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ANNEX 7

ANNEX

to the

Proposal for a Council Decision

**on the signing and provisional application of the Economic Partnership Agreement
between the European Union and its Member States, of the one part, and the SADC
EPA States, of the other part**

ANNEX

ANNEX VII: Protocol 2 to 4, Declarations and Final Act

PROTOCOL 2

MUTUAL ADMINISTRATIVE ASSISTANCE IN CUSTOMS MATTERS

ARTICLE 1

Definitions

For the purposes of this Protocol:

- (a) ‘Goods’ means all goods falling within the scope of the Harmonized System, irrespective of the scope of this Agreement;
- (b) ‘Customs legislation’ means any legal or regulatory provisions applicable in the territory of a Party, governing the import, export and transit of goods and their placing under any other customs regime or procedure, including measures of prohibition, restriction and control;
- (c) ‘Applicant Authority’ means a competent administrative authority which has been designated by a Party, for the implementation of this Protocol and which makes a request for assistance on the basis of this Protocol;
- (d) ‘Requested Authority’ means a competent administrative authority which has been designated by a Party for the implementation of this Protocol and which receives a request for assistance on the basis of this Protocol;
- (e) ‘Personal data’ means all information relating to an identified or identifiable individual;
- (f) ‘Operation in breach of customs legislation’ means any violation or attempted violation of customs legislation.

ARTICLE 2

Scope

1. The Parties shall assist each other, in the areas within their competence, in the manner and under the conditions laid down in this Protocol, to ensure the correct application of the customs legislation, in particular by preventing, investigating and combating operations in breach of that legislation.
2. Assistance in customs matters, as provided for in this Protocol, shall apply to any administrative authority of the Parties which is competent for the application of this Protocol. It shall not prejudice the rules governing mutual assistance in criminal matters. Nor shall it cover information obtained under powers exercised at the request of a judicial authority, except where communication of such information has the prior authorisation of that authority.
3. Assistance in recovery proceedings regarding duties, taxes or fines is not covered by this Protocol.

ARTICLE 3

Assistance on request

1. At the request of the Applicant Authority, the Requested Authority shall provide it with all relevant information which may enable it to ensure that customs legislation is correctly applied, including information regarding activities noted or planned which are or could be operations in breach of customs legislation.
2. At the request of the Applicant Authority, the Requested Authority shall inform it:
 - (a) whether goods exported from the territory of the Party have been lawfully imported into the territory of the other Party, specifying, where appropriate, the customs procedure applied to the goods;
 - (b) whether goods imported into the territory of the Party have been lawfully exported from the territory of the other Party, specifying, where appropriate, the customs procedure applied to the goods.
3. At the request of the Applicant Authority, the Requested Authority shall, within the framework of its legal or regulatory provisions, take the necessary steps to ensure special surveillance of:
 - (a) natural or legal persons in respect of whom there are reasonable grounds for believing that they are or have been involved in operations in breach of customs legislation;
 - (b) places where stocks of goods have been or may be assembled in such a way that there are reasonable grounds for believing that these goods are intended to be used in operations in breach of customs legislation;
 - (c) goods that are or may be transported in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs legislation; and
 - (d) means of transport that are or may be used in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs legislation.

ARTICLE 4

Spontaneous assistance

The Parties, shall assist each other, at their own initiative and in accordance with their legal or regulatory provisions, if they consider that to be necessary for the correct application of customs legislation, particularly by providing information obtained pertaining to:

- (a) operations which are or appear to be in breach of customs legislation and which may be of interest to the other Party,
- (b) new means or methods employed in carrying out operations in breach of customs legislation,
- (c) goods known to be subject to operations in breach of customs legislation,
- (d) natural or legal persons in respect of whom there are reasonable grounds for believing that they are or have been involved in operations in breach of customs legislation, and
- (e) means of transport in respect of which there are reasonable grounds for believing that they have been, are, or may be used in operations in breach of customs legislation.

ARTICLE 5

Delivery and notification

1. At the request of the Applicant Authority, the Requested Authority shall, in accordance with legal or regulatory provisions applicable to the latter, take all necessary measures in order:
 - (a) to deliver any documents emanating from the Applicant Authority and falling within the scope of this Protocol, to an addressee residing or established in the territory of the Requested Authority, and, where appropriate;
 - (b) to notify any decisions emanating from the Applicant Authority and falling within the scope of this Protocol, to an addressee residing or established in the territory of the Requested Authority.
2. Requests for delivery of documents or notification of decisions shall be made in writing in an official language of the Requested Authority or in a language acceptable to that authority.

ARTICLE 6

Form and substance of requests for assistance

1. Requests pursuant to this Protocol shall be made in writing. They shall be accompanied by the documents necessary to enable compliance with the request. When required because of the urgency of the situation, oral requests may be accepted, but must be confirmed in writing immediately. Requests may also be communicated in electronic form.
2. Requests pursuant to paragraph 1 shall include the following information:
 - (a) the name of the Applicant Authority;
 - (b) the measure requested;
 - (c) the object of and the reason for the request;
 - (d) the legal or regulatory provisions and other legal elements involved;
 - (e) indications as exact and comprehensive as possible on the natural or legal persons who are the subject of the request; and
 - (f) a summary of the relevant facts and of the enquiries already carried out.
3. Requests shall be submitted in an official language of the Requested Authority or in a language acceptable to that authority. This requirement shall not apply to any documents that accompany the request under paragraph 1.
4. If a request does not meet the formal requirements set out above, its correction or completion may be requested; in the meantime precautionary measures may be ordered.

ARTICLE 7

Execution of requests

1. In order to comply with a request for assistance, the Requested Authority shall proceed, within the limits of its competence and available resources, as though it were acting on its own account or at the request of other authorities of that same

Party, by supplying information already possessed, by carrying out appropriate enquiries or by arranging for them to be carried out. This provision shall also apply to any other authority to which the request has been addressed by the Requested Authority when the latter cannot act on its own.

2. Requests for assistance shall be executed in accordance with the legal or regulatory provisions of the requested Party.
3. Duly authorised officials of a Party, with the agreement of the other Party, and subject to the conditions laid down by the latter, may be present:
 - (a) to obtain in the offices of the Requested Authority or any other concerned authority in accordance with paragraph 1, information relating to activities that are or may be operations in breach of customs legislation which the Applicant Authority needs for the purposes of this Protocol;
 - (b) at enquiries carried out in the latter's territory.

ARTICLE 8

Form in which information is to be communicated

1. The Requested Authority shall communicate results of enquiries to the Applicant Authority in writing together with relevant documents, certified copies or other items.
2. If requested, the information provided for in paragraph 1 may be in electronic form.
3. Original documents shall be transmitted only upon request in cases where certified copies would be insufficient. These originals shall be returned at the earliest opportunity.

ARTICLE 9

Exceptions to the obligation to provide assistance

1. Assistance may be refused or may be subject to the satisfaction of certain conditions or requirements, in cases where a Party concerned is of the opinion that assistance under this Protocol would:
 - (a) be likely to prejudice the sovereignty of a SADC EPA State or that of a Member State of the European Union which has been requested to provide assistance under this Protocol; or
 - (b) be likely to prejudice public policy, security or other essential interests, in particular in the cases referred to under Article 10(2) of this Protocol; or
 - (c) violate an industrial, commercial or professional secret.
2. Assistance may be postponed by the Requested Authority on the ground that it will interfere with an ongoing investigation, prosecution or proceeding. In such a case, the Requested Authority shall consult with the Applicant Authority to determine if assistance can be given subject to such terms or conditions as the Requested Authority may require.
3. Where the Applicant Authority seeks assistance which it would itself be unable to provide if so requested, it shall draw attention to that fact in its request. It shall then be for the Requested Authority to decide how to respond to such a request.

4. For the cases referred to in paragraphs 1 and 2, the decision of the Requested Authority and the reasons thereof, must be communicated to the Applicant Authority without delay.

ARTICLE 10

Information exchange and confidentiality

1. Any information communicated in whatsoever form pursuant to this Protocol shall be of a confidential or restricted nature, depending on the rules applicable in each of the Parties. It shall be covered by the obligation of official secrecy and shall enjoy the protection extended to similar information under the relevant laws of the Party, that received it and the corresponding provisions applying to the EU authorities.
2. Personal data may be exchanged only where the Party which may receive them agrees to ensure an adequate level of protection of such data. To that end, the Parties shall communicate to each other information on their applicable rules, including, where appropriate, legal provisions in force in the Member States of the European Union.
3. The use, in judicial or administrative proceedings instituted in respect of operations in breach of customs legislation, of information obtained under this Protocol, is considered to be for the purposes of this Protocol. Therefore, the Parties may, in their records of evidence, reports and testimonies and in proceedings and charges brought before the courts, use as evidence information obtained and documents consulted in accordance with the provisions of this Protocol. The competent authority which supplied that information or gave access to those documents shall be notified of such use.
4. Information obtained shall be used solely for the purposes of this Protocol. Where one of the Parties wishes to use such information for other purposes, it shall obtain the prior written consent of the authority which provided the information. Such use shall then be subject to any restrictions laid down by that authority.

