

IMPORTATION AND MOVEMENT OF WINE PRODUCTS

ACCOMPANYING DOCUMENTATION REQUIRED FOR CERTIFICATION AND AUTHENTICATION PURPOSES.

A. GENERAL

1. This handout summarises the the use of documentation to accompany the movements of wine sector products but only in so far as they relate to the certification and authentication of wine sector products. It does not attempt to address the wider issues of fiscal or quota controls which are the responsibility of H.M. Revenue and Customs.
2. In this context, these notes reflect the requirements of the following E.C. regulations:-
 - a. **Regulation (EC) 555/2008**

This regulation covers the requirement for and the use of documentation issued by the authorities in Third Countries to support the entry of wine sector products into the Community and any subsequent movements of these products up to the moment of entry into free circulation (the VI system). In the UK, the rules concerning the use of these documents for fiscal purposes will be enforced by HM Revenue and Customs, and for certification and authentication purposes by the Food Standards Agency, Wine Standards (WSB).
 - b. **Regulations (EEC) 2719/92 and 3649/92**

These regulations (issued in response to Directive 92/12/EEC) cover the general requirement for and the use of the documentation accompanying the movement between Member States of excisable goods which are under duty-suspension arrangements or which have already been released for consumption. These fiscal documents (the Administrative Accompanying Document and the Simplified Accompanying Document) will, in certain circumstances, also satisfy the requirements of the wine regime for the movement within the Community of wine products (see c. below). The rules concerning the use of these documents for fiscal purposes will be enforced by HM Revenue and Customs.
 - c. **Regulation (EC) 436/2009**

This regulation sets out the requirements of the EC wine regime for documentation to accompany the movement of wine products within the Community for certification and authentication purposes; and it also deals with the certification of origin of wines exported outside the Community (i.e. to Third Countries). Enforcement of the provisions of this regulation is primarily the responsibility of the WSB, even though in many instances the actual documents used will be basically the same as those required for fiscal purposes (see b. above).
3. These notes are intended to give general guidance to any corporate body or individual involved in the movement or holding of wine on the European regulations concerning the requirement for and use of Accompanying Documents for certification and authentication purposes. They should not be quoted as authoritative interpretations of

the law, nor should they be regarded as a substitute for the specific EC regulations quoted. In case of doubt, WSB Inspectors or HM Revenue and Customs officers as appropriate should be consulted.

B. W.S.B. ENFORCEMENT PROCEDURES

4. The WSB's responsibility for the enforcement of the regulations referred to in para. 2a. and c., together with the powers of its Inspectors to enter, examine and, if necessary, copy and seize, are set out in a Statutory Instrument, the Wine Regulations. It is standard practice therefore for Inspectors when visiting wine importers and wholesalers, or those premises involved with storing or moving wine (e.g. warehouses, REDS, etc.) to demand sight of the accompanying documents required for certification and authentication purposes.
5. The responsibility for producing or obtaining the required documentation on demand lies with the owner (or the importer) of the wine. In practice however, when wine goes direct on arrival in the UK into a Tax warehouse (or duty paid storage) other than the owner (importer)'s premises, or where wine is delivered initially to the owner (importer)'s premises but the duty responsibility is discharged by a REDS, the relevant documentation will normally be held by the warehouse/REDS as appropriate. Such practice is entirely acceptable to the WSB, provided that the documentation is readily available for inspection or easily obtainable on demand. However if this is done, it should be remembered that the onus for checking the product and its labelling against the details on the relevant documents prior to putting it onto the market remains with the owner. Indeed, if for any reason a defence of 'due diligence' is needed at any stage, it is difficult to see how this could be sustained if such checks had not taken place; with this in mind, owners/traders are strongly advised to obtain from the warehouse/REDS a copy of the relevant accompanying documents.

C. PRODUCTS AFFECTED

6. All wine regime products are affected: such as Fresh Grapes, Grape Must, Grape Juice, Partially Fermented Grape Must, Wine including Table Wine, Quality Wine prsr and 3rd Country Wine, Liqueur (fortified) Wine, Sparkling and Semi-Sparkling Wine, but not Aromatised Wine.
7. Products unaffected include: Table Grapes, British (made) wine, fruit wine, wine with added flavouring (e.g. Aromatised Wine) and de-alcoholised wine.

