



*Brussels, 10.7.2017
C(2017) 4674 final*

*Ms Laura BOLDRINI
President of the Camera dei Deputati
Piazza Montecitorio
IT – 00100 ROMA*

Dear President,

The Commission would like to thank the Camera dei Deputati for its Opinion on 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}.

That proposal aims at aligning Regulation (EC) No 110/2008¹ on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks with the provisions in the Treaty on the Functioning of the European Union and is therefore part of the process of adapting the European Union's "acquis" to the new legislative framework determined by the Treaty.

The Commission recalls that the existing legal framework at the level of the European Union for spirit drinks ensures the free circulation of goods in the single market by setting up product definitions, labelling rules and provisions related to the protection of geographical indications for spirit drinks. The proposal does not set out to change that.

Besides the alignment of the Regulation with the Treaty, the proposal only introduces 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 legal instruments of the European Union. Structure and wording changes have been introduced to simplify the regulations and improve readability, in line with the Commission's Better Regulation agenda. In addition, the proposal replaces the existing procedures for the management of geographical indications in the spirit drinks sector with new procedures modelled on the more exhaustive and well tested procedures for agricultural products and foodstuffs.

¹ 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, OJ L 39, 13.2.2008, p. 16-54.

The Camera dei Deputati has issued a list of recommendations for the Italian Government in view of the negotiations at the level of the European Union. It has issued a favourable opinion on the proposal of the Commission with the condition that the empowerments for the Commission are reduced and better defined in order to maintain all the essential elements of the sector in the basic act. The Commission takes seriously the concerns expressed by the Camera dei Deputati.

The Commission powers included in the proposal do not mirror those of Regulation (EC) No 110/2008. They have been completely reformulated in accordance with Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFEU). Therefore, the powers in the proposal are split into delegated and implementing and, furthermore, they are precisely framed.

In particular, Article 290 TFEU indicates that a delegated act can delegate to the Commission the power to adopt non-legislative acts of general application to supplement and amend certain non-essential elements of the legislative act. In addition, the Common Understanding between the European Parliament, the Council and the Commission on delegated acts sets out some criteria applicable to the delegated powers requiring for example that the objectives, content, scope and duration of a delegation should be expressly defined in each legislative act.

The delegated powers in this proposal respect these criteria, adding considerable precision.

In this way, the current wide power to amend the annexes to Regulation (EC) No 110/2008 through a regulatory procedure with scrutiny, for example, is transformed into Article 5 of the proposal, a detailed provision precisely defining the power of the Commission to introduce certain changes to the annexes to the legislative act under specific conditions.

This strict definition of powers is maintained in the other chapters of the proposal. For example, as regards labelling, under the current rules the Commission powers would cover all necessary measures to ensure the uniform application of the Regulation, adopted in accordance with the regulatory procedure but, in this proposal, the Commission powers have been split into delegated and implementing. In particular, Article 16 defines precisely the Commission's delegated powers in this area and the conditions to which they are subject. Concerning the chapter on geographical indications, it should also be noted that the empowerments regarding procedural rules mirror those of Regulation (EU) No 1151/2012².

The Commission believes that, in addition to not affecting essential elements of the legislative act, the delegated powers envisaged by its proposal respond to the level of technicality of the subject matter. The delegated powers are crucial not only to maintain the competitiveness and high reputation of the spirit drinks produced in the Union but also to ensure the protection of consumers and provide them with adequate information.

² Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs, OJ L 343, 14.12.2012, p. 1–29.

Therefore the Commission considers that the proposed delegated powers are in line with the principles of subsidiarity and proportionality and protect the sector as well as consumers.

Indeed, the role of the Member States in this harmonised framework remains crucial. Member States are responsible for the uniform application of the rules on spirit drinks, for establishing and applying procedural rules concerning the protection of geographical indications, for adopting the necessary measures to ensure the required checks and verifications and for the necessary exchange of information between the Commission and the Member States for the implementation of this Regulation.

In response to the more technical comments in the Opinion, the Commission would like to refer the Camera dei Deputati to the attached annex.

The points made above and in the annex are based on the initial proposal presented by the Commission which is currently in the legislative process involving the European Parliament and the Council. The Opinion of the Camera dei Deputati has been made available to the Commission's representatives in the ongoing negotiations with the co-legislators and will inform these discussions.

The Commission hopes that these clarifications provided in this reply address the issues raised by the Camera dei Deputati and looks forward to continuing our political dialogue in the future.

*Frans Timmermans
First Vice-President*

*Phil Hogan
Member of the Commission*

ANNEX

The Commission has carefully considered each of the issues raised by the Camera dei Deputati in its Opinion and is pleased to offer the following clarifications.

The Commission would like to stress that it views geographical indications as useful instruments which allow producers to protect the unique nature of product names from imitation. The spirit drinks sector is a strategic sector for geographical indications in the European Union. The proposal maintains all the substantial rules and specificities of the geographical indications for spirit drinks. Only the procedures for registration, amendment, cancellation and opposition would be changed. These procedures have been made more transparent, less burdensome and more consistent with the other sectors of geographical indications in the European Union. Consistency among sectors of geographical indications is particularly important for international negotiations.