ARTICLE 11

Experts and witnesses

An official of a Requested Authority may be authorised to appear, within the limitations of the authorisation granted, as an expert or witness in judicial or administrative proceedings regarding the matters covered by this Protocol, and produce such objects, documents or certified copies thereof, as may be needed for the proceedings. The request for appearance must indicate specifically before which judicial or administrative authority the official will have to appear, on what matters and by virtue of what title or qualification the official will be questioned.

ARTICLE 12

Assistance expenses

The Parties shall waive all claims on each other for the reimbursement of expenses incurred pursuant to this Protocol, except, as appropriate, for expenses to experts and witnesses, and those to interpreters and translators who are not public service employees.

ARTICLE 13

Implementation

1. The implementation of this Protocol shall be entrusted on the one hand to the customs authorities of the SADC EPA States and on the other hand to the competent services of the European Commission and the customs authorities of the Member States of the European Union as appropriate. They shall decide on all practical measures and arrangements necessary for its application, taking into consideration the rules in force in particular in the field of data protection.
2. The Parties shall consult each other and subsequently keep each other informed of the detailed rules of implementation which are adopted in accordance with the provisions of this Protocol.

ARTICLE 14

Amendments

The Parties may recommend to the Trade and Development Committee amendments which they consider should be made to this Protocol.

ARTICLE 15

Final Provisions

1. This Protocol shall complement and not impede application of any agreements on mutual administrative assistance which have been concluded or may be concluded between the Parties, nor shall it preclude more extensive mutual assistance granted under such agreements.
2. The provisions of this Protocol shall not affect the obligations of the Parties under any other international agreement or convention.
3. The provisions of this Protocol shall not affect the EU provisions governing the communication between the competent services of the European Commission and the customs authorities of the Member States of the European Union of any information obtained under this Protocol which could be of interest to the EU.
4. Notwithstanding the provisions of paragraph 1, the provisions of this Protocol shall take precedence over the provisions of any bilateral Agreement on mutual assistance which has been or may be concluded between individual Member States of the European Union and any SADC EPA State in so far as the provisions of the latter are incompatible with those of this Protocol.
5. In respect of questions relating to the applicability of this Protocol, the Parties shall consult each other to resolve the matter in the framework of the Special Committee on Customs and Trade Facilitation set up under Article 50 of this Agreement.

PROTOCOL 3

GEOGRAPHICAL INDICATIONS AND TRADE IN WINES AND SPIRITS

RECALLING the Agreement between the European Community and the Republic of South Africa on trade in wine signed at Paarl on 28 January 2002 and the Agreement between the European Community and the Republic of South Africa on trade in spirits signed at Paarl on 28 January 2002;

BEING PARTY TO the Agreement on Trade, Development and Cooperation Between the European Community and its Member States, of the one part, and the Republic of South Africa, of the other part signed in Pretoria on 11 October 1999, the Agreement in the Form of an Exchange of Letters providing for the provisional application of the Agreement between the European Community and the Republic of South Africa on trade in wine as from 28 January 2002, and the Agreement in the Form of an Exchange of Letters providing for the Provisional Application of the Agreement Between the European Community and the Republic of South Africa on Trade in Spirits as from 28 January 2002;

DESIRING to promote the development of GIs defined as indications which identify a good as originating in the territory of a Party, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin, within the meaning of Article 22(1) of the TRIPs Agreement;

ACKNOWLEDGING the importance to their economies of the beverages sector and the need to facilitate trade in wine products and spirits between them,

ARTICLE 1

Application of the Protocol

1. The provisions of this Protocol apply to South Africa and to the EU (“the Parties”).
2. Any other SADC EPA State may adhere to this Protocol in relation only to GIs by lodging an application with the Special Committee on GIs and trade in wines and spirits referred to in Article 13 of this Protocol (“the Special Committee”).
3. This Committee may submit proposals for amendments to the Joint Council for consideration and approval of the accession of the SADC EPA State concerned to this Protocol pursuant to Article 117 of this Agreement.

PART 1

GEOGRAPHICAL INDICATIONS

ARTICLE 2

Scope

1. This Part applies to the recognition and protection of GIs designating products falling under the categories of products indicated in the section headings of Annex I to this Protocol and originating in the territories of the Parties.
2. The provisions of this Part shall complement and specify the rights and obligations of the Parties under the TRIPs Agreement and other existing multilateral agreements to which the Parties are party, and therefore, no provision of this Part will contradict or be detrimental to the provisions of such multilateral agreement.

3. For the purposes of this Part, the definition of ‘geographical indication’ is compatible with that laid down in Article 22.1 of the TRIPS Agreement.

ARTICLE 3

Protection of established geographical indications

1. The EU shall protect the GIs of South Africa listed in Annex I to this Protocol according to the level of protection laid down in this Protocol.
2. South Africa shall protect the GIs of the EU listed in Annex I to this Protocol according to the level of protection laid down in this Protocol.
3. When all the GIs respectively of the EU or of South Africa listed in Annex I to this Protocol and identified therein as GIs for which the priority date is indicated as ‘date of entry into force’ have been protected according to paragraphs 1 or 2, each Party shall notify the other that the protection has been applied.

ARTICLE 4

Right of use of geographical indications

1. A geographical indication protected under this Part may be used by any operator marketing the product concerned conforming to the corresponding product specification.
2. Once a geographical indication is protected under this Part, the use of such protected name shall not be subject to any registration of users, or further charges.

ARTICLE 5

Scope of protection

1. GIs referred to in Article 3 and listed in Annex I to this Protocol as well as those added pursuant to Article 7 of this Protocol shall be protected against:
 - (a) any direct or indirect commercial use of a protected name:
 - for comparable products not compliant with the product specification of the protected name, or
 - in so far as such use exploits the reputation of a geographical indication;
 - (b) any misuse, imitation or evocation including:
 - use in connection with an indication of the true origin of the product in question;
 - use in translation, transcription or transliteration;
 - use together with words such as "kind", "type", "style", "imitation", "method", or similar words or expressions;
 - (c) any other false or misleading indication as to the provenance, origin, nature or essential qualities of a like product, on the inner or outer packaging, advertising material or documents relating to that product, and the packing of the product in a container liable to convey a false impression as to its origin;
 - (d) any other practice liable to mislead the consumer as to the true origin of a like product.

2. Protected GIs shall not be deemed to become generic in the territories of the Parties.
3. This Protocol shall in no way prejudice the right of any person to use, in the course of trade, that person's name or the name of that person's predecessor in business, except where such name is used in such a manner as to mislead consumers.
4. Where South Africa or the EU, in the context of negotiations with a third party, proposes to protect a geographical indication of the third party, and the name is wholly or partially homonymous with a geographical indication of the other Party, the latter shall be informed and be given the opportunity to comment before the name becomes protected.
5. Nothing in this Part shall oblige South Africa or the EU to protect a geographical indication which is not or ceases to be protected in its country of origin. South Africa and the EU shall notify each other if a geographical indication ceases to be protected in its country of origin.

ARTICLE 6

Relation between geographical indications and trade marks

1. The Parties shall refuse to register or shall invalidate a trade mark that corresponds to any of the situations referred to in Article 5(1) of this Protocol and which relates to same type of product, provided an application to register the trade mark is submitted after the date of application for protection of the geographical indication in the territory concerned. In the case of invalidation, a competent authority of a Party may provide that invalidation shall only be effected pursuant to an application duly lodged by an interested party and brought in a manner prescribed in applicable legislation.
2. For the GIs listed in Annex I to this Protocol at the date of entry into force of this Protocol, the date of application for protection referred to in paragraph 1 shall be the priority date indicated in Annex I of this Protocol, without prejudice to the continued validity, in respect of a trade mark that was earlier in time than the said date, of priority rights that applied in the territory of a Party immediately before the date of entry into force of this Protocol.
3. For GIs referred to in Article 7 of this Protocol, the date of application for protection referred to in paragraph 1 shall be the date of a Party's receipt of a request by the other Party to protect a geographical indication, provided the said geographical indication is subsequently protected by the receiving Party.
4. The protection of a geographical indication under Article 5 of this Protocol is without prejudice to the continued use of a trade mark which has been applied for, registered or established by use in good faith, in the territory of a Party before the date of the application for protection of the geographical indication provided that no grounds for the trade mark's invalidity or revocation exist in the legislation of the Party concerned. The date of application for protection of the geographical indication is determined in accordance with the provisions of paragraphs 2 and 3.
5. In respect of the GIs listed in Annex I to this Protocol and identified therein as GIs for which the priority date is indicated as 'date of entry into force', a trade mark applied for between the date of publication for comments or opposition of the said GIs and the date of entry into force of this Protocol that corresponds to any of the

situations referred to in Article 5(1) of this Protocol shall be presumed to have been applied for in bad faith.

