



Mexico No. 1 (2020)

Agreement

on the mutual recognition and protection of designations for spirit drinks between the
United Kingdom of Great Britain and Northern Ireland and the United Mexican
States

Mexico City, 30 November 2020

[The Agreement is not in force]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
December 2020*



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**AGREEMENT ON THE MUTUAL RECOGNITION AND PROTECTION
OF DESIGNATIONS FOR SPIRIT DRINKS BETWEEN THE UNITED
KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
UNITED MEXICAN STATES**

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,
hereinafter referred to as “the United Kingdom”,

of the one part, and

THE UNITED MEXICAN STATES, hereinafter referred to as “Mexico”,

of the other part,

hereinafter jointly referred to as “the Parties”,

HAVING REGARD to the legal framework relating to the mutual recognition and protection of designations for spirit drinks between the European Community and Mexico;

DESIROUS of ensuring continuity of the effects of the legal framework relating to the mutual recognition and protection of designations for spirit drinks, between the European Community and Mexico, once that legal framework ceases to apply to the United Kingdom at the end of the transition period, as defined in Article 126 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community done at Brussels and London on 24 January 2020;

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

ARTICLE 2

1. This Agreement shall apply to products falling within code 2208 of the International Convention on the Harmonized Commodity Description and Coding System.
2. For the purposes of this Agreement:
 - (a) “**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;
 - (b) “**labelling**” shall mean all the descriptions and other references, signs, designs or trademarks 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;
 - (c) “**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;
 - (d) “**presentation**” shall mean the names used on the containers, including the closure, on the labelling and on the packaging; and
 - (e) “**spirit drink originating in**” shall mean, when followed by the name of one of the Parties, a spirit drink listed in one of the Annexes and made on the territory of that Party.¹

ARTICLE 3

The following designations are protected:

- (a) as regards spirit drinks originating in the United Kingdom, the designations listed in Annex I; and
- (b) as regards spirit drinks originating in Mexico, the designations listed in Annex II.

¹ The designations *Irish Whisky*, *Uisce Beatha Eireannach/Irish Whiskey*, *Irish Cream* and *Irish Poteen/Irish Poitín* listed in Annex I cover the corresponding liquor or liqueur produced in the Republic of Ireland and Northern Ireland.

ARTICLE 4

1. In Mexico, the protected names of the United Kingdom:
 - (a) may not be used otherwise than under the conditions laid down in the laws and regulations of the United Kingdom, and
 - (b) are reserved exclusively to the spirits originating in the United Kingdom to which they apply.
2. In the United Kingdom, the protected names of Mexico:
 - (a) may not be used otherwise than under the conditions laid down in the laws and regulations of Mexico, and
 - (b) are reserved exclusively to spirits originating in Mexico 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 1C of the Agreement establishing the World Trade Organization, the 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 Parties. Each 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 Parties shall 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.

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

ARTICLE 10

To the extent that the relevant legislation of the Parties allows, the benefit of the protection given by this Agreement shall be extended to natural and legal persons and to federations, associations and organizations of producers, traders or consumers whose headquarters are in the other Party.

ARTICLE 11

If the description or presentation of a spirit drink, particularly on the label or in the official or commercial documents or in advertising, is in breach of this Agreement, the Parties shall apply administrative measures or initiate legal proceedings as appropriate in order to combat unfair competition or prevent any other form of wrongful use of the protected name.

ARTICLE 12

This Agreement shall apply, on the one hand, to the territory of the United Kingdom and to Gibraltar, a territory for whose international relations the United Kingdom is responsible, and, on the other hand, to the territory of Mexico.

ARTICLE 13

1. This Agreement shall not apply to spirit drinks:
 - (a) which are in transit through the territory of one of the Parties; or
 - (b) which originate in the territory of one of the Parties and are consigned in small quantities between them.
2. The following shall be considered to be small quantities:
 - (a) quantities of spirit drinks not exceeding 10 litres per traveller contained in the traveller's personal baggage;
 - (b) quantities of spirit drinks not exceeding 10 litres forming part of consignments from one individual to another;
 - (c) spirit drinks forming part of the household effects of individuals moving house;
 - (d) up to one hectolitre of spirit drinks imported for conducting scientific and technical experiments;
 - (e) spirit drinks imported as part of the duty-free allowances of diplomatic missions, consular posts and assimilated bodies; or
 - (f) spirit drinks which form part of the supplies carried on board international means of transport.

ARTICLE 14

1. The Parties shall each designate the bodies to be responsible for the enforcement of this Agreement.
2. The Parties shall inform one another, through diplomatic channels, of the names and addresses of the said bodies not later than two months after this Agreement comes into force. There shall be close and direct cooperation between the said bodies.

