

WIPO



SCT/5/3

ORIGINAL: English

DATE: June 8, 2000

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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

STANDING COMMITTEE ON THE LAW OF TRADEMARKS, INDUSTRIAL DESIGNS AND GEOGRAPHICAL INDICATIONS

Fifth Session
Geneva, September 11 to 15, 2000

**POSSIBLE SOLUTIONS FOR CONFLICTS BETWEEN TRADEMARKS AND
GEOGRAPHICAL INDICATIONS AND FOR CONFLICTS BETWEEN HOMONYMOUS
GEOGRAPHICAL INDICATIONS**

Document prepared by the International Bureau

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INTRODUCTION

1. The Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) decided at its third session (Geneva, November 8 to 12, 1999) that the International Bureau should prepare a study concerning possible solutions for conflicts between trademarks and geographical indications and for conflicts between homonymous geographical indications, and that this study should be presented to the SCT for consideration at its fifth session (see WIPO document SCT/3/10, paragraph 137).¹

2. Taking account of the fact that the subject under consideration consists of two distinct problems, the present study is divided into two parts. Part A deals with possible solutions for conflicts between trademarks and geographical indications, and Part B concerns possible solutions for conflicts between homonymous geographical indications. Both parts are structured identically. The first section of each part consists of a general introduction to the subject matter under consideration. This is followed by a description of the problem. The third section provides an overview on existing approaches to the problem under national and regional laws and under multilateral treaties. The fourth section suggests possible solutions for consideration by the SCT.

PART A: CONFLICTS BETWEEN TRADEMARKS AND GEOGRAPHICAL INDICATIONS AND POSSIBLE SOLUTIONS

I. Trademarks and Geographical Indications

(a) Trademarks

3. In general terms, trademarks are signs, which are used in order to distinguish the goods or services of one undertaking from the goods or services of another undertaking. The Paris Convention for the Protection of Industrial Property of 1883 (“Paris Convention”) deals in a number of Articles with the protection of trademarks. However, the Paris Convention does not provide a definition of trademarks. Such a definition can be found in the Agreement on Trade-Related Aspects of Intellectual Property Rights of 1994 (“TRIPS Agreement”), which incorporates by reference the substantive provisions of the Paris Convention (Article 2.1). Article 15.1 first sentence of the TRIPS Agreement states that

“Any sign, or any combination of signs, capable of distinguishing the goods or services of one undertaking from those of another undertakings, shall be capable of constituting a trademark.”

It follows from that definition that the main function of a trademark (although not the only one) is to distinguish the goods and/or services for which the trademark is used. Only trademarks that are distinctive can perform that function. Distinctiveness may be inherent or

¹ Issues relating to the protection of geographical indications were discussed repeatedly in various bodies set up under the aegis of WIPO. See, in particular, WIPO documents TAO/II/2 and 6, PR/DC/4 and GEO/CE/I/2).

acquired through use. Acquired distinctiveness as a condition for the registration of a trademark is expressly recognized by Article 15.3, third sentence of the TRIPS Agreement.

4. Whether a given sign is distinctive, i.e., is capable of distinguishing the goods and services of one undertaking from those of other undertakings, has to be decided on a case by case basis by the authorities which are responsible for the registration and protection of trademarks. The TRIPS Agreement does not give any indication under what circumstances a sign has to be considered distinctive in respect of certain goods or services. However, it is commonly accepted that, in order to be considered distinctive, signs used as trademarks must not be descriptive or deceptive. This principle is confirmed in international law by Article 6*quinquies* of the Paris Convention for the Protection of Industrial Property (“Paris Convention”), although this provision is not applicable to the registration of trademarks *per se*, but only to the registration of such trademarks which are already registered in a country of the Paris Union that is considered country of origin for the purposes of Article 6*quinquies*.

5. Trademarks covered by Article 6*quinquies* B, i.e., trademarks that are duly registered in the country of origin, may be neither denied registration nor invalidated except in, *inter alia*, the following cases:

“They are devoid of any distinctive character, or consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, place of origin, of the goods, or the time of production, or have become customary in the current language or in the *bona fide* and established practices of the trade of the country where protection is claimed” (Article 6*quinquies* B.2.), or

“They are contrary to morality or public order and, in particular, of such a nature as to deceive the public” (Article 6*quinquies* B.3).

6. There are three possible forms in which the right to a trademark may be acquired: Acquisition through registration, through use or through notoriety (in the case of well-known marks). These three modes of acquisition do not necessarily exclude each other and combinations of two or three of those approaches exist. The exclusive right to a trademark is granted in regard of certain goods or services (principle of specialty) and in respect of given territories (principle of territoriality). There exists, however, an important exception to the principle of specialty in the case of well-known or famous marks (see below, paragraph 10).

7. In cases of conflicting claims to the right in a given trademark, usually the prior right in time prevails. Such priority may be based on first use, first registration or the fact that a trademark was well known prior to the registration or use of a similar or identical mark for similar or identical goods. An exception to this principle of priority is made where the prior right was acquired in bad faith. For example, the agent or representative of the owner of a trademark applies in his own name and without the consent of the owner for the registration of the trademark (Article 6*septies* Paris Convention).

8. Within the framework of the Paris Convention exists a long-standing mechanism for according rights in trademarks. It has the effect that applications for the registration of trademarks are given priority over competing applications, if they have obtained an earlier application date in any of the countries member of the Paris Union. This right of priority is subject to the condition that the application claiming the priority (the subsequent application) was filed within six months from the filing date of the first application (Article 4 of the Paris Convention).

9. As regards legal protection of trademarks, the owner of a protected trademark is generally entitled to prevent unauthorized parties from using a trademark, which is identical or confusingly similar for goods or services identical or similar to those for which the trademark is protected. The reasoning underlying this protection is twofold. First, consumers deserve protection against use of trademarks that is misleading as to the real source of the goods or services on which the trademark is used. Second, the owner of the trademark should be protected against any confusion created by competitors, with the possible effect of misleading potential customers of the owner of the trademark and damages resulting from losses of business. Hence, contrary to most other forms of intellectual property, the existence of trademark rights is potentially unlimited in time.

