

**REVIEW UNDER ARTICLE 24.2 OF THE APPLICATION OF THE
PROVISIONS OF THE SECTION OF THE TRIPS AGREEMENT
ON GEOGRAPHICAL INDICATIONS**

Responses to the Checklist of Questions¹

Addendum

ESTONIA

The present document represents the responses to the Checklist which the Secretariat has received from the Permanent Mission of Estonia by means of a communication, dated 15 June 2001.

I. RESPONSES TO THE QUESTIONS IN DOCUMENT IP/C/13

A. GENERAL

1. *Is protection for geographical indications provided through unfair competition law, e.g., passing off, false designation of origin; through a formal procedure for notification/registration before protection is available; or through both? Does the recognition of a geographical indication require registration?*

Protection for geographical indications is provided through the Geographical Indication Protection Act, as well as through the relevant provisions of the Competition Act on unfair competition (Chapter 8, Sections 28 and 29) and the Commercial Code (Section 63). The recognition of geographical indications requires registration.

2. *Is there one single regime of protection of geographical indications for all products? If not, identify the different regimes.*

There is a single regime for all products with an extended protection for alcoholic beverages.

3. *Do(es) the regime(s) of protection of geographical indications also extend to services?*

Yes.

4. *What provisions of law or regulations are directed to the recognition of geographical indications required by Articles 22.2 and 23.1 of the TRIPS Agreement? Citations to laws should be provided and, if the texts of the laws have not been notified to the WTO, copies should be provided pursuant to Article 63.2.*

¹ Documents IP/C/13 and IP/C/13/Add.1.

The following laws provide for the recognition of geographical indications required by Articles 22.2 and 23.1 of the TRIPS Agreement:

- (a) Geographical Indication Protection Act, Sections 8(1), 11 and 18;
- (b) Competition Act, Section 29.

5. *If the required recognition of geographical indications is not provided through statutes or regulations, please explain, in detail, the mechanism or mechanisms through which the protection required is provided.*

See the answers to questions 1 and 4 above.

6. *Please provide a few examples of domestic geographical indications protected in accordance with the means discussed above and indicate the means by which such protection is provided.*

No domestic geographical indication has yet been registered.

7. *Is the higher level of protection required for wines and spirits under Article 23.2 of the TRIPS Agreement provided for any other product? If so, please specify such products and the law under which they are protected.*

The higher level of protection required for wines and spirits under Article 23.2 of the TRIPS Agreement is provided for no other product.

B. DEFINITION AND CRITERIA FOR RECOGNITION

8. *How are geographical indications defined?*

According to the Geographical Indication Protection Act, a geographical indication means:

- "1) the name of or a reference to a geographical area which indicates the specific geographical origin of a good or service if the given quality, reputation or other characteristic of the good or service so identified is essentially attributable to the geographical area where the good is produced, processed or prepared or where the service is rendered;
- 2) other word, phrase or symbol that, resulting from long-term and consistent use, has become essentially attributable to the geographical area where the good is produced, processed or prepared or where the service is rendered."

9. *Would such a definition comprise geographical indications identifying products of a certain quality or reputation which are indirectly linked to a specific region?*

Yes.

10. *In determining whether recognition should be given a geographical indication, what criteria are considered?*

The criteria considered are those contained in the answer to question 8 above.

11. *Is there any human creativity involved in the making of specific products under protection by the system of geographical indications? If so, how much? And do these products involve any human factors?*

Human factors are included in the criteria set out for the recognition of a geographical indication.

12. *Are there any other intellectual property rights involved, such as patents for example?*

No.

13. *What authority, if any, may define the geographic region or area for which rights are claimed and on what basis is such definition made?*

The geographic region or area for which rights are claimed is defined in the Geographical Indication Protection Act:

"For the purposes of this Act, a geographical area means the territory of a state, or a particular region or locality in that territory. The geographical area does not have to coincide with the administrative unit or settlement unit bearing the same name. The name of the geographical area serving as a geographical indication does not have to coincide with the current official name of that geographical area."

