

CODEX ALIMENTARIUS COMMISSION



Food and Agriculture
Organization of the
United Nations



World Health
Organization

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Agenda Item 5d

CRD10

JOINT FAO/WHO FOOD STANDARDS PROGRAMME

CODEX COMMITTEE ON FOOD ADDITIVES

Forty-Ninth Session

Macao SAR, China, 20-24 March 2017

DISCUSSION PAPER ON THE USE OF FOOD ADDITIVES IN THE PRODUCTION OF WINE

Comments of Kenya and OIV

Kenya

Issue: Recommendation 1: Endorsement by CCFA of the principle that, if JECFA recommends an additive with ADI not specified, the Maximum Level of this additive authorized in grape wine is set at GMP with the reference to one of the footnotes

Comment: Kenya support option A with the amendment as indicated '*The Maximum level of the additive in grape wine set as Good Manufacturing Practice must not result in (i) the modification of the natural and essential characteristics of the wine and (ii) a substantial change in the composition of the wine and should be consistent with those of the International Organisation for Vine and Wine (OIV).*'

Rationale: While we recognize the important role of OIV in wine, we note that the critical aspect of the note should be in reference to (i) and (ii) which is already included in the note. In developing this international standard OIV should directly or through its members (as the case may be) participate in the development of the international standard rather than subjecting an international standard to another body of standards. Codex provides a general forum where participation is open to most member states who are not members of OIV. This amended note is proposed to replace/be used in tables under recommendations 2,3,4,5 and 6.

Issue: Recommendation 2,3,4,5 and 6 tables

Comment: Kenya support the adoption of the tables as proposed by the eWG and have the provision move to step 5/8 of the procedures.

International Organisation of Vine and Wine (OIV)

This document does not commit Member States of the OIV, members of this eWG, in the comments and views that they might provide or express separately

GENERAL COMMENTS

The 48th CCFA agreed to establish an EWG, chaired by the European Union and co-chaired by Australia, open to all members and observers, and working in English only, with the following terms of references:¹

Taking account of the issues identified in [CX/FA 16/48/13](#), and the positions expressed at the CCFA48 and in the various CRDs, including the EWG co-chair recommendations for food additives in wine (FC 14.2.3):

(i) Develop and analyse recommendations for the amendment of the GSFA with respect to food additives in wine.

(ii) Consider provisions for food additive belonging to the following functional classes: acidity regulators, stabilizers and antioxidants.

The OIV would like to thank France and Australia for preparing this document CX/FA 17/49/10 which compiles all outstanding approaches of members of the eWG.

The wine making process and enological practices: a specific process

¹ REP 16/FA, para 97

By the Agreement of 3 April 2001², the OIV is established as “*intergovernmental organisation of a scientific and technical nature of recognised competence for its work concerning vines, wine, wine-based beverages, grapes, raisins and other vine products.*” Its activities concern notably “*conditions for grape production and the oenological practices*”.

The objective of oenological practices include ensuring the wine is safe for human consumption and the conservation of the wine to permit consumption in good condition.

Meanwhile, the number of producer countries increased and different ideas of wine appeared in the world, that is to say different definitions notably of authorizable oenological practices.

In most countries, these practices are regulated by reference to a positive list of additives and processing aids and in some countries of practices. These positive lists are generally set according to the production practices dictated by the legal, cultural and climatic (terroir) nature of the country. Differing regulations have the potential to create technical barriers to trade and may lead disputes. Therefore, the international standardization of oenological practices through harmonization relying on scientific bases as well as on other legitimate factors, or systems of mutual recognition or equivalence is desirable.

As a matter of consistency, it is important for the OIV that the Codex General Standard for Food Additives (GSFA) includes commonly used wine additives so as not to restrict trade among all countries, whether they produce wine or not. If the GSFA is not updated, it could become an inadvertent barrier to trade by not listing legitimately used wine additives already approved in a number of producing countries and widely traded amongst them.³

The consideration of other legitimate factors

The measures against the risks can be based on both scientific and non-scientific factors. These are also called “other legitimate factors”. The use of these factors is far from systematic to avoid creating international barriers to trade. The Codex Alimentarius Commission has stressed the importance of taking into consideration “other legitimate factors”, alongside the scientific factors, in the work of Codex Alimentarius, either in the development of food standards, directives, recommendations or guidelines⁴. This consideration will ensure the consumers’ interests and promoting food fair trade. After the decision of the Codex Alimentarius Commission at its twenty-fourth session in 2001, members agreed on the criteria to be respected in the consideration of these “other legitimate factors”. For example, the inclusion of these factors should not undermine the scientific basis of risk assessment. In the framework of Codex, the other factors in question must be international level, in other term be accepted on a worldwide or regionally scale⁵.

