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## *F1* ANNEX A1

### Types of traditional term to which Article 32a applies

#### Textual Amendments

- F1** Annex A1 inserted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), 26(50), **Sch. 8 Pt. 6** (as amended by [S.I. 2020/1661](#), regs. 1(2)(b), **16(10)(c)**)

## PART A

### Interpretation

1. In the table in Part C:
  - (a) ‘EU Regulation 2019/34’ means Commission Implementing Regulation (EU) 2019/34 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, amendments to product specifications, the register of protected names, cancellation of protection and use of symbols, and of Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards an appropriate system of checks as it had effect before IP completion day;
  - (b) ‘the European Commission’s Traditional Terms Register’ means the register maintained by the European Commission under Article 25 of EU Regulation 2019/34;
  - (c) ‘grapevine product’ means a product referred to in point 1, 3 to 6, 8, 9, 11, 15 or 16 of Part 2 of Annex 7 to Regulation (EC) No 1308/2013;
  - (d) ‘the paragraph 1 trade mark application’ means the application to register a trade mark referred to in Article 32a(1);
  - (e) ‘the relevant EUIA-based date’ means the date determined in accordance with Part B;
  - (f) ‘the relevant pre-IP completion day legislation’ means:
    - (i) in the case of an application to register a traditional term submitted to the European Commission under Regulation 607/2009, Article 29 of that Regulation;
    - (ii) in the case of an application to register a traditional term submitted to the European Commission under EU Regulation 2019/34, Article 21 of that Regulation;
  - (g) ‘the relevant trade mark application’ means the application to register a trade mark referred to in Article 32a(2) or (3)(a), as relevant.

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## PART B

### The relevant EUIA-based date

2. In the table in Part C, in a case where the relevant EUIA-based date applies, the relevant EUIA-based date means:
  - (a) the date provided for in paragraph 3, or
  - (b) where paragraph 3 does not apply, the date provided for in the relevant point of paragraph 4, or paragraph 5, as relevant to the traditional term.
3. In a case where the EUIA referred to in paragraph (b) in column 2 of the row of the Types Table relating to a traditional term contained priority provisions that applied to the traditional term, the relevant EUIA-based date is the priority date provided for in the EUIA that applied to that traditional term.
4. In a case of a type 2A, 2B, 3A or 3B traditional term to which paragraph 3 does not apply, the relevant EUIA-based date is:
  - (a) in a case where the traditional term was protected in the European Union immediately before IP completion day pursuant to an amendment made to the EUIA (without the need for further action to be taken under the EUIA), the date on which the amendment entered into force;
  - (b) in a case where the traditional term was protected in the European Union immediately before IP completion day pursuant to a provision in the EUIA that was provisionally applied before IP completion day (without the need for further action to be taken under the EUIA), the date on which the provision was provisionally applied;
  - (c) in a case where the traditional term was protected in the European Union immediately before IP completion day pursuant to an amendment made to the EUIA that was provisionally applied before IP completion day (without the need for further action to be taken under the EUIA), the date on which the amendment was provisionally applied;
  - (d) in a case where the traditional term was protected in the European Union immediately before IP completion day following the submission and processing of a request, or application, for protection or assessment (however described) under a provision in the EUIA providing for such requests, or applications, the date on which the request, or application, for protection or assessment was submitted under the EUIA;
  - (e) in any other case, including a case where the traditional term was protected in the European Union immediately before IP completion day pursuant to provisions in the EUIA that applied from the date that the EUIA entered into force (without the need for further action to be taken under the EUIA), the date on which the relevant EUIA entered into force.
5. In a case of a type 4A or 4B traditional term to which paragraph 3 does not apply and for which a request, or application, for protection or assessment (however described) was submitted before IP completion day in accordance with provisions in the EUIA, the relevant EUIA-based date is the date on which the request, or application, for protection or assessment was submitted in accordance with the EUIA.
6. Any reference in this Part to:

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- (a) ‘the priority date’ means the date provided for in priority provisions in an EUIA as the date that must be taken into account when determining whether an application for a trade mark may be granted, including:
- (i) a calendar date specified in the EUIA;
  - (ii) a date relating to the happening of a specified event;
- (b) ‘priority provisions’ means provisions in an EUIA that governed the relationship between trade marks and traditional terms that provided (however expressed):
- (i) that, in the circumstances specified in the EUIA, an application for a trade mark must be refused if the application for the trade mark was filed after a date provided for in the EUIA,
  - (ii) that, in the circumstances specified in the EUIA, the registration of a trade mark must be invalidated if the application that resulted in the registration of that trade mark was filed after a date provided for in the EUIA, or
  - (iii) for both the refusal of applications for trade marks, and the invalidation of the registration of trade marks, as provided for in points (i) and (ii);
- (c) ‘without the need for further action to be taken under the EUIA’, in relation to a traditional term protected in the European Union immediately before IP completion day pursuant to an EUIA, means that the provisions in the EUIA providing for the traditional term to be protected in the European Union did not require:
- (i) a request or application (however described) to be submitted by the contracting third country under the EUIA in relation to the protection of the traditional term;
  - (ii) an assessment to be carried out under the EUIA in relation to the traditional term.

