

Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89

CHAPTER I

**SCOPE, DEFINITION AND CATEGORIES OF SPIRIT DRINKS**

*Article 1*

**Subject matter and scope**

1 This Regulation lays down rules on the definition, description, presentation and labelling of spirit drinks as well as on the protection of geographical indications of spirit drinks.

2 This Regulation shall apply to all spirit drinks placed on the market in the Community whether produced in the Community or in third countries, as well as to those produced in the Community for export. This Regulation shall also apply to the use of ethyl alcohol and/or distillates of agricultural origin in the production of alcoholic beverages and to the use of the names of spirit drinks in the presentation and labelling of foodstuffs.

3 In exceptional cases where the law of the importing third country so requires, a derogation may be granted from the provisions of Annexes I and II in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

*Article 2*

**Definition of spirit drink**

1 For the purpose of this Regulation, ‘spirit drink’ means an alcoholic beverage:

- a intended for human consumption;
- b possessing particular organoleptic qualities;
- c having a minimum alcoholic strength of 15 % vol.;
- d having been produced:
  - (i) either directly:
    - by the distillation, with or without added flavourings, of naturally fermented products, and/or
    - by the maceration or similar processing of plant materials in ethyl alcohol of agricultural origin and/or distillates of agricultural origin, and/or spirit drinks within the meaning of this Regulation, and/or
    - by the addition of flavourings, sugars or other sweetening products listed in Annex I(3) and/or other agricultural products and/or foodstuffs to ethyl alcohol of agricultural origin and/or to distillates of agricultural origin and/or to spirit drinks, within the meaning of this Regulation,
  - (ii) or by the mixture of a spirit drink with one or more:

- other spirit drinks, and/or
- ethyl alcohol of agricultural origin or distillates of agricultural origin, and/or
- other alcoholic beverages, and/or
- drinks.

2 However, drinks falling within CN codes 2203, 2204, 2205, 2206 and 2207 shall not be considered spirit drinks.

3 The minimum alcoholic strength provided for in paragraph 1(c) shall be without prejudice to the definition for the product in category 41 in Annex II.

4 For the purpose of this Regulation the technical definitions and requirements are laid down in Annex I.

### *Article 3*

#### **Origin of ethyl alcohol**

1 The ethyl alcohol used in the production of spirit drinks and all of their components shall not be of any origin other than agricultural, within the meaning of Annex I to the Treaty.

2 The ethyl alcohol used in the production of spirit drinks shall comply with the definition provided for in Annex I(1) to this Regulation.

3 The ethyl alcohol used to dilute or dissolve colorants, flavourings or any other authorised additives used in the preparation of spirit drinks shall be ethyl alcohol of agricultural origin.

4 Alcoholic beverages shall not contain alcohol of synthetic origin, nor other alcohol of non-agricultural origin within the meaning of Annex I to the Treaty.

### *Article 4*

#### **Categories of spirit drinks**

Spirit drinks shall be classified into categories according to the definitions laid down in Annex II.

### *Article 5*

#### **General rules concerning the categories of spirit drinks**

1 Without prejudice to the specific rules laid down for each of the categories numbered 1 to 14 in Annex II, the spirit drinks defined therein shall:

- a be produced by the alcoholic fermentation and distillation exclusively obtained from the raw material provided for in the relevant definition for the spirit drink concerned;
- b have no addition of alcohol as defined in Annex I(5), diluted or not;
- c not contain added flavouring substances;
- d only contain added caramel as a means to adapt colour;
- e solely be sweetened to round off the final taste of the product, according to Annex I(3). The maximum level for the products used for rounding off listed under Annex I(3)(a)

to (f) shall be decided upon in accordance with the regulatory procedure with scrutiny referred to in Article 25(3). The particular legislation of the Member States shall be taken into account.