14. *Does your legislation contain criteria for homonymous geographical indications for wines?*

Yes, the relevant provisions are contained in the Geographical Indication Protection Act (Sections 14-18).

15. *Does your national legislation provide for recognition and protection of geographical indications or appellations of origin of foreign countries?*

Yes. Section 2 of the Geographical Indication Protection Act states the equality of rights and obligations of natural and legal persons of the Republic of Estonia and of foreign states:

"The rights and obligations prescribed in legislation regulating the legal protection of geographical indications apply equally to natural and legal persons of the Republic of Estonia and of foreign states (hereinafter persons), considering restrictions provided for in this Act."

16. *Is there any specific prohibition in the legislation/regulations/ rules/procedures covering geographical indications not protected in the country of origin? If so, please specify the relevant statutory provision.*

Section 8(7) of the Geographical Indication Protection Act states that:

"Legal protection is not granted to an indication which has not been granted legal protection in the country of origin or the legal protection of which has been terminated in the country of origin, or which has fallen into disuse in that country."

C. PROCEDURE FOR RECOGNITION

17. *With respect to any formal system for recognition of geographical indications, must the applicant be a governmental organization or can a private entity own the rights to a geographical indication?*

Both a governmental and a private entity can own the rights to a geographical indication (Section 9 of the Geographical Indication Protection Act):

"(1) The right to apply for the registration of a geographical indication is vested in:

- 1) a person who acts as the producer, processor or preparer of the good identified with the indication, or as the renderer of the service in the geographical area specified in the indication;
 - 2) an association of consumers or persons referred to in clause 1 of this Section, regardless of its location or legal form;
 - 3) a competent administrative agency of the country of origin of the good or service.
- (2) The person referred to in Section 1 of this Section may only apply for the registration of an indication which meets the requirements prescribed for geographical indications and complies with the provisions of § 4 of this Act and which is not excluded from protection under § 8 of this Act.
- (3) The list of Estonian administrative agencies competent for applying for the registration of geographical indications is approved by the Government of the Republic."

18. *What are the competent authorities where the protection of a geographical indication can be obtained?*

The competent authorities are the Ministry of Economic Affairs and the Ministry of Agriculture.

19. *Do the procedures which lead to the recognition of a geographical indication take place ex officio or must they be based on the initiative of an entity or person?*

The recognition of a geographical indication takes place either on the initiative of a government entity or a person (see the answer to question 17 above).

20. *What, if any, fees are involved in the application and maintenance of rights in a geographical indication?*

The following state fees are involved in the application and maintenance of rights in a geographical indication:

- (a) A state fee of EEK 1,600² shall be paid upon submission of an application for registration of a geographical indication.
- (b) A state fee of EEK 400 shall be paid for the extension of the term for elimination of deficiencies in an application for registration of a geographical indication, or for the provision of explanations.

² 1 Sw F (Swiss franc) = EEK 10,247 (Estonian kroon).

- (c) A state fee of EEK 500 shall be paid for an entry to amend the registration data of a geographical indication.

21/22/23. If criteria must be set out in an application for recognition of a geographical indication, are those criteria purely geographic in nature? What information must be supplied in an application for rights in a geographical indication? What other criteria, if any, must be set out in an application for recognition of a geographical indication?

Under Sections 24-26 of the Geographical Indication Protection Act, a registration application shall comprise:

- "1) a request for the registration of the geographical indication;
- 2) a description;
- 3) a certificate of the protection of the geographical indication in its country of origin, or a certificate issued by the competent agency of the country of origin certifying the link of the given quality, reputation or other characteristic of the good or service with the geographical origin of the good or service, and a certificate issued by the competent agency of the country of origin of the right of the applicant to apply for registration of the geographical indication pursuant to the provisions of Section 9(1) of the Act;
- 4) a document certifying payment of the state fee;
- 5) an authorization, if the applicant has a representative."

