

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(78) 657 final.

Brussels, 30 November 1978

Recommendation for a

COUNCIL DECISION

authorizing the Commission to negotiate an agreement between the European Economic Community and the Republic of Austria on the protection of expressions and designations of origin and denominations of quality wines

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(submitted to the Council by the Commission)

COM(78) 657 final.

RECOMMENDATION BY THE COMMISSION TO THE COUNCIL  
CONCERNING THE NEGOTIATION WITH AUSTRIA OF AN  
AGREEMENT ON THE RECIPROCAL PROTECTION OF EXPRESS-  
IONS AND DESIGNATIONS OF ORIGIN AND DENOMINATIONS  
OF QUALITY WINES.

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Article 28b of Council Regulation 816/70 of 28 April 1970 laying down additional provisions for the common organization of the market in wine provides that :

1. For the purpose of marketing within the Community, imported wines intended for direct human consumption and designated by a geographical indication may, where reciprocal arrangements can be established, be controlled and protected as provided for in Article 13 of Regulation (EEC) n° 817/70 in respect of quality wines psr.
2. Paragraph 1 shall be implemented by agreements with the interested third countries to be negotiated and concluded in accordance with the procedure laid down in Article 113 of the Treaty.
3. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 7 of Regulation N° 24".

On the basis of this Community legislation, the Austrian authorities requested that, subject to reciprocal treatment, Austrian wines imported into the Community and designated by a geographical indication should qualify for the control and protection laid down for Community quality wines psr.

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In order to examine this request, exploratory talks were held between the Austrian authorities and the Commission. Following these talks, the Commission prepared draft directives for the negotiation of an agreement between Austria and the Community on the reciprocal protection of expressions and designations of origin and denominations of quality wines.

#### Conclusion

The Commission recommends to the Council that negotiations be opened with Austria with a view to concluding an agreement between Austria and the Community on the protection of expressions and designations of origin and denominations of quality wines, on the basis of the directives which it is submitting in the Annex hereto.

COUNCIL DECISION

authorizing the Commission to negotiate an agreement between the European Economic Community and the Republic of Austria on the protection of expressions and designations of origin and denominations of quality wines

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 113 thereof,

Having regard to the Recommendation from the Commission,

Whereas Article 28b of Council Regulation (EEC) n° 816/70 of 28 April 1970 laying down additional provisions for the common organization of the market in wine<sup>(1)</sup>, as last amended by Regulation (EEC) No 1861/78<sup>(2)</sup>, provides that :

- for the purposes of marketing within the Community imported wines intended for direct human consumption and designated by a geographical indication may, where reciprocal arrangements can be established, be controlled and protected as provided for in Article 113 of Regulation (EEC) n° 817/70 in respect of quality wines p.s.r.;
- this provision is to be implemented by agreements with the non-member countries concerned, to be negotiated and concluded in accordance with the procedure laid down in Article 113 of the Treaty;

Whereas the Republic of Austria has requested that, where reciprocal arrangements can be established, Austrian quality wines be covered by the provisions referred to above,

HAS DECIDED AS FOLLOWS :

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<sup>1</sup> OJ No L 99, 5.5.1970, p. 1

<sup>2</sup> OJ No L 215, 4.8.1978, p.1

Sole Article

The Commission is hereby authorised to negotiate an agreement between the European Economic Community and the Republic of Austria.

The Commission shall conduct negotiations in consultation with the Special Committee provided for in Article 113 of the Treaty and in accordance with the directives contained in the Annex.

Done at Brussels,

For the Council

The President

DIRECTIVE FOR THE NEGOTIATIONS OF AN AGREEMENT BETWEEN  
THE COMMUNITY AND AUSTRIA ON THE RECIPROCAL PROTECTION  
OF EXPRESSIONS AND DESIGNATIONS OF ORIGIN AND DENOMINA-  
TIONS OF QUALITY WINES

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1. Protection and definitions

1. Each of the Contracting Parties would undertake to take all action necessary to protect effectively, in accordance with this Agreement, against unfair trade competition in trade, the denominations of quality wines produced in the territory of the other Contracting Party, and to guarantee such protection.
2. "Quality wines" means :
  - (a) as regards wine produced in the Community : quality wines produced in specified regions (hereinafter called "quality wines psr");
  - (b) as regards wine production in the Republic of Austria : (wines of designated origin.)

2. Scope

1. The Agreement would apply to the expressions and designations of origin and denominations listed in the Annex thereto.
2. For the purpose of the Agreement, expressions and designations of origin and other denominations applied to wines would include all terms which referred directly or indirectly to the origin of a wine. These terms generally consist of a geographical denomination but could consist of other indications associated in the country of origin with wines produced in that country.

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They may, besides geographical origin, specify characteristics of the product which depend exclusively or essentially on geographical or human factors.

3. Protection of certain terms

The following would be protected by the Agreement when used in denominations : the terms "Republik Osterreich" and "Osterreich" and the names of the Austrian Länder; the terms "Bundesrepublik Deutschland" and "Deutschland" and the names of the German Länder, the terms "République française" and "France" and the names of the former French provinces; the terms "Repubblica Italiana" and "Italia" and the names of the Italian regions; the terms "Grand Duché de Luxembourg" and "Luxembourg".

