# COMMISSION IMPLEMENTING REGULATION (EU) 2020/133

## of 30 January 2020

## derogating from Commission Implementing Regulation (EU) 2016/1150 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the national support programmes in the wine sector

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 [1], and in particular Article 54(a) thereof,

Whereas:

(1) On 2 October 2019, the World Trade Organization (WTO) issued the arbitration decision in European Communities and Certain Member States – Measures Affecting Trade in Large Civil Aircraft, WT/DS316/ARB. The arbitration decision entitled the United States of America (USA) to request an authorisation to impose countermeasures at a level not exceeding USD 7,5 billion annually in response to Union subsidies to Airbus. On 18 October 2019, the USA imposed a 25 % *ad valorem* import duty on, among others, still wines exported to the USA by Germany, Spain, France and the United Kingdom. This exceptional, inequitable and unpredictable situation is having a severe and detrimental impact on the global trade of all Union wines. The USA have further threatened to apply 100 % *ad valorem* import duties on French sparkling wines in response to the French Digital Services Tax (GAFA tax).

(2) The import duties imposed by the USA are having a direct and severe impact on the Union wine trade on the USA market, which is the Union's largest export market for agricultural products, and for wine in particular, both in terms of value and volume of exports. In 2018, Union wine exports to the USA totalled 6,5 million hectolitres, accounting for EUR 4 billion. Union wine exports to the USA typically represent between 30 % and 40 % of the global Union wine export value.

(3) The increased import duties imposed by the USA are having a damaging effect on all Union wine, not only on still wines originating from the four Member States that are subject to the increased import duties. The reputation and trade of all Union wine present in the USA market is adversely impacted as a result. The reputation of a wine is determined not only by its quality but also by its price and the perceived price-quality ratio. This is particularly the case for the lower to middle range priced wines, which, in absolute terms, are impacted more by a 25 % import duty than more expensive wines that are purchased by connoisseurs for whom a price increase does not operate as a deterrent. Union wines compete in the USA market with wines from other origins such as South America, Australia or South Africa. In the light of such fierce and intense competition, perception of overall price levels plays a significant role. Where the consumer is aware that the price of wine from certain origins within the Union is subject to an increased import duty this will have a negative impact on the overall perception of the price level of Union wines and thus divert consumer demand to products of other origins. In the light of the identified resulting market conditions and decrease in overall returns to producers, immediate measures to address the effects of the import duties are therefore warranted covering all wines originating in all Member States and not only in those directly targeted by the import duties.

(4) From a market stability perspective, the import duty regime imposed by the USA does not represent an isolated national measure with effects limited to trade with the USA. The world wine market is a global market on which single measures taken by important economic players such as the USA have far-reaching repercussions affecting the international trade in wine as a whole. Any negative change in the conditions in a major destination market for Union wines, such as the USA, inevitably affects other markets since the products that cannot be sold in the USA, having become too expensive, need to be diverted elsewhere. Consequently, consumers in those other markets,

[1] OJ L 347, 20.12.2013, p. 671.

being well aware of the market conditions, will exert additional pressure on prices and competition will also be much fiercer than normal. The current import duties imposed by the USA are therefore likely to cause stagnation in Union wine exports worldwide. Reports from the wine sector have shown that significant orders of French wines on the USA market have already been cancelled.

(5) The Union wine market has been subject to aggravating conditions throughout 2019 and wine stocks are at their highest level since 2009. This development is due primarily to a combination of the record harvest in 2018 and decreasing wine consumption in the Union. If the wines affected by the import duties imposed by the USA are not sold in the export markets outside the Union, this will only serve to amplify the urgency and seriousness of the situation in the Union market. Furthermore, the urgency of the situation is aggravated by the timing of the application of the import duty tariffs. The tariffs are applicable from 18 October 2019, which falls right in the middle of the 2019 wine harvest and production campaign and just before the end of year festive season; two of the most important sale periods of the year for the Union wine sector. Against this background, it is therefore necessary to take immediate measures to address the situation.

(6) Among the support measures in the wine sector set out in Article 43 of Regulation (EU) No 1308/2013, only the promotion measure under Article 45(1)(b) of that Regulation is directly targeted on promoting Union wines in third countries in order to improve their competitiveness. Over the years, the promotion measure has proved remarkably effective to conquer and consolidate markets in third countries. It proved to be the most effective tool to support Union wines on third country markets by enhancing their reputation and raising awareness on their quality. The international wine market is a global market and any promotion operation for Union wine on third country markets is beneficial to all Union wines. It opens opportunities for those who will subsequently enter the market in question with other Union wines. The individual promotions have a 'multiplier' effect on sales as they cover whole ranges of wines or entire wine-making regions and not just one individual brand or type of wine. It is therefore essential to continue, launch and intensify promotion activities in all markets in order to find outlets for the wines that will not be sold on the USA market and to preserve the reputation of Union wines in those other markets as well as to counter pressure on prices.

(7) Therefore, to help operators respond to the current exceptional circumstances in export markets all over the world following the import duty regime imposed by the USA and address this unpredictable and precarious situation, it is appropriate to allow further flexibility in the implementation of the promotion measure under Article 45(1)(b) of Regulation (EU) No 1308/2013 by derogating from certain provisions set out in Commission Implementing Regulation (EU) 2016/1150 ([2]).

(8) Article 2(1) of Implementing Regulation (EU) 2016/1150 provides that changes in respect of applicable support programmes, as referred to in Article 41(5) of Regulation (EU) No 1308/2013, shall not be submitted more than twice per financial year. In order to enable Member States to quickly adapt their national support programmes and ensure legal certainty for the implementation of those modifications, it is appropriate to allow that such changes may be submitted more than twice per financial year. Member States should be able to react quickly to these exceptional circumstances and submit changes to the promotion measure as early as is considered necessary. Such flexibility would allow Member States to optimise the measures already in place, increase the number of calls and make adjustments more frequently taking account of the market situation. Furthermore, it would make it possible also for Member States who have not included the promotion measure in their national support programme to do so immediately upon entry into force of this Regulation rather than having to wait for the next deadline for amendments. With this improved flexibility for the promotion measure, more opportunities would be offered to operators including newcomers, to submit applications for support for promotion. This is intended to provide relief to the wine sector and ensure the flexibility necessary to find new outlets on international markets other than the USA.

(9) Therefore, it is necessary to derogate from Article 2(1) of Implementing Regulation (EU) 2016/1150.

(10) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of the Agricultural Markets,

([2]) Commission Implementing Regulation (EU) 2016/1150 of 15 April 2016 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the national support programmes in the wine sector (OJ L 190, 15.7.2016, p. 23).

HAS ADOPTED THIS REGULATION:

*Article 1*

**Categories of products covered**

This Regulation shall apply to the promotion of wine within the meaning of points (1) to (9), (15) and (16) of Part II of Annex VII to Regulation (EU) No 1308/2013.

*Article 2*

**Changes to support programmes**

By way of derogation from Article 2(1) of Implementing Regulation (EU) 2016/1150, Member States may introduce, whenever necessary during a given financial year, changes to their national support programmes in the wine sector as regards the promotion measure referred to in Article 45(1)(b) of Regulation (EU) No 1308/2013.

*Article 3*

**Entry into force**

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 30 January 2020.

*For the Commission*
*The President*
Ursula VON DER LEYEN