A request for the registration of the geographical indication shall include:

- "1) a statement requesting the registration of a geographical indication;
- 2) a reproduction of the geographical indication;
- 3) the name and address of residence or location of the applicant and other contact information;
- 4) information about the possession of the right to apply for the registration of the geographical indication pursuant to the provisions of Section 9(1) of this Act;
- 5) a short summary of the description, which shall comply with the contents of the description;
- 6) the name of the representative, if the applicant has a representative;
- 7) the signature of the applicant or representative."

The description of a good or service shall comprise:

- "1) the name of the good or service;
- 2) features characterising the good (physical, chemical, microbiological, organoleptic or other qualities according to the particular good);
- 3) features characterising the service or the method of producing the good;

- 4) identification of the geographical area;
 - 5) details certifying the link of a given quality, reputation or other characteristic of the good or service with the geographical origin.
- (2) The description may contain features characterising the raw material, information about the use of the warning notice and other details which the applicant considers necessary to submit.
 - (3) The description shall give a clear and complete depiction of the link of the given quality, reputation or other characteristic of the good or service with the geographical origin of the good or service.
 - (4) If the same geographical indication is used to identify goods or services with different features, the description shall be submitted for each good or service separately."

24. *Must the goods or services with respect to which a geographical indication is claimed be set out?*

Yes.

25. *What mechanisms are provided to oppose the recognition of a geographical indication? How is an investigation conducted after such a complaint?*

Mechanisms for opposition are set out in the Geographical Indication Protection Act, Sections 43, 44, 46 and 47:

"§ 43. Contestation of registration

- (1) Any interested person or supervisory agency who considers that the applicant, pursuant to Section 9(1) of this Act, had no right to file a registration application, may submit a petition in court against the applicant, his successor or legal successor to declare the registration unlawful. If the applicant, his successor or legal successor is missing, the court shall hear the declaration of the registration unlawful as proceedings on petition.
- (2) A petition specified in paragraph 1 of this Section may be filed within one year from the publication date of the entry of registration data.
- (3) Any interested person or supervisory agency who considers that the applicant, pursuant to Section 9(2) of this Act, had no right to file a registration application, may submit a petition in court against the applicant, his successor or legal successor to declare the registration unlawful. If the applicant, his successor or legal successor is missing, the court shall hear the declaration of the registration unlawful as proceedings on petition.
- (4) A petition specified in paragraph 3 of this Section may be submitted during the term of the registration.
- (5) Any interested person who considers that the registration is contrary to the requirements of Sections 4, 24, 25, 26(1) or 26(4) of this Act, or to public order or morality, may submit an appeal in the administrative court to declare the registration unlawful and require that the Patent Office restore the processing and make a new decision.
- (6) An appeal specified in paragraph 5 of this Section may be submitted within 3 months from the publication date of the entry of the registration data.

- (7) If the court declares the registration unlawful, a deletion of the registration entry shall be made upon the request of the interested person or supervisory agency on the basis of a court order that has entered into force.

§ 44. Contestation of registration for amending registration data

- (1) Any interested person or supervisory agency who considers that the list of goods or services, identification of geographical area or description in the registration are inaccurate or insufficient, may submit a petition in court against the applicant, his successor or legal successor for amending the registration data. If the applicant, his successor or legal successor are missing, the court shall hear the amending of the registration data as proceedings on petition.
- (2) A petition specified in paragraph 1 of this Section may be submitted during the term of the registration.
- (3) If the court satisfies a petition for amending registration data, an entry to amend the registration data entry shall be made upon the request of the interested person or supervisory agency on the basis of a court order that has entered into force.

§ 46. Specifications for resolution of disputes relating to geographical indications

- (1) Appeals and actions specified in this Act fall within the jurisdiction of the court in the jurisdiction of which the Patent Office is located.
- (2) The court notifies of the submitting of petitions specified in Sections 43(1), 43(3) and 44(1) of this Act in the official gazette Official Announcements and establishes a term during which the users of a geographical indication may submit a petition in court to intervene in the proceedings in support of the plaintiff or the defendant, whereby the term shall be no less than two months from the publication date of the notice.