D. IMPORTATION OF THIRD COUNTRY WINES INTO THE E.C.

8. With a few exceptions (see Reg 555/2008, Art 42), Third Country wines entering the Community must be accompanied by a VI document (or for USA the Certification document) until such wine is put into free circulation or re-exported to another Third Country. The detailed rules for the content and use of VI documents are contained in Reg 555/2008.
9. The VI document provides for a detailed description of the product, a Certificate of compliance with E.C production criteria, and an Analysis Report. Responsibility for ensuring that the product (as specified in the Analysis Report) complies with E.C. regulations, and that the labelling and presentation are consistent with the VI

document, lies with the importer. In this context, the WSB will (at least in the first instance) recognise as the responsible person the UK trader identified as the 'Importer' on the labelling or, if the designated 'Importer' operates in another Member State or if no 'Importer' is shown, the owner of the wine at the time it entered the UK. It follows therefore that UK importers/owners of Third Country wine should make arrangements not only for checking VI documentation to ensure the product is legal but also for checking the labelling of stock against VI documentation immediately the wine arrives in the UK.

10. Any subsequent movement of consignments of imported wine within the Community prior to payment of Customs duty must be accompanied by the original VII document or a VI2 prepared by the consignor (VI2 forms should be obtained from HMRC). If, on the other hand, Third Country wine is already in free circulation when it is moved into the UK, the rules of Reg 436/2009 apply; nonetheless, the UK trader receiving/responsible for the wine would be well advised to ensure that a copy of the original VI form is available in case of later difficulties. This may well involve making special arrangements with the consignor in the Member State of despatch.
11. Any further movement of the wine within the UK while in free circulation is covered in Section E below. In this situation, the accompanying document must quote the number of the relevant VI document, the date on which it was completed and the details of the responsible Third Country's control authority.

E. WINE IN FREE CIRCULATION WITHIN THE COMMUNITY

12. The wine regime's rules on the documentation to accompany movements of wine in free circulation are contained in Reg 436/2009. This regulation sets out to avoid wherever possible the requirement for separate fiscal and authentication documents by amplifying the procedures for the fiscal documents introduced by Directive 92/12/EEC to make them acceptable for authentication purposes.
13. With a few exceptions, an 'accompanying document' is required for wine regime purposes for all movements of the wine products listed in para.6. The exemptions (Reg 436/2009 Art 25) are:-
 - Labelled containers of not more than 5 litres, with a non- reusable closure which identifies the bottler, where the total consignment does not exceed 100 litres (5 litres in the case of concentrated grape must);
 - Diplomatic supplies;
 - Personal stocks of private individuals;
 - Stocks on board ships, aircraft and trains for consumption thereon;
 - Commercial samples, or samples for an official agency or laboratory.

Other exemptions, affecting wine production and therefore not relevant to this paper, are also covered in Art.25.

14. The documents which may be used as the accompanying document for wine regime purposes (i.e. certification and authentication) are as follows:-

- a. **Movements between Member States**

For excisable products under excise duty suspension arrangements, including Third Country products on which Customs duty has been paid, the Administrative Accompanying Document (AAD) or its commercial equivalent, introduced by Reg 2719/92 for fiscal purposes, will normally be used. Under certain circumstances the Simplified Accompanying Document (SAD) described in Reg 3649/92 may be used instead. In every case, the instructions for completing these documents, as set out in Regs 2719/92 or 3649/92 and as amplified in Reg 436/2009 (see para 15 below), must be observed. For movements of bulk wine (i.e. containers of more than 60 litres), the document must carry a preprinted serial number issued by a designated competent authority (e.g wine control or Customs authority) and validated by that authority's official stamp.

b. Movements within a Member State

Member States are given considerable discretion over the documentation which may accompany movements which begin and end on their own Territory (see para 17b).

15. For certification and authentication purposes any document acting as the accompanying document must comply with Annex VI of Reg 436/2009 and to include

- The trade description of the product

For movements of bulk wine, some additional information is required, namely the actual alcoholic strength, the wine growing zone of origin and the production operations which the product has undergone. Instructions relating to the provision of all this information are contained in Annex VI to Reg. 436/2009.

16. Reg 436/2009 also specifies certain other rules which generally apply to accompanying documents as follows:-

- a. An accompanying document may be used only for a single journey, but may cover more than one batch of product moving from a single consignor to a single consignee.
- b. When products are transported in bulk in different compartments of the same container, a separate accompanying document must be normally be made out for each product.