2 Without prejudice to the specific rules laid down for each of the categories numbered 15 to 46 in Annex II, the spirit drinks defined therein may:

- a be obtained from any agricultural raw material listed in Annex I to the Treaty;
- b have addition of alcohol as defined in Annex I(5) to this Regulation;
- c contain natural or nature-identical flavouring substances and preparations as defined in Article 1(2)(b)(i) and (ii) and in Article 1(2)(c) of Directive 88/388/EEC;
- d contain colouring as defined in Annex I(10) to this Regulation;
- e be sweetened to correspond to particular product characteristics and according to Annex I(3) to this Regulation and taking into account the particular legislation of the Member States.

3 Without prejudice to the specific rules laid down in Annex II, other spirit drinks which do not meet the requirements of categories 1 to 46 may:

- a be obtained from any agricultural raw material listed in Annex I to the Treaty and/or foodstuff suitable for human consumption;
- b have addition of alcohol as defined in Annex I(5) to this Regulation;
- c contain one or more of the flavourings as defined in Article 1(2)(a) of Directive 88/388/EEC;
- d contain colouring as defined in Annex I(10) to this Regulation;
- e be sweetened to correspond to particular product characteristics and according to Annex I(3) to this Regulation.

### *Article 6*

#### **Member States' legislation**

1 In applying a quality policy for spirit drinks which are produced on their own territory and in particular for geographical indications registered in Annex III or for the establishment of new geographical indications, Member States may lay down rules stricter than those in Annex II on production, description, presentation and labelling in so far as they are compatible with Community law.

2 Member States shall not prohibit or restrict the import, sale or consumption of spirit drinks which comply with this Regulation.

## CHAPTER II

### **DESCRIPTION, PRESENTATION AND LABELLING OF SPIRIT DRINKS**

#### *Article 7*

#### **Definitions**

For the purpose of this Regulation the terms 'description', 'presentation' and 'labelling' are defined in Annex I(14), (15) and (16).

## Article 8

### Sales denomination

In accordance with Article 5 of Directive 2000/13/EC, the name under which a spirit drink is sold (sales denomination) shall be subject to the provisions laid down in this Chapter.

## Article 9

### Specific rules concerning sales denominations

1 Spirit drinks which meet the specifications for the products defined in categories 1 to 46 of Annex II shall bear in their description, presentation and labelling the sales denomination assigned therein.

2 Spirit drinks which meet the definition laid down in Article 2 but which do not meet the requirements for inclusion in categories 1 to 46 of Annex II shall bear in their description, presentation and labelling the sales denomination 'spirit drink'. Without prejudice to paragraph 5 of this Article, that sales denomination shall not be replaced or altered.

3 Where a spirit drink meets the definition of more than one category of spirit drink in Annex II, it may be sold under one or more of the names listed for those categories in Annex II.

4 Without prejudice to paragraph 9 of this Article and to Article 10(1), the names referred to in paragraph 1 of this Article shall not be used to describe or present in any way whatsoever any drink other than the spirit drinks for which those names are listed in Annex II and registered in Annex III.

5 Sales denominations may be supplemented or replaced by a geographical indication registered in Annex III and in accordance with Chapter III, or supplemented in accordance with national provisions by another geographical indication, provided that this does not mislead the consumer.

6 The geographical indications registered in Annex III may only be supplemented either:

- a by terms already in use on 20 February 2008 for established geographical indications within the meaning of Article 20, or
- b according to the relevant technical file provided for under Article 17(1).

7 An alcoholic beverage not meeting one of the definitions listed under categories 1 to 46 of Annex II shall not be described, presented or labelled by associating words or phrases such as 'like', 'type', 'style', 'made', 'flavour' or any other similar terms with any of the sales denominations provided for in this Regulation and/or geographical indications registered in Annex III.

8 No trade mark, brand name or fancy name may be substituted for the sales denomination of a spirit drink.

9 The names referred to in categories 1 to 46 of Annex II may be included in a list of ingredients for foodstuffs provided that the list is in accordance with Directive 2000/13/EC.

## Article 10

### Specific rules concerning the use of sales denominations and geographical indications

1 Without prejudice to Directive 2000/13/EC, the use of a term listed in categories 1 to 46 of Annex II, or of a geographical indication registered in Annex III in a compound term or the allusion in the presentation of a foodstuff to any of them shall be prohibited unless the alcohol originates exclusively from the spirit drink(s) referred to.

