



Brussels, 6 July 2020

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF GEOGRAPHICAL INDICATIONS

Since 1 February 2020, the United Kingdom has withdrawn from the European Union and has become a “third country”.¹ The Withdrawal Agreement² provides for a transition period ending on 31 December 2020. Until that date, EU law in its entirety applies to and in the United Kingdom.³

During the transition period, the European Union and the United Kingdom will negotiate an agreement on a new partnership, providing notably for a free trade area. However, it is not certain whether such an agreement will be concluded and will enter into force at the end of the transition period. In any event, such an agreement would create a relationship which in terms of market access conditions will be very different from the United Kingdom’s participation in the internal market⁴, in the EU Customs Union, and in the VAT and excise duty area.

Moreover, after the end of the transition period the United Kingdom will be a third country as regards the implementation and application of EU law in the EU Member States

Therefore, all interested parties, and especially economic operators, are reminded of the legal situation applicable after the end of the transition period (Part A below). This notice also explains certain relevant separation provisions of the Withdrawal Agreement (Part B below), as well as the rules applicable to Northern Ireland after the end of the transition period (Part C below).

Please note:

¹ A third country is a country not member of the EU.

² Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, OJ L 29, 31.1.2020, p. 7 (“Withdrawal Agreement”).

³ Subject to certain exceptions provided for in Article 127 of the Withdrawal Agreement, none of which is relevant in the context of this notice.

⁴ In particular, a free trade agreement does not provide for internal market concepts (in the area of goods and services) such as mutual recognition, the “country of origin principle”, and harmonisation. Nor does a free trade agreement remove customs formalities and controls, including those concerning the origin of goods and their input, as well as prohibitions and restrictions for imports and exports.

This notice does not address

- EU food law, including marketing standards;
- EU rules on other intellectual property rights, such as trademarks and designs;
- EU rules on enforcement of intellectual property rights by customs.

For these aspects, other notices are in preparation or have been published.⁵

A. LEGAL SITUATION AFTER THE END OF THE TRANSITION PERIOD

The term “geographical indication” used hereafter covers the following denominations protected under the EU law: Protected Designations of Origin and Protected Geographical Indications within the meaning of Regulation (EU) No 1151/2012⁶, Protected Designations of Origin and Protected Geographical Indications within the meaning of Regulation (EU) No 1308/2013⁷, Geographical Indications within the meaning of Regulation (EU) No 2019/787⁸ and Geographical Indications within the meaning of Regulation (EU) No 251/2014.⁹ For the purpose of this notice, the term “geographical indication” includes also Traditional Specialities Guaranteed within the meaning of Regulation (EU) No 1151/2012 and Traditional Terms within the meaning of Regulation (EU) No 1308/2013.

After the end of the transition period, EU law on geographical indications will no longer apply in the United Kingdom.¹⁰ This has in particular the following consequences:

⁵ https://ec.europa.eu/info/european-union-and-united-kingdom-forging-new-partnership/future-partnership/preparing-end-transition-period_en

⁶ 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, OJ L 343, 14.12.2012, p. 1.

⁷ Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products, OJ L 347, 20.12.2013, p. 671.

⁸ Regulation (EU) 2019/787 of the European Parliament and of the Council of 17 April 2019 on the definition, description, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs, the protection of geographical indications for spirit drinks, the use of ethyl alcohol and distillates of agricultural origin in alcoholic beverages, OJ L 130, 17.5.2019, p. 1.

⁹ Regulation (EU) No 251/2014 of the European Parliament and of the Council of 26 February 2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products, OJ L 84, 20.3.2014, p. 14.

¹⁰ Regarding the applicability of EU law on geographical indications to Northern Ireland, see Part C of this notice.

1. GEOGRAPHICAL INDICATIONS REGISTERED IN THE EU BEFORE THE END OF THE TRANSITION PERIOD

Any right granted in accordance with EU law on geographical indications before the end of the transition period will only apply in the EU Member States after the end of the transition period.

