

What does experience say? Different approaches, different outcomes: Examples from the region and beyond

Geographical Indications & the Regional Rum Sector

July 9, 2021

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Protecting foreign GIs in the EU

<p>Regulation (EU) 2019/787 on the protection of GIs for spirit drinks (<i>sui generis</i> system)</p>	
<p>Geneva Act of the Lisbon Agreement on AOs and GIs</p>	
<p>Bilateral agreements</p>	



Regulation (EU) 2019/787

- Definition: GI is an indication which identifies a spirit drink as originating in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of that spirit drink is essentially attributable to its geographical origin.
- Only one concept: GI (not all the production steps must take place necessarily in the defined geographical area).
- Application before DGAgri (European Commission).
- Applicant: Authorities of the country of origin
or directly by the producers
- Proof that the name of the product is protected
in the country of origin.



Product specification

(a) Name of the GI

As it is used in trade or in common language

(b) Category of the spirit drink

Category 1 of Annex I of Regulation (EU) 2019/787: Rum

(c) Description of the product

- Raw materials
- Principal physical, chemical or organoleptic characteristics
- Specific characteristics compared to spirit drinks of the same category

(d) Definition of the geographical area



(e) Method of obtaining the product

- ✓ From raw materials to final product
- ✓ Where appropriate, the authentic local production methods

(f) **Link** between the quality, reputation or other characteristic of the spirit drink and the geographical area

- ✓ Natural factors (climate, soil, etc.)
- ✓ Human factors (know-how, traditional knowledge, etc.)

(g) Verification of compliance with the product specification

- ✓ Competent authority
- ✓ Private body (ISO/IEC 17065:2012 accreditation)

(h) Labelling rules (if any)

Packaging / Bottling rules (not a production step)

After registration



Use is optional

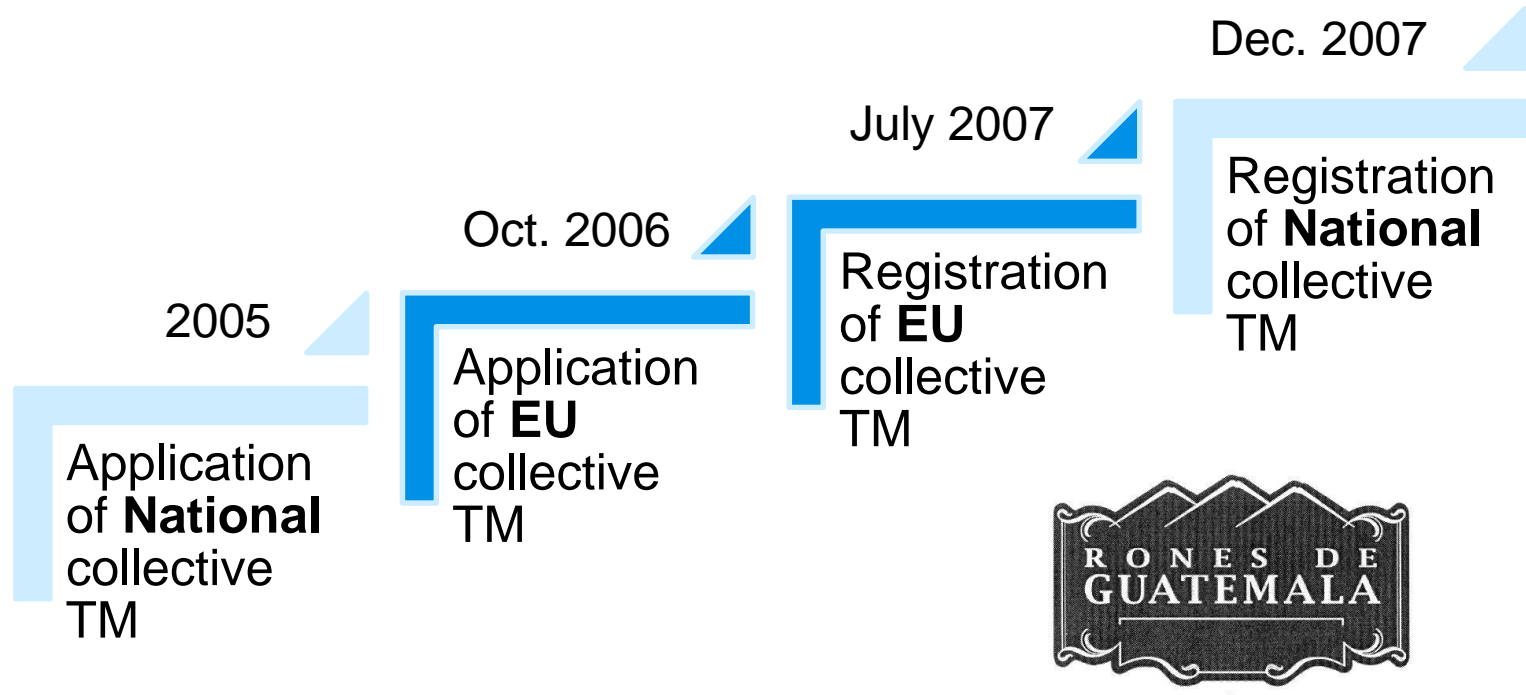
High level of legal protection: *“evocation”, comparable products, services, exploitation of the reputation, when the spirit drink is used as an ingredient, etc.*

