex VII Part II cf. Appendix I of Annex VII,

Article 80 cf. Annex VIII,

Articles 81 and 82,

Article 83 (2) and (3),

Articles 92 - 108,

Articles 112 and 113,

Articles 117 - 121,

Article 146 and

Article 147 (1) and (2).

The provisions shall apply with the adaptations that can be derived from the provisions of the main text of the Agreement, the horizontal adaptations in the introduction to Protocol 47 to the Agreement and the specific adaptations in Appendix 1 to Protocol 47 to the Agreement.

b) The representatives of the EFTA States shall participate fully in the work of the Committee referred to in Article 229 of the Regulation, dealing with matters which fall within the scope of the acts referred to in the Agreement, but shall not have the right to vote.

9. {<sup>15</sup>} **32009 R 0436**: Commission Regulation (EC) No 436/2009 of 26 May 2009 laying down detailed rules for the application of Council Regulation (EC) No 479/2008 as regards the vineyard register, compulsory declarations and the gathering of information to monitor the wine market, the documents accompanying consignments of wine products and the wine sector registers to be kept (OJ L 128, 27.5.2009, p. 15), as amended by:

- {<sup>16</sup>} **32013 R 0144**: Commission Implementing Regulation (EU) No 144/2013 of 19 February 2013 (OJ L 47, 20.2.2013, p. 56),

{<sup>12</sup>} Text of point 6 (Commission Regulation (EC) No 753/2002) deleted by Decision No 102/2012 (OJ L 248, 13.9.2012, p. 40 and EEA Supplement No 50, 13.9.2012, p. 46), e.i.f. 1.4.2013.

{<sup>13</sup>} Text of point 7 (Commission Regulation (EC) No 1793/2003) deleted by Decision No 190/2012 (OJ L 341, 13.12.2012, p. 44 and EEA Supplement No 70, 13.12.2012, p. 52), e.i.f. 1.4.2013.

{<sup>14</sup>} Point 8 inserted by Decision No 102/2012 (OJ L 248, 13.9.2012, p. 40 and EEA Supplement No 50, 13.9.2012, p. 46), e.i.f. 1.4.2013. Text of point 8 (Council Regulation (EC) No 1234/2007) and adaptation text replaced by Decision No 40/2016 (OJ L 189, 20.7.2017, p. 60 and EEA Supplement No 45, 20.7.2017, p. 64), e.i.f. 6.2.2016.

{<sup>15</sup>} Point 9 and adaptation text inserted by Decision No 102/2012 (OJ L 248, 13.9.2012, p. 40 and EEA Supplement No 50, 13.9.2012, p. 46), e.i.f. 1.4.2013 and adaptation text subsequently replaced by Decision No 112/2014 (OJ L 310, 30.10.2014, p. 84 and EEA Supplement No 63, 30.10.2014, p. 72), e.i.f. 17.5.2014.

{<sup>16</sup>} Indent and words “, as amended by: “, added by Decision No 211/2013 (OJ L 92, 27.03.2014, p. 37 and EEA Supplement No 19, 27.03.2014, p. 41), e.i.f. 9.11.2013.

-{<sup>17</sup>} **32012 R 0314:** Commission Implementing Regulation (EU) No 314/2012 of 12 April 2012, (OJ L 103, 13.4.2012, p. 21) as corrected by OJ L 319, 16.11.2012, p. 10.

The provisions of this Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) Only the following provisions of the Regulation shall apply:

Article 21 (1) and (2) (a) and (b),

Articles 22 and 23,

Article 24 (1) (a), (2), (4) and (5), cf. Annex VI,

Articles 25 and 26, cf. Annex VIII,

Article 29 (1), (2) (a) and (c) and (3),

Article 31 (1), (2), (5) and (6), cf. Annex IXa,

Articles 32 to 35,

Article 47,

Article 48 (1) and

Article 49.

The provisions shall apply with the adaptations that can be derived from the provisions of the main text of the Agreement, the horizontal adaptations in the introduction to Protocol 47 to the Agreement and the specific adaptations in Appendix 1 to Protocol 47 to the Agreement.

(b) Article 24 (4) first subparagraph shall apply with the following adaptations:

When the accompanying documents referred to in article 24 (1) a) (iii) are issued by an EFTA-State, instead of the logo of the Union and the words “European Union”, they shall bear in the header the words “European Economic Area”.

