

EU ACQUIS IN THE SPIRIT DRINKS SECTOR:

- definitions: - Council Regulation 1576/89
 - Commission Regulation 1014/90
- labelling: - Council Directives 2000/13,
87/250, 89/396
- prescribed volume of certain pre-packaged liquids: - Council Directive 75/106
- fiscal regime: Council Directives 92/12,
92/83
- refunds
- third country agreements

GENERAL RULES ON DEFINITION, DESCRIPTION AND PRESENTATION

- common rules given economic importance of spirits for agricultural sector
- assist functioning of Community market
- maintain quality standards for spirits taking into account traditional practices
- OBJECTIVES:
- protection of geographical designation of spirits

BASIC PRINCIPLES

- 4 common rules for spirits of minimum alcoholic strength of 15% vol.
- 4 exclusive use of alcohol of agricultural origin
- 4 definition of main categories of spirits
- 4 establishment of minimum alcoholic strength for release for human consumption
- 4 protection of geographical indication for spirits (Annex II list)
- 4 same rules for EU spirits marketed in Community as for EU spirits exported

GENERAL DEFINITION OF SPIRIT DRINK

- 4 alcoholic liquid intended for human consumption, having particular organoleptic qualities, minimum alcoholic strength of 15% vol.
- 4 production methods: distillation, mixtures
- 4 definition of sweetening, mixing, addition of alcohol, blending, maturation, flavouring, coloring


DEFINITION OF MAIN CATEGORIES OF SPIRITS

4 rum, whisky, grain spirit, wine spirit, brandy, grape marc spirit, fruit marc spirit, raisin spirit, fruit spirit, cider spirit, perry spirit, gentian spirit, fruit spirit drinks, juniper-flavoured spirit drinks, caraway-flavoured spirit drinks, aniseed-flavoured spirit drinks, bitter-tasting spirit drinks, vodka, liqueur, egg liqueur

4 In order to be marketed for human consumption under one of the names listed in Article 1 (4) of Regulation 1576/89 a spirit drink must comply with the definition and requirements applicable to the category to which it belongs

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- 4 Council Regulation 1576/89 sets minimum alcoholic strength by volume for release for human consumption for basic spirits (except juniper-flavoured spirits)
 - 4 Member States can set higher minimum alcoholic strength
 - 4 (list published)

4 The addition of any substance other than those authorised by Community legislation or failing that by national provisions makes that the spirit drink in question loses the right to the reserved name



4 Commission can establish the methods for the analysing of spirit drinks.

- Use of the defined names (whisky, brandy etc...) is restricted to the spirits defined and the names must be used to describe the defined drinks
- spirit drinks which do not meet the specifications laid down must bear the sales description “spirits” or “spirit drinks”

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- 4 the defined names may be supplemented by geographical indications provided they do not mislead consumers
 - 4 The geographical designations listed in Annex II of Regulation 1576/89 may replace or supplement the defined names. These designations may if necessary be accompanied by additional particulars provided that latter are regulated by the Member State of the production.

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- 4 These geographical designations are reserved for spirits in the case of which the production stage during which they acquired their character and definitive qualities took place in the geographical area indicated
 - 4 Labelling, presentation and advertising of defined spirits for final consumption is governed by:

4 general rules of Directive 2000/13/EEC


4 - specific rules of Regulation 1576/89
(indication of raw material used, term
“blend”, specification of maturation period.

4 Spirit drinks produced in the Community may not be described by associating words or phrases such as “like”, “type”, “style”, “made”, “flavour” or any other similar indications with any of the defined and protected sales descriptions.

4 Spirits listed in Article 9 of Regulation 1576/89 containing added ethyl alcohol may not bear in any form whatsoever in their presentation the generic name reserved (exception for Rum-Verschnitt).

4 Member States must ensure compliance with spirit drinks acquis and appoint agencies to monitor compliance. Until now Member States may retain their own supervision (commercial documents, registers) and authentication systems.

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- 4 Minimum geographical names protection of TRIPS agreement for imported spirits unless reciprocal Agreement
 - 4 ex officio protection for imported spirits under concluded Agreements with third countries (USA, Mexico)



4 Spirit drinks intended for exports must also comply with Regulation 1576/89 provisions; derogations possible by Member States or Commission decision.

4 Commission Regulation 1014/90 contains implementation rules notably on:

4 minimum and maximum contents of raw materials used, of volatile substances, of methanol content, of hydrocyanic content, of sugar content for some liqueurs and cherry liqueurs.

