

COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Strasbourg, 2nd December 1960

Confidential
EXP/V.Sp.(60) 21

Or. Fr.

COMMITTEE OF EXPERTS ON THE PRODUCTION AND MARKETING OF VINE PRODUCTS AND SPIRITS



COE012206

Memorandum by the Secretariat-General,
(Legal Department) on the proceedings
of the fourth meeting

S p i r i t s

(28th and 29th October 1960)

Introduction

1. The Committee of Experts on the Production and Marketing of Vine Products and Spirits held its 4th meeting from 24th to 29th October 1960. As Mr. Kieffer, Chairman of the Committee, was unable to attend, the Chair was taken by the Vice-chairman, Mr. Polymenacos (Greece).

On 28th and 29th October the Committee examined questions relating to spirits. It is solely with these that the present Memorandum is concerned.(1)

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- (1) The part of the Committee's fourth meeting concerned with wines and appellations of origin is dealt with in a separate memorandum. /Doc. EXP/V.Sp. (60) 20/.

In addition to Government experts from member countries of the Council of Europe the meeting was attended by observers from Spain, Portugal, Switzerland and the European Economic Community. For the list of participants see Appendix II.

2. In Resolution (59) 1 of the Committee of Ministers the Committee was instructed to prepare a draft European Convention laying down the general lines of a common policy for the production and marketing of vine products and spirits and for the protection of trade names which are appellations of origin.

3. The present memorandum contains:

- a) the programme of work adopted by the Committee in respect of spirits;
- b) the text of the draft definitions of spirits prepared by the Secretariat-General (see Doc. EXP/V.Sp. (60) 13), in the light of the provisional preliminary amendments made thereto by the Committee;
- c) a brief commentary;
- d) a list of the Committee's working papers (Appendix I).

4. With regard to its future work, the Committee agreed, subject to the approval of the Secretary-General, to meet from 10th - 14th April 1961, inclusive, to continue its examination of the section on spirits. This meeting would follow that dealing with wine (see Doc. EXP/V.Sp. (60) 20). Governments may, if they deem it necessary, send different Experts to each of these meetings.

It was decided that at least 3 months before the next meeting, delegations would supply the Secretariat with all the necessary information for a working document summarising and comparing the definitions of the different categories of spirituous liquors given in the relevant national laws, with special reference to definitions of spirits.

5. The Committee gave due consideration to the conclusions adopted by the European Conference of Wines and Spirits Associations held on 4th and 5th April 1960 in Strasbourg on the initiative of the Committee on Agriculture of the Consultative Assembly (see Doc. EXP/V.Sp. (60) 9).

Programme of work on spirituous liquors

I. DEFINITIONS

1. Alcohols
2. Spirits
 - natural
 - [- grape brandies
 - other fruit brandies
 - grainwort spirits
 - other natural spirits]
 - blended
 - other spirits (fancy, artificial)
3. Liqueurs
4. Other beverages derived from distilling alcohol

II. PRODUCTION

Production methods and processes

1. Authorised and prohibited practices
2. Impurity limits
3. ~~/Alcohol content/~~

III. MARKETING

1. Commercial practices. Sales regulations
2. Designation and presentation.
 - Alcohol content
 - Packaging, bottling and labelling (standardisation)
3. Other aspects (economic, social etc.)

IV. APPELLATIONS OF ORIGIN

Draft definition of spirituous liquors
prepared by the Secretariat
and provisionally amended by the Committee (1)

I. ALCOHOL

General definition

In the present Convention the term "alcohol" shall denote ethyl alcohol obtained by distillation.

Alcohol for human consumption must always be sold with an indication of the raw material from which it is derived.

II. SPIRITS

General definition

A spirit is a beverage obtained by distillation, composed mainly of ethyl alcohol produced by fermentation and of water, and containing certain secondary substances of different nature but of vegetable origin which together determine the characteristic flavour of each spirit.

The alcoholic content of spirits offered for human consumption must be not less than 40%. No spirits may be distilled at a temperature exceeding 80° Centigrade.

Spirits are divided into three classes:

1. natural spirits;
2. blended spirits;
3. other spirits (fancy, artificial).

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(1) The definitions examined by the Committee, in which preliminary changes have been made, are underlined in the text.

1. Natural spirits

A natural spirit is a product obtained by distillation of the juice or fermented substance, flavouring, blending and preparation of a fancy product being prohibited.

This class comprises spirits made from wine, "marc", cider, perry, cherries, "merises" (kirsch), plums, mirabelles or other sweetened fruits, those derived from sugar-cane juice or mash (rum, tafia), and those obtained by simple distillation of fermented grainworts (gin, whisky).

