



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Deputy Director General, in charge of Directorates E, G and H

Brussels  
AGRI.E.2/ (2023)9212628

Dear Mr [REDACTED] and Mr [REDACTED],

Thank you for your e-mails of 31 July and of 3 August 2023 by which you ask the Commission's views about the indication of the country of origin or place of provenance for certain spirit drinks that were matured and/or otherwise processed and bottled outside their place of initial manufacturing.

The reply below refers also to the letters sent on 11 August by Mr [REDACTED], [REDACTED] of Food Department of the Czech Ministry of Agriculture to me (Ares(2023)5562119) and to Mr [REDACTED] of the Directorate General for Health and Food Safety (Ares(2023)5564057) concerning the same matters.

First of all, let me outline the main legal provisions of Union law to be considered for the indication of the country of origin or place of provenance of a spirit drink:

- Article 26(2) of the FIC Regulation (EU) No 1169/2011 requires the indication of the country of origin or place of provenance where failure to indicate this might mislead the consumer as to the true country of origin or place of provenance of the food, in particular if the information accompanying the food or the label as a whole would otherwise imply that the food has a different country of origin or place of provenance.
- Article 14(1) of the Spirit Drinks Regulation (EU) 2019/787 provides that *'where the place of provenance of a spirit drink, other than a geographical indication or trade mark, is indicated in its description, presentation or labelling, it shall correspond to*

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*the place or region where the stage in the production process which conferred on the finished spirit drink its character and essential definitive qualities took place.’*

- Article 14(2) of Regulation (EU) 2019/787 exempts spirit drinks from the indication of the country of origin or place of provenance of the primary ingredient as referred to in Regulation (EU) No 1169/2011.
- However, if such information is voluntarily indicated in the description, presentation and labelling of a spirit drink, it needs to be provided in accordance with Article 26(3) of Regulation (EU) No 1169/2011, i.e. by providing the country of origin or place of provenance of the primary ingredient in question or by indicating that the country of origin or place of provenance of the primary ingredient is different to that of the food.

In **your first question** you ask whether a Scotch Whisky distilled and aged for 3 years in the UK and transported to Poland where it is aged for 3 additional years, to be subsequently diluted with water from 88% vol. to 40% vol. and then aged for another 3 years in Poland is still ‘Scotch Whisky’ and what would be the country of origin/place of provenance of such spirit drink.

Scotch Whisky is a geographical indication (GI) registered and protected in the European Union. As such, it must comply not only with the requirements for the production of whisky laid down in point 2 of Annex I to Regulation (EU) 2019/787, but also with those laid down in its own product specification, according to which while most categories of Scotch Whisky (all except Single Malt Scotch Whisky) may be exported in bulk, the entire maturation process must take place in Scotland <sup>(1)</sup>.

For this reason, the product described in your question is not Scotch Whisky as any maturation outside Scotland disentitles the spirit drink to be labelled under that GI.

Moreover, the question arises whether the product described is still whisky at all. In fact, the definition of whisky in point 2 of Annex I of Regulation (EU) 2019/787 states that:

*a) Whisky or whiskey is a spirit drink **produced exclusively** by carrying out all of the following production operations: (i) distillation of a mash made from malted cereals, with or without whole grains of unmalted cereals, which has been: — saccharified by the diastase of the malt contained therein, with or without other natural enzymes, — fermented by the action of yeast; (ii) each and every distillation is carried out at less than 94,8 % vol., so that the distillate has an aroma and taste derived from the raw materials used; (iii) maturation of the final distillate for at least three years in wooden casks not exceeding 700 litres capacity. **The final distillate, to which only water and plain caramel (for colouring) may be added, shall retain the colour, aroma and taste it derived from the production process referred to in points (i), (ii) and (iii).***

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(1) **“Scotch Whisky” means a whisky produced in Scotland** (a) that has been distilled at a distillery in Scotland from water and malted barley (to which only whole grains of other cereals may be added) all of which have been; (i) processed at that distillery into a mash; (ii) converted at that distillery into a fermentable substrate only by endogenous enzyme systems; and (iii) fermented at that distillery only by the addition of yeast; (b) that has been distilled at an alcoholic strength by volume of less than 94.8 per cent so that the distillate has an aroma and taste derived from the raw materials used in, and the method of, its production; (c) that has been matured only in oak casks of a capacity not exceeding 700 litres; (d) **that has been matured only in Scotland** [...]

The production process set out by the above definition is an exclusive one and it is a sequential process. It is only the final distillate to which water may be added. If water is added and then it is further matured, it cannot be whisky because the final maturation is out of sequence with the timing when water can be added i.e. only to the final distillate.

That product could probably be labelled as a 'grain spirit' instead, failing which it must be placed on the market under the generic legal name 'spirit drink'.

As to the provenance, the product described has been matured for 6 years outside Scotland. The product is completely transformed by that maturation and therefore is no longer a product of Scotland. The final spirit was created in Poland and therefore it is a product of Poland. Any information on its provenance must not be misleading for consumers as to the characteristics of the food, including its nature and its origin, in accordance with the requirements of Article 7 of the FIC Regulation (EU) No 1169/2011.