4. Protection of Austrian denominations

The Austrian denominations protected by the Agreement on the territory of the Community as defined in Article 227 of the Treaty establishing the European Economic Community would be used exclusively for the Austrian products to which they apply and could be used there only on the conditions laid down in Austrian legislation. However, certain provisions of that legislation would be declared non-applicable in pursuant to the Protocol annexed to the Agreement, which would form an integral part thereof.

5. Protection of Community denominations

The Community denominations protected by the Agreement on the territory of the Republic of Austria would be used exclusively for the Community products to which they apply and could be used there only on the conditions laid down in Community rules. However, certain provisions of those rules

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would be declared non-applicable in pursuant to the Protocol annexed to the Agreement, which would form an integral part thereof.

6. Administrative and legal action

1. If a denomination protected under the Agreement was used for commercial purposes in contravention of paragraphs 4 and 5, in particular on the containers or packaging of products or on invoices, consignment notes or other commercial documents or in advertising, all the legal and administrative action provided for in the legislation of the Contracting Party, or in the case of the Community of the Member States, on whose territory protection is claimed in order to combat unfair competition or check in any other way necessary the illegal use of denominations, would be taken, subject to the conditions laid down in that legislation.
2. The provisions of paragraph 6 would also apply in cases where the denominations protected by the Agreement are used in translation, with an indication of the true origin or with the addition of terms as "style", "type", "imitation" or other like expressions.
3. These provisions would not apply to translations of denominations of Austrian products or products of a Member State of the European Economic Community where the translation, in the language or languages of the other Contracting Party, consists of a word or words in current use.

7. False or misleading information

1. The provisions of paragraph 6 would also apply where indications, marks, names, inscriptions or graphic representations which directly or indirectly gave false or misleading information as to the provenance, origin, nature,

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variety or substantial qualities of the wine appeared on wines whose denominations were protected under this Agreement, on their containers or packaging or on invoices or consignment notes.

2. If names of graphic representations of places, buildings, monuments, rivers, mountains, etc.. on the territory of one Contracting Party are used in the other Contracting Party for commercial purposes in connection with wines which do not originate in the territory of the first Contracting Party such use is held to constitute misleading information as to the origin of the wine unless the circumstances are such that it can reasonably be claimed that no deceit is involved.

#### 8. Actions before the courts

1. Actions for breach of the Agreement could be brought before the competent courts of the Member States of the Community not only by natural and legal persons so entitled under the legislation of the Member States concerned but also <sup>by</sup> federations, associations and organizations of producers, manufacturers or traders having their headquarters in the Republic of Austria, in so far as the legislation of the Member State concerned entitles national federations, associations and organizations to take proceedings.
2. Actions for breach of the Agreement could be brought before the courts of the Republic of Austria not only by natural and legal persons so entitled under the legislation of the Republic of Austria but also by federations, associations and organizations of producers, manufacturers or traders having their headquarters in the Community, in so far as the legislation of the Republic of Austria entitles Austrian federations, associations, and organizations to take proceedings.

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9. Certificate

- 1. Each of the Contracting Parties could, if it was necessary for the purposes of the Agreement, request the other Contracting Party in a note, not to authorize importation or temporary admission unless a certificate attesting entitlement to the appellation accompanied the wine. The other Contracting Party should acknowledge receipt of this note. In such cases, wines not accompanied by a certificate would not be cleared through customs.
- 2. The Contracting Party should, in the note referred to in paragraph 1, indicate the authorities or other bodies competent to issue the certificate. A specimen of the certificate must accompany the note.

10. Transitional period

- 1. Wines, packaging, advertising material and invoices, con ignment notes and other commercial documents which, at the time of entry into force of the Agreement, were on the territory of one of the Contracting Parties and legally bore indications prohibited thereby could be disposed of over a period of [two years] from the entry into force of the Agreement.
- 2. Where alterations were made to the lists of denominati ons in the Annex, the provisions of paragraph 1 would apply and the time limit of [two years] would run from the entry into force of the alteration.

11. Wines in transit

The Agreement would not apply to the denominations of wines in transit on the territory of one of the Contracting Parties.

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12. Rules governing imports

Without prejudice to the provisions of paragraph 9, the protection afforded by the Agreement to the denominations of wines would be without effect on the provisions governing, now or in the future, the importation of these wines into the territory of each of the Contracting Parties.

13. Internal legislation and international agreements

The provisions of the Agreement would not exclude any more extensive protection afforded, now or in the future, to denominations protected by the Agreement, by the Contracting Parties under their internal legislation or other international agreements.

14. Implementation of the Agreement

The representatives of the Contracting Parties would maintain direct contact on all matters relating to the implementation of the Agreement. The competent Austrian authorities and the Commission of the European Communities would notify each other, as and when they were taken, of legal decisions concerning the application of the Agreement and in particular the conditions in paragraph 7, relating to the use of denominations.

15. General measures and protective measures

1. The Contracting Parties would take all general and particular action required to ensure that the obligations imposed by the Agreement were fulfilled. They would seek to ensure that the objectives of the Agreement were met.
2. If one of the Contracting Parties considered that the other had failed to fulfil an obligation under the Agreement it could take appropriate action to enable the Agreement to be applied.

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16. Territories where applicable

The Agreement would apply, on the one hand, to the territories in which the Treaty establishing the European Economic Community applies subject to the conditions laid down in that Treaty and, on the other, to the territory of the Republic of Austria.