Nevertheless, when using certain vegetable products such as berries, spirits may be made by mixing the substance to be distilled with natural spirit before distillation.

Natural spirits include the following:

(a) grape brandy or "Brandy": the name grape brandy is restricted to spirits obtained exclusively by distillation of wine;

(b) apple and pear brandies: the names apple brandy and pear brandy are reserved to products obtained exclusively by distillation of cider and perry respectively.

(c) other fruit brandies: the names of other fruit brandies are restricted to spirits obtained exclusively by alcoholic fermentation and distillation of the fruit in question, e.g. plum, mirabelle, quetsche.

Nevertheless, spirits made from raspberries, mulberries, bilberries or other wild berries may, in accordance with regular usage, be described as brandies if obtained by distillation of these fruits, with the addition of natural spirits subject to a maximum yield of 12 1/2 litres of pure alcohol for every 100 kilograms of fruit treated.

- Kirsch: the name "kirsch" is restricted to spirits obtained exclusively by alcoholic fermentation and distillation of cherries or wild cherries ("merises").

- Gin: the name "gin" is restricted to spirit obtained by the simple distillation of fermented grainwort in the presence of juniper berries.

- Marc: the names "marc brandy" and "marc" are restricted to spirit obtained exclusively by fermentation of fresh grape marc with or without the addition of water.

- Whisky is the product of the simple distillation of worts prepared by saccharifying grain with malt and suitably fermented.

- The names rum and tafia are restricted to spirits obtained exclusively by alcoholic fermentation and distillation either of molasses or syrup produced in the extraction of cane sugar or of sugar-cane juice, from which the aromatic substances that give rum and tafia their special character have not been removed by defecation.

No blended, aromatised spirit, whether coloured or not, may be marketed under the name rum or tafia, even if it contains a proportion of original rum or tafia, unless it is obtained exclusively by distillation either of sugar-cane juice or of molasses or syrup produced in the extraction of cane sugar.

- Arrack is the product of simple distillation of fermented rice wort.

- The word "fine" may be used only when accompanied by a geographical designation and to denote a grape, apple or pear brandy originating wholly in the wine-, cider- or perry-producing area indicated thereby.

2. Blended spirits

A blended spirit is one produced by blending a natural spirit with an alcohol or a natural spirit with another natural spirit of a different type.

3. Other spirits (fancy, artificial) (to be defined)

Treatments and practices shall be regarded as fraudulent if designed to sophisticate or flavour natural spirits with the object of deceiving the buyer as to their true qualities, origin or type, or to give spirituous liquors intended for consumption, under whatsoever name, the characteristics of a natural spirit by falsifying the results of analysis.

III. LIQUEURS

The generic name "liqueur" is restricted to:

(a) sweetened spirits;

(b) spirits or alcohols flavoured either by steeping natural substances or by adding fruit juice, or by distilling in the presence of the said substances, or by adding the products of distillation of the said substances in the presence of alcohol and water, or by a combination of these processes without using any chemical substance (or any synthetic flavouring matter) not expressly authorised by the law of the producing country, the use of any such chemical substances being clearly shown on the label.

The preparations so obtained must be sweetened with sugar, glucose or honey.

They may not be coloured except with substances authorised by law.

A liqueur must be drinkable in its original state.

The name "cherry brandy" is restricted to liqueurs obtained by steeping cherries in alcohol, with the addition of sugar syrup but without the addition of any colouring matter.

The name "black-currant liqueur" or "cassis" is restricted to the liqueur resulting from the addition of sugar or glucose to the product obtained by steeping black-currants in spirit.

When steeping the black-currants, buds or raspberries and red-currants may be added, provided that the quantity does not exceed 2 kilograms of buds or 50 kilograms of raspberries and red-currants for every 1,000 kilograms of black-currants.

The name "crème de cassis" is restricted to black-currant liqueurs with an alcoholic content of at least 15% and containing not less than 400 grams of sugars per litre.

Names including the words "menthe", "curaçao", "mulberry", "strawberry", "mandarine", "cherry", "guigne", "black currant", "cassis" or their derivatives are restricted to the corresponding liqueurs. They may, however, be used to denote syrups provided that these words or their derivatives are preceded or followed by the word "syrup" in the same lettering.

It is forbidden, in making liqueurs, to use colouring or flavouring matters, or chemical or antiseptic substances, other than those whose use is declared lawful by the municipal law of the country concerned.