With respect to the recommendation to eliminate the provision of Article 8(5) of the proposal aiming at allowing the use of spirit drinks' sales denominations to qualify the term "flavour", the Commission underlines that, according to the first subparagraph of that provision, this is forbidden for any beverages not meeting the requirements of the relevant categories listed in Part I of Annex II or relating to the relevant geographical indications. The second subparagraph of Article 8(5) allows the association of sales denominations (not however of geographical indications) supplemented by the term "flavour" or similar to refer to flavourings that imitate a spirit drink solely in relation to foodstuffs other than beverages. This provision aims at reflecting a state of fact ("rum flavoured ice cream" or "whisky flavour chocolate" do not necessarily contain rum or whisky but flavourings used in the preparation of foodstuffs).

The reference to "reputation" in Article 19(1)(f) is made to detail the elements of the link, as identified in the definition of spirit drink geographical indication under Article 2(1) point 6.

Article 23 of the proposal provides that the Commission scrutinises by appropriate means any application that it receives and that this scrutiny should not exceed a period of 12 months. The procedure is defined in time. It is not advisable that a deadline for the final decision on the applications (approval or rejection) be set out. It would oblige the Commission to adopt a rejection decision, instead of keep trying to improve the application in cooperation with the Member State concerned, in cases where an application is not yet in line with the requirements of the Regulation when the deadline expires.

It is appropriate that decisions on registrations are taken via an act of the Commission. Also Regulation (EC) No 110/2008 establishes such a rule (Article 17). Since the procedure for the adoption of Commission Delegated Acts appears disproportioned to the purpose, the procedure for the adoption of Commission Implementing Acts should be chosen for the decisions on applications for spirit drinks geographical indications. Member States participate in the adoption of the Implementing Acts via the Committee procedure.

As regards the protection of existing geographical indications, Article 34 of the proposal provides that geographical indications of spirit drinks protected under Regulation (EC) No 110/2008 will automatically be protected as geographical indications under the new Regulation. That same Article confers also a power to the Commission to cancel, on its own initiative and for a period of up to two years following the entry into force of the Regulation, the protection of existing geographical indications if they do not comply with the definition of spirit drink geographical indication. This is the obvious conclusion of the whole exercise on the existing spirit drinks geographical indications as provided for by Article 20 of Regulation (EC) No 110/2008. At present, such power to cancel the protection of an existing geographical indication if it does not comply with the definition of spirit drinks geographical indication is provided for in Article 9 of the Commission Implementing Regulation (EU) No 716/2013³ laying down rules for the application of Regulation (EC) No 110/2008 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks.

As regards the controls, the provision which attributes to control bodies the responsibility to check the verification of compliance with the product specification is currently in force in the spirit drinks sector in accordance with Article 22(1) of Regulation (EC) No 110/2008. It is not a new provision taken from Regulation (EU) No 1151/2012. It facilitates the performance of the controls in the spirit drinks sector and the Commission considers that it should be maintained.

The delimitation of geographical areas and the way the production is carried out in these areas remain in the competence of Member States and producers. In accordance with Article 38(1) of the proposal, the Commission is only entitled to adopt delegated acts concerning the additional criteria the Member State may use for the demarcation of the geographical area and the general restrictions and derogations related to the production in the geographical areas. The adoption of these criteria, derogations and restrictions are only allowed in order to take account of the specificities of the production in the demarcated geographical area,

Concerning the recommendation to correct the definition of 'bitter-tasting spirit drinks or bitter' (category 30 of Annex II) as well as other definitions in order to make them compliant with those currently in force, the Commission underlines that it was not its intention to alter the rules included in Annexes I and II to Regulation (EC) No 110/2008 and will look into this matter further.

³ Commission Implementing Regulation (EU) No 716/2013 of 25 July 2013 laying down rules for the application of Regulation (EC) No 110/2008 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks, OJ L 201, 26.7.2013, p. 21.

The Commission takes note of the recommendations to make the indication on the electronic accompanying documents of the maturation period compulsory, with a view to improving the traceability of aged spirit drinks, as well as the sales denomination of the product and its origin. However, the Commission underlines that, according to Article 12 of the proposal, the indication of the origin of spirit drinks is not compulsory. What would be appropriate to indicate on the electronic accompanying documents instead, would be the nature of the raw materials used for the production of the spirit drinks. This would provide an additional indication as to the compliance of the sales denomination with the production specifications determined for each spirit drink category.

Finally, concerning the recommendation to include a provision allowing the indication on the label of the oldest alcoholic component provided that the ageing method be specified (e.g. Solera), the Commission is aware of this suggestion to derogate from Article 11(3) of the proposal, which is supported by a few Member States, asking for the possibility of indicating the average age of spirit drinks aged with Solera or similar methods.