



Season's Greetings

All of us in the International Trade and Food Law practice of *FratiniVergano* would like to wish our readers, as well as their colleagues and families, all the best for a peaceful holiday season and for a healthy and prosperous 2024.

We hope that you have enjoyed *Trade Perspectives*[®] in 2023 and that you have always found it stimulating and timely. As always, we have published a total of 23 issues and invested considerable time and energy in this undertaking. We have done it with our usual passion and drive, eager to play a small but constant role in protecting the multilateral trading system and the rule of law from the temptations of unilateralism and protectionism.

In the new year, we will continue with our editorial efforts, beginning with the publication of the next issue of *Trade Perspectives*[®] on 15 January 2024. *Trade Perspectives*[®] is circulated to thousands of recipients worldwide. This fills us with pride, but also with a deep sense of commitment and discipline towards our readers' expectations.

Thank you for your interest in *Trade Perspectives*[®] and for helping us to make it a better and more useful tool of discussion. We look forward to hearing from you regularly and to another year of international trade and food law developments. You can follow us on X [@FratiniVergano](https://twitter.com/FratiniVergano) and find all previous issues of *Trade Perspectives*[®] on our website at <http://www.fratinivergano.eu/en/trade-perspectives/>.

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Ensuring stable supply chains: The EU-Greenland Strategic Partnership on Sustainable Raw Materials Value Chains

On 30 November 2023, the European Commission's Executive Vice-President for the European Green Deal, Interinstitutional Relations and Foresight, *Maroš Šefčovič*, and Greenland's Minister of Business, Trade, Mineral Resources, Justice and Gender Equality, *Naaja H. Nathanielsen*, signed a [Memorandum of Understanding](#) "for a strategic partnership to develop sustainable raw materials value chains". The *Strategic Partnership* is intended to "allow" both Parties "to advance trade and investments into a secure, sustainable, and resilient

raw materials value chain". Given the strategic importance of raw materials for the global manufacturing industry, in particular as materials for environmentally friendly technologies, this article highlights the underlying concerns and policies surrounding trade in raw materials, as well as related cooperation initiatives, such as the *EU-Greenland Strategic Partnership on Sustainable Raw Materials Value Chains*.

The importance of raw materials to achieve carbon neutrality

The EU needs to secure a sustainable supply of raw materials, especially critical raw materials (hereinafter, CRMs), in order to deliver on its transition to a "green" economy, as set out in the [European Green Deal](#) (see *Trade Perspectives, Issue No. 15 of 30 July 2021*). The EU has been working to secure future supply chains in a context of environmental and geopolitical imperatives, in which access to critical raw materials is needed to enable the transition to "green" technologies.

This strategic shift has been impacting the EU's industrial, trade, and investment policies, which are being adjusted to secure the ever-increasing demand of CRMs necessary to produce, *inter alia*, renewable energy and batteries for electric vehicles and other technologies. The reliance on certain CRMs poses a risk for the EU with respect to meeting its climate objectives, given that the demand for CRMs for the green transition could significantly grow by 2050. The risk of relying on certain CRMs is compounded by the lack of access to domestic raw materials in the form of rare earths, and only limited access to other key minerals. [Eurostat notes](#) that, in 2022, the value of total trade of raw materials between the EU and the rest of the world amounted to EUR 201 billion, with imports accounting for EUR 125 billion.

Using trade policy to secure access to raw materials

The limited availability of CRMs in certain countries is not only caused by their natural occurrence, but also by the implementation of restrictive domestic regulations and export policies in certain markets. In recent years, a number of countries have increasingly introduced restrictive measures related to the export of minerals, contributing to supply shortages and price fluctuations. To de-risk its key global supply chains and protect the competitiveness of its industries, the EU has been leveraging its trade policy in various ways to ensure access to critical raw materials. For example, at the multilateral level, the EU initiated a [dispute](#) against China regarding rare earths export restrictions and recently won a [case](#) against Indonesia's export ban and domestic processing requirement on nickel ore, which the World Trade Organization (hereinafter, WTO) Panel found, *inter alia*, inconsistent with the prohibition of export prohibitions and restrictions contained in Article XI:1 of the General Agreement on Tariffs and Trade 1994.

