25 February 2013

# **DG AGRI DOCUMENT**

# Guidelines for implementation of the national support programmes in the wine sector according to Regulations (EC) No 1234/2007 and (EC) No 555/2008

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#### Disclaimer

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# 1 INTRODUCTION

The purpose of this document is to establish guidelines for the preparation of the national support programmes in the wine sector for the programming period 2014-2018 in the context of Regulations (EC) No 1234/2007 and (EC) No 555/2008. The document may help the Member States (MS) to prepare the programmes, which shall be submitted by 1 March 2013.

The guidelines focus on two measures: restructuring and conversion and investments.

## 2 <u>RESTRUCTURING AND CONVERSION OF VINEYARDS</u>

#### 2.1 Eligible operations

The following list contains operations that could be included under the measure restructuring and conversion of vineyards in accordance with Article 103q of Regulation (EC) No 1234/2007.

This list is an indicative list based on the compilation of operations included in the programmes of MS in the 2009-2013 programming period and on the experience gained from the controls on the implementation of these programmes.

The operations are listed under one or several of the three measures foreseen in Article 103q(3) of Regulation (EC) No 1234/2007, that is:

- a) Varietal conversion, including by means of grafting-on;
- b) relocation of vineyards;
- c) improvements to vineyard management techniques.

In their programmes, MS may combine operations mentioned under any of these three measures or to use them independently. For example, even if installation of irrigation facilities is mentioned as a measure to improve the vineyard management techniques, in case of replanting of a vineyard in the framework of the varietal conversion measure, MS may also foresee installation of irrigation facilities in the new vineyard.

However, the measures should concern *important* modifications to the vineyard itself. In other words, the measure must constitute a *structural change to the vineyard*. The requirement of a *structural* change concerns points a) to c) of Article 103q(3) of Regulation (EC) No 1234/2007. As regards point c) improvements to vineyard management techniques, for example the construction of terraces or irrigation system could be eligible under that point, but a construction of a physical barrier or a net to protect the vine plants and grapes against birds or animals is not eligible (except in case of planting a new vineyard with new vine plants which are sold and delivered with small plastic tubes surrounding the vine plants, also if the tubes are sold independently for these new plants).

#### Operations linked to varietal conversion (a) and relocation of vinevard<sup>1</sup> (b)<sup>2</sup>: 2.1.1

- operations linked to the vineyard to be restructured:
  - grubbing-up 0
  - removal of the support system (trellis) 0
  - collection and transport of vine stocks, roots and other vegetal rests 0
- operations linked to the preparation of the soil of the new (restructured) vineyard:
  - soil analysis 0
  - cleaning the soil from stones 0
  - deep tillage, ploughing, harrowing and milling 0
  - replacement of volcanic soil 0
  - carting soil to the vineyard  $\cap$
  - disinfection 0
  - organic and mineral fertilisation Ο
- operations linked to the planting or grafting of the new (restructured) vineyard:
  - tracing of the plantation 0
  - planting out of vines (labour, plants, materials and other input) 0
  - grafting / grafting-on 0
  - establishment and modification of the support structure (trellis) 0
  - purchase of material (equipment of fixation (anchor), posts, graft, grafted plants, 0 iron bar, steel wire, hooks vine/wire and wire/bar)

#### 2.1.2 Operations eligible under the measure "improvements to vineyard management techniques" (c):

- operations linked to the changing of the slope / level of the vineyard:
  - changes in the terrain profile (slope) 0
  - levelling of the soil 0
  - 0 transforming and establishing vineyards into ones allowing direct tractor access

<sup>&</sup>lt;sup>1</sup> It also includes an establishment of vineyard following land consolidation, however, land consolidation is not

eligible.  $^{2}$  It can also include the density modification of a vineyard if it concerns important modifications to the vineyard itself and constitutes a structural change to the vineyard and not a day-for-day management. In this case the flat rates have to be adapted to this specific modification.

