

No. 34345

**EUROPEAN COMMUNITY
and
MEXICO**

Agreement on the mutual recognition and protection of designations for spirit drinks (with annexes and exchange of letters). Signed at Brussels on 27 May 1997

Authentic texts: Spanish, Danish, German, Greek, English, French, Italian, Dutch, Portuguese, Finnish and Swedish.

Registered by the European Community on 9 February 1998.

**COMMUNAUTÉ EUROPÉENNE
et
MEXIQUE**

Accord concernant la reconnaissance mutuelle et la protection des dénominations dans le secteur des boissons spiritueuses (avec annexes et échange de lettres). Signé à Bruxelles le 27 mai 1997

Textes authentiques : espagnol, danois, allemand, grec, anglais, français, italien, néerlandais, portugais, finnois et suédois.

Enregistré par la Communauté européenne le 9 février 1998.

AGREEMENT¹ BETWEEN THE EUROPEAN COMMUNITY AND
THE UNITED MEXICAN STATES ON THE MUTUAL RECOGNITION
AND PROTECTION OF DESIGNATIONS FOR SPIRIT
DRINKS

THE EUROPEAN COMMUNITY, hereinafter called "the Community",

of the one part, and

THE UNITED MEXICAN STATES,

of the other part,

hereinafter called "the Contracting Parties",

DESIROUS of improving the conditions for the marketing of spirit drinks on their respective markets, in accordance with the principles of equality, mutual benefit and reciprocity.

HAVE AGREED AS FOLLOWS:

ARTICLE 1

The Contracting Parties agree, on the basis of non-discrimination and reciprocity, to facilitate and promote trade between them in spirit drinks.

ARTICLE 2

This Agreement shall apply to products falling within code 2208 of the International Convention on the Harmonized Commodity Description and Coding System.²

¹ Came into force on 1 July 1997 by notification, in accordance with article 22.

² United Nations, *Treaty Series*, vol. 1503, p. 3.

For the purposes of this Agreement:

- (a) "spirit drink originating in" shall mean, when followed by the name of one of the Contracting Parties, a spirit drink listed in the Annex and made on the territory of that Contracting Party;
- (b) "description" shall mean the names used on the labelling, on the documents accompanying the transport of the spirit drinks, on the commercial documents, particularly the invoices and delivery notices, and in advertising;
- (c) "labelling" shall mean all the descriptions and other references, signs, designs or trade marks which distinguish the spirit drinks and which appear on the same container, including the sealing device or the tag attached to the container and the sheathing covering the neck of the bottles;
- (d) "presentation" shall mean the names used on the containers, including the closure, on the labelling and on the packaging;
- (e) "packaging" shall mean the protective wrappings such as papers, straw envelopes of all kinds, cartons and cases, used in the transport of one or more containers.

ARTICLE 3

The following designations are protected:

- (a) as regards spirit drinks originating in the Community, the designations listed in Annex I;
- (b) as regards spirit drinks originating in the United Mexican States, the designations listed in Annex II.

ARTICLE 4

1. In the United Mexican States, the protected Community names:
 - may not be used otherwise than under the conditions laid down in the laws and regulations of the Community, and
 - are reserved exclusively to the spirits originating in the Community to which they apply.
2. In the Community, the protected Mexican names:
 - may not be used otherwise than under the conditions laid down in the laws and regulations of the United Mexican States, and
 - are reserved exclusively to the spirits originating in the United Mexican States to which they apply.
3. Without prejudice to Articles 22 and 23 of the Agreement on Trade-Related Aspects of Intellectual Property Rights set out in Annex IC of the Agreement establishing the World Trade Organization,¹ the Contracting Parties shall take all the necessary measures, in accordance with this Agreement, to ensure reciprocal protection of the designations referred to in Article 3 and used to refer to spirit drinks originating in the territory of the Contracting Parties. Each Contracting Party shall provide the interested parties with the legal means of preventing the uses of a designation to designate spirit drinks not originating in the place indicated by the designation in question or in the place where the designation in question is traditionally used.
4. The Contracting Parties will not deny the protection provided for by this Article in the circumstances specified in paragraphs 4, 5, 6 and 7 of Article 24 of the Agreement on Trade-Related Aspects of Intellectual Property Rights.

¹ United Nations, *Treaty Series*, vols. 1867 to 1869, No. I-31874.

ARTICLE 5

The protection afforded by Article 4 shall also apply even where the true origin of the spirit drink is indicated or the designation is used in translation or accompanied by terms such as "kind", "type", "style", "way", "imitation", "method" or other analogous expressions, including graphic symbols which may lead to confusion.

ARTICLE 6

In the case of homonymous designations for spirit drinks, protection shall be accorded to each designation. The Contracting Parties will lay down the practical conditions under which the homonymous designations in question will be differentiated, taking into account the need to treat the producers concerned fairly and to avoid misleading the consumer.

ARTICLE 7

The provisions of this Agreement shall in no way prejudice the right of any person to use, in the course of trade, their name or the name of their predecessor in a business, provided that such name is not used in such a manner as to mislead consumers.

ARTICLE 8

Nothing in this Agreement shall oblige a Contracting Party to protect a designation of the other Contracting Party which is not protected or ceases to be protected in its country of origin or which has fallen into disuse in that country.

ARTICLE 9

The Contracting Parties shall take all measures necessary to ensure that, in cases where spirit drinks originating in the Contracting Parties are exported and marketed outside their territory, the protected names of one Contracting Party referred to in this Agreement are not used to designate and present spirit drinks originating in the other Contracting Party.