



COMMISSION OF THE EUROPEAN COMMUNITIES

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REPORT FROM THE COMMISSION TO THE COUNCIL

on Tokaj

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The Agreement of 1993 between the European Community and Republic of Hungary on the reciprocal protection and control of wine names (hereinafter 'the EU-Hungarian wine agreement')¹ stipulated that the geographical indications listed in the annex to the agreement, among others the term TOKAJ, were reserved exclusively for the wines originating in Hungary to which they applied. In a joint declaration to the agreement, in respect to homonymous or identical geographical indications, the contracting parties agreed that all the derived forms of the name TOKAJ, e.g. TOKAJSHKE, TOKAJER, etc., were protected for Hungary.

The agreement established further a transitional period of thirteen years from the entry into force of that agreement, ending on 31 March 2007, during which French and Italian producers may respectively use the term TOKAY and TOCAI for grapevine varieties under specific conditions defined in the agreement.

The Community had not concluded any wine agreement with Slovakia.

Due to the enlargement of the EU, the 1993 EU-Hungarian wine agreement was superseded by the Accession Treaty and became '*caduc*' on 1 May 2004 but its content is now included in the *acquis*. Consequently,

1. the Hungarian and Slovakian geographical indications TOKAJ are 'quality wines produced in a specified region' pursuant to Article 54 of Council Regulation (EC) No 1493/1999². As such, they benefit from a labelling protection provided for in Article 48 of Regulation (EC) No 1493/1999. The protection is also extended to translations, such as TOKAY in French and TOCAI in Italian.
2. the phasing-out periods for France and Italy for the use on wine labels of the vine varieties using the terms TOKAY / TOCAI are now covered by Article 19(2) of Commission Regulation (EC) No 753/2002³ and in particular Annex II thereof. Pursuant to these provisions, the use on wine labels of the vine varieties TOKAY PINOT GRIS (France), TOCAI ITALICO (Italy) and TOCAI FRUILANO (Italy) shall cease on 31 March 2007. This approach complies with Article 24(6)⁴ of the WTO-TRIPS Agreement.

¹ Council Decision 93/724/EC of 23 November 1993 concerning the conclusion of an Agreement between the European Community and Republic of Hungary on the reciprocal protection and control of wine names (OJ L 337, 31.12.1993, p. 93).

² Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine (OJ L 179, 14.7.1999, p. 1).

³ Commission Regulation (EC) No 753/2002 of 29 April 2002 laying down certain rules for applying Council Regulation (EC) No 1493/1999 as regards the description, designation, presentation and protection of certain wine sector products (OJ L 118, 4.5.2002, p. 1.)

⁴ Article 24(6) of the WTO-TRIPS Agreement: "Nothing in this Section shall require a Member to apply its provisions in respect of a geographical indication of any other Member with respect to products of the vine for which the relevant indication is identical with the customary name of a grape variety existing in the territory of that Member as of the date of entry into force of the WTO Agreement."

However, this issue was raised several times during the accession negotiations, leading to the attachment of the following Council declaration to the minutes of the General Affairs Council of 18 November 2002:

"Le Conseil rappelle que, conformément à l'acquis communautaire, certains vins produits en Italie et en France peuvent être respectivement dénommés 'TOCAI' et 'TOKAY PINOT GRIS' jusqu'au 31 mars 2007. Le Conseil invite la Commission à présenter, en 2006, un rapport détaillé sur la question, afin d'adopter, pour la période au-delà de 2007, les mesures qui paraîtraient nécessaires, en prenant en considération les intérêts des producteurs ainsi que de la politique de l'Union concernant la protection des dénominations géographiques."

The following shall also be borne in mind:

French wine producers in Alsace used to use the term TOKAY for wines produced with the vine variety 'Pinot gris'. During the phasing-out period which will expire on 31 March 2007, wine producers of Alsace are authorised to continue to use the term TOKAY but in association with its synonym, namely 'Pinot gris'. After 31 March 2007, France agrees that the wines produced with this vine variety will only be able to use the name PINOT GRIS.

Italian wine producers in Friuli will cease to use the term TOCAI on wine labels after 31 March 2007 and will use the name FRIULANO.

Moreover, as far as the vine variety TOCAI ITALICO is concerned, it is neither mentioned by the OIV⁵ in the 'international list of vine varieties and their synonyms' listing, nor in the professional lists (UPOV or IBPGR). Therefore, according to Article 20(3)⁶ of Commission Regulation (EC) No 1227/2000 of 31 May 2000⁷, this vine variety cannot be used any more by Italy.

In the judgement in case C-347/03 handed down by the European Court of Justice (ECJ) on 12 May 2005, the Court confirmed that the phasing-out period is valid. Judgments in cases T-417/04, T-418/04 and T-431/04 before the ECJ relating to the same subject are pending.

Finally, at international level, since 2004, the Commission intends to protect the geographical indication TOKAJ in third countries and to avoid that this name is used as a vine variety. The Agreement between the European Community and the United States of America⁸ of 10 March 2006 provides for the prohibition of the use in the Community of the term TOKAY as a vine variety designation on US wine labels. The Agreement between the European Community and Australia (not initialled yet) intends to prohibit the use in the Community of the term TOKAY as a vine variety designation on Australian wine labels.

⁵ Organisation internationale de la vigne et du vin (International Wine Office).

⁶ Article 20(3) of Commission Regulation (EC) No 1227/2000:

"The names and synonymous names of classified varieties shall follow those laid down by any of:

(a) the International Wine Office (OIV),
(b) the Union for the Protection of Plant Varieties (UPOV), and/or
(c) the International Board for Plant Genetic Resources (IBPGR)."

⁷ Commission Regulation (EC) No 1227/2000 of 31 May 2000 laying down detailed rules for the application of Council Regulation (EC) No 1493/1999 on the common organisation of the market in wine, as regards production potential (OJ L 143, 16.6.2000, p. 1.)

⁸ OJ L 87, 24.3.2006, p. 1.

Proposed approach:

Having regard to:

1. the long discussions that led to the compromise at the Council,
2. the recent decision of the Court of Justice,
3. the international commitments and
4. the change in the wine producers' practices,

the Commission considers that the exclusive protection of the geographical indication 'TOKAJ' should prevail.

Therefore, the Commission has the intention to maintain the deadline of 31 March 2007 in Annex II, lines 103, 104 and 105 of Commission Regulation (EC) No 753/2002 for the use of vine variety names which consist of or contain the name of the geographical indication TOKAJ, even when used in translation (e.g. TOKAY or TOCAI).