2 The use of a compound term as referred to in paragraph 1 shall also be prohibited where a spirit drink has been diluted so that the alcoholic strength is reduced to below the minimum strength specified in the definition for that spirit drink.

3 By way of derogation from paragraph 1, the provisions of this Regulation shall not affect the possible use of the terms ‘amer’ or ‘*bitter*’ for products not covered by this Regulation.

4 By way of derogation from paragraph 1 and in order to take account of established production methods, the compound terms listed in category 32(d) of Annex II may be used in the presentation of liqueurs produced in the Community under the conditions set out therein.

## Article 11

### Description, presentation and labelling of mixtures

1 Where there has been addition of alcohol, as defined in Annex I(5), diluted or not, to a spirit drink listed in categories 1 to 14 of Annex II, that spirit drink shall bear the sales denomination ‘spirit drink’. It may not bear in any form a name reserved in categories 1 to 14.

2 Where a spirit drink listed in categories 1 to 46 of Annex II is mixed with:

- a one or more spirit drinks, and/or
- b one or more distillates of agricultural origin,

it shall bear the sales denomination ‘spirit drink’. This sales denomination shall be shown clearly and visibly in a prominent position on the label and shall not be replaced or altered.

3 Paragraph 2 shall not apply to the description, presentation or labelling of a mixture referred to in that paragraph if it meets one of the definitions laid down in categories 1 to 46 of Annex II.

4 Without prejudice to Directive 2000/13/EC, the description, presentation or labelling of the spirit drinks resulting from the mixtures referred to in paragraph 2 of this Article may show one or more of the terms listed in Annex II only if that term does not form part of the sales denomination but is solely listed in the same visual field in the listing of all the alcoholic ingredients contained in the mixture, preceded by the term ‘mixed spirit drink’.

The term ‘mixed spirit drink’ shall be labelled in uniform characters of the same font and colour as those used for the sales denomination. The characters shall be no larger than half the size of the characters used for the sales denomination.

5 For the labelling and presentation of the mixtures referred to in paragraph 2 and to which the requirement to list alcoholic ingredients under paragraph 4 applies, the proportion of each alcoholic ingredient shall be expressed as a percentage in descending order of quantities

used. That proportion shall be equal to the percentage by volume of pure alcohol it represents in the total pure alcohol content by volume of the mixture.

#### *Article 12*

##### **Specific rules concerning the description, presentation and labelling of spirit drinks**

1 Where the description, presentation or labelling of a spirit drink indicates the raw material used to produce the ethyl alcohol of agricultural origin, each agricultural alcohol used shall be mentioned in descending order of quantity used.

2 The description, presentation or labelling of a spirit drink may be supplemented by the term 'blend', 'blending' or 'blended' only where the spirit drink has undergone blending, as defined in Annex I(7).

3 Without prejudice to any derogation adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3), a maturation period or age may only be specified in the description, presentation or labelling of a spirit drink where it refers to the youngest alcoholic component and provided that the spirit drink was aged under revenue supervision or supervision affording equivalent guarantees.

#### *Article 13*

##### **Prohibition of lead-based capsules or foil**

Spirit drinks shall not be held with a view to sale or placed on the market in containers fitted with closing devices covered by lead-based capsules or foil.

#### *Article 14*

##### **Use of language in the description, presentation and labelling of spirit drinks**

1 The particulars provided for in this Regulation shall be given in one or more official languages of the European Union in such a way that the final consumer can easily understand each of those items of information, unless the consumer is provided with the information by other means.

2 The terms in italics in Annex II and the geographical indications registered in Annex III shall not be translated on the label nor in the presentation of the spirit drink.

3 In the case of spirit drinks originating in third countries, use of an official language of the third country in which the spirit drink was produced shall be authorised if the particulars provided for in this Regulation are also given in an official language of the European Union in such a way that the final consumer can easily understand each item.

