

COMMISSION IMPLEMENTING REGULATION (EU) No 1050/2011

of 20 October 2011

entering a name in the register of protected designations of origin and protected geographical indications (Darjeeling (PGI))

THE EUROPEAN COMMISSION,

packaging intended for the final consumer, may take place within or outside the geographical area.

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

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

Having regard to Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs⁽¹⁾, and in particular the third subparagraph of Article 7(5) thereof,(6) Concerning the alleged absence of a link between the reputation and renown of the product and the area of production, it has been found that the product specification shows that the product is specific, and that the *savoir-faire* and acquired skills employed by producers as well as the pedo-climatic features and geographical environment of the geographical area (natural drainage of the soils, complex combination of very high rainfall and continuous low temperature) significantly affect the product's characteristics which constitute the core of its reputation.

Whereas:

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

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

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

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

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

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

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

⁽¹⁾ OJ L 93, 31.3.2006, p. 12.⁽²⁾ OJ C 246, 14.10.2009, p. 12.⁽³⁾ OJ L 109, 6.5.2000, p. 29.

- (10) Concerning the alleged generic character of the name proposed for registration, no proof of generic status has been established.
- (11) In the light of the above, the name 'Darjeeling' should be entered in the Register of protected designations of origin and protected geographical indications and the Single Document should be updated accordingly and published.
- (12) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Protected Geographical Indications and Protected Designations of Origin,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

Article 3

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

Article 4

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 20 October 2011.

For the Commission
The President
José Manuel BARROSO

ANNEX I

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

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

INDIA

Darjeeling (PGI)

ANNEX II

SINGLE DOCUMENT

COUNCIL REGULATION (EC) No 510/2006

'DARJEELING'

EC No: IN-PGI-0005-0659-12.11.2007

PGI (X) PDO ()

1. Name

'Darjeeling'

2. Member State or Third Country

India

3. Description of the agricultural product or foodstuff**3.1. Type of product**

Class 1.8. Other products of Annex I to the Treaty

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

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

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

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

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

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

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

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

3.3. *Raw materials*

Not applicable.

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

Not applicable.

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

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

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

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

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

Once the leaf reaches the factory, it is 'withered'. The objective of withering is to evaporate the moisture from the green leaves slowly over a period of 14 to 16 hours. The leaf shrinks and becomes soft so that it can withstand twisting and rolling mechanically. The brew characteristics also begin to develop following physical and chemical changes within the leaf structure.

The green leaves are segregated and spread evenly on wire mesh screens fitted over specially designed 'troughs' which resemble very long wooden boxes. Each trough is an air chamber which enables fresh dry air to be passed in a regulated manner through the green leaves until the desired 'wither' is achieved. Approximately, 75 % of the water content in the fresh green leaf is evaporated at this stage.

The withered leaf is then removed from the trough and loaded and twisted in the rolling machines, which, by subjecting the withered leaf to a rolling movement under pressure, twist the leaf, rupture the cells and release natural juices, promoting oxidation and accelerating pigmentation. Rolling pressures and sequences are very meticulously supervised to ensure that the optimum style is imparted, without the detrimental effect of overheating.

Next, the leaf is thinly spread in a cool, well-ventilated room to slowly oxidise (ferment). This stage, in which the flavanols combine with oxygen in the air, extends over a period ranging from 2 to 4 hours, mainly depending on ambient temperature and relative humidity. An experienced tea maker judges at regular intervals the extent of quality development from the fragrance progressively expressed by the leaf. This sensory judgment is critical to the quality of the infused brew. For the visitor, the rich floral aroma emanating from a Darjeeling rolling and fermenting (oxidisation) room is heady and definitely unforgettable.

Once optimum fermentation (oxidisation) has been achieved, the oxidised leaf is taken for roasting (or drying) to arrest further fermentation (oxidisation) by deactivating the enzymes, and to remove almost all of the remaining moisture in the leaf. The Tea Dryer is a chamber which exposes the fermented (Oxidised) leaf to hot dry air at regulated, varying temperatures within its parts, for a duration of 20 to 30 minutes. A good roast reduces moisture content in the final product to about less than 2 %, resulting in crisp dry tea which is then graded through vibrating sieves according to size. These grades are finally invoiced packed in lots/batches in foil lined packages designed to retain freshness and quality over an extended period of time.

