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Riga, 9 November 2016

REGARDING COMPLIANCE OF THE REGULATIONS IN THE DRAFT LAW “AMENDMENTS TO THE ALCOHOLIC BEVERAGE CIRCULATION LAW” NO. 606/LP12 TO EUROPEAN UNION LEGAL STANDARDS

To whomever this may concern,

Referring to the request received on 31 October 2016, we have drafted an opinion regarding the draft law “*Amendments to the Alcoholic Beverage Circulation Law*” No. 606/Lp12, which has been submitted to the Saeima [Parliament of the Republic of Latvia] for a third reading (**the Amendments**). In the opinion, we have evaluated the compliance of the Amendments to European Union (EU) legal regulations (**the Opinion**).

The Opinion is based on EU legal regulations, European Court of Justice (ECJ) case law, and conclusions expressed in legal doctrine. Even though a prohibition on trade restrictions is also specified in World Trade Organisation agreements and in other international agreements, we have not evaluated the compliance of the proposed Amendments to these documents because their application to free circulation of goods is subordinated to EU legislation.

The Opinion was drafted in a situation where regulations or interpretation thereof may change relatively swiftly. It is also possible that the regulations are ambiguous and/or the consequences of implementing them are not clear. Given the circumstances, the statements expressed in our Opinion are based on our understanding of current legislation, available practice in the implementation of these regulations, and our reasonable professional judgment.

Any assessments of potential consequences and suggestions regarding future actions by courts, the European Union, state authorities, or private persons, should be treated as our opinions regarding potential solutions only, without giving promises or warranties regarding expected results or ensuing benefits.

1. OVERVIEW

- 1.1. The restrictions specified in the Amendments should be treated as prohibited under Treaty on the Functioning of the European Union (TFEU) Article 34.
- 1.2. The Amendments do not conform to the exception provided under TFEU Article 36 and are incompliant with EU legislation because:
 - (a) The evaluation of necessity and effectiveness of restrictions specified in the Amendments is insufficient for a justification of the Amendments being adequate in order to achieve the specified goal.
 - (b) If restrictions specified in the Amendments were to be construed as useful for achievement of the specified goal, these Amendments should be considered disproportionate, considering that the specified goal could be achieved by means less restrictive to free circulation of goods.

- 1.3. Even if the Amendments are deemed prima facie compliant with EU legislation, they should be announced to the European Commission and other Member States in accordance with the notification procedure stipulated in Directive 83/189/CEE.
- 1.4. The Amendments are not comprehensive and do not envisage a transitional period with regard to sales of the manufactured goods.

2. PROPOSED AMENDMENTS

- 2.1. With the aim of reducing consumption of alcohol in Latvia, the draft law “*Amendments to the Alcoholic Beverage Circulation Law*” No. 606/Lp12 was submitted for review to the Saeima; the initial wording intended a prohibition on sales of alcoholic beverages that “*fall into the beer, fermented beverages and other alcoholic beverages categories, with an alcohol content by volume exceeding 7.5%, provided that they are sold in tare with a volume of more than 0.5 litres, and alcoholic beverages in these categories with an alcohol content by volume not exceeding 7.5%, provided that they are sold in tare with a volume of more than 1 litre.*”¹
- 2.2. The amendments have been supplemented with proposals before the second reading in the Saeima. The proposals were partially supported by the commission and, as a result, the amendments submitted to the Saeima for the second reading were changed substantially, providing that “*beer, wine, fermented beverages, other alcoholic beverages, and other alcoholic beverages produced by mixing together a number of alcoholic beverages are prohibited to be sold in packaging having a capacity of more than one litre, if the absolute quantity of alcohol in the alcoholic beverage exceeds 5.8 per cent by volume.*” Although the Saeima did not support some of the proposals in the second reading, the changes after the second reading are not yet reflected in the document included in the Saeima’s draft law database.²
- 2.3. However, based on the decisions taken during the 27 October 2016 Saeima session³, we reviewed the amended wording supported by Saeima Members (**the Amendments**), which provides that:
 1. Beer, fermented beverages, other alcoholic beverages, and other alcoholic beverages produced by mixing together a number of alcoholic beverages are prohibited to be sold in packaging having a capacity of more than:
 - a) 0.5 litres, if the absolute quantity of alcohol in the alcoholic beverage exceeds 5.8 per cent by volume;
 - b) 1 litre, if the absolute quantity of alcohol in the alcoholic beverage does not exceed 5.8 per cent by volume.
 2. The prohibition shall not apply if:
 - a) The packaging is made of glass, ceramic, metal, or wood;
 - b) The alcoholic beverage is sold at the production site.
- 2.4. Free movement of goods in the European Union is primarily guaranteed by the FTEU by providing limited possibilities for Member States to impose different requirements, which could adversely affect trade between these countries. According to the State Revenue Service reports on the movement of excise goods, a significant amount of alcohol is imported into Latvia from other European Union countries.⁴ In certain product categories, for example, in relation to wines, this exceeds 90% of the alcoholic beverage consumption in Latvia.⁵ This means that any requirements imposed by the state