Protection in the market / in the TM register / by custom authorities

Ex officio protection

Ron de Guatemala

Collective TM owned by **Asociación Nacional de Fabricantes de Alcoholes y Licores – ANFAL**



Registrations also in Switzerland, Canada, Costa Rica, Colombia, etc.

National “Denominación de Origen” / European GI



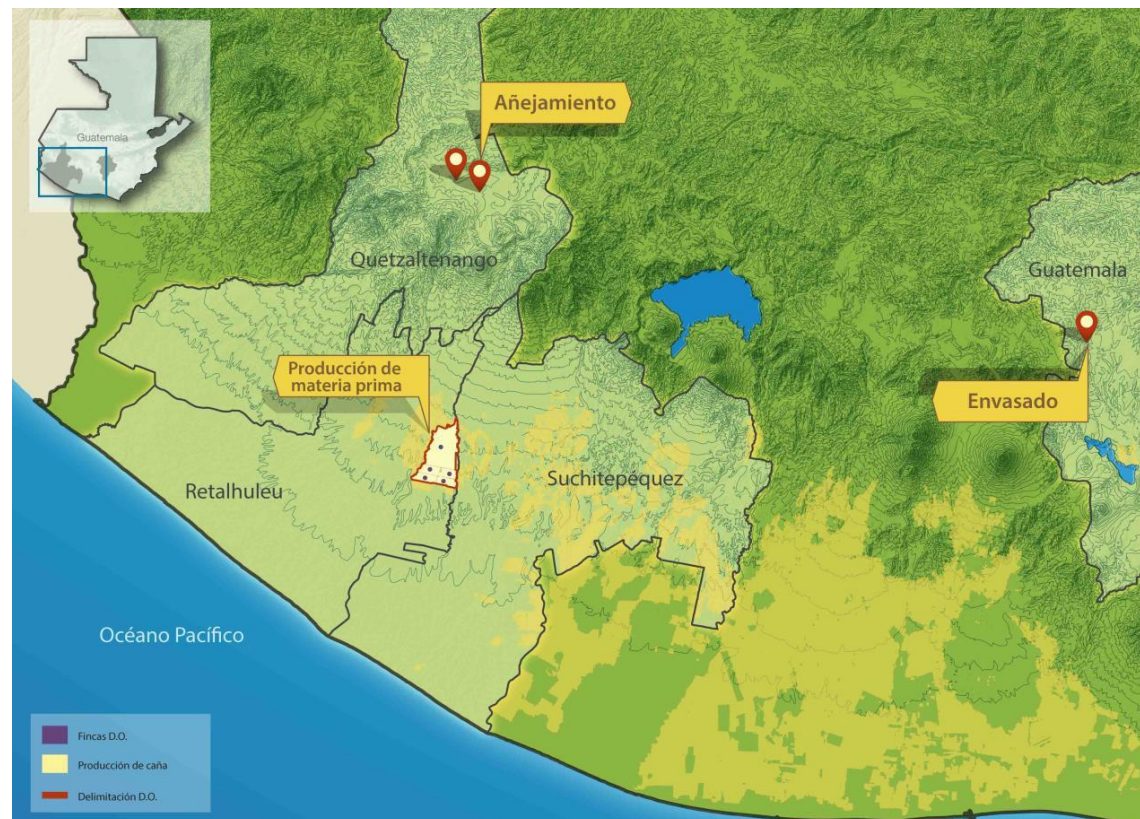
Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other

Planting area of the sugar cane:

Departments of Retalhuleu and Suchitepéquez

Ageing área:

City of Quetzaltenango, at over 2,300 metres above sea level



Combination of many factors stemming from the agro-ecological conditions of both the planting area of the sugar cane and the ageing area, as well as from the authentic character of the production process, which brings together nature, tradition, art and science.