After final grading has been completed, nomenclatures are assigned according to the size of the grade. These falls into three categories:

- (a) Whole Leaf — FTGOP — Fine Tippy Golden Flowery Orange Pekoe;
- (b) Broken — TGBOP — Tippy Golden Broken Orange Pekoe;
- (c) Fannings — GOF — Golden Orange Fannings.

The major difference between the three categories is in the size.

Orange Pekoe is a term mainly used to describe a grade found in the grading system of the same name used for sorting black teas. The system is based solely upon the size of the processed and dried black tea leaves.

The above gradations relate only to the size of the whole leaf after processing and not to quality differentiations. All grades are the product of the same green leaf. The nomenclatures are used to differentiate the grade of made tea according to the size of the tea leaves after processing.

3.6. *Specific rules concerning slicing, grating, packaging, etc.*

There are no specific packaging requirements for Darjeeling tea. Darjeeling tea reaches the final consumer in the EU in bulk or consumer packs. 95 % of all packing down to the insertion into consumer size boxes takes place in the EU (the rest is packed in India).

3.7. *Specific rules concerning labelling*

On each package the licence number of the producer/packeter under the Darjeeling Protection Certified Trade Mark Scheme 1999 governed by the Tea Board of India (a statutory body formed under The Tea Act of 1953 of India empowering them to administer the production of tea) has to be provided, as well as the registered Darjeeling logo (a stylised representation of an Indian woman holding tea leaves in a roundel). The woman design element has a stylised circular ear ring and a nose stud. The word mark 'Darjeeling' skirts the left portion of the roundel. All these elements blend together to constitute the Darjeeling logo.



The special Darjeeling logo, created in 1983 and registered as a collective trademark in India, is a labelling requirement, for tea that has been certified by the Board as conforming to the standards and characteristics of Darjeeling tea. Since its introduction, the Darjeeling logo has always appeared on packaging cartons/chest under the control of the Board.

The Tea Board has obtained registration of the Darjeeling logo as a Certification Mark under the Indian Trade and Merchandise Marks Act, 1958.

The Tea Board has also registered the Darjeeling logo under the new Geographical Indication of Goods (Registration & Protection) Act, 1999.

The nomenclature of grading is not compulsory on the label.

4. Concise definition of the geographical area

The Darjeeling Tea is grown in the district of Darjeeling, situated in the state of West Bengal, India. The following Sub-Divisions of the District of Darjeeling in the State of West Bengal (India) have on their territory tea gardens: Sadar sub-division, only hilly areas of Kalimpong Sub-Division comprising Samabeong Tea Estate, Ambik Tea Estate, Mission Hill Tea Estate, Upper Fagu and Kumai Tea Estates and Kurseong Sub-Division excluding the areas in jurisdiction list 20, 21, 23, 24, 29, 31 and 33 comprising Subtighuri Sub-Division of New Chumta Tea Estate, Simulbari and Marionbari Tea Estate of Kurseong Police station in Kurseong Sub-Division. The tea gardens are situated at an altitude of between 600 and 2 250 metres on steep slopes which provide ideal natural drainage for the generous rainfall the district receives.

5. Link with the geographical area

5.1. Specificity of the geographical area

The tea gardens are situated at altitude of between 600 and 2 250 metres on steep slopes, which provide ideal natural drainage for the generous rainfall the district receives. It is important to note the relevance of elevation, as it is specific for Darjeeling quality. Coupled with this, the intermittent cloud and sunshine combine to impart the unique character of Darjeeling tea.

The soil is rich and the hilly terrain provides natural drainage for the generous rainfall the district receives.

Due to continuous low temperature the metabolic (photosynthesis) rate of the Darjeeling tea plant is far lower than any other tea plant, which stunts the growth of green leaf and increases the concentration of the natural chemical characteristics.