ARTICLE 7

Addition of Geographical Indications for protection

1. South Africa and the EU may add GIs to the lists in Annex I to this Protocol in accordance with the procedures set out in Article 13 of this Protocol.
2. A name may not be added to the list in Annex I to this Protocol where, in the territory of a Party, it conflicts with the name of a plant variety, including a grape variety, or an animal breed and as a result is likely to mislead the consumer as to the true origin of the product, or if it wholly comprises a generic term for similar product.
3. If a geographical indication referred to in Articles 3 or 7(1) of this Protocol is wholly or partially homonymous with a geographical indication protected or proposed for protection in the territory of the Party concerned:
 - (a) protection shall be granted to each indication provided that it has been used in good faith and with due regard for local and traditional usage and the actual risk of confusion;
 - (b) without prejudice to Article 23 of the TRIPS Agreement, South Africa and the EU shall mutually decide the practical conditions of usage under which the wholly or partially homonymous GIs will be differentiated from each other, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled;
 - (c) a wholly or partially homonymous name which misleads the consumer into believing that products come from another territory shall not be protected even if the name is accurate as far as the actual territory, region or place of origin of the product in question is concerned.
4. South Africa and the EU shall have no obligation to protect a geographical indication where, in the light of a reputed or well-known trade mark, protection is liable to mislead consumers as to the true identity of the product concerned.
5. Without prejudice to paragraph 4, the Parties shall protect a geographical indication also where a prior trade mark in the sense of Article 6(4) of this Protocol exists.
6. With a view to the development of GIs in South Africa, South Africa may present up to thirty (30) names with priority for protection pursuant to Article 13 of this Protocol. The EU shall submit these applications to its internal procedures without delay.

ARTICLE 8

Enforcement of protection

1. The Parties shall enforce the protection provided for in Articles 3 to 7 of this Protocol by appropriate administrative action by public authorities and available juridical instances established under each Party's domestic or regional legislation. They shall also enforce such protection at the request of an interested party.

2. In so far as domestic and regional laws provide for enforcement mechanisms that are equivalent to those in application for comparable labelling, production, and intellectual property enforcement purposes, they are considered to meet the requirements of paragraph 1.

ARTICLE 9

Cooperation in management of geographical indications

1. The EU and South Africa shall notify each other, and may make publicly available, the product specifications or summaries thereof and the contact points for control provisions corresponding to GIs of the other Party protected pursuant to this Part.
2. GIs protected under this Part may only be cancelled by the Party in the territory of which the product originates.
3. Any matter arising from a product specification of a protected name shall be dealt with in the Special Committee. A product specification referred to in this Part shall be the one approved, including any amendments also approved, by the authorities of the Party in the territory of which the product originates.
4. The provisions of this Part are without prejudice to the right to seek recognition and protection of a geographical indication under the relevant legislation of South Africa or the EU.

PART 2

TRADE IN WINE PRODUCTS AND SPIRITS

ARTICLE 10

Scope and coverage

This Part applies to wine products and spirits falling under headings 2204 and 2208 of the International Convention on the Harmonised Commodity, Description and Coding System, hereafter referred to as the ‘Harmonised System’, signed at Brussels on 14 June 1983.

ARTICLE 11

Winemaking practices

1. The EU shall authorise the importation and marketing in its territory for human consumption of wine products originating in South Africa and produced in accordance with:
 - (a) product definitions authorised in South Africa by laws and regulations referred to in Section A1(a) of Annex II to this Protocol,
 - (b) oenological practices and restrictions authorised in South Africa under laws and regulations referred to in Section A1(b) of Annex II to this Protocol or otherwise approved for use in wines for export by the competent authority, in so far as they are recommended and published by the International Organisation of the Vine and Wine, hereafter referred to as the “OIV”, and
 - (c) additional oenological practices and restrictions jointly accepted by the Parties under the conditions provided for in Section A1(c) of Annex II to this Protocol.

2. South Africa shall authorise the importation and marketing in its territory for human consumption of wine products originating in the EU and produced in accordance with:
 - (a) product definitions authorised in the EU by laws and regulations referred to in Section B1(a) of Annex II to this Protocol,
 - (b) oenological practices and restrictions authorised in the European Union by laws and regulations referred to in Section B1(b) of Annex II to this Protocol, in so far as they are recommended and published by the OIV, and
 - (c) additional oenological practices and restrictions jointly accepted by the Parties under the conditions provided for in Section B1(c) of Annex II to this Protocol.
3. The Parties may jointly decide, by way of amendment to Annex II to this Protocol, to add, delete or modify references to product definitions, and oenological practices and restrictions. Such decisions shall be adopted by the Special Committee according to its procedures.
4. In respect of oenological practices, the Parties reconfirm their WTO undertakings in relation to national treatment and the most favoured nation principle, having regard in particular to their undertakings in Article 40 of this Agreement.

ARTICLE 12

Certification of wines and spirits

1. For wine products and spirit drinks imported from South Africa and placed on the market in the EU, the documentation and certification that may be required by the European Union shall be limited to that set out in Section A2 of Annex II to this Protocol.
2. For wine products and spirit drinks imported from the EU and placed on the market in South Africa, the documentation and certification that may be required by South Africa shall be limited to that set out in Section B2 of Annex II to this Protocol.

PART 3

GENERAL PROVISIONS

ARTICLE 13

Special Committee

1. The Parties hereby establish a Special Committee on geographical indications and trade in wines and spirits with the purpose of monitoring the development of this Protocol, intensifying their co-operation, exchanging information, notably product specifications or summaries thereof, and improving their dialogue on GIs.
2. The Parties shall through the Special Committee maintain contact on all matters relating to the implementation and the functioning of this Protocol. In particular, the Parties shall ensure timely notification to each other of amendments to laws and regulations on matters covered by this Protocol that have an impact on products traded between them.
3. The Special Committee shall see to the proper functioning of this Protocol and may make recommendations and adopt decisions by consensus.

4. By derogation from Article 117 of this Agreement, the Special Committee may decide to modify the Annexes of this Protocol, including matters of cooperation under Article 14(1) of this Protocol.
5. The Special Committee shall determine its own rules of procedure.

ARTICLE 14

Cooperation and dispute avoidance

1. The Parties shall cooperate on matters related to GIs and trade in wines and spirits, and in particular:
 - (a) product definitions, certification and labelling of wines;
 - (b) use of grape varieties in winemaking and labelling thereof;
 - (c) use of traditional terms on labelling of wines;
 - (d) product definitions, certification and labelling of spirit drinks;
 - (e) issues of mutual concern relating to products classified under HS 2205; and
 - (f) matters related to the attachment to the exchange of letters in Annex X to the TDCA as referred to in Article 17(2) of this Protocol.
2. The provisions laid down in Part III of this Agreement shall apply to any relevant matter arising under this Protocol, subject to references to Parties being limited to the Parties to this Protocol and references to the Trade and Development Committee being read to refer to the Special Committee.

ARTICLE 15

Applicable rules

Unless otherwise provided for in this Protocol or in the Agreement, importation and marketing of products covered by this Protocol, traded between the Parties shall be conducted in compliance with the laws and regulations applying in the territory of the Party of importation.

ARTICLE 16

Application of certain market access concessions

Subject to Article 113(5) of this Agreement, and pursuant to Article 113(6) of this Agreement, the agricultural market access concessions referred to in Article 24(2) and Article 25(1) of this Agreement that are denoted by an asterisk (*) in the tariff schedules as set out in ANNEXES I and II of this Agreement, shall only be granted to the Party that lodges the notification pursuant to Article 3(3) of this Protocol from the first day of the month following receipt by the other Party of such notification.

ARTICLE 17

Relation to other agreements

1. The Agreements of 2002 in the Form of Exchanges of Letters Concerning the Provisional Application of Certain Agreements between the European Community and South Africa on Trade in Wine and on Trade in Spirits are hereby terminated.

2. In respect of attachment to the exchange of letters in Annex X to the TDCA:
 - (a) The provisions relating to the protection of the names Port and Sherry in this Protocol are without prejudice to the application of Points 1 to 4 inclusive of the said attachment;
 - (b) In point 6, the sentence “Such assistance will commence at the entry into force of the Wines and Spirits Agreement” is replaced by “Such assistance will commence at the date of entry into force of Protocol 3 on geographical indications and trade in wines and spirits to this Agreement”.

ARTICLE 18

Transitional measures

Product which, at the date of entry into force, has been produced, described and presented in accordance with the internal laws and regulations of the Parties and their bilateral obligations to each other, but in a manner prohibited by this Protocol may be marketed,

- (a) by wholesalers or producers, for a period of three (3) years; and
- (b) by retailers, until stocks are exhausted.

ARTICLE 19

Final provisions

1. The annexes to this Protocol shall form an integral part hereof.
2. If, pursuant to Article 113 of this Agreement, this Protocol is applied provisionally, references to the date of entry into force shall be deemed to refer to the date the provisional application of this Agreement takes effect between South Africa and the EU.
3. This Protocol is of indefinite duration. It may be terminated by common agreement of the Parties or pursuant to termination of this Agreement.

Annex I to Protocol 3

List Geographical Indications of South Africa and the EU

Note (i):

In this Annex different versions of each entry for a geographical indication are separated by an oblique with a space before and after (“ / “).

Note (ii):

1. The Parties shall cooperate in the provision of information about protected GIs. Documentation may be requested in order to allow a Party to complete its obligations of due diligence or for information purposes only. Subject to paragraphs 2 and 3, the obligation to supply summary documentation shall not affect the protection of a geographical indication.
2. The documentation submitted shall show that the names meet the criteria to be a geographical indication within the meaning of the third recital of this Protocol, namely that the indication identifies a good as originating in the territory of a Party, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin, within the meaning of Article 22(1) of the TRIPs Agreement, and that the name is protected in its country of origin.
3. In view of the need to complete the documentation necessary for a Party's due diligence requirements to be discharged, the Parties shall cooperate and assist each other in the production, submission and acceptance of the documentation. The Parties commit to carry out these due diligence requirements expeditiously and objectively.