In addition, in some regulations or bilateral agreement it is stated in particular that good oenological practice should protect the authenticity of the product by safeguarding the concept that the typical features of the wine arise in the grapes harvested; takes into account the region of cultivation, and in particular, climatic, geological and other production conditions; is based on a reasonable technological or practical need to, among other things, enhance the keeping qualities, stability or consumer acceptance of the wine; and ensures that the processes or additions are limited to the minimum necessary to achieve the desired effect.

Moreover, the legitimate concerns of each government, when taking measurements, may vary. Thus, considering Good Manufacturing Practices (GMP), after taking into consideration these factors, it is quite possible that some regulations differ for the same additive.

Today, the 46 Member States of the OIV account for more than 85% of global wine production and nearly 80% of world consumption.

The international trade of grapes, wine and spirituous beverages continues to grow. The share of export volumes of wine has developed significantly over the past decade: at over 100 million hectolitres, it is equivalent to 43% of world consumption, compared with 25% 10 years ago. Every two bottles out of five consumed in the world are imported.

² Agreement of 3 April 2001 establishing the International Organisation of Vine and Wine
<http://www.oiv.int/oiv/info/entextesfondamentaux>

³ During the 31st Session, the Codex Committee on Food Additives and Contaminants has indicated in its report that “*The Committee noted the necessity for the GSFA to be consistent with the OIV standards for wine*”. Report of the 31st Session, the Codex Committee on Food Additives and Contaminants 1999 p6
<http://www.codexalimentarius.org/download/report/25/AI9912ae.pdf>

⁴ Section IV Analyse des risques – Manuel de procédure de la Commission du Code Alimentarius, 23^{ème} édition 2015, p.132.

⁵ Annexe : Décisions générales - Déclarations de Principes concernant le rôle de la science dans la prise de décision du Codex et les autres facteurs à prendre en considération. (Adopté en 1995, amendé en 2001) – Manuel de procédure de la Commission du Code Alimentarius, 23^{ème} édition 2015.

In the context of this globalisation of trade, where there is increasing competition between countries, the OIV defines the characteristics of vitivincultural products and their specifications, and contributes to the promotion of good regulatory practices in order to ensure fair trade, as well as the integrity and sustainability of different viticultural products on the global market. The OIV contributes to the harmonisation and definition of new international standards in order to improve conditions for producing and marketing vitivincultural products.

The OIV ensures a balance between traditional winemaking and innovation

In this framework,

1. The OIV considers that

- ✓ A list of authorized additives established by the GSFA shall take into account the recommendations of international organizations, such as the OIV.
- ✓ OIV Member States have incorporated in the OIV 2015 work program "a collaboration with the Codex Alimentarius continued especially with the initiation of discussions to eventually lead to a cooperation protocol"⁶.
- ✓ The works of the Joint FAO/WHO Expert Committee on Food Additives (JECFA) shall be taking into account regarding the safety assessment of food additives and the specifications for those additives.
- ✓ the OIV International Code of Oenological Practices gives recommendations for the quantity of additive to be added to wine, which is limited to the lowest possible level necessary to accomplish its desired effect,
- ✓ Regarding the numerical use level of these additives, the OIV "International Code of Oenological Practices" could be referenced on what concentration of an additive may be considered as GMP.

2. The OIV understands that there was a difference of opinion on whether the CCFA should recommend maximum levels of use that are numerical or are consistent with GMP.

3. The OIV supports, in the spirit of compromise, the idea to set the limit on wine additives at GMP with a footnote in the GSFA that refers to internationally recognised expert bodies that provide guidance on good manufacturing practice in wine production as suggested.

4. The OIV recommends that international recognised bodies, to be referred in the footnote, must be representative, impartial and transparent, with scientific and technical nature.

5. The OIV recalls that

- ✓ OIV is an **intergovernmental organisation of a scientific and technical nature** of recognised competence for its work concerning vines, wine, wine-based beverages, grapes, raisins and other vine products."
- ✓ the recommendations adopted by the OIV Members-states are **based on scientific evidence** resulting from the work of a thousand or so **experts appointed by Member States**, who meet regularly as part of the OIV's specialised scientific structures in viticulture, oenology, methods of analysis, economy, law, safety, health and grapes.
- ✓ Any international non-governmental organisation or stakeholders with an interest in vines, wine, table grapes, raisins and/or products of same, with an OIV **Observers** status⁷, **can participate and intervene** in the works of the Commissions, Sub-Commissions and groups of experts. It is the case, for example, for FIVS and Oenoppia who participate actively to the works of the OIV.
- ✓ The technical **decisions are taken by consensus** of the OIV Members-states, according to an **8-steps procedure comparable to the Codex Alimentarius**, give to the OIV a **technical and scientific references** accepted by its Member States as well as a **transparent functioning**.
- ✓ The OIV makes its publications, standards, congress proceedings and overview of collective expertise **freely and publicly available**

