

**Agreement between the European Union and Iceland on protection of geographical indications of agricultural products and foodstuffs**

THE EUROPEAN UNION,

of the one part,

and

ICELAND

of the other part,

hereinafter referred to as the 'Parties',

CONSIDERING that the Parties agree to promote between them a harmonious development of the geographical indications as defined in Article 22(1) of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), and to foster the trade of the agricultural products and foodstuff originating in the territories of the Parties,

WHEREAS the Agreement on the European Economic Area provides for mutual recognition and protection of geographical indications of wines, aromatised wines, aromatized wine-based drinks, aromatized wine-product cocktails and spirit drinks,

HAVE AGREED AS FOLLOWS:

*Article 1*

**Scope**

1. This Agreement applies to the recognition and protection of geographical indications originating in the territories of the Parties.
2. Geographical indications of a Party to be protected by the other Party shall only be subject to this Agreement if covered by the scope of the legislation referred to in Article 2.

*Article 2*

**Established Geographical Indications**

1. Having examined the legislation of Iceland listed in Part A of Annex I, the EU Party concludes that those laws meet the elements laid down in Part B of Annex I.
2. Having examined the legislation of the European Union listed in Part A of Annex I, Iceland concludes that those laws meet the elements laid down in Part B of Annex I.
3. Iceland, after having completed an objection procedure, in accordance with Part C of Annex I, and after having examined the geographical indications for agricultural products and

foodstuffs of the European Union listed in Annex II, which have been registered by the European Union under the legislation referred to in paragraph 2 of this Article, shall protect those geographical indications according to the level of protection laid down in this Agreement.

4. The European Union, after having completed an objection procedure, in accordance with Part C of Annex I, and after having examined the geographical indications for agricultural products and foodstuffs of Iceland listed in Annex II, which have been registered by Iceland under the legislation referred to in paragraph 1 of this Article, shall protect those geographical indications according to the level of protection laid down in this Agreement.

### *Article 3*

#### **Addition of new geographical indications**

1. The Parties agree on the possibility to add new geographical indications to be protected in Annex II in accordance with Article 10 (3) after having completed the objection procedure, in accordance with Part C of Annex I, and after having examined the geographical indications as referred to in Article 2(3) and 2(4) to the satisfaction of both Parties.

2. A Party shall not be required to protect as a geographical indication a name that conflicts with the name of a plant variety or an animal breed and as a result is likely to mislead consumers as to the true origin of the product.

### *Article 4*

#### **Scope of protection of geographical indications**

1. The geographical indications listed in Annex II, including those added pursuant to Article 3, shall be protected against:

(a) any direct or indirect commercial use of a protected name for comparable products not compliant with the product specification of the protected name, or in so far as such use exploits the reputation of a geographical indication;

(b) any misuse, imitation or evocation, even if the true origin of the product is indicated or if the protected name is translated, transcribed, transliterated or accompanied by an expression such as "style", "type", "method", "as produced in", "imitation", "flavour", "like" or similar;

(c) any other false or misleading indication as to the provenance, origin, nature or essential qualities of the product, on the inner or outer packaging, advertising material or documents relating to the product concerned, and the packing of the product in a container liable to convey a false impression as to its origin;

(d) any other practice liable to mislead the consumer as to the true origin of the product.

2. Protected geographical indications shall not become generic in the territories of the Parties.

3. If geographical indications are wholly or partially homonymous, protection shall be granted to each indication provided that it has been used in good faith and with due regard for local and traditional usage and the actual risk of confusion. Without prejudice to Article 23 of the TRIPS Agreement, the Parties shall mutually decide the practical conditions of use under

which the homonymous geographical indications will be differentiated from each other, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled. A homonymous name which misleads the consumer into believing that products come from another territory shall not be registered even if the name is accurate as far as the actual territory, region or place of origin of the product in question is concerned.

4. Where a Party, in the context of negotiations with a third country, proposes to protect a geographical indication of the third country, and the name is homonymous with a geographical indication of the other Party, the latter shall be informed and be given the opportunity to comment before the name is protected.

5. Nothing in this Agreement shall oblige a Party to protect a geographical indication of the other Party which is not or ceases to be protected in its country of origin. The Parties shall notify each other if a geographical indication ceases to be protected in its country of origin. Such notification shall take place in accordance with Article 10(3).