§ 47. Representatives in court disputes relating to geographical indications

- (1) Upon the resolution of disputes relating to geographical indications, patent attorneys may act as representatives in court.
- (2) A patent attorney shall present to the court his or her patent attorney's certificate."

26. *Who can oppose the recognition of a geographical indication?*

Any interested person or supervisory agency can oppose the recognition of a geographical indication.

27. *If your national legislation provides for recognition and protection of geographical indications or appellations of origin of foreign countries, what is the procedure that has to be followed in order to obtain such recognition and consequent protection?*

The same procedure applies both to foreign and Estonian applicants with the additional condition that the foreign applicants must proceed through a local representative (Estonian patent attorney).

D. MAINTENANCE

28. *How long does recognition for a geographical indication continue?*

The recognition of a geographical indication is perpetual.

29. *If recognition of a geographical indication must be renewed or reaffirmed, what information must be provided in order to effect such a renewal or reaffirmation? Specify any fees involved in renewal or reaffirmation.*

Recognition of a geographical indication requires neither renewal nor reaffirmation.

30/31. *Must a geographical indication be used in order to maintain rights? If so, how is such use determined? Is there a specified limit for non-use before rights in a geographical indication cease and, if so, what is that limit?*

Maintaining rights in a geographical indication is not dependent on its use.

32. *Who monitors the use of geographical indications to determine if the criteria identified in the application continue to be met?*

Supervision over the lawfulness of use of a protected geographical indication, including the complying of the good or service identified with the geographical indication with the description contained in the register is exercised by the following agencies according to their competence:

- (1) Competition Board;
- (2) Plant Production Inspectorate;
- (3) Consumer Protection Board;
- (4) Veterinary and Food Board.

A supervisory agency exercises supervision on its own initiative or on the basis of a request from an interested person.

33. *If a government entity is responsible for monitoring the use of geographical indications, what are its procedures for doing so?*

According to Section 45 of the Geographical Indication Protection Act, an interested person may initiate a procedure against the illegal use of a geographical indication. The rights of relevant government entities, as set out in Section 50 of the Geographical Indication Protection Act, include the right to:

- "1) receive from state agencies, agencies administered by state agencies, local government agencies and legal and natural persons information necessary for exercising supervision;
- 2) take samples for establishing potential offence;
- 3) to receive all information from the register free of charge.

Further rights of government entities are specified in legal acts regulating the functioning of each respective entity."

34. *Are there means by which interested parties may request termination of a geographical indication based on non-use or failure to maintain the criteria identified in the application? Describe the procedure.*

No means are available by which interested parties may request termination of a geographical indication based on non-use. In cases defined under Section 43(3) and 43(4) of the Geographical Indication Protection Act, "any interested person or supervisory agency who considers that the applicant, pursuant to Section 9(2) of the Act, had no right to file a registration application, may submit a petition in court against the applicant, his successor or legal successor to declare the registration unlawful. If the applicant, his successor or legal successor is missing, the court shall hear the declaration of the registration unlawful as proceedings on petition."

The petition may be submitted during the term of the registration.

35. *Do the procedures which lead to forfeiture of a geographical indication take place ex officio or must they be based on the initiative of an entity or person?*

The procedures leading to forfeiture of a geographical indication may take place both ex officio or based on the initiative of any entity or a person (see the answer to question 34 above).

E. SCOPE OF RIGHTS AND USE

36. *May anyone who meets the criteria submitted to obtain recognition of a geographical indication use that geographical indication after recognition is given or must additional criteria or procedures be followed by that party before use is permitted?*

Persons who have the right to use a geographical indication are defined in Section 10 of the Geographical Indication Protection Act:

"A registered geographical indication may be used for identifying goods or services by a person who acts as the producer, processor or preparer of the good specified in the registration or as the renderer of the service in the geographical area specified in the registration, and whose good or service has all the qualities, reputation or other characteristics specified in the registration."