⁶ OIV 2015 Annual work program <http://www.oiv.int/oiv/info/enplanstrategique>

⁷ OIV Observers: [AIDV](#) - International Wine Law Association, [Amorim Academy](#), [AREV](#) - Assembly of Wine-Producing European Regions, [AUIV](#) - International University Association of Wine, [CERVIM](#) - Centre for Research, Environmental Sustainability and Advancement of Mountain Viticulture, [FIVS](#) - International Federation of Wines and Spirits, [OENOPPIA](#) - Oenological Products and Practices International Association, [UIOE](#) - Union Internationale des Œnologues, [VINOFED](#) - World Federation of Major International Wine and Spirits Competitions, [ASI](#) - Association de la Sommellerie Internationale, [WIM](#) - Wine in Moderation

- ✓ All OIV recommendations are either **frequently included in national and regional regulations** or used as **reference** in the **bilateral, multilateral agreements**⁸⁹¹⁰
- ✓ OIV has the **same principles of membership** that form the basis of membership in the Codex Alimentarius Commission **and equivalent principles of standards-setting**¹¹

SPECIFIC COMMENTS

Possible ways forward on a footnote associated with GMP

Outcomes and Recommendations indicated in the document CX/FA 17/49/10

18. Recommendation 1: Endorsement by CCFA of the principle that, if JECFA recommends an additive with ADI not specified, the Maximum Level of this additive authorised in grape wine is set at GMP with the reference to one of the following footnotes:

A: *"The Maximum level of the additive in grape wine set as Good Manufacturing Practice must not result in (i) the modification of the natural and essential characteristics of the wine and (ii) a substantial change in the composition of the wine and should be consistent with those of the International Organisation for Vine and Wine (OIV)."*

B: *"The Maximum level of the additive in grape wine set as Good Manufacturing Practice must not result in (i) the modification of the natural and essential characteristics of the wine and (ii) a substantial change in the composition of the wine. This maximum level may be further specified to be consistent with those of the International Organisation for Vine and Wine (OIV)."*

- The OIV would like to mention an editorial error. OIV is the acronym for International Organisation **of** Vine and Wine. Therefore, the name should be changed accordingly
- The OIV would like to mention that *The Executive Committee¹² of the OIV¹³ in its session of 28th October 2016 has considered that OIV shall be recognised as reference intergovernmental organisation in the field of vitiviniculture without prejudice to other intergovernmental organisations with recognised expertise in the same field.*

Therefore, The OIV considers that this position be transcribed in the wording of the footnote.

The OIV also recognises that its recommendations regarding oenological practices or numerical limits must be science-based, be technologically justified and transcribe in the relevant recommendations.

These recommendations should be revised, if necessary, in order to respond to the need of the wine sector in particular regarding the consequences of climate changes or to the technological evolutions.

This OIV Comments are consistent with:

- The Codex Alimentarius criteria for **"Cooperating International Intergovernmental Organization"**¹⁴ :
 - The cooperating international intergovernmental organization shall **have observer status with the Codex Alimentarius Commission.**
 - The cooperating International Intergovernmental Organization shall **have the same principles of membership*** that form the basis for membership in the Codex Alimentarius Commission and **equivalent principles of standards-setting****

⁸ Bilateral Wine Agreement UE/South Africa <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:028:0003:0087:en:PDF>

⁹ Bilateral Wine Agreement UE/Australia http://eur-lex.europa.eu/legal-content/en/TXT/?uri=uriserv:OJ.L_.2002.028.01.0004.01.ENG

¹⁰ Reglamento vitivinícola del mercosur MERCOSUR/GMC/RES N° 45/96 http://www.mercosur.int/msweb/Normas/normas_web/Resoluciones/ES/Res_045_096_.PDF

¹¹ 24th Codex Alimentarius Procedural Manual (2015) pp 217

¹² The Executive Committee is composed of one delegate per Member or his/her substitute designated by name by the Member's competent authorities