¹ Annotation to the draft law “Amendments to the Alcoholic Beverage Circulation Law” No. 606/Lp12. Available at: <http://titania.saeima.lv/LIVS12/saeimalivs12.nsf/0/7D5F70A166DC70E1C22580280029EAD6?OpenDocument>

² Suggestions regarding the draft law “Amendments to the Alcoholic Beverage Circulation Law” No. 606/Lp12, approved after the 2nd reading, document No. 2661. Available at:

<http://titania.saeima.lv/LIVS12/SaeimaLIVS12.nsf/0/87412281214770AFC225805200443F30?OpenDocument>

³ Stenogram of the Republic of Latvia 12th Saeima autumn session, 9th meeting, 27 October 2016. Available at: <http://saeima.lv/lv/transcripts/view/382>

⁴ State Revenue Service statistics on circulation of goods subject to Excise Tax, first 8 months of 2016. Available at: [https://www.vid.gov.lv/sites/default/files/Alkohola%20aprite 2016 08 pielik.pdf](https://www.vid.gov.lv/sites/default/files/Alkohola%20aprite%202016%2008%20pielik.pdf)

⁵ Ibid.

for alcoholic beverage packaging not only directly impact the free movement of these goods within the European Union, but in certain product categories mainly target the goods imported from other Member States.

3. AMENDMENTS POSE A LIMITATION TO THE FREE MOVEMENT OF GOODS AND CONTRADICT WITH TFEU ARTICLE 34

- 3.1. Free movement of goods is one of the four fundamental freedoms of the EU established in ECJ practice since 1979, when the ECJ declared that goods lawfully manufactured in one Member State shall also be deemed as such in other Member States⁶. Trade of goods within the EU, including the trade of alcoholic beverages, is subject to TFEU Article 34 (former European Community Treaty (ECT) Article 28), which states that “*Quantitative restrictions on imports and all measures having equivalent effect shall be prohibited between Member States*”. Similarly, TFEU Article 35 (ECT Article 29) prohibits the application of quantitative restrictions or other restrictions with equivalent effect on export goods.
- 3.2. An opinion has been established in ECJ case law that, within the meaning of TFEU Article 34, a measure having equivalent effect to a quantitative restriction shall be any measure by a Member State that may, directly or indirectly, currently or potentially, hinder trade within the EU⁷. Therefore, in order to determine whether the restrictions set out in the Amendments contradict the provisions of TFEU Article 34, it should be determined that the proposed prohibition on the trade of alcoholic beverages, where the alcohol content exceeds 5.8 per cent by volume, in packaging with the volume exceeding 0.5 litres, and alcoholic beverages, where the alcohol content does not exceed 5.8 per cent by volume, but the volume exceeds 1 litre, may directly or indirectly hinder trade within the EU.
- 3.3. According to the ECJ practice, the concept of “*measures having equivalent effect*” includes all measures that pose an obstacle to goods originating in other Member States accessing the market of a Member State. ECJ practice also recognises that, in order to establish a TFEU Article 34 violation, it is sufficient to establish that an obstacle to access the market has been created.⁸ In this case, it is no longer needed to compare the situation of domestic and imported goods in order to detect a potential difference in the treatment of the two product groups⁹. ECJ has also acknowledged that measures similar to quantitative restrictions on imports shall include various requirements imposed on goods that interfere with access of goods of other Member States to the market of this Member State, even if the Member State applies these requirements to all goods equally.¹⁰ This conclusion was later confirmed in other ECJ judgements and ECJ Advocate-General opinions, rather widely construing the requirements imposed on goods and extending them to different technical requirements, such as packaging, taxes, as well as the price of goods.¹¹ Since the manufacturers of other countries that produce alcoholic beverages and are affected by the Amendments will no longer be able to sell their goods in Latvia without adapting them to the Latvian market – and any adjustments require certain investments – it should be concluded that the amendments will create an obstacle for the goods entering the Latvian market. A similar conclusion was drawn by the ECJ in the case of Walter Rau, stating that, if goods are subject to certain packaging requirements, their adjustment will require additional resources, thus reducing the competitiveness of those subject to these requirements and directly affecting the free movement of goods within the EU.¹²

⁶ ECJ 20 February 1979 judgment in case No. 120/78.