10. Aside from the general protection for trademarks against unauthorized use for identical and similar goods, a special kind of marks, namely well-known marks, are entitled to protection against unauthorized use on goods and services which are different from those for which the mark is protected (Article 16.3 of the TRIPS Agreement; see also *WIPO Joint Recommendation Concerning Provisions on the Protection of Well-Known Marks*). This recent development shows that it is now accepted that well-known marks are valuable intangible assets, which deserve protection not only against unauthorized and misleading use, but also against unauthorized use that is diluting their reputation.

(b) Geographical indications

(i) General and terminology

11. Unlike patents or trademarks, geographical indications are protected on the national and regional level under a wide range of different principles, such as protected appellations of origin, registered geographical indications, protection under trademark law, and unfair competition or passing off. This variety of concepts is reflected in the applicable terminology. The terminology traditionally applied within WIPO distinguishes between "indications of source" and "appellations of origin."

12. The term "indication of source" is used in Articles 1(2) and 10 of the Paris Convention. It is also used throughout the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods of 1891 ("Madrid Agreement on Indications of Source"). There is no definition of "indication of source" in those two treaties, but Article 1(1) of the Madrid Agreement on Indications of Source contains language which clarifies what is meant by the term. That Article reads as follows:

"All goods bearing a false or deceptive indication by which one of the countries to which this Agreement applies, or a place situated therein, is directly or indirectly indicated as being the country or place of origin shall be seized on importation into any of the said countries."

Consequently an indication of source can be defined as an indication referring to a country or to a place situated therein as being the country or place of origin of a product. It is important that the indication of source relates to the geographical origin of a product and not to another kind of origin, for example, an enterprise that manufactures the product in question. Furthermore, this definition does not require that the product in question have a certain quality or characteristics, which are derived from its geographical origin. Examples for indications of

source are the mention, on a product, the name of a country, or indications such as “made in”.

13. The term "appellation of origin" is defined in the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, of 1958 ("Lisbon Agreement"). The Lisbon Agreement establishes an international system of protection for appellations of origin protected already on the national basis of one of the States party to that Agreement, and subject to the international registration of that appellation of origin. Article 2 of the Lisbon Agreement contains the following definition:

“(1) In this Agreement, ‘appellation of origin’ means the geographical name of a country, region, or locality, which serves to designate a product originating therein, the quality and characteristics of which are due exclusively or essentially to the geographical environment, including natural and human factors.

“(2) The country of origin is the country whose name, or the country in which is situated the region or locality whose name, constitutes the appellation of origin which has given the product its reputation.”

Under this definition, an appellation of origin can be regarded as a special kind of indication of source as referred to in the Paris Convention and the Madrid Agreement on Indications of Source because the product for which an appellation of origin is used must have a quality and characteristics which are due exclusively or essentially to its geographical environment. Examples for protected appellations of origin are “Bordeaux” for wine, “Noix de Grenoble” for nuts, “Tequila” for spirit drinks, or “Jaffa” for oranges.²

14. The TRIPS Agreement defines the expression "geographical indication." Article 22.1 of the TRIPS Agreement states:

“Geographical indications are, for the purposes of this Agreement, indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.”

This definition is apparently based on the definition of appellation of origin in Article 2 of the Lisbon Agreement. However, it deviates from Article 2 of the Lisbon Agreement in some respect. Article 21.1 of the TRIPS Agreement defines geographical indications as “indications which identify a good,” whereas Article 2 of the Lisbon Agreement defines appellations of origin as “the geographical name of a country, region, or locality, which serves to designate a product.” Article 2 of the Lisbon Agreement does not cover appellations of origin which are constituted by a sign other than a geographical name, for example, a non-geographical name or a figurative element, although such signs would fall under the definition of geographical indications in Article 22.1 of the TRIPS Agreement. Furthermore, the Lisbon Agreement requires that the quality and the characteristics of the product in question be due exclusively, or essentially, to the geographical environment, including natural and human factors. The definition of geographical indications contained in Article 22.1 of the TRIPS Agreement covers goods which have a given quality, reputation or other characteristic that is essentially attributable to their geographical origin. Arguably, goods that have "merely" a

² All examples are appellations of origin registered under the Lisbon Agreement.

certain reputation, but not a specific quality being due to their place of origin, are not covered by the definition of appellation of origin as provided by the Lisbon Agreement.

15. If the definitions of indication of source, appellation of origin and geographical indication are compared with each other, the following can be observed. Indication of source is the broadest term. It comprises geographical indication and appellation of origin. As already stated, geographical indications are more broadly defined than appellations of origin. In other words, all appellations of origin are geographical indications, but some geographical indications are not appellations of origin. Indications of source only require that the product on which the indication of source is used originate in a certain geographical area. Thus, there are indications of source, which seem not to be covered by the definition of geographical indication under the TRIPS Agreement, namely indications of source whose use on products does not imply a particular quality, reputation or characteristic of those products.

16. For the purpose of the present study, the term geographical indication will be used in its widest sense, covering indication of source, geographical indication (within the meaning of Article 22.1 of the TRIPS Agreement) and appellation of origin. However, depending on the applicable concept of protection, differences exist concerning the condition of protection, right to use and scope of protection of geographical indications.

17. Similar to trademarks, the main function of geographical indications is to distinguish goods originating from a certain source. Although it is conceivable that geographical indications be used for services, such a wider scope of application of geographical indications is at present not provided for in international agreements administered by WIPO or in the TRIPS Agreement. Different from trademarks, geographical indications distinguish the goods for which they are used through a reference to the place where they were made, and not through a reference to their manufacturing source. The reference to the place of manufacturing or production is inherent to geographical indications. Unlike trademarks, geographical indications are not chosen arbitrarily and the reference to the geographical origin cannot be substituted.

18. In general, a geographical indication is recognized in the country in which the place to which the geographical indication refers is located. This country is commonly referred to as “the country of origin.” As already mentioned, Article 2(2) of the Lisbon Agreement contains a definition of the term “country of origin,” namely, “the country whose name, or the country in which is situated the region or locality whose name, constitutes the appellation of origin which has given the product its reputation.” In this context, it is interesting to note that Article 24.9 of the TRIPS Agreement contains a reference to the term “country of origin,” without, however, defining it.

19. The use of a given geographical indication is in principle permitted for every manufacturer, to the extent that goods bearing the geographical indications originate in the place indicated and, as the case may be, comply with applicable standards of production, if any.

