



Brussels, **XXX**  
[...](2012) **XXX** draft

**COMMISSION REGULATION (EU) No .../..**

**of **XXX****

**laying down detailed rules for the implementation of certain provisions 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**

**COMMISSION IMPLEMENTING REGULATION (EU) No .../..**

**of XXX**

**laying down detailed rules for the implementation of certain provisions 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**

THE COMMISSION OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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<sup>1</sup>, and in particular Article 24(3) and Article 27 thereof,

Whereas:

- (1) In order to clarify certain provisions of Regulation (EC) No 110/2008 and to ensure their uniform implementation in the Member States, detailed rules should be adopted, in particular as regards the use of compound terms, allusions, sales denominations and geographical indications for the presentation of spirit drinks.
- (2) According to Article 10(1) and (2) of Regulation (EC) No 110/2008, a spirit drink or another foodstuff may, under certain conditions, bear in its presentation a compound term or an allusion which includes the name of one of the categories listed in Annex II to Regulation (EC) 110/2008 or one of the geographical indications listed in Annex III to that Regulation. In order to ensure the uniform use of compound terms and allusions in Member States, it is necessary to establish detailed rules of their usage for the presentation of spirit drinks and other foodstuffs.
- (3) When reference is made to a certain spirit drink in the presentation of a foodstuff, that spirit drink must fully comply with Regulation (EC) No 110/2008 and not be diluted. It is necessary to clarify the meaning of the term 'dilution' when referred to spirit drinks, since certain manufacturing processes should not be considered as dilution.
- (4) To ensure that the conditions for the registration of geographical indications laid down in Regulation (EC) No 110/2008 are met, applications for registration should be examined by the Commission and detailed implementing rules on the application, examination, objection and cancellation procedures for geographical indications of spirit drinks should

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<sup>1</sup> OJ L 39, 13.2.2008, p. 16.

be established. To ensure a uniform implementation of those rules, models should be drawn up for the application for registration, the technical file, statement of objection, amendment of the technical file and cancellation of a geographical indication.

- (5) In order to facilitate communication between the Commission and Member States and third countries in relation to registered geographical indications, Member States and third countries should communicate to the Commission the main specifications of the technical files of their geographical indications, besides the complete technical files.
- (6) Restrictions concerning the packaging of a spirit drink with a geographical indication, such as the obligation to package the spirit drink in a defined geographical area, constitute restrictions to the free movement of goods and the freedom to provide services. Such restrictions should only be allowed if they are necessary, proportionate and suitable to protect the reputation of the geographical indication.
- (7) A Union symbol for geographical indications of spirit drinks should be established in order to enable the consumer to identify certain spirit drinks the characteristics of which are linked to the origin of the drinks.
- (8) Considering the time needed by the Member States to implement the measures provided for in this Regulation, the application of this Regulation should be deferred.
- (9) The measures established in this Regulation are in accordance with the opinion of the Committee for Spirit Drinks,

HAS ADOPTED THIS REGULATION:

## **CHAPTER I**

### **SUBJECT MATTER AND DEFINITIONS**

#### *Article 1*

##### **Subject matter**

This Regulation lays down detailed rules for the implementation of Regulation (EC) No 110/2008 as regards in particular:

- (a) the use of compound terms and allusions as referred to in Article 10 of Regulation (EC) No 110/2008 in the description, presentation and labelling of a foodstuff;
- (b) the geographical indications of the spirit drinks referred to in Article 15 of Regulation (EC) No 110/2008 and the use of a Union symbol for the geographical indications of spirit drinks.

## *Article 2*

### **Definitions**

For the purpose of this Regulation:

- (a) 'spirit drink category' means one of the categories 1 to 46 of Annex II to Regulation (EC) No 110/2008;
- (b) 'geographical indication' means one of the geographical indications registered in Annex III to Regulation (EC) No 110/2008;
- (c) 'compound term' means the combination of a term listed in categories 1 to 46 of Annex II to Regulation (EC) No 110/2008 or a geographical indication of a spirit drink, from which all the alcohol of the final product originates, with:
  - (i) the name of one or more foodstuffs other than those used for the production of that spirit drink in accordance with Annex II to Regulation (EC) No 110/2008, or adjectives deriving from those names, and/or
  - (ii) the term 'liqueur' ;
- (d) 'allusion' means the direct or indirect reference to one or more spirit drink categories or geographical indications, other than the reference in a compound term or list of ingredients referred to in Article 9(9) of Regulation (EC) No 110/2008.

