

**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

MOLDOVA

The following communication, dated 20 November 2003, is being circulated at the request of the Delegation of Moldova.

**I. RESPONSES TO THE CHECKLIST OF QUESTIONS ON GEOGRAPHICAL
INDICATIONS 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?

The answer is "Yes". According to Article 7(2)(c) of Law No. 588/1995 on Trademarks and Appellations of Origin of the Republic of Moldova:

Signs may not be registered as trademarks or elements of trademarks if they contain geographical indications identifying wines and spirits not originating in the place indicated by the geographical indication in question, even where the true origin of the goods is indicated or when the geographical indication is used in translation or accompanied by expressions such as "kind", "type", "style", "imitation" or the like.

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

Moreover, according to the provisions of Article 16(3) of the Law on Vine and Wines No. 131XIII of 2 June 1994, it is not permitted the use of geographical indications identifying wines and spirits 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.

B. DEFINITION AND CRITERIA OF 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?

There is a clear distinction among the terms "geographical indications" and "appellations of origin" in the legislation of the Republic of Moldova.

Article 3 of Law No. 588/1995 on Trademarks and Appellations of Origin of the Republic of Moldova provides the distinction between appellations of origin and geographical indications, namely:

"Appellations of origin" are the designations – current or historical – of a country, a region or a locality (geographical area) used to designate a produce whose natural properties derive essentially or exclusively from the natural and/or human factors specific to that geographical area.

A **"geographical indication"** is the indication that identifies a good as originating in the territory of a State, or a region or locality in that territory, where a given quality, reputation or other characteristics of the good are essentially attributable to its geographical origin.

The Law thereof does not contain a definition of "indication of source" (or "indication of origin").

In the Republic of Moldova the term "indication of source" is regulated by National Regulations and Standards. Thus, the Code on Practical Activity of Viticulturists (approved by the Governmental Decision 22 of 10.01.2002) provides in paragraph 5 of the Code thereof the obligation of including the specification "Made in Moldova" into the label applied to the bottles of wine and other wine products.

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

Yes, it does. According to the provisions of Article 3(6) of Law No. 588/1995 homonymous geographical indications may be used when they are differentiated from each other, accompanied for instance by figurative elements with a clear indication of the true origin, ensuring an equitable treatment for the manufacturers in question and preventing the consumer from being misled.

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

3. 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 to such wines or spirits not originating in the indicated territory?

Yes, it does. According to the provisions of Article 3(3) of Law No. 588/1995 it shall be rejected or invalidated, ex officio or at the request of the interested party, the registration of a trademark containing a geographical indication, for goods not originating in the territory indicated, if the use of such a geographical indication in the trademark is likely to mislead the consumer as to the true origin of the goods.

Moreover, according to the provisions of Article 7(2)(d) of Law No. 588/1995 signs may not be registered as trademarks or elements of trademarks if they contain a geographical indication identifying wines and spirits or which consist of such a geographical indication, in cases when such wines or spirits do not have this origin.