4 Without prejudice to paragraph 2, in the case of spirit drinks produced in the Community and intended for export, the particulars provided for in this Regulation may be repeated in a language other than an official language of the European Union.

## CHAPTER III

### GEOGRAPHICAL INDICATIONS

#### *Article 15*

#### **Geographical indications**

1 For the purpose of this Regulation a geographical indication shall be an indication which identifies a spirit drink as originating in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of that spirit drink is essentially attributable to its geographical origin.

2 The geographical indications referred to in paragraph 1 are registered in Annex III.

3 The geographical indications registered in Annex III may not become generic.

Names that have become generic may not be registered in Annex III.

A name that has become generic means the name of a spirit drink which, although it relates to the place or region where this product was originally produced or placed on the market, has become the common name of a spirit drink in the Community.

4 Spirit drinks bearing a geographical indication registered in Annex III shall comply with all the specifications of the technical file provided for under Article 17(1).

#### *Article 16*

#### **Protection of geographical indications**

Without prejudice to Article 10, the geographical indications registered in Annex III shall be protected against:

- (a) any direct or indirect commercial use in respect of products not covered by the registration in so far as those products are comparable to the spirit drink registered under that geographical indication or insofar as such use exploits the reputation of the registered geographical indication;
- (b) any misuse, imitation or evocation, even if the true origin of the product is indicated or the geographical indication is used in translation or accompanied by an expression such as 'like', 'type', 'style', 'made', 'flavour' or any other similar term;
- (c) any other false or misleading indication as to the provenance, origin, nature or essential qualities on the description, presentation or labelling of the product, liable to convey a false impression as to its origin;
- (d) any other practice liable to mislead the consumer as to the true origin of the product.

#### *Article 17*

#### **Registration of geographical indications**

1 An application for a geographical indication to be registered in Annex III shall be submitted to the Commission in one of the official languages of the European Union or

accompanied by a translation into one of those languages. That application shall be duly substantiated and shall include a technical file setting out the specifications with which the spirit drink concerned must comply.

2 With regard to geographical indications within the Community, the application referred to in paragraph 1 shall be made by the Member State of origin of the spirit drink.

3 With regard to geographical indications within a third country, the application referred to in paragraph 1 shall be sent to the Commission, either directly or via the authorities of the third country concerned, and shall include proof that the name in question is protected in its country of origin.

4 The technical file referred to in paragraph 1 shall include at least the following main specifications:

- a the name and category of the spirit drink including the geographical indication;
- b a description of the spirit drink including the principal physical, chemical and/or organoleptic characteristics of the product as well as the specific characteristics of the spirit drink as compared to the relevant category;
- c the definition of the geographical area concerned;
- d a description of the method for obtaining the spirit drink and, if appropriate, the authentic and unvarying local methods;
- e the details bearing out the link with the geographical environment or the geographical origin;
- f any requirements laid down by Community and/or national and/or regional provisions;
- g the name and contact address of the applicant;
- h any supplement to the geographical indication and/or any specific labelling rule, according to the relevant technical file.

5 The Commission shall verify, within 12 months of the date of submission of the application referred to in paragraph 1, whether that application complies with this Regulation.

6 If the Commission concludes that the application referred to in paragraph 1 complies with this Regulation, the main specifications of the technical file referred to in paragraph 4 shall be published in the *Official Journal of the European Union*, C Series.

7 Within six months of the date of publication of the technical file, any natural or legal person that has a legitimate interest may object to the registration of the geographical indication in Annex III on the grounds that the conditions provided for in this Regulation are not fulfilled. The objection, which must be duly substantiated, shall be submitted to the Commission in one of the official languages of the European Union or accompanied by a translation into one of those languages.

8 The Commission shall take the decision on registration of the geographical indication in Annex III in accordance with the regulatory procedure with scrutiny referred to in Article 25(3), taking into account any objection raised in accordance with paragraph 7 of this Article. That decision shall be published in the *Official Journal of the European Union*, C Series.

#### *Article 18*

#### **Cancellation of a geographical indication**

If compliance with the specifications in the technical file is no longer ensured, the Commission shall take a decision cancelling the registration in accordance with the



regulatory procedure with scrutiny referred to in Article 25(3). That decision shall be published in the *Official Journal of the European Union*, C Series.