## **CHAPTER II**

### **RULES ON THE USE OF COMPOUND TERMS AND ALLUSION**

## *Article 3*

### **Compound terms**

1. The term 'spirit drink' shall not be part of a compound term describing an alcoholic beverage.
2. A compound term describing an alcoholic beverage shall not consist of a combination of the term 'liqueur' with the name of one of the categories 33 to 40 of Annex II to Regulation (EC) No 110/2008.
3. A compound term shall not replace the sales denomination of a spirit drink.

4. The compound term describing an alcoholic beverage shall appear in uniform characters of the same font, size and colour. It shall not be interrupted by any textual or pictorial element which does not form part of it and shall not appear in a larger font size than that of the sales denomination.

*Article 4*

**Allusions**

The allusion to any spirit drink category or geographical indication, for the presentation of a foodstuff, shall not be in the same line as the sales denomination. For alcoholic beverages, the allusion shall appear in a font size smaller than those used for the sales denomination and compound term.

*Article 5*

**Dilution of a spirit drink**

For the purpose of Article 10(2) of Regulation (EC) No 110/2008, the reduction of the alcoholic strength of a spirit drink below the minimum alcoholic strength established for that spirit drink in the corresponding category in Annex II to that Regulation, exclusively by the addition of water, shall be considered as dilution.

**CHAPTER III**

**GEOGRAPHICAL INDICATIONS**

*Article 6*

**Application for the registration of a geographical indication**

The application for registration of a geographical indication in Annex III to Regulation (EC) No 110/2008 shall be submitted to the Commission and consist of:

- (a) the application form, according to the model set out in Annex I to this Regulation;
- (b) the technical file, according to the model set out in Annex II to this Regulation;
- (c) the main specifications of the technical file referred to in point (b).

## *Article 7*

### **Trans-border applications**

1. Where a trans-border geographical indication involves only Member States, the relevant application shall be submitted jointly or by one of the Member States in the name of the others. In the latter case, the application shall include a document from each of the other Member States concerned authorising the Member State forwarding the application to act on its behalf.

Where a trans-border geographical indication involves only third countries, the relevant application shall be submitted to the Commission either by one of the applicants on behalf of the others or by one of the third countries on behalf of the others and shall include:

- (a) the proof of protection in the third countries concerned, and
- (b) a document from each of the other third countries concerned authorising the third country submitting the application to act on its behalf.

Where a trans-border geographical indication involves at least one Member State and at least one third country, the application shall be submitted to the Commission by one of the Member States, third-country authorities or private entities from the third country in question and shall include:

- (a) the proof of protection in the third countries concerned, and
- (b) a document from each of the Member States or third countries concerned authorising the party forwarding the application to act on its behalf.

2. The Member State or the third-country authority or the private entity from the third country in question which submits to the Commission a trans-border application shall become the consignee of any notification or decision issued by the Commission.

## *Article 8*

### **Receipt of the application**

1. The date of submission of an application shall be the date of its receipt by the Commission.
2. The Member State or the third-country authority or the private entity from the third country in question shall receive an acknowledgement of receipt indicating at least the following:
  - (a) the file number;

- (b) the name to be registered;
- (c) the number of pages received;
- (d) the date of receipt of the application.

#### *Article 9*

### **Established geographical indications**

1. If the technical file for an established geographical indication, submitted pursuant to Article 20(1) of Regulation (EC) No 110/2008 does not demonstrate that the requirements laid down in Article 15(1) of that Regulation are fulfilled, the Commission shall set a time period for its amendment or withdrawal or for the submission of comments by the Member State.
2. If such deficiencies are not remedied by the Member State within the time period referred to in the first paragraph, the technical file shall be deemed not to have been submitted and Article 20(3) of Regulation (EC) No 110/2008 shall apply.

#### *Article 10*

### **Packaging in the geographical area concerned**

If the technical file sets out that packaging of the spirit drink must take place within the demarcated geographical area or in an area in its immediate proximity, justification for this requirement shall be given in respect of the product concerned.

#### *Article 11*

### **Admissibility of the application**

1. The application is admissible if it consists of all the elements referred to in Article 6.
2. If the application is not complete the Commission shall invite the applicant to remedy the deficiency within a period of two months. If the deficiency is not remedied within that time limit, the Commission shall reject the application as inadmissible.

