

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

Checklist of Questions<sup>1</sup>

*Responses from Japan*

The present document represents the responses to the Checklist which the Secretariat has received from Japan, by means of a communication from its Permanent Mission, dated 11 November 1998.

**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?*

Under Article 2(1)(x) of the Unfair Competition Prevention Law, the act of indicating which is likely to cause misleading with respect to the place of origin or the act of assigning goods with such an indication is regulated as one of the types of unfair competition. Although Article 11(1)(i) provides that the provision of Article 2(1)(x) does not apply to the act of using or indicating common name or commonly-used indication in a normal manner, this exemption does not include the act of using or indicating the name of a place of origin of goods which is made from grapes or uses grapes as an ingredient, and has become a common name.

The Unfair Competition Prevention Law does not give exclusive rights for indication of the place of origin but restricts the act of indicating which is likely to cause misleading with respect to the place of origin.

With regard to geographical indications of wines or spirits, Commissioner of the Japanese Patent Office (hereinafter referred to as the "JPO") designates those geographical indications whose places of origins are in Japan so that protection can be provided pursuant to the provision of Article 4(1)(xvii) of the Trademark Law.

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<sup>1</sup> Documents IP/C/13 and IP/C/13/Add.1.

Pursuant to Article 4(1)(xvii), 15, 43bis and 46 of the Trademark Law, a trademark registration bearing a geographical indication used for a wine or a spirit not originating in the place included in the geographical indication shall be refused by an examiner, or invalidated upon the request by any parties involved.

Commissioner of the JPO does not make any such designation with respect to any geographical indications of wines or spirits originating in other WTO Member states, but same protective measures shall be taken for the prohibition of the use of geographical indications of wines or spirits, not originating in the place included in the geographical indications pursuant to the provisions of Article 4(1)(xvii) of the Trademark Law.

Appellations of origin of wines or spirits, which have been registered internationally under Article 5(1) of the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, are eligible to the protection mentioned in the previous paragraph unless those international registrations have been cancelled or hampered due to any inevitable reasons. The list of appellations of origin to be protected in this regard has been made open.

Geographical Indications of goods and services other than wines and spirits are not covered by the aforementioned designation system, but similar measures are to be taken for any trademarks liable to mislead as to the quality of goods or services pursuant to Article 4(1)(xvi), 43bis and 46 of the Japanese Trademark Law.

With regard to geographical indications of wine or spirits, protection is also provided through the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax. That is, pursuant to the provision of Article 2 of the Standard for indication relevant to geographical indication under Article 86sexies(1), Commissioner of the National Tax Administration shall designate geographical indications indicating places of origin for wines or distilled liquors made in Japan. Those designated indications are prohibited to be used with respect to wines or distilled liquors not originating in the place included in the geographical indications.

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

There is not one single regime of protection of geographical indications for all products. Relevant regimes are: Unfair Competition Prevention Law, Trademark Law and the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax (only with respect to geographical indications of wines or distilled liquors).

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

According to the Trademark Law, any trademark registrations, which are liable to mislead as to the quality of services, shall be refused by an examiner, cancelled upon the receipt of an opposition or invalidated upon request by any parties involved. (Articles 4(1)(xvi), 15, 43bis, and 46 of the Trademark Law.)

In this regard, if applications for trademarks for services contain geographical indications that are liable to mislead the place to be served, those applications shall not be registered in order to protect the genuine geographical indications.

The act of indicating geographical indications for services, which are likely to cause misleading with respect to the place of origin, is also restricted pursuant to Article 2(1)(x) of the Unfair Competition Prevention Law.

4. *What provisions of law or regulations are directed to the recognition of geographical indications required by Article 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.*

Relevant provisions are:

- (a) Unfair Competition Prevention Law: Article 2(1)(x);
- (b) Trademark Law: Article 4(1)(xvi), 4(1)(xvii) , 15, 43bis and 46; Regulation under the Trademark Law: Article 1, 1bis, 1ter, 1quater;
- (c) Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax: Article 86sexies, 86septies; Cabinet Order Implementing the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax; Article 8quater; Standard for indication relevant to geographical indication.

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.*

Not applicable. (Please refer to the answers to questions 1 and 4.)