## PART C

### Types of traditional term (the Types Table)

<i>Column 1 Row No.</i>	<i>Column 2 Description of the traditional term</i>	<i>Column 3 Type A provisions</i>	<i>Column 4 Type B provisions</i>	<i>Column 5 The column 5 date</i>
1.	Established protected traditional terms.	Not applicable.	Not applicable.	1. In relation to a traditional term listed in Annex 3 to Commission Regulation (EC) No 753/2002 laying down certain rules for applying Council Regulation (EC) No 1493/1999 as regards the

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				<p>description, designation, presentation and protection of certain wine sector products when that Regulation was published in the Official Journal of the European Union, 4th May 2002.</p> <p>2. In relation to a traditional term added to Annex 3 to Regulation (EC) No 753/2002 after 4th May 2002, the date on which the addition of the traditional term to that Annex first applies.</p> <p>3. In any other case, the date on which the application that resulted in the first registration of the traditional term was submitted to the European Commission under the relevant pre-IP completion day legislation.</p>
2.	A traditional term that: (a) is used in relation to a grapevine product produced in a third country, (b) was protected in the European Union	1. A traditional term that is in Great Britain's Traditional Terms Register before the day on which the paragraph 1 trade mark application is accepted or	A traditional term that is not in Great Britain's Traditional Terms Register when the relevant trade mark application is accepted but must be protected	The relevant EUIA-based date that applies to the traditional term in relation to the EUIA referred to in point (b) of column 2.

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	<p>immediately before IP completion day pursuant to an EUIA to which the European Union and the third country were contracting parties, and (c) must be protected in Great Britain pursuant to— (i) an international agreement to which the United Kingdom and the third country are contracting parties that enters into force, or (ii) bridging arrangements between the United Kingdom and the third country made, during the relevant period.</p>	<p>refused and is entered in that register pursuant to Article 32c(1) or 39. 2. A traditional term that is not in Great Britain's Traditional Terms Register before the day on which the paragraph 1 trade mark application is accepted or refused but must be protected in Great Britain pursuant to— (a) an international agreement to which the United Kingdom and the third country are contracting parties that enters into force, or (b) bridging arrangements between the United Kingdom and the third country made, before the day on which the paragraph 1 trade mark application is accepted or refused.</p>	<p>in Great Britain pursuant to— (a) an international agreement to which the United Kingdom and the third country are contracting parties that enters into force, or (b) bridging arrangements between the United Kingdom and the third country made, on or after the day on which the relevant trade mark application is accepted.</p>	
3.	<p>A traditional term that: (a) is used in relation to a grapevine product produced in a third country, and</p>	<p>1. A traditional term that is in Great Britain's Traditional Terms Register before the day on which the paragraph 1 trade mark</p>	<p>A traditional term: (a) that is not in Great Britain's Traditional Terms Register when the relevant trade</p>	<p>The relevant EUIA-based date that applies to the traditional term in relation to the EUIA referred to in point (b) of column 2.</p>

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<p>(b) was protected in the European Union immediately before IP completion day pursuant to an EUIA to which the European Union and the third country were contracting parties.</p>	<p>application is accepted or refused and is entered in that register following the approval of an application to register the traditional term submitted to the Secretary of State under Article 21 of Implementing Regulation (EU) 2019/34 during the relevant period.</p> <p>2. A traditional term:</p> <p>(a) that is not in Great Britain's Traditional Terms Register before the day on which the paragraph 1 trade mark application is accepted or refused,</p> <p>(b) for which an application to register the traditional term is submitted to the Secretary of State under Article 21 of Implementing Regulation (EU) 2019/34 during the relevant period, and</p> <p>(c) for which an Article 115(2) approval notice relating to the application is published before the day on which the paragraph</p>	<p>mark application is accepted, and (b) for which an application to register the traditional term is submitted to the Secretary of State under Article 21 of Implementing Regulation (EU) 2019/34 during the relevant period and that application:</p> <p>(i) is not submitted before the relevant trade mark application is accepted, or</p> <p>(ii) is submitted before the relevant trade mark application is accepted but for which a notice published by the Secretary of State under the second subparagraph of Article 115(2) of Regulation (EU) No 1308/2013 relating to the application to register the traditional term is not published before the relevant trade mark application is accepted.</p>
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		1 trade mark application is accepted or refused.		
4.	A traditional term: (a) that is used in relation to a grapevine product produced in a third country, (b) for which an assessment relating to the protection of the traditional term was being carried out, or a request for protection, or an application for assessment for protection, was submitted, before IP completion day in respect of the traditional term under an EUIA, and (c) for which no decision was made pursuant to the EUIA before IP completion day as to whether the traditional term should be protected in the European Union.	See the entry in row 3 of this column.	See the entry in row 3 of this column.	The relevant EUIA-based date that applies to the traditional term in relation to the EUIA referred to in point (b) of column 2.
5.	A traditional term: (a) that is used in relation to a grapevine product produced in a third country, and	See the entry in row 3 of this column.	See the entry in row 3 of this column.	The date on which the application referred to in point (b) of column 2 was submitted to the European Commission under the

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(b) for which an application to register the traditional term was submitted to the European Commission under Article 29 of Regulation 607/2009, or Article 21 of EU Regulation 2019/34, before IP completion day that was neither refused nor resulted in traditional term being added to the European Commission's Traditional Terms Register before IP completion day.			
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relevant pre-IP completion day legislation.]



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