The EU has also pursued preferential trade agreements with trading partners in Africa, Latin America, and Asia, seeking to include provisions aimed at restricting the imposition of export taxes on raw materials and the imposition of investment restrictions in mining, so as to ensure that EU businesses are not discriminated against with respect to CRMs. Most notably, the recently negotiated [EU-Chile Advanced Framework Agreement](#) provides for a dedicated chapter on 'Energy and Raw Materials' with commitments on access to CRMs.

Additionally, in the context of emerging environmental and geopolitical challenges, on 16 March 2023, the European Commission (hereinafter, Commission) published its [Proposal for a Critical Raw Materials Act](#), which sets targets in the EU for the production, refining, and recycling of CRMs needed for the green and digital transitions and seeks to foster and maintain sustainable and responsible corporate practices throughout global value chains. The Proposal is accompanied by a Communication, which proposes measures to support "*the diversification of supply chains through new international mutually supportive partnerships*" (see [Trade Perspectives Issue No. 6 of 27 March 2023](#)). In addition to the partnership recently concluded with Greenland, the Commission has agreed strategic partnerships on raw materials with [Canada](#) and [Ukraine](#) (both in July 2021), [Kazakhstan](#) and [Namibia](#) (both in November 2022),

as well as with [Argentina](#), [Chile](#), [Zambia](#), and the [Democratic Republic of Congo](#) (all four in October 2023).

Greenland's international status

Greenland has a special relationship with the EU, due to its links with Denmark. In 1979, Greenland declared its autonomy from Denmark and, in 1985, withdrew from the European Community. Whilst it is an autonomous territory, Greenland's foreign affairs are to an extent still controlled by Denmark. Notably, the [Act on Greenland Self-Government](#), grants the Government of Greenland competences regarding, *inter alia*, "mineral and oil resources", and allows it to negotiate and conclude, "on behalf of Denmark", agreements that "exclusively concern Greenland and entirely relate to fields of responsibility taken over by Greenland". However, "the powers granted to the Government of Greenland shall not limit the Danish Government's constitutional responsibility and powers relating to international affairs". Therefore, the *Strategic Partnership* falls within Greenland's competences.

In terms of bilateral cooperation, Greenland has been associated with the EU under Article 204 of the Treaty on the Functioning of the EU (hereinafter, TFEU), which sets out that "Articles 198 to 203 shall apply to Greenland, subject to the specific provisions for Greenland set out in the Protocol on special arrangements for Greenland, annexed to the Treaties". Notably, Articles 198 to 204 concern, *inter alia*, the association between the EU and "the non-European countries and territories which have special relations with Denmark, France, the Netherlands and the United Kingdom".

Article 199 of the TFEU lays down the objectives of that association, particularly, the principle of non-discrimination to ensure that trade between EU Member States and the territories receives treatment similar to that within the EU itself and that each territory applies to trade between itself and the EU Member States the same treatment as applied to the EU Member State with which it has "special relations". Article 203 of the TFEU requires the Council of the EU to establish "detailed rules and the procedure for the association", which are currently laid down in [Council Decision \(EU\) 2021/1764 on the association of the Overseas Countries and Territories with the European Union including relations between the European Union on the one hand, and Greenland and the Kingdom of Denmark on the other \(Decision on the Overseas Association, including Greenland\)](#).

Given Greenland's competences on mineral resources, the *Strategic Partnership* would reinforce the principle of non-discrimination and further ensure preferential conditions for European investments in Greenland's pursuit of raw materials.

The EU-Greenland Strategic Partnership on sustainable raw materials

The EU's *Strategic Partnership* with Greenland can be considered as a positive development in view of the efforts to mitigate the impacts of the limited supply of raw materials and production concentration and in light of Greenland's vast and untapped raw materials. Prior to the signing of the Memorandum of Understanding on the *Strategic Partnership*, the EU had adopted [Council Decision \(EU\) 2021/1764](#), which calls for, under Article 23, "cooperation in the field of raw materials, including rare earths".

The *Strategic Partnership* contains commitments for close cooperation between Greenland and the EU in five areas and provides an overview of the steps and actions that will be taken by both Parties: 1) *Economic and industrial integration of value chains for Critical Raw Materials and other raw materials*; 2) *Cooperation to leverage high international environmental, social and governance (ESG) standards*; 3) *Deployment of infrastructure required for the development of raw material value chains*; 4) *Strengthening of capacities and skills development along raw materials value chains*; and 5) *Cooperation on research and innovation*. In general terms, the Partnership foresees activities along the entire value chain of the raw materials, which are to provide mutual benefits to the Parties by allowing the EU access to Greenland's "extensive natural riches" and enabling Greenland to "diversify its economy in

a sustainable way". Notably, out of 34 CRMs identified by Commission, 25 are sourced in Greenland, such as rare earths, cobalt, and nickel.