20. The rightful users of geographical indications are entitled to prevent anybody from using that geographical indication if the goods on which the geographical indication is used do not have the indicated geographical origin. Like trademarks, geographical indications are subject to the principles of “specialty,” i.e., they are only protected for the kind of products on which they are actually used, and “territoriality,” i.e., they are protected for a given territory only and are subject to the laws and regulations applicable in that territory. An exception to

the principle of specialty exists for geographical indications having a reputation. At present, treaties administered by WIPO or the TRIPS Agreement do not provide for this extended scope of protection for that particular category of geographical indications. However, it may be argued that the unauthorized use of a famous geographical indication takes unfair advantage of, or is detrimental to the reputation of that geographical indication and, therefore, constitutes an act of unfair competition (see, for example, Article 3(1) of the *WIPO Model Provisions on Protection Against Unfair Competition*).

(ii) Protection of geographical indications on the international level

21. As a direct consequence of the principle of territoriality, a given geographical indication may be considered as such and be protected in one country, whereas in another country, the same geographical indication may be considered as a generic expression for the kind of products for which it is used.

22. The territorial scope of a geographical indication can be extended through international agreements. In principle, there are two different types of such agreements, namely bilateral or multilateral.

23. Bilateral international agreements are a traditional instrument for the protection of geographical indications. They may be independent treaties or form part of a wider trade agreement between two States. They may cover a wide range of products or be limited to specific goods only. They may have been concluded a long time ago (e.g., the “Crayfish Agreement” between France and South Africa from the 1930ies (see *Symposium on the International Protection of Geographical Indications*, Somerset West, 1999, WIPO publication 764, page 31), or be of a recent nature (e.g., the EU-Australia Wine Agreement of 1994). What those agreements have in common is that two States or two trading partners agree to protect each other’s geographical indications. Annexed to the agreement are usually lists with the parties’ respective geographical indications, which are covered by the Agreement.

24. The other possibility for obtaining international protection for geographical indications is through the conclusion of, or the adherence to, multilateral agreements. The following is a summary of the scope of protection that is provided for geographical indications under the following multilateral treaties: the Paris Convention, the Madrid Agreement on Indications of Source, the Lisbon Agreement, and the TRIPS Agreement. (Other international agreements which have as their object, or which deal, *inter alia*, with the protection of geographical indications, are not considered; for further reference concerning those agreements, see WTO documents IP/C/W/85 and IP/C/W/85/Add.1.)

The Paris Convention

25. The Paris Convention provides for the protection of indications of source against misleading use. In this respect, Article 10 of the Paris Convention sets forth that, in cases of "direct or indirect use of a false indication of the source of the goods or the identity of the producer, manufacturer or merchant," Article 9 of the Paris Convention should be applicable. Article 9 of the Paris Convention provides that goods bearing a false indication of source are subject to seizure upon importation into countries party to the Paris Convention, or within the country where the unlawful affixation of the indication of source occurred or within the country of importation. This seizure shall take place at the request of the public prosecutor, or any other competent authority, or any interested party. However, Article 9(5) and (6) of the Paris Convention allows that countries party to the Paris Convention whose national laws do not permit seizure on importation or inside the country to replace those remedies by either a prohibition of importation or by any other nationally available remedy.

26. Article 10*bis* of the Paris Convention sets out the basic international standard for protection against acts of unfair competition. Although the use of false indications of source is not mentioned in the non-exhaustive list of acts which are prohibited under Article 10*bis*(3), such use may be considered an act of competition contrary to honest practices in industrial or commercial matters liable to mislead the public (see Article 4(2) of the *WIPO Model Provisions on Protection Against Unfair Competition*).

27. The provisions of the Paris Convention which have been dealt with so far concern the use of false indications of source. However, there are cases in which the use of an indication of source which is literally true may still be misleading or deceptive. This may be the case where a given geographical name exists in two different countries, but was used as an indication of source only for products originating from that place in one country. Use of that indication of source by producers from the other country cannot be regarded as use of a "false" geographical indication, although consumers may be deceived by such use.

The Madrid Agreement on Indications of Source

28. The Madrid Agreement on Indications of Source provides for a remedy in such situations, in that not only the use of "false" indications of source is prohibited, but also the use of indications of source which are "deceptive," i.e., literally true but nevertheless misleading. Furthermore, Article 4 of the Madrid Agreement on Indications of Source contains a special provision for "regional appellations concerning the source of products of the vine" which constitutes an exception to the rule that, in application of the Agreement under consideration, the courts are free to decide whether or not a given indication of source is a generic term.

29. The common feature of Articles 9, 10 and 10*bis* of the Paris Convention and Articles 1 and 2 of the Madrid Agreement on Indications of Source is that protection is provided against use of false indications of source that would be misleading. In cases where such use does not mislead the public, for example because the public does not perceive a certain indication of source as such, the remedies provided for by the above-mentioned Articles are not applicable. However, it may be argued that Article 10*bis* of the Paris Convention also covers non-misleading use of geographical indications to the extent that such use is considered to constitute an act of unfair competition.

The Lisbon Agreement

30. The Lisbon Agreement takes the protection of indications of source one step further, although, as already has been mentioned above, it is only applicable to a special kind of indications of source, namely to appellations of origin which are already protected on the national level of a State party to that Agreement. Once a given appellation of origin is protected in its "country of origin," that appellation of origin can be registered in an international register administered by WIPO. After its registration, the appellation of origin is published and notified to all other States party to the Lisbon Agreement. Following receipt of that notification, those States may declare during a period of one year that they cannot protect the appellation of origin which was the subject of the notification. According to Article 6 of the Lisbon Agreement, an appellation which has been granted protection in one of the countries party to that Agreement pursuant to the procedure under Article 5 cannot, in that country, be deemed to have become generic, as long as it is protected as an appellation of origin in the country of origin.

31. The scope of protection for internationally registered appellations of origin is broader than the protection for indications of source under the Paris Convention and the Madrid Agreement on Indications of Source. Thus not only misleading use of a protected appellation of origin is prohibited, but "any usurpation or imitation [of the protected appellation of origin], even if the true origin of the product is indicated or if the appellation is used in translated form or accompanied by terms such as 'kind,' 'type,' 'make,' 'imitation' or the like."

32. Once an appellation of origin is internationally registered and the one-year objection period under Article 5(3) has expired, the appellation cannot, or no longer, be used by third parties. In addition, Article 5(6) provides that, where in a State which is a party to the Lisbon Agreement, the internationally registered appellation of origin is already used by third parties, and a declaration according to Article 5(3) has not been made, that State may grant such third parties a period not exceeding two years to terminate such use.