17. In practical terms, the requirements for the movement of wine products in free circulation (under excise duty suspension) as they relate to UK traders are as follows:-

a. Movements into the UK

As the documentation will originate from the consignor in another Member State, UK traders may reasonably expect it to conform to the provisions of Reg 436/2009 as set out in paras 14a and 15 above. Nonetheless, to satisfy the requirements of 'due diligence', UK traders should ensure that the accompanying documents are legitimate and match the wine in question (see also para. 5). For Third Country wine in free circulation, traders are advised to obtain from their supplier copies of the original VI documentation (see para.10 above), thus pre-empting any queries about the authenticity or characteristics of the wine. The WSB will be particularly concerned with the documentation relating to movements of bulk wine of whatever origin and of Third Country wine either in bulk or bottled.

b. Movements within the UK

The standard documentation required by HMRC for movements of bulk or bottled wine while under duty suspension (i.e. inter-bond transfers) will be accepted by the WSB as meeting the requirements of Reg 436/2009 provided that a detailed description of the product, conforming to the requirements of the wine regime, is available in the documentation 'pack'. The most effective way of meeting this condition and pre-empting further enquiries, is to ensure that a copy of the document which accompanied the wine on entry into the UK (plus, for Third Country wine, a copy of the original VI document) is included in the 'pack'.

c. HM Revenue & Customs requirements

Further information about accompanying documentation required by HMRC is given in Notice 197 Excise Goods: Holding and Movement <http://www.hmrc.gov.uk/>

F. WINE PRODUCTS AFTER PAYMENT OF EXCISE DUTY

18. The requirements of Reg 436/2009 for certification and authentication purposes are generally similar to Section E above except that, in these circumstances, Reg 2719/92 (and therefore the AAD) does not apply. The documents which may be used are therefore as follows:-

a. Movements between Member States

The SAD (or commercial document) in accordance with Reg 3649/92 as amplified by Reg 436/2009 (see Section E paras 14-16).

b. Movements within the UK.

When wine is moved after release for consumption, invoices or transit/delivery notes will suffice for bottled/bagged wine provided that a full description of the product is shown. However for bulk wine, the use of a Commercial Accompanying Document (CAD) is obligatory : this is available from the website (Resources section). Where wine products which are not subject to excise duty (e.g. fresh grapes/must/juice) are concerned, and no exemptions apply, similar procedures must be followed.

G. CERTIFICATION OF ORIGIN

19. The documents used as accompanying documents for movements of wine products (see paras.14 and 18) may also be used by producer Member States to certify the origin of Protected Designation of Origin and Protected Geographical Indication wines under certain specific conditions. These conditions (see Reg 436/2009 Art 31) concern the status of the person initiating the accompanying document, the manner in which the document is filled in, and the certification processes. Member States are permitted to make such certification compulsory for wines produced on their own territory.

20. If accompanying documents are used for this purpose, the following statements must be made in Section 23 of the AAD or Section 14 of the SAD:-

- For PDO wines:"This document certifies the protected designation of origin of the wines set out herein".

- PGI wines : "This document certifies the protected geographical indication of the wines set out herein".

The statements must be validated by the stamp and signature of the responsible authority.

H. EXPORT TO THIRD COUNTRIES

21. Certain Third Countries (e.g. U.S.A.) will require a certificate of origin for wine exported to them from the Community. Where such a certificate is demanded, the requirement will be met by means of the Commercial Accompanying Document (CAD). These documents, which are obtainable from the WSB, should be completed by the exporter to include the attestation statements (see para.20) and should also refer to the reference number, date of completion, and name and address of the issuing authority of the document under cover of which the wine originally entered the UK.
22. Traders shipping into the UK high quality wines which are likely to be re-exported at a later date are advised to ensure that their suppliers provide accompanying documents with the appropriate official attestation. It is suggested that the shipper's invoice to his U.K. customers should quote the necessary details (listed above) from the accompanying document in case these are needed for re-exportation, and that these details should also be included, together with the name of the original shipper, on invoices for subsequent U.K. sales.
23. A CAD may also be used to certify the origin of Third Country wines if it provides the previously mentioned details (see para. 11) from the original VI form.

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Sources

Commission Regulations 555/2008 and 436/2009 may be accessed on the European Commission web site <http://eur-lex.europa.eu/en/legis/20080901/chap036055.htm>
USA-EC Bilateral Agreement on wine (2006) includes a specimen Certification document in Annex III – see EC website for the Agreement.