Commission Regulation (EU) No 401/2010 of 7 May 2010 amending and correcting Regulation (EC) No 607/2009 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

COMMISSION REGULATION (EU) No 401/2010

of 7 May 2010

amending and correcting Regulation (EC) No 607/2009 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

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 on the common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)[(1)], and in particular Article 121 first paragraph points (k), (l) and (m) and Article 203*b*, in conjunction with Article 4 thereof,

Whereas:

(1) In accordance with Article 25(1) of Commission Regulation (EC) No 607/2009[(2)], annual verification of wines bearing protected designation of origin or geographical indication shall be carried out either through random check, sampling or systematic check, bearing in mind that only random checks can be combined with sampling. Some Member States who until now have privileged systematic checks are evolving and wish to be able to combine all three forms of checks. Therefore, as regards annual verification systems, more flexibility should be offered to Member States.

(2) After Regulation (EC) No 607/2009 had been adopted, it was found to contain some technical errors, which should be corrected. In particular, the wine grape variety name ‘Montepulciano’ was erroneously mentioned in Part B of Annex XV and should therefore be moved to Part A of that Annex. The spelling of some provisions should also be improved in order to gain clarity.

(3) For the sake of clarity and consistency, some provisions of Regulation (EC) No 607/2009 should be redrafted or specified. This is in particular the case of provisions applying to third countries, to whom the use of certain optional particulars should be opened provided that they fulfil equivalent conditions to those required from Member States. It is also the case of Annex XII, where the terminology should be in line with the list of protected designation of origin as listed in the Register. New provisions should also be introduced in order to gain precision in terms of labelling and presentation.

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EU) No 401/2010. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(4) Australia has requested to include new names of wine grape varieties in Annex XV, Part B to Regulation (EC) No 607/2009. The Commission, after having satisfactorily examined the request as regards the conditions laid down in Article 62(1)(b) and Article 62(4) of that Regulation, should include Australia in the column corresponding to the names of those wine grape varieties in that Annex.

(5) The Agreement between the European Community and the United States of America on trade in wine[(3)] contains a list of vine variety names that may be used as labelling particulars. Thus, United States should be included in Annex XV, Part B to Regulation (EC) No 607/2009, in the column corresponding to the names of those wine grape varieties.

(6) Regulation (EC) No 607/2009 should therefore be amended accordingly.

(7) To avoid administrative burdens associated with certification costs, and trade difficulties, the amendments proposed by this Regulation should apply from the same date as Regulation (EC) No 607/2009, that is from 1 August 2009.

(8) The measures provided for 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

Regulation (EC) No 607/2009 is amended as follows:

1. Article 18(1) is replaced by the following:

1. The "Register of protected designations of origin and protected geographical indications" maintained by the Commission as provided for in Article 118n of Council Regulation (EC) No 1234/2007[(4)], hereinafter referred to as "the Register", is included in the electronic database "E-Bacchus".

2. Article 24 is replaced by the following:

Article 24

Notification of operators

Each operator wishing to participate in all or part of the production or packaging of a product with a protected designation of origin or geographical indication shall be notified to the competent control authority referred to in Article 118o of Regulation (EC) No 1234/2007.;

3. Article 25 is amended as follows:

(a) in paragraph 1,

(i) the second subparagraph is replaced by the following:

The annual verification shall be conducted in the Member State in which production took place in accordance with the product specification and shall be carried out either through:

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(a) random checks based on a risk analysis; or

(b) sampling; or

(c) systematically; or

(d) a combination of any of the above.;

(ii) the fifth subparagraph is deleted;

(b) paragraph 4, point (a) is replaced by the following:

(a) the results of the testing referred to in paragraph 1, first subparagraph, points (a) and (b) and in paragraph 2 prove that the product in question complies with the conditions in the specification and possesses all the appropriate characteristics of the designation of origin or geographical indication concerned;;

4. In Article 56, paragraph 1 is amended as follows:

(a) point (a) is replaced by the following:

(a) "*bottler*" means a natural or legal person or a group of such persons established in the European Union and carrying out bottling or having bottling carried out on their behalf.;