The *Strategic Partnership* is intended to establish a strong public-private multi-level partnership between both Parties' representatives of, *inter alia*, institutions and bodies, industrial actors, business associations, and relevant ministries related to various aspects, such as attracting sustainable investments, supporting access to finance, and facilitating trade linkages within the context of "economic and industrial integration of value chains", including through ensuring that Greenland's mineral resources industry is internationally competitive in term of "prospecting, exploration, extraction, processing and refining of Raw Materials to support refining and manufacturing of semi-finished and end products in the EU". Additionally, the Parties agree to ensure that the markets for CRMs and other raw materials are "open, fair and competitive" and to maintain "dialogue to ensure the well-functioning and resilience of the Raw Materials value chains and trade and investment linkages" through, *inter alia*, promptly discussing "any concerns of disruptions of supply chains reported by the industry and possible mitigation measures to be taken by the Sides", as well as "any concerns of distortion of bilateral trade and investment". Ultimately, the *Strategic Partnership* is intended to deepen cooperation between the EU and Greenland with the aim of achieving closer integration of sustainable value chains for raw materials based on Greenland's "high resource potential" and the EU's "demand for minerals and expertise in prospecting, exploration, extraction, processing and refining".

To ensure sustainable mining activities, the Parties seek to cooperate to "leverage high international environmental, social and governance (ESG) standards, to ensure that Greenland's minerals sector is a lever for sustainable and inclusive economic growth with local and domestic value creation", which will include the "sustainable exploitation of mineral resources in close dialogue with the Greenlandic society – individuals, organisations, enterprises and other stakeholders - taking fully into account the unique nature of Greenland's pristine lands, and applying high ESG standards set out in legislation, agreements, guidelines and best practices". With respect to applying high ESG standards set out in legislation, the EU's insistence on laws that ensure environmentally friendly mining activities, could win over Greenland's strong opponents against mining, including relevant political parties, and put European mining companies ahead in the rush for Greenland's largely unexplored raw materials.

Towards realising the potential of the EU-Greenland Strategic Partnership

The *Strategic Partnership* is intended to generate more business opportunities and foster sustainable public and private investment in the EU, as well as in Greenland. Such cooperative approach is certainly preferable to the introduction of trade restrictions to protect certain goods and markets. As for the next steps, the Commission notes that the EU and Greenland would "jointly develop a roadmap with concrete actions to put the *Strategic Partnership* into practice". Interested stakeholders should follow the developments and take advantage of the various opportunities provided under the EU-Greenland *Strategic Partnership*.

Towards a net zero future? Viet Nam launches the Resource Mobilisation Plan to implement its commitments under the Just Energy Transition Partnership

On 1 December 2023, at the United Nations COP28 Climate Change Conference, Viet Nam's Prime Minister *Phạm Minh Chính* launched a *Resource Mobilisation Plan* (hereinafter, RMP) to implement the *Political Declaration on establishing the Just Energy Transition Partnership* (hereinafter, JETP), which had been agreed in December 2022 by Viet Nam and the *International Partners Group*, which consists of Canada, Denmark, the EU, France, Germany, Italy, Japan, Norway, the UK, and the US. Viet Nam's RMP is considered "an important first step" towards the implementation of the *JETP* by providing an overview of policy actions that are intended to enable Viet Nam to boost renewables and reduce its reliance on fossil fuels.

Viet Nam's commitment to accelerating the transition towards green energy

Over the past 20 years, Viet Nam's greenhouse gas (hereinafter, GHG) emissions have multiplied fivefold, which is largely due to the production of fossil fuels to meet the growth in electricity demand. To combat climate change and its impacts, at the UN COP26 Climate Conference of 2021, Viet Nam's Prime Minister *Phạm Minh Chính* had announced Viet Nam's commitment to phase out coal power generation by 2040, to reduce methane emissions from human activities by at least 30% by 2030, and to achieve net-zero carbon emissions by 2050.

