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RESOLUTION OF THE 9TH STANDING COMMITTEE

(Agriculture and Agri-Food Production)

(Rapporteur: ZANOLETTI)

approved at the session of 16 February 2012

ON THE

**PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF
THE COUNCIL ON THE DEFINITION, DESCRIPTION, PRESENTATION,
LABELLING AND THE PROTECTION OF GEOGRAPHICAL INDICATIONS OF
AROMATISED WINE PRODUCTS (COM(2011) 530 FINAL)**

pursuant to Article 144(1) and (6) of the Rules of Procedure

Notified to the President's Office on 20 February 2012

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The Committee,

having examined, pursuant to Article 144 of the Rules of Procedure, the proposal for a Regulation of the European Parliament and of the Council ref. COM(2011) 530 final;

whereas the proposal for a Regulation in question is intended to amend the EU legislation in force in respect of aromatised wine products, the aim of which is to encourage the free movement of goods and protect the geographical indications that allow consumers to identify the geographical origin of products;

whereas the objective is to outline a common European legal framework that does not significantly change the current regulatory situation, but instead amends only certain technical aspects concerning aromatised wine products, setting product definitions and providing consumers with information through labelling rules;

whereas the proposal in question – replacing proposal COM(2007) 848, which, in its work programme, the Commission decided to withdraw – is intended to clarify the legislation in force, in particular by bringing the current system of geographical indications into line with the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS);

whereas it is proposed to bring the legislation into line with the Treaty on the Functioning of the European Union (TFEU), without however having a significant impact on the current arrangements, in that the main aim is to bring it into line with obligations that have already been assumed by the European Union;

whereas, in line with what has been highlighted, the primary aim of the proposal is to bring Regulation (EEC) No 1601/91 of 10 June 1991 laying down general rules on the definition of aromatised wines, aromatised wine-based drinks and aromatised wine-product cocktails into line with the provisions of the TFEU;

whereas, in this context, the proposal states that the objectives, principles and other essential elements regarding the definition, description and presentation of the products in question, and the protection of their geographical indications are determined by the European legislator;

whereas a further objective of the proposal can be seen in the need to enhance the applicability and readability of the EU legislation on aromatised wine products by means of a quality policy that is clearly defined on the basis of the product definitions in force;

whereas it also appears necessary to update certain sales denominations in the light of the possibility of increasing the level of wine instead of directly adding alcohol, thereby safeguarding consumers;

whereas another important objective is to increase flexibility by giving the Commission the authority, by means of delegated acts, to amend the definitions and descriptions of the products in question;

whereas, lastly, it is necessary to bring the EU legislation into line with new technical requirements and define criteria guiding the recognition of new geographical indications;

expresses a favourable opinion pursuant to the second Protocol to the TFEU on the application of the principles of subsidiarity and proportionality.

In this connection, the following comments should be made:

a) the proposal for a Regulation in question delegates powers to the Commission in respect of important issues that are liable to take on a strictly political character. It appears problematic for such issues to be included among the 'non-essential' elements of the legislative act, which is a necessary condition for the powers to be delegated. Moreover, the delegated powers granted in the measure are open-ended, and in this respect too they are not in line with the conditions laid down in Article 290 TFEU, which requires that the duration of the delegation of power be explicitly defined;

b) applying the system of geographical indications for wines to the categories of product covered by the legislation in question would lead to a rather complicated regulatory framework. By contrast, as is already the case for spirit drinks (Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008), it would be possible to pursue a specific regulatory framework which, while recognising the value of certain geographical indications, would give them a more flexible and less complicated framework than that for wines;

c) with regard to the procedures for identifying product categories, it should be pointed out that the structure of Regulation (EEC) No 1601/91 is currently based on three categories, namely aromatised wines, aromatised wine-based drinks to which alcohol may not be added, and wine-product cocktails. In redefining the categories, it is intended to take account not only of other elements such as the use of flavourings, colorants and sugars, but also the distinctive criterion of whether or not alcohol is added. We are in favour of this approach, provided that these techniques do not affect the production of certain specific categories of aromatised wine, such as Vermouth or Americano, for which producers consider it important to continue the traditional addition of alcohol;

d) special consideration should be given to egg-based aromatised wines, the best known of which is Cremovo based on Marsala wine. It should be pointed out that, for the product category in question, there must be a certain minimum content of egg yolk. This parameter may be fixed either with reference to production (during the preparation of the recipe) or to the finished product, but in any case it is vital to specify the analysis method for checking on this parameter. Recently, many Italian producers have encountered significant difficulties and disputes on the German market, as the local inspection authorities have been applying the cholesterol measurement method. It has by now been proven that, in alcoholic and wine-based products, this method is not precise owing to the effects of other ingredients. Indeed, in the Regulation on spirit drinks the definition of egg-based products was accompanied by the definition of the relevant method of analysis. It is vital that the same procedure be followed for aromatised wines and other wine-based drinks.

e) Article 2(2)(c) of the Italian version of the proposal reads as follows: *'alla quale è eventualmente aggiunto mosto di uve, anche in fermentazione'*. We believe that this may have been an incorrect translation and that it should have read *'anche parzialmente fermentato'*.^{*} Similar attention should be given to Article 2(3)(c), which reads as follows: *'alla quale è aggiunto mosto di uve'* (literally: 'to which grape must has been added'). Here too, the wording

^{*} Translator's note: The problem referred to here does not concern the actual meaning of the text. Instead it concerns the use of the term 'mosto di uve... in fermentazione' rather than the technical term generally used in Italian, namely 'mosto di uve... parzialmente fermentato'.

