

**STANDING COMMITTEE ON  
AGRICULTURE**

**FINAL DOCUMENT, PUBLISHED PURSUANT TO RULE OF PROCEDURE  
NO. 127 AND RELATING TO A:**

Proposal for a Regulation of the European Parliament and of the Council on the definition, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs, and the protection of geographical indications for spirit drinks (COM(2016) 750 final), and the Annexes to the same (COM(2016) 750 final - Annexes 1 to 2)

*Approved on 1 March 2017*

The Standing Committee on Agriculture of Italy's Chamber of Deputies,

Having examined the proposal for a Regulation of European Parliament and of the Council on the definition, presentation and labelling of spirit drinks (COM(2016) 750);

Taking cognisance of the information that emerged in the course of hearings on 7 February 2017 at which representatives of the Ministry of Agriculture, Food and Forestry appeared before a joint session of the Committee on Agriculture of the Chamber of Deputies and the Committee on Agriculture and Food Production of the Senate, and taking note also of the points raised at the same meeting by representatives of trade associations;

Considering that the stated objective of the proposed Regulation is the alignment of the contents of Regulation (EC) No. 110/2008 concerning spirits with articles 290 and 291 of the Treaty on the Functioning of the European Union (TFEU), which give the European Commission the power to adopt delegated acts and implementing regulations, and to achieve this alignment without introducing amendments to the current legal framework of EU legislation on spirit drinks or altering the substance of the provisions;

Noting that the third recital of the proposed Regulation affirms that the measures applicable to spirit drinks should contribute to attaining a high level of consumer protection, preventing deceptive practices and attaining market transparency and fair competition, and that they should safeguard the reputation which the Union's spirit drinks have achieved in the Union 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;

Recalling that the spirits industry is particularly developed in Italy and generates around one billion euros in sales in the distillation sector, and over 500 million euros in tax revenues for the Exchequer through excise duties; that Italy currently has 38 geographical indications for spirit drinks recognised under Regulation (EC) No. 110/2008; that the industry therefore merits protection from fraudulent practices and unfair competition, which, unfortunately, have brought about a decrease in production in recent years that cannot be ascribed to a drop in consumption;

Therefore supporting the intent of the proposed Regulation, which is to ensure that the rules governing spirit drinks are uniformly applied in all Member States, along with the procedural rules for the protection of geographical indication, and that Member States fulfil their obligations to carry out checks and inspections;

Noting that, to this end, article 43 of the proposed Regulation assigns the European Commission the power to adopt delegated acts (referenced in articles 5, 16, 38, 41 and 46.2) for the uniform application of rules on spirit drinks, and that the delegated acts give the Commission the power, for an indeterminate period of time:

- to amend the technical definitions and characteristic requirements of spirit drinks, as well as to add new categories of spirits, along with the necessary technical specifications (article 5);
- to make amendments to the rules on the presentation and labelling of compound terms, allusions and mixtures; to change the reference methods for the analysis of spirit drinks; to obtain exemptions from the rules on ageing periods, and, in exceptional circumstances, exemptions from all the provisions of Chapter III on presentation and labelling (article 16);
- to specify the criteria used for the demarcation of geographical areas, the imposition of restrictions, and exemptions relating to production in those areas; and to specify also the contents of any product specifications and procedures, including those legislated at a national level, for the protection of geographical indication (article 38);

- to determine the nature and type of information to be exchanged between Member States and the Commission (article 41);
- to amend or derogate from the Regulation within three years of its application, with a view to facilitating the transition from article 46.2 of Regulation EC 110/2008;

Remarking that the delegated and implementing powers attributed to the European Commission appear, in some instances, to seek to introduce substantial modifications and innovations into the current regulatory framework, and not merely to align Regulation (EC) 110/2008 with the new legal instruments of the EU, as stated in its explanatory memorandum and recitals;

Remarking in this respect that delegating broad-ranging powers to the European Commission for an indeterminate amount of time appears, in some cases, to restrict the powers of Member States and appears also to breach the limits established in article 290 of the TFEU, according to which, "The essential elements of an area shall be reserved for the legislative act and accordingly shall not be the subject of a delegation of power";

Taking note of the government report submitted pursuant to articles 6.4 and 6.5 of Law 234 of 2012, with specific regard to the passage in the report stating that the proposed changes in Chapter III, replacing the existing procedures for managing geographical indications for spirit drinks with new procedures based on those used for other agricultural and food products, would introduce "innovative elements that exceed the goal of the mere alignment of the Regulation under examination";

Recalling that, first, article 27 of the proposed Regulation suggests that decisions on the registration of geographical indication should be adopted by the European Commission by means of implementing acts, whereas they should, in fact, be subject to dialogue and discussion between the applicant country, which has full jurisdiction in the matter, and the European Commission;