Section A

Geographical indications of South Africa

Section A.1. Agricultural products and foodstuffs

	Country	Product category	Geographical indication	Priority date
1	South Africa	Infusion	Honeybush / Heuningbos / Honeybush tea / Heuningbos tee	date of entry into force
2	South Africa	Infusion	Rooibos / Red Bush / Rooibostee / Rooibos tea / Rooitee / Rooibosch	date of entry into force
3	South Africa	Meat	Karoo meat of origin	date of entry into force

Section A.2. Beers

	Country	Geographical indication	Priority date
	-	-	-

Section A.3. Wines

	Country	Geographical indication	Priority date
1	South Africa	Agterkliphoogte	1.2.2002
2	South Africa	Bamboesbaai / Bamboo Bay	1.2.2002
3	South Africa	Banghoek	date of entry into force
4	South Africa	Boberg	1.2.2002
5	South Africa	Boesmansrivier / Boesmans River	1.2.2002
6	South Africa	Bonnievale	1.2.2002
7	South Africa	Bot River	date of entry into force
8	South Africa	Bottelary	1.2.2002
9	South Africa	Breede River Valley	1.2.2002
10	South Africa	Breedekloof	date of entry into force
11	South Africa	Buffeljags	1.2.2002
12	South Africa	Calitzdorp	1.2.2002
13	South Africa	Cape Agulhas	date of entry into force
14	South Africa	Cape Point	1.2.2002
15	South Africa	Cape South Coast	date of entry into force
16	South Africa	Cederberg	1.2.2002
17	South Africa	Lower Orange River / Central Orange River	1.2.2002
18	South Africa	Ceres Plateau	date of entry into force
19	South Africa	Citrusdal Mountain	date of entry into

			force
20	South Africa	Citrusdal Valley	date of entry into force
21	South Africa	Coastal Region	1.2.2002
22	South Africa	Constantia	1.2.2002
23	South Africa	Darling	1.2.2002
24	South Africa	Devon Valley	1.2.2002
25	South Africa	Douglas	1.2.2002
26	South Africa	Durbanville	1.2.2002
27	South Africa	Eastern Cape	date of entry into force
28	South Africa	Eilandia	1.2.2002
29	South Africa	Elandskloof	date of entry into force
30	South Africa	Elgin	1.2.2002
31	South Africa	Elim	1.2.2002
32	South Africa	Franschhoek Valley / Franschhoek	1.2.2002
33	South Africa	Goudini	1.2.2002
34	South Africa	Greyton	date of entry into force
35	South Africa	Groenekloof	1.2.2002
36	South Africa	Hartswater	1.2.2002
37	South Africa	Hemel-en-Aarde Ridge	date of entry into force
38	South Africa	Hemel-en-Aarde Valley	date of entry into force
39	South Africa	Herbertsdale	1.2.2002
40	South Africa	Hex River Valley	date of entry into force
41	South Africa	Hoopsvier / Hoops River	1.2.2002
42	South Africa	Hout Bay	date of entry into force
43	South Africa	Jonkershoek Valley	1.2.2002
44	South Africa	Klaasvoogds	1.2.2002
45	South Africa	Klein Karoo	1.2.2002
46	South Africa	Klein River	date of entry into force
47	South Africa	Koekenaap	1.2.2002
48	South Africa	Kwazulu-Natal	date of entry into force
49	South Africa	Lamberts Bay	date of entry into force
50	South Africa	Langeberg-Garcia	date of entry into force
51	South Africa	Le Chasseur	1.2.2002
52	South Africa	Limpopo	date of entry into force
53	South Africa	Lutzville Valley	1.2.2002
54	South Africa	Malgas	date of entry into

			force
55	South Africa	Malmesbury	1.2.2002
56	South Africa	McGregor	1.2.2002
57	South Africa	Montagu	1.2.2002
58	South Africa	Napier	date of entry into force
59	South Africa	Northern Cape	date of entry into force
60	South Africa	Nuy	1.2.2002
61	South Africa	Olifants River	1.2.2002
62	South Africa	Outeniqua	date of entry into force
63	South Africa	Overberg	1.2.2002
64	South Africa	Paarl	1.2.2002
65	South Africa	Papegaaiberg	1.2.2002
66	South Africa	Philadelphia	date of entry into force
67	South Africa	Piekenierskloof	1.2.2002
68	South Africa	Plettenberg Bay	date of entry into force
69	South Africa	Polkadraai Hills	date of entry into force
70	South Africa	Prince Albert Valley	1.2.2002
71	South Africa	Riebeeckberg	1.2.2002
72	South Africa	Rietrivier FS	1.2.2002
73	South Africa	Robertson	1.2.2002
74	South Africa	Scherpenheuvel	1.2.2002
75	South Africa	Simonsberg-Paarl	1.2.2002
76	South Africa	Simonsberg-Stellenbosch	1.2.2002
77	South Africa	Slanghoek	1.2.2002
78	South Africa	Spruitdrift	1.2.2002
79	South Africa	St Francis Bay	date of entry into force
80	South Africa	Stanford Foothills	date of entry into force
81	South Africa	Stellenbosch	1.2.2002
82	South Africa	Stilbaai East	date of entry into force
83	South Africa	Stormsvlei	1.2.2002
84	South Africa	Sunday's Glen	date of entry into force
85	South Africa	Sutherland-Karoo	date of entry into force
86	South Africa	Swartberg	1.2.2002
87	South Africa	Swartland	1.2.2002
88	South Africa	Swellendam	1.2.2002
89	South Africa	Theewater	date of entry into force
90	South Africa	Tradouw	1.2.2002

91	South Africa	Tradouw Highlands	date of entry into force
92	South Africa	Tulbagh	1.2.2002
93	South Africa	Tygerberg	1.2.2002
94	South Africa	Upper Hemel-en-Aarde Valley	date of entry into force
95	South Africa	Upper Langkloof	date of entry into force
96	South Africa	Vinkrivier / Vink River	1.2.2002
97	South Africa	Voor Paardeberg	date of entry into force
98	South Africa	Vredendal	1.2.2002
99	South Africa	Walker Bay	1.2.2002
100	South Africa	Wellington	1.2.2002
101	South Africa	Western Cape	date of entry into force
102	South Africa	Worcester	1.2.2002

Section A.4. Spirits

	Country	Geographical indication	Priority date
	-	-	-

Section B
Geographical indications of the European Union

Section B.1. Agricultural products and foodstuffs

	Country	Product category	Geographical indication	Priority date
1	Czech Republic	Fruit, vegetables and cereals fresh or processed	Žatecký chmel	date of entry into force
2	Denmark	Cheeses	Danablu	date of entry into force
3	Germany	Fruit, vegetables and cereals fresh or processed	Hopfen aus der Hallertau	date of entry into force
4	Germany	Fruit, vegetables and cereals fresh or processed	Tettlinger Hopfen	date of entry into force
5	Germany	Meat products	Nürnberger Bratwürste / Nürnberger Rostbratwürste	date of entry into force
6 ¹	Greece	Fruit, vegetables and cereals fresh or processed	Ελιά Καλαμάτας / Elia Kalamatas	date of entry into force
7	Greece	Fruit, vegetables and cereals fresh or processed	Φασόλια Γίγαντες Ελέφαντες Καστοριάς / Fassolia Gigantes Elefantas Kastorias	date of entry into force
8 ²	Greece	Cheeses	Φέτα / Feta	date of entry into force
9	Greece	Cheeses	Γραβιέρα Κρήτης / Graviera Kritis	date of entry into force
10	Greece	Olive oil	Καλαμάτα / Kalamata	date of entry into force
11	Greece	Cheeses	Κασέρι / Kasserli	date of entry into force
12	Greece	Cheeses	Κεφαλογραβιέρα / Kefalograviera	date of entry into force
13	Greece	Olive oil	Κολυμβάρι Χανίων Κρήτης / Kolymbvari Chanion Kritis	date of entry into force
14	Greece	Fruit, vegetables and cereals fresh	Κονσερβολιά Αμφίσσης / Konservolia Amfissis	date of entry into force

¹ The varietal names ‘Kalamon’ and ‘Kalamata’ may continue to be used on similar product, provided the consumer is not misled on the nature of such term or the precise origin of product.

