Commission Implementing Regulation (EU) No 1050/2011 of 20 October 2011 entering a name in the register of protected designations of origin and protected geographical indications (Darjeeling (PGI))

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THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs[(1)], and in particular the third subparagraph of Article 7(5) thereof,

Whereas:

(1) Pursuant to Article 6(2) of Regulation (EC) No 510/2006, an application from India received on 12 November 2007 to register the name ‘Darjeeling’ as a protected geographical indication was published in the *Official Journal of the European Union*[(2)].

(2) Germany, France, Italy, Austria, the United Kingdom and a citizen of India lodged objections to such registration under Article 7(1) of Regulation (EC) No 510/2006. The objections were deemed admissible under points (a), (c), and (d) of the first subparagraph of Article 7(3) thereof. By letter dated 11 June 2010, the Commission asked the Parties concerned to seek agreement among them.

(3) An agreement was reached between France and India, which resulted in introducing clarifications to the Single Document to the effect that only bulk packaging is required to take place in the geographical area and that consumer packaging may take place within or outside the geographical area. Consequently, it should be made clear in relation to labelling that the obligatory presence of a licence number and a specified logo is only required in respect of products in bulk shipped from the geographical area.

(4) Agreement was only partially reached between Germany, Italy, Austria, the United Kingdom and the citizen of India on the one hand, and India on the other hand, within the designated timeframe. Following the agreement the botanical name ‘Camellia sinensis M Kuntz’, should be correctly referred to as ‘Camellia sinensis L.O. Kuntze’, and bulk packaging of ‘Darjeeling’ tea should be restricted to the geographical area. Any other kind of packaging or repackaging, including packaging intended for the final consumer, may take place within or outside the geographical area.

(5) The objectors further alleged failure of compliance with Article 2 of Regulation (EC) No 510/2006.

(6) Concerning the alleged absence of a link between the reputation and renown of the product and the area of production, it has been found that the product specification shows that the product is specific, and that the *savoir-faire* and acquired skills employed by producers as well as the pedo-climatic features and geographical environment of the geographical area (natural drainage of the soils, complex combination of very high rainfall and continuous low temperature) significantly affect the product's characteristics which constitute the core of its reputation.

(7) As for the objection regarding the alleged irrelevance of the analysis data cited in the Single Document, this data does not have an impact on the link which is based on reputation but merely serves to describe the product as such. Yet, to reveal the source of the analysis is not required by Regulation (EC) No 510/2006.

(8) The name 'Darjeeling' should only be used as a sales designation for tea that is wholly produced in the geographical area in accordance with the specification, although blending of such tea may take place within or outside the geographical area. Blends of Darjeeling and other teas should not bear the name 'Darjeeling' as the sales designation and should otherwise be labelled in conformity with the Union's rules on labelling in particular to avoid that consumers are misled to a material degree.

(9) The statements of objection showed that the name 'Darjeeling' is used to designate certain products that are not in conformity with the specification, but which are comparable to such products. The continued use of the name on these products is found to jeopardise the existence of the name 'Darjeeling'. Therefore the producers of such products should be granted a transitional period of 5 years to use the said name, pursuant to Article 13(3) of Regulation (EC) No 510/2006, in so far as these products have been legally marketed for at least 5 years prior to 14 October 2009, and provided that the Union's legal order, in particular with respect to Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs[(3)], is respected.

(10) Concerning the alleged generic character of the name proposed for registration, no proof of generic status has been established.

(11) In the light of the above, the name 'Darjeeling' should be entered in the Register of protected designations of origin and protected geographical indications and the Single Document should be updated accordingly and published.

(12) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Protected Geographical Indications and Protected Designations of Origin,

HAS ADOPTED THIS REGULATION:

Article 1

The designation contained in Annex I to this Regulation shall be entered in the register.

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 1050/2011. (See end of Document for details)*

Article 2

Registration is subject to a 5-year transitional period during which names including ‘Darjeeling’ may be used on products produced not in conformity with the specification, in so far as these products have been legally marketed for at least 5 years prior to 14 October 2009, and provided that the Union’s legal order, in particular with respect to misleading of consumers to a material degree pursuant to Article 2 of Directive 2000/13/EC, is respected.

Article 3

The updated Single Document is contained in Annex II to this Regulation.

Article 4

This Regulation shall enter into force on the 20th day following 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, 20 October 2011.