Commentary

Programme of work

6. The programme of work on spirits was prepared on the basis of a statement by the Netherlands delegation (Appendix III). The Experts noted that this programme covered all the points raised by the European Conference of National Associations concerned with wines, spirits and beers (Doc. EXP/V.Sp. (60) 9).

7. The Committee decided not to give an immediate general definition of "spirituous liquors" but considered that the desirability of such a definition might be re-examined when the first part of the programme of work had been completed. Most of the Experts agreed that "spirituous liquors" were "beverages derived from distilling alcohol".

8. The words "sales regulations" mentioned in Part III of the programme refer primarily to the organisation of sales to the inland consumer.

At the request of the Netherlands delegation it was agreed that the fiscal aspects of the marketing of spirits might be discussed when examining the "other aspects" which constitute Item 3 of Part III. The Italian delegation considered that these "other aspects" should also include publicity on behalf of spirituous liquors.

9. The Committee thought it would be desirable to examine first, at its next meeting, the chapter on "production".

10. Under Part IV of the programme, it should be noted that the Committee, in the course of its discussions on wine problems, provisionally adopted an article relating to the protection of appellations of origin, which is also applicable to spirits (see Doc. EXP/V.Sp. (60) 20, page 16).

Draft definitions prepared
by the Secretariat

11. The Committee held a preliminary exchange of views on the question of the draft definitions prepared by the Secretariat. As this draft has not yet been examined in detail it cannot be regarded as provisionally adopted, but a number of preliminary changes were agreed.

12. The general definition of spirituous liquor given in the draft was deleted (see para. 7 above). This was worded as follows:

"Spirituous liquor is a generic term covering all beverages composed mainly of spirits or ethyl alcohol derived from natural fermentable substances and distilled after fermentation."

13. As regards "alcohol" the draft gave the following definition:

"Ordinary alcohol is a product of distillation, with rectification, of any fermented liquid, and having a strength exceeding 71%."

The Committee adopted a shorter definition worded as follows:

"In the present Convention, the term alcohol shall denote ethyl alcohol obtained by distillation."

It was decided that the question of rectification and that of alcohol content would be examined in connection with production.

The Committee was of the opinion that a more appropriate place for the paragraph coming after that containing the definition of alcohol would be the chapter dealing with marketing, and accordingly placed that paragraph between square brackets.

14. The Experts considered that the definition "industrial spirits" contained in the draft should be deleted.

They also agreed to exclude synthetic alcohol and considered that it would be useful to draw up a list of the various alcohols on the basis of the raw materials from which they were derived.

15. In the definition of "blended spirits" prepared by the Secretariat, the words "an industrial spirit" were replaced by the words "an alcohol".

16. On the proposal of the Italian delegation, the second paragraph of the definition of "liqueurs" was placed between square brackets, since, in the view of that delegation, it was incompatible with the definition of liqueurs given in the relevant Italian law.

17. The Committee requested delegations to supply the Secretariat, at least three months before its next meeting, with all the necessary information for a comparative study on the definitions of spirituous liquors and, more particularly, spirits, given in the national legislations (see para. 4 above).

The Committee had already been able to consult the Luxembourg regulation on spirits (Doc. EXP/V.Sp. (60) 18) and the Netherlands decree on liqueurs (Doc. EXP/V.Sp. (60) 19).

A P P E N D I X I

Working papers
for the meeting concerning spirits

- | | |
|----------------------------------------------------------------------------------|------------------------------|
| - Resolution (59) 1 | Res. (59) 1 |
| - Memorandum by the Secretariat on
the production and marketing of
spirits | EXP/V.Sp. (60) 5 |
| - Recommendation on wines and spirits | EXP/V.Sp. (60) 10
Revised |
| - Draft definitions of spirits,
prepared by the Secretariat-General | EXP/V.Sp. (60) 13 |
| - Luxembourg regulations concerning
spirits | EXP/V.Sp. (60) 18 |
| - Netherlands regulations concerning
liqueurs | EXP/V.Sp. (60) 19 |

A P P E N D I X II

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(Meeting held from
28th to 29th October 1960 (spirits))

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A P P E N D I X I I I

Statement by the Netherlands delegation

The Secretariat of the Council of Europe has proposed that the Recommendations of the Conference of the National Associations be placed on the Agenda.

It is understandable that point 4 has not been taken up since it is outside the scope of the Council. The other points mentioned will no doubt be discussed, but we do not consider the Secretariat's proposed programme of work to be a very practicable one.