- operations linked to the construction of anti-erosion facilities (draining) in the vineyard:
  - o flow-retaining and flow-leading furrows and/or collectors
  - underground drains
- operations linked to terraces and walls:
  - converting to cross terracing
  - $\circ\,$  establishment, reconstruction or destruction of terraces, with or without stone walls
  - o construction or reconstruction of terrace walls, including the necessary foundations
- operations linked to the technical installations in the new (restructured) vineyard:
  - o establishment and modification of the support structure (trellis)
- operations linked to the installation or improvement of an irrigation system:
  - o setting-up and improvement of an irrigation system

#### 2.2 <u>Ineligible operations</u>

The following operations are not eligible:

- Simple replacement according to Article 6 of Regulation (EC) No 555/2008 or day-to-day management of a vineyard, since the aim of the measure is the improvement in terms of adjustment to market demand and increased competitiveness
- Protection against damage by game for example by
  - construction of fencing
  - o active protection involving a human making sound
- Protection from birds for example by
  - covering the vine rows with grape protection nets
  - various bird-scaring machines
  - o active protection involving a human making sound
- Protection from hail by covering of vine rows with grape protection nets
- Construction of windbreaks / wind protection walls
- Driveways both within a vineyard and those leading to a vineyard
- Elevators

## 2.3 <u>Support for restructuring/conversion of vineyards and EU contribution</u>

The support for restructuring and conversion of vineyard may only take two forms: a) compensation for loss of revenue and b) contribution to the costs of restructuring and conversion (Article 103q (4) of Regulation (EC) No1234/2007):

- For the first form a) (compensation for loss of revenue), the Community contribution may cover up to 100% of the relevant loss. (Article 103q (5) of Regulation (EC) No1234/2007)
- For the second form b) (contribution to the costs of restructuration and conversion), the Community contribution shall not exceed 50% of restructuring and conversion costs or 75% in regions classified as convergence regions in accordance with Regulation (EC) No 1083/2006<sup>3</sup>. (Article 103q (6) of Regulation (EC) No1234/2007).

A beneficiary may receive support for both compensation for loss of revenue and for contribution to the costs of restructuring and conversion.

An **incentive premium** may not be included within the granted support (for example an additional aid given in case of the wine growers participating in a land consolidation is not eligible).

In order to avoid overcompensation in those cases where MS make use of flat rate amounts, they shall be established on the basis of accurate calculation of the actual costs of each type of operations (without prejudice to the verification done later by Commission services in the clearance of accounts procedure). They may be adapted annually if justified.

<sup>&</sup>lt;sup>3</sup> OJ L210, 31.7.2006

# 3 <u>INVESTMENTS</u>

## 3.1 <u>Eligible operations</u>

The following list contains operations that can be included under the measure "investments" in accordance with Article 103u of Regulation (EC) No 1234/2007.

This is an indicative list based on the compilation of operations included in the programmes of MS in the 2009-2013 programming period and on the experience gained from the controls on the implementation of these programmes.

Support may be granted for tangible or intangible investments<sup>4</sup> in processing facilities, winery infrastructure and marketing of wine which improve the overall performance of the enterprise and concern, following Article 103u(1) of Regulation (EC) No 1234/2007:

- (A) production or marketing of products referred to in Annex XIb;
- (B) development of new products, processes and technologies related to the products referred to in Annex XIb.

Points A and B are dealt with respectively in Articles 17 and 18 of Regulation (EC) No 555/2008. As for the first point, that is "production or marketing", Article 17 gives a further subdivision. Thus, the further subdivision of the operations in this document is based on this as follows:

- Article 17 (1):
- (a) construction, acquisition, including leasing, or improvement of immovable property;
- (b) purchase or lease-purchase of new machinery and equipment, including computer software up to the market value of the asset
- (c) general costs linked to expenditure referred to in points (a), and (b), such as fees of architects and engineers and consultation fees, feasibility studies, the acquisition of patent rights and licences. It corresponds to the definition of "intangible assets"

However, it needs to be noted that, according to the above legislation, general costs are only eligible if they are linked to expenditure for investments referred to in points (a) and (b) of Article 17 of Regulation (EC) No 555/2008.