⁷ ECJ 11 July 1979 judgment in case No. C-8/74, para. 5; ECJ 16 January 2014 judgment in case No. C-481/12, para. 16; ECJ 26 April 2012 judgment in case C-456/10, para. 35.

⁸ ECJ 23 December 2015 judgment in case No. C-333/14.

⁹ Advocate General Yves Bot's 3 September 2015 conclusions in case No. C-333/14.

¹⁰ ECJ 10 February 2009 judgment in case No. C-110/05, 35.-para. 37.

¹¹ ECJ 26 April 2012 judgment in case No. C-456/10, para. 35; ECJ 10 September 2014 judgment in case No. C-423/13, para. 48; ECJ 23 December 2015 judgment in case No. C-333/14; Advocate General Yves Bot's 3 September 2015 conclusions in case No. C-333/14.

¹² ECJ 10 November 1982 judgment in case No. 261/81.

3.4. **Since the Amendments will pose an obstacle to goods from other Member States entering the Latvian market directly because of the requirements imposed on the goods, the Amendments are to be regarded as “measures having equivalent effect” within the meaning of TFEU Article 34.** Consequently, such Amendments are contrary to TFEU Article 34 and should not be permitted in the EU, unless an exception listed in TFEU Article 36 (ECT Article 30) can be applied.

4. THE RESTRICTION IS NOT CONSISTENT WITH THE EXCEPTIONS STATED IN TFEU ARTICLE 36

4.1. Although TFEU Article 34 generally prohibits restrictions to the free movement of goods, in certain cases, Member States are allowed to make exceptions. The exceptions are listed in TFEU Article 36, which states that [the provisions] shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property. ECJ case law and legal doctrine has recognized that the list of exceptions included in TFEU Article 36 is exhaustive and cannot be interpreted in a broader sense or supplemented.¹³

4.2. In the case of certain measures restricting the free movement of goods, such measures shall be applied without direct or indirect discrimination, and they should not be applied arbitrarily. ECJ practice also has clearly established that measures having equivalent effect to quantitative restrictions may be based on the protection of health and life of humans within the meaning of TFEU Article 36 only, if the measure is appropriate for the intended purpose and does not exceed whatever is necessary to achieve this purpose.¹⁴

4.3. Considering the long-term attempts of the Member States to mask the different types of restrictions with the need to protect public health, ECJ has stated that such restrictions must be assessed with particular care to see whether they are really based on a weighted action plan to improve public health or assess serious health risks.¹⁵ **Having reviewed the Amendments, the annotation, and the way, in which the original wording of the Amendments was changed to the current one, it must be concluded that the Amendments do not comply with the standards specified in TFEU Article 36.**

4.4. Non-compliance of the Amendments with the intended purpose

4.4.1. The annotation of the Amendments mentions the protection of health and life of humans as the purpose protected by TFEU Article 36. However, for ECJ to recognise the restrictions on the free movement of goods as justified, ECJ has pointed out that these restrictions must be able to demonstrate the Member State's concern for achieving the intended purpose consistently and systematically.¹⁶ ECJ has also recognised that, even if restrictions are part of a broader package of measures to improve public health, the court must assess whether **the measure selected by the Member State is suitable for this purpose**¹⁷, whether **the need to implement the restrictions is scientifically justified**¹⁸, and whether there have been^{13 14 15 16 17 18}

³ ECJ 17 June 1981 judgment in case No. C-113/80, para. 7; Barnard C., *The substantive law of the EU*, 3rd ed., Oxford University Press, 2010, p. 150.

¹⁴ ECJ 26 April 2012 judgment in case No. C-456/10, 41-para. 44.

¹⁵ ECJ 12 March 1987 judgment in case No. 178/84; ECJ 31 March 1984 judgment in case No. 40/82, para. 28; ECJ 23 December 2015 judgment in case No. C-333/14; Barnard C., *The substantive law of the EU*, 3rd ed., Oxford University Press, 2010, p. 159.