Since our task is to seek ways and means of devising a common policy in the production and marketing of vine products and spirits as well as in the protection of appellations of origin (see Recommendation 182) we think it necessary first to define the term "spirituous liquors". When this has been done we shall be able to discuss production and then trade.

Discussing the notion of "spirituous liquors" unquestionably presupposes a definition of "alcohol", just as in the case of wine it was necessary first to define "fresh grapes", "musts", etc.

The fact that we should like to propose as our first task a definition of "alcohol" does not imply any general view that our Committee's mandate covers the production of, and trade in, alcohol. However, our discussions on spirits will no doubt reveal that the connexion with alcohol is as important as, if not more important than, the connexion with wine.

The Committee cannot simply ignore the question of alcohol particularly alcohol used for manufacturing spirits.

A difficulty which we shall often encounter in our discussions is the lack of accurate documentary and statistical material on alcohol and spirits in the Contracting States. We have received considerable documentation from the Secretariat, which has helped us a great deal, but it deals mainly with wine.

Whereas, however, wine is a product which must be derived solely from grapes, a wide range of raw materials is used for making alcohol and spirits.

Furthermore, since amongst other things, one of the major producers of spirits, namely the United Kingdom, is not represented on the Committee, better documentary material concerning the production and marketing of these products is a first essential.

When we have found a satisfactory solution for the definition of alcohol we should try to define spirituous liquor in general and then classify it into different categories such as spirits, liqueurs and blended beverages. These categories might then be further sub-divided into specific beverages like rum, whisky, etc.

In defining the different varieties, consideration should at the same time be given to the minimum alcohol content and the appellation of origin, and this calls first for a discussion of the laws and regulations governing production.

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Here we may distinguish:

- (1) The fiscal aspect
- (2) The social and economic aspect
- (3) The health aspect

The laws of the Contracting States emphasise different aspects, from the purely fiscal (as in the Netherlands where production is completely free subject to taxation requirements) to the health aspect (as in Norway where production and trade are completely State-controlled).

The differences are so wide that any possibility of achieving full harmonisation would seem to be ruled out from the start. Indeed, in the case of production it may well not be absolutely necessary in order to achieve freer trade in spirits. Therefore, discussion could be limited to some important questions, for instance: How far do the different provisions concerning production directly or indirectly hamper trade? Once that has been discussed, ways and means might be sought of eliminating these obstacles so as to achieve the desired result even without full harmonisation.

Turning now to the harmonisation of laws governing the trade in spirits, it will be found that these vary considerably from Contracting State to Contracting State according to local conditions.

Here too different aspects are stressed, as already mentioned above, and there is the influence of such factors as the mentality of the local population, climate and consumer habits.

Existing laws may be sub-divided into the following categories:

1. Food-stuff laws laying down very definite requirements in respect of trade in spirituous liquors from the following aspects:

(a) Composition:

- authorised raw materials and secondary materials (nature and quantity);
- authorised colouring matter;
- prohibited additives (nature and quantity);

(b) designation and packaging:

- permitted or compulsory designations;
- indication of designation;
- permissible or obligatory types of packaging.

2. Laws on the sale of spirituous liquors to the public:

- by private enterprise or State monopolies;
- regulations governing consumption on the premises;
- regulations governing consumption off the premises.

3. Fiscal laws:

- excise duties;
- turnover tax;

In our opinion the various legislations cover such a wide range as to preclude any possibility of full harmonisation.

We do, however, think that it should be possible to harmonise some aspects of the subjects listed above, in particular regulations on designation and labelling. Uniform rules in this respect would greatly facilitate trade.

From the economic point of view, it would be highly desirable to standardise bottling. Clearly in view of the growing tendency on the part of the public to buy bottled brands, a reputed brand of liqueur, say, should be marketed throughout the territories of the Contracting Parties in its original bottle bearing the original label.

I should like a special chapter to be devoted to appellations of origin since the protection of such appellations is expressly mentioned as being within our Committee's terms of reference. Here, of course, account must be taken of existing international agreements.

In conclusion, in view of the diversity and complexity of these problems, we think it of crucial importance not to remain satisfied with a few important, but too general points such as are set forth in the Recommendation of the Conference of National Associations but to prepare as detailed a programme of work as possible dealing with all the necessary points, including those raised by us, in a logical order.

A much more detailed sub-division is all the more necessary as the examination of the different points calls for more documents and different Experts and careful preparation of the discussions. If our discussions in the Committee are to be profitable it is essential that this extensive programme should be dealt with point by point, clearly stating beforehand which points are going to be discussed and in what order.