(c) In the third paragraph of Article 34(1) the words “In the case of transport inside the Community, such information shall be communicated in accordance with Regulation (EC) No 555/2008.” shall be replaced by “Such information shall be forwarded in accordance with Appendix 2 to Protocol 47 to the Agreement.”.

(d) The following text shall be inserted in Annex IXa B to the Regulation:

“- in Norwegian:

a) for vin med BOB: “Dette dokumentet attesterer riktigheten av den beskyttede opprinnelsesbetegnelsen”, “nr. [..., ...] i E-Bacchus-databasen”

b) for vin med BGB: “Dette dokumentet attesterer riktigheten av den beskyttede geografiske betegnelsen”, “nr. [..., ...] i E-Bacchus-databasen”

c) for vin uten BOB eller BGB, som markedsføres med angivelse av innhøstingsår: “Dette dokumentet attesterer riktigheten av innhøstingsåret, jf. artikkel 118z i forordning (EF) nr. 1234/2007”

d) for vin uten BOB eller BGB, som markedsføres med angivelse av den (eller de) druesorten(e) som er brukt til vinfremstilling: “Dette dokumentet attesterer riktigheten av den (eller de) druesorten(e) som er brukt til vinfremstilling, jf. artikkel 118z i forordning (EF) nr. 1234/2007”

e) for vin uten BOB eller BGB, som markedsføres med angivelse av innhøstingsår og med angivelse av den (eller de) druesorten(e) som er brukt til vinfremstilling: “Dette dokumentet attesterer riktigheten av innhøstingsåret og den (eller de) druesorten(e) som er brukt til vinfremstilling, jf. artikkel 118z i forordning (EF) nr. 1234/2007”.

<sup>{17}</sup> Indent added by Decision No 112/2014 (OJ L 310, 30.10.2014, p. 84 and EEA Supplement No 63, 30.10.2014, p. 72), e.i.f. 17.5.2014.

- 10.{<sup>18</sup>} **32009 R 0606**: 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), as amended by:
- {<sup>19</sup>} **32009 R 1166**: Commission Regulation (EC) No 1166/2009 of 30 November 2009 (OJ L 314, 1.12.2009, p. 27),
  - {<sup>20</sup>} **32011 R 0053**: Commission Regulation (EU) No 53/2011 of 21 January 2011 (OJ L 19, 22.1.2011, p. 1),
  - {<sup>21</sup>} **32013 R 0144**: Commission Implementing Regulation (EU) No 144/2013 of 19 February 2013 (OJ L 47, 20.2.2013, p. 56),
  - {<sup>22</sup>} **32012 R 0315**: Commission Implementing Regulation (EU) No 315/2012 of 12 April 2012 (OJ L 103, 13.4.2012, p. 38),
  - {<sup>23</sup>} **32013 R 1251**: Commission Implementing Regulation (EU) No 1251/2013 of 3 December 2013 (OJ L 323, 4.12.2013, p. 28),
  - {<sup>24</sup>} **32014 R 0347**: Commission Implementing Regulation (EU) No 347/2014 of 4 April 2014 (OJ L 102, 5.4.2014, p. 9),
  - {<sup>25</sup>} **32015 R 0596**: Commission Implementing Regulation (EU) 2015/596 of 15 April 2015 (OJ L 99, 16.4.2015, p. 21),
  - {<sup>26</sup>} **32015 R 1576**: Commission Delegated Regulation (EU) 2015/1576 of 6 July 2015 (OJ L 246, 23.9.2015, p. 1),
  - {<sup>27</sup>} **32016 R 0765**: Commission Delegated Regulation (EU) 2016/765 of 11 March 2016 (OJ L 127, 18.5.2016, p. 1),
  - {<sup>28</sup>} **32017 R 1961**: Commission Delegated Regulation (EU) 2017/1961 of 2 August 2017 (OJ L 279, 28.10.2017, p. 25).
- 11.{<sup>29</sup>} **32009 R 0607**: 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), as amended by:
- {<sup>30</sup>} **32010 R 0401**: Commission Regulation (EU) No 401/2010 of 7 May 2010 (OJ L 117, 11.5.2010, p. 13), as corrected by OJ L 248, 22.9.2010, p. 67,
  - {<sup>31</sup>} **32011 R 0538**: Commission Regulation (EU) No 538/2011 of 1 June 2011 (OJ L 147, 2.6.2011, p. 6),
  - {<sup>32</sup>} **32011 R 0670**: Commission Implementing Regulation (EU) No 670/2011 of 12 July 2011 (OJ L 183, 13.7.2011, p. 6),

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{<sup>18</sup>} Point inserted by Decision No 102/2012 (OJ L 248, 13.9.2012, p. 40 and EEA Supplement No 50, 13.9.2012, p. 46), e.i.f. 1.4.2013.

