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WORLDINTELLECTUAL
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**WIPO-ESCWAARABREGI ONALCONFERENCEONR ECENT
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organizedby
theWorldIntellectualPropertyOrganization(WIPO)
and
theUnitedNationsEconomicandSocialCommissionforWesternAsia
(ESCWA)

incooperationwith
theMinistryofEconomyandTrade

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**THELEGALPROTECTION,USEANDECONOMICIMPORTANCE
OFGEOGRAPHICALINDICATIONS**

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Geographical Indications

Their legal protection, use and economic importance

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Beirut, May 2003

Terminology

**Geographical
indications**

**Appellations
of origin**

Indications of source

Definitions

- A. Indication of Source:** any geo. sign (word or symbol) used to indicate that a product or service originates in a given country/region/place.
- B. Appellation of Origin:** any geo. sign (word or symbol) used to indicate that a product or service originates in a given country/region/place and its quality and characteristics are exclusively or essentially due to the geographical environment.
- C. Geographical Indications:** A + B + reputation
- D. Difference with MARKS**

3 elements of G. I.

- 1: must be the **geographical** name of a country/region/area.
- 2: must serve to **designate** a product originating in the country/region/area referred to.
3. There must be significant **qualitative link** between the product and the geo. area.

Protection →

**Possibility
to prevent**

**1) unauthorized persons from
using a G.I. for g/s not originating
from the geo. place indicated**

**2) unauthorized persons from
using a G.I. for g/s not respecting
quality standards**

3) that the G.I. becomes generic

How to protect a G. I.

NATIONAL LAW

- protected as G.I. as such
- protected as collective/certification mark
- protected under unfair competition law if:
 - certain reputation
 - misleading for consumers
 - (proof of damages)

INTERNATIONAL TREATIES

- Paris Convention
- Madrid Agreement for the Repression of False and Deceptive Indications of Source on Goods
- Lisbon Agreement
- TRIPS

The Paris Convention (1883)

- **Article 1(2)** - Indications of source and appellations of origin: objects of industrial property
- **Article 10(1)** - Seizure of goods bearing a false indication of source. When? 1) on importation, 2) in the country of affixation, 3) in the country into which the goods were imported
- **Articles 9(3) and 10(2)** - Who may request seizure
- **Article 10bis** - Protection against unfair competition
- **Article 10ter** - Obligation to provide legal remedies and to permit groupings of interested persons to sue

The Paris Convention (Cont.)

- Covers 140 countries

But:

- Article 10 applies only to **false** indications of source (ie: not to deceptive ind. of source)
- Sanctions provided for not always mandatory (see article 9(4) to (6))
- Does not address the question of geographic indications becoming generic in countries other than the country of origin

The Madrid Agreement (1891)

- **Article 1** - seizure on importation of goods bearing false or deceptive indication of source
- **Article 3** - indication of name and address of vendor must be accompanied by clear indication of the country or place of manufacture or production
- **Article 3bis** - prohibition of deceptive indications of source in connection with sale or advertising of goods
- **Article 4** - leaves it to the courts to determine what appellations are generic, except as regards “regional appellations” of vine products

The Madrid Agreement (Cont.)