The *Paris Agreement*, agreed in 2015 at the UN Climate Change Conference COP21, which aims to “hold global temperature increase to well below 2°C above pre-industrial levels and pursue efforts to limit it to 1.5°C above pre-industrial levels”, requires its Parties to regularly revise and increase its GHG emissions reduction targets in *Nationally Determined Contributions* (hereinafter, NDC). In its revised NDC, which was submitted to the United Nations Framework Convention on Climate Change (UNFCCC) in 2022, Viet Nam committed to reducing GHG emissions by 15.8% (equivalent to 146 million tonnes of CO₂) with its own efforts, and by 43.5% (equivalent to 403 million tonnes of CO₂) with international support, by 2030. To implement these targets, Viet Nam has, *inter alia*, developed its *National Energy Development Strategy*, which contains a number of specific objectives, such as increasing the share of renewable energy in Viet Nam's power supply to around 20% in 2030 and to 85% in 2050, compared to the current share of 16%.

The Just Energy Transition Partnership (JETP)

The *JETP* is a new financing mechanism between a group of industrialised countries and individual developing countries, which is designed to support the transition of coal-dependent developing countries away from fossil fuel production. On 14 December 2022, the *International Partners Group* and Viet Nam launched Viet Nam's *JETP*, which includes a USD 15.8 billion financial package, divided into public sector and private sector support, to assist Viet Nam to “deliver on its net zero 2050 goal and 2030 targets to accelerate and reduce the peaking of its greenhouse gas emissions and transition away from fossil fuels to clean energy”.

Viet Nam is the third country to be engaged in a *JETP* after South Africa (November 2021), which was granted investments with a total value of USD 8.5 billion, and Indonesia (November 2022), which was granted investments with a total value of USD 20 billion (see *Trade Perspectives, Issue No. 23 of 12 December 2022*). In terms of scope, the three *JETPs* contain the same commitments to phase out coal-fired power plants and to switch to renewable energy, but the structures and specific goals vary due to the different climate targets, domestic climate policies, and green infrastructure. Notably, Indonesia's *JETP* focuses on and provides express commitments to finance the early retirement of coal-fired power plants. Viet Nam's *JETP* focuses on financing the transition from the use of coal to renewable energy and other energy sources, such as ammonia.

Viet Nam's Resource Mobilisation Plan

To implement the *JETP*, Viet Nam's *RMP* includes the assessment of priority investments to help the country deliver on its “pathway to net-zero emissions”, identifies priority policy actions and regulatory reforms to develop “an enabling environment for investment”, and identifies priority investment projects in *JETP*-related areas. The *RMP* also provides details on the use of the USD 15.8 billion of investments committed by the *International Partners Group* and the *Glasgow Financial Alliance for Net Zero* (*i.e.*, a coalition of leading financial institutions committed to accelerating the net-zero transition) and sets out Viet Nam's *JETP* targets for emission reductions, including reducing GHG emissions by 43.5% by 2030, from the current level of 146.3 million tonnes of CO₂ equivalent. To implement the *JETP*, Viet Nam and the *International Partners Group* established in July 2023 a *JETP* Implementation Secretariat, which is headed by the Minister of Natural Resources and Environment. The *International*

Partners Group will facilitate a number of activities of the *JETP* Secretariat and work closely with the Government of Viet Nam to mobilise the investments over the next three to five years.

The *RMP* focuses on the eight categories that make up the *JETP*'s scope, namely: 1) Improving the regulatory framework for the energy transition; 2) The transition of coal power generation; 3) Developing the renewable energy industry; 4) Power transmission and energy storage; 5) Energy efficiency; 6) Energy transition in the transport sector; 7) Innovation, development, and technology transfer; and 8) Ensuring a “just” transition. The *RMP* identifies projects that will be given priority for implementation in 2024 for each category. For instance, for category 3, the priority actions include developing a regulation on tenders for onshore and offshore wind power and solar photovoltaic plants, while, for category 4, the priority actions include developing the legal framework to facilitate private sector investment in the transmission and distribution grid capacity and management. The *RMP* is intended to be “a living document, updated regularly as implementation progresses”.

Falling short on coal retirement plans?