¹⁶ ECJ 23 December 2015 judgment in case No. C-333/14, para. 34; ECJ 3 March 2011 judgment in case No. C-161/09, para. 42; ECJ 11 June 2015 judgment in case C-98/14, para. 64.

¹⁷ ECJ 6 October 1987 judgment in case 118/86, 14.-para. 15; ECJ 23 December 2015 judgment in case No. C-333/14, para. 41.

¹⁸ ECJ 2 February 1989 judgment in case No. 274/87.

any other measures having less influence on the movement of goods, which would achieve the same result.¹⁹

- 4.4.2. The annotation of the Amendments states that the amendments are necessary because the consumption of alcoholic beverages leads to additional costs in health care and public policy, as well as material damage in the workplace, thereby negatively affecting the economy, the economic development, and society as a whole. Because of the lower cost of plastic bottles, beer and cider filled in 2-2.5 litre plastic bottles is cheaper than beer and cider filled in smaller glass bottles or cans. Since alcoholic beverages filled in large plastic containers are cheaper, strong beer is usually purchased by people who consume alcohol excessively, particularly in rural areas, while cider is usually purchased by young people. The annotation also notes that *"In 2012, 4.7 litres of beer were consumed per capita (expressed in litres of absolute alcohol), compared to 3.8 litres of spirits, 1.2 litres of wine, and 0.6 litres of other types of alcohol, i.e. 46.0%, 37.3%, 11.8% and 5.9% respectively. According to the Centre for Disease Control and Prevention, about 10% of the persons registered with the treatment for narcotic addiction register are beer drinkers."*
- 4.4.3. It should be noted that the annotation is drawing wrong conclusions about the necessity of the Amendments. Namely, the figures show that beer is the most consumed alcoholic drink, which creates a relatively small percentage of alcohol-dependent individuals. Similarly, data of the Centre for Disease Control and Prevention shows that, in recent years, in Latvia there has been a significant increase in the number of individuals consuming spirits, reaching 38% of all alcohol consumed, while beer consumption has decreased.²⁰ **This data shows that, in order to achieve the specified goals, it would have been more effective to impose restrictions on the trade of spirits, rather than on the beverages specified in the Amendments. It must therefore be concluded that the purpose of the Amendments and the means to achieve it have not been carefully considered, and the adequacy and effectiveness of the specific proposals to achieve the specified goal has not been thought out.**
- 4.4.4. Similarly, the annotation of the Amendments and the Saeima meeting discussions do not reflect, whether there have been any significantly sound and careful considerations for the necessity of the Amendments and the adequacy and effectiveness of the specific proposals to achieve the specified goal. Transcripts of the Saeima meetings clearly show that there are no such considerations and that Members cast their votes, based on their internal beliefs and inaccurate estimates and assumptions about the price and quality of alcoholic beverages available on the market in Latvia.²¹ In ECJ practice, such amount of considerations and argumentation is deemed insufficient in order to justify restrictions on the free movement of goods.²²
- 4.4.5. Further, since the annotation of the Amendments does not reflect, whether the proposed restrictions will lead to any significant benefits and whether they will be considered as an effective tool in the fight against the consumption of alcoholic beverages, it must be concluded that the Amendments do not comply with the requirements analysed by the ECJ, when assessing the compliance of the restrictions implemented in Member States with the intended purpose.²³ Therefore, it must be concluded that the Amendments have been drawn up in a careless and inconsiderate manner and do not comply with the minimum requirements imposed by EU legislation to support restrictions on the free movement of goods.²⁴ In the present situation, data on alcohol consumption shows that the intended restriction for the sale of alcohol in packaging that exceeds the size specified in the Amendments will not be suitable to achieve the goal for it to be ^{19 20 21 22 23 24}

¹⁹ ECJ 5 June 2007 judgment in case No. C-170/04, para. 43; ECJ 23 December 2015 judgment in case No. C-333/14, para. 41.

²⁰ Centre for Disease Control and Prevention publication "Alkohola lietošanas izplatība un sekas Latvijā 2014.gadā" [Alcohol Use – Prevalence and consequences, Latvia 2014] 3rd edition. Available at:

²¹ http://www.spkc.gov.lv/file_download/2960/Alkohola_lieto%C5%A1anas_izplat%C4%ABba_un_sekas_Latvij%C4%81_2014.pdf

²² Stenogram of the Republic of Latvia 12th Saeima autumn session, 9th meeting, 27 October 2016. Available at: <http://saeima.lv/lv/transcripts/view/382>

²³ Barnard C., The substantive law of the EU, 3rd ed., Oxford University Press, 2010, p. 159; ECJ 2 February 1989 judgment in case No. 274/87; ECJ 23 December 2015 judgment in case No. C-333/14, para. 44.