- Goes further than the Paris Convention

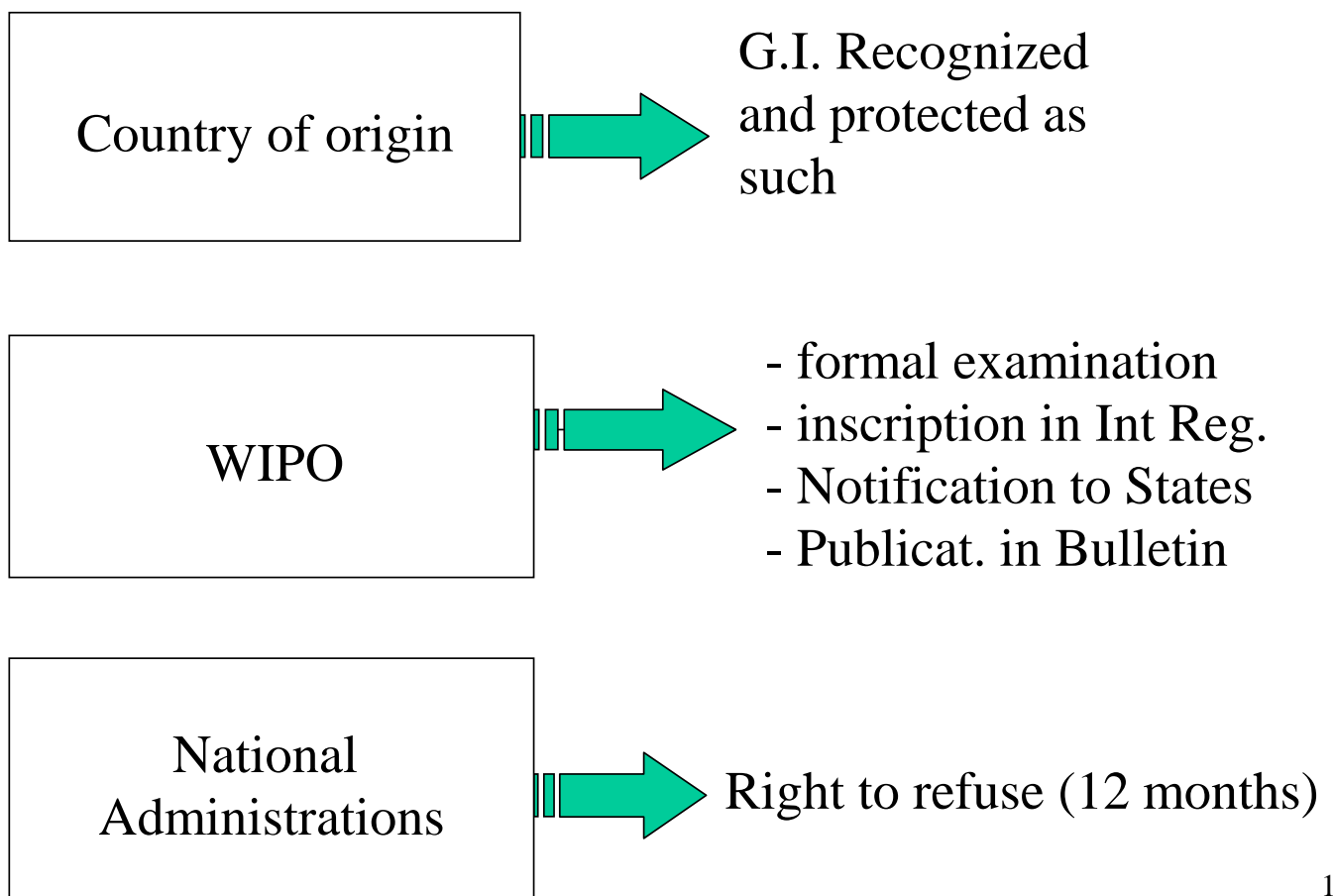
But:

- Only 31 countries party
- Sanctions provided for are limited
- Indications of source are not protected against becoming generic (except for regional appellations of vine products).

The Lisbon Agreement (1958)

- **Article 2(1)** – definition of ‘appellation of origin’ (qualitative link)
- **Article 1(2)** - protection of appellations of origin recognized and protected as such in the country of origin and registered at the International Bureau of WIPO

The procedure



The Lisbon Agreement (Cont.)

- **Article 5 - International registration**
 - Applied for by the competent administration of the country of origin
 - Notification and publication
 - Right of refusal, within a period of one year
 - only condition: grounds must be indicated
 - Right to grant third parties up to two years to terminate previous use
 - International Bureau must be advised within three months of end of refusal period
- **Article 3 - Content of protection**
 - Protected against any usurpation or imitation, even if true origin is indicated or if accompanied by expressions such as “type,” “make,” “imitation,” or the like
- **Article 6 - Duration of protection**
 - As long as it is protected as an appellation in the country of origin
 - The international registration may be canceled only at the request of the country of origin

The Lisbon Agreement (Cont.)

- Broad protection, not limited in time

But:

- Only 17 countries bound
- No protection of indications of source
- Requires specific protection in the country of origin
- Sanctions left to national legislation (Article 8)
- Difficult to adapt to products other than agricultural products or handicraft

The Lisbon Agreement (Cont.)

REVISION: Jan 1, 2002

- Working lang.: French + English, Spanish
- Lang. of the appellation of origin ? Lang. of the country of origin + optional transl.
- Disclaimer
- Invalidation
- Corrections

TRIPS (1995)

- **Article 22.1** – definition of ‘geographical indications’ (qualitative link)
- **Article 22.1** – means to prevent use of G.I. that mislead the public
- **Article 23** – special protection for wines and spirits
- **Article 24** – exceptions (eg: no obligation to protect G.I. that are not protected in country of origin)

POST-DOHA DEVELOPMENT AGENDA

- status of negotiations
- possible solutions

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Thanks!!!