

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

Checklist of Questions¹

Responses from Hungary

Addendum

The present document represents the responses to the Checklist which the Secretariat has received from Hungary, by means of a communication from its Permanent Mission, dated 19 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?

Protection for geographical indications is provided under the Act on the Prohibition of Unfair and Restrictive Market Activity, No. LVII. of 1996 and the Act on the Protection of Trademarks and Geographical Indications, No. XI. of 1997 (hereinafter: Trademark Act).

Article 6 of the Act on the Prohibition of Unfair and Restrictive Market Activity states that any of the proprietors of the geographical indication may institute procedure against third persons who without the express prior consent of the competitor, produces goods or services (hereinafter jointly referred to as: goods), placed on the market or advertises with such typical outside appearance, packaging or marketing (including the indication of origin); or any such name, marketing or indication of goods may not be used by which the competitor or its goods are normally recognized.

Part V of the Trademark Act relates to the protection of geographical indications. It contains provisions, *inter alia*, on the subject-matter of protection, rights conferred, infringement, lapse of protection and the procedures concerning the protection.

The recognition of a geographical indication requires registration under the Trademark Act.

¹ Documents IP/C/13 and IP/C/13/Add.1

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

There is one single regime of protection of geographical indications for all products.

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

The regime of protection does not extend to services.

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.*

Article 6 of the Act on the Prohibition of Unfair and Restrictive Market Activity as cited above under question 1 and Article 109 of Part V of the Trademark Act contain provisions which are required by Articles 22.2 and 23.1 of the TRIPS Agreement.

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.*

The Trademark Act entered into force on 1 July 1997. Ten applications of domestic geographical indications are pending, for example: Eger (wine), Szatmar (plum).

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.*

Under Article 109(2)(c) of the Trademark Act, "On the basis of the exclusive right of use, any of the proprietors shall be entitled to bring an action against any person who, in the course of trade, imitates or evokes in any manner whatsoever the protected geographical indication, even if the true origin of the product is indicated or if the protected name is translated or accompanied by various additions".

This level of protection is provided for any product.

B. DEFINITION AND CRITERIA FOR RECOGNITION

8. *How are geographical indications defined?*

Under Article 103 of the Trademark Act, the definition of geographical indications is as follows:

"(1) Geographical signs and appellations of origin which are used in the course of trade to identify the geographical origin of a product shall be granted protection as geographical indications.

(2) Geographical sign means the geographical name of a region, locality or, in exceptional cases, a country which serves to designate a product originating therein the specific quality, reputation or other characteristics of which are due essentially to that geographical origin, and the production, processing and preparation of which take place in the defined geographical area.

(3) Appellation of origin means the geographical name of a region, locality or, in exceptional cases, a country which serves to designate a product originating therein the specific quality, reputation or other characteristics of which are due exclusively or essentially to the geographical environment, with its inherent natural and human factors, and the production, processing and preparation of which take place in the defined geographical area."

Under Article 104, the geographical indications of agricultural products and foodstuffs shall be granted protection, if the products bearing the geographical indication comply also with the conditions specified in the product specification provided for by special legislation.

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, the definition of the geographical indication does not comprise this kind of product.

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

See the answer to question 8 above. Moreover, the indication is excluded from the protection, if it became the generic name of the products in the course of trade.

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?*

The human creativity is involved in the definition of appellation of origin. (See the answer to question 8 above.) The geographical environment and the human creativity are equally important.

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?*

According to Article 2 of the Decree on the Detailed Rules Concerning the Protection of Geographical Indications of Agricultural Products and Foodstuffs, No. 87 of 1998 (hereinafter: Decree on Detailed Rules), the product specification forming part of the application shall include the definition of the geographical area in which the product designated by the geographical indication originates. In the case of wines, the area shall be determined under Article 4 of Act No. CXXI of 1997 on viticulture and wine-making.

The Ministry of Agriculture has authority to define the geographical area under Act No. CXXI of 1997. For agricultural products and foodstuffs it is the applicant who defines the region but it is controlled as a part of the product specification by the competent authority.

