

**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

Supplement

ICELAND

The present document represents the responses to the questions contained in document IP/C/13/Add.1, which the Secretariat has received from Iceland by means of a communication from its Permanent Mission, dated 8 March 1999.

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?*

The Icelandic Competition Act provides the general protection of geographical indications, i.e. prohibition against unfair competition and misleading advertising. Advertisements or other information may not be misleading for the consumer concerning the origin of the product. It has to be determined in each case if an indication can be misleading.

Geographical indications are also protected by Article 14.1.2 of the Icelandic Trademark Act. According to that provision, a trademark may not be registered if the mark is liable to deceive. The special protection required for wines and spirits under Article 23.1 of the TRIPS Agreement is set out in paragraph 3 of Article 14 of the Icelandic Trademark Act. The provision does not mention expressions such as "kind" or "type". It has to be determined in each case if an indication can be deceiving.

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

2/3. *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*

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

are there any substantive criteria to distinguish these terms? Does your legislation contain criteria for homonymous geographical indications for wines and spirits?

There is no distinction among those terms in the Icelandic legislation and there is no substantive criteria to distinguish them.

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

The Icelandic authorities (The Patent Office) ensure ex officio, as a part of the examination procedure and opposition procedure from third parties, that geographical indications are not registered as trademarks.

If a trademark, which contains a misleading geographical indication, has been registered, it is possible to oppose the registration and the registration can be invalidated. The procedures are the normal procedures which apply in case of any trademark conflict, both administrative procedures and normal civil procedures before the courts of law.