The Darjeeling tea growing area is located in the seven valleys of the Darjeeling hills which directly overlooks the Himalayas and the Kanchenjunga peak which is the 3rd highest mountain peak in the world. The cold wind blowing from the Himalayas through the seven valleys at various temperatures during the year is one of the reasons resulting in the unique Darjeeling flavour. Further, the Darjeeling hills experience mists during the nights which condenses the water molecules of the environment and it caresses the tea leaves which moisturise the Darjeeling tea leaves overnight. The Darjeeling hill experiences very high rainfall (up to 160 inches and not less than 80 inches) in a year. The Darjeeling hills receive only 4 to 5 hours of sunshine for only about 180 days in a year. These natural phenomena significantly contribute to the development of the remarkable flavour and characteristics of the Darjeeling tea.

5.2. Specificity of the product

Darjeeling tea is a tea of considerable renown, because its flavour is so unique that it cannot be replicated anywhere else in the world. Grown in the mountainous region of Darjeeling, for more than 150 years, these tea bushes are nurtured by intermittent rainfall, sunshine and moisture laden mellow mists. The tea pluckers pick only the finest two leaves and the bud to maintain the particular flavour. Gifted with these natural elements, the simple fact that approximately only between 9 to 10 million kg of Darjeeling tea is produced annually by the Darjeeling district, has made it exclusive and desirable. It is a niche luxury product. Adherence to this high quality profile, results in extremely low yields. The Darjeeling producers make every effort to ensure the highest quality standards, in spite of the high costs involved. Tea plucking art of the succession generation of north has an artistic value. Human elements are present in several steps of the production of tea (as explained above).

The Darjeeling tea is processed in the traditional orthodox method only, where human effort and traditional skill/knowledge is involved in every stage.

5.3. Causal link between the geographical area and a specific quality, the reputation or other characteristic of the product

Geographical and agro-climatic: Due to the unique and complex combination of agro-climatic conditions prevailing in the region comprising of all the 87 tea gardens within the district of Darjeeling as well as the production regulations by the Board, tea produced in this region has the distinctive and naturally occurring organoleptic characteristics of taste, aroma and texture which have won the patronage and recognition of discerning consumers all over the world and put Darjeeling tea as a niche luxury product.

Topographical: The Darjeeling tea gardens are situated at an altitude from 600 to 2 250 metres on steep slopes which provide ideal natural drainage for the generous rainfall the district receives. The rare flavour of Darjeeling tea is a result of the combination of plant genes, soil chemistry, altitude, temperature and rainfall unique to the Darjeeling hills. The Darjeeling tea industry follows an established set of agricultural practices which has been developed and used for over 150 years to sustain growth of shoots, while maintaining bush heights suitable for plucking by hand.

Harvesting: A Darjeeling tea bush yields not more than 100 g of made tea in a year (between 9 to 10 million kg of Darjeeling tea is produced annually by the Darjeeling district). Each kilogram of fine tea consists of more than 20 000 individual hand-picked shoots. This gives an idea of the extent of human effort involved in its production.

Other factors: historical, traditional, cultural and social, as well as a special uniqueness and reputation are attached to 'Darjeeling'. Indeed, the tea produced in the Darjeeling region and having the said special characteristics, is and has for long been known to the trade and the public in India and abroad as Darjeeling tea and as such it has acquired a substantial domestic and international reputation. Any member of the trade or public in India or abroad ordering Darjeeling tea or seeing tea advertised or offered for sale as Darjeeling will expect the tea so ordered, advertised or offered for sale to be the tea cultivated, grown and produced in the aforesaid region of the Darjeeling district and having the aforesaid special characteristics. Therefore, the name 'Darjeeling' for tea from the district of Darjeeling in the state of West Bengal, has acquired a special uniqueness and reputation in the public mind when used in relation to tea produced in the aforesaid region of the said district so that the right to attach it to such tea forms part of the specific repute of all those who are duly associated with the said region. The prices of Darjeeling tea are also higher than for other teas in India and overall in the world market. In other words, the name 'Darjeeling' when used in relation to tea, qualifies as a geographical indication in India.

Reference to publication of the specification

<http://ec.europa.eu/agriculture/quality/door/publishedName.html?denominationId=1900>