The TRIPS Agreement

33. Part II, Section 3 of the TRIPS Agreement is dedicated to geographical indications. The general norm of protection is provided by Article 22.2, which reads as follows:

- “2. In respect of geographical indications, Members shall provide the legal means for interested parties to prevent:
- (a) the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of the origin in a manner which misleads the public as to the geographical origin of the good;
 - (b) any use which constitutes an act of unfair competition within the meaning of Article 10*bis* of the Paris Convention (1967).”

34. Article 22.2 is supplemented by Article 22.3 and 22.4. Article 22.3 deals specifically with the registration of trademarks, containing or consisting of a geographical indication, for goods not originating in the territory indicated, if the use of those trademarks for such goods would be misleading as to the true place of origin of the goods. The remedy that must be

available in that situation is refusal or invalidation of the trademark registration, either *ex officio*, if the applicable law so allows, or at the request of an interested party.

35. Article 22.4 stipulates that the protection under Article 22.1 to 3 must also be made available in respect of the use of deceptive geographical indications, i.e., geographical indications that are literally true, although they falsely represent to the public that the goods on which they are used originate in a different territory.

36. Article 23.1 provides for additional protection for geographical indications for wines and spirits. It reads as follows:

“Each Member shall provide the legal means for interested parties to prevent use of a geographical indication identifying wines for wines not originating in the place indicated by the geographical indication in question or identifying spirits for spirits not originating in the place indicated by the geographical indication in question, 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.”

Article 23.1 has a footnote with the following wording:

“Notwithstanding the first sentence of Article 42, Members may, with respect to these obligations, instead provide for enforcement by administrative action.”

37. Article 23.1 is supplemented by a paragraph dealing specifically with the registration of trademarks for wines containing or consisting of a geographical indication for wines, and the registration of a trademark for spirits containing of a geographical indication for spirits, where the wines and spirits in question do not have the indicated geographical origin. Registration of trademarks falling under that provision has to be refused or cancelled, either *ex officio* if the applicable law so allows, or at the request of an interested party.

38. Article 24 contains a number of exceptions to the obligations under Articles 22 and 23. Broadly speaking, there are three categories of exceptions, namely continued and similar use of geographical indications for wines and spirits, prior good faith trademark rights, and generic designations.

39. The first exception (Article 24.4) gives the right to WTO Members to allow continued and similar use of a particular geographical indication of another Member identifying wines or spirits, in connection with goods or services by any of its nationals or domiciliaries who have used that geographical indication in a continuous manner with regard to the same or related goods or services in the territory of that Member either for at least 10 years preceding April 15, 1994, or in good faith preceding that date.

40. The second exception relates to rights in trademarks (Article 24.5). It basically states that the implementation of the Section on geographical indications by a WTO Member is without prejudice to the registration of trademarks identical with or similar to geographical indications, to the application for registration of such trademarks, or the right to use such trademarks, if the following conditions are fulfilled: An application for the registration of such a trademark must have been filed, or the trademark must have been registered, or, where the right to the trademark was acquired by use, that trademark must have been used, in good

faith, in the WTO Member concerned, before the TRIPS Agreement became applicable in that Member, or before the geographical indication in question is protected in its country of origin.

41. The third exception (Article 24.6) is related to geographical indications of a WTO Member which are considered by another WTO Member to be a term customary in common language as the common name for goods or services or, where the geographical indication is used for products of the vine, it is identical with the customary name of a grape variety existing in the territory of that Member as of the date of entry into force of the TRIPS Agreement.

(iii) Protection for geographical indications on the national and/or regional level

42. As was already pointed out, there exist considerable differences in the legal concepts which are applied for the protection of geographical indications. These differences have a direct bearing on important questions such as condition of protection, entitlement to use and scope of protection. In the following paragraphs, the main existing concepts of protection are introduced: unfair competition and passing off, collective and certification trademarks, protected appellations of origin and registered geographical indications and administrative schemes of protection.

Unfair competition and passing off

43. Article 10*bis* of the Paris Convention is the basic international rule concerning protection against unfair competition. It requires all States party to the Paris Convention to provide effective protection against unfair competition, which is defined as “any act of competition contrary to honest practices in industrial or commercial matters.” Article 11

44. In order to be successful in such an action, the plaintiff must show that the use of a given geographical indication by an unauthorized party is misleading and, as the case may be, that damages or a likelihood of damages results from such use. An action against the unauthorized use of a geographical indication based on unfair competition can only be successful if the geographical indication in question has acquired distinctiveness or, in other words, if the relevant public associates goods sold under that geographical indication with a distinct geographical origin and/or certain qualities. Since law suits based on passing off or unfair competition are only effective between the parties of the proceedings, the distinctiveness of a given geographical indication must be shown every time that geographical indication is enforced.

Collective and certification marks

45. According to Article 7*bis* of the Paris Convention, States that are party to that Convention shall accept for filing, and shall protect collective marks. However, the Paris Convention does not provide for a definition of the term collective mark. Furthermore, certification marks are not addressed at all by that Convention.

46. As opposed to trademarks, collective and certification trademarks are not owned individually. In general, collective marks are registered in the name of a collective entity, such as a trade association or an association of producers or manufacturers. Usually,

membership in the association gives the right to use the collective mark. Such membership may in turn be dependent on compliance with conditions, for example the utilisation of certain methods of production etc.

47. Certification marks are generally owned by a public entity. This entity undertakes to certify that the goods or services on which the certification mark is used comply with certain standards of production and quality. However, the owner of the certification mark regularly has not the right to use that mark.

48. It is quite common to find differences in the conditions of registration for collective and certification marks from the conditions of registration for individual trademarks. Whereas trademarks consisting of descriptive geographical terms are usually excluded from registration, geographical terms are often expressly admitted for registration as collective or certification trademarks. Because of the general principle that individual trademarks must not be descriptive or deceptive, geographical terms cannot serve as individual trademarks, unless they have acquired distinctive character through use, or their use is fanciful and, therefore, is not deceiving as to the origin of the goods on which the trademarks are used. Collective trademarks and certification trademarks may serve to indicate that the goods on which they are used have a particular characteristics such as, for example, a specific geographical origin. As long as such marks are used in a manner that respects the general regulations governing that use, there is no danger of deception as to the real origin of those goods (see, for example, WTO document IP/C/W/134, *Suggested Method for Domestic Recognition of Geographical Indications for WTO Members to Produce a List of Nationally-Protected Geographical Indications* (Communication from the United States of America)).