- tangible assets' means, without prejudice to Article 17(12), assets relating to land, buildings and plant, machinery and equipment;
- intangible assets' means assets entailed by the transfer of technology through the acquisition of patent rights, licences, know-how or unpatented technical knowledge;

<sup>&</sup>lt;sup>4</sup> The definition of investments "tangible" and "intangible" comes from Article 2 of Regulation (EC) No 800/2008<sup>4</sup> which concerning certain categories of aid compatible with the common market (General block exemption Regulation):

• Article 18

Costs for the development of new products, processes and technologies: (...) preparatory operations, such as design, product, process or technology development and tests and tangible and/or intangible investments related to them, before the use of the newly developed products, processes and technologies for commercial purposes.

To facilitate the reading, within the above categories foreseen by the legislation four subcategories were created according to the following main topics regarding investments linked to:

- 1. production of wine products (from grape to bottled and labelled wine in the cellar)
- 2. quality control
- 3. marketing of the wine
- 4. investments linked to the holding in general

# (A) Production or marketing of wine products (Article 103u(1) of Regulation (EC) No 1234/2007)

## **1.** Production of wine products (from grape to bottled and labelled wine in the cellar)

(a) construction, acquisition, including leasing, or improvement of immovable property

- temperature control:
  - cold storage rooms
- cellar infrastructure:
  - vintage pipelines (canalisations à vendanges)
  - o piping, various networks (oxygen, nitrogen, water, SO<sub>2</sub>, etc.)
  - fitting and ancillary equipment
  - automatic systems
  - electricity and other installations
  - construction

# (b) purchase or lease-purchase of new machinery and equipment, including computer software

- machinery / equipment for the processing of the grapes (reception, weighting, crushing, pressing, etc.):
  - mobile technical equipment of the transport, reception, processing of grapes
  - material for measuring and analysis of grapes

- stemmer (égrappoirs), crusher (fouloirs)
- machinery and equipment for sorting
- o grape press
- o grape dejuicer (égouttoir)
- o grape marc pump
- o conveyor

• equipment for fermentation / vinification:

- o facilities for the fermentation of wine mash
  - material for treatment of the grapes (thermo-vinification, flash release)
  - fermentation stands (made of wood or metal)
  - fermentation tanks / ancillary tanks for the vinification; special fermenting vessel to obtain red wine with active equipment for sinking the grape marc cap
  - micro-oxidation equipment
- equipment for controlling fermentation:
  - measuring components
  - control technology
  - installation
  - piping (in the case of retrofitting, tank inserts and/or the installation of cooling jackets)
  - equipment used to separate wine from wine lees, for example rotary vacuum filters and residue filters

# • equipment for wine processing: treatment of the wines and musts (filtration, sedimentation, clarification, etc.):

- filters: diatomaceous earth filters, cross-flow filters, sheet filters, innovative techniques for the filtration
- filtration earths
- equipment for the settling and clarification of must and wine; centrifuge
- o equipment for the tartaric stabilization
- extraction of the grape marc
- equipment of the conveying of grape marc and wine lees

• mobile technical equipment of wine production

#### • temperature control:

- refrigerators
- $\circ$  cooling
- equipment for the control of temperature in the fermentation / production and storage of wine, for example cooling units, exchangers, boilers
- equipment for movements (and treatment) of the wine in the cellar:
  - machines / handling equipment incl. computer software to be used in the framework of the transport / logistics of raw materials and products (in the phase of wine making or in the cellar of the warehouse):
    - pumps, transfer pumps
    - vessels and containers for the handling of the wine
    - lifting devices for example forklift trucks
    - baskets and gyro pallets for the handling of bottles
- equipment for storage, blending, after-care and ageing of the wine:
  - barrels / tanks for wine-making and wine storage / ageing, made out of wood (incl. barriques) / concrete / steel / stainless steel / polyester fibre
  - restoration of facilities for the storage of wine products, for example renovation of tanks through internal coating of the type epoxy or stainless steel
  - self-draining tanks
  - o thermo-regulated vats
  - o mobile steel tanks for the ageing
  - plastic containers
  - o machinery / equipment for the storage and preservation of wine products
- equipment for technology linked to sparkling wines (production, storage, bottling and conditioning):
  - $\circ\,$  machinery / equipment for the production, storage, bottling and conditioning of sparkling wine
  - equipment for shaking of the wines (remuage vins); machines for the mechanical hand remuage (mobile, self-propelled or portable)
  - o dégorgeuse (disgorgement system for yeast removal)
- equipment for conditioning (bottling, labelling, packaging):