37. *Who makes the determination regarding use of a geographical indication by particular parties, the entity responsible for the recognition or the entity that obtained the recognition?*

The use by a particular party may take place in conformity with Section 10 of the Geographical Indication Protection Act. Any further responsibilities depend on an individual case.

38. *Are there fees involved in receiving authorization to use a particular geographical indication and, if so, what are those fees and how are they established?*

There are no fees involved in receiving authorization to use a particular geographical indication.

39. *If there is a dispute regarding use of a geographical indication by a particular party, what procedures are followed to resolve it?*

Procedures for contesting an unlawful use of a registered geographical indication are provided under Section 45 of the Geographical Indication Protection Act:

"(1) An interested person may file an action in court:

- 1) for termination of the unlawful use of a registered geographical indication;

- 2) for restoration of the situation which existed prior to the unlawful use of a registered geographical indication;
 - 3) for compensation for moral and proprietary damage caused by the unlawful use of a registered geographical indication.
- (2) Actions may be filed in court as follows:
- 1) actions specified in clauses 1 and 2 of paragraph 1 of this Section may be filed in court during the term of the registration;
 - 2) actions specified in clause 3 of paragraph 1 of this Section may be filed in court within three years from the date on which the user of a geographical indication becomes or should have become aware of the violation of his rights."

40. *Must individual authorized users of a geographical indication use that geographical indication continually to retain their right to use it and, if so, how is their use determined and how long will disuse be permitted?*

Authorized users of a geographical indication are not required to use that geographical indication continually to retain their right to use it. See the answers to questions 30 and 31 above.

41. *If there is a dispute over continuity of use by a particular party, how is it resolved?*

Not applicable.

42. *Does the regime for protection of geographical indications allow geographical indications to be licensed and, if so, what conditions are imposed on such licenses? If such conditions are not met, what is the effect on the geographical indication?*

The Estonian regime for the protection of geographical indications does not allow geographical indications to be licensed.

43. *How is "grandfathered use" of a geographical indication, under Article 24.4 of the TRIPS Agreement, applied in your country?*

Under Section 20 of the Geographical Indication Protection Act, an "Estonian citizen or any person who has permanent residence or location in Estonia and who has consistently and in good faith used a geographical indication registered for identifying an alcoholic beverage before 15 April 1994, or used it consistently for not less than 10 years before the said date, may continue to use the indication in the same extent for goods or services which are identical or of the same kind".

F. RELATIONSHIP TO TRADEMARKS

44. *What steps are taken to ensure that, in recognizing a geographical indication, the obligations of Article 16.1 of the TRIPS Agreement are not nullified and impaired?*

Under Section 7 of the Trademark Act, the following trademarks are excluded from registration:

- "- trademarks which are of such nature as to deceive the consumer as to the kind, quality, quantity, intended purpose, value or geographical origin of the goods and services, the time of production of the goods or of the rendering of the services, or other characteristics of the goods or services;

- trademarks which contain a registered geographical indication or are confusingly similar to it if it may result in an unlawful use of the geographical indication pursuant to the provisions of Sections 11 or 18 of the Geographical Indication Protection Act."

Section 12 of the Geographical Indication Protection Act provides for the right of prior use of a trademark containing a geographical indication:

- "(1) A trademark which has been filed for registration or registered in good faith for goods which are identical or of the same kind before the date of entering into force of this Act or before the geographical indication has been granted protection in its country of origin shall not be declared invalid, shall not be refused registration or its use shall not be prohibited for the reason that the trademark contains a registered geographical indication or is misleadingly similar to it, unless otherwise specified in this Act.
- (2) The trademark is filed for registration or registered in good faith if the person having applied for the registration of or registered the trademark did not know nor should he have known that the indication in question identifies the good or service as originating in a specific geographical area and a given quality, reputation or other characteristic is essentially attributable to the geographical origin of the good or service."