According to the *International Energy Agency*, coal, despite being the most carbon-intensive fossil fuel, still supplies more than one third of the global electricity generation. Notably due to the use of coal-fired power plants, the GHG emissions from the energy sector accounted for 67.7% of Viet Nam's GHG emissions in 2020, and the amount is forecast to further increase to 74.1% by 2030. In this context, the retirement of coal-fired power plants holds a significant role in reducing global GHG emissions. Under the *JETP* and the *RMP*, Viet Nam committed to reducing its project pipeline for coal-fired energy generation and to the phasing out of unabated coal-fired power generation. The related priority actions consist of: 1) Developing a roadmap for the transition from coal-fired power plants; and 2) Developing retirement plans for existing coal-fired power plants in Viet Nam.

Despite this positive ambition, the *RMP* still allows coal to be significantly represented in Viet Nam's energy mix. In accordance with the *Power Development Plan 8*, adopted in May 2023, 11 new coal-fired power plants are still allowed to be built in Viet Nam until 2030. The *RMP* does not provide any timeline for the retirement of coal-fired power plants, allowing Viet Nam to continue operating existing plants “flexibly”. In addition, the *RMP* allows the co-firing of ammonia to reduce the use of coal, but this has been strongly criticised by non-governmental organisations, including *E3G*, a climate change think tank operating to accelerate the global transition to a low-carbon future, which stated that the use of ammonia prolongs “*the life of coal plants, emits more CO₂ than is commonly accounted for, and harms forest ecosystems*”.

Other policy instruments to accelerate the green transition

The *JETPs* are becoming an increasingly important part of the global energy transition. To meet its net zero objective and further reduce GHG emissions, Viet Nam could consider complementing this financing mechanism with the adoption of other policy instruments, such as a green “*taxonomy*” to scale up sustainable investment, and a carbon trading system to provide incentives for enterprises to reduce their emissions.

A “*green taxonomy*” provides investors and policymakers with appropriate benchmarks to determine which economic activities can be considered environmentally sustainable (see *Trade Perspectives, Issue No. 7 of 10 April 2023*). To date, Viet Nam still lacks an official green taxonomy, although a proposed classification framework for green credits and green bonds was introduced in December 2022 via a *Draft Decision of the Prime Minister on environmental criteria and certification for projects eligible for green credit and green bonds*. While the ASEAN region has immense potential for generating carbon credits due to the region's rich renewable energy resources, so far only Indonesia, Malaysia, Singapore, and Thailand have established carbon trading systems (see *Trade Perspectives, Issue No. 20 of 6 November 2023*). The Director of the Department of Climate Change within Viet Nam's Ministry of Natural Resources and Environment, *Tăng Thế Cường*, stated that Viet Nam is currently developing a domestic carbon market, which would focus on the mandatory trading of GHG emission quotas for

industries and businesses in the domestic market. However, the *RMP* highlights that this trading system would still “take several years” to become reality.

Preferential trade agreements as an important tool?

Trade liberalisation can help speed up the low-carbon transition by, *inter alia*, reducing tariffs for environmental goods and services. Such commitments are typically contained in recently concluded preferential trade agreements. For instance, the *UK-Australia Free Trade Agreement*, concluded in 2021, requires each Party to “facilitate and promote, as appropriate, trade and investment in environmental goods and services” and to “endeavour to address any potential barrier to trade in environmental goods and services”. More recent agreements tend to go a step further by requiring the Parties to eliminate Customs duties on environmental goods. For instance, under the *Australia-Singapore Green Economy Agreement*, the Parties established lists of 372 [environmental goods](#) (e.g., clean hydrogen) and 155 [environmental services](#) (e.g., hazardous waste treatment services), committing to address the existing tariff and non-tariff barriers affecting trade in environmental goods and services (see *Trade Perspectives*, [Issue No. 21 of 14 November 2022](#)).

The *EU-Viet Nam Free Trade Agreement* contains a dedicated Chapter on Trade and Sustainable Development, which, *inter alia*, reaffirms the Parties’ commitment to reaching the objectives of the *Paris Agreement* and requires the parties to endeavour to facilitate and promote trade and investment in environmental goods and services. Nonetheless, these commitments are rather general.

The need for a strong supporting legal framework

Having a comprehensive investment plan for the implementation of the *JETP* is an important first step, but the effectiveness of its implementation depends on whether the Government of Viet Nam will succeed in adopting the right approach and mechanisms to match the financing with feasible projects. The Government of Viet Nam should consider developing a stronger domestic policy framework that supports its green transition efforts, specifically with policies to phase-out the use of coal-fired power plants and to incentivise the investment and development of infrastructure relevant to the green transition. It is also important for Viet Nam to seek greater cooperation with like-minded partners.