- o machinery / equipment for the bottling / labelling / conditioning / packaging
- technique of machines for the closure of bottles
- mobile technical equipment of bottling and conditioning
- o dual tanks (cuverie divisionnaire (dite "de monnaie"))

#### • software for cellar management:

- computers and their software to improve quality in the transport and processing of grapes, wine production and processing and storage of raw materials and products
- computer equipment and related programs aimed at the control of technological equipment for processing, storage and handling of the product
- computer programs for the management of the cellar

#### • equipment for waste water management:

• machinery and equipment for waste water management in the cellar (treatment and purification)

#### • equipment for cellar infrastructure:

• compressors, electrical transformer, generators

(c) general costs linked to expenditure referred to in points (a), and (b), such as fees of architects and engineers and consultation fees, feasibility studies, the acquisition of patent rights and licenses

#### 2. Quality control

#### (a) construction, acquisition, including leasing, or improvement of immovable property

- construction / equipment of laboratories for the quality control of wine products:
  - construction of analysing laboratories, including for organic wine<sup>5</sup>

# (b) purchase or lease-purchase of new machinery and equipment, including computer software

- equipment for quality control of products and processing:
  - machines, equipment and software used in the framework of the quality control of the materials, of the products and of the environmental conditions of the production and conservation
- equipment for quality systems, traceability:

<sup>&</sup>lt;sup>5</sup> The laboratory should be part of the enterprise producing or marketing wines.

• equipment aimed at introducing voluntary quality standards or traceability systems, including for organic wine

# (c) general costs linked to expenditure referred to in points (a), and (b), such as fees of architects and engineers and consultation fees, feasibility studies, the acquisition of patent rights and licenses

## 3. Marketing of wine products<sup>6</sup>

#### (a) construction, acquisition, including leasing, or improvement of immovable property

- presentation and sale establishments:
  - acquisition / construction / renovation / modernisation of the infrastructure of sale and presentation facilities, for example:
    - vinotheques
    - show-rooms (display of wine products)
    - sale rooms
    - fixed (retail) sale point outside of the holding, in the national territory and in other EU MS
    - sale point on the holding (but outside the production units) (direct sale points)
- warehouses, logistics centres, commercial offices:
  - $\circ\,$  establishment of warehouses in a given EU MS and in EU MS other than the producing MS concerned:
    - acquisition
    - construction
    - conditioning of buildings
  - establishment of logistics centres in a given EU MS and in EU MS other than the producing MS concerned:
    - acquisition
    - construction
    - conditioning of buildings
  - establishment of commercial offices in a given EU MS and in EU MS other than the producing MS concerned:
    - acquisition

<sup>&</sup>lt;sup>6</sup> The investment should concern only the wines produced or marketed by the beneficiary.

- construction
- conditioning of buildings

(b) purchase or lease-purchase of new machinery and equipment, including computer software

- equipment for presentation and sale establishments:
  - equipment / furnishing of the infrastructure of sale and presentation facilities to be used in for example:
    - vinotheques
    - show-rooms (display of wine products)
    - sale rooms
    - fixed (retail) sale point outside of the holding, in the national territory and in EU MS
    - sale point on the holding (but outside the production units) (direct sale points)
  - investments include for example furniture, refrigerated units, sinks, tap equipment, bar facilities, computer equipment
- equipment for warehouses, logistics centres, commercial offices:
  - establishment of warehouses in a given MS including a MS other than the producing MS concerned:
    - equipment (machinery, data processing, office furniture)
  - establishment of logistics (distribution) centres in a given MS including a MS other than the producing MS concerned:
    - equipment (machinery, technological installations, software, data processing, office furniture)
  - establishment of commercial offices in a given MS including a MS other than the producing MS concerned:
    - equipment (technological installations, software, data processing, office furniture)

#### • equipment for the logistics and marketing of wine:

- creation / development / adaptation of logistics platforms (streamline and improve the organization of the transport chain on the domestic and international market)
- development of networks
- o improvement / rationalization of marketing facilities and channels

- machines / technological installations / equipment including software to be used in the framework of the distribution / logistics and marketing of the products
- hardware, software, web platforms / e-commerce:
  - hardware and software for the adoption of information and communication technologies (ICT) and for electronic commerce (e-commerce)

