

Geographical Indications and Appellations of Origin: An Overview

Champagne, Cognac, Roquefort, Chianti, Porto, Tequila, Darjeeling...

- **Geographical names referring to products** of a certain nature and quality
- Legal protection as GIs or AOs based on the recognition of the association of their quality or characteristics with a specific geographical area
- The higher the reputation the higher the **commercial value**
- High risk of **misappropriation and counterfeiting** calls for protection at the national and international level

Subject-Matter of Protection (GIs and AOs)

Indication of a Connection between Characteristics of Products and their Geographical Origin

- Informs consumers of the uniqueness of the products derived from this connection (**typicality**)
- Represents the collective goodwill derived from this uniqueness (**reputation**)
- **Value-added**

Why protect GIs and AOs?

- **Benefits for the producers:** differentiation and marketing tool, improved livelihood (quality products sold at a premium price)
- **Benefits for the consumers:** reduced search costs, guarantee to acquire unique high quality products
- **Benefits for rural areas:** stimulate rural development, value socio-cultural and agro-ecological characteristics of a particular place (help sustain production of traditional products)
- **Benefits for regions and countries:** positive spillover effects (tourism, additional income, improved reputation)

Overview of the international instruments related to the protection of GIs/AOs

- **Paris Convention** (1883)
- **Madrid Agreement** (1891)
(repression of false and deceptive indications of source)
- **Madrid Agreement and Protocol** (1891, 1989)
(international registration of marks)
- **Lisbon Agreement** (1958)
- **Bilateral Agreements**
- **TRIPS Agreement** (1994)

Different systems of protection worldwide

➤ **Multilateral Agreements**

- Protection of GIs under TRIPS
- Protection of AOs under the Lisbon Agreement

-Legal protection they provide is based on various means of protection at the national level: an act of public law (law, decree, administrative decision, ordinance), or a judicial decision

➤ **Regional Systems of Protection (EU, OAPI...)**

➤ **Bilateral Agreements**

- Under such agreements two States or two trading partners agree to protect each other's GIs or AOs

➤ **National Laws**

- **General laws focusing on business practices** (unfair competition and consumer protection provisions)
- **Specific protection systems** for GIs and AOs (sui generis)
- **Trademark law provisions** devoted to collective marks and/or certification and guarantee marks
- **Administrative schemes** of label control

Differences between AOs and GIs

- **AOs (Lisbon, Art.2)**
- Geographical **denomination**
- **Recognized** as referring to quality or characteristics of a specific product
- Due exclusively or essentially to the geographical **environment** (natural or human factors)

- AO= **Special category** of GI
- Only existing **multilateral registration system** for the protection of AOs

- **GIs (TRIPS, Art.22.1)**
- **Indication**
- Identifies a good with a specific quality, **reputation**, or other characteristic
- Essentially attributable to its geographical **origin**



Symbol referring to or associated with a particular geographical area (e.g. the cartographic outline of France with a red itinerary for Burgundy wines)

Collective Marks and Certification or Guarantee Marks

■ Collective Marks

Type of mark reserved for the use by the members of a collective body
(ex: association or cooperative of manufacturers, producers or traders)

Collective mark is owned by a collective body
(issues regulations governing use of the mark and quality standards)

■ Certification Marks

Owned by a certification authority (local government entity or private association which is not itself engaged in the production or the trade of the product concerned)

Can be used by everybody whose products comply with the requirements set out in the regulation governing use of the mark

How to approach the establishment of a GI or an AO?

- Determine whether the product in question can be sufficiently differentiated in the market place by the use of a geographical identifier (feasibility analysis of its marketability)
 - ❖ in the country of origin as well as abroad
- Determine whether stakeholders are interested in a long term commitment
 - ❖ in terms of cooperation and resources
- If so, then ensure broad participation and leadership
 - to reduce disharmony and ensuing difficulties; and
 - to permit optimal benefits to the stakeholder
- On this basis, secure development and promotional funds, to meet basic costs
- Then, engage in the determination of ...
 - ❖ the quality or process requirements to apply;
 - ❖ the demarcation of the area of production;
 - ❖ a marketing strategy; and
 - ❖ means to ensure supply chain integrity

What basic costs can a GI or an AO expect to incur?

- Costs for determining whether the GI or AO in question is viable
 - ❖ interesting product? interested market? organized producers?
- Investment for establishing the necessary domestic legal structures and defining the exact physical boundaries of the production area and production requirements
- Information and promotion costs
 - in the country of origin and abroad
- Costs for registration as a GI or AO
 - ❖ domestically and abroad
 - sui generis title of protection?
 - collective or certification mark?
- Costs for monitoring proper use of the GI or AO
- Reserves for the use of legal enforcement procedures
 - popular products are liable to be counterfeited

Technical Assistance

- Drafting Legislation
- Application Criteria for Establishment GI or AO
- Monitoring and Enforcement Procedures
- Protection under International Treaties

Regional systems of protection (EU)

- Pecorino Romano (PDO)
- Arroz del Delta del Ebro (PDO)



Examples of Certification Trademarks



Collective Marks



St. Moritz

Indications of Source



- 'Swiss', 'Swiss Quality', 'Made in Switzerland', 'Swiss-made' or other designations which contain the Swiss name as well as its translation in other languages

(can only be used exclusively for products manufactured in Switzerland and services from Switzerland)



On-going Negotiations in the WTO

Article 23.4 of the TRIPS Agreement

In order to facilitate the protection of GIs for wines, negotiations shall be undertaken in the Council for TRIPS concerning the establishment of a multilateral system of notification and registration of GIs for wines eligible for protection in those Members participating in the system.

(Spirits added by the Doha Ministerial)

Doha Declaration

Paragraph 18

- completion of the work started in the TRIPS Council on the implementation of Article 23.4
- negotiate the establishment of a multilateral system of notification and registration of GIs for wines and spirits by the 5th Ministerial Conference
- issues related to the extension of Article 23 protection to other products will be addressed in the TRIPS Council pursuant to paragraph 12 of this Declaration

International Registration of GIs

*The Existing Systems:
Lisbon and Madrid*

Lisbon Union: 26 Member States

Africa (6): Algeria, Burkina Faso, Congo, Gabon, Togo, Tunisia

