Commission Implementing Regulation (EU) 2018/48 of 11 January 2018 entering a name in the register of traditional specialities guaranteed [Suikerstroop (TSG)]

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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[(1)], and in particular Article 52(3)(b) thereof,

Whereas:

(1) Pursuant to Article 50(2)(b) of Regulation (EU) No 1151/2012, the application from the Netherlands to register the name 'Suikerstroop' as Traditional Speciality Guaranteed (TSG) was published in the *Official Journal of the European Union*[(2)].

(2) 'Suikerstroop' is the syrupy liquid obtained from the massecuite of the plant from which the product is made after extraction of the sugar crystals. The name means 'sugar syrup'.

(3) The Commission received a notice of opposition from Finland, a second one from Denmark and a third one from Nordic Sugar AB (company established in Denmark) all on 16 September 2014.

(4) The notices of opposition from Denmark and Finland were forwarded to the Netherlands.

(5) The opposition procedure based on the notice sent directly to the Commission by Nordic Sugar AB was not initiated. According to Article 51(1), second subparagraph, of Regulation (EU) No 1151/2012, natural or legal persons having a legitimate interest, established or resident in a Member State other than that from which the application was submitted, may lodge a notice of opposition with the Member State in which it is established. Therefore, Nordic Sugar AB was not allowed to lodge a notice or a statement of opposition directly to the Commission.

(6) On 13 November 2014 the Commission received the reasoned statements of opposition from Finland. The reasoned statement of opposition from Denmark was already contained in the notice of opposition. Both the reasoned statement of opposition from Denmark and the one from Finland were considered admissible within the meaning of Article 21 of Regulation (EU) No 1151/2012.

(7) Pursuant to Article 51(3) of the above Regulation, by letters of 19 December 2014 the Commission invited the Netherlands and Finland on one hand, and the Netherlands and

Denmark on the other hand, to engage in appropriate consultations for a period of three months from the date of these letters in view of reaching an agreement.

(8) Upon request of the Netherlands, in accordance with Article 51(3) of Regulation (EU) No 1151/2012, by letter of 8 April 2015 the Commission granted an extension of the deadline for the consultations among the interested parties in the two opposition procedures concerning the above mentioned application. The final deadline for the amicable procedure was therefore extended until 19 June 2015.

(9) No agreement was reached within the designated timeframe. By letter of 22 February 2017 the Netherlands sent the Commission the results of the consultations with Finland and Denmark. Therefore, the Commission should decide on registration in accordance with the procedure referred to in Article 52(3)(b) of Regulation (EU) No 1151/2012, taking into account the results of these consultations.

(10) In their reasoned statement of opposition, Finland and Denmark claimed that: 1) the name is not specific (it means just syrup of sugar); 2) identical name is used for several similar products already existing in the Danish, Swedish, Finnish, German and Baltic markets; 3) the product characteristics and its production method are not unique to the product since similar products, marketed in Denmark, Finland and Sweden, have the same specific characteristics and methods. In particular, Finland considers that the product as described in the application cannot be considered to be 'special' as a type of syrup since products other than the 'Suikerstroop' are also made of 100 % sugar beet or sugar cane.

(11) In addition, Denmark claimed that point 3.1 of the product specification, providing that 'the words "traditional Dutch product" will appear on the label in the language of the country in which the product is marketed' should be reformulated to comply with Article 18(3) of Regulation (EU) No 1151/2012. On the other side, Finland challenged the use of the definition 'traditional Dutch product' as not specific to the product described in the application since similar products marketed in northern Europe can also be qualified as traditional.

(12) Finland has subsequently requested, during the consultations with the Netherlands, to delete the last sentence of Section 3.2 'There are no other products of the same name or similar products with a similar-sounding name' because it would be incorrect.

(13) The Commission has assessed the arguments provided in the reasoned statements of opposition and in the information provided to the Commission regarding the negotiations between the interested parties and it has concluded that the name 'Suikerstroop' should be registered as TSG.

(14) The oppositions are based on both points (a) and (b) of Article 21(1) of Regulation (EU) No 1151/2012.

(15) As regards the incompatibility with the terms of the Regulation, three points have been raised: 1) the name is not specific; 2) the product characteristics and its production method is not unique 3) point 3.1 of the product specification does not comply with Article 18(3) of Regulation (EU) No 1151/2012 insofar as it refers to a 'traditional Dutch product'.

