



Brussels, 29.8.2017
COM(2017) 457 final

2017/0211 (NLE)

Proposal for a

COUNCIL DECISION

**on the position to be adopted, on behalf of the European Union, in the International
Organisation for Vine and Wine**

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

The present proposal concerns the decision establishing the position to be adopted on behalf of the Union in the International Organisation for Vine and Wine (OIV) in connection with the envisaged adoption of decision granting a particular status to the Union in the OIV.

2. CONTEXT OF THE PROPOSAL

2.1 The Agreement establishing the International Organisation of Vine and Wine

The Agreement establishing the International Organisation of Vine and Wine signed in Paris on 3 April 2001 ('the Agreement') aims to establishing the OIV which replaces the International Vine and Wine Office. The agreement entered into force on 1 January 2004.

20 Member States are parties to the Agreement.¹

2.2 The OIV

The OIV is an intergovernmental scientific and technical organisation active in the sector of vines, wine and other vine products.

OIV contributes to the international harmonisation of existing practices and standards related to wine, by drawing up 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.

2.3 The envisaged decision of the OIV

This is not an initiative within the Regulatory Fitness Programme (REFIT).

On 20 October 2017, during its 16th General Assembly, the OIV is to adopt a decision regarding the granting of a particular status to the Union in the OIV ('the envisaged act').

The Union has no official status in the OIV. The purpose of the envisaged act is to reinforce and formalise the role of the Union in the OIV.

3. POSITION TO BE ADOPTED ON BEHALF OF THE UNION

3.1 Reasons and objectives of the position

On 1 October 2015, the Council authorised the Commission to launch exploratory talks with the OIV with a view to obtaining a particular status for the Union, in accordance with Article 4 of the Rules of Procedure of the OIV.

Since the Union currently has no official status in the OIV the Commission representatives are only invited on an informal basis to attend the meetings of expert groups, commissions and sub-commissions but are not allowed to attend the meetings of the Executive Committee. They are sometimes invited to attend (without being able to intervene in) the General Assembly, where resolutions are adopted by the members of the OIV. The Union does not pay any contribution to the OIV.

¹ Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, France, Germany, Greece, Hungary, Italy, Luxemburg, Malta, The Netherlands, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden.

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

Given the legal effects that may have some OIV resolutions and considering the Union competences in most of the areas covered by the OIV, the purpose of the envisaged act is to reinforce and formalise the role of the Union in the OIV.

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, be able to coordinate the common position of the EU with respect to these resolutions, intervene in - on behalf of the Union and on a formal basis - the work of the commissions and sub-commissions and expert groups, attend the meetings of the General Assembly and those of 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 allow EU representatives to have access - under the same conditions as OIV members - to all OIV documents. This will facilitate the preparation of future decisions that the Council will have to take under Article 218(9) of the TFEU, before the vote of resolutions in the General Assembly of OIV.

In light of the above, it should be proposed to the OIV to grant to the Union the particular status provided for in Article 4 of the Rules of Procedure of the OIV. 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.

3.2 Consistency with existing policy provisions in the policy area

Although the resolutions of the OIV are not in themselves binding at EU-level under Regulation (EU) No 1308/2013, some of the resolutions adopted and published by the OIV may have legal effect. As regards wine products, the EU law refers to the OIV in the following provisions:

- Article 80(5) of the CMO Regulation, providing that the methods of analysis for wine shall be based on methods recommended and published by the OIV unless they would be ineffective or inappropriate in view of the objective pursued by the Union;
- Article 9 of Commission Regulation (EC) No 606/2009 on oenological practices, according to which the purity and identification specifications of substances used in the oenological practices shall be those laid down and published in the International Oenological Codex of OIV;
- Article 80(3)(a) of the CMO Regulation which provides that the Commission must take into account enological practices adopted and published by the OIV when it authorises such practices;
- Article 90(2) of the CMO Regulation according to which imported wine products must be produced in accordance with oenological practices authorised by the Union or in accordance with oenological practices recommended by the OIV; and
- Article 3 of Regulation (EC) No 2870/2000 establishing that in the absence of methods of analysis laid down by the Union for the detection and quantification of substances contained in certain spirit drinks, the methods of analysis recognised by the OIV may be used.