6. Nothing in this Agreement shall prejudice the right of any person to use, in the course of trade, that person's name or the name of that person's predecessor in business, except where such name is used in such a manner as to mislead the public.

#### *Article 5*

### **Right of use of geographical indications**

1. A name protected under this Agreement may be used by any operator marketing agricultural products and foodstuffs which conform to the corresponding specification.
2. Once a geographical indication is protected under this Agreement, the use of such protected name shall not be subject to any registration of users or further charges.

#### *Article 6*

### **Relationship with trade marks**

1. The Parties shall refuse to register or shall invalidate, ex officio or at the request of any interested party in conformity with the legislation of each Party, a trade mark that corresponds to any of the situations referred to in Article 4(1) in relation to a protected geographical indication for like products, provided an application to register the trade mark is submitted after the date of application for registration of the geographical indication in the territory concerned.
2. For geographical indications referred to in Article 2, the date of application for registration shall be the date of entry into force of this Agreement.
3. For geographical indications referred to in Article 3, the date of application for registration shall be the date of the transmission of a request to the other Party to protect a geographical indication.
4. The Parties shall have no obligation to protect a geographical indication pursuant to Article 3 where, in the light of a reputed or well-known trade mark, protection is liable to mislead consumers as to the true identity of the product.

5. Without prejudice to paragraph 4 of this Article, the Parties shall protect geographical indications also where a prior trade mark exists. A prior trade mark shall mean a trade mark the use of which corresponds to one of the situations referred to in Article 4(1), which has been applied for, registered or established by use, if that possibility is provided for by the legislation concerned, in good faith, in the territory of one of the Parties before the date on which the application for protection of the geographical indication is submitted by the other Party under this Agreement. Such trade mark may continue to be used and renewed notwithstanding the protection of the geographical indication, provided that no grounds for the trade mark's invalidity or revocation exist in the legislation on trade marks of the Parties.

#### *Article 7*

### **Enforcement of the protection**

The Parties shall enforce the protection provided for in Articles 4 to 6 by appropriate action by their authorities in order to prevent and, where appropriate, stop any unlawful use of the protected geographical indications. They shall also enforce such protection at the request of an interested party.

[Possible transitional/adaptation measures due to the outcome of the objection procedure.]

#### *Article 8*

### **General rules**

1. The importation, exportation and commercialisation of any product referred to in Articles 2 and 3 shall be conducted in compliance with the laws and regulations applying in the territory of the Party of which the products are placed on the market.
2. Any matter arising from product specifications of registered geographical indications shall be dealt with in the Joint Committee established pursuant to Article 10.
3. The registration of geographical indications protected under this Agreement may only be cancelled by the Party in which the product originates.
4. A product specification referred to in this Article shall be that approved, including any amendments also approved, by the authorities of the Party in the territory of which the product originates.

#### *Article 9*

### **Cooperation and Transparency**

1. The Parties shall, either directly or through the Joint Committee established pursuant to Article 10, maintain contact on all matters related to the implementation and functioning of this Agreement. In particular, a Party may request from the other Party information relating to product specifications and their modification and contact points for control provisions.
2. Each Party may make publicly available the product specifications or a summary thereof and contact points for control provisions corresponding to geographical indications of the other Party protected pursuant to this Agreement.

*Article 10***Joint Committee**

1. Both Parties agree to set up a Joint Committee consisting of representatives of the EU Party and Iceland with the purpose of monitoring the development of this Agreement and of intensifying their co-operation and dialogue on geographical indications.
2. The Joint Committee shall adopt its decisions by consensus. It shall determine its own rules of procedure. It shall meet at the request of either of the Parties, alternatively in the European Union and in Iceland, at a time and a place and in a manner (which may include by videoconference) mutually determined by the Parties, but no later than 90 days after the request.
3. The Joint Committee shall also see to the proper functioning of this Agreement and may consider any matter related to its implementation and operation. In particular, it shall be responsible for:
  - (a) amending Part A of Annex I, as regards the references to the law applicable in the Parties;
  - (b) amending Part B of Annex I, as regards the elements for registration and control of geographical indications;
  - (c) modifying Annex II as regards geographical indications;
  - (d) exchanging information on legislative and policy developments on geographical indications and any other matter of mutual interest in the area of geographical indications;
  - (e) exchanging information on geographical indications for the purpose of considering their protection in accordance with this Agreement.