(16) As regards the circumstance that the name is lawful, renowned and economically significant for similar agricultural products and foodstuffs, one point has been raised: an identical name is used for several similar products already existing in the Danish, Swedish, Finnish, German and Baltic markets.

(17) Regulation (EU) No 1151/2012 does not require a TSG name to be specific. This was required under Article 4(2) of Council Regulation (EC) No 509/2006[(3)]. Although the application was submitted to the Commission when Regulation (EC) No 509/2006 was into force, it was then published under Regulation (EU) No 1151/2012 and, therefore, in the absence of specific transitional provisions, the latter Regulation applies. In accordance with Article 18(2) of Regulation (EU) No 1151/2012 a name is eligible for TSG if it has been traditionally used to refer to the specific product or if it identifies the traditional or specific character of the product. In this case, the name 'Suikerstroop' has been used for centuries to define this specific product. It identifies the specific character of the product, being a syrup made with the liquid left behind during the production of sugar from sugar beet or sugar cane. Therefore, the name complies with the requirements of Regulation (EU) No 1151/2012.

(18) Regulation (EU) No 1151/2012 does not require a TSG product to be unique or distinctive. It has to be identifiable and distinguishable. According to Article 18(4) of Regulation (EU) No 1151/2012 only names that refer to claims of a general nature used for a set of products or to claims provided for by particular Union legislation are excluded. 'Suikerstroop' is clearly identified as regards its characteristics and production method. In addition, the product covered by the product specification of the name 'Suikerstroop' complies with the requirements set out in Article 18(1) points (a) and (b) of Regulation (EU) No 1151/2012 since the mode of production corresponds to traditional practice for this product and the ingredients are those traditionally used.

(19) The sentence in point 3.1 of the product specification 'Once the procedure under Article 18(3) of Regulation (EU) No 1151/2012 has been completed, it is intended that the words "traditional Dutch product" will appear on the label in the language of the country in which the product is marketed' does not comply with Article 18(3) of Regulation (EU) No 1151/2012. It should be replaced by the following sentence: 'The name shall be accompanied by the claim "made following the tradition of the Netherlands"'. The Dutch authorities have agreed that this amendment is included in the product specification which has to be re-published for information.

(20) Although products similar to 'Suikerstroop' are marketed in other Member States under a name which is deemed the translation, in the official languages of those Member States, of the term 'Suikerstroop', it cannot be concluded that an 'identical name' is used in the market of those Member States for similar products. The name used in those Member States has indeed the same meaning as Suikerstroop in Dutch language but it is not identical to 'Suikerstroop' since it is expressed in a different language. In addition, the name 'Suikerstroop' is not protected as such but only in conjunction with the claim 'made following the tradition of the Netherlands'.

(21) Therefore, those names of products similar to the product referred to in the application of 'Suikerstroop', marketed in the Danish, Swedish, Finnish, German and Baltic

markets, whose meaning is ‘syrup of sugar’ and represent the translation of the name ‘Suikerstroop’ in their respective languages, may continue to be used. They are not identical to ‘Suikerstroop’ and they should not be considered as imitations or evocations of the name ‘Suikerstroop’ because the name ‘Suikerstroop’, once registered, will have to be accompanied by the claim ‘made following the tradition of the Netherlands’. Therefore the protection of this name is limited to the name as referring to the Dutch tradition.

(22) In addition, it is obvious that the registration of the name ‘Suikerstroop’ may not prevent the use of the single terms ‘sugar’ or ‘syrup’ which are common names.

(23) The Netherlands and Finland have also agreed to delete the last sentence of Section 3.2 which reads: ‘There are no other products of the same name or similar products with a similar-sounding name’. Such a sentence should be therefore deleted from the product specification, which has to be re-published for information purposes.

(24) In the light of the above, the name ‘Suikerstroop’ should be entered in the register of traditional specialities guaranteed. The consolidated version of the single document should be published for information.

(25) The measures provided for in this Regulation are in accordance with the opinion of the Agricultural Product Quality Policy Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The name ‘Suikerstroop’ (TSG) is registered.

The name in the first paragraph identifies a product from Class 2.3. bread, pastry, cakes, confectionery, biscuits and other baker's wares set out in Annex XI to Commission Implementing Regulation (EU) No 668/2014[(4)].

Article 2

The name referred in Article 1 shall be accompanied by the claim ‘made following the tradition of the Netherlands’. The consolidated product specification is set out in the Annex to this Regulation.

Article 3

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 11 January 2018.

For the Commission

The President

Jean-Claude JUNCKER