49. Once a geographical indication is protected as a collective or certification mark, that geographical indication can be enforced in accordance with the applicable rules of trademark law.

Protected appellations of origin and registered geographical indications

50. Appellations of origin are explicitly mentioned as objects of industrial property protection under Article 1(2) of the Paris Convention. As has already been stated, appellations of origin are titles of protection for geographical indications used on products that have a specific quality or characteristics that is exclusively or essentially due to their geographical origin. Appellations of origin are usually not owned by an individual or collective entity. The protection of an appellation is usually based on a legislative or administrative act under public law, such as a law or a decree. This act is at the conclusion of an administrative procedure involving representatives of the producers concerned and the administration. As a result of this procedure, the protected appellation is recognized, and the product or products on which it is used and the geographical area of production and the condition of use are defined.

51. Unauthorized use of a protected appellation of origin constitutes an offence and engages the criminal and civil responsibility of the person who has made such use. Proceedings are usually instigated by public law bodies, such as fair trading bodies, authorities entrusted with the administration of appellations of origin, consumer protection bodies, etc.

52. Registered geographical indications are titles of protection that are very similar to protected appellations of origin, although considerable differences as regards the scope of

protection and the applicable procedure may exist depending on the national laws of those countries which apply that type of protection. The differences between registered geographical indications and protected appellations of origin seem to be differences of terminology rather than of conceptual nature. Thus, the protection of a registered geographical indication depends on the registration of that geographical indication, although the decision to register may be an administrative decision, for example a determination of a committee, rather than an executive decision by, for example, the comptroller general or the executive head of the agency responsible for the registration of geographical indications.

Administrative schemes for protection

53. Where geographical indications are used on goods the marketing of which is subject to an administrative approval procedure, this procedure may be applied also for controlling the use of geographical indications applied to those goods. The example that comes readily to mind is wines and spirits, the sale of which is regulated in many countries.

54. Under an administrative scheme for protection, the authority entrusted with the administration of that scheme controls whether the product for which marketing authorization is sought complies with relevant legal requirements, including the permitted use of a geographical indication on the label of the product. If the requirements for approval are not met, for example, because the use of a given geographical indication on a specific product is not permitted, marketing approval is not granted and, consequently, the geographical indication cannot be used.

II. Conflicts Between Trademarks and Geographical Indications

55. Geographical indications and trademarks are different legal categories of distinctive signs. Conflicts as to the right to the exclusive use of a distinctive sign usually arise where there are different parties claiming entitlement to such use. In the case of competing claims to the right in the same trademark, there are a number of mechanisms designed to avoid conflicts. The principle of territoriality means that identical trademarks used for identical goods or services can co-exist in different territories. However, the globalization of trade and the ever-increasing importance of new, borderless means of communication, most notably the Internet, lead to a significant erosion of the principle of territoriality and call for new solutions. The principle of specialty means that similar or identical trademarks can co-exist as long as they are used on different goods or services. Under the principle of priority, the exclusive right to a trademark is attributed to the first who registered or used it. These principles are supplemented by rules that allow honest and concurrent use of trademarks, or the use of family names, usually to the extent that such use is not misleading or deceptive.

56. Different from trademarks, geographical indications are not arbitrarily chosen, but refer to a distinct geographical area in relation to the products that originate therefrom. It is possible that different geographical regions have the same name and are the place of origin for the same kind of products. A conflict that arises out of such a situation would be a problem of homonymous geographical indications, and the second part of this study will deal with that issue in detail.

57. The situation is of course different where one and the same sign is used by different parties as a trademark and as a geographical indication for the same product. Who should be

entitled to use that sign? What should be the conditions of such use? Should one right prevail over the other or should both rights co-exist (see *Symposium on the International Protection of Geographical Indications*, Somerset West, 1999, WIPO publication 764, page 59).

58. A further problem may occur where the same sign is used by different parties as a trademark and a geographical indication for different goods, and either the trademark or the geographical indication is well known. The protection of well-known marks, meaning the protection of such marks against registration or use of similar signs in relation to dissimilar goods or services is well established in international law and, in particular, is dealt with under Article 6bis of the Paris Convention, Article 16.2 and 16.3 of the TRIPS Agreement, and Articles 2 to 4 of the WIPO Joint Recommendation Concerning the Protection of Well-Known Marks of 1999. However, the international protection of well-known geographical indications, in the sense of protection of such geographical indications against unauthorized use on dissimilar goods, has not developed in the same manner, although the problem has been known for some time (see *Symposium on the International Protection of Geographical Indications*, Melbourne, 1995, WIPO publication 739, page 199).

III. Existing Approaches

Competing claims to the right in a given sign, either as a trademark, or as a geographical indication, can be looked at from at least two different angles, namely from the point of view of trademark law, or the point of view of the law on geographical indications. The former approach may be best described by the question: “Can a particular sign constitute a valid trademark in a given territory, if, at the same time, it is claimed that this sign constitutes, in this territory, a geographical indication?” The question that may characterize the latter approach would be: “Can a particular sign constitute a geographical indication in a given territory if, at the same time, it is claimed that this sign constitutes, in this territory, a trademark?” Due to the variety of legal concepts existing in the field of geographical indications, it is more complex to illustrate the latter approach.

(a) Conflicts under trademark law

59. As a general rule, trademarks must not be descriptive or deceptive. Consequently, trademarks that consist of or contain a geographical indication cannot be protected, if use of such trademarks would be misleading as to the true origin of the products on which the trademark is used. Laws on trademarks specifically exclude from registration geographical terms that can be understood to constitute a reference to the origin of the relevant goods. This exclusion from registration usually depends on an assessment whether a geographical term used as a trademark would be perceived by the public to indicate a connection between the origin of the goods and the trademark. However, it is possible to use geographical terms as trademarks if those terms are arbitrary such as, for example, “Antarctica” for bananas (example taken from WIPO publication 760, page 166), because that mark would not be understood to refer to the origin of the goods on which it is used. Moreover, it may be possible to use a geographical term as trademark in cases where that trademark, despite of being originally descriptive, has acquired distinctive character (or secondary meaning) through use.