ARTICLE 15

1. If one of the bodies referred to in Article 14 has reason to suspect that:
 - (a) a spirit drink as defined in Article 2, being or having been traded between Mexico and the United Kingdom, does not comply with this Agreement or with the legislation of the United Kingdom or Mexico applicable to spirit drinks; and
 - (b) this non-compliance is of particular interest to the other Party and could result in administrative measures or legal proceedings being taken,

that body shall immediately inform the United Kingdom Department for Environment, Food and Rural Affairs or the Ministry of Economy of Mexico, as appropriate.

2. The information to be provided in accordance with paragraph 1 shall be accompanied by official, commercial or other appropriate documents, as well as an indication of what administrative measures or legal proceedings may, if necessary, be taken. The information shall include, in particular, the following details of the spirit drink concerned:

- (a) the producer and the person who stocks the spirit drink;
- (b) the composition of that drink;
- (c) the description and presentation; and
- (d) details of the non-compliance with the rules concerning production and marketing.

ARTICLE 16

1. The Parties shall enter into consultations if one of them considers that the other has failed to fulfil an obligation under this Agreement.
2. The Party which requests the consultations shall provide the other Party with the information necessary for a detailed examination of the case in question.
3. In cases where any delay could endanger human health or impair the effectiveness of measures to control fraud, interim protective measures may be taken, without prior consultation, provided that the consultations are held immediately after the taking of these measures.

4. If, following the consultations provided for in paragraphs 1 and 3, the Parties have not reached agreement, the Party which requested the consultations or took the measures referred to in paragraph 3 may take appropriate protective measures so as to permit the proper application of this Agreement.

ARTICLE 17

1. A Joint Committee shall be established, consisting of representatives of the United Kingdom and of Mexico. It shall meet at the request of one of the Parties and in accordance with the requirements for implementing the Agreement alternately in the United Kingdom and in Mexico.

2. The Joint Committee shall ensure the proper functioning of this Agreement and shall examine all questions which may arise in implementing it. In particular, the Joint Committee may make recommendations which would contribute to the attainment of the objectives of this Agreement.

ARTICLE 18

1. The Parties may by mutual consent amend this Agreement in order to enhance the level of cooperation in the spirit drinks sector.

2. Any amendment to this Agreement shall enter into force on the first day of the second month following the date of the later of the Parties' notifications, through diplomatic channels, on the completion of their internal legal procedures required for such effect, or on such other date as the Parties may agree.

3. Notwithstanding paragraph 2, the Joint Committee may decide upon a request from either Party to amend the Annexes to this Agreement. The Annexes shall be deemed to be modified from the date recorded in an exchange of notes between the Parties.

ARTICLE 19

1. From the entry into force of this Agreement spirit drinks included therein may no longer be produced outside the limits of their regions of origin.

2. Spirit drinks produced, designated and presented in accordance with this Agreement when they are marketed but whose description and presentation ceases to conform to this Agreement following an amendment thereto may be marketed until stocks are exhausted unless otherwise agreed by the Parties.

ARTICLE 20

The Annexes and footnote to this Agreement shall form an integral part thereof.

ARTICLE 21

This Agreement is drawn up in duplicate in the English and Spanish languages, both languages being equally authentic.

ARTICLE 22

1. The Parties shall notify each other in writing, through diplomatic channels, of the completion of their domestic procedures required for the entry into force of this Agreement.

2. Following the notification referred to in paragraph 1, this Agreement shall enter into force on:

(a) the later of:

(i) the date on which the legal framework relating to the mutual recognition and protection of designations for spirit drinks between the European Community and Mexico ceases to apply to the United Kingdom; and

(ii) the first day of the second month following the date of the later of the Parties' notifications, through diplomatic channels, on the completion of their internal legal procedures required for its entry into force;

or

(b) such date as the Parties may otherwise agree.

3. Either Party may terminate the Agreement by giving one year's written notice to the other Party.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

DONE at Mexico City this thirtieth day of November 2020.

**For the United Kingdom of Great
Britain and Northern Ireland:**

CORIN ROBERTSON

For the United Mexican States:

GRACIELA MÁRQUEZ COLÍN

ANNEX I

- | | | | |
|----|-----|----------------|--|
| 1. | (a) | Whisky | <i>Scotch Whisky</i>
<i>Irish Whisky</i>
(These designations may be supplemented by the indication ‘ <i>malt</i> ’ or ‘ <i>grain</i> ’) |
| | (b) | Whiskey | <i>Irish Whiskey</i>
<i>Uisce Beatha Eireannach/ Irish Whiskey</i>
(These designations may be supplemented by the indication ‘ <i>Pot still</i> ’) |
| 2. | | Liqueur | <i>Irish Cream</i> |
| 3. | | Spirit | <i>Irish Poteen/Irish Poitín</i> |

ANNEX II

- | | | |
|----|--|---|
| 1. | Agave spirit drink | Tequila
Mezcal
Bacanora
Raicilla |
| 2. | Spirit sugar cane drink | Charanda |
| 3. | Spirit drink of Sotol (Dasyliirion) | Sotol |

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