² Cheese bearing the name “Feta” used in compliance with this Protocol shall be placed on the market of South Africa under the following conditions:

- Protection of Greek origin Feta;
- Coexistence for prior trade marks established by prior use, or under common law, or registered in accordance with South African law;
- For other users, designate South African Feta or Feta-Style, or Feta-Type;
- The phase in within five (5) years of labelling requirements affecting all uses of “Feta” to comply with: i) country of origin requirements; ii) milk animal source labelling requirements; and iii) designation of non-GI products, except those identified for co-existence, as South African Feta or Feta-Style, or Feta-Type and equivalents in other South African languages.

		or processed		
15	Greece	Fruit, vegetables and cereals fresh or processed	Κορινθιακή Σταφίδα Βοστίτσα / Korinthiaki Stafida Vostitsa	date of entry into force
16	Greece	Other products (spices etc.)	Κρόκος Κοζάνης / Krokos Kozanis	date of entry into force
17	Greece	Olive Oil	Λακωνία / Lakonia	date of entry into force
18	Greece	Natural gums and resins	Μαστίχα Χίου / Masticha Chiou	date of entry into force
19	Greece	Olive Oil	Σητεία Λασιθίου Κρήτης / Sitia Lasithiou Kritis	date of entry into force
20	Spain	Olive oil	Aceite de Terra Alta / Oli de Terra Alta	date of entry into force
21	Spain	Olive oil	Aceite del Baix Ebre-Montsià / Oli del Baix Ebre-Montsià	date of entry into force
22	Spain	Olive oil	Aceite del Bajo Aragón	date of entry into force
23	Spain	Cheeses	Arzúa-Ulloa	date of entry into force
24	Spain	Fruit, vegetables and cereals fresh or processed	Azafrán de la Mancha	date of entry into force
25	Spain	Olive oil	Baena	date of entry into force
26 ³	Spain	Fruit, vegetables and cereals fresh or processed	Cítricos Valencianos / Cítrics Valencians	date of entry into force
27	Spain	Meat products	Dehesa de Extremadura	date of entry into force
28	Spain	Meat products	Guijuelo	date of entry into force
29	Spain	Cheeses	Idiazábal	date of entry into force
30	Spain	Meat products	Jamón de Huelva	date of entry into force
31	Spain	Meat products	Jamón de Teruel	date of entry into force
32	Spain	Confectionary	Jijona	date of entry into force
33	Spain	Olive oil	Les Garrigues	date of entry into force
34	Spain	Cheeses	Mahón-Menorca	date of entry into force
35	Spain	Olive oil	Priego de Córdoba	date of entry into force
36	Spain	Cheeses	Queso Manchego	date of entry

³ Varietal names containing or consisting of ‘Valencia’ may continue to be used on similar product, provided the consumer is not misled on the nature of such term or the precise origin of product.

				into force
37	Spain	Meat products	Salchichón de Vic / Llonganissa de Vic	date of entry into force
38	Spain	Olive oil	Sierra de Cádiz	date of entry into force
39	Spain	Olive oil	Sierra de Cazorla	date of entry into force
40	Spain	Olive oil	Sierra de Segura	date of entry into force
41	Spain	Olive oil	Sierra Mágina	date of entry into force
42	Spain	Olive oil	Siurana	date of entry into force
43	Spain	Meat products	Sobrasada de Mallorca	date of entry into force
44	Spain	Baker's wares	Turrón de Alicante	date of entry into force
45	France	Cheeses	Brie de Meaux	date of entry into force
46	France	Cheeses	Camembert de Normandie	date of entry into force
47	France	Meat products	Canard à foie gras du Sud-Ouest (Chalosse, Gascogne, Gers, Landes, Périgord, Quercy)	date of entry into force
48	France	Cheeses	Comté	date of entry into force
49	France	Cheeses	Emmental de Savoie	date of entry into force
50	France	Olive oil	Huile d'olive de Haute-Provence	date of entry into force
51	France	Essential oil	Huile essentielle de lavande de Haute-Provence	date of entry into force
52	France	Fisheries product	Huîtres Marennes Oléron	date of entry into force
53	France	Meat products	Jambon de Bayonne	date of entry into force
54	France	Cheeses	Mont d'Or / Vacherin du Haut-Doubs	date of entry into force
55	France	Fruit, vegetables and cereals fresh or processed	Pruneaux d'Agen / Pruneaux d'Agen mi-cuits	date of entry into force
56	France	Cheeses	Reblochon / Reblochon de Savoie	date of entry into force
57	France	Cheeses	Roquefort	date of entry into force
58	Italy	Sauces	Aceto Balsamico di Modena	date of entry into force
59	Italy	Sauces	Aceto balsamico tradizionale di Modena	date of entry into force

60	Italy	Fruit, vegetables and cereals fresh or processed	Arancia Rossa di Sicilia	date of entry into force
61	Italy	Cheeses	Asiago	date of entry into force
62	Italy	Meat products	Bresaola della Valtellina	date of entry into force
63	Italy	Fruit, vegetables and cereals fresh or processed	Cappero di Pantelleria	date of entry into force
64	Italy	Meat products	Cotechino Modena	date of entry into force
65	Italy	Cheeses	Fontina	date of entry into force
66	Italy	Cheeses	Gorgonzola	date of entry into force
67	Italy	Cheeses	Grana Padano	date of entry into force
68	Italy	Fruit, vegetables and cereals fresh or processed	Mela Alto Adige / Südtiroler Apfel	date of entry into force
69	Italy	Meat products	Mortadella Bologna	date of entry into force
70	Italy	Cheeses	Mozzarella di Bufala Campana	date of entry into force
71	Italy	Cheeses	Parmigiano Reggiano	date of entry into force
72	Italy	Cheeses	Pecorino Romano	date of entry into force
73	Italy	Cheeses	Pecorino Sardo	date of entry into force
74	Italy	Cheeses	Pecorino Toscano	date of entry into force
75	Italy	Fruit, vegetables and cereals fresh or processed	Pomodoro di Pachino	date of entry into force
76	Italy	Meat products	Prosciutto di Modena	date of entry into force
77	Italy	Meat products	Prosciutto di Parma	date of entry into force
78	Italy	Meat products	Prosciutto di San Daniele	date of entry into force
79	Italy	Meat products	Prosciutto Toscano	date of entry into force
80	Italy	Cheeses	Provolone Valpadana	date of entry into force
81	Italy	Meat products	Speck Alto Adige / Südtiroler Markenspeck / Südtiroler Speck	date of entry into force
82	Italy	Cheeses	Taleggio	date of entry

				into force
83	Italy	Olive oil	Toscana	date of entry into force
84	Italy	Olive oil	Veneto Valpolicella / Veneto Euganei e Berici / Veneto del Grappa	date of entry into force
85	Italy	Meat products	Zampone Modena	date of entry into force
86	Cyprus	Baker's wares	Λουκούμι Γεροσκήπου / Loukoumi Geroskipou	date of entry into force
87	Hungary	Meat products	Szegedi szalámi / Szegedi téliszalámi	date of entry into force
88	Netherlands	Cheeses	Edam Holland	date of entry into force
89	Netherlands	Cheeses	Gouda Holland	date of entry into force
90	Austria	Cheeses	Tiroler Bergkäse	date of entry into force
91	Austria	Meat products	Tiroler Speck	date of entry into force
92	Portugal	Fruit, vegetables and cereals fresh or processed	Ananás dos Açores / São Miguel	date of entry into force
93	Portugal	Olive oil	Azeite de Moura	date of entry into force
94	Portugal	Olive oil	Azeite do Alentejo Interior	date of entry into force
95	Portugal	Olive oil	Azeites da Beira Interior (Azeite da Beira Alta, Azeite da Beira Baixa)	date of entry into force
96	Portugal	Olive oil	Azeite de Trás-os-Montes	date of entry into force
97	Portugal	Olive oil	Azeites do Norte Alentejano	date of entry into force
98	Portugal	Olive oil	Azeites do Ribatejo	date of entry into force
99	Portugal	Meat products	Chouriça de Carne de Vinhais / Linguiça de Vinhais	date of entry into force
100	Portugal	Fruit, vegetables and cereals fresh or processed	Pêra Rocha do Oeste	date of entry into force
101	Portugal	Meat products	Presunto de Barrancos	date of entry into force
102	Portugal	Cheeses	Queijo S. Jorge	date of entry into force
103	Portugal	Cheeses	Queijo Serra da Estrela	date of entry into force
104	Portugal	Meat products	Salpicão de Vinhais	date of entry into force
105	United Kingdom	Cheeses	White Stilton cheese / Blue	date of entry

	Kingdom		Stilton cheese	into force
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Section B.2. Beers

	Country	Geographical indication	Priority date
1	Czech Republic	České pivo	date of entry into force
2	Czech Republic	Českobudějovické pivo	date of entry into force
3	Germany	Bayerisches Bier	date of entry into force
4	Germany	Bremer Bier	date of entry into force
5	Germany	Münchener Bier	date of entry into force

Section B.3. Wines

	Country	Geographical indication	Priority date
1	Germany	Franken	1.2.2002
2	Germany	Mittelrhein	1.2.2002
3	Germany	Mosel	1.2.2002
4	Germany	Rheingau	1.2.2002
5	Germany	Rheinhessen	1.2.2002
6	Greece	Αμόνταιο / Amynteo	date of entry into force
7	Greece	Κρήτη / Crete	date of entry into force
8	Greece	Μακεδονία / Macedonia	date of entry into force
9	Greece	Μαντινεία / Mantinia	date of entry into force
10	Greece	Νάουσα / Naoussa	date of entry into force
11	Greece	Νεμέα / Nemea	date of entry into force
12	Greece	Πελοπόννησος / Peloponnese	date of entry into force
13 ⁴	Greece	Ρετσίνα Αττικής / Retsina of Attiki	date of entry into force
14	Greece	Ρόδος / Rhodes	date of entry into force
15	Greece	Σάμος / Samos	date of entry into force
16	Greece	Σαντορίνη / Santorini	date of entry into force
17	Greece	Στερεά Ελλάδα / Sterea Ellada	date of entry into force

⁴ In South Africa this product is classified as “flavoured grape liquor”.

