

ANNEX 6.2

WINE AND DISTILLED SPIRITS

1. This Annex shall apply to wine and distilled spirits.

2. For the purposes of this Annex:

container means any bottle, barrel, cask or other closed receptacle, irrespective of size or of the material from which it is made, used for the retail sale of wine or distilled spirits;

distilled spirits means a potable alcoholic distillate, including spirits of wine, whiskey, rum, brandy, gin, tequila, mezcal and all dilutions or mixtures of those spirits for consumption;

label means any brand, mark, pictorial or other descriptive matter that is written, printed, stencilled, marked, embossed or impressed on, or firmly affixed to the primary container of wine or distilled spirits;

oenological practices means winemaking materials, processes, treatments and techniques, but does not include labelling, bottling or packaging for final sale;

single field of vision means any part of the surface of a primary container, excluding its base and cap, that can be seen without having to turn the container;

supplier means a producer, importer, exporter, bottler or wholesaler; and

wine means a beverage that is produced by the complete or partial alcoholic fermentation exclusively of fresh grapes, grape must, or products derived from fresh grapes in accordance with oenological practices that the country in which the wine is produced authorises under its laws and regulations.

3. Each Party shall make information about its laws and regulations concerning wine and distilled spirits publicly available.

4. A Party may require a supplier to ensure that any statement required by that Party to be placed on a wine or distilled spirits label is:

- (a) clear, specific, truthful, accurate and not misleading to the consumer;
- (b) legible to the consumer; and
- (c) that such labels be firmly affixed.

5. If a Party requires a supplier to indicate information on a distilled spirits label, the Party shall permit the supplier to indicate that information on a supplementary label that is affixed to the distilled spirits container. Each Party shall permit a supplier to affix the

supplementary label on the container of the imported distilled spirits after importation but prior to offering the product for sale in the Party's territory, and may require that the supplier affix the supplementary label prior to release from customs. For greater certainty, a Party may require that the information indicated on a supplementary label meet the requirements in paragraph 4.

6. Each Party shall permit the alcoholic content by volume indicated on a wine or distilled spirits label to be expressed by alcohol by volume (alc/vol), for example 12% alc/vol or alc12% vol, and to be indicated in percentage terms to a maximum of one decimal point, for example 12.1%.

7. Each Party shall permit suppliers to use the term "wine" as a product name. A Party may require a supplier to indicate additional information on a wine label concerning the type, category, class or classification of the wine.

8. With respect to wine labels, each Party shall permit the information set out in subparagraphs 10(a) through (d) to be presented in a single field of vision for a container of wine. If this information is presented in a single field of vision, then the Party's requirements with respect to placement of this information are satisfied. A Party shall accept any of the information that appears outside a single field of vision if that information satisfies that Party's laws, regulations and requirements.

9. Notwithstanding paragraph 8, a Party may require net contents to be displayed on the principal display panel for a subset of less commonly used container sizes if specifically required by that Party's laws or regulations.

10. If a Party requires a wine label to indicate information other than:

- (a) product name;
- (b) country of origin;
- (c) net contents; or
- (d) alcohol content,

it shall permit the supplier to indicate the information on a supplementary label affixed to the wine container. A Party shall permit the supplier to affix the supplementary label on the container of the imported wine after importation but prior to offering the product for sale in the Party's territory, and may require that the supplier affix the supplementary label prior to release from customs. For greater certainty, a Party may require that information on a supplementary label meet the requirements set out in paragraph 4.

11. For the purposes of paragraphs 4, 5 and 10, if there is more than one label on a container of imported wine or distilled spirits, a Party may require that each label be visible and not obscure mandatory information on another label.

12. Each Party shall permit a supplier to place a lot identification code on a wine or distilled spirits container, if the code is clear, specific, truthful, accurate and not misleading, and shall permit the supplier to determine:

- (a) where to place the lot identification code on the container, provided that the code does not cover up essential information printed on the label; and
- (b) the specific font size, readable phrasing and formatting for the code provided that the lot identification code is legible by physical or electronic means.

13. A Party may impose penalties for the removal or deliberate defacement of any lot identification code provided by the supplier and placed on the container.

14. No Party shall require a supplier to indicate any of the following information on a wine or distilled spirits container, labels or packaging:

- (a) date of production or manufacture;
- (b) date of expiration;
- (c) date of minimum durability; or
- (d) sell by date,

except that a Party may require a supplier to indicate a date of minimum durability or expiration on products that could have a shorter date of minimum durability or expiration than would normally be expected by the consumer because of: their packaging or container, for example bag-in-box wines or individual serving size wines; or the addition of perishable ingredients.

15. No Party shall require a supplier to place a translation of a trademark or trade name on a wine or distilled spirits container, label or packaging.

16. No Party shall prevent imports of wine from the other Party solely on the basis that the wine label includes the following descriptors or adjectives describing the wine or relating to wine-making: chateau, classic, clos, cream, crusted/crusting, fine, late bottled vintage, noble, reserve, ruby, special reserve, solera, superior, sur lie, tawny, vintage or vintage character.

17. No Party shall require a supplier to disclose an oenological practice on a wine label or container except to meet a legitimate human health or safety objective with respect to that oenological practice.

18. Each Party shall endeavour to base its quality and identity requirements for any specific type, category, class or classification of distilled spirits solely on minimum ethyl alcohol content and the raw materials, added ingredients and production procedures used to produce that specific type, category, class or classification of distilled spirits.

19. No Party shall require imported wine or distilled spirits to be certified by an official certification body of the Party in whose territory the wine or distilled spirits were produced or by a certification body recognised by the Party in whose territory the wine or distilled spirits were produced regarding:

- (a) vintage, varietal and regional claims for wine; or
- (b) raw materials and production processes for distilled spirits,

except that the Party may require that wine or distilled spirits be certified regarding (a) or (b) if the Party in whose territory the wine or distilled spirits were produced requires that certification, that wine be certified regarding (a) if the Party has a reasonable and legitimate concern about a vintage, varietal or regional claim for wine, or that distilled spirits be certified regarding (b) if certification is necessary to verify claims such as age, origin or standards of identity.

20. If a Party deems that certification of wine is necessary to protect human health or safety or to achieve other legitimate objectives, that Party shall consider the *Codex Alimentarius Guidelines for Design, Production, Issuance and Use of Generic Official Certificates* (CAC/GL 38-2001), in particular, the use of the generic model official certificate, as amended from time-to-time, concerning official and officially recognised certificates.

21. A Party shall normally permit a wine or distilled spirits supplier to submit any required certification, test result or sample only with the initial shipment of a particular brand, producer and lot. If a Party requires a supplier to submit a sample of the product for the Party's procedure to assess conformity with its technical regulation or standard, it shall not require a sample quantity larger than the minimum quantity necessary to complete the relevant conformity assessment procedure. Nothing in this provision precludes a Party from undertaking verification of test results or certification if the Party has information that a particular product may be non-compliant.

22. Unless problems of human health or safety arise or threaten to arise for a Party, a Party shall not normally apply any final technical regulation, standard or conformity assessment procedure to wine or distilled spirits that have been placed on the market in the Party's territory before the date on which the technical regulation, standard or conformity assessment procedure enters into force, provided that the products are sold within a period of time of the date the technical regulation, standard or conformity assessment procedure enters into force, stipulated by the authority responsible for that technical regulation, standard or conformity assessment procedure.

23. Each Party shall endeavour to assess the other Party's laws, regulations and requirements in respect of oenological practices, with the aim of reaching agreements that provide for the Parties' acceptance of each other's mechanisms for regulating oenological practices, if appropriate.