4 Specific labelling requirements for mixtures of spirits.

4 Regulation 1014/90 protects some terms added to the sales designation of a number of spirit drinks made by traditional methods (Fruitgenever, Punch au rum, Sloe Gin, Sambuca etc.,)

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- 4 The use of a generic term in a compound term is prohibited in the spirit drink's presentation unless the alcohol in that drink originates exclusively from the spirit drink used.
- 4 Exceptions to this rule for some traditional liqueurs (apricot brandy) with obligation of specific labelling and presentation

Special provisions for certain mixtures of spirit drinks by Regulation 2675/94:

- 4 sales description “spirit drink” without any other qualifying term
- 4 labelling of all alcoholic ingredients contained in the mixture preceded by the words “mixed spirit drink” if in the labelling and presentation a reference is made to the generic protected terms of Regulation 1576/89.

Labelling of spirits

Council Directive 2000/13/EEC

4 Labelling and method used must not be such as could mislead the purchase, particularly as to characteristics of the foodstuff, compulsory indications on label (sales description, alcohol strength for alcoholic drinks of more than 1,2% vol alcohol)

Council still has to rule on the list of ingredients for spirits. Ingredients means any substance, including additives, used in the manufacture or preparation and still present in the finished product, even if in altered form,

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- 4 Rules for the indication of the quantity of ingredient used in the manufacture or preparation (when labelling places emphasis on the presence of ingredient etc....)
 - 4 indication of the date of minimum durability is not required for beverages containing 10% or more by volume of alcohol,

4 Member States may not forbid trade in foodstuffs which comply with the rules laid down in Directive 2000/13 by the application of non-harmonised national provisions governing the labelling and presentation of certain foodstuffs except if justified on grounds of:

4 protection of public health

- - prevention of fraud
- - protection of industrial and commercial property rights, indications of provenance, registered designations of origin and prevention of unfair competition

Commission Directive 87/250/EEC

- 4 Indication of the actual alcoholic strength by volume in the labelling of beverages containing more than 1,2% by volume of alcohol other than those classified under CN 22.04 and 22.05 of CCT
- 4 Figure of alcoholic strength to be given not more than one decimal place, followed by symbol “% vol” and possibly preceded by the word “alcohol” (or “alc”)

4 Positive and negative tolerances allowed in respect of alcoholic strength are:

- * 0,3 % vol for not specified beverages
- * 1,5% vol for beverages containing macerated fruit or parts of plants

Council Directive 89/396/EEC

- 4 Indication or marks identifying the lot to which a foodstuff belongs,
- 4 Objectives; better information on product's identity, source of information when foodstuff subject of health hazard for consumers,
- 4 "lot" must be determined by producer, manufacturer or packager or the first seller established within the Community
- 4 indication allowing identification of the lot preceded by the letter "L" except in cases where it is clearly distinguishable from the other indications on the label.

Uruguay Round: Agreement on Trade-Related Aspects of Intellectual Property Rights

Protection of geographical indications:

- indications which identify a good as originating in the territory of WTO Member where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.
- WTO Member shall provide legal means for interested parties to prevent:
 - * the use of de localisation terms
 - * any use constituting an act of unfair competition within the meaning of the Paris Convention of 1967

Additional protection for geographical indications for wine and spirits

4 Each Member shall provide the legal means for interested parties to prevent use of a geographical indication identifying wines not originating in the place indicated by the geographical indication in question, on identifying spirits not originating in the place indicated by the geographical indication in question, even where the true origin of the goods is indicated or the geographical indication is used in translation or accompanied by expressions such as “kind”, “type”, “style”, “imitation”, or the like

4 The registration of a trademark for wines which contains or consists of a geographical indication identifying wines or for spirits which contains or consists of a geographical indication identifying spirits shall be refused or invalidated, ex officio if a Member's legislation so permits or at the request of an interested party, with respect to such wines or spirits not having this origin

4 In the case of homonymous geographical indications for wines, protection shall be accorded to each indication, subject to the provisions of paragraph 4 of Article 22 of TRIPS. Each WTO Member shall determine the practical conditions under which the homonymous indications in question will be differentiated from each other, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled.

4 In order to facilitate the protection of geographical indications for wines, negotiations shall be undertaken in the Council for TRIPS concerning the establishment of a multilateral system of notification and registration of geographical indications for wines eligible for protection in those Members participating in the system

International Negotiations:

- WTO Members agree to enter into negotiations aimed at increasing the protection of individual geographical indications. In the context of such negotiations, Members shall be willing to consider the continued applicability of these provisions to individual geographical indications whose use was the subject of such negotiations.
- The Council for TRIPS shall keep under review the application of the provisions of this Section; the first such review shall take place within two years of the entry into force of the WTO Agreement.
- In implementation this Section, a Member shall not diminish the protection of geographical indications that existed in that Member immediately prior to the date of entry into force of the