18	Greece	Θράκη / Thrace	date of entry into force
19	Spain	Cataluña	date of entry into force
20	Spain	Cava	1.2.2002
21	Spain	Empordà	date of entry into force
22	Spain	Jerez-Xérès-Sherry / Jerez / Xérès / Sherry	2.2.1659
23	Spain	Jumilla	1.2.2002
24	Spain	La Mancha	1.2.2002
25	Spain	Málaga	1.2.2002
26	Spain	Manzanilla-Sanlúcar de Barrameda / Manzanilla	1.2.2002
27	Spain	Navarra	1.2.2002
28	Spain	Penedès	1.2.2002
29	Spain	Priorat	1.2.2002
30	Spain	Rías Baixas	1.2.2002
31	Spain	Ribera del Duero	1.2.2002
32	Spain	Rioja	1.2.2002
33	Spain	Rueda	1.2.2002
34	Spain	Somontano	1.2.2002
35	Spain	Toro	1.2.2002
36	Spain	Utiel-Requena	1.2.2002
37	Spain	Valdepeñas	1.2.2002
38	Spain	Valencia	1.2.2002
39	France	Alsace	1.2.2002
40	France	Anjou	1.2.2002
41	France	Beaujolais	1.2.2002
42	France	Beaune / Côte de Beaune	1.2.2002
43	France	Bordeaux	1.2.2002
44	France	Bourgogne	1.2.2002
45	France	Cahors	1.2.2002
46	France	Chablis	1.2.2002
47	France	Chambertin	1.2.2002
48	France	Champagne	26.6.1935
49	France	Châteauneuf-du-Pape	1.2.2002
50	France	Clos de Vougeot	1.2.2002
51	France	Corton	1.2.2002
52	France	Côte Rôtie	1.2.2002
53	France	Côtes de Provence	1.2.2002
54	France	Côtes du Rhône	1.2.2002
55	France	Côtes du Roussillon	1.2.2002
56	France	Graves / Graves de Vayres	1.2.2002
57	France	Crozes-Hermitage / Crozes-Ermitage / Hermitage / l'Hermitage / Ermitage / l'Ermitage	1.2.2002
58	France	Languedoc	1.2.2002
59	France	Margaux	1.2.2002
60	France	Médoc / Haut-Médoc	1.2.2002

61	France	Meursault	1.2.2002
62	France	Montrachet	1.2.2002
63	France	Moselle	1.2.2002
64	France	Musigny	1.2.2002
65	France	Nuits / Nuits-Saint-Georges / Côte de Nuits-Villages	1.2.2002
66	France	Pays d'Oc	1.2.2002
67	France	Pessac-Léognan	1.2.2002
68	France	Pomerol	1.2.2002
69	France	Pommard	1.2.2002
70	France	Quincy	1.2.2002
71	France	Romanée Conti	1.2.2002
72	France	Saint-Estèphe	1.2.2002
73	France	Saint-Émilion	1.2.2002
74	France	Saint-Julien	1.2.2002
75	France	Sancerre	1.2.2002
76	France	Sauternes	1.2.2002
77	France	Touraine	1.2.2002
78	France	Val de Loire	1.2.2002
79	France	Volnay	1.2.2002
80	Italy	Asti	1.2.2002
81	Italy	Barbaresco	1.2.2002
82	Italy	Bardolino / Bardolino Superiore	1.2.2002
83	Italy	Barolo	1.2.2002
84	Italy	Brachetto d'Acqui / Acqui	1.2.2002
85	Italy	Brunello di Montalcino	1.2.2002
86	Italy	Campania	1.2.2002
87	Italy	Chianti	1.2.2002
88	Italy	Conegliano Valdobbiadene – Prosecco / Conegliano – Prosecco / Valdobbiadene – Prosecco	date of entry into force
89	Italy	Alba	1.2.2002
90	Italy	Franciacorta	1.2.2002
91	Italy	Lambrusco di Sorbara	1.2.2002
92	Italy	Lambrusco Grasparossa di Castelvetro	1.2.2002
93	Italy	Marsala	1.2.2002
94	Italy	Montepulciano d'Abruzzo	1.2.2002
95	Italy	Sicilia	1.2.2002
96	Italy	Soave	1.2.2002
97	Italy	Toscana / Toscana	1.2.2002
98	Italy	Valpolicella	1.2.2002
99	Italy	Veneto	1.2.2002
100	Italy	Vino Nobile di Montepulciano	1.2.2002
101	Cyprus	Κομμανδάρια / Commandaria	date of entry into force
102	Cyprus	Πάφος / Pafos	date of entry into force
103	Hungary	Tokaj / Tokaji	date of entry into force

104	Portugal	Alentejo	1.2.2002
105	Portugal	Algarve	1.2.2002
106	Portugal	Bairrada	1.2.2002
107	Portugal	Dão	1.2.2002
108	Portugal	Douro	1.2.2002
109	Portugal	Lisboa	date of entry into force
110	Portugal	Madeira / Madera / Vinho da Madeira / Madeira Wein / Madeira Wine / Vin de Madère / Vino di Madera / Madeira Wijn	1.2.2002
111	Portugal	Moscatel de Setúbal	1.2.2002
112	Portugal	Porto / Oporto / Vinho do Porto / Vin de Porto / Port / Port Wine / Portwein / Portvin / Portwijn	2.2.1659
113	Portugal	Tejo	date of entry into force
114	Portugal	Vinho Verde	1.2.2002
115	Romania	Cotești	date of entry into force
116	Romania	Cotnari	date of entry into force
117	Romania	Dealu Mare	date of entry into force
118	Romania	Murfatlar	date of entry into force
119	Romania	Târnave	date of entry into force
120	Slovakia	Vinohradnícka oblasť Tokaj	date of entry into force

Section B.4. Spirits

	Country	Geographical indication	Priority date
1	Ireland	Irish Cream	1.2.2002
2	Ireland	Irish Whiskey / Uisce Beatha Eireannach / Irish Whisky	1.2.2002
3	Greece	Τσίπουρο / Tsipouro	1.2.2002
4	Spain	Brandy de Jerez	1.2.2002
5	Spain	Pacharán Navarro	1.2.2002
6	France	Armagnac	1.2.2002
7	France	Calvados	1.2.2002
8	France	Cognac	1.2.2002
9	France	Rhum de la Martinique	1.2.2002
10	Italy	Grappa	1.2.2002
11	Cyprus	Ζιβανία / Τζιβανία / Ζιβάνα / Zivania	date of entry into force
12	More than one (1) country: Hungary and Austria	Pálinka	date of entry into force

13	Hungary	Törkölypálinka	date of entry into force
14	Austria	Inländerrum	date of entry into force
15	Austria	Jägertee / Jagertee / Jagatee	1.2.2002
16	Poland	Polska Wódka / Polish Vodka	date of entry into force
17	Finland	Vodka of Finland / Suomalainen Vodka / Finsk Vodka	1.2.2002
18	Sweden	Svensk Vodka / Swedish Vodka	1.2.2002
19	United Kingdom	Scotch Whisky	1.2.2002
20	More than one country: Belgium, Germany, Austria	Korn / Kornbrand	1.2.2002
21	More than one country: Greece, Cyprus	Oúζο / Ouzo	1.2.2002

Annex II to Protocol 3

Importation and marketing of wine products and spirits originating in South Africa and the EU

Section A

Products originating in South Africa

Section A.1 Oenological practices and restrictions and product definitions referred to in Article 11(1) of this Protocol

For the purposes of Article 11 and Annex II, Section A.1(a) of this Protocol, the term “product definitions” does not cover production methods or oenological practices and restrictions, which are covered by paragraphs (b) and (c).

The addition of alcohol spirit is excluded for all wines other than liqueur wines, to which only grape spirit may be added.

(a) Laws and regulations concerning product definitions:

Statute: Liquor Products Act 60 (No 60 of 1989) as last amended by the Liquor Products Amendment Act 32 (No 32 of 2008):

- Sections 1 and 5.

Regulations: Liquor Products Act 60 (No 60 of 1989) – Regulations, GG 12558 of 29.6.1990, as last amended by GN R525, GG 35501 of 13.7.2012:

- Sections 1, 3, 4 and 5,
- Table 2.

Wine of origin scheme: Liquor Products Act 60 (No 60 of 1989) – Wine of origin scheme, GG 12558 of 29 June 1990 as last amended by GN R526, GG 35501 of 13.7.2012:

- Section 1,
- Sections 8 to 14N inclusive,
- Section 20.

(b) Laws and regulations concerning oenological practices and restrictions:

Statute: Liquor Products Act 60 (No 60 of 1989) as last amended by the Liquor Products Amendment Act 32 (No 32 of 2008), including subsequent modifications:

- Sections 1 and 5.

Regulations: Liquor Products Act 60 (No 60 of 1989) – Regulations, GG 12558 of 29.6.1990, as last amended by GN R525, GG 35501 of 13.7.2012, including subsequent modifications:

- Sections 1, 2, 3, 4, 5, 30, 31 and 32,
- Tables 1, 2, 6, 7, and 13.

Wine of origin scheme: Liquor Products Act 60 (No 60 of 1989) – Wine of origin scheme, GG 12558 of 29 June 1990 as last amended by GN R526, GG 35501 of 13.7.2012, including subsequent modifications:

- Sections 17 and 20,
- Tables 1, 2 and 4.

