Commission Implementing Regulation (EU) No 314/2012 of 12 April 2012 amending Commission Regulations (EC) No 555/2008 and (EC) No 436/2009 as regards the documents accompanying consignments of wine products and wine sector registers to be kept

COMMISSION IMPLEMENTING REGULATION (EU) No 314/2012

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amending Commission Regulations (EC) No 555/2008 and (EC) No 436/2009 as regards the documents accompanying consignments of wine products and wine sector registers to be kept

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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)[(1)], and in particular the first paragraph of Article 121(k) and (m), Article 185a, Article 185c(3), and Article 192(2) in conjunction with Article 4 thereof,

Whereas:

(1) Commission Regulation (EC) No 555/2008 of 27 June 2008 laying down detailed rules for implementing Council Regulation (EC) No 479/2008 on the common organisation of the market in wine as regards support programmes, trade with third countries, production potential and on controls in the wine sector[(2)] lays down under Title V and notably in Article 82 that where a Member State designates several competent bodies to check compliance with the rules governing the wine sector it shall coordinate the work of those bodies. This provision does not fully meet the coordination needs among the various control bodies within the framework of the movements of wine products subject to excise duty due to the use in the wine sector of documents established in accordance with Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty[(3)]. In particular, the measures that the Member States shall take should be specified with respect to giving the bodies which are competent to check compliance with the rules governing the wine sector access to the information on the movements of products subject to excise duty carried out under Directive 2008/118/EC and Commission Regulation (EC) No 684/2009 of 24 July 2009 implementing Council Directive 2008/118/EC as regards the computerised procedures for the movement of excise goods under suspension of excise duty[(4)]. In particular, it is appropriate that account be taken of the Excise Movement and Control System set up under Decision No 1152/2003/EC of the European Parliament and of the Council of 16 June 2003 on computerising the movement and surveillance of excisable products[(5)].

(2) Regulation (EC) No 555/2008 should therefore be amended by allowing for gradual implementation of new provisions, in view of the time required by the Member States'

administrations to implement measures concerning the coordination of controls and access to information.

(3) 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[6] establishes under Title III and in particular Articles 21 to 31 the nature of the accompanying documents admissible for the consignment of wine products, the rules governing the use of these documents at national and Union level and for export and the conditions with regard to authentication of certificates of origin for wines with protected designation of origin (PDO) or protected geographic indication (PGI). These provisions are, by now, partially obsolete or do not take into account all the amendments made to Union legislation on these issues since the entry into force of Regulation (EC) No 436/2009. This is notably the case for the use since 1 January 2011 of the electronic administrative document referred to in Article 21(1) of Directive 2008/118/EC, established in accordance with Regulation (EC) No 684/2009, for the amendment of procedures relating to the control of the exit of products from the territory of the Union following the widespread use of electronic procedures by the Union's customs authorities and lastly for the amendment of rules governing PDO, PGI and indications on the vintage year or the wine-grape varieties as a result of the reforms in the wine sector since 1 January 2009. It is therefore necessary to amend the Articles concerned and to delete certain obsolete definitions.

(4) The amendments made in this context should enable the use of accompanying documents recognised under Regulation (EC) No 436/2009 for wine products to certify the PDO or PGI and the vintage year or wine-grape variety, including where these documents are drawn up by the consignor. In this respect, the conditions in which the accompanying documents shall be deemed authentic should be laid down.

(5) The formalities relating to the exit of products from the customs territory of the Union have been modified since the adoption of Regulation (EC) No 436/2009. They are carried out according to new conditions laid down in Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code[7]. Rules should therefore be laid down on the procedure for the export and the effective exit of wine products from the customs territory of the Union in accordance with these new conditions, by specifying the obligations on the consignor or the consignor's agent.

(6) With regard to the consignment of unpackaged wine products, it is appropriate, in view of the implementation by the Member States of information systems permitting the automatic exchange of information, to simplify the requirements established under Article 29 of Regulation (EC) No 436/2009.

(7) For any consignment in the customs territory of the Union of wine products declared, where appropriate, as originating from a third country or originating in the Union and initially dispatched to a third country or a territory as defined in Article 5(2) and (3) of Directive 2008/118/EC, the rules for controlling their origin are not specified. The

information that the accompanying document shall include should be laid down in order to verify the origin.

(8) Furthermore, in the interests of clarity and reducing the administrative burdens, the content of certain obligations provided for in Regulation (EC) No 436/2009 should be established or specified and procedures simplified in relation to the certificates required for the accompanying documents and evidence, and documents to be supplied by operators to the authorities and competent bodies of the Member States and, if necessary to third countries, notably with regard to the PDO and PGI certificates and the certification of wines and wine products marketed with the indication of the vintage year or the wine-grape variety(ies) and to take into consideration, for enhanced transparency and traceability, the references of these designations in the E-Bacchus register set up and updated by the Commission, in accordance with Article 18 of 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[8].