#### *Article 12*

### **Scrutiny of the conditions of validity**

1. If a geographical indication does not comply with Article 15 of Regulation (EC) No 110/2008 or if the application for registration does not meet the requirements laid down

in Article 17 of Regulation (EC) No 110/2008, the Commission shall set a time period for its amendment or withdrawal or for the submission of comments by the Member State, the third-country authority or the private entity from the third country in question.

2. If the deficiencies are not remedied by the Member State, the third-country authority or the private entity from the third country in question within the time period referred to in paragraph 1, the Commission shall reject the application.

### *Article 13*

#### **Objection to the registration**

1. Objections referred to in Article 17(7) of Regulation (EC) No 110/2008 shall be drawn up in accordance with the form set out in Annex III to this Regulation and submitted to the Commission. The date of submission of the objection shall be the date of its receipt by the Commission.
2. The objector shall receive an acknowledgement of receipt indicating at least the following:
  - (a) the file number;
  - (b) the number of pages received;
  - (c) the date of receipt of the objection.

### *Article 14*

#### **Admissibility of an objection**

1. The objection is admissible if it mentions the prior right(s) claimed, where relevant, and the ground(s) for the objection and it was received within the time period referred to in Article 17(7) of Regulation (EC) No 110/2008.
2. If the objection is based on the existence of an earlier trademark of reputation and renown already used in the Union, in accordance with Article 23(3) of Regulation (EC) No 110/2008, it shall be accompanied by proof of the filing of an application for registration, registration or use of that trademark, such as the certificate of registration or proof of its use, and proof of its reputation and renown.
3. Any objection shall contain details of the facts, evidence and comments submitted in support of the objection and be accompanied by the relevant supporting documents.

The information and evidence produced in support of the use of an earlier trademark shall refer to location, duration, extent and nature of use and of its reputation and renown.



4. If the information and the documents referred to in paragraphs 1, 2 and 3 have not been produced, the Commission shall invite the objector to remedy the deficiencies within a period of two months. If the deficiencies are not remedied within the time limit, the Commission shall reject the objection as inadmissible.

#### *Article 15*

#### **Scrutiny of an objection**

1. If the objection is admissible, the Commission shall communicate it to the Member State, the third-country authority or the private entity from the third country in question and invite them to file observations within a period of two months. Any observations received within this time period shall be communicated to the objector.
2. The Commission shall request the parties to submit comments on the observations received from the other parties within a period of two months.
3. If the Commission considers that the objection is founded, it shall reject the application for registration.
4. If, in the event of multiple objections, following a preliminary examination of one or more such objections, it may not be possible to accept the application for registration, the Commission may suspend the other objection procedures. The Commission shall inform the other objectors of any decision affecting them.
5. Where an application for registration is rejected, objection procedures which have been suspended shall be deemed to be closed and the objectors concerned shall be duly informed.

#### *Article 16*

#### **Decisions of the Commission**

1. Decisions taken by the Commission pursuant to Articles 9(2), 11(2), 12(2) and 15(3) shall be based on the documents and information available to it.

The decisions, including grounds for them, shall be notified to the Member State, the third-country authority or the private entity from the third country in question, and, if appropriate, to the objector.

2. Unless the application for the registration of a geographical indication is rejected pursuant to Articles 11(2), 12(2) and 15(3) of this Regulation, the Commission shall decide pursuant to Article 17(8) of Regulation (EC) No 110/2008 to register the geographical indication in Annex III to that Regulation.

## *Article 17*

### **Use of languages**

The geographical indication shall be registered in the language(s) used to describe the product in question in the geographical area concerned and with its original spelling.

## *Article 18*

### **Submission of a request for cancellation**

1. A request for cancellation of a geographical indication shall be drawn up in accordance with the form set out in Annex IV and shall be submitted to the Commission. The date of submission of the request for cancellation shall be the date of its receipt by the Commission.
2. The author of the request for cancellation shall receive an acknowledgement of receipt indicating at least:
  - (a) the file number;
  - (b) the number of pages received; and
  - (c) the date of receipt of the request.

