reason

E.U. Regulations Created a Port Wine Black Market

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People have been making wine in the verdant hills of northern Portugal's Douro Valley for nearly 2,000 years. Nowadays, the region is home to more than 19,000 grape farmers and 1,000 companies tending terraced vineyards that tower above the Douro River below.

Hundreds of these vineyards are small, often family-owned, properties called *quintas*, many of which produce port: a syrupy, sweet fortified wine. As a European Union–protected designation of origin product (similar to French Champagne or Italian Parmigiano-Reggiano), the production, labeling, and sale of port are heavily regulated—sometimes to the detriment of the small-scale operators keeping the cultural practice alive.

When I visited the Douro Valley this fall, one quinta owner shared that she couldn't officially sell port because of burdensome government regulations. All port sellers are required to keep at least 75,000 liters in reserve at all times, she explained—a standard that large producers can meet, but one that might bankrupt a small quinta like hers. In effect, she could only participate in this important cultural heritage as a black market seller.

Francisco Montenegro, owner of the Douro Valley–based Aneto Wines, notes that would-be port sellers have to grapple with several regulations that make it difficult for them to enter the market. On top of the 75,000-liter stock minimum, port producers are allowed to sell or market only one-third of their output, "thus forcing the producer to let [two-thirds] of their wines age." They have to register under a specific tax status "as they work with spirits," which requires them to "pay more customs taxes." Government regulations also mandate that producers "wait at least 3 or 4 years if they want to bottle a normal tawny" port, Montenegro says.

A vast regulatory regime dictates the kinds of grapes producers may use, the number of grapes they may harvest in a year, and when they may bottle and sell so-called vintage ports. These regulations largely come from the Instituto dos Vinhos do Douro e do Porto (IVDP), or Port and Douro Wines Institute. The IVDP says it is a government body that "upholds the quality and quantity" of port and Douro Valley wines through "binding specifications."

"We must take into account that not all countries in the world recognize or protect appellations of origin as an intellectual property right," according to the IVDP.

A 2016 Cato Institute report by policy analyst K. William Watson cast doubt on the argument that these regulations protect intellectual property belonging to traditional producers. At their core, patents and copyrights provide "monopoly privileges.…to ensure that people have adequate incentive to invent new technologies or create art," it explained. But geographical indication protection "does just the opposite" by rewarding companies that "maintain old ways of doing things by making it more difficult for innovative competitors to communicate product qualities to consumers."

A Champagne enthusiast might not care that a product comes specifically from the Champagne region of France and meets all the regulations the name demands, and that person wouldn't be harmed or deceived by a product branded as "Portuguese Champagne." He *is* harmed by this barrier to entry into the marketplace, which limits his options as a consumer.

The E.U.'s "aggressive approach" to geographical indications serves "as a way to monopolize certain markets of commonly produced food categories, confiscating generic terms like parmesan and feta, even though such terms entered into generic usage generations ago," Shawna Morris, former vice president for trade policy at the U.S. Dairy Export Council, told the Associated Press in 2018.

"For centuries, Douro has always meant Port," wine writer John Sumners reported for *VinePair* last year. But this may be changing in favor of less-regulated products: "Dry table wines offer far more market exposure" and "require less tied-up capital," explained Sumners. According to one wine expert interviewed by *VinePair*, port sales have declined by around 30 percent in the past two decades.

There are many reasons for that decline, but a regulatory regime that keeps new entrants out of the market can't help. These restrictions don't just serve to keep malicious foreign counterfeiters from flooding the market with low-quality port. They can stymie the efforts of innovative producers and traditional, small-scale operators alike—people with a passion for culturally important products who simply can't afford to take on a massive regulatory burden.

Europe's Protected Booze

As of February 2023, the European Union listed 3,500 food and drink products on its three geographical indication registries, which regulate the naming, packaging, and sale of certain culturally important products. Of those 3,500, 46.6 percent are wines, 46 percent are agricultural products and foods, and 7.4 percent are spirit drinks, according to the European Commission's Directorate-General for Agriculture and Rural Development.