¹³ **Member-States of the OIV:** Algeria / Argentina / Armenia / Australia / Austria / Azerbaijan / Belgium / Bosnia-Herzegovina / Brazil / Bulgaria / Chile / Croatia / Cyprus / Czech Republic / France / Georgia / Germany / Greece / Hungary / India / Israel / Italy / Lebanon / Luxemburg / FYR Macedonia / Malta / Mexico / Moldavia / Montenegro / Morocco / Netherlands / New Zealand / Norway / Peru / Portugal / Romania / Russia / Serbia / Slovakia / Slovenia / South Africa / Spain / Sweden / Switzerland / Turkey / Uruguay

¹⁴ 24th Codex Alimentarius Procedural Manual (2015) pp 217

- The terms and definition for the purpose of the WTO Agreement on technical barriers to trade which define an “International body or system” as : **a body or system whose membership is open to the relevant bodies of at least all [WTO] Members.**
- The definitions for the purpose of the WTO Agreement on Sanitary and Phytosanitary Measures which define “International standards, guidelines and recommendations” for matters not covered by the above organizations [ie Codex Alimentarius, OIE and IPPC] as : **appropriate standards, guidelines and recommendations promulgated by other relevant international organizations open for membership to all [WTO] Members.**

* “The same principles of membership” shall be taken to mean that the membership of the organization is open to all Members and Associate Members of FAO and of WHO.

** “Equivalent principles of standards-setting” refers to the General Decisions of the Commission set out in the Appendix to the Procedural Manual. (Statements of Principle concerning the Role of Science in the Codex Decision-Making Process and the Extent to which other Factors are taken into Account. (Adopted in 1995, amended in 2001), Statements of Principle Relating to the Role of Food Safety Risk Assessment. (Adopted in 1997), Measures to facilitate consensus. (Adopted in 2003).

Recommendation 2: Endorsement by CCFA of the additives for the Food Category No. 14.2.3 Grape wines in the GSFA at step 5/8 as listed below:

Additive	INS	Step	Year	Max Level	Notes
ASCORBIC ACID, L-	300	5/8		GMP	xxx
CITRIC ACID	330	5/8		GMP	xxx
FUMARIC ACID	297	8		GMP	xxx
GUM ARABIC (ACACIA GUM)	414	5/8		GMP	xxx
LACTIC ACID, L-, D- and DL-	270	5/8		GMP	xxx
MALIC ACID, DL-	296	5/8		GMP	xxx
SODIUM CARBOXYMETHYL CELLULOSE (CELLULOSE GUM)	466	5/8		GMP	xxx

Note xxx: “The Maximum level of the additive in grape wine set as Good Manufacturing Practice must not result in (i) the modification of the natural and essential characteristics of the wine and (ii) a substantial change in the composition of the wine [and should be consistent with those of the International Organisation for Vine and Wine (OIV)] / [This maximum level may be further specified to be consistent with those of the International Organisation for Vine and Wine (OIV).]

- The OIV agree on the proposal for adoption of these additives as GMP, pending agreement on an appropriate footnote with a reference to the OIV.

The OIV recalls that there is a maximal limit for citric acid in the final product at 1mg/L.

For malic acid, the 49° CCFA should also considered the recommendation 5 (see below) of the same document CX/FA 17/49/10

Recommendation 3: Endorsement by CCFA of the additive for the Food Category No. 14.2.3 Grape wine in the GSFA at step 5/8 as listed below

Additive	INS	Step	Year	Max Level	Notes
ERYTHORBIC ACID (ISOASCORBIC ACID)	315	5/8		GMP	xxx

Note xxx: “The Maximum level of the additive in grape wine set as Good Manufacturing Practice must not result in (i) the modification of the natural and essential characteristics of the wine and (ii) a substantial change in the composition of the wine [and should be consistent with those of the International Organisation for Vine and Wine (OIV)] / [This maximum level may be further specified to be consistent with those of the International Organisation for Vine and Wine (OIV).]

- The OIV resolution Oeno 18/2000 modified by Oeno 4/2007 indicates that Isoascorbic acid, or D-ascorbic acid or erythorbic acid has the same antioxidant power as ascorbic acid and can be used for the same oenological purpose. This acid exhibits the same appearance and the same solubility properties as ascorbic acid. It is, optically, the reverse of ascorbic acid and has, under the same conditions, a specific rotatory power of: 20 °C[α] between -20 and -21.5°D. With the exception of rotatory power, this acid should exhibit the same properties as ascorbic acid, respond in the same way to the identifying reactions, and pass the same tests and responds to the same quantitative analysis. Therefore, The OIV agree on the proposal for adoption of this additive as GMP, pending agreement on an appropriate footnote with a reference to the OIV.