#### *Article 19*

### **Homonymous geographical indications**

A homonymous geographical indication meeting the requirements of this Regulation shall be registered with due regard for local and traditional usage and the actual risk of confusion, in particular:

- a homonymous name which misleads the consumer into believing that products come from another territory shall not be registered even if the name is accurate as far as its wording is concerned for the actual territory, region or place of origin of the spirit drink in question,
- the use of a registered homonymous geographical indication shall be subject to there being a clear distinction in practice between the homonym registered subsequently and the name already on the register, having regard to the need to treat the producers concerned in an equitable manner and not to mislead consumers.

#### *Article 20*

### **Established geographical indications**

1 For each geographical indication registered in Annex III on 20 February 2008, Member States shall submit a technical file as provided for under Article 17(1) to the Commission not later than 20 February 2015.

2 Member States shall ensure that this technical file is accessible to the public.

3 Where no technical file has been submitted to the Commission by 20 February 2015, the Commission shall remove the geographical indication from Annex III in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

#### *Article 21*

### **Alteration of the technical file**

The procedure provided for in Article 17 shall apply *mutatis mutandis* where the technical file referred to in Articles 17(1) and 20(1) is to be altered.

#### *Article 22*

### **Verification of compliance with the specifications in the technical file**

1 In respect of the geographical indications within the Community, verification of compliance with the specifications in the technical file, before placing the product on the market, shall be ensured by:

- one or more competent authorities referred to in Article 24(1), and/or
- one or more control bodies within the meaning of Article 2 of Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and

food law, animal health and animal welfare rules<sup>(1)</sup>, operating as a product certification body.

Notwithstanding national legislation, the costs of such verification of compliance with the specifications in the technical file shall be borne by the operators subject to those controls.

2 In respect of the geographical indications within a third country, verification of compliance with the specifications in the technical file, before placing the product on the market, shall be ensured by:

- one or more public authorities designated by the third country, and/or
- one or more product certification bodies.

3 The product certification bodies referred to in paragraphs 1 and 2 shall comply with, and from 1 May 2010 be accredited in accordance with, European standard EN 45011 or ISO/IEC Guide 65 (General requirements for bodies operating product certification systems).

4 Where the authorities or bodies referred to in paragraphs 1 and 2 have chosen to verify compliance with the specifications in the technical file, they shall offer adequate guarantees of objectivity and impartiality and have at their disposal the qualified staff and resources necessary to carry out their functions.

### *Article 23*

#### **Relation between trade marks and geographical indications**

1 The registration of a trade mark which contains or consists of a geographical indication registered in Annex III shall be refused or invalidated if its use would lead to any of the situations referred to in Article 16.

2 With due regard to Community law, a trade mark the use of which corresponds to one of the situations referred to in Article 16 which has been applied for, registered, or established by use, if that possibility is provided for by the legislation concerned, in good faith within the territory of the Community, before either the date of protection of the geographical indication in the country of origin or before 1 January 1996, may continue to be used notwithstanding the registration of a geographical indication, provided that no grounds for its invalidity or revocation exist as specified by First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks<sup>(2)</sup> or Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark<sup>(3)</sup>.

3 A geographical indication shall not be registered where, in the light of a trade mark's reputation and renown and the length of time it has been used in the Community, registration is liable to mislead the consumer as to the true identity of the product.

## CHAPTER IV

### GENERAL, TRANSITIONAL AND FINAL PROVISIONS

#### *Article 24*

#### **Control and protection of spirit drinks**

- 1 Member States shall be responsible for the control of spirit drinks. They shall take the measures necessary to ensure compliance with the provisions of this Regulation and in particular they shall designate the competent authority or authorities responsible for controls in respect of the obligations established by this Regulation in accordance with Regulation (EC) No 882/2004.
- 2 Member States and the Commission shall communicate to each other the information necessary for the application of this Regulation.
- 3 The Commission, in consultation with the Member States, shall ensure the uniform application of this Regulation and if necessary shall adopt measures in accordance with the regulatory procedure referred to in Article 25(2).