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

There is no criterion for homonymous geographical indications for wines.

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

Decree Law No. 1 of 1982 concerns the ratification by Hungary of the Lisbon Agreement, which provides for the protection of the appellations of origin of foreign countries, which are a member of the said Agreement.

By virtue of the Trademark Act, protection shall be afforded to appellations of origin which were recorded, before the entry into force of this Law, in the national register kept under the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration. These appellations of origin shall be recorded in the Register of Geographical Indications and relevant information shall be given in the Official Journal of the Hungarian Patent Office (H.P.O.).

Furthermore, under Article 107(4) of the Trademark Act, foreigners shall be entitled to the protection of a geographical indication only on the basis of an international agreement or subject to reciprocity; the standpoint of the President of the H.P.O. shall be decisive.

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.*

Protection in the country of origin is not a condition of the protection under the Trademark Act. However, this is required in case of protection under the Lisbon Agreement.

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?*

Under Article 107 of the Trademark Act:

"(2) Any natural or legal person or a company without legal personality may apply for the protection of a geographical indication which produces, processes or prepares, in the defined geographical area, a product for the designation of which the geographical indication is used.

"(3) The protection of a geographical indication shall belong jointly to the persons who produce, process or prepare products in accordance with paragraph (2) (hereinafter referred to as "proprietors")."

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

According to Article 112 of the Trademark Act the H.P.O. has authority in the registration of geographical indications.

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 procedure is based on the initiative of an entity or a person.

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

According to Article 8 of the Decree on the Fees for Administrative Services in Industrial Property Procedures before the H.P.O., No. 77 of 1995, the fee for the registration is Ft 100.000 and the fee for transmitting the application for international appellation of origin is Ft 10.000.

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

Under Article 113 of the Trademark Act, the application for registration shall contain a request, the name of the geographical indication, the list of products, other documents, and - in the case of geographical indications concerning agricultural products and foodstuffs - the product specification.

Under Article 2 of the Decree of the Detailed Rules, the product specification forming part of the application for registration of geographical indications shall include:

- (a) the name of the geographical indication;
- (b) the name of the product with respect to which the geographical indication is used;
- (c) a description of the product including, if appropriate, the raw materials used for the production, and principal physical, chemical, microbiological and organoleptic characteristics of the product;
- (d) a description of the method of obtaining the product and, if appropriate, the authentic local methods;
- (e) the definition of the geographical area in which the product designated by the geographical indication originates; in the case of wines the site determined under Article 4(5) of Law No. CXXI of 1997 on viticulture and wine-making; and in the case of geographical names traditionally used for foodstuffs also the definition of the breeding area in compliance with Article 118(1)(a) of the Trademark Act;
- (f) the details of the link between the product and the geographical environment or the geographical origin bearing out the fact that the specific quality, reputation or other characteristics of the product are attributable to that link;
- (g) the labelling details relating to the geographical indications appearing on the product.

Detailed formal requirements to be complied with by applications are laid down by special legislation.

An application for the registration of a geographical indication shall be subject to the payment of a filing fee determined by special legislation; the fee shall be payable within two months after the date of filing.

According to Article 4(1) of the Decree on the Detailed Formalities of Trademark Applications and Applications for the Protection of Geographical Indications, No. 19 of 1997 (Decree on Detailed Formalities), the application for the registration of a geographical indication shall contain:

- (a) a request;
- (b) the name and type (geographical sign or appellation of origin) of the geographical indication;
- (c) the list of products (indication of the products with respect to which the protection of the geographical indication is claimed);
- (d) in the case of geographical indications concerning agricultural products or foodstuffs, the product specification accompanied by a certification that the products bearing the geographical indication comply with the conditions specified in the product specification;
- (e) the document appointing the representative, if any;
- (f) a fee for administrative services prescribed by special decree.

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

See the answer to question 21 above.

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

Under Article 4(2) of the Decree on the Detailed Formalities, at the special invitation of the H.P.O. it shall be certified that the applicant produces, processes or prepares, in the defined area, a product for the designation of which the geographical indication is used.