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.*

They include "IKI", "KUMA", and "RYUKYU", which are protected in the way as explained in the Answer to Question 1. ((I)Article 4(1)(xvi) of the Trademark Law and Article 1ter of the Regulation under the Trademark Law, and (II)Article 86sexies of the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax, Article 8quater of the Cabinet Order Implementing the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax and Standard for indication relevant to geographical indication)

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 is not provided for other products under the Trademark Law and the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax.

B. DEFINITION AND CRITERIA FOR RECOGNITION

8. *How are geographical indications defined?*

The Trademark Law and the Unfair Competition Prevention Law do not provide for any definition with regard to "geographical indications". Instead, the Trademark Law uses corresponding term "origin" (Article 3(1)(iii) and 4(1)(xvii)).

According to the Trademark Examination Guidelines which illustrate aforementioned Articles, "origin" means names of countries, famous geographical names (including names of

administrative units, former names of countries, and geographical names used in foreign countries), street names (including famous streets in foreign countries) or indications on maps.

With regard to geographical indications of wines or spirits, "geographical indication" is defined as "the indication specifying that a liquor's place of origin is the territory of area/district of the territory of a Member state of the WTO in the case that the established quality, general reputation, and other characteristics of the liquor are mainly attributable to its geographical origin" in Article 1(1) of the Standard for indication relevant to geographical indication under Article 86*sexies* of the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax.

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

No. As far as geographical indications in respect of trademarks are concerned, the Trademark Examination Guidelines specifically prescribe that trademarks which indirectly indicate origins of designated goods do not fall into the category of "origin" defined in Article 3(1)(iii) of the Trademark Law.

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

In relation to the Trademark Law, we construe that "recognition of geographical indication" means "designation made pursuant to Article 4(1)(xvii) of the Trademark Law". Then, criteria would rest on whether the indication meets the requirements defined in Article 22.1 of the TRIPS Agreement.

In relation to the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax, designation shall be made by checking whether the indication satisfies the definition in Article 1(1) of the Standard for indication relevant to geographical indication under the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax. (Please refer to the answer to question 8.)

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?*

No.

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

There are not any other intellectual property rights involved.

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?*

With regard to the designation of geographical indications for wines or distilled liquors, Commissioner of the National Tax Administration shall define the geographical region or area pursuant to Article 2 of the Standard for indication relevant to geographical indication under Article 86*sexies*(1) of the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax. (Please refer to the answer to question 4.)

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

No.

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

With respect to geographical indications of foreign countries, protection is provided through the Trademark Law (Article 4(1)(xvii)) and the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax (Article 86*sexies*(1)) pursuant to the provisions of the TRIPS Agreement, although the designation systems under those laws do not extend to foreign geographical indications.

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.*

With regard to geographical indications of wines or distilled liquors, Article 3(2) of the Standard for indication relevant to geographical indication provides for that protection shall not be provided in the case of geographical indications that are not protected in the country of origin, or geographical indications that ceased to be used in the country of origin.

#### 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?*

Designation under Article 4(1)(xvii) of the Trademark Law is to be awarded to manufacturers of wines or spirits that have filed the applications (Article 1 of the Regulation under the Trademark Law).

With respect to the system under the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax, designation is to be awarded to Liquor Business Associations as stipulated by the Law that have filed the applications.

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

The competent authorities are:

- The Japanese Patent Office (with regard to the designation system pursuant to the provision under the Trademark Law);
- The National Tax Administration (with regard to the designation system pursuant to the provision under the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax).

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?*

With regard to the designation system under the Trademark Law, manufactures of wines or spirits shall submit a request for designation of geographical indication and Commissioner of the JPO shall have it examined pursuant to Article 1 and 1*bis* of the Regulation under the Trademark Law.

With regard to the designation system under the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax, the procedures must be based on the initiative of Liquor Business Associations as stipulated by the Law.

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

No fees are required with regard to the designation system under the Trademark Law as well as the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax.

21. *If criteria must be set out in an application for recognition of a geographical indication, are those criteria purely geographical in nature?*

Yes. With regard to the designation system under the Trademark Law, the Law prescribes that wines or spirits must have their origins in the regions or areas included in the relevant trademarks (Article 4(1)(xvii) of the Trademark Law and Article 1 of the Regulation under the Trademark Law).

With regard to the designation system under the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax, the Law and the Standard prescribes that geographical indication means the indication specifying the liquor's place of origin (Article 86*sexies* of the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax and Article 1(1) of the Standard for indication relevant to geographical indication).