EU rules on wine labelling: Important judgement by the Court of Justice of the EU and regulatory changes

On 23 November 2023, the Court of Justice of the European Union (hereinafter, CJEU or Court) issued its preliminary ruling in [Case C-354/22](#), requested by Germany’s Federal Administrative Court in the proceedings *Weingut A v Land Rheinland-Pfalz*. The case concerns a winegrower in the Moselle region of Germany that uses the terms “*Weingut*” (*i.e.*, winery) and “*Gutsabfüllung*” (*i.e.*, estate bottled) on the labels of its wine, which comes from grapes not only grown in its own vineyards and pressed by another winegrower. The article provides an overview of the case and the implications of this judgement for the wine industry. The article also looks at new information requirements, applicable since 8 December 2023, whereby all new wine placed on the EU market must disclose information of its ingredients, allergens, energy, and nutrition information, and the related recent interpretation by the European Commission (hereinafter, Commission).

The German case on wine labelling

The applicant, a winegrowing holding located in Zell, in Germany’s Moselle region, produces wine from grapes harvested not only in its own vineyards, but also from other vineyards that it leases. One of those leased vineyards is located approximately 70 km away from Zell and is owned by a winegrowing holding belonging to another winegrower. The two winegrowers have

concluded a contract under which the leased vines are cultivated by their owner under the instructions of the eponymous (*i.e.*, name giving) winegrower. In addition, a winepress facility is leased to the applicant each year, on an exclusive basis, for a period of 24 hours as of harvesting, for the processing of grapes from the leased vineyards. Under that lease, pressing is carried out on the premises of the owner of the press in accordance with the oenological practices of the applicant, whose staff then also transports the wine to its “*holding*”.

On its wines, the applicant used the indications “*Weingut*” and “*Gutsabfüllung*” for wine made on the premises of the other winegrower. The German Land Rhineland-Palatinate took the view that this was not allowed, given the lack of autonomy of the permanent establishment at the owner’s premises and the fact that the applicant did not employ its own staff for the purposes of the pressing. The applicant brought an action before the Administrative Court, Trier, Germany, seeking a declaration that it was entitled to use those two indications. That court upheld the action, primarily on the ground that responsibility for the actual management, continuous supervision and exclusive responsibility for winemaking lay with the applicant.

The Land appealed that judgment before the Higher Administrative Court, which reversed the judgment at first instance and dismissed the action of the applicant. The appeal court took the view that, in particular, winemaking must take place on a “*holding*” that constitutes a single operational unit with a permanent establishment that is permanently used by the owner of the eponymous winegrowing holding and on which staff work under its management. According to the appeal court, a separation of the stages of winemaking, such as the pressing stage, is at odds with the idea that “*everything should remain in the same hands*”. The applicant brought an appeal on a point of law before Germany’s Federal Administrative Court, which has doubts as to whether winemaking may be regarded as having been ‘*entirely*’ carried out on the eponymous “*holding*”, where that “*holding*” arranges for the grapes to be pressed at a pressing facility under lease from another vineyard for a period of 24 hours.

EU law on wine labelling

Article 54(1) of [Commission Delegated Regulation \(EU\) 2019/33 supplementing Regulation \(EU\) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, restrictions of use, amendments to product specifications, cancellation of protection, and labelling and presentation](#) concerns the ‘*Indication of the holding*’ and states that “*The terms referring to a holding listed in Annex VI, other than the indication of the name of the bottler, producer or vendor, shall be reserved for grapevine products with protected designations of origin or geographical indications. Those terms shall only be used if the grapevine product is made exclusively from grapes harvested in vineyards exploited by that holding and the winemaking is entirely carried out on that holding*”. Annex VI includes terms for ten EU Member States, including:

For Germany	Burg, Domäne, Kloster, Schloss, Stift, Weinbau, Weingärtner, Weingut, Winzer
For France	Abbaye, Bastide, Campagne, Chapelle, Château, Clos, Commanderie, Cru, Domaine, Mas, Manoir, Mont, Monastère, Monopole, Moulin, Prieuré, Tour
For Italy	abbazia, abtei, ansitz, burg, castello, kloster, rocca, schlofl, stift, torre, villa

Recital 48 of [Delegated Regulation \(EU\) 2019/33](#) explains that “*the indication of the holding which exploits the vineyards from which the grapevine products come and where all the winemaking processes are carried out, may constitute an added value for producers and a higher quality indication for consumers. It should therefore be permissible for producers to indicate the name of a holding on the labels of grapevine products bearing a protected designation of origin or protected geographical indication*”.