One possibility is to indicate in the description, presentation and labelling that it is a 'GRAIN SPIRIT' (legal name) - 'Distilled in Scotland, matured in Poland – Product of Poland', provided that the reference to Scotland is not more prominent than the reference to Poland.

Any possible allusion to 'Scotch Whisky' (i.e. the initial spirit drink constituting the sole alcoholic base used for the production of the final spirit drink) in the description, presentation and labelling of the product described above has to comply with the provisions of point (a) of Article 12(3a) of the Spirit Drinks Regulation (EU) 2019/787.

**Your second question** concerns Rum distilled in 3 different Caribbean countries (e.g. Barbados, Grenada, Jamaica), blended in that region and then transported to Poland to be diluted with water from 92% vol. to 40% vol. with addition of caramel. In this respect, you ask whether it is possible to label such rum as "Caribbean rum" (i.e. the name of the region) and what would be the country of origin/place of provenance of that spirit drink.

Please note that, according to point (d) of Article 7(3) of Regulation (EU) 2019/787, the addition of caramel to the categories of spirit drinks from 1 to 14 of Annex I (among which is rum) is allowed exclusively for adjusting their colour and rum can only be coloured in the first place if it has undergone a certain period of maturation in wood. Non-matured distillates are not coloured and therefore it is difficult to see how caramel can be added to adjust the colour. At any rate, according to its definition in point (21) of Article 4 of Regulation (EU) 2019/787, caramel '*does not correspond to the sugary aromatic product obtained from heating sugars and which is used for flavouring purposes*' and thus it is bound to change the colour but not the other organoleptic properties of the spirit drink.

Therefore, in this case, it does not seem that the operations performed in Poland would change the country of origin/place of provenance of the Caribbean rum in question. In fact, dilution with water and addition of caramel should not confer to the finished spirit drink qualities essentially different from those of the rum distilled (and matured) in the country of origin and then transported in bulk to another country where it is diluted to an alcoholic strength adapted to human consumption before being bottled.

If we assumed that those operations did fundamentally change the character of the spirit drink and thus its place of provenance, we would have to conclude that any spirit drink transported in bulk must display as place of provenance the country of destination, which

would be unfair because it would annul the economic advantage of transporting spirit drinks in bulk at cask strength and even misleading for consumers.

Please note that even Scotch Whisky allows certain whiskies (all except Single Malt Scotch Whisky) to be transported in bulk to other countries to be diluted and bottled on the spot, without losing the right to be labelled as Scotch Whisky.

Furthermore, Caribbean rum is not protected in the Union as geographical indication and does therefore not have to comply with product specifications approved in the EU, but only with the requirements of category 1 of Annex I to Regulation (EU) 2019/787.

Therefore, the country of origin/place of provenance of the rum described above would be that (or those) where it has been distilled, matured and blended (the Caribbean), more specifically the country determined when it was imported into the EU, whereas it would be necessary to indicate on the label that the rum has been bottled in the Czech Republic, to inform consumers that dilution and possible addition of caramel have taken place in that country.

Finally, **your third question** is about rum distilled in Cuba (at 90 % vol.), then imported to the Czech Republic where it is diluted with water up to its final alcohol content, sugared within the limit set in rum category (max. 20g/litre) and additioned with caramel as colorant as allowed by the requirements for the rum category and finally bottled.

In that respect you ask:

- a) whether the country of origin of such rum would be Cuba or the Czech Republic;
- b) in case the country of origin is the Czech Republic and the product is labelled with the business name „Cuban Rum“, whether is it necessary to declare the actual country of origin by the words „Made in the Czech Republic“; and
- c) whether the business name „Cuban Rum“ and the country of origin „Made in the Czech Republic“ should be provided in the same field of vision (to ensure that the information about the real country of origin of the product which is important for the informed choice of the final customer was provided in line with the article 7 and 13 of the Regulation (EU) No 1169/2011 i.e. accurately, clearly and easily and that the consumer is not distracted from the information about the true origin).

In reply to your questions, please note that an application for registration in the European Union of CUBA rum is currently under examination and therefore my services cannot take position with respect to rums covered by that indication, yet.

Generally, rum produced in Cuba does not lose the entitlement to be labelled as a ‘product of Cuba’ if it is transported in bulk to other countries where it is just diluted with water and additioned with sugar and caramel within the limits provided for by category 1 of Annex I to Regulation (EU) 2019/787 as these operations are not bound to change its essential characteristics in the sense of Article 14(1) of the same Regulation.

Therefore, the country of origin/place of provenance of the rum described above would be that where it has been distilled and possibly matured and blended (Cuba), whereas it would be necessary to indicate on the label that the rum has been bottled in the Czech

Republic, to inform consumers that dilution and possible addition of sugar and caramel have taken place in that country.

The present opinion is provided on the basis of the facts as set out in your e-mails of 31 July and 3 August 2023, expresses the view of the Commission services and does not commit the European Commission. In the event of a dispute involving Union law it is, under the Treaty on the Functioning of the European Union, ultimately for the Court of Justice of the European Union to provide a definitive interpretation of the applicable Union law.

Yours sincerely,



Pierre BASCOU  
Acting Deputy Director-General