Recalling that, second, article 34 of the proposed Regulation stipulates that for a period of up to two years following the entry into force of the Regulation, the Commission, by means of implementing acts, may, on its own initiative, cancel the protection of geographical indications referred to in article 20 of Regulation (EU) No 110/2008 if they do not comply with point (6) of article 2.1;

Observing in this regard that Annex III of Regulation (EC) No. 110/2008 lists already registered geographical indications, which were determined after a lengthy and rigorous procedure of recognition, and of which 38 pertain to Italy;

Believing that the foregoing list should be confirmed and the relevant products entered into a register of geographical indications of spirit drinks (which, under article 30 of the Regulation, should be in electronic form), and that the elimination of a product from the register should not be possible unless requested by the applicant country;

With respect to the provisions of article 38.1 of the proposed Regulation giving the European Commission power to adopt delegated acts both concerning additional criteria for the demarcation of the geographical area and concerning restrictions and derogations related to production in the demarcated areas, the Commission's powers need to be better defined and circumscribed so that Member States may retain their exclusive prerogative (as indicated in article 18.4) to protect geographical indications and prevent their unlawful use;

Observing more generally that the proposed Regulation grants the European Commission delegated powers over most of the areas that have hitherto been regulated under the procedures of the Committee for Spirit Drinks set up by Regulation (EEC) No. 1576/89;

Taking note also that under articles 17, 34 and 39 of the proposed Regulation, the Committee procedures are to be used solely for the enforcement of rules that have already been laid down, such as those relating to the use of the Union symbol and the manner in which the country of origin is indicated;

Emphasising that other provisions of the proposed Regulation need to be amended;

Observing that article 8.5 of the proposed Regulation, by allowing the use of sales denominations of beverages to qualify the term "flavour", risks permitting the incursion of surrogate drinks into the non-EU market or the incursion of food products labelled with these sales denominations into the EU market, to the detriment of the competitiveness and the reputation of the sector;

- Noting that article 19.1(f) of the proposed Regulation includes in the product specification details pertaining to the reputation of a spirit drink, also in view of applications for registration, thus leading to obvious difficulties in registration procedures;

- Pointing out that article 23 of the proposed Regulation relating to registration applications for geographical indications prescribes that the European Commission shall scrutinise any application that it receives, that its scrutiny "should not exceed a period of 12 months", and that if this time limit is exceeded, the Commission must inform the applicant in writing of the reasons for the delay;

- Emphasising that the foregoing provision fails to offer producers any certainty about the timing of the acceptance of the technical specifications they submit;

- Acknowledging article 35, which stipulates that, in line with the provisions for the food industry, verification of compliance with the specifications used for geographical indications must be guaranteed by at least one competent authority designated by Member States or else by a product certification body;

- Advising that, in respect of spirit drinks, producers are already subject to strict controls in relation to the assessment and payment of excise duties, and that it therefore seems unnecessary to continue with the use of certification bodies, also because the costs of the controls are borne by the producers themselves;

Mindful of the need for the stricter harmonisation of the rules on the ageing of distillates and spirits to counter the fraud that is common in this sector, and believing that better harmonisation can be achieved through the introduction of mandatory references indicating the ageing period, the trade name of the product and its origins, and that the inclusion of these references in the export accompanying documents (EAD) of spirit drinks would facilitate their traceability;

Pointing out several inaccuracies in some of the definitions given in Annexes I and II of the proposed Regulation with respect to the definitions contained in the annexes of Regulation (EC) No. 110/2008, such as the definitions of distillates of agricultural origin, grain spirits, fruit spirits and vodka, as well as an error in the definition of bitter-tasting spirit drinks or bitter (Annex II, part

I, No. 30) that opens up the risk of substantial changes being made to the composition of these beverages;

*commits the Government to raising the following issues when discussing the Proposal for a Regulation in European fora:*

1) the provision of article 8.5 allowing sales denominations to qualify the term "flavour" in spirits should be eliminated;

2) in article 19.1(f), the reference to the details in the product specification on the reputation of a spirit drink needs to be eliminated;

3) as regards the rules for registration applications, article 23 needs to be redrafted so that producers are given clear assurances about the time needed for their technical specifications to be accepted by the European Commission;

4) article 27 should be redrafted in the sections in which it prescribes that decisions on the registration of a geographical indication shall be adopted by the European Commission by means of implementing acts. The redrafted version should specify that decisions of this sort must be agreed between the applicant country, which has full jurisdiction in the matter, and the European Commission;

5) article 34 should be redrafted to ensure that the geographical indications listed in Annex III of Regulation (EC) No. 110/2008, which have already been registered following a lengthy and rigorous accreditation process, will be confirmed and entered into the electronic register of geographical indications of spirit drinks alluded to in article 30 of the proposed Regulation, and that none of these already registered spirits can be cancelled unless the applicant country makes a request to this effect;