45. *What steps are taken to ensure that, in recognizing a geographical indication, the obligations of Article 16.2 and 16.3 of the TRIPS Agreement are not nullified and impaired?*

See the answer to question 44 above.

46. *What procedures are foreseen in case of a conflict of a geographical indication with a trademark?*

See the answer to question 44 above.

Section 19 of the Geographical Indication Protection Act stipulates that "any interested person may request a declaration of invalidity of a trademark registered for identifying an alcoholic beverage before the date of entry into force of this Act if the trademark contains a registered geographical indication or is misleadingly similar to it and the alcoholic beverage identified by the trademark in question does not originate in the geographical area indicated by the geographical indication".

Section 24¹(1) of the Trademark Act provides that "any interested person has the right to request the invalidation of a trademark filed for registration or registered in bad faith in the following cases:

- 1) the trademark contains a registered geographical indication or a confusingly similar indication;
 - 2) the goods or services identified with the trademark and the geographical indication are identical or of the same kind; and
 - 3) the trademark has been registered or filed for registration after the geographical indication has been granted legal protection in its country of origin.
- (2) If the trademark specified in paragraph 1 of this Section contains the name of an Estonian geographical area, the condition specified in clause 3 of paragraph 1 of this Section shall not be applied upon the invalidation of such trademark.

- (3) The filing for registration or registration of a trademark is done in bad faith if the person who registers a trademark or files it for registration knew or should have known that the indication in question identifies the good or service as originating in a certain geographical area and a given quality, reputation or other characteristic of the good or service is essentially attributable to its geographical origin.
- (4) Any interested person may request the invalidation of a trademark registered for identifying an alcoholic beverage before the date of entry into force of the Geographical Indication Protection Act, if the trademark contains a registered geographical indication or is confusingly similar to it and the alcoholic beverage does not originate in the geographical area identified by the geographical indication.
- (5) A request for the invalidation of the registration of trademarks specified in paragraph 1 and 4 of this Section shall be filed with the Board of Appeal.
- (6) Upon invalidation of the registration of a trademark, the Patent Office deletes the trademark from the register.
- (7) The provisions of this Section are also applied upon the invalidation of trademarks containing a geographical indication which were filed for registration or registered before the date of entry into force of the Geographical Indication Protection Act."

G. ENFORCEMENT

47. *How are rights in the geographical indication enforced? Are provisions available under unfair competition law? Trademark law? Other laws? Provide citations to the laws and, if they have not been notified under Article 63.2 of the TRIPS Agreement, please provide copies.*

Protection for geographical indications is provided under the Geographical Indication Protection Act; Trademark Act (Section 7(6), (6¹) and Section 24¹); Competition Act (Chapter 8, Sections 28 and 29); Consumer Protection Act (Section 8); Customs Act (Sections 26 and 45); Alcohol Act (Section 6); Commercial Code (Section 12 (3¹); Criminal Code (Section 33, paragraph 6, subparagraph 3 and Section 283¹). Texts of the laws have been notified under Article 63.2 of the TRIPS Agreement.

48. *Who has the right to enforce a geographical indication?*

Any interested person or supervisory agency may contest the registration of a geographical indication; and any interested person may file an action in court against unlawful use of a geographical indication.

49. *What judicial or administrative bodies have jurisdiction over enforcement actions related to geographical indications? Are there fees involved and, if so, what are those fees?*

Liability for unlawful use of a geographical indication is specified in Chapter 7 of the Geographical Indication Protection Act. Section 52(1) foresees for violation of the Act an administrative, civil or criminal punishment pursuant to the procedures provided for in the law. The protection of geographical indications is subject to ordinary jurisdiction.

According to Section 46 of the Geographical Indication Protection Act, "appeals and actions specified in the Act fall within the jurisdiction of the court in the jurisdiction of which the Patent Office is located". Civil matters are heard at the City Court of Tallinn and administrative offence matters involving legal persons are heard at the Administrative Court of Tallinn.