Considering that OIV resolutions may have legal effects and that the Union has exclusive competence in those areas, the Council must take, under Article 218(9) of the TFEU, a

common position on behalf of the EU before these resolutions are voted in the OIV. The particular status of the EU within OIV will facilitate the preparation of such position.

3.3 Consistency with other Union policies

The OIV resolutions may relate also to subjects which are covered by horizontal EU provisions, such as food information to consumers and use of additives in foodstuffs.

It is important that the particular status is granted to the EU, thus enabling EU representatives to have access to all OIV documents and verify any inconsistency of OIV resolution with EU law and possible legal effects.

4. LEGAL BASIS

4.1. Procedural legal basis

4.1.1. Principles

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides for decisions establishing ‘the positions to be adopted on the Union’s behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.’

Article 218(9) TFEU applies regardless of whether the Union is a member of the body or a party to the agreement at issue.

The notion of ‘acts having legal effects’ includes acts that have legal effects by virtue of the rules of international law governing the body in question. It also includes instruments that do not have a binding effect under international law, but that are ‘capable of decisively influencing the content of the legislation adopted by the EU legislature’.

4.1.2. Application to the present case

The OIV is a body set up by an agreement, namely the Agreement establishing the International Organisation of Vine and Wine.

Considering that OIV resolutions may have legal effects and that the Union has exclusive competence in those areas the act which the OIV is called upon to adopt concerns directly the interests of the Union.

The envisaged act does not supplement or amend the institutional framework of the agreement.

The procedural legal basis for the proposed decision, therefore, is Article 218(9) TFEU.

4.2. Substantive legal basis

4.2.1. Principles

The substantive legal basis for a decision under Article 218(9) TFEU depends primarily on the objective and content of the envisaged act in respect of which a position is adopted on behalf of the Union. If the envisaged act pursues two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely incidental, the decision under Article 218(9) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

4.2.2. Application to the present case

The main objective and content of the envisaged act relate to the common agricultural policy.

The substantive legal basis of the proposed decision, therefore, is Article 43 TFEU.

4.3. Conclusion

The legal basis of the proposed decision should be Article 43 TFEU in conjunction with Article 218(9) TFEU.

Proposal for a

COUNCIL DECISION

on the position to be adopted, on behalf of the European Union, in the International Organisation for Vine and Wine

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement establishing the International Organisation of Vine and Wine ('the Agreement') entered into force on 1 January 2004.
- (2) Pursuant to Article 2 of the Agreement, the International Organisation of Vine and Wine ('OIV') may adopt recommendations relating to conditions for grape production, oenological practices, definition and/or description of products, labelling and marketing conditions and methods for analysing and assessing vine products.
- (3) Union legislation on oenological practices takes into account the recommendations of the OIV. Union methods of analysis are based on OIV recommendations. The substance specifications of the OIV are directly incorporated into Union legislation. Other matters dealt with by the OIV also fall under Union competence.
- (4) It is in the mutual interest of the OIV and the Union that the Union is fully informed of the discussions around the development of new OIV resolutions. A more active participation of the Union in the work of the OIV should facilitate the establishment of Union positions with regard to draft recommendations of the OIV and the future development of Union rules in line with the OIV standards. The modalities and scope of the Union participation in the OIV should be clearly defined.
- (5) The Union has currently no official status in the International Organisation of Vine and Wine (OIV).
- (6) Under Article 4 of the Rules of Procedure of the OIV, an international intergovernmental organisation may request that it be granted a particular status enabling it to intervene in the works of the Commissions, Sub-Commissions and groups of experts, and attend the meetings of the General Assembly and the Executive Committee. That article provides that following a proposal of the Executive Committee and the agreement of the General Assembly, a special arrangement shall be entered into between the OIV and the organisation in question, and that the special arrangement shall define, in each particular case, the specific conditions of collaboration, including the amount of its annual financial contribution. Point A.5 of Annex 3 to those Rules of Procedure further provides that decisions to grant such status shall be taken by the General Assembly of the OIV and that such a decision shall be transmitted by the Director-General of the OIV to the organisation in question in the form of an exchange of letters.