## *Article 19*

### **Admissibility of a request for cancellation**

1. A request for cancellation is admissible, if it clearly states the legitimate interest of the author of the request for cancellation and explains the ground(s) for such cancellation.
2. Any request for cancellation shall contain details of the facts, evidence and comments submitted in support of cancellation. It shall be accompanied by the relevant supporting documents and in particular, by a statement from the Member State or the third-country authority where the residence or registered office of the author of the request is located.
3. If the information and documents referred to in paragraphs 1 and 2 have not been provided at the same time as the request for cancellation, the Commission shall invite the author of the request to remedy the deficiencies within a period of two months. If the deficiencies are not remedied within the time limit, the Commission shall reject the request as inadmissible.

The Commission shall notify the author of the request for cancellation as well as the Member State, the third-country authority or the private entity from the third country,

whose geographical indication is affected by the request for cancellation, of the decision of inadmissibility.

4.

#### *Article 20*

##### **Scrutiny of a cancellation**

1. If the Commission has not rejected the request for cancellation in accordance with Article 19(3), it shall communicate the request to the Member State or the third-country authority or private entity from the third country, whose geographical indication is affected by the request for cancellation, and invite them to file observations within a deadline of two months. Any observation received within this time limit shall be communicated to the author of the request for cancellation.
2. The Commission shall decide on a cancellation if the Member State, third-country authority or private entity from the third country in question does not file any observation or does not comply with the two-month time limit.
3. Any decision to cancel the geographical indication concerned shall be taken by the Commission on the basis of the evidence available to it after the expiration of the deadline for submission of observations. It shall consider whether compliance with the technical file of the geographical indication is no longer possible or can no longer be guaranteed, particularly if the conditions laid down in Article 17 of Regulation (EC) No 110/2008 are no longer fulfilled or may no longer be fulfilled in the near future.

Such decision on cancellation shall be notified to the Member State, the third-country authority or the private entity from the third country in question or the author of the request for cancellation.

4. If more than one request for cancellation concerning the same geographical indication has been submitted and, after a preliminary examination of one or more of those requests, the Commission decides that it is no longer justified to protect the geographical indication, it may suspend other cancellation procedures concerning that geographical indication. It shall inform the other authors of the requests for cancellation of any decision affecting them.

If a geographical indication is cancelled, the Commission shall close the cancellation procedures which have been suspended and inform the other authors of the request for cancellation accordingly.

#### *Article 21*

##### **Amendment of the technical file**

1. An application for the amendment of the technical file related to a registered geographical indication, as referred to in Article 21 of Regulation (EC) No 110/2008, shall be drawn up in accordance with Annex V to this Regulation and submitted in electronic format.
2. For the purposes of the application referred to in paragraph 1, Articles 8 to 15 of this Regulation shall apply *mutatis mutandis*. These procedures shall only concern the points of the technical file which are the subject of the amendment.
3. Where the application for the amendment of the technical file is submitted by an applicant other than the initial applicant, the Commission shall communicate the application to the initial applicant.

#### *Article 22*

##### **Use of a Union symbol for registered geographical indications**

1. The Union symbol for registered geographical indications established in Annex V to Commission Regulation (EC) No 1898/2006<sup>2</sup> may be used for spirit drinks. That symbol may not be used together with a compound term including a geographical indication. The indication "PROTECTED GEOGRAPHICAL INDICATION" may be replaced by the equivalent terms in another official language of the Union as laid down in that Annex.
2. Where the Union symbol referred to in paragraph 1 appears on the label of a spirit drink, it shall be accompanied by the corresponding geographical indication.

## **CHAPTER IV**

### **FINAL PROVISIONS**

#### *Article 23*

##### **Entry into force and application**

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

It shall apply from ... (6 months).

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

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<sup>2</sup> OJ L 369, 23.12.2006, p. 1

Done at Brussels,

*For the Commission*

...

*Member of the Commission*

## ANNEX I

### **APPLICATION FOR REGISTRATION OF A GEOGRAPHICAL INDICATION**

Date of receipt (DD/MM/YYYY)

*[to be completed by the Commission]*

Number of pages (including this page) ..

Language used for submission of application ..

File number ..

*[to be completed by the Commission]*

**Geographical indication to be registered ..**

**Category of the spirit drink**

#### **Applicant**

Name of legal or natural person ..

Full address (street number and name, town/city and postal code, country) ..

Legal status, size and composition (*in the case of legal persons*) ..

Nationality ..

Tel, e-mail ..