(c) general costs linked to expenditure referred to in points (a), and (b), such as fees of architects and engineers and consultation fees, feasibility studies, the acquisition of patent rights and licenses

# 4. Investments linked to the holding in general

## (a) construction, acquisition, including leasing, or improvement of immovable property

- acquisition / (re)construction of buildings / infrastructure:
  - construction / acquisition / leasing / renewal of immovable assets (buildings, attachments), in order to convert them into wine making enterprises
  - excavation (earthwork), foundations, paving, interior (walls, doors and windows, paintings, tiles, frames, etc.), plumbing, electricity, indoor and outdoor boarding (framing), roofing, isolation, air-conditioning
  - construction / acquisition / leasing / modernization of buildings and attachments for the transformation, storage, conditioning or marketing
  - $\circ~$  construction / acquisition / leasing / modernization of cellar above and under the ground level
  - $\circ$  basic infrastructure works such as: electric, mechanic and hydraulic installations, protection measures against fire, expenses of the air-conditioning and of the ventilation of the wine production site and other equipment; special installations and systems for the protection of the environment, the reduction of pollution and the saving of energy, and systems of security and hygiene<sup>7</sup>

# (b) purchase or lease-purchase of new machinery and equipment, including computer software

#### • infrastructure, equipment:

- equipping the offices of the holding: materials for the improvement of their operational structure
- equipment for management system (control of the enterprise):
  - machines, equipment, incl. computer and software to be used in the framework of the management system, organisation and control of the enterprise

<sup>&</sup>lt;sup>7</sup> NB Efficiency in heating and cooling is promoted according to Directive 2004/8/EC.

• computer equipment and related programs aimed the development of information and communication networks

(c) general costs linked to expenditure referred to in points (a), and (b), such as fees of architects and engineers and consultation fees, feasibility studies, the acquisition of patent rights and licenses

# (B) Development of new products, processes and technologies related to wine products, in particular:

- preparatory works like the conception and the development of new methods, processes or technologies, material or immaterial investments linked to them, before the utilisation of the newly developed methods, processes and technologies in the transformation
- machines / equipment and software in order to be used in the framework of the conception or the introduction of modern and innovative technologies
- development of new quality products / new processes and techniques to improve quality of grape processing, wine making and storage

# 3.2 <u>Ineligible investments</u>

Simple replacement is not eligible; however, there is always an element of replacement in most investment, except in cases where one starts a new business from scratch. The explicit exclusion of replacement refers only to "simple replacement", which means replacing existing equipment without improving the technology.

# 3.3 <u>Controls</u>

In case of advance payments covered by guarantee the systematic checks on-the-spot can be limited to one check on-the-spot before the payment of the final tranche. The guarantee can only be released subsequently.

#### 3.4 Exchange rate

Commission Regulation (EC) No 1913/2006 lays down detailed rules for the application of the agrimonetary system for the euro in agriculture. In case of the **investments** measure the horizontal rule should apply and thus the operative event for the exchange rate is the one specified in Article 7 which states that *the operative event for the exchange rate shall be 1 January of the year in which the decision to grant the aid is taken.* 

# 3.5 Value Added Tax

VAT is ineligible, except in cases where VAT amounts are not recoverable under national VAT legislation and are paid by a beneficiary other than non-taxable person as defined in the first subparagraph of Article 13(1) of Directive 2006/112/EC, provided that such VAT amounts are not incurred in relation to the provision of infrastructure.

# 3.6 <u>Interpretations</u>

Question regarding both investment and restructuring measures:

Should the intensity of the EU contribution be based on the location of the registered office of the company or on the actual location of the vineyard / place where the investment is made?

Since the financed operation should contribute to the development of the sector in the region concerned and the investments and their effects have to be maintained in the specific region, when determining the level of the EU contribution one should take into account *the region were the operation actually takes place* and not the one in which the company headquarters are located.

# 4 **DEMARCATION**

In the first programming period 2009-2013 some Member States encountered problems when establishing the demarcation line between the measures of the wine CMO and rural development. For the measure restructuring and conversion of vineyards the risk of overlapping with the rural development measures exists in case of the measure 121 "Modernisation of agricultural holdings" and 125 "Infrastructure". The risk of double financing is particularly high in case of the improvements to vineyard management techniques.