However, it is reminded that the Withdrawal Agreement provides for continued protection in the United Kingdom of the stock of the geographical indications registered in the EU at the end of the transition period (see below, part B of this notice).

2. REGISTRATION OF GEOGRAPHICAL INDICATIONS AFTER THE END OF THE TRANSITION PERIOD

The registration procedure of geographical indications under EU law on geographical indications differs in function of the origin of the products.

In particular, to register a product name as a geographical indication, EU producers have to address their application to national authorities for scrutiny. The Member State concerned thereafter forwards the application to the European Commission, who examines the request following the procedures laid down in the above listed EU legislation.¹¹

For non-EU product names to be registered as geographic indications in the EU, producers send their applications either directly, or via their national authorities, to the European Commission.¹²

The registration by the EU, after the end of the transition period, of geographical indications relating to products originating in the United Kingdom has to comply with the conditions that apply for geographical indications from third countries.¹³

Applications for registration of names, which are pending with the EU at the end of the transition period, will no longer cover the United Kingdom after the end of transition period, once registered.

¹¹ See Article 49(2) of Regulation (EU) No 1151/2012, Articles 95 and 96 of Regulation (EU) No 1308/2013, Article 24(5) of Regulation (EU) 2019/787 and Articles 12-13 of Regulation (EU) No 251/2014.

¹² See Article 49(5) of Regulation (EU) No 1151/2012, Article 95 of Regulation (EU) No 1308/2013, Article 24(8) of Regulation (EU) 2019/787 and Article 11 of Regulation (EU) No 251/2014.

More information on how to apply and application forms are available at: https://ec.europa.eu/info/food-farming-fisheries/food-safety-and-quality/certification/quality-labels/registration-name-quality-product_en.

¹³ For example, the requirement set out in Article 8(1) second subparagraph of Regulation (EU) No 1151/2012.

B. RELEVANT SEPARATION PROVISIONS OF THE WITHDRAWAL AGREEMENT

Article 54(2), first subparagraph, of the Withdrawal Agreement provides for the continued protection in the United Kingdom of names protected in the EU on the last day of the transition period by virtue of the relevant EU rules on geographical indications¹⁴. This provision also covers geographical indications related to products originating in the United Kingdom.

Under the terms of the Withdrawal Agreement, protection of the stock of EU geographical indications is to be granted in the United Kingdom without re-examination and at least at the same level of protection as under the relevant EU legislation.¹⁵ Such protection is indefinite for as long as the relevant geographical indication is protected in the European Union.¹⁶

This means that the geographical indications currently registered in the European Union, and those that will be entered into the register by the end of the transition period, will remain protected in the United Kingdom after the end of the transition period, without a need to introduce an application in the United Kingdom or to undertake any particular administrative procedures to ensure such protection.¹⁷

Under the terms of the Withdrawal Agreement, registration in the United Kingdom of the stock of EU geographical indications will be free of charge.¹⁸

C. APPLICABLE RULES IN NORTHERN IRELAND AFTER THE END OF THE TRANSITION PERIOD

After the end of the transition period, the Protocol on Ireland/Northern Ireland (“IE/NI Protocol”) enters into force.¹⁹ The IE/NI Protocol is subject to periodic consent of the Northern Ireland Legislative Assembly, the initial period of application extending to 4 years after the end of the transition period.²⁰

The IE/NI Protocol makes certain provisions of EU law applicable also to and in the United Kingdom in respect of Northern Ireland. In the IE/NI Protocol, the EU and the United Kingdom have furthermore agreed that insofar as EU rules apply to and in the United Kingdom in respect of Northern Ireland, Northern Ireland is treated as if it were a Member State.²¹

¹⁴ Article 54(2), first subparagraph, of the Withdrawal Agreement does not apply to geographical indications whose protection in the Union derives from international agreements to which the Union is a party (cf. Article 54(2), third subparagraph, of the Withdrawal Agreement.)