(c) Additional oenological practices and restrictions:

1. Agar-agar.

Agar-agar may be used on a temporary basis, pending a determination by the OIV of its admissibility in wine making (Table 6 of Liquor Products Act 60 (No 60 of 1989) – Regulations).

2. Concentrated grape must and rectified concentrated grape must.

Concentrated grape must and rectified concentrated grape must may be used for enrichment and sweetening under specific and limited conditions laid down in South African regulations, subject to the exclusion of use of these products in a reconstituted form in wines covered by this protocol. (Table 6 of Liquor Products Act 60 (No 60 of 1989) – Regulations).

3. Addition of water

The addition of water in winemaking is excluded, except where required on account of a specific technical necessity.

4. Hydrogen peroxide

The use of hydrogen peroxide as referred to in South African regulations (Table 6 of Liquor Products Act 60 (No 60 of 1989) – Regulations) is limited to use in grape juice, grape concentrate or grape must.

5. Tartaric acid

The use of tartaric acid, for acidification purposes as referred to in South African regulations (Table 6 of Liquor Products Act 60 (No 60 of 1989) – Regulations), is authorised provided that the initial acidity content is not raised by more than 4.0 grams per litre expressed as tartaric acid.

Section A.2. Documentation and certification referred to in Article 12(1) of this Protocol

Certification documents and analysis report

- (a) The European Union shall authorise the importation in its territory of wines in accordance with the rules governing the import certification documents and analysis reports as provided for according to the terms of the Appendix hereto.
- (b) The European Union agrees not to submit the import of wine originating in the territory of South Africa to more restrictive import certification requirements than any of those laid down in this Protocol.
- (c) The European Union shall authorise the importation in its territory of spirits in accordance with the rules governing the import certification document and analysis reports as provided for in its internal legislation.

Section B

Products originating in the European Union

Section B.1. Oenological practices and restrictions and product definitions referred to in Article 11(2) of this Protocol

The addition of alcohol spirit is excluded for all wines other than fortified wines, to which only grape spirit may be added.

- (a) Laws and regulations concerning product definitions:
 - (i) Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in

agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671), in particular production rules in the wine sector, in accordance with Articles 75, 78 80, 81, 83 and 91 and Annex VII, Part II of that Regulation.

- (ii) Commission Regulation (EC) No 606/2009 of 10 July 2009 laying down certain detailed rules for implementing Council Regulation (EC) No 479/2008 as regards the categories of grapevine products, oenological practices and the applicable restrictions (OJ L 193, 24.7.2009, p. 1), in particular Article 2 and Annex II and III of that Regulation.
- (iii) Commission regulation (EC) No 607/2009 of 14 July 2009 laying down certain detailed rules for the implementation of Council Regulation (EC) No 479/2008 as regards protected designations of origin and geographical indications, traditional terms, labelling and presentation of certain wine sector products (OJ L 193, 24.7.2009, p. 60), in particular Articles 7, 57, 58, 64 and 66 and Annexes XIII, XIV and XVI of that Regulation.

(b) Laws and regulations concerning oenological practices and restrictions:

- (i) Council Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671), in particular production rules in the wine sector, in accordance with Articles 75, 80, 83 and 91 and Annex VIII, Part I and II of that Regulation, including subsequent modifications.
- (ii) Commission Regulation (EC) No 606/2009 of 10 July 2009 laying down certain detailed rules for implementing Council Regulation (EC) No 479/2008 as regards the categories of grapevine products, oenological practices and the applicable restrictions (OJ L 193, 24.7.2009, p. 1), including subsequent modifications.

(c) Additional oenological practices and restrictions:

1. Calcium sulphate.

Calcium sulphate may be used for "vino generoso (de licor)", limits of 2.5 g/l as potassium sulphate in the final product (point A(2)(b) of Annex III of Regulation (EC) No 606/2009).

2. Carboxymethylcellulose (CMC)

Carboxymethylcellulose (CMC) may be used for red wine for tartaric stabilisation, up to a limit of 100 mg/l, pending a determination by the OIV of its admissibility in wine making.

3. Concentrated grape must, rectified concentrated grape must and sucrose.

Concentrated grape must, rectified concentrated grape must and sucrose, may be used for enrichment and sweetening under specific and limited conditions (Annex VIII, Part I of Regulation (EU) No 1308/2013), subject to the exclusion of use of these products in a reconstituted form in wines covered by this Protocol.

4. Addition of water

The addition of water in winemaking is excluded, except where required on account of a specific technical necessity.

5. Fresh lees

Fresh lees may be used under specific and limited conditions (point 21 of annex I A of Regulation (EC) No 606/2009).

6. Tannin

Tannins may be used on a temporary basis (point 25 of Annex I A of Regulation (EC) No 606/2009), pending a determination by the OIV of its admissibility in wine making as antioxidant and stabilizer.

Section B.2. Documentation and certification referred to in Article 12(2) of this Protocol

Certification documents and analysis report

- (a) South Africa shall authorise the importation in its territory of wines in accordance with the rules governing the import certification documents and analysis reports as provided for according to the terms of the Appendix hereto.
- (b) South Africa agrees not to submit the import of wine originating in the territory of the European Union to more restrictive import certification requirements than any of those laid down in this Protocol.
- (c) South Africa shall authorise the importation in its territory of spirits in accordance with the rules governing the import certification document and analysis reports as provided for in its internal legislation.

Section C

Specific rules on importation, labelling and marketing applicable to products of either Party imported into the other Party

1. Retsina

Nothing in this Protocol shall prevent the marketing in South Africa of ‘Retsina’ originating in Greece and produced in accordance with European Union rules. It shall be regarded, for the purpose of importing and marketing in South Africa, as ‘flavoured grape liquor’ in terms of South African legislation.

2. Gold Flakes

Nothing in this Protocol shall prevent the marketing in the European Union of alcoholic beverage (whether or not effervescent) derived from grapes to which food grade gold flakes have been added, but such alcoholic beverage cannot be labelled or otherwise marketed as any type of wine.

3. Vine varieties

Vine varieties that may be used in wines imported and marketed in the territory of the Parties are varieties of plants of *Vitis vinifera* and hybrids of *Vitis vinifera* without prejudice to any more restrictive legislation which a Party may have in respect of wine produced on its territory. The import and marketing of wine obtained from the varieties Clinton, Herbemont, Isabelle, Jacques, Noah and Othello shall be prohibited.

4. Environmentally harmonious production methods on labels

The Parties agree to allow terms that indicate environmentally harmonious production methods on labels for wine if the use of those terms is regulated in the country of origin. Labels referring to organic production are not covered by this paragraph.

5. Names of States

The following names are protected with regard to wines and spirits:

- (a) references to the name of a Member State of the European Union for wines and spirits originating in the Member State concerned,
- (b) the name South Africa or other names used to indicate South Africa for wines and spirits originating therein.

6. Mutual assistance between enforcement authorities

Each Party shall designate the bodies and authorities to be responsible for the application of this Protocol. Where a Party designates more than one competent body, it shall ensure the coordination of the work of those bodies. For this purpose, a single liaison authority shall be designated.

The Parties shall inform one another of the names and addresses of the bodies and authorities referred to in the first paragraph not later than six (6) months after the date of entry into force of this Protocol. There shall be close and direct cooperation between those bodies.

The bodies and authorities referred to in the first paragraph shall seek ways of improving assistance to each other in the application of this Protocol in order to combat fraudulent practices.

7. Safeguard provisions

The Parties reserve the right to introduce temporary additional import certification requirements for wines and spirits imported from the other Party in response to legitimate public policy concerns, such as health or consumer protection or in order to act against fraud. In this case, the other Party shall be given adequate information in sufficient time to permit the fulfilment of the additional requirements.

The Parties agree that such requirements shall not extend beyond the period of time necessary to respond to the particular public policy concern in response to which they were introduced.

8. Labelling terms and traditional terms

The Parties recognise the importance attached to the use of labelling terms and traditional terms to describe wines placed on their respective markets. The Parties agree to continue to work together on this issue pursuant to Article 14 of this Protocol. The Parties agree to examine the objectives, principles and application to certain specific cases, with a view to reaching agreement within two (2) years of entry into force that shall be incorporated into this Protocol. Pending such agreement, the use of these terms on product imported from the other Party shall be subject to the rules, procedures and practices of the importing Party whether or not these terms constitute classes of wine or terms provided for in the legislation of the exporting Party referred to under Article 11 of this Protocol.

Within the European Union, with regard to the provisions of Regulation (EC) No 261/2006, the traditional terms “Ruby”, “Tawny” and “Vintage” therein specified may be used in labelling of fortified wines concerned, in line with their definition laid down in South African law, in combination with any of the GIs listed in Annex I Section A.3 for which the fortified wine qualifies and for which the geographical indication is located in the Eastern, Northern or Western Cape Provinces. The said fortified wine shall be labelled with the relevant geographical indication and with the traditional term hyphenated or otherwise in visual combination with the term “Cape”.