²⁴ ECJ 19 October 2000 judgment in case No. C-216/98, para. 31; ECJ 4 March 2010 judgment in case No. C-197/08, para. 52.

²⁵ ECJ 8 June 1993 judgment in case C-373/92, para. 8.

regarded as justified. Namely, alcohol packed in plastic containers is just as harmful as alcohol packed in glass, ceramic, metal or wood containers. The choice of packaging does not make the particular type of alcohol less harmful to health. Individuals who want to buy alcohol will not be stopped by the fact that the alcohol of their choice is no longer available in bottles of the same type of material and the same volume as before.

4.4.6. In summary of the above, it must be concluded that **the restrictions specified in the Amendments are not suited for the purpose specified in the Amendments.**

4.5. **The Amendments do not take into account the proportionality of the proposed restrictions with other possible means.**

4.5.1. ECJ case law has repeatedly assessed various restrictions on alcohol sales, analysing the need to impose the restrictions to achieve the specified goal of public health. Case law has recognised that TFEU Article 36 must be interpreted so that, when examining the national legislation in terms of human life and health protection grounds within the meaning of this Article, **one must objectively examine, whether the evidence submitted by the Member State allows for a reasonable assumption that the measures chosen are suited for the intended purposes, and whether these objectives can be achieved through measures that are less restrictive of the free movement of goods.**²⁵

4.5.2. For example, in the Scotch Whisky Association case, ECJ analysed the Member State's discretion in fixing the minimum selling price for alcohol, which, similar to what has been stated in the annotation of the Amendments, was introduced with the purpose of reducing consumption of cheap alcohol.²⁶ ECJ ruled that the objective of increasing the price of alcoholic beverages per se may serve as means to an end, but, as the ECJ and the Advocate General pointed out, firstly, such kind of restriction significantly affects the beverage manufacturer's discretion, and secondly, indirectly benefits producers with lower shipping costs.²⁷ ECJ held in the case that, as one of the most effective means with less influence on the free movement of goods, taxes can be used as a way to try to reduce alcohol consumption in the country by raising the price of alcoholic beverages.²⁸ Having compared the measure proposed by the Member State with the possible alternative of increasing excise tax or other taxes, ECJ concluded that, in comparison to a tax increase, the national measure would significantly restrict the discretion of entrepreneurs.²⁹ Based on this, ECJ held that such a restriction would pose unjustified obstacles to alcoholic beverages produced legally in other countries accessing the market of the Member State concerned and to competition in this market.³⁰ Given that the requirement imposed on alcoholic beverage manufacturers to introduce new types of product packaging specially for the Latvian market creates significant costs for the manufacturers who will be affected by the requirements specified in the Amendments, it must be concluded **that these manufacturers would be placed at a disadvantage with those manufacturers who will not be subject to the changes in production.** Also, the need to adjust production may deter **or create barriers for new entrants on the market through unduly restricting competition and the free movement of goods within the EU.**

4.5.3. The annotation of the Amendments stated that the prohibition specified in the Amendments would increase the cost of production, and as a result, the cheap alcoholic drinks would become more expensive. As pointed out by the ECJ in the Scotch Whisky Association case, the same effect can be achieved by increasing excise tax or other taxes for manufacturers of this type of alcoholic drinks, whereby they would not need to modify production and would not be prevented from entering the market. **In view of the foregoing, it must be concluded that the regulations proposed in the Amendments are incompatible with the principle of proportionality, that is to say, such regulations are not necessary for the implementation of the specified goal, and the goal could be achieved by other means that would have less impact on the EU internal trade.**^{25 26 27 28 29 30}

⁵ ECJ 23 December 2015 judgment in case No. C-333/14.

²⁶ ECJ 23 December 2015 judgment in case No. C-333/14.

²⁷ ECJ 23 December 2015 judgment in case No. C-333/14, para. 44.

²⁸ ECJ 23 December 2015 judgment in case No. C-333/14, para. 32.

²⁹ ECJ 23 December 2015 judgment in case No. C-333/14, para. 46.