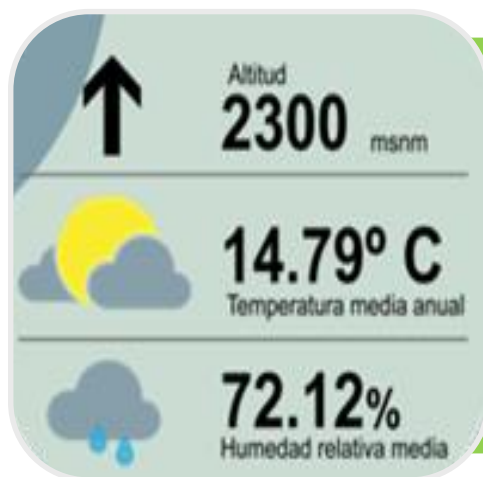
**Cultivation
area**



Cane crops with
high sugar levels

Highly concentrated
and effervescent
juice of the best
possible quality for
the production of
rum

**Ageing
area**



Slow down the
chemical ageing
process

Allows the
aromas and
flavours to
develop with
greater intensity



Opposition to registration filed by France:

- Mainly based on some contradictions between the Guatemalan Law (Technical Guatemalan norm COGUANOR NGO 3301 on rum production) and the EU Regulation.

Opposition **rejected** by the European Commission:

- The description of the product in the GI Specification is in line with the definition of rum in the EU Regulation and the other requirements of that Regulation.
- The GI Specification shows that the rules concerning production which apply to 'Ron de Guatemala' are stricter than those applying to the standard rum produced in that country.

Cuba

GI “Cuba” filed with the DGAgri on April 8, 2021 (PGI-CU-2768)

Applicant: **CORPORACION CUBA RON S.A.**

- RONERA SANTA CRUZ
- RONERAS SANTIAGO DE CUBA
- RONERA CENTRAL
- RONERA CÁRDENAS
- LEVADURAS Y FERMENTOS S.A (LEFERSA)
- HAVANA CLUB INTERNATIONAL (HCI)
- LA ESTANCIA



- **Geographical area:** the archipelago of Cuba
- **All the production steps within the area** (including the production of the sugar cane).
- **Types of rum described:**

Ron añejo blanco

Ron carta blanco or Añejo amabarino

Ron carta oro

Ron añejo reserve

Ron añejo

Ron extra seco

Ron extra añejo

Production:

- At least two steps of ageing, three for the “Extra añejo” rums.
- “Mezclas”: Mixing the ‘rum spirits’ and the ‘raw rums’ of the different ageing steps to produce the final product with the desired aroma and taste.

Link:

- Reputation
- Natural factors:
 - ✓ Climate: in winter temperature and rainfall lower than in the other areas of the Caribbean. In summer more stable rainfall.
 - ✓ Specific crops of the sugar cane
 - ✓ As a consequence: the molasses are of low thickness and acidity and with higher sugar concentration.
- Human factors: “Maestros del Ron Cubano”

- ❑ Protection in the **country of origin**: Cuba DOP. Decision of April 2, 2010 issued by the Cuban Industrial Property Office
- ❑ Registered as an AO under the **Lisbon Agreement** since April 28, 2015.

The EU countries party to the Lisbon Agreement (Czech Republic, France, Hungary, Italy, Portugal, Slovakia and Bulgaria) did not deny protection.

However, **not enforceable in the territory of the EU**, since the EU law on GIs in 'exhaustive in nature', see:

- Judgement of CJUE of 08/09/2009, C-478/07, Budějovický Budvar
- Judgement of CJUE of 14/09/2017, C-56/16 P, Port Charlotte



Owner: 1872 HOLDINGS, V.O.F.

EUTM nº 10729531

Class 33: 'Alcoholic beverages, namely rum, rum liqueurs, rum cocktails and alcoholic beverages containing rum.

EUTM nº 11565835 “EL ESPIRITU DE CUBA”

35: Advertising and promotion relating to alcoholic beverages; retailing of alcoholic drinks.

