



LOOKING TO THE FUTURE: MAKING WINE LAWS COMPATIBLE, THE CALIFORNIA PERSPECTIVE

*Toward a Common Standard:
New European Union Label Laws and
Geographic Indicators of Origin*

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Compatibility of Wine Laws

International Types of Compatibility

- Harmonized
 - Reciprocal (WCO HTS)
 - Mandated (EC FTAs)
- Equivalency (New Zealand/EC Veterinary Agreement)
- Mutual Recognition (WWTG)
- Bilateral Agreement (U.S., Australia, Canada Wine Agreements with the EU)
- International Standards (CODEX/OIV/WWTG)
- International Agreements (WTO's TRIPS/SPS/TBT)
- Alignment (APEC)

Impediments to Compatibility

- National Legal Systems
 - Code Based or Case Based
 - IPR Protection Schemes
 - Market Controls
 - Composition and Production Methodologies
 - Consumer Protection
- Lack of Capacity
- National Priorities
- Market Protection
 - Health and Safety
 - Regulating Quality
 - Intellectual Property/Traditional Practices
- Competitive Economic Interests
 - Standards versus Technical Regulations

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CALIFORNIA COMPATIBILITY OBJECTIVES

- Agreements to Respond to Different Legal Systems
- Regulator Cooperation
- Limit Control of Market
- Winemaking Practices
 - Composition
 - Processes
 - Additives and Processing Aids
- Label Regulation
 - Health and Safety
 - Misleading Consumer
 - Fraudulent Practices
- Border Formalities
 - Import Tariffs
 - Import Licensing
 - Certification Documentation
 - Redundant Laboratory Testing
 - Revenue Stamps
- Eliminate
 - Foreign Inspections of Winery
 - Trade Distorting Subsidies

Responding to Objectives

Agreements and Regulator Cooperation

- WTO 's TBT and SPS Equivalency Agreements
- Standards and Technical Regulations
- Regulators' Memoranda of Understanding
- Regulators' Fora (WWTG and APEC)

Winemaking Practices

- Symmetrical Bilateral and Plurilateral Mutual Recognition Agreements

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Responding to Objectives

Label Regulation

- Develop Legal Coherence Between Countries to Align Mandatory Technical Information
- Accurate and Not Misleading
- Let the Consumer Decide Quality (standards)
- Include in MAA or Equivalency Agreements

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Responding to Objectives

Border Formalities

- Adopt Internationally Accepted Best Practices – e.g. Risk Assessment, AEO
- Assist Emerging and Developing Economies with Technical Assistance
- Mutual Acceptance for Testing and Certification
- Align Import Tariffs and Collect Revenue Electronically

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Responding to Objectives

Eliminate Unnecessary Border and Verification Formalities

- Document Consularization
- Winery Inspections by Foreign Regulators
- Testing for Substances that Cannot Exist in Wine
- Redundant Testing

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Align Intellectual Property Labeling Regulation

- Use Existing IPR Enforcement Mechanisms
 - Private Rights Not Public Rights
 - Compliance with TRIPS provisions
 - Resist Efforts to Create New IPR for Winemakers and Winegrape Growers, e.g. Traditional Terms and Traditional Specialty Guaranteed
 - Confirm that the Consumer is Being Mislead Before Restricting Label Terms
- Monitor Fair Competition, Not Create Competitive Advantage for Certain Producers

CONCLUSION

- Making Wine Laws Compatible is Feasible
- Harmonization is Not the Answer
- International Agreements and Standards Allow for Equivalence and Mutual Acceptance
- Understand a Growing Market Opportunity Without Government Creating Competitive Advantages for Its Producers
- Good Will and Cooperation are Key

Attaining Compatibility



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