Recommendation 4: Endorsement by CCFA of the additive for the Food Category No. 14.2.3 Grape wine in the GSFA at step 5/8 as listed below

Additive	INS	Step	Year	Max Level	Notes
TARTRATES	334; 335(i),(ii); 336(i),(ii); 337	5/8		GMP	128, xxx

Note xxx: *“The Maximum level of the additive in grape wine set as Good Manufacturing Practice must not result in (i) the modification of the natural and essential characteristics of the wine and (ii) a substantial change in the composition of the wine [and should be consistent with those of the International Organisation for Vine and Wine (OIV)] / [.This maximum level may be further specified to be consistent with those of the International Organisation for Vine and Wine (OIV).]*

- The OIV is currently reviewing the limits and conditions of using certain additives for acidification in particular. A draft resolution is currently discussed to increase at 5 g/L the limit of acidification. Acids should only be added to wine on the condition that the initial acidity is not raised by more than 67 meq/L, or 5 g/L if expressed in terms of tartaric acid. The current limit (4 g/L) may be insufficient in extreme cases. Certain adaptations of winemaking practices are necessary depending on the specific conditions caused, in particular, by climate change. In some extreme cases, a total acidification of 5 g/L was occasionally observed.

22. Recommendation 5: Endorsement by CCFA of the additive for the Food Category No. 14.2.3 Grape wine in the GSFA at step 5/8 as listed below

Additive	INS	Step	Year	Max Level	Notes
MALIC ACID, DL-	296	5/8		GMP	xxx, yyy

Note yyy: “including Malic acid L(-) (INS 296)”

Note xxx: *“The Maximum level of the additive in grape wine set as Good Manufacturing Practice must not result in (i) the modification of the natural and essential characteristics of the wine and (ii) a substantial change in the composition of the wine [and should be consistent with those of the International Organisation for Vine and Wine (OIV)] / [.This maximum level may be further specified to be consistent with those of the International Organisation for Vine and Wine (OIV).]*

- The OIV admits the increasing of the titration acidity and the actual acidity (decreasing pH) by adding organic acids

Lactic acids, **L(-) or DL malic acid** and L(+) tartaric and citric acids are the only acids that can be used.

Actually, acids can be only be added to wine under condition that the initial acidity is not increased by more than 54 meq/l (i.e. 4 g/l expressed as tartaric acid). However, The OIV is currently reviewing the limits and conditions of using certain additives for acidification in particular. A draft resolution is currently discussed to increase at 5 g/L the limit of acidification. Acids should only be added to wine on the condition that the initial acidity is not raised by more than 67 meq/L, or 5 g/L if expressed in terms of tartaric acid. The current limit (4 g/L) may be insufficient in extreme cases. Certain adaptations of winemaking practices are necessary depending on the specific conditions caused, in particular, by climate change. In some extreme cases, a total acidification of 5 g/L was occasionally observed.

23. Recommendation 6: Endorsement by CCFA of the additive for the Food Category No. 14.2.3.3 Fortified grape wine, grape liquor wine, and sweet grape wine in the GSFA at step 8 as listed below

Additive	INS	Step	Year	Max Level	Notes
CALCIUM SULFATE	516	8		GMP	xxx

Note xxx: *“The Maximum level of the additive in grape wine set as Good Manufacturing Practice must not result in (i) the modification of the natural and essential characteristics of the wine and (ii) a substantial change in the composition of the wine [and should be consistent with those of the International Organisation for Vine and Wine (OIV)] / [.This maximum level may be further specified to be consistent with those of the International Organisation for Vine and Wine (OIV).]*

The OIV is aware that calcium sulfate for liquor wine is proposed into the GSFA.

calcium sulfate (CaSO₄.2H₂O) to the must prior to fermenting in combination with tartaric acid for the elaboration of liqueur wines is under evaluation by the OIV and a draft resolution is currently evaluated by the concerned experts groups.

The addition of calcium sulfate could be allowed in liquor wine in order to

- Produce balanced liqueur wines from the gustatory point of view;

- b) Favour a good biological evolution and good maturation of liqueur wine;
- c) Remedy insufficient natural acidity of liqueur wines caused by:
 - climatic conditions in the viticulture region, or
 - oenological practices which lead to a decrease in natural acidity

The prescriptions state that

- a) The use of calcium sulfate is used in combination with lower tartaric acid level
- b) A calculation of the doses of calcium sulfate and tartaric acid needed to reduce the pH required should be performed
- c) The dose must not exceed 3 g/L of calcium sulfate
- d) The residual level of sulfate must not exceed the OIV limit
- e) The practice should not be done to conceal fraud;
- f) Chemical acidification and chemical de-acidification are mutually exclusive;
- g) Calcium sulfate used must comply with the prescription of the International Oenological Codex standards