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

Under Article 104 of the Trademark Act and Article 4(1) of the Decree on the Detailed Formalities, the application for the registration shall contain the list of products (indication of the products with respect to which the protection of the geographical indication is claimed).

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

There is no opposition procedure under the Trademark Act.

Under Article 58 of the Trademark Act, during the procedure for the registration, any person may file an observation with the H.P.O. to the effect that the application does not comply with a requirement of registrability. However, in case of an earlier right, only the proprietor of this right can file an observation.

The person making the observation shall not be a party to the procedure for the registration. That person shall be notified of the outcome of his observation by sending him the decision of the registration.

According to Article 111 of the Trademark Act, the protection of a geographical indication shall lapse:

- (a) if protection is cancelled, with retroactive effect to the filing date of the application; or
- (b) if the proprietors have violated the requirements laid down in the product specification, with retroactive effect to the date of starting the procedure for a declaration of lapse.

The protection shall be cancelled if the geographical indication does not satisfy the requirements laid down in Article 107(1)(a).

Lapse of the protection of a geographical indication for agricultural products and foodstuffs shall be declared, if the designated inspection authority establishes serious defects, in relation to the product specification, in the use of the geographical indication which cannot be remedied in any other way.

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

As to observation, see the answer to question 25 above.

Any person may institute proceedings for a decision on the lapse and cancellation of a geographical indication against the proprietor under Article 112 of the Trademark Act.

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 procedure is the same as in the case of Hungarian applicants, however, foreign applicants must have a representative (a patent agent or an attorney at law) having domicile in the country.

D. MAINTENANCE

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

According to Article 108 of the Trademark Act, protection of the geographical indication shall begin with retroactive effect to the filing date of the application. Protection of geographical indications shall be unlimited in time.

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.*

Not applicable.

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

Under the Trademark Act, use of a geographical indication is not required to maintain rights.

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.

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

The authorities monitoring whether the use of geographical indications in the field of agricultural products and foodstuffs are in compliance with the product specification are the county veterinary and food-inspection authorities. The National Wine Qualifying Institute effects the monitoring with respect to wines.

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

The Decree on Detailed Rules states that the inspection procedure shall commence during the use of geographical indications in the course of trade, ex officio or at a request to establish that in relation to the product specification serious defects occur in the use of the geographical indication, which cannot be remedied in any other way and can result in the lapse of protection under the provisions of Article 111(3) of the Trademark Act.

As a result of the procedure, the inspection authority either allows or rejects the request within six months from the commencement of the procedure.

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.*

Under Article 111(3) of the Trademark Act, lapse of protection of a geographical indication for agricultural products and foodstuffs shall be declared, if the inspecting authority indicated above establishes serious defects, in relation to the product specification, in the use of the geographical indication which cannot be remedied in any other way.

The procedure concerning the decision on lapse of the protection of geographical indications falls within the competence of the H.P.O. (Article 112(1)(b) of the Trademark Act). Decisions of the inspecting authority shall be taken into consideration with respect to compliance with the requirements of the product specification.

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?*

According to Article 114 of the Trademark Act, for the procedure for cancellation of the protection of geographical indications, the provisions of Articles 72 to 74 and, for the procedure for a decision on lapse, the provisions of Articles 75 and 76 shall apply *mutatis mutandis*.

The procedure for a decision on cancellation or lapse may be instituted by any person or entity against the proprietor.

The inspecting authority is entitled to institute the procedure. The Trademark Act does not introduce the commencement of the procedure *ex officio*, but if the request for the decision on cancellation or lapse is withdrawn, the procedure may be continued *ex officio*.

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?*

Under Article 107(2) of the Trademark Act, any natural or legal person or a company without legal personality may apply for the protection of a geographical indication which produces, processes or prepares, in the defined geographical area, a product for the designation of which the geographical indication is used.

The protection of a geographical indication belongs jointly to the persons who produce, process or prepare products in accordance with paragraph (2). These persons have to meet the criteria laid down by the product specification in the case of agricultural products and foodstuffs.