*Article 11***Entry into force**

1. This Agreement shall be ratified or approved by the Parties in accordance with their internal procedures.
2. Subject to paragraph 3 of this Article, this Agreement shall enter into force on the first day of the first month following the date on which the Parties notify each other that the procedures referred to in paragraph 1 of this Article have been completed.
3. If this date is before the date of the entry into force of the Agreement in the form of the Exchange of Letters between European Union and Iceland concerning additional trade preferences in agricultural products reached on the basis of Article 19 of the Agreement on the European Economic Area, done at Brussels on ... day of ... in the year ....., this Agreement shall only enter into force on the same date as the latter.

Done at Brussels on the ... day of ... in the year ....

DRAFT

Draft agreement as of 18 June 2015

For the European Union

For Iceland

DRAFT

*ANNEX I*

## Part A

**The Parties' legislation**

Legislation of the European Union:

Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs

Commission Delegated Regulation (EU) No 664/2014 of 18 December 2013 supplementing Regulation (EU) No 1151/2012 of the European Parliament and of the Council with regard to the establishment of the Union symbols for protected designations of origin, protected geographical indications and traditional specialities guaranteed and with regard to certain rules on sourcing, certain procedural rules and certain additional transitional rules

Commission Implementing Regulation (EU) No 668/2014 of 13 June 2014 laying down rules for the application of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs

Legislation of Iceland:

Act on the protection of product names as designation of origin, geographical indications or traditional speciality, 2014 No 130, 22 December

## Part B

**Elements for registration and control of geographical indications as referred to in Article 2(1) and (2)**

1. A register listing geographical indications protected in the territory.
2. An administrative process verifying that geographical indications identify a good as originating in a territory, region or locality of one or more states, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.
3. A requirement that a registered name shall correspond to a specific product or products for which a product specification is laid down, which can only be amended by due administrative process.
4. Control provisions applying to production.
5. A right for any producer established in the area who submits to the system of controls to produce the product labelled with the protected name provided he complies with the product specification.
6. An objection procedure that allows the legitimate interests of prior users of names, whether those names are protected as a form of intellectual property or not, to be taken into account.
7. A rule that protected names may not become generic.

8. Provisions concerning the registration, which may include refusal of registration, of terms homonymous or partly homonymous with registered terms, terms customary in common language as the common name for goods, terms comprising or including the names of plant varieties and animal breeds. Such provisions shall take into account the legitimate interests of all parties concerned.

### Part C

#### **CRITERIA TO BE INCLUDED IN THE OBJECTION PROCEDURE REFERRED TO IN ARTICLE 2**

1. List of name(s) with, where applicable, the corresponding transcription into Latin characters.
2. Information about the product class.
3. Invitation to any Member State, in the case of the European Union, or third country or any natural or legal persons having a legitimate interest, established or resident in a Member State in the case of the European Union, in the Iceland or in a third country to submit objections to such protection by lodging a duly substantiated statement.
4. Statements of objection must reach the European Commission or the Icelandic Government (MAST) within 2 months from the date of the publication of the information notice.
5. Statements of objection shall be admissible only if they are received within the time-limit set out in point 4 and if they show that the protection of the name proposed would:
  - conflict with the name of a plant variety or an animal breed and as a result is likely to mislead the consumer as to the true origin of the product;
  - conflict with a homonymous name which would mislead the consumer into believing that products come from another territory;
  - in the light of a trade mark's reputation and renown and the length of time it has been used, be liable to mislead the consumer as to the true identity of the product;
  - jeopardise the existence of an entirely or partly identical name or of a trade mark or the existence of products which have been legally on the market for at least five years preceding the date of the publication of the information notice;
  - conflict with a name that is considered generic.
6. The criteria referred to in point 5 shall be evaluated in relation to the territory of the European Union, which in the case of intellectual property rights refers only to the territory or territories where the rights are protected, or the territory of Iceland.

*ANNEX II***Geographical indications of products as referred to in Article 2(3) and (4)**

*Agricultural products and foodstuffs other than wines, spirit drinks and aromatised wines of the European Union to be protected in Iceland*

Member State of the European Union	Name to be protected	Latin transcription	Type of product

*Agricultural products and foodstuffs other than wines, spirit drinks and aromatised wines of Iceland to be protected in the European Union*

Name to be protected	Type of product