used is probably the result of an error in the translation and the text should really have reproduced the wording used in Regulation (EEC) No 1601/91, i.e. *'l'eventuale aggiunta di mosti e mosti parzialmente fermentati'* ('the possible addition of grape must and grape must in fermentation').[§]

f) with regard to Article 6 on the indication of provenance, it seems necessary to require that labels bear an indication of the origin of the raw material, since, by definition, geographical indications for wines are linked to the geographical area not only in respect of production but, above all, in respect of the origin of the raw material, i.e. grapes; this also appears clear from the definition of 'designation of origin' in the common organisation of the market in wine, which provides for a direct link between the designation itself and the grapes from which the wine is produced, which must come exclusively from the geographical area;

g) while we are aware of the principles and rules of the World Trade Organisation, we believe there should be an assessment of whether it is appropriate to restrict the raw materials that may be used for the products in question, ruling out those originating outside Europe;

h) we would ask that the product 'Barolo Chinato' be added to the list of aromatised wines with geographical indications; this product has already been recognised at national level by the Decree of the Ministry of Agricultural, Food and Forestry Policy of 30 September 2010, published in Official Gazette No 241 of 14 October 2010;

i) it should be considered whether it is appropriate to allow the term 'aperitif' to be used also for aromatised wine-based drinks;

l) to preempt doubts and uncertainties in the implementation of the measure, we feel it would be appropriate to specify the level of international protection to which aromatised wines will be subject, in view of the dual level of protection for geographical indications currently provided for by the TRIPS agreements;

m) it should be considered whether it is appropriate to include a reference to the legal framework on organic production, including in view of the recent developments on the EU regulation of organic wines;

n) it should be assessed whether it is appropriate to ensure that generic names cannot be used as sales denominations, thereby ensuring suitable information provision to consumers.

[§] Translator's note: The wording used in the Italian document is not actually a direct quotation from Regulation (EEC) No 1601/91. The Regulation actually reads *'eventualmente con l'aggiunta di mosti di uve, mosti di uve parzialmente fermentati'* in Italian and 'possibly with added grape must, grape must in fermentation' in English.

OPINION OF THE 14th STANDING COMMITTEE

(EUROPEAN UNION POLICY)

(Rapporteur: DE ECCHER)

5 October 2011

The Committee, having examined document COM(2011) 530 final,

whereas that document intends to bring the legislation in force on geographical indications for aromatised wine products into line with the delegation and implementation procedures laid down in Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFEU), while repealing Council Regulation (EEC) No 1601/91 of 10 June 1991 laying down general rules on the definition, description and presentation of aromatised wines, aromatised wine-based drinks and aromatised wine product cocktails, and incorporating, for the sake of increased clarity, the rules, introduced by Commission Regulation (EC) No 122/94 of 25 January 1994, on aromatisation and the addition of alcohol, which are applicable to some aromatised wine products;

whereas, pursuant to Article 291 TFEU, the implementation of European legislative acts is the responsibility of the Member States and, where uniform conditions for implementing legislative acts are needed, these may confer implementing powers on the European Commission; such powers must be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011, which entered into force on 1 March 2011;

whereas, moreover, under Article 290 TFEU, legislative acts may delegate to the European Commission the power to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act and, in respect of the granting of such powers, the delegating legislative act must explicitly define the objectives, content, scope and duration of the delegation of power;

whereas the proposal for a Regulation grants many delegations of power to the European Commission to adopt non-legislative acts aimed at tailoring the requirements under this proposal for a Regulation to technical developments concerning aromatised wine products and at ensuring the protection of geographical indications, such as acts aimed at establishing the processes for the preparation of the ingredients of aromatised wine products (Article 3(2)) and defining the methods of analysis for determining the composition of aromatised wine products and the rules whereby it may be established whether those products have undergone processes contrary to the authorised production processes where there are no methods and rules recommended and published by the OIV (International Organisation of Wine and Vine) (Article 3(3)). Similarly, the European legislator delegates to the Commission the power to make the necessary amendments to the definitions, requirements, restrictions, sales denominations and descriptions (Article 9), the necessary rules for the geographical indications (Article 29) and the necessary rules for exchange of information (Article 33(2));

comments favourably on the proposals, for matters within its remit, highlighting the following points:

the legal basis of the proposal has been correctly identified as Article 43(2) TFEU on the common organisation of agricultural markets and the other provisions necessary for the pursuit of the objectives of the common agricultural policy and the common fisheries policy, and Article 114 TFEU on the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market;

the proposal appears to be in line with the principle of subsidiarity as it proposes bringing the legislation in force in the sector into line with the TFEU and the TRIPS Agreement, thereby necessitating legislative action by the European Union;

as far as the principle of proportionality is concerned, a more detailed assessment is required given the wide recourse made to the delegation of power pursuant to Article 290 TFEU and the fact that the areas covered by the delegated powers cannot easily be considered 'non-essential elements' of the legislative act. With regard to this assessment, it is necessary to take account of the fact that the delegation of powers is open-ended (Article 35(2) of the proposal for a Regulation), a matter in relation to which the 14th Standing Committee of the Senate of the Republic has already expressed its concerns, including the fact that the acts adopted by the European Commission on the basis of the delegated powers would be non-legislative acts and would thus not be subject to examination by the national parliaments;

the proposal does not amend the scope of the legislation in force in the sector in question, but simply brings it into line with Articles 290 and 291 of the TFEU on delegated and implementing powers respectively, and with the obligations already undertaken by the European Union under the TRIPS Agreement (Agreement on Trade-Related Aspects of Intellectual Property Rights).

lastly, we appreciate the effort made by the European Commission to enhance the applicability, clarity and readability of the European legislation on aromatised wine products in order to safeguard consumers, producers and the European Union's agriculture sector, to achieve a high level of consumer protection, to prevent misleading practices and to achieve transparency in the market and fair conditions of competition.