43: Consultancy in the field of alcoholic beverages, cocktails and non-alcoholic beverages.

EUTM nº 12036571 “MATUSALEM THE SPIRIT OF CUBA LIBRE”

33: Alcoholic beverages (except beer), namely, rum, rum liqueurs, rum cocktails and alcoholic beverages containing rum.



EUTM nº 9574609

33: Alcoholic beverages (except beers).

Owner: CUBA LIBRE PRODUCTS, INC. (Panama)



IR nº 1135899 with protection in the EU

33: Alcoholic beverages (except beers); all the aforesaid goods of Cuban origin only.

Owner: Cuba Club (Liechtenstein)

Tequila

- GI applied before the EU Commission on January 3, 2013.
- Published in the OJEU of July 14, 2016
- Registered on February 28, 2019

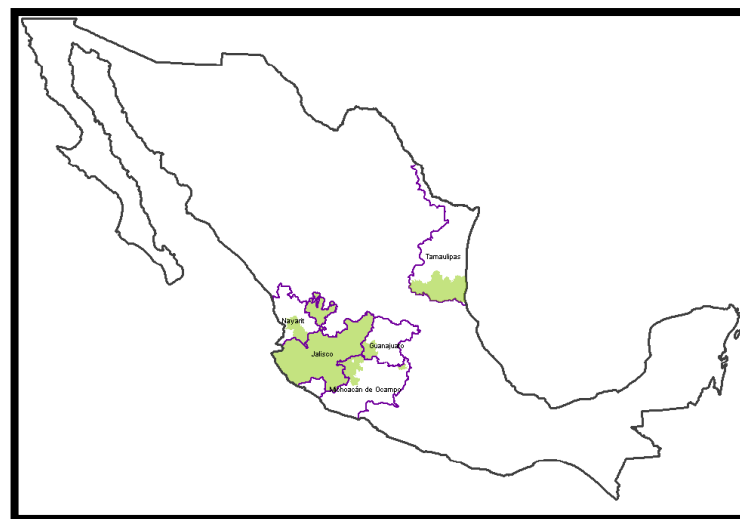
Description: alcoholic beverage obtained by distilling the juices extracted directly from the heart of the blue agave (*Agave tequilana* F.A.C. Weber), previously or subsequently hydrolysed or cooked, and fermented using yeast (cultured or otherwise).



Geographical area

181 municipalities in the states of Jalisco, Nayarit, Guanajuato, Tamaulipas and Michoacán.

All the production steps within the area, including the bottling for the category “100% agave tequila”.

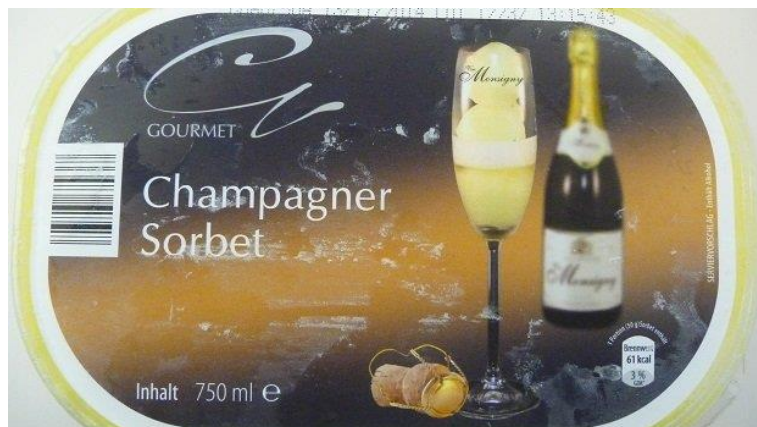


Legal protection

Art. 21(2)(a) of Reg. EU 2019/787: Protection against “*any direct or indirect commercial use of a registered name in respect of products not covered by the registration where those products are comparable to the products registered under that name or where using the name exploits the reputation of the protected name, including where those products are used as an ingredient*”

Commission’s «Guidelines on the labelling of foodstuffs using protected designations of origin (PDOs) or protected geographical indications (PGIs) as ingredients»





**CJ's Judgement of 20/12/2017,
C-393/16**

Use as an ingredient



**CJ's Judgement of 7/6/2018,
Case C-44/17, Scotch Whisky
Association v. Michael Klotz.**

Concept of evocation



Thank you for your attention