

# Guide to simplifying the presentation of amendments to the product specifications of PDOs and PGIs

## 1. INTRODUCTION

AGRI.B.3 (Geographical indications unit) is concerned by the excessive length of certain applications to amend the product specifications of PDOs and PGIs. This has been partly due to Member States wishing to comply with the Commission's request for amendments to be clear and precise. However, handling files of excessive length is particularly problematic as regards readability, translation burden, and the volume of pages that have to be published in the Official Journal.

In order to ensure efficiency and savings for both national authorities and for the Commission in the preparation and handling of amendments, AGRI.B.3 has prepared this Guide, which aims to reduce the length of amendment applications, facilitate reading, and help the reader focus on substantive changes.

The Commission services have carefully considered the regulatory requirements and recent case-law on the respective roles of Member States and the Commission, summed up in the 'Comté' case of 2020:

*'[...] the decision by which the Commission approves an application is based on the decision made by the authorities of the Member State concerned in respect of that application and, accordingly, is necessarily influenced by the latter decision, particularly since the discretion conferred on the Commission at the time of that approval is, in essence, [...] limited to checking that the application contains the information required and does not appear to be vitiated by manifest errors'* (Judgment of 29 January 2020 C-785/18 (Comté) paragraph 36).

## 2. SUGGESTIONS REGARDING PRESENTATION

2.1. It is recommended that the application for amendment (without the Single document) has a maximum of 10 pages

2.2. Number each amendment or use a sub-structure to present the amendments for ease of reading.

For example: *use the headings ticked under point 3 of the application as subheadings for the amendment descriptions under point 5 'Amendment(s)' of the amendment application.*

2.3. When quoting text from the original or amended version use quotation marks or both quotation marks and italics so it is easier to assess whether you are quoting or summarising an amendment.

2.4 For each amendment indicate clearly whether it impacts critical or non critical elements or whether it is editorial.

## 3. AMENDMENTS THAT IMPACT CRITICAL ELEMENTS

3.1. 'Amendments that impact critical elements' are those which change or introduce:

- a **GI name**,
- the boundaries of the **geographical area**,
- the product essential **characteristics**, **specificities** or **qualities**,
- the nature or basis of the **link**,
- a **restriction/limitation** on the freedom of services in the EU as regards marketing the product or its raw materials, including bottling, slicing and packaging.

3.2. The change should be clearly described and the specific reason(s) for each amendment to each section or part of the product specification should be provided.

3.3. In order to clearly describe the change:

- Identify the section or paragraph of the product specification concerned.
- Compare the sections of the old product specifications with the amended sections, accurately explaining the change.

Example: *'In section 4 (product description) the minimum Brix content has been raised from 5° (old provision) to 7°.'*

- Only if it is not possible to express the changes clearly should text be quoted directly from the product specification. In such cases, only compare the pertinent extracts (i.e. only the aspects which are amended, not the whole section, point or paragraph containing the aspect to be modified).

3.4. Give the reason for each amendment, or if there are several amendments which have the same justification, group these under a single reason.

- Example: *‘The changes [a, b, and c] to the Product Description result from the impact of climate change on production conditions leading to earlier ripening...’*

#### 4. **AMENDMENTS THAT DO NOT IMPACT CRITICAL ELEMENTS**

4.1. ‘Amendments that do not impact critical elements are those that:

- do not affect the critical elements of the **product description**
- do not affect the basis of the **link**
- do not imply a **new restriction** or a change to a restriction on the freedom to provide services in the EU, in particular bottling, packaging, slicing etc.
- change the **method of production** but do **not** modify the final product as described in the product specification nor any aspect of the link (know-how and specificities of the method of production that are put forward in the link)

Example: *‘The distance between the trees has decreased from (X to Z) and therefore plant density and output per ha has increased (respectively from X to Z and from Y to W). The reason for this change is to improve productivity. The changes do not lead to any modification to the product description’<sup>1</sup>.*

- concern **controls and traceability**

Examples: *‘the control checklist has been updated following an internal review’; ‘the traceability rules have been updated in line with industry guidelines’.*

- concern **packaging and labelling** but do not imply new restrictions

Example: *‘The limits regarding the maximum size of boxes are removed in order to take advantage of new packaging technology and adapt to market demand.’<sup>2</sup>*

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<sup>1</sup> In this example, the above justification would not be sufficient if, in the link, it had been indicated that the specificity of the product were, for example: *‘... due to the method of production and particularly due to the specific distance between trees’.*

<sup>2</sup> This short justification would not be sufficient if packaging were part of the link and/or of the specificity of the product, or if a restriction (e.g. on box sizes) impacting operators on the single market had been introduced. In these cases, the amendment would fall under ‘amendments that impact critical elements’ (see section 3 above).

4.2. These amendments should be described clearly, without quoting the product specification and without using ‘before’ and ‘after’ comparisons of the text. The changes should be briefly described and a short justification given.

## 5. EDITORIAL AMENDMENTS

5.1. Editorial amendments are:

- Changes made to the **layout/presentation** of the product specification and/or single document such as changing the title, reordering the sections, shifting paragraphs, correcting spelling mistakes.
- **Administrative changes**, e.g. to the geographical area, that do not imply changes to the area or its boundary. Example: *‘The geographical area remains the same, however the description is adapted following the administrative reform of...’*
- Changes concerning contact details of the national authority, **control authority/control body, producer group** [N.B.: please remove or anonymise all personal data.].
- Amendments removing **redundant, unnecessary or superfluous** material, i.e. parts of the product specification that are **not mandatory** (see Article 7 of Regulation (EU) No 1151/2012).

Example: *‘Annex 3 “Report of laboratory analysis” is superfluous and removed from the product specification.’*

5.2. Editorial amendments should be described briefly. The text ‘before’ and ‘after’ the amendment should **not** be quoted.

## 6. ORGANISING CHANGES MADE TO THE PRODUCT SPECIFICATION AND SINGLE DOCUMENT

The subject of the amendment is always the product specification.

For non-minor amendments, applicants must also supply a Single document.

- When no SD has previously been published, **no reference** should be made to any previously published summary. The section entitled ‘Amendment(s)’ (point 5 of Annex V to Regulation 668/2014) should be limited to the amendments to the product specification and the SD should be presented separately.
- Where the proposed SD is a revised version of a previously published SD, the sections of the SD that have been changed must be **noted in the amendment application**, alongside the relevant change(s) to the product specification.

Example:

*‘The limits regarding the maximum size of boxes are removed in order to take advantage of new packaging technology and adapt to market demand.*

*(amendment also to single document).’*

### **Amendment to single document only**

In the rare, but not impossible, event that a section of the existing single document is amended but there is no corresponding change to the product specification, this should be:

- clearly labelled as a ‘Change to single document only’ and
- treated as in Sections 3-5 above, as a *critical*, *non-critical* or *editorial* change, depending on its significance.

### **7. TICKING THE BOXES IN POINT 3 “HEADING IN THE PRODUCT SPECIFICATION AFFECTED BY THE AMENDMENT”**

When a section of the Product Specification is modified because it is linked to the approval of an amendment of another section (ie method of production is changed and this affects the link) then tick the boxes of point 3 corresponding to the headings impacted.

When a section of the Single document (eg the link) is improved from an editorial point of view, you are invited to tick the corresponding box of point 3 (link) as the corresponding section agris being modified even if it is only from an editorial point of view.