APPENDIX to Annex II

Import certification and analysis documentation

1. Pursuant to Sections A.2 (a) and B.2 (a) of this Annex, the evidence that the requirements for the importation of wine in the territory of a Party have been fulfilled shall be supplied to the competent authorities of the importing Party by the production:
 - (a) of a certificate issued by a mutually recognised official authority of the country of origin; and
 - (b) if the wine is intended for direct human consumption, of an analysis report drawn up by a laboratory officially recognised by the country of origin. The analysis report shall include the following information:
 - total alcoholic strength by volume
 - actual alcoholic strength by volume
 - total dry extract
 - total acidity, expressed as tartaric acid
 - volatile acidity, expressed as acetic acid
 - citric acidity
 - residual sugar
 - total sulphur dioxide.
2. The Parties shall mutually determine the specific details of these rules referred to in paragraph 1, in particular the forms to be used and the information to be given⁵.
3. In applying paragraph 6 of Section C of Annex II, the Parties agree that the methods of analysis recognised as reference methods by the OIV and published by that Organization or, where an appropriate method does not appear in this publication, a method of analysis complying with the standards recommended by the International Organisation for Standardisation (ISO), shall prevail as reference methods for the determination of the analytical composition of the wine in the context of control operations.

⁵ To be done through a decision of the Special Committee established under Article 13 of this Protocol.

DECLARATIONS

JOINT DECLARATION BY EU AND SOUTH AFRICA ON BOTTLE SIZES AND ALCOHOLIC STRENGTHS OF SPIRITS

The Parties hereby declare that bottle sizes and minimum alcoholic strengths by volume for release for human consumption of spirit drinks should not unnecessarily burden exporters in both Parties. They further declare that they will encourage further harmonisation.

JOINT DECLARATION BY EU AND SOUTH AFRICA ON CERTIFICATION AND ANALYSIS

The Parties hereby declare that the following parameters are subject to analysis for spirit import certification procedures provided for under South Africa's rules on spirit importation procedures:

- (a) Spirits other than those referred to points (b) and (c):
 - % of alcoholic strength by volume,
 - content of methyl alcohol per hectolitre of 100 % vol alcohol,
 - quantity of volatile substances per hectolitre of 100 % vol alcohol.
- (b) Blended whisky:
 - % of alcoholic strength by volume,
 - content of methyl alcohol per hectolitre of 100 % vol alcohol,
 - quantity of volatile substances per hectolitre of 100 % vol alcohol,
 - higher alcohols amyl alcohol per hectolitre absolute alcohol.
- (c) Spirit based beverages:
 - (i) Liqueur, spirit cocktail:
 - % of alcoholic strength by volume,
 - content of methyl alcohol per hectolitre of 100 % vol alcohol,
 - residual sugar g/litre
 - (ii) Spirit cooler:
 - % of alcoholic strength by volume,
 - content of methyl alcohol per hectolitre of 100 % vol alcohol,
 - total sulphur dioxide,
 - volatile acidity, expressed as acetic acid
 - (iii) Cream liqueur:
 - % of alcoholic strength by volume,
 - content of methyl alcohol per hectolitre of 100 % vol alcohol,
 - residual sugar,
 - butterfat
 - (iv) Other:

% of alcoholic strength by volume,
content of methyl alcohol per hectolitre of 100 % vol alcohol.

**DECLARATION BY THE EU ON THE USE OF THE GEOGRAPHICAL
INDICATION SYMBOL**

The EU hereby declares that it may consider duly motivated requests from South Africa for the names protected under Annex I Section A.1 of this Protocol, to be eligible to be marketed in the EU accompanied by the symbol designating protected GIs.

DECLARATION BY SOUTH AFRICA ON CHEESE STANDARDS

South Africa declares that in a forthcoming amendment of its labelling provisions for cheese products, and within ten (10) years of the entry into force of this Protocol, South Africa shall take into account the product specifications of cheese products designated by GIs listed in Annex I, Section B.1 of this Protocol to ensure that they can be marketed in South Africa under the appropriate designations.

PROTOCOL 4
CONCERNING THE RELATIONSHIP BETWEEN THE TDCA AND THIS
AGREEMENT

1. As of the date of entry into force of this Agreement pursuant to Article 113 of this Agreement:
 - (a) the following provisions of TDCA are hereby repealed:
 - (i) Articles contained in Titles II (Trade) and III (Trade-Related Issues) and its corresponding annexes and Protocols, with the exception of Article 31 (Maritime transport) which remains applicable in relations between the Parties to the TDCA;
 - (ii) Paragraphs 9 and 10 of Article 104;
 - (iii) Points 5 and 7 of the attachment to the exchange of letters contained in Annex X to the TDCA.
 - (b) the Cooperation Council established under Article 97 TDCA shall no longer have the power to take any legally binding decisions in respect of the matters covered by the provisions repealed pursuant to paragraph (a)
 - (c) the dispute settlement mechanism established under Article 104 TDCA shall no longer be available to the TDCA Parties for disputes relating to the application or interpretation of provisions repealed pursuant paragraph (a)
2. In case of provisional application of this Agreement by the EU and ratification by South Africa pursuant to Article 113 of this Agreement:
 - (a) the application of Articles to be repealed under paragraph 1 shall be suspended.
 - (b) the Cooperation Council established under Article 97 TDCA shall not have the power to take any legally binding decisions in respect of the matters covered by the provisions suspended pursuant to paragraph 2(a).
 - (c) the dispute settlement mechanism established under Article 104 TDCA shall not be available to the TDCA Parties for disputes relating to the application or interpretation of provisions suspended pursuant to paragraph 2(a).
3. In the event of any inconsistency between the TDCA and this Agreement, this Agreement shall prevail to the extent of the inconsistency.

FINAL ACT

The representatives of:

THE KINGDOM OF BELGIUM,
THE REPUBLIC OF BULGARIA,
THE REPUBLIC OF CROATIA,
THE CZECH REPUBLIC,
THE KINGDOM OF DENMARK,
THE FEDERAL REPUBLIC OF GERMANY,
THE REPUBLIC OF ESTONIA,
IRELAND,
THE HELLENIC REPUBLIC,
THE KINGDOM OF SPAIN,
THE FRENCH REPUBLIC,
THE ITALIAN REPUBLIC,
THE REPUBLIC OF CYPRUS,
THE REPUBLIC OF LATVIA,
THE REPUBLIC OF LITHUANIA,
THE GRAND DUCHY OF LUXEMBOURG,
HUNGARY,
THE REPUBLIC OF MALTA,
THE KINGDOM OF THE NETHERLANDS,
THE REPUBLIC OF AUSTRIA,
THE REPUBLIC OF POLAND,
THE PORTUGUESE REPUBLIC,
ROMANIA,
THE REPUBLIC OF SLOVENIA,
THE SLOVAK REPUBLIC,
THE REPUBLIC OF FINLAND,
THE KINGDOM OF SWEDEN,
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,
Contracting Parties to the Treaty on European Union and the Treaty on the functioning of the European Union, hereinafter referred to as the “Member States of the European Union”
and
THE EUROPEAN UNION,
of the one part, and
THE REPUBLIC OF BOTSWANA,

THE KINGDOM OF LESOTHO,
THE REPUBLIC OF MOZAMBIQUE,
THE REPUBLIC OF NAMIBIA,
THE REPUBLIC OF SOUTH AFRICA,
THE KINGDOM OF SWAZILAND

hereinafter referred to as the "Southern African Development Community Economic Partnership Agreement States ("the SADC EPA States"),

of the other part,

meeting at [...] on the [...] of [...] in the year [two thousand and ...] for the signature of the Economic Partnership Agreement between the European Union and its Member States, of the one part,

and the SADC EPA States, of the other part, have at the time of signature of the Agreement:

– adopted the following Annexes, Protocols and Declarations:

ANNEX I: Customs duties of the EU on products originating in the SADC EPA States

ANNEX II: Customs duties of SACU on products originating in the EU

ANNEX III: Customs duties of Mozambique on products originating in the EU

ANNEX IV: Agricultural safeguards

ANNEX V: BLNS transitional safeguards

ANNEX VI: SPS priority products and sectors

PROTOCOL 1: Concerning the Definition of the Concept of 'Originating Products' and Methods of Administrative Cooperation

PROTOCOL 2: Mutual Administrative Assistance in Customs Matters

PROTOCOL 3: Geographical Indications and Trade in Wines and Spirits

PROTOCOL 4: Concerning the relationship between the TDCA and this Agreement

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have signed this Final Act.

DECLARATIONS

DECLARATION BY NAMIBIA ON THE ORIGIN OF FISHERIES PRODUCTS

Namibia reaffirms her point of view expressed throughout the EPA negotiations on the rules of origin in respect of fishery products and consequently maintains that following the exercise of her sovereign rights over fishery resources in the waters within her national jurisdiction, including the Exclusive Economic Zone, as defined in the United Nations Convention on the Law of the Sea, all catches effected in those waters and obligatory landed in ports of Namibia for processing shall enjoy originating status.

DECLARATION BY THE EU RELATING TO PROTOCOL 1 ON THE EXTENT OF TERRITORIAL WATERS

The EU, recalling that the relevant acknowledged principles of international law, in particular the United Nations Convention on the Law of the Sea, restrict the maximum extent of

territorial waters to 12 nautical miles, declares that this limit shall be taken into account in applying the provisions of the Protocol whenever the latter refers to this concept.

[Placeholder for all the signatures]