(b) Conflicts under the law of geographical indications

(i) Unfair competition and passing off

60. The law for the protection against acts of unfair competition or passing off is meant to provide a remedy against illicit commercial acts, such as, for example, false or misleading allegations in the course of trade. As already pointed out, the plaintiff in a passing off action or an action for unfair competition against the allegedly unauthorized use of a geographical indication must show, *inter alia*, that such use of a geographical indication is misleading. This can only be done by demonstrating that the geographical indication in question has acquired good will or reputation.

61. In a conflict over the use of a geographical indication, in which the protection of the geographical indication is based on the law of unfair competition, and the adverse party is claiming trademark rights in that indication, the question as to whether the use of the geographical indication by any of the two parties would be misleading, again, is decisive. If the use of the trademark consisting of the geographical indication is misleading as to the origin of the goods on which it is used, such use would constitute unfair competition or passing off and, thus, should not be allowed. In turn, this would entail the invalidity of the trademark in question. If, on the other hand, the use of that trademark is not misleading, the case for passing off is likely to fail. This means of course that, at the same time, the use of the trademark by the adversary constitutes trademark infringement. It should be noted, however, that the situation may not present itself in such a clear-cut manner. This may be the case, for example, where due to limited geographical use, a given geographical indication had acquired goodwill only in a limited area, whereas a potentially conflicting trademark is known throughout a country. In that situation, the result may well be co-existence of both rights with certain conditions as to use and/or expansion of that use.

(ii) Collective and certification marks

62. Where geographical indications are protected as collective or certification marks, their protection is governed by the applicable trademark law. Conflicts concerning competing trademark rights are resolved under trademark law in application of the principle of priority. Depending on the relevant trademark law, priority rights may be granted on the basis of a prior application, or prior use or, under certain circumstances, to a mark that was prior in becoming well known.

63. In consideration of these principles, the resolution of conflicts between geographical indications protected as collective or certification marks and “individual” trademarks does not seem to constitute a problem.

(iii) Protected appellations of origin and registered geographical indications

64. Under a system of appellations of origin or registered geographical indications, geographical indications are protected as *sui generis* rights. Such systems may provide explicitly for rules to be applied in cases of claims to one and the same geographical term based on a trademark right and on the right to a protected appellation of origin or a registered geographical indication.

65. Depending on the applicable legal regime, different solutions are possible. They may range from giving priority to registered geographical indications or protected appellations of origin over competing trademarks, to the opposite solution, namely priority to trademarks over competing registered geographical indications or protected appellations of origin, with the possible intermediary solution of co-existence between the competing rights.

66. Whether or not priority is given to a trademark over an appellation of origin or a registered geographical indication claiming rights in the same sign depends on a number of factors. It may make a difference whether the trademark in question was registered or used in good faith before the geographical indication was protected, or whether the trademark in question has been used for a long period of time and has acquired reputation and renown. In applying those factors, decisions concerning the relationship between trademarks and appellations of origin or registered geographical indications are made on a case by case basis.

(iv) Administrative schemes for protection

67. Administrative schemes used for the protection of geographical indications typically do not directly address conflicts between trademarks and geographical indications. Those schemes operate independently from administrations which are responsible for the registration of trademarks. They usually ensure that certain geographical indications cannot be used on specific products. This mechanism of protection for geographical indications may be used where protection provided under unfair competition law is considered to be insufficient. An example for such a situation may be the protection that has to be provided by Members of the WTO under Article 23.1 of the TRIPS Agreement to geographical indications for wines and spirits, since protection under that provision must be made available even in cases where the unauthorized use of such geographical indications would not be misleading.

68. It is conceivable that, under an administrative system of protection, a trademark that contains or consists of a geographical indication cannot be used on a certain product. However, such decision would be without relevance as to the validity of the trademark in question.

(c) International agreements

69. Not many international multilateral agreements on intellectual property regulate expressly the relationship between trademarks and geographical indications. In the context of this study, two agreements will be looked at, namely the Lisbon Agreement and the TRIPS Agreement.

(i) Lisbon Agreement for the Protection of Appellations of Origin and their International Registration

70. The Lisbon Agreement does not address directly the question of conflicts between trademarks and geographical indications. A State party to the Lisbon Agreement has to protect an internationally registered appellation of origin if it has not declared, within one year from the receipt of the notification of the international registration, that it cannot ensure, in its country, protection for that appellation of origin (Article 5(3)). The reason for such a declaration must be indicated. However, the Lisbon Agreement itself does not specify the

grounds on which such a declaration may be based. It is conceivable that an internationally registered appellation of origin cannot be protected in a State party to the Lisbon Agreement because that appellation is considered to be a generic term in that country, or because existing prior rights would conflict with that appellation.

71. To the extent that a declaration under Article 5(3) concerning a given internationally registered appellation of origin was not made, that appellation of origin is protected in accordance with Article 3. In addition, Article 5(6) provides that, if an appellation that is protected in a country subsequently to its international registration has already been used by third parties in that country from a date prior to such notification, third parties may be given the right to use that appellation of origin for an additional period of two years following the expiration of the one year period during which a declaration under Article 5(3) can be raised, before such use has to be terminated.

(ii) The TRIPS Agreement

72. The relationship between trademarks and geographical indications is addressed in a number of provisions of the TRIPS Agreement. Articles 22 and 23 set the general standard of protection for geographical indications, also in relation to trademarks. Article 24 provides for certain exceptions to those standards.

73. Article 22.3 contains an obligation for WTO Members bound to apply the TRIPS Agreement to refuse or invalidate, *ex officio* if their legislation so permit or at the request of an interested party, to refuse or invalidate the registration of a trademark which contains or consists of a geographical indication with respect to goods not originating in the territory indicated, if use of the indication in the trademark for such goods in that Member is of such a nature as to mislead the public as to the true place of origin.

74. Article 23 provides additional protection for geographical indications for wines and spirits, and Article 23.3 sets forth the conditions of this enhanced protection in relation to the registration of trademarks. Thus, WTO Members applying the TRIPS Agreement are under an obligation to refuse or invalidate, *ex officio* if their legislation so permit or at the request of an interested party, the registration of a trademark for wines which contains or consists of a geographical indication identifying wines or for spirits which contains or consists of a geographical indication identifying spirits. Most notably, protection of geographical indications for wines and spirits against registration as trademarks under Article 23.2 has to be provided without regard as to whether the use of such a geographical indication as a trademark for such goods would mislead the public as to the true place of origin. For this reason, the extended scope of protection under Article 23.2 is also referred to as “absolute” protection.