22. *What other criteria, if any, must be set out in an application for recognition of a geographical indication?*

With regard to the designation system under the Trademark Law, the application should contain the following:

1. Place of origin of wines or spirits;
2. Types of wines or spirits;
3. Geographical indication;
4. Applicant's name and address;
5. Other documents to be appended;
  - (a) The articles of association or equivalent documents when an applicant is a corporation;
  - (b) Document explaining the quality of the wines or the spirits;
  - (c) Document certifying the use of the trademark bearing the geographical indication of the origin of the wines or spirits

(Form 1 according to Article 1 of the Regulation under the Trademark Law).

23. *What information must be supplied in an application for rights in a geographical indication?*

With regard to the designation system under the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax, applicants should provide the following when the authority examines the applications:

- (a) Place of origin;
- (b) Types of liquor;
- (c) Reason for the application and other related information.

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

With regard to the designation system under the Trademark Law and the Law concerning the Liquor Business Association and Measures for Securing Revenue from Liquor Tax, claims are only awarded with respect to wines or distilled liquors (including shochu, whisky, brandy and spirits).

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

With regard to the designation system under the Trademark Law and the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax, no procedures have been laid down for filing an opposition against the designation.

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

Not applicable. (Please refer to the answer to question 25.)

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?*

Article 4(1)(xvii) of the Trademark Law prescribes that Commissioner of the JPO designates origins of wines or spirits in Japan and that any trademark applications shall not be effected if they include the designated origins. However, that designation system does not extend to geographical indications of foreign countries, whereas marks indicating origins of wines or spirits in a Member of the WTO shall not be registered, if those marks are prohibited to be used on wines or spirits not originating in the region in that Member.

Also with regard to the designation system under the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax (Article 86*sexies*(1)), the designation does not extend to geographical indications of foreign countries, whereas protection shall be provided to geographical indications of wines or distilled liquors in a Member of the WTO, if those geographical indications are prohibited to be used on wines or distilled liquors not originating in the region in that Member.

D. MAINTENANCE

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

With regard to the registration under the Trademark Law and the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax, no particular provisions are contained of the period of validity in terms of geographical indications. However, Article 1*quater*

of the Regulation under the Trademark Law stipulates that Commissioner of the JPO may cancel the designation pursuant to the Article 4(1)(xvii) of the Trademark Law, if the designation turns out to be inappropriate thereafter.

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.*

The Trademark Law does not grant any exclusive "rights" with regard to geographical indications but only stipulates that designated origins are protected not to be effected as registered trademarks by others. Therefore, the Trademark Law includes no provisions on renewal or reaffirmation.

The Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax includes no provisions on renewal or reaffirmation, either.

30. *Must a geographical indication be used in order to maintain rights? If so, how is such use determined?*

The Trademark Law and the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax include no provisions on "non-use" of geographical indications. (Please refer to the answer to question 29.)

31. *Is there a specified limit for non-use before rights in a geographical indication cease and, if so, what is that limit?*

Not applicable. (Please refer to the answer to question 29.)

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

With regard to the designation system under the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax, National Tax Administration (including Tax Bureau and Tax Office) monitors the use of geographical indications pursuant to the provisions of the Standard for indication relevant to geographical indication.

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

With regard to the designation system under the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax, no particular legal procedures are stipulated for monitoring the use of geographical indications, although National Tax Administration (including Tax Bureau and Tax Office) performs the duties. (Please refer to the answer to question 32.)

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.*

Article 1<sup>quater</sup> of the Regulation under the Trademark Law stipulates that Commissioner of the JPO may cancel the designation under Article 4(1)(xvii) of the Trademark Law if any designation turns out to be inappropriate with regard to the origin. In principle, it is Commissioner of the JPO that may revoke the designation of geographical indication, and no legal procedure has been introduced to permit interested parties to file a request for cancellation.



With respect to the designation under the Law concerning Liquor Business Associations and Measures for Securing Revenue from Liquor Tax, the designation shall be cancelled if the designation turns out to be inappropriate with regard to origin (or if the applicant submits a request for cancellation). And no legal procedure has been stipulated to permit interested parties to file a request for cancellation in respect of the designation system under the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax.

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?*

Please refer to the answer to question 34.

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?*

Though there is no provision that prescribes the use of geographical indications, we understand that parties who hold geographical indications designated by Commissioner of the JPO pursuant to the provision of Article 1 of the Regulations under the Trademark Law are able to use their own geographical indications without additional criteria or procedures.

The Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax and the Standard for indication relevant to geographical indication do not provide for particular limitations concerning the use by the applicant.

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 Trademark Law only stipulates that designated geographical indications are protected not to be effected as registered trademarks by others. Accordingly, such designation by Commissioner of the JPO is different from a regime that grants exclusive rights (including its exploitation), to geographical indications. In this regard, the Trademark Law does not prescribe the scope of right and its use.

The Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax does not proscribe any provisions of determination regarding use of a geographical indication by particular parties.

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?*

Not applicable and no fees are required. (Please refer to the answer to question 37.)

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

Pursuant to Article 3 and 4 of the Unfair Competition Prevention Law, a person whose business interests are infringed or are likely to be infringed by a particular party's act of indicating on goods or for services, which is likely to cause misleading with respect to the place of origin, is entitled to seek an injunction for preventing or suspending such act, and in the case that his/her business

interests are infringed intentionally or negligently, compensation for damages, in a civil suit against the aforementioned particular party.

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?*

Not applicable. (Please refer to the answer to question 37.)

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

Not applicable. (Please refer to the answer to question 37.)

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?*

Not applicable. (Please refer to the answer to question 37.)

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

Not applicable with regard to the system under the Trademark Law. (Please refer to the answer to question 37.)

Article 3 of the Standard for indication relevant to geographical indication under the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax prescribes that "in case where certain geographical indications that were specified for wines or distilled liquors in a Member state of the WTO have been used for ten years and over as of 15 April 1994 or before 15 April 1994 on a bona fide basis in the territory of the Member state," those indications shall not be prevented from use as geographical indications.

#### 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?*

We interpret that this question refers to steps to be taken in order to prevent the infringement of a registered trademark owned by others (exclusive rights stipulated in Article 16.1 of the TRIPS Agreement), which may be caused by the designation of a geographical indication. In this perspective, correlation between the designation of origin of wines or spirits under the Trademark Law and other parties' registered trademarks is to be judged on a case-by-case basis when the JPO examines applications for designation of origin of wines or spirits.

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?*

We interpret that this question refers to steps to be taken in order to prevent the infringement of the registered trademark owned by others (exclusive rights stipulated in Article 16.2 and 16.3 of the TRIPS Agreement), which may be caused by the designation of a geographical indication. In this perspective, correlation between the designation of origin of wines or spirits under the Trademark Law and other parties' registered trademarks is to be judged on a case-by-case basis when the JPO examines applications for designation of origin of wines or spirits.

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

Where a mark in a trademark application falls on Article 4(1)(xvii) of the Trademark Law in relation to another party's designated geographical indication, the application shall be refused by an examiner, or the registration shall be cancelled upon the receipt of an opposition or invalidated upon request by any parties involved (Article 4(1)(xvii), 15, 43(2) and 46 of the Trademark Law).

#### 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.*

Pursuant to Article 3 and 4 of the Unfair Competition Prevention Law, a person whose business interests are infringed or are likely to be infringed by a particular party's act of indicating on goods or for services, which is likely to cause misleading with respect to the place of origin, is entitled to seek an injunction for preventing or suspending such act, and in the case that his/her business interests are infringed intentionally or negligently, compensation for damages, in a civil suit against the aforementioned particular party.

Under the Trademark Law, geographical indications designated pursuant to the provisions of Article 4(1)(xvii) are protected not to be effected as registered trademarks by other parties. (Article 4(1)(xvii), 15, 43bis and 46)

And pursuant to the provision of the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax, Finance Minister can order liquor manufacturers or liquor sellers to observe the Standard for indication relevant to geographical indication in order to pursue the adequacy for indication for the sake of smooth transaction of liquors and the benefit of consumers. (Article 86sexies (3),(4), 86septies and 98.)

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

Under the Unfair Competition Prevention Law, any person whose business interests are infringed or likely to be infringed by the act of indication on goods or for services, which is likely to cause misleading with respect to the place of origin has the right.

Article 1 of the Regulation under the Trademark Law prescribes that a person engaged in the manufacturing of wines or spirits (including an association of the manufactures of wines or spirits) who desires to obtain the designation of an origin of wines or spirits as stipulated in Article 4(1)(xvii) of the Trademark Law shall submit a request to Commissioner of the JPO. Thereby aforementioned manufactures of wines or spirits can exclude others' trademark registrations for wines or spirits originating in another region or area than those included in the designated geographical indication.