6) article 35 contains a provision inspired by the regulations used in the agri-food sector that needs to be eliminated. The provision, which bestows powers on certification bodies to verify compliance with the product specification of geographical indications within the Union, is inappropriate because spirit drinks are already subject to strict controls in relation to the assessment and payment of excise duty, and because the producers of the spirits are required to bear the costs of verification by certification bodies;

7) the provisions of article 38.1 of the proposed Regulation giving the European Commission power to adopt delegated acts both concerning additional criteria for the demarcation of the geographical area and concerning restrictions and derogations related to production in the demarcated areas need to be better defined and circumscribed so that Member States may retain their exclusive prerogative (as indicated in article 18.4) to protect geographical indications and prevent their unlawful use;

8) article 43 needs to be amended so that the power to adopt delegated acts is not conferred on the European Commission for an indefinite period;

9) corrections should be made to the definition of "Bitter-tasting spirit drinks or bitter", contained in Annex II, part I, No. 30 for the sake of consistency with the definition given in Annex II of Regulation (EC) No. 110/2008, because, as it stands, the current definition might well lead to

substantial changes in the composition of the beverages. Likewise, corrections need to be made of several other inaccuracies, such as in the definitions of distillates of agricultural origin, grain spirits, fruit spirits and vodka;

10) the text of the Regulation needs to include a new provision for the mandatory inclusion in export accompanying documents (EAD) of information on the ageing period of spirit drinks, the tradename of the product and its origins. The goal is to guarantee product traceability, in pursuit of which it may be advisable to assign powers of inspection to the European Commission;

11) new provisions need to be inserted to allow the labels of spirit drinks to display the most mature alcoholic component in the product, as long as the ageing method (for example, the solera system) is expressly indicated;

12) finally, an additional provision is needed in the text to ensure that the electronic documents accompanying spirit drinks include, on a compulsory basis, the trade name of the product and its origin.

**OPINION OF THE FOURTEENTH COMMITTEE**  
**(EUROPEAN UNION POLICIES)**

The Fourteenth Committee (EU Policies) of the Chamber of Deputies,

Having examined the Proposal for a Regulation of the European Parliament and of the Council on the definition, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs and the protection of geographical indications for spirit drinks (COM(2016) 750 final);

Considering that the proposed Regulation aims, first, to align Regulation (EC) No. 110/2008 setting out rules on the definition, description, presentation, labelling and protection of geographical indications of spirit drinks with the Treaty on the Functioning of the European Union (TFEU) by identifying which provisions the European Commission should adopt by means of delegated acts or implementing acts (referred to in articles 290 and 291 of the TFEU);

Further considering that the text we are considering here seeks to update the rules on the definition, presentation and labelling of spirit drinks both in light of acquired experience and in light of the technological innovations that have affected the industry, and also seeks to revise the methods used for the registration of geographical indications;

Bearing in mind the explanatory memorandum accompanying the proposed Regulation specifying that: “besides alignment with the TFEU, the proposal introduces only a few minor technical amendments, in order to address shortcomings in the implementation of Regulation (EC) No 110/2008 and to make the legislation consistent with new EU legal instruments. Structure and wording changes have been made with the exclusive aim of simplifying the regulations and improving readability, in line with the Commission’s ‘better regulation’ agenda, and noting that the Regulation also claims that “these wording and structure changes, and the few technical adaptations, do not affect the substance of the law, which remains the same as in Regulation (EC) No. 110/2008. For this reason, no impact assessment was considered necessary”;

Welcoming the intent of the proposed Regulation to ensure that the rules governing spirit drinks are uniformly applied in all Member States, along with the procedural rules for the protection of geographical indication, and that Member States fulfil their obligations to carry out checks and inspections;

Noting that, to this end, article 43 of the proposed Regulation assigns the European Commission the power to adopt delegated acts (referenced in articles 5, 16, 38, 41 and 46.2) for the uniform application of rules on spirit drinks, and that the delegate acts give the Commission the power, for an indefinite period of time:

- to amend the technical definitions and characteristic requirements of spirit drinks, as well as to add new categories of spirits, along with the necessary technical specifications (article 5);
- to make amendments to the rules on the presentation and labelling of compound terms, allusions and mixtures; to change the reference methods for the analysis of spirit drinks; to obtain

exemptions from the rules on maturation periods, and, in exceptional circumstances, exemptions from all the provisions of Chapter III on presentation and labelling (article 16);

- to specify the criteria used for the demarcation of geographical areas, for the imposition of restrictions, and for exemptions relating to production in those areas; and to specify also the contents of any regulations and procedures, including those legislated at a national level, for the assignment of protection of geographical indications (article 38);