In civil and administrative proceedings, legal costs include state fees; costs essential to proceedings; security on cassation.

When filing a complaint to contest a decision of the Patent Office, a state fee of EEK 3,200 shall be paid.

In a proprietary dispute, a state fee shall be paid on the basis of the value of the action or as a specific sum.

In case of a non-proprietary dispute, a state fee of EEK 60 shall be paid.

In case of criminal proceedings, legal costs consist of:

- "1) amounts collected for the benefit of witnesses, victims, experts or forensic examination institutions, and amounts paid or payable to specialists, interpreters, translators and impartial observers of investigative activities;
- 2) amounts spent on the storage, forwarding and investigation of physical evidence;
- 3) amounts payable for the participation of sworn advocates, senior clerks and clerks of sworn advocates in a criminal matter, in the cases prescribed in Sections 36¹(2) and 36(5) of this Code;
- 3¹) compensation levies paid upon a judgment of conviction;
- 4) other costs which are borne by a preliminary investigation authority or a court in connection with the proceedings in a criminal matter." (Code of Criminal Procedure, Section 87)

50. *Must the public be notified of the existence of a geographical indication and, if so, how and how often?*

Under Section 22(3) of the Geographical Indication Protection Act, "notices of entries of registration data, entries to amend a registration data entry and deletions of a registration entry are published in the official gazette of the Patent Office".

51. *Is unauthorized use of a geographical indication subject to criminal action and, if so, describe the procedures. If the law has not been notified pursuant to Article 63.2 of the TRIPS Agreement, please provide a copy.*

Section 283¹ of the Criminal Code provides that "unlawful use of a registered geographical indication shall be punishable by a fine or imprisonment for up to four years".

H. INTERNATIONAL AGREEMENTS

52/53. *Is your government party to an international, including bilateral or plurilateral, agreement for the notification and/or registration of geographical indications? If so, please name the international agreement and explain the relationship between it and your national legislation. What other international agreements, if any, have been entered into? What do those agreements provide?*

Estonia has not entered into any international agreement for the notification and/or registration of geographical indications.

II. RESPONSES TO THE QUESTIONS IN DOCUMENT IP/C/13/ADD.1

A. GENERAL (SECTION A OF DOCUMENT IP/C/13)

1. *Does your economy's industrial property law and/or related law prevent the use of geographical indications identifying wines or spirits against products not originating in the place indicated by the geographical indication, even where the true origin of the goods is indicated or the geographical indication is used in translation or accompanied by expressions such as "kind", "type", "style", "imitation" or the like?*

Yes, Section 18 of the Geographical Indication Protection Act stipulates that "in addition to the provisions of Section 11(1) and (3) of the Act, a registered geographical indication shall not be used for identifying an alcoholic beverage not originating in the geographical area indicated by the geographical indication in question, including cases where the true origin of the alcoholic beverage is indicated or the geographical indication is used in translation or accompanied by expressions such as "kind", "type", "style", "imitation" or the like".

B. DEFINITION AND CRITERIA FOR RECOGNITION (SECTION B OF DOCUMENT IP/C/13)

2. *Is there a clear distinction among the terms "geographical indications", "appellations of origin" and "indications of source" in your economy's industrial property law and/or related law, or are there any substantive criteria to distinguish these terms?*

No distinction is made between the terms "geographical indications", "appellations of origin" and "indications of source".

3. *Does your legislation contain criteria for homonymous geographical indications for wines and spirits?*

Yes, the relevant provisions are contained in Sections 15, 16 and 17 of the Geographical Indication Protection Act.

C. RELATIONSHIP TO TRADEMARKS (SECTION F OF DOCUMENT IP/C/13)

4. *Does your economy's industrial property law and/or related law provide the refusal or invalidation of a trademark registration, which consists of or contains geographical indications identifying wines or spirits with respect of such wines or spirits not originating in the indicated territory?*

Yes. See the answer to question 44 under I above.