Tangible or intangible investments in processing facilities, winery infrastructure and marketing of wine can be eligible for support under the rural development measure 123 "Adding value to agricultural and forestry products". In fact there is a perfect alignment between measure 123 and the "Investment" measure for wine.

To address the concerns of double financing the Regulation (EC) No 555/2008 was amended in 2009 by Regulation (EC) No 42/2009, which allowed Member States more flexibility in choosing their own demarcation criteria according to their specific situation, providing for the possibility of establishing demarcation criteria at **operation level.** An **"operation"** means a project, contract or arrangement, or other action included in a given support programme, corresponding to any of the activities under the measures in the national support programmes for wine and implemented by one or more beneficiaries.

Where an operation might potentially be covered by both a wine support programme and an RDP, Member States shall establish clear demarcation criteria which ensure that the relevant operation is eligible for support only under either the relevant wine support programme or the RDP. Where necessary, this shall involve amending the RDP(s) concerned. If appropriate, such demarcation lines shall be established at the level of either the national or the regional RDP.

The operations shall be presented in such a detail as to allow for verification that that operation is not included for support in their RDPs. That means a **detailed list of individual operations** eligible under the wine CMO shall be included in the national wine support programme (and not just in for example national ordinances); likewise, the specific operations to be financed under rural development shall be listed in the relevant RDP.

In case of investments, demarcation based on the **type/size of beneficiary** is not acceptable since beneficiaries are the same under rural development<sup>8</sup> and under the wine CMO<sup>9</sup> both making explicit reference to micro, small and medium-sized enterprises.

Since the size of the investment is in direct relation with the size of the beneficiary, the option of basing the demarcation on the **size of the investment** cannot be treated either as an acceptable alternative. Examples of existing acceptable demarcations:

- **exclusivity of support**: wine producers are excluded from RD support and eligible for EU funds only under the CMO; or vice versa, the National Support Programme for wine is not applied.

- **type of investment**: investments in innovation, advanced technology and improving wine quality are accorded support under the wine support programme, while basic investments (simple machines, equipment and buildings) are to be financed under RD.

In other instances, immovable investments (construction) will be eligible under RD, while all other types of investments under the wine CMO.

- date of commitment: MS may decide to close rural development support for a given period of time, and open CMO measures for those commitments approved after a specific date to be established by the national/regional authorities in the RDP(s). The references date(s) shall be clearly indicated in the RDP(s) and the wine programme. It has to be noted that demarcation shall be based on investment commitments (i.e; all commitments approved after/before a fixed date will be funded under a certain scheme), as opposed to payments, making therefore this approach feasible even if the first pillar works on the basis of annual allocations. In some instances, rural development support will be closed until the end of the given programming period for the national support programme for wine.

<sup>&</sup>lt;sup>8</sup> See Article 55 of Commission Regulation (EC) No 1974/2006 of 15 December 2006 laying down detailed rules for the application of Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD).

<sup>&</sup>lt;sup>9</sup> See Article 17 of Commission Regulation (EC) No 555/2008.

# 5 <u>EVALUATION</u>

When preparing the new submission of programmes MS are asked to pay particular attention to the evaluation of the measures. Specific performance indicators should be established to enable an analysis of how the implementation of the measures will help MS to reach their objectives. Relevant indicators, based on timely data, would be, in particular, those linked with the increase in competitiveness of EU wine producers (imports, exports, prices, volumes) and with the balance between supply and demand (production, consumption, stocks).

First of all, when submitting the new programmes MS should provide *quantified objectives* for each of the implemented measures in Annex I to Regulation (EC) No 555/2008 regarding the submission of support programmes.

Secondly, in point C of that Annex an appraisal showing the expected technical, economic, environmental and social impact should be supplied.

Finally, when providing the reports on the implementation of the support programmes according to Annex V, MS should pay attention to the section regarding the *obtained results*. It should be noted that this section should contain an "Appraisal of the technical, economic, environmental and social impact based on criteria and quantitative indicators defined for monitoring and evaluation in the programme submitted" as established in footnote 4 of this Annex.