- to determine the nature and type of information to be exchanged between Member States and the Commission (article 41);

- to amend or derogate from the regulation within three years of its application, with a view to facilitating the transition from article 46.2 of Regulation EC 110/2008;

Observing that the legal basis of the proposed Regulation is properly identified in articles 43.2, and 114.1 of the Treaty on the Functioning of the European Union, both of which prescribe the use of ordinary legislative procedure for, respectively, the common organisation of agricultural markets and the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market;

Remarking that while the purpose of attributing delegating and implementing powers to the European Union is, in some instances, to introduce substantial modifications and innovations into the current regulatory framework, the proposed Regulation does not seem designed merely to align Regulation (EC) 110/2008 with the new legal instruments of the EU, in spite of what is affirmed in its explanatory memorandum and recitals;

Taking note of the government report submitted pursuant to articles 6.4 and 6.5 of Law 234 of 2012, with specific regard to the passage in the report that contests the proposal mooted in Chapter III to replace the existing procedures for managing geographical indications for spirit drinks with new procedures based on those used for other agricultural and food products on the grounds that the proposed changes would introduce "innovative elements that exceed the goal of the mere alignment of the regulation under examination";

Recalling that on 15 February the Fourteenth Senate Committee (European Union Policies) issued an Opinion to the effect that the provision did not comply with the principle of subsidiarity, and argued that: "The principles of subsidiarity and proportionality are not being observed because, although the declared objective of amending Regulation (EC) No. 110/2008 on spirit drinks is solely to align it both with Articles 290 and 291 TFEU (which refer to the assignment of delegated and implementing powers to the European Commission) and with Regulation (EC) No. 1151/2012 on quality schemes for agricultural products and foodstuffs products, and although this can only be done by means of a legislative act of the Union, this proposed Regulation introduces innovating elements into the existing regulatory framework for the protection of geographical indications of spirit drinks, and provides for delegations of authority to the European Commission that go beyond the limits laid down in Article 290 of the TFEU";

Remarking in this respect that delegating broad-ranging powers to the European Commission for an indeterminate amount of time seems in some cases to restrict the powers of Member States and exceeds the limit set in article 290 of the TFEU, according to which, "the essential elements of an area shall be reserved for the legislative act and accordingly shall not be the subject of a delegation of power";

Recalling that, first, article 27 of the proposed Regulation suggests that decisions on the registration of geographical indication should be adopted by the European Commission by means of



implementing acts, whereas they should, in fact, be subject to negotiation and discussion between the applicant country, which has full jurisdiction in the matter, and the European Commission;

Recalling that, second, article 34 of the proposed Regulation stipulates that for a period of up to two years following the entry into force of the Regulation, the Commission, by means of implementing acts, may, on its own initiative, cancel the protection of geographical indications referred to in Article 20 of Regulation (EU) No 110/2008 if they do not comply with point (6) of Article 2.1;

With respect to the provisions of article 38.1 of the proposed Regulation giving the European Commission power to adopt delegated acts both concerning additional criteria for the demarcation of the geographical area and concerning restrictions and derogations related to production in the demarcated areas, the Commission's powers need to be better defined and circumscribed so that Member States may retain their exclusive prerogative (as indicated in article 18.4) to protect geographical indications and prevent their unlawful use;

Noting, finally, that the delegate powers referred to in articles 5, 16, 41 and 46.2 do not seem to limit themselves only to the "non-essential" elements of the legislative act;

In the belief, therefore that the principles of subsidiarity and proportionality are not being observed, since the proposed Regulation introduces innovating elements into the existing regulatory framework for the protection of geographical indications of spirit drinks, and provides for delegations of authority to the European Commission that go beyond the limits laid down in article 290 of the TFEU, which asserts that: "The essential elements of an area shall be reserved for the legislative act and accordingly shall not be the subject of a delegation of power";

Taking note also that the present opinion along with the final document approved by the relevant Committee shall be transmitted to the European Parliament, the Council and the European Commission as part of political dialogue;

Acknowledging that the present final document, along with the opinion of the relevant Committee, needs to be transmitted promptly to the European Commission as part of the political dialogue, as well as to the European Parliament and the Council;

expresses

#### A FAVOURABLE OPINION

*with the following condition:*

The relevant parliamentary committee should advise the Government to ensure that when in negotiation with the relevant European institutions, it seeks to obtain a clearer and more limiting definition of the acts of delegation and implementation that the proposed Regulation will assign to the European Commission, which will entail the redrafting of articles 5, 16, 27, 34, 38.1, 41, 43 and 46.1 to ensure that the essential elements of the area are reserved for legislative acts and not subjected to delegated powers, so that the Regulation complies both with the provisions of Article 290 TFEU and, therefore, with the principles of subsidiarity.