{<sup>19</sup>} Indent and words “as amended by” added by Decision No 143/2012 (OJ L 309, 8.11.2012, p. 27 and EEA Supplement No 63, 8.11.2012, p. 31), e.i.f. 1.4.2013.

{<sup>20</sup>} Indent and words “as amended by” added by Decision No 143/2012 (OJ L 309, 8.11.2012, p. 27 and EEA Supplement No 63, 8.11.2012, p. 31), e.i.f. 1.4.2013.

{<sup>21</sup>} Indent added by Decision No 211/2013 (OJ L 92, 27.03.2014, p. 37 and EEA Supplement No 19, 27.03.2014, p. 41), e.i.f. 9.11.2013.

{<sup>22</sup>} Indent added by Decision No 112/2014 (OJ L 310, 30.10.2014, p. 84 and EEA Supplement No 63, 30.10.2014, p. 72), e.i.f. 17.5.2014.

{<sup>23</sup>} Indent added by Decision No 33/2015 (OJ L 93, 7.4.2016, p. 50 and EEA Supplement No 21, 7.4.2016, p. 44), e.i.f. 26.2.2015.

{<sup>24</sup>} Indent added by Decision No 33/2015 (OJ L 93, 7.4.2016, p. 50 and EEA Supplement No 21, 7.4.2016, p. 44), e.i.f. 26.2.2015.

{<sup>25</sup>} Indent added by Decision No 63/2016 (OJ L 270, 19.10.2017, p. 34 and EEA Supplement No 66, 19.10.2017, p. 36), e.i.f. 19.3.2016.

{<sup>26</sup>} Indent added by Decision No 64/2016 (OJ L 270, 19.10.2017, p. 35 and EEA Supplement No 66, 19.10.2017, p. 37), e.i.f. 19.3.2016.

{<sup>27</sup>} Indent added by Decision No 255/2016 (OJ L 215, 23.8.2018, p. 53 and EEA Supplement No 56, 23.8.2018, p. 69), e.i.f. 3.12.2016.

{<sup>28</sup>} Indent added by Decision No 34/2018 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 10.2.2018.

{<sup>29</sup>} Point inserted by Decision No 102/2012 (OJ L 248, 13.9.2012, p. 40 and EEA Supplement No 50, 13.9.2012, p. 46), e.i.f. 1.4.2013.

{<sup>30</sup>} Indent and words “as amended by” added by Decision No 143/2012 (OJ L 309, 8.11.2012, p. 27 and EEA Supplement No 63, 8.11.2012, p. 31), e.i.f. 1.4.2013.

{<sup>31</sup>} Indent and words “as amended by” added by Decision No 143/2012 (OJ L 309, 8.11.2012, p. 27 and EEA Supplement No 63, 8.11.2012, p. 31), e.i.f. 1.4.2013.

{<sup>32</sup>} Indent and adaptation text added by Decision No 190/2012 (OJ L 341, 13.12.2012, p. 44 and EEA Supplement No 70, 13.12.2012, p. 52), e.i.f. 1.4.2013.

- <sup>{33}</sup> **32012 R 0579**: Commission Implementing Regulation (EU) No 579/2012 of 29 June 2012 (OJ L 171, 30.6.2012, p. 4),
- <sup>{34}</sup> **32012 R 1185**: Commission Implementing Regulation (EU) No 1185/2012 of 11 December 2012 (OJ L 338, 12.12.2012, p. 18),
- <sup>{35}</sup> **32013 R 0519**: Commission Regulation (EU) No 519/2013 of 21 February 2013 (OJ L 158, 10.6.2013, p. 74),
- <sup>{36}</sup> **32013 R 0753**: Commission Regulation (EU) No 753/2013 of 2 August 2013 (OJ L 210, 6.8.2013, p. 21),
- <sup>{37}</sup> **32017 R 1353**: Commission Delegated Regulation (EU) 2017/1353 of 19 May 2017 (OJ L 190, 21.7.2017, p. 5).

<sup>{38}</sup>The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) The following shall be added in Article 70a:

“The EFTA States shall, when concerned, follow the procedures set out in Article 70a(1)(b), 70a(2) and 70a(4).”

