



## **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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