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?*

See the answer to question 36 above.

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?*

Under Article 109(1) of the Trademark Act, protection shall afford the proprietors the exclusive right to use the geographical indication. Only the proprietors may use the geographical indication; they may not grant a licence of use.

As to the procedure of registration before the H.P.O., a filing fee of Ft 100.000 has to be paid. Furthermore, the costs of the procedure before the inspecting authority concerning the examination of the product specification will be borne by the applicant concerning applications in the field of agricultural products and foodstuffs.

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

According to Article 110 of the Trademark Act, any person who unlawfully uses a protected geographical indication in contravention of the provisions of Article 109 commits infringement.

Any of the proprietors may institute proceedings for infringement individually. Proceedings for infringement may also be instituted by interest groups of the proprietors and by organizations for

the protection of consumers. In court proceedings concerning the protection of geographical indications, the provisions of Chapters XI and XII of the Trademark Act shall apply *mutatis mutandis*.

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?*

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?*

Under Article 109(1) of the Trademark Act, only the proprietors may use the geographical indication; they may not grant a licence of use.

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

The Trademark Act does not contain any specific provisions concerning such an exception.

F. RELATIONSHIP TO TRADEMARKS/

44/45. *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? 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?*

According to Article 106 of the Trademark Act, a geographical indication shall not be granted protection:

- (a) with respect to identical goods, if the geographical indication with the later date of priority is identical with an earlier geographical indication or trademark;
- (b) with respect to identical or similar goods, if the geographical indication with the later date of priority is identical with or similar to the earlier geographical indication or trademark, and there exists a likelihood of confusion on the part of the consumers;
- (c) with respect to not similar goods, if the geographical indication with the later date of priority is identical with or similar to an earlier trademark having a reputation in the country where the use of the later sign would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trademark.

Article 106(3) states that a geographical indication shall not be granted protection, if it would conflict with an earlier copyright or industrial property right of others, including conflict with the name of a protected plant variety or animal breed.

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

Cancellation of the trademark or the geographical indication. See the answer to questions 44 and 45 above.

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.*

Rights in the geographical indication are enforceable under the Trademark Act; the Decree of the Government No.128/1997 (VII.14) on Border Measures Applicable against Infringements of Intellectual Property Rights in Customs Administration Procedures (hereinafter: Border Measures Decree); under Article 296 of the Criminal Code (Law No. 4 of 1978); and the Act on the Prohibition of Unfair and Restrictive Market Activity No. LVII of 1996. They have all been notified pursuant to Article 63.2 of the TRIPS Agreement.

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

According to Article 109(2) of the Trademark Act, on the basis of the exclusive right of use, any of the proprietors shall be entitled to bring an action against any person who, in the course of trade, commits actions of use under Article 109(2)(a) – (e).

Any of the proprietors of the geographical indication is entitled to submit an application for suspension of release and the direct customs supervision of infringing goods (Border Measures Decree).

Any of the proprietors of the geographical indication may institute the procedure against third persons who, without the express prior consent of the competitor, produces goods or services (hereinafter jointly referred to as: goods), places on the market or advertises with such typical outside appearance, packaging or marking (including the indication of origin); or any such name, marking or indication of goods may not be used by which the competitor or its goods are normally recognized (Act on the Prohibition of Unfair and Restrictive Market Activity).

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?*

In civil procedures concerning the protection of geographical indications, the provisions of Chapters XI and XII of the Trademark Act shall apply *mutatis mutandis*.

By the application of the above provision, the Metropolitan Court has jurisdiction and exclusive competence in court proceedings concerning geographical indication infringement. Appeals may be lodged against the decisions of the Metropolitan Court to the Supreme Court.

The payment of procedural fees is subject to the Act on Fees.

In criminal procedures, the local courts have jurisdiction; therefore, the courts of second instance are the county courts.

The initiation of criminal procedure involves no cost.

In customs administration procedures, the specific application must be submitted at the customs office where the export or import of the illegal goods is expected to take place or where the customs clearance of such goods has been initiated. Specific applications - where the place of customs clearance is unknown - and general applications must be submitted to the National Headquarters of the Customs and Finance Guard.