#### **Intermediary**

Member State(s) (\*) —

Third-country authority (\*)

[(\*) delete as appropriate]

Name(s) of intermediary(ies) ..

Full address(es) (street number and name, town/city and postal code, country) ..

Tel, e-mail ..

**Proof of protection in third country ..**

**Technical file**

Number of pages ..

Name(s) of signatory(ies) ..

Signature(s) ..

## **ANNEX II**

### **TECHNICAL FILE**

Date of receipt (DD/MM/YYYY) ..

*[to be completed by the Commission]*

Number of pages (including this page) ..

Language used for submission of application ..

File number ..

*[to be completed by the Commission]*

**Geographical indication to be registered ..**

**Category of the spirit drink**

**Description of the spirit drink**

- Physical, chemical and/or organoleptic characteristics
- Specific characteristics (compared to spirit drinks of the same category)

**Geographical area concerned**

**Method for obtaining the spirit drink**

**Link with the geographical environment or origin**

Details of the geographical area or origin relevant to the link

Specific characteristics of the spirit drink attributable to the geographical area

**European Union or national/regional provisions**

**Applicant**

- Member State, Third Country or legal/natural person ..
- Full address (street number and name, town/city and postal code, country) ..
- Legal status (in the case of legal persons) ..

**Supplement to the geographical indication**

**Specific labelling rules (as referred to in Article 10(2) of this Regulation)**



## ANNEX III

### REQUEST OF OBJECTION TO A GEOGRAPHICAL INDICATION

Date of receipt (DD/MM/YYYY) ..

*[to be completed by the Commission]*

Number of pages (including this page) ..

Language of request of objection ..

File number ..

*[to be completed by the Commission]*

#### **Objector**

Name of legal or natural person ..

Full address (street number and name, town/city and postal code, country) ..

Nationality ..

Tel, e-mail ..

#### **Intermediary**

Member State(s) (\*)

Third-country authority (optional) (\*)

[(\*) delete as appropriate]

Name(s) of intermediary(ies) ..

Full address(es) (street number and name, town/city and postal code, country) ..

#### **Objected geographical indication ..**

##### **Prior rights**

Registered geographical indication (\*)

National geographical indication (\*)

[(\*) delete as appropriate]

Name ..

Registration number ..

Date of registration (DD/MM/YYYY) .. —

Trademark

Sign ..

List of products and services ..

Registration number ..

Date of registration ..

Country of origin ..

Reputation/renown (\*) ..

[(\*) delete as appropriate]

### **Grounds for objection**

Name of signatory ..

Signature ..

**ANNEX IV**

**REQUEST OF CANCELLATION OF A GEOGRAPHICAL INDICATION**

Date of receipt (DD/MM/YYYY) ..

*[to be completed by the Commission]*

Number of pages (including this page) ..

Author of request of cancellation ..

File number ..

*[to be completed by the Commission]*

**Language of request of cancellation ..**

Name of legal or natural person ..

Full address (*street number and name, town/city and postal code, country*) ..

Nationality ..

Tel, e-mail ..

**Contested geographical indication ..**

**Legitimate interest of the author of the request ..**

**Statement by the Member State or third country ..**

**Grounds for cancellation**

Name of signatory ..

Signature ..

## ANNEX V

### **APPLICATION FOR THE AMENDMENT OF THE TECHNICAL FILE OF A GEOGRAPHICAL INDICATION**

Date of receipt (DD/MM/YYYY) ..

*[to be completed by the Commission]*

Number of pages (including this page) ..

Language of amendment ..

File number ..

*[to be completed by the Commission]*

#### **Intermediary**

Member State(s) (\*) —

Third-country authority (optional) (\*)

[(\*) delete as appropriate]

Name(s) of intermediary(ies) ..

Full address(es) (street number and name, town/city and postal code, country) ..

Tel, e-mail ..

#### **Name of the geographical indication**

#### **Specification heading affected by the amendment**

Protected name (\*)

Description of product (\*)

Geographical area (\*)

Link (\*)

Names and addresses of control authorities (\*)

Other (\*)

[(\*) delete as appropriate]

#### **Amendment**

Amendment to the product specification not entailing an amendment of the main specifications (\*)

Amendment to the product specification entailing an amendment to the main specifications(\*)

*[(\*) delete as appropriate] —*

**Explanation of the amendment ..**

**Amended main specifications**

*[on separate sheet]*

Name of signatory ..

Signature ..