75. Article 24 of the TRIPS Agreement lists a number of exceptions to a WTO Member’s obligation to protect geographical indications in accordance with Articles 22 and 23 of the Agreement. Two of the nine paragraphs of Article 24 refer expressly to trademarks, namely Article 24.5 and Article 24.7. The former paragraph constitutes a substantive rule concerning the relationship between trademarks and geographical indications, whereas the latter paragraph relates to certain procedural aspects for claiming rights in geographical indications over trademarks and requesting the invalidation of such trademark rights. Furthermore, Article 24.3 provides as a general rule that, in implementing Part II, Section 3 of the TRIPS Agreement, WTO Members shall not diminish the protection of geographical indications that

existed in that Member immediately prior to the date of entry into force of the WTO Agreement.

76. Article 24.5 stipulates that, where a trademark has been applied for or registered in good faith, or where rights to a trademark have been acquired through use in good faith either before the date of application of the provisions on geographical indications of the TRIPS Agreement in a WTO Member, or before the geographical indication is protected in its country of origin, measures adopted to implement the said Section of the TRIPS Agreement shall not prejudice eligibility for or the validity of the registration of a trademark, or the right to use a trademark, on the basis that such a trademark is identical with, or similar to, a geographical indication.

77. A request under Part II, Section 3 of the TRIPS Agreement in connection with the use or registration of a trademark (presumably a request for prohibition to use or invalidation of the registration of a trademark conflicting with a geographical indication) must be made within the time limits provided for by Article 24.7. The limits are five years after the adverse use of the protected indication has become generally known in that Member, or five years after the date of registration of the trademark in that Member provided that the trademark has been published by that date, if such date is earlier than the date on which the adverse use became generally known in that Member.

78. The TRIPS Agreement creates a framework for the solution of conflicts between geographical indications and trademarks, taking into account the date of entry into force of the TRIPS Agreement for WTO Members, the commencement of protection of geographical indications in their countries of origin, and the time of the acquisition of *bona fide* trademark rights in signs identical with or similar to geographical indications and used on goods for which the respective geographical indication is protected. Together with the other exceptions in Article 24, Part II, the TRIPS Agreement provides for delicately balanced solutions for conflicts between geographical indications and trademarks.

(d) Resolutions and recommendations by international intergovernmental organizations (IGOs) and non-governmental organizations (NGOs)

79. Several international intergovernmental and non-governmental organizations have addressed the issue of conflicts between trademarks and geographical indications. The names of the organizations together with summaries of the texts adopted by them which were considered relevant for this document are contained in the Annex.

IV. Conclusion

80. With due regard to what is set out in the preceding paragraphs, the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications is invited to express in what way work should be continued with a view to supplementing the existing international legal frameworks for the solution of conflicts between geographical indications and trademarks and/or the practical application of those provisions.

81. In particular, comments are invited on the principle that competing claims to one and the same sign, as a trademark and a geographical indication, used by different parties to distinguish identical or similar goods, should be decided following the rule of priority. In

other words, the party which has first acquired rights in the sign in a given territory, should be entitled to prevent the other party from using that sign (“First in time, first in right principle;” see the resolutions of AIPPA and INTA, Annex, page 2 and 3).

PART B: CONFLICTS BETWEEN HOMONYMOUS GEOGRAPHICAL INDICATIONS

I. Homonymous Geographical Indications

82. The term homonym is defined in *Merriam Webster’s Collegiate Dictionary* (tenth edition) as “one of two or more words spelled and pronounced alike but different in meaning.” This definition describes accurately the problems created by the use of homonymous geographical indications, namely two or more identical geographical indications used to designate the geographical origin of products stemming from different countries. The most frequent cases of homonymous geographical indications concern the names of regions which are located in different countries. An example for such a region would be an area situated along a river running through several countries, such as the Rhine river.

II. Conflicts Between Homonymous Geographical Indications

83. Conflicts typically arise where products on which homonymous geographical indications are used are sold into the same market. The problem is accentuated where the homonymous geographical indications in question are used on identical products. Honest use of such geographical indications should be possible, because the indications designate the true geographical origin of the products on which they are used.

84. However, concurrent use of homonymous geographical indications in the same territory may be problematic where the products on which a geographical indication is used have specific qualities and characteristics which are absent from the products on which the homonym of that geographical indication is used. In this case, the use of the homonymous geographical indication would be misleading, since expectations concerning the quality of the products on which the homonymous geographical indication is used are not met.

III. Existing Approaches

(a) National and regional law

85. Given the variety of legal concepts which are applied, on the national and regional levels, to the protection of geographical indications, it is not surprising that conflicts between homonymous geographical indications are dealt with in a variety of manners. It is also frequent that this situation is not at all expressly regulated. However, the solutions currently applied seem to have at least one common feature, and that is that concurrent use of homonymous geographical indications that would result in misleading the public as to the nature or certain qualities of the product on which the geographical indication is used is not

permitted. (For further reference concerning homonymous geographical indications for wines in certain WTO Members, see WTO document IP/C/13, question 14, and the replies to that question contained in WTO document IP/C/W/117 and addenda).

(b) International agreements

86. Article 23.3 of the TRIPS Agreement specifically deals with the situation of homonymous geographical indications for wines. This Article provides that protection shall be accorded to each geographical indication on condition that it does not falsely represent to the public that goods on which it is used originate in the territory of another WTO Member. It should be emphasized that Article 23.3 applies only to homonymous geographical indications for wines. Geographical indications for other types of products are not covered by this provision.

87. The second sentence of Article 23.3 leaves it to WTO Members to determine the practical conditions under which the homonymous geographical indications will be differentiated from each other, and calls for taking into account the need to ensure equitable treatment of the producers concerned and the protection of consumers against misleading practices.

(c) Resolutions and recommendations by IGOs and NGOs

88. As regards the work of IGOs and NGOs on the issue of homonymous geographical indications, mention should be made of Resolution ECO/REGLT/98/74 of the International Vine and Wine Office (OIV), which is dealing with this matter. A summary of the contents of this Resolution is contained in the Annex.