¹⁵ Article 54(2), first subparagraph, of the Withdrawal Agreement.

¹⁶ Article 54(2), second subparagraph, of the Withdrawal Agreement.

¹⁷ Article 55(2) of the Withdrawal Agreement.

¹⁸ Article 55(1) of the Withdrawal Agreement.

¹⁹ Article 185 of the Withdrawal Agreement.

²⁰ Article 18 of the IE/NI Protocol.

²¹ Article 7(1) of the Withdrawal Agreement in conjunction with Article 13(1) of the IE/NI Protocol.

The IE/Ni Protocol provides that Regulations (EU) No 2019/787, (EU) No 1151/2012, (EU) No 251/2014 and (EU) No 1308/2013 apply to and in the United Kingdom in respect of Northern Ireland.²²

This means that references to the European Union in Parts A and B of this notice have to be understood as including Northern Ireland, whereas references to the United Kingdom have to be understood as referring only to Great Britain.

More specifically, this *inter alia* means the following:

- The protection of EU geographical indications that are registered before the end of the transition period continues to extend to the United Kingdom in respect of Northern Ireland after the end of the transition period. This also holds for geographical indications registered in the EU after the end of the transition period.
- The protection of geographical indications under international agreements of the EU continues to extend to the United Kingdom in respect of Northern Ireland after the end of the transition period.²³ This also holds for agreements concluded after the end of the transition period.
- Applications for geographical indications relating to products originating in Northern Ireland pending at the end of the transition period or submitted after the end of the transition period will be considered as EU applications, not needing to fulfil the requirements for third country applications (see above, section A.2 of this notice).
- Northern Ireland will not have a national system of protection for geographical indications separate from and parallel to the EU system of protection²⁴. Northern Ireland names are protected in the European Union and in Northern Ireland only following the EU registration. They are protected in the territory of the United Kingdom, other than the territory of Northern Ireland, following their registration under the United Kingdom geographical indications protection system.
- The national opposition procedure under Articles 49(3) of Regulation (EU) No 1151/2012, 96(3) of Regulation (EU) No 1308/2013, 24(6) of Regulation (EU) 2019/787 and 13(3) of Regulation (EU) No 251/2014 is limited to persons established in Northern Ireland.
- Cross-border IE/Ni geographical indications are processed and registered in accordance with EU legislation as EU geographical indications. EU rules on joint

²² Article 5(4) of the IE/Ni Protocol and section 45 of annex 2 to that Protocol.

²³ Article 5(4) of the IE/Ni Protocol and last indent of section 4 of annex 2 to that Protocol.

²⁴ Principle of exclusivity and exhaustiveness of the EU system of protection of the geographical indications established in 1) Judgement of the Court (Grand Chamber) 8 September 2009 (*) in Case C 478/07, reference for a preliminary ruling under Article 234 EC from the Handelsgericht Wien (Austria), (Budějovický Budvar, národní podnik v Rudolf Ammersin GmbH); and 2) Judgement of the Court (Second Chamber) 14 September 2017 in Case C 56/16 P, appeal under Article 56 of the Statute of the Court of Justice of the European Union, (EU word mark Port Charlotte).

applications and amendments concerning geographical indications originating 100% in the territory of the EU apply.

However, the IE/Ni Protocol excludes the possibility for the United Kingdom in respect of Northern Ireland to participate in the decision-making and decision-shaping of the Union.²⁵

The website of the Commission on EU rules on quality policy (https://ec.europa.eu/info/food-farming-fisheries/food-safety-and-quality/certification/quality-labels_en) provides general information concerning Union legislation applicable to geographical indications. These pages will be updated with further information, where necessary.

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²⁵ Where an information exchange or mutual consultation is necessary, this will take place in the joint consultative working group established by Article 15 of the IE/Ni Protocol.