#### *Article 25*

#### **Committee**

- 1 The Commission shall be assisted by the Committee for Spirit Drinks.
- 2 Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.  
The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.
- 3 Where reference is made to this paragraph, Articles 5a and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

#### *Article 26*

#### **Amendment of the Annexes**

The Annexes shall be amended in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

#### *Article 27*

#### **Implementing measures**

The measures necessary for the implementation of this Regulation shall be adopted in accordance with the regulatory procedure referred to in Article 25(2).

## Article 28

### **Transitional and other specific measures**

1 In accordance with the regulatory procedure with scrutiny referred to in Article 25(3), measures to amend this Regulation shall be adopted, where appropriate:

- a to facilitate by 20 February 2011 the transition from the rules provided for in Regulation (EEC) No 1576/89 to those established by this Regulation;
- b to derogate from Articles 17 and 22 in duly justified cases;
- c to establish a Community symbol for geographical indications for the spirit drinks sector.

2 In accordance with the regulatory procedure referred to in Article 25(2), measures shall be adopted, where appropriate, to resolve specific practical problems, such as by making it obligatory, in certain cases, to state the place of manufacture on the labelling to avoid misleading the consumer and to maintain and develop Community reference methods for the analysis of spirit drinks.

3 Spirit drinks not meeting the requirements of this Regulation may continue to be produced in accordance with Regulation (EEC) No 1576/89 until 20 May 2009. Spirit drinks not meeting the requirements of this Regulation but which have been produced in accordance with Regulation (EEC) No 1576/89 prior to 20 February 2008 or until 20 May 2009 may continue to be placed on the market until stocks run out.

## Article 29

### **Repeal**

1 Regulation (EEC) No 1576/89 is hereby repealed. References made to the repealed Regulation shall be construed as being made to this Regulation.

2 Commission Regulations (EEC) No 2009/92<sup>(4)</sup>, (EC) No 1267/94<sup>(5)</sup> and (EC) No 2870/2000<sup>(6)</sup> shall continue to apply.

## Article 30

### **Entry into force**

This Regulation shall enter into force on the seventh day following its publication in the *Official Journal of the European Union*.

It shall apply from 20 May 2008.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg, 15 January 2008.

*For the European Parliament*

*The President*

H.-G. PÖTTERING

*For the Council*

*The President*

J. LENARČIČ

- (1) [OJ L 165, 30.4.2004, p. 1](#), corrected by [OJ L 191, 28.5.2004, p. 1](#). Regulation as last amended by Council Regulation (EC) No 1791/2006.
- (2) [OJ L 40, 11.2.1989, p. 1](#). Directive as amended by Council Decision 92/10/EEC ([OJ L 6, 11.1.1992, p. 35](#)).
- (3) [OJ L 11, 14.1.1994, p. 1](#). Regulation as last amended by Regulation (EC) No 1891/2006 ([OJ L 386, 29.12.2006, p. 14](#)).
- (4) Commission Regulation (EEC) No 2009/92 of 20 July 1992 determining Community analysis methods for ethyl alcohol of agricultural origin used in the preparation of spirit drinks, aromatized wines, aromatized wine-based drinks and aromatized wine-product cocktails ([OJ L 203, 21.7.1992, p. 10](#)).
- (5) Commission Regulation (EC) No 1267/94 of 1 June 1994 applying the agreements between the European Union and third countries on the mutual recognition of certain spirit drinks ([OJ L 138, 2.6.1994, p. 7](#)). Regulation as amended by Regulation (EC) No 1434/97 ([OJ L 196, 24.7.1997, p. 56](#)).
- (6) Commission Regulation (EC) No 2870/2000 of 19 December 2000 laying down Community reference methods for the analysis of spirit drinks ([OJ L 333, 29.12.2000, p. 20](#)). Regulation as amended by Regulation (EC) No 2091/2002 ([OJ L 322, 27.11.2002, p. 11](#)).