(b) The following shall be added in the table in Part A of Annex X:

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in Norwegian	“sulfitter” or “svoveldioksid”	“egg”, “eggprotein”, “eggprodukt”, “egglysozym” or “eggalbumin”	“melk”, “melkeprodukt”, “melkekasein” or “melkeprotein”
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”

(c) The following shall be added in the table in Annex Xa:

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NO	“bearbeidingsvirksomhet” or “vinprodusent”	“bearbeidet av”
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- 12.<sup>{39}</sup> **32010 R 1022**: Commission Regulation (EU) No 1022/2010 of 12 November 2010 authorising an increase of the limits for the enrichment of wine produced using the grapes harvested in 2010 in certain wine-growing zones (OJ L 296, 13.11.2010, p. 3).
- 13.<sup>{40}</sup> **32013 R 0172**: Commission Implementing Regulation (EU) No 172/2013 of 26 February 2013 on the removing of certain existing wine names from the register provided for in Council Regulation (EC) No 1234/2007 (OJ L 55, 27.2.2013, p. 20).
- 14.<sup>{41}</sup> **32014 R 1271**: Commission Implementing Regulation (EU) No 1271/2014 of 28 November 2014 authorising an increase of the limits for the enrichment of wine produced using the grapes harvested in 2014 from certain wine grape varieties in certain wine-growing regions or a part thereof (OJ L 344, 29.11.2014, p. 10).
- 15.<sup>{42}</sup> **32016 R 2147**: Commission Implementing Regulation (EU) 2016/2147 of 7 December 2016 authorising an increase of the limits for the enrichment of wine produced using the grapes harvested in 2016 in certain wine-growing regions of Germany and in all wine-growing regions of Hungary (OJ L 333, 8.12.2016, p. 30).

<sup>{33}</sup> Indent added by Decision No 212/2013 (OJ L 92, 27.03.2014, p. 38 and EEA Supplement No 19, 27.03.2014, p. 43), e.i.f. 9.11.2013.

<sup>{34}</sup> Indent added by Decision No 212/2013 (OJ L 92, 27.03.2014, p. 38 and EEA Supplement No 19, 27.03.2014, p. 43), e.i.f. 9.11.2013.

<sup>{35}</sup> Indent added by Decision No 159/2014 (OJ L 15, 22.1.2015, p. 87 and EEA Supplement No 5, 22.1.2015, p. 10), e.i.f. pending; it shall apply from 9.7.2014.

<sup>{36}</sup> Indent added by Decision No 129/2015 (OJ L 211, 4.8.2016, p. 90 and EEA Supplement No 42, 4.8.2016, p. 87), e.i.f. 1.5.2015.

<sup>{37}</sup> Indent added by Decision No 251/2017 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 16.12.2017.

<sup>{38}</sup> Text of adaptation replaced by Decision No 212/2013 (OJ L 92, 27.03.2014, p. 38 and EEA Supplement No 19, 27.03.2014, p. 43), e.i.f. 9.11.2013.

<sup>{39}</sup> Point inserted by Decision No 143/2012 (OJ L 309, 8.11.2012, p. 27 and EEA Supplement No 63, 8.11.2012, p. 31), e.i.f. 1.4.2013.

<sup>{40}</sup> Point inserted by Decision No 211/2013 (OJ L 92, 27.03.2014, p. 37 and EEA Supplement No 19, 27.03.2014, p. 41), e.i.f. 9.11.2013.

<sup>{41}</sup> Point inserted by Decision No 65/2016 (OJ L 270, 19.10.2017, p. 36 and EEA Supplement No 66, 19.10.2017, p. 38), e.i.f. 19.3.2016.

<sup>{42}</sup> Point inserted by Decision No 103/2017 (OJ L 36, 7.2.2019, p. 65 and EEA Supplement No 11, 7.2.2019, p. 75), e.i.f. 6.5.2017.

- 16.{<sup>43</sup>} **32017 R 2281**: Commission Implementing Regulation (EU) 2017/2281 of 11 December 2017 authorising an increase of the limits for the enrichment of wine produced using the grapes harvested in 2017 in certain wine-growing regions of Germany and in all wine-growing regions of Denmark, the Netherlands and Sweden (OJ L 328, 12.12.2017, p. 17).

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<sup>43</sup> Point inserted by Decision No 122/2018 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 1.6.2018.

**APPENDIX 2<sup>{44}</sup>***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.

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<sup>{44}</sup> Appendix 2 added by Decision No 7/94 (OJ L 160, 28.6.1994, p. 1 and EEA Supplement No 17, 28.6.1994, p. 1), e.i.f. 1.7.1994.

## 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.

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