(b) point (f) is replaced by the following:

(f) "*address*" means the indications of the local administrative area and the Member State or third country in which the head office of the bottler, producer, vendor or importer is situated.;

5. Article 63 is amended as follows:

(a) in paragraph 2, the fourth subparagraph is replaced by the following:

The costs of the certification shall be borne by the operators subject to it, save where Member States decide otherwise.;

(b) in paragraph 7 the following fourth subparagraph is added:

In the case of United Kingdom, the name of the Member State may be replaced by the name of an individual country forming part of United Kingdom.;

6. In Article 64, paragraph 4 is replaced by the following:

4. Paragraph 1 shall not apply to products referred to in paragraphs 3, 8 and 9 of Annex XIb to Regulation (EC) No 1234/2007 provided that the conditions of the use of the indication of the sugar content are regulated by the Member State or established in rules applicable in the third country concerned, including, in the case of third countries, rules emanating from representative professional organisations.;

7. In Article 67, paragraph 2, the first subparagraph is replaced by the following:

For the use of the name of a smaller geographical unit than the area underlying the designation of origin or geographical indication the area of the geographical unit in question shall be well defined. Member States may establish rules concerning the use of these geographical units. At least 85 % of the grapes from which the wine

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has been produced shall originate in that smaller geographical unit. This does not include:

(a) any quantity of products used in sweetening, "*expedition liqueur*" or "*tirage liqueur*"; or

(b) any quantity of product as referred to in Annex XIb (3) points (e) and (f) of Regulation (EC) No 1234/2007.

The remaining 15 % of the grapes shall originate in the geographical demarcated area of the designation of origin or geographical indication concerned.;

8. Annex XII is replaced by the text set out in Annex I to this Regulation;

9. Annex XV is replaced by the text set out in Annex II to this Regulation;

10. In Annex XVII, paragraph (b) of Point 4, the first and the second indents are replaced by the following:
— Tokaj,
— Vinohradnícka oblasť Tokaj.

Article 2

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

It shall apply from 1 August 2009.

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

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ANNEX I

ANNEX XII

LIST OF TRADITIONAL TERMS AS REFERRED TO IN ARTICLE 40

Traditional terms	**Language**	**Wines**[a]	**Summary of definition/ condition of use**[b]	**Third countries concerned**
PART A: Traditional terms as referred to in Article 118u(1)(a) of Regulation (EC) No 1234/2007				
BELGIUM				
Appellation d'origine contrôlée	French	PDO *(1, 4)*	Traditional terms used in place of "protected designation of origin"	
Gecontroleerde oorsprongsbenaming	Dutch	PDO *(1, 4)*		
Landwijn	Dutch	PGI *(1)*	Traditional terms used in place of "protected geographical indication"	
Vin de pays	French	PGI *(1)*		
BULGARIA				
Гарантирано наименование запроизход (ГНП) *(guaranteed designation of origin)*	Bulgarian	PDO *(1, 3, 4)*	Traditional terms used in place of "protected designation of origin" or "protected geographical indication" 14.4.2000	
Гарантирано и контролиранонаименование за произход (ГКНП)	Bulgarian	PDO *(1, 3, 4)*		

Explanatory notes:

a	PDO (protected designation of origin) or PGI (protected geographical indication), supplemented by the reference to the categories of grapevine products as referred to in Annex XIb of Regulation (EC) No 1234/2007.
b	Words in italics are only for information or explanatory purposes, or both and are not subject to the provisions of Article 3 of this Regulation. Since they are indicative, in no circumstances are they substitutable for the relevant national legislations.
c	The term "Qualitätswein mit Prädikat" is allowed in a transitional period expiring on 31.12.2010.
d	No protection is claimed on the terms "Sekt", "Likörwein" and "Perlwein".
e	No protection is claimed on the term "sekt".
f	No protection is claimed on the term "sekt".
g	No protection is claimed on the terms "Riesling" and "Sekt".
h	The terms "Ruby", "Tawny" and "Vintage" are used in combination with the South African geographical indication "CAPE"