³⁰ ECJ 23 December 2015 judgment in case No. C-333/14, para. 32.

Therefore, it must be concluded that the Amendments do not correspond with the exceptions allowed under TFEU Article 36, and thus they are contrary to the EU law.

5. EVEN IF THE PROPOSED RESTRICTIONS WOULD BE PERMITTED IN ACCORDANCE WITH TFEU ARTICLE 36, THEY WOULD BE CONSIDERED AS TECHNICAL REGULATIONS UNDER DIRECTIVE 83/189/EEC

5.1. The obligation to notify of technical regulations

5.1.1. However, if the legislator would consider that the restrictions proposed in the Amendments are necessary and consistent with the exemptions specified in TFEU Article 36, the Amendments should be harmonised with the European Commission in accordance with Council Directive 83/189/EEC laying down a procedure for the provision of information in the field of technical standards and regulations (the Notification Directive). According to Article 1 Clause 1(f) of the Notification Directive, such restrictions are considered to be technical regulations affecting the free movement of goods.

5.1.2. According to the Notification Directive, technical regulations include technical specifications and other requirements or rules for services, including the relevant administrative provisions, the observance of which is compulsory, de jure or de facto, in the case of trade, services, or when establishing or using a service provider in a Member State or a major part thereof, as well as legal regulations and administrative acts of the Member States. The Notification Directive Article 1 Clause 1 (c) indicates that technical specification is a specification contained in a document which lays down the characteristics required of a product such as levels of quality, performance, safety or dimensions. Thus, the restrictions specified in the Amendments are consistent with the definition of a technical requirement within the meaning of the Notification Directive.

5.1.3. In accordance with the Notification Directive, EU Member States must inform the European Commission of any draft technical regulations before they are adopted. After the date of notification, there is a set waiting period, during which the Member State concerned may not adopt the regulation, and the European Commission and other Member States have the time to evaluate the draft and offer a response. If it is determined that the notified draft regulation may pose an obstacle to the free movement of goods, the Commission and the other Member States may submit an opinion to the Member State which notified the draft.

5.1.4. The purpose of the procedure specified in the Notification Directive is to ensure that the technical regulations are compatible with EU law and internal market principles. Failure to comply with the Notification Directive procedure No.98/34/EC causes the particular regulation to be inapplicable, since such non-notified technical regulations may not be applied or enforced on individuals.³¹ For example, in the cases of *CIA Security*³¹ and *Unilever Italia*³², ECJ held that, where a national legal provision which has not been notified in accordance with the Notification Directive procedure No.98/34/EC, although it has been mandatory, may be declared by the courts as inapplicable to individuals.

5.1.5. Based on the information available in the technical regulations database, Latvia has not submitted a notification of the draft law.³⁴ Therefore, Latvia has the obligation to inform of the planned technical regulations, or they could be declared inapplicable.

¹ ECJ 20 April 1996 judgment in case №. C-194/94; ECJ 26 September 2000 judgment in case №. C- 443/98.

³² ECJ 30 April 1996 judgment in case No. C-194/94.

³³ ECJ 26 September 2000 judgment in case No. C-443/98.

³⁴ Available at: <http://ec.europa.eu/growth/tools-databases/tris/en/search/?trisaction=search.results>

6. THE AMENDMENTS DO NOT SPECIFY A TRANSITIONAL PERIOD

- 6.1. The current wording of the Amendments has a number of serious flaws relating to the entry into force of the Amendments and the sale of the manufactured goods. That is, the draft Amendments do not provide for a transitional period for the sale of goods.
- 6.2. The current draft Amendments state that the Amendments will partially enter into force on 1 September 2017 in relation to the prohibition to sell alcoholic beverages, the volume of which exceeds 1 litre, as specified in the Amendments. Given the fact that alcoholic beverages, especially wines, are usually produced with a longer shelf life, the Amendments are deemed to be incomplete. Namely, they do not specify a date by which it will be possible to sell and market the products manufactured until 1 September 2017, or even before the Amendments are adopted by the Saeima, nor do they specify the consequences in the case it would be impossible to sell the goods within the specified term.
- 6.3. **Thus, it must be concluded that the Amendments are poorly designed and ill-considered in relation to the entry into force procedure.**

Should you have any questions about the Opinion, please do not hesitate to contact us.

Sincerely,

Agris Repšs
Attorney at Law, Partner

Raivo Raudzeps
Attorney at Law

Agita Sprude
Assistant Attorney at Law

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