For the Commission

The President

José Manuel BARROSO

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 1050/2011. (See end of Document for details)*

ANNEX I

Agricultural products intended for human consumption in Annex I to the Treaty:

Class 1.8Other products of Annex I to the Treaty (spices etc.)
INDIA

Darjeeling (PGI)

ANNEX II

SINGLE DOCUMENT**COUNCIL REGULATION (EC) No 510/2006'DARJEELING'EC No: IN-PGI-0005-0659-12.11.2007PGI (X) PDO ( )**

1. **Name**

'Darjeeling'

2. **Member State or Third Country**

India

3. **Description of the agricultural product or foodstuff**

3.1. *Type of product*

Class 1.8.Other products of Annex I to the Treaty

3.2. *Description of product to which the name in (1) applies*

The botanical name of the Darjeeling tea plant is Camellia sinensis L.O. Kuntze. The Darjeeling tea plant is a hardy, multi-stemmed, slow growing evergreen shrub tree which if allowed to, can grow up to 2,5 metres in height. The Darjeeling tea plant takes about 6 to 8 years to be mature to give economic harvesting and is known to have an economic life of well over 100 years with good agricultural practices. It is able to withstand severe winters, extended droughts and the high altitudes of Darjeeling. The green leaves are small, bright, glossy green in colour often covered with a downy silvery pubescence and long buds. The productivity of Darjeeling tea is much lower than any other tea growing area, making it expensive to harvest and produce. Such lower productivity is due to high elevations of the geographical area and rare climatic conditions. The Darjeeling tea plant was first planted in the early 1800s. Over the years it has adapted to its natural environment and developed the native characteristics, i.e. the unique Darjeeling character referred to by renowned tea tasters and consumers.

The Darjeeling tea when brewed gives a colour of pale lemon to rich amber. The brew is said to have remarkable varying degrees of visual brightness, depth and body. The flavour emanating from the brew is a fragrance with a complex and pleasing taste and aftertaste with attributes of aroma, bouquet and point. The organoleptic characteristics of the Darjeeling tea brew are commonly referred to as mellow, smooth, round, delicate, mature, sweet, lively, dry and brisk.

The chemical components present in the Darjeeling tea in very higher concentrations are linalool oxide I, II, III and IV. Linalool, geraniol, methyl salicylate, benzyl alcohol, 2-phenylethanol, dihydroactinidiolide, hexanoic acid, cis-3-hexenoic acid, trans-2-hexenoic acid, trans-geranoic acid, 3,7-dimethyl-1,5,7-octatrien-3-ol (can be quantified in % as 0,36 % to 1,24 %) and 2,6-demethyl-3, 7-octadiene-2, 6-diol (quantified in % as 3,36 % to 9,99 %). The

last two components are present in very high concentration (coming up to 1,24 % and 9,99 % respectively).

The rare flavour of Darjeeling tea is a direct result of a combination of plant genes which is native to the Darjeeling area, the soil chemistry which is rich in minerals, the Darjeeling hills which receives high rainfall (up to 160 inches per annum), altitudes (the highest 2 250 metres and the lowest is at 600 metres) and unique variation of temperature (between 5 and 30 °C). The effect of agroclimatic conditions including light, temperature, humidity, rainfall, etc. play important role for the production of quality related secondary metabolites for Darjeeling tea. It has been observed that some tea cultivars grown in other parts of the country having different agroclimatic conditions do not produce the unique aroma/flavour of Darjeeling tea.

The Darjeeling tea industry follows an established set of agricultural practices which has been developed and used for over 150 years to sustain growth of shoots, while maintaining bush heights suitable for plucking by hand. Each kilogram of made tea consists of around 20 000 individual hand-picked shoots. This gives an idea of the extent of human effort involved in its production.

The Darjeeling tea is processed in the traditional orthodox method only, where human effort and traditional skill/knowledge is involved in every stage, which is referred as Darjeeling style of manufacture.

There are three different grades of sizes of Darjeeling tea which are traditionally referred as Whole Leaf, Brokens and Fannings.

3.3. *Raw materials*

Not applicable.

3.4. *Feed (for products of animal origin only)*

Not applicable.

3.5. *Specific steps in production that must take place in the identified geographical area*

The plucking of Darjeeling tea begins at the end of February/early March and ends by mid-November depending on the weather conditions and the ambient temperature; the cold winter months of December to February are a period of dormancy. A Darjeeling tea bush yields only 50 to 100 g of made tea in a year. The plucking of Darjeeling tea is a special skill/technique, which is a traditional knowledge transferred from generation to generation. The plucking is mainly done by highly skilled women workers because the green leaves require soft handling with care to retain its quality.

After harvesting, the Darjeeling tea leaves are processed in the traditional orthodox method only in the typical/Darjeeling Style of manufacture in the factories situated within the specified gardens within the defined Darjeeling tea growing area only. The traditional skill/knowledge is passed on by generation and is involved in every step of the processing. The inherently sensitive nature of the finely plucked, green leaf responds best to gentle treatment. Although differing leaf varieties require intricate variations in processing, the stages followed are uniform.

Processing of the Darjeeling tea takes place in the factories situated only within the notified tea gardens. The drying, sorting, grading and bulk packing of the Darjeeling tea takes place exclusively in the factories situated within the area of the notified tea gardens. It is important to note that no processing takes place outside the tea gardens.

Therefore, all steps of production of tea (harvesting, drying and processing) take place in the defined areas.