IV. Conclusion

89. It is already recognized by the TRIPS Agreement that homonymous geographical indications for wines shall be protected and, thus, are entitled to co-exist. However, this co-existence is subject to the protection of consumers against the use of deceptive geographical indication, i.e., geographical indications which are literally true but misleading as to the true origin of the goods on which they are used. Therefore, it may be considered to extend this principle to geographical indications regardless of the kind of products for which they are used.

[Annex follows]

ANNEX

This annex contains an overview on principles for the solution of conflicts between geographical indications and trademarks, and for conflicts between homonymous geographical indications, which were proposed by international governmental organizations and international non-governmental organizations.

THE INTERNATIONAL VINE AND WINE OFFICE (OIV)

In 1994, the General Assembly of the International Vine and Wine Office (OIV)³ adopted Resolution-O.I.V./ECO 3/94, dealing with the relationship between trademarks and geographical indications (the Resolution does not refer to “geographical indications” as such, but uses the more specific terminology adopted by the OIV, namely “recognized appellations of origin,” “recognized geographical indications” and recognized traditional denominations”).

Resolution-O.I.V./ECO 3/94 invites Member States of the OIV “to implement appropriate legal instruments under their legislation and regulations in order to ensure an equal level of protection for recognized appellations of origin, recognized geographical indications, recognized traditional denominations and trademarks, in conformity with the principles set out [in the Resolution].” In essence, the principles laid down by that Resolution are contained in the recitals to the Resolution and provide for the following:

- Consideration is given to the Paris Convention for the Protection of Industrial Property and the TRIPS Agreement (second and third recital).
- The necessity to provide an equal level of protection to geographical indications and trademarks (fourth recital).
- The principle that the protection of trademarks and geographical indications is, in good faith, determined by the priority in recognition of the geographical indication in the country of origin, the registration of the trademark or their use in countries where rights derive from their use, in conformity with national legislation. Account will also be taken of the reputation and distinctive character of a geographical indication and of a trademark, in conformity with national or regional legislation (fifth recital).
- A trademark or geographical indication cannot use the reputation or other intellectual property rights already acquired by one or the other of these in order to guarantee its own development (sixth recital).
- The necessity to avoid any prejudice, diminution or weakening of a trademark or geographical indication (seventh recital).
- The choice of a trademark by its owner is subject to the pertinent conditions of trademark law and that the geographical indication is the geographical name

³ The OIV is an intergovernmental organization founded in 1924, having currently 45 Member States.

(recognized appellation of origin, recognized geographical indication) or traditional name (recognized traditional denomination) which designates the source of the product (eighth recital).

- Without prejudice to cases under dispute, the use of an identical or similar designation as both trademark and geographical indication shall not be permitted (ninth recital).

In 1999, the General Assembly of the OIV adopted Resolution ECO/3/99, dealing with homonymous geographical indications. In particular, the Resolution provides for the following:

- Consideration of Article 23.3 of the TRIPS Agreement (first recital).
- Definition of the homonymy of a geographical indication as a denomination used in several countries to designate a wine or spirit beverage of viticultural origin having a similar or identical spelling and/or pronunciation.
- A recommendation that Member States of the OIV, when setting differentiation rules for homonymous names concerned by the Resolution, should consider the following (recommendation):
 - the official recognition used in the country of origin;
 - the length of time the name has been in use;
 - whether the usage is in good faith;
 - the importance of presenting the homonymous labels to marketing;
 - encouragement mentioning sufficient distinguishing information to avoid confusion of consumers.

THE INTERNATIONAL ASSOCIATION FOR THE PROTECTION OF INTELLECTUAL PROPERTY (AIPPI)⁴

At its 37th Congress, which took place in May 1998 in Rio de Janeiro, Brazil, the International Association for the Protection of Intellectual Property adopted, *inter alia*, a resolution dealing with the issue of geographical indications (Resolution Question Q 62). This Resolution was adopted in consideration of an earlier resolution dealing with the same subject and adopted, by the AIPPI Executive Committee, in Copenhagen in 1994 (Resolution Question 118). As regards the relationship between geographical indications and trademarks, the following portions of the Resolution are of interest:

- Definition of the term geographical indication as 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 characteristic of that good is essentially is

⁴ AIPPI is an international non-governmental organization of practitioners, academics and owners of intellectual property.

essentially attributable to its geographical origin. For the purpose of that Resolution, geographical indication is understood to include appellations of origin (third recital).

- Affirmation of the principle that a trademark can be refused protection, if it is identical or similar to a geographical indication of high reputation, even if the goods or services are not similar, if use of the trademark would take unfair advantage of or be detrimental to the distinctive character of repute of the geographical indication (paragraph B.2.).
- Note is taken of the principle “first in time, first in right” as a possible guiding principle for the resolution of conflicts between geographical indications and trademarks (paragraph B.3., second sub-paragraph).
- Recommendation that at least the principle of “co-existence” expressed in Article 5.3 of the Copenhagen Resolution should be applied, meaning a recommendation, in principle, of co-existence between a geographical indication and an earlier trademark, unless the trademark has acquired reputation or renown prior to the date the geographical indication has been established or recognized as such, in which case protection of the geographical indication should be denied. However, this should not preclude the use of the geographical indication to identify the geographical origin of the goods or services under the conditions specified in paragraph 3.1 of the Copenhagen Resolution (paragraph B.3., second sub-paragraph).
- Affirmation of the principle that existing geographical indications cannot be appropriated as trademarks of individuals and must remain available to all those having a right to use it (paragraph B.5.)

THE INTERNATIONAL TRADEMARK ASSOCIATION (INTA)⁵

In 1997, the INTA Board of Director adopted a Resolution dealing with the protection of geographical indications and trademarks. In particular, the Resolution provides for the following:

- Support of the principle of “first in time, first in right” priority when resolving conflicts between geographical indications and trademarks.

INTERNATIONAL LEAGUE OF COMPETITION LAW (LIDC)⁶

The International League of Competition Law (LIDC) has adopted in November 1998 a Resolution concerning geographical indications. The Resolution addresses the issue of international protection of geographical indications. However, the relationship between

⁵ The International Trademark Association is an international non-governmental organization of trademark owners and associated professionals.

⁶ The International League of Competition Law is a Swiss independent scientific association.

geographical indications and trademarks, and between homonymous geographical indications is not specifically dealt with.

[End of Annex and of document]