The judgement of the CJEU

In its judgement, the CJEU concludes that “*A wine-grower may indicate its own wine-growing holding even if pressing takes place on the premises of another wine-grower. However, this is*

on condition that, during the necessary period, only the eponymous wine-grower uses the winepress under lease and that it manages the pressing and supervises it closely and continuously”.

The Court observes that, under EU law, the terms at issue, “*which aim to guarantee a superior quality, are reserved for grapevine products covered by a protected designation of origin (PDO) or a protected geographical indication (PGI)*”. The Court finds that the concept of “*holding*” and, therefore, the use of the terms at issue, “*are not restricted solely to land owned by the winegrower or situated near it*” and that they “*may extend to vineyards under lease and situated elsewhere as long as the eponymous winegrower assumes actual management, close and continuous supervision and responsibility for the cultivation and harvesting of the grapes*”. The Court argues that, “*where those conditions are satisfied so far as concerns the pressing in a winepress leased for a short period from another holding and so long as that winepress is exclusively at the disposal of the eponymous winegrowing holding for the period necessary, the winemaking may be regarded as having been ‘entirely’ carried out on that holding*”, in accordance with the second subparagraph of Article 54(1) of *Delegated Regulation 2019/33*. Furthermore, the Court held that “*the same conditions apply where staff of the winegrowing holding which rents out the winepress carries out the pressing. That operation must be carried out in accordance with the eponymous wine-growing holding’s own requirements. The latter cannot merely rely on any instructions given by the winegrowing holding which rents out the pressing facility*”.

According to the CJEU’s judgement, if certain conditions are met, a winery may use its own name and the term “*Weingut*” to market the wine even when it has rented a third-party facility to press the grapes. The winemaking can be considered to have taken place entirely in the eponymous holding, even if the pressing of the grapes takes place in a third-party rented holding. However, it is subject to the condition that the holder of that establishment assumes effective management, close and constant supervision, and responsibility for that operation.

The terms referring to a “*holding*” listed in Annex VI to *Delegated Regulation 2019/33* are reserved for grapevine products with protected designations of origin or geographical indications. Those terms must only be used if the grapevine product is made exclusively from grapes harvested in vineyards exploited by that “*holding*” and the winemaking is entirely carried out on that holding. Annex VI includes, for Germany, the term “*Weingut*”; for Italy, the term “*villa*”; and, for France, terms like “*Abbaye*”, “*Château*” and “*Domaine*”. Whether such terms may be used by a winegrowing holding on the label even if growing of the grapes and pressing takes place on the premises of another winegrower must now be determined in light of the CJEU’s interpretation of the production “*entirely carried out on that holding*”.

New rules on the labelling of ingredients, allergens, energy, and nutrition information

Another important development in the EU concerns the labelling of wine. Since 8 December 2023, all new wine placed on the EU market must disclose information of its ingredients, allergens, energy, as well as nutrition information on the basis of [Regulation \(EU\) 2021/2117 of the European Parliament and of the Council amending Regulations \(EU\) No 1308/2013 establishing a common organisation of the markets in agricultural products, \(EU\) No 1151/2012 on quality schemes for agricultural products and foodstuffs, \(EU\) No 251/2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and \(EU\) No 228/2013 laying down specific measures for agriculture in the outermost regions of the Union](#) (see *Trade Perspectives*, Issue No. 17 of 19 September 2022). With respect to nutrition information, a nutrition declaration stating the energy value solely or together with one or more nutrients, such as fat, carbohydrate, salt, and fibre, has to be provided. Producers have the option of limiting, on the package or on a label attached to the bottle, the contents of the nutrition declaration to the energy value, which may be expressed by using the symbol “*E*” for energy. The full nutrition declaration must then be “*provided by electronic means identified on the package or on a label attached thereto*”.

