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

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

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Acting in accordance with the procedure laid down in Article 251 of the Treaty[(2)],

Whereas:

(1) Council Regulation (EEC) No 1576/89 of 29 May 1989 laying down general rules on the definition, description and presentation of spirit drinks[(3)] and Commission Regulation (EEC) No 1014/90 of 24 April 1990 laying down detailed implementing rules on the definition, description and presentation of spirit drinks[(4)] have proved successful in regulating the spirit drinks sector. However, in the light of recent experience it is necessary to clarify the rules applicable to the definition, description, presentation and labelling of spirit drinks as well as on the protection of geographical indications of certain spirit drinks, while taking into account traditional production methods. Regulation (EEC) No 1576/89 should therefore be repealed and replaced.

(2) The spirit drinks sector is important for consumers, producers and the agricultural sector in the Community. The measures applicable to the spirit drinks sector should contribute to the attainment of a high level of consumer protection, the prevention of deceptive practices and the attainment of market transparency and fair competition. By doing so, the measures should safeguard the reputation which Community spirit drinks have achieved in the Community and on the world market by continuing to take into account the traditional practices used in the production of spirit drinks as well as increased demand for consumer protection and information. Technological innovation should also be taken into account in the categories where such innovation serves to improve quality, without affecting the traditional character of the spirit drinks concerned.

Changes to legislation: *There are outstanding changes not yet made to Regulation (EC) No 110/2008 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(3) The production of spirit drinks constitutes a major outlet for Community agricultural products. This strong link to the agricultural sector should be emphasised by the regulatory framework.

(4) To ensure a more systematic approach in the legislation governing spirit drinks, this Regulation should set out clearly defined criteria for the production, description, presentation and labelling of spirit drinks as well as on the protection of geographical indications.

(5) In the interests of consumers, this Regulation should apply to all spirit drinks placed on the market in the Community, whether produced in the Community or in third countries. With a view to the export of high quality spirit drinks and in order to maintain and improve the reputation of Community spirit drinks on the world market, this Regulation should also apply to such drinks produced in the Community for export. This Regulation should 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. In exceptional cases where the law of an importing third country so requires, this Regulation should allow for a derogation to be granted from the provisions of Annexes I and II to this Regulation in accordance with the regulatory procedure with scrutiny.

(6) In general, this Regulation should continue to focus on definitions of spirit drinks which should be classified into categories. Those definitions should continue to respect the traditional quality practices but should be completed or updated where previous definitions were lacking or insufficient or where such definitions may be improved in the light of technological development.

(7) To take into account consumer expectations about the raw materials used for vodka especially in the traditional vodka producing Member States, provision should be made for adequate information to be provided on the raw material used where the vodka is made from raw materials of agricultural origin other than cereals and/or potatoes.

(8) Moreover, the ethyl alcohol used for the production of spirit drinks and other alcoholic beverages should be exclusively of agricultural origin, so as to meet consumer expectations and conform to traditional practices. This should also ensure an outlet for basic agricultural products.

(9) Given the importance and complexity of the spirit drinks sector, it is appropriate to lay down specific measures on the description and presentation of spirit drinks going beyond the horizontal rules established in Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs[(5)]. Those specific measures should also prevent the misuse of the term ‘spirit drink’ and the names of spirit drinks for products which do not meet the definitions set out in this Regulation.

(10) While it is important to ensure that in general the maturation period or age specifies only the youngest alcoholic component, this Regulation should allow for a derogation to take account of traditional ageing processes regulated by the Member States.

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(11) In accordance with the Treaty, in applying a quality policy and in order to allow a high level of quality of spirit drinks and diversity in the sector, Member States should be able to adopt rules stricter than those laid down in this Regulation on the production, description, presentation and labelling of spirit drinks produced in their own territory.

(12) Council Directive 88/388/EEC of 22 June 1988 on the approximation of the laws of the Member States relating to flavourings for use in foodstuffs and to source materials for their production[(6)] applies to spirit drinks. It is only necessary therefore to lay down in this Regulation rules not already provided for in that Directive.

(13) It is important to have due regard to the provisions of the Agreement on Trade-related Aspects of Intellectual Property Rights (hereinafter TRIPs Agreement), and in particular Articles 22 and 23 thereof, and of the General Agreement on Tariffs and Trade, which form an integral part of the Agreement establishing the World Trade Organisation approved by Council Decision 94/800/EC[(7)].

(14) Given that Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs[(8)] does not apply to spirit drinks, the rules for protection of geographical indications on spirit drinks should be laid down in this Regulation. Geographical indications should be registered, identifying spirit drinks 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 the spirit drink is essentially attributable to its geographical origin.

(15) A non-discriminatory procedure for the registration, compliance, alteration and possible cancellation of third country and EU geographical indications in accordance with the TRIPs Agreement should be laid down in this Regulation whilst recognising the particular status of established geographical indications.

(16) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[(9)].

(17) In particular, the Commission should be empowered to: grant derogations from certain parts of this Regulation where the law of an importing country so requires; lay down a maximum level of sweetening for rounding off; grant a derogation from the rules governing the indication of a maturation period or age; adopt decisions on applications for registration, on cancellation and on removal of geographical indications, as well as on the alteration of the technical file; amend the list of technical definitions and requirements, the definitions of spirit drinks classified into categories, and the list of registered geographical indications; and to derogate from the procedure governing the registration of geographical indications and the alteration of the technical file. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation, *inter alia* by deleting some of those elements or by supplementing this Regulation with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

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(18) The transition from the rules provided for in Regulation (EEC) No 1576/89 to those in this Regulation could give rise to difficulties which are not dealt with in this Regulation. The measures necessary for this transition, as well as the measures required to solve practical problems specific to the spirit drinks sector, should be adopted in accordance with Decision 1999/468/EC.

(19) To facilitate the transition from the rules provided for in Regulation (EEC) No 1576/89, the production of spirit drinks under that Regulation should be permitted during the first year of application of this Regulation. The marketing of existing stocks should also be foreseen until they run out,

HAVE ADOPTED THIS REGULATION:

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

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— 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.