- (7) On 1 October 2015, the Council authorised the Commission to launch exploratory talks with the OIV with a view to obtaining a particular status for the Union, in accordance with Article 4 of the OIV's Rules of Procedure². The special arrangement as set out in the Annex to this Decision is the result of the exploratory talks. The effects of the particular status of the Union in the OIV will be limited to the specific conditions therein defined.
- (8) Despite the absence of voting rights attached to the particular status, this status will allow for a closer involvement of the Union in the works of the OIV without altering the role of the Member States which are members of the OIV and should maintain their status.
- (9) Following such exploratory talks, the Council authorised the Commission to submit, on behalf of the EU, to the OIV a letter requesting that the Union be granted a particular status under the terms of the special arrangement as set out in Annex to this decision.
- (10) Following the reception of the letter, the OIV, during its 16th General Assembly on 20 October 2017, is to adopt a decision on the granting of a particular status to the Union in the OIV ('envisaged act').
- (11) 20 Member States are members of the OIV. It is appropriate to establish the position to be adopted by these Member States on behalf of the Union in the General Assembly of the OIV, as the envisaged act concerns the role of the Union in the OIV and therefore it directly affects the interests of the Union.
- (12) Member States that are members of the OIV should support the decision of the General Assembly to grant the Union such particular status and to enter into such special arrangement with the Union as set out in the Annex to this decision, given the legal effects that may have some OIV resolutions and considering the Union competences in most of the areas covered by the OIV.
- (13) It is understood that the decision of the OIV's General Assembly granting such status will be transmitted by the Director-General of the OIV to the EU confirming the date as of which the EU's particular status within the OIV becomes applicable,

HAS ADOPTED THIS DECISION:

Article 1

The position to be adopted, on behalf of the Union, in the 16th General Assembly of the OIV, on the decision granting the Union particular status under the terms of a special arrangement between the OIV and the Union, is set out in the Annex.

Article 2

The position referred to in Article 1 shall be expressed by the Member States of the Union that are members of the OIV acting jointly.

² 12434/15 and 12270/15.

Article 3

This Decision is addressed to the Member States.

Done at Brussels,

*For the Council
The President*

<h1>FINANCIAL STATEMENT</h1>		Fin Stat/17/MK/aj/ rev13364208 agri.ddg3.g.2(2017)33 05536	
		6.221.2017.1	
		DATE: 12/06/2017	
1. BUDGET HEADING: Chapter 05 06 INTERNATIONAL ASPECTS OF 'AGRICULTURE AND RURAL DEVELOPMENT' POLICY AREA 05 06 02 International agricultural organisations		APPROPRIATIONS: B2017: EUR 180 000	
2. TITLE: Proposal for a Council Decision on the position to be adopted, on behalf of the European Union, in the International Organisation for Vine and Wine			
3. LEGAL BASIS: The legal basis for this proposal is Article 43, in conjunction with Article 218(9), of the Treaty on the Functioning of the European Union.			
4. AIMS: Formalise the EU's role in the OIV.			
5. FINANCIAL IMPLICATIONS	12 MONTH PERIOD (EUR)	CURRENT FINANCIAL YEAR 2017 (EUR)	FOLLOWING FINANCIAL YEAR 2018 (EUR)
5.0 EXPENDITURE - CHARGED TO THE EU BUDGET (REFUNDS/INTERVENTIONS) - NATIONAL AUTHORITIES - OTHER		140 000	140 000
5.1 REVENUE - OWN RESOURCES OF THE EU (LEVIES/CUSTOMS DUTIES) - NATIONAL			
5.0.1 ESTIMATED EXPENDITURE			
5.1.1 ESTIMATED REVENUE			
5.2 METHOD OF CALCULATION: A special arrangement related to the particular status of the European Union within the International Organisation for Vine and Wine (OIV) is envisaged. The OIV takes note that the EU will make an annual financial contribution to the OIV related to this particular status.			
6.0 CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?		YES NO	
6.1 CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?			
6.2 WILL A SUPPLEMENTARY BUDGET BE NECESSARY?			
6.3 WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?		YES NO	
The annual financial contribution to the OIV is set in the annex of the decision.			