The applicant has to provide a security for the customs authority in order to cover the costs of warehousing the customs goods which are placed under customs supervision. The amount of the security is 5 per cent of the value of the customs goods. If the value cannot be established, the security is a monthly Ft 60.000 for each application. If a general application for a border measure cannot indicate the value of the goods and, at the same time, it is filed for a period of six months, the amount of the security is as high as Ft 360.000. If the application specifies more countries of origin, or more than one type of goods, it obviously entails the corresponding multiplication of the amount of Ft 60.000 (which is the basic amount of the security).

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

By the application of Article 113(3) of the Trademark Act, the Official Journal of the Hungarian Patent Office contains the following data and facts relating to geographical indication applications and granted geographical indication protections:

- (a) on communication of certain data after filing of an application: the name and address (place of business) of the applicant and the representative; the reference number of the application; the filing date; the geographical indication; and the list of products;
- (b) after registration of the geographical indication: the registration number; the name and address (place of business) of the proprietor; name and address (place of business) of the representative; the reference number; the filing date; the geographical indication; the list of products; and the date of the decision on registration;
- (c) legal title and the date of lapse of the protection;
- (d) changes in rights relating to geographical indication protection entered in the Register.

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.*

According to Section 296 of the Criminal Code, the person who markets goods in larger quantity - without the consent of the competitor - with characteristic external appearance, packaging, marking or name, from which the competitor or his goods having characteristic features can be recognized, commits a felony and shall be punishable with imprisonment of up to three years.

The procedure is governed by Act No. I of 1973 on the Code of Criminal Procedure. Hungary has notified both of them pursuant to Article 63.2 of the TRIPS Agreement.

H. INTERNATIONAL AGREEMENTS

52. *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.*

Hungary is party to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration. The Lisbon Agreement was announced by Decree Law of the Presidium of the Hungarian People's Republic, No. 1 of 1982 (entry into force: 3 February 1982). The Decree Law concerns the ratification by Hungary of the Lisbon Agreement; as a result, the Lisbon Agreement is part of the Hungarian legal system.

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

Hungary concluded the following bilateral agreements:

I. Agreement on the protection of indications of source and appellations of origin and other indications of origin of agricultural and industrial products between the Government of the Republic of Austria and the Government of the People's Republic of Hungary. The agreement was signed on 21 July 1972, and announced by Decree Law of the Presidium of the People's Republic of Hungary, No. 18 of 1973.

The agreement was rescinded by the decision of the National Assembly No. 71 of 1994 (XII.27).

II. Agreement on the protection of indications of source and appellations of origin and other indications of origin between the Hungarian People's Republic and the Swiss Confederation. The agreement was ratified on 14 May 1981, and announced by Decree Law of the Presidium of the People's Republic of Hungary, No. 27 of 1981.

The agreement is still in force. The Agreement provides the reciprocal protection for indications of source and appellations of origin.

III. Agreement on the protection of indications of source and appellations of origin and other indications of origin between the Government of the Hungarian People's Republic and the Government of the Republic of Portugal. The agreement was ratified on 26 May 1986, and announced by Decree of the Government, No. 49 of 1986.

The agreement is still in force. The agreement provides the reciprocal protection for indications of source and appellations of origin.

IV. Agreement on the reciprocal protection and control of wine names between the Republic of Hungary and the European Community. The agreement was signed on 29 November 1993, in Brussels, and announced by Law No XI of 1994. The agreement is still in force.

The agreement provides protection for names reserved exclusively to wines originating in the European Community and Hungary and lists these protected wine names.

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, Article 109(2)(c) of the Trademark Act prohibits such use.

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?*

See the answer to question 8 under I above.

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

See the answer to question 14 under I above.

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?*

According to Article 3(1)(b) of the Trademark Act, a sign shall not be granted trademark protection if it is suitable to deceive consumers as to the nature, quality, geographical origin or other characteristics of the goods and services. The registered trademark can be cancelled on the same legal basis.