(9) For the sake of reducing the administrative burdens, the obligation established in Article 41 of Regulation (EC) No 436/2009 concerning the indication in the registers of the addition of sulphites should be waived, given that the sulphites are added at different stages in production and wine handling and that the final content does not correspond to the amount of sulphites indicated.

(10) In the interests of effective administrative management and taking into account the experience acquired through the use of information systems put in place by the Commission, the way in which certain information is managed and made available by the Commission should be simplified and improved, in accordance with Regulation (EC) No 436/2009.

(11) Regulation (EC) No 436/2009 should therefore be amended, while providing for a deferred application of certain provisions, in view of the time required by the Member States to implement measures concerning the use of accompanying and certification documents established under this Regulation.

(12) The measures set out in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Amendment of Regulation (EC) No 555/2008

In Chapter V of Title V of Regulation (EC) No 555/2008, the following Article 95a is added:

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 314/2012. (See end of Document for details)*

Article 95a

Coordination of controls and access to information

With respect to controls relating to consignments carried out under cover of the accompanying documents indicated in Article 24(1)(a)(i) of Commission Regulation (EC) No 436/2009[9], Member States, shall, not later than 1 March 2014, adopt the measures required to give the competent bodies designated under Article 82(1) of this Regulation access to the information held in the computerised system referred to in Article 21 of Council Directive 2008/118/EC[10] and on the movements of wine products circulating under the arrangements laid down in Chapter IV of that Directive.

With respect to controls on consignments carried out under cover of the accompanying documents indicated in Article 24(1)(a)(ii) and (iii) of Regulation (EC) No 436/2009, Member States, shall, not later than 1 March 2014, adopt the measures required to give the competent bodies designated under Article 82(1) of this Regulation access to the information held in the information systems set up to control the movements of wine products other than those referred to in the first paragraph of this Article.

The information held pursuant to the first and second subparagraphs may only be used, for the purposes of this Regulation, in relation to the specific controls laid down in the rules on the wine sector.

Article 2

Amendment of Regulation (EC) No 436/2009

Regulation (EC) No 436/2009 is amended as follows:

(1) Article 21 shall be replaced by the following:

Article 21

Purpose and scope

1 This title lays down the detailed rules for the application of Article 185c of Regulation (EC) No 1234/2007, in relation to wine products, indicated in Part XII of Annex I thereto (hereinafter "wine products").

2 This title establishes the conditions required for:

- a the drawing up and use of documents accompanying the consignment of wine products, hereinafter "accompanying documents";
- b the drawing up of the certificates of origin for wines and partially fermented grape must covered by a protected designation of origin (PDO) or a protected geographical indication (PGI) and the certification of wines and wine sector products not covered by a PDO or a PGI marketed with the indication of the vintage year or the wine-grape variety(ies);
- c records kept by persons who hold wine sector products in the exercise of their profession.;

(2) Article 22(d), (e) and (f) are deleted;

(3) Articles 23 and 24 shall be replaced by the following:

Article 23

General rules

All natural or legal persons, all groups of persons, who have their domicile or registered place of business within the customs territory of the Union and who consign or have a wine product consigned, shall ensure that this transport operation is carried out under cover of an accompanying document.

The accompanying document may only be used for a single consignment.

It shall be possible for the accompanying document to be presented to the competent authorities and bodies throughout the transport operation.

Article 24

Recognised accompanying documents

1 The following shall be recognised as accompanying documents, in accordance with the conditions laid down in this Article and in Annex VI:

a for the wine products dispatched within a Member State or among Member States, without prejudice to (b) below:

(i) one of the documents referred to in Article 21(6) or Article 26(1)(a) of Council Directive 2008/118/EC[(11)] for products moved under duty suspension arrangements within the Union's territory;

(ii) the simplified accompanying document referred to in Article 34(1) of Directive 2008/118/EC, drawn up and used in accordance with Commission Regulation (EEC) No 3649/92[(12)], for excise goods moved within the Union's territory, after release for consumption in the Member State where the transport operation began;

(iii) one of the following documents, drawn up under the conditions laid down by the Member State of dispatch, for wine products not subject to excise duty and for wine products subject to excise duty dispatched by small producers, pursuant to Article 40 of Directive 2008/118/EC:

— where the Member State uses an information system, a printed copy of the electronic administrative document thus established or any other commercial document stating, in a clearly identifiable manner, the specific administrative code ("MVV code") assigned by that system,

— where the Member State does not use an information system, an administrative document or a commercial document, bearing the MVV code assigned by the competent body or by the consignor;

b for the wine products dispatched to a third country or territory as defined in Article 5(2) and (3) of Directive 2008/118/EC, one of the documents referred to in paragraph 1(a)(i) or (iii) of this Article.