Similarly, “*the list of ingredients may be provided by electronic means identified on the package or on a label attached thereto*”, though ingredients that cause allergies or intolerances must appear directly on the package or on a label attached thereto with the word “*contains*” followed by the name of the substance causing allergies or intolerances. It appears that many wine producers have prepared for the new rules in advance and decided to use the ISO 7000 - 2760 symbol ⓘ due to it “*being globally recognised as standing for ‘information’*” in order to identify the information provided by electronic means. On 24 November 2023, responding to questions raised by stakeholders, the Commission issued a [Notice](#) with interpretations of the labelling requirements stating that merely providing the ⓘ symbol to signify ‘*information*’ and a QR code was “*not sufficient*”, underlining that “*a heading (...) must be used, in the same way as the current practice used for the paper labels for other food (i.e. containing the word ‘ingredients’)*”. It must be noted that the Commission’s *Notice* is intended to assist national authorities and businesses in the application of EU legislation, but that only the CJEU is competent to authoritatively interpret EU law.

Outlook

After the CJEU’s judgement, the case goes back to Germany’s Federal Administrative Court to determine whether the denominations at issue may be used and whether the vineyards under lease, situated 70 km from the eponymous wine-growing holding, are covered by that holding’s PDO or PGI. Interested stakeholders are advised to carefully analyse the CJEU’s judgement and its follow-up in Germany. With respect to the new food information requirements to be provided on wine bottles and containers and the Commission’s related *Notice*, stakeholders should seek adequate legal advice in order to ensure compliance of their products.

Recently adopted EU legislation

Trade Law

- [Council Regulation \(EU\) 2023/2720 of 27 November 2023 opening and providing for the management of the Union autonomous tariff quotas for certain fishery products for the 2024–2026 period](#)
- [Commission Implementing Regulation \(EU\) 2023/2742 of 30 November 2023 opening a tariff quota for the year 2024 for the import into the Union of certain goods originating in Norway resulting from the processing of agricultural products covered by Regulation \(EU\) No 510/2014 of the European Parliament and of the Council](#)
- [Council Decision \(EU\) 2023/2761 of 4 December 2023 on the signing, on behalf of the European Union, of the Interim Agreement on Trade between the European Union and the Republic of Chile](#)
- [Commission Decision \(EU\) 2023/2719 of 6 December 2023 on the confirmation of equivalence recognition with regard to organic products provided for in Annex 14 to the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part](#)
- [Decision No 1/2021 of the EU-Albania Stabilisation and Association Council of 23 July 2021 amending the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania, of the other part, by replacing Protocol 4 thereto concerning the definition of the concept of originating products and methods of administrative cooperation \[2023/2676\]](#)

- *Commission Implementing Regulation (EU) 2023/2770 of 12 December 2023 prohibiting the introduction into the Union of specimens of certain species of wild fauna and flora in accordance with Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein*
- *Commission Implementing Regulation (EU) 2023/2791 of 13 December 2023 amending Implementing Regulation (EU) 2020/1988 as regards the quantities that may be imported under certain tariff quotas for sheepmeat and goatmeat following the Agreement between the European Union and the Republic of Chile*

Customs Law

- *Commission Implementing Regulation (EU) 2023/2712 of 5 December 2023 laying down rules for the application of Regulation (EU) 2019/1020 of the European Parliament and of the Council as regards the details of the information to be transmitted from national customs systems to the information and communication system for market surveillance concerning products placed under the customs procedure release for free circulation*

Trade Remedies

- *Regulation (EU) 2023/2675 of the European Parliament and of the Council of 22 November 2023 on the protection of the Union and its Member States from economic coercion by third countries*
- *Commission Implementing Regulation (EU) 2023/2758 of 12 December 2023 imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the Federative Republic of Brazil, the Islamic Republic of Iran and the Russian Federation following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council*
- *Commission Implementing Regulation (EU) 2023/2757 of 13 December 2023 imposing a definitive anti-dumping duty on imports of trichloroisocyanuric acid originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of the Regulation (EU) 2016/1036 of the European Parliament and of the Council*
- *Commission Implementing Regulation (EU) 2023/2766 of 13 December 2023 terminating the new exporter review of Implementing Regulation (EU) 2017/2230 imposing a definitive anti-dumping duty on imports of trichloroisocyanuric acid originating in the People's Republic of China, for a Chinese exporting producer, and terminating the registration of the imports of this exporting producer*
- *Commission Implementing Regulation (EU) 2023/2769 of 13 December 2023 accepting a request for new exporting producer treatment with regard to the definitive anti-dumping measures imposed on imports of electric bicycles originating in the People's Republic of China and amending Implementing Regulation (EU) 2019/73*

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