Under the Law concerning Liquor Business Association and Measures for Securing Measures for Revenue from Liquor Tax, liquor business associations having applied for the designation has the merit that the Finance Minister (including Commissioner of the National Tax Bureau) shall direct, order or fine liquor manufactures or liquor sellers concerning inappropriate use of the designated geographical indications (Articles 86sexies (3),(4), 86septies and 98).

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?*

(I) Courts in civil cases and courts and (II) investigating authorities (that is, prosecutors and police) in criminal cases have jurisdiction as for the action initiated pursuant to the provisions of the Unfair Competition Prevention Law.

In lodging a civil suit for the prevention or suspension of infringement or compensation for damages resulting from such infringement pursuant to Article 3 and 4 of the Unfair Competition Prevention Law, plaintiff must pay a fee which is calculated in proportion to the value claimed with respect to the suit as stipulated in Article 3(1) and paragraph 1 of Annexed list 1 of the Law concerning the Costs of a Civil Suit.

With regard to criminal cases, no fees are required of a party to whom protection of a geographical indication is provided through the procedure.

The Trademark Law contains no provisions regarding the jurisdiction over enforcement actions related to geographical indications.

As regards the designations system under the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax, Ministry of Finance (Finance Minister) or the National Tax Administration (Commissioner) have jurisdiction.

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

Designation under the Trademark Law is notified to the public in the Gazettes issued by the JPO. And designation under the Law concerning the Liquor Business Association and Measures for Securing Revenue from Liquor Tax is notified to the public through the Notification by the National Tax Administration.

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.*

Article 13(1)(i) of the Unfair Competition Prevention Law stipulates that a person who commits, for an unfair purpose, the act described in Article 2(1)(x) shall be sentenced to imprisonment for a term not exceeding three years or fined an amount not exceeding three million yen. And Article 14 of the Unfair Competition Prevention Law stipulates that a legal entity shall also be fined an amount not exceeding one hundred million yen (the amount will be raised to three hundred million yen in 1999) in the case where a representative or an agent or other employee of the aforementioned legal entity has committed, in connection with its business, the act of indicating on goods or for services, which is likely to cause misleading with respect to the place of origin. The procedure shall be subject to the Code of Criminal Procedure.

The Trademark Law has no provisions regarding the criminal action in case of unauthorized use of designated geographical indications.

With respect to the designation system under the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax, any liquor manufacturers or any liquor sellers who has violated the order to observe the Standard for indication relevant to geographical indication in connection with the designated geographical indications of wines or distilled liquors are subject to fines not exceeding a hundred thousand yen (Article 98).

H. INTERNATIONAL AGREEMENTS

52. *Is your government party to an international, including bilateral or plurilateral, agreement for the notification and/or registration of geographical indication? If so, please name the international agreement and explain the relationship between it and your national legislation?*

No.

53. *What other international agreements, if any, have been entered into? What do those agreements provide?*

Japan is a member state to Paris Convention for the Protection of Industrial Property and Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, with regard to the protection of protection of geographical indications. Those agreements provide for the means to prevent direct or indirect use of a false or misleading indication of the source of the goods.

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?*

Pursuant to the provision of Article 2 of the Standard for indications relevant to geographical indications under Article 86*sexies*(1) of the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax, protection is provided in respect of aforementioned cases and any liquor manufactures or liquor sellers who do not observe the Standard shall be subject to direction, publication, order or a fine.

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?*

Those terms are not clearly distinguished in our laws related to intellectual property. (the Trademark Law, the Unfair Competition Prevention Law and the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax) Trademark Law (Article 4(1)(xvii)) and the Standard for indication relevant for geographical indications (Article 2) under the Article 86*sexies* of the Law concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax use the term "origins", whereas the Unfair Competition Prevention Law (Article 2(1)(x)) and the Standard for indication relevant for geographical indications (Article 1(1)) use the term "place of origin." And there exist no substantive criteria for distinguishing these terms.

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

No.

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 or 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?*

A trademark, which consists or contains geographical indications identifying wines or spirits with respect to such wines or spirits not originated in the indicated territory, shall be refused by an examiner, cancelled upon the receipt of a written opposition, or invalidated upon request by any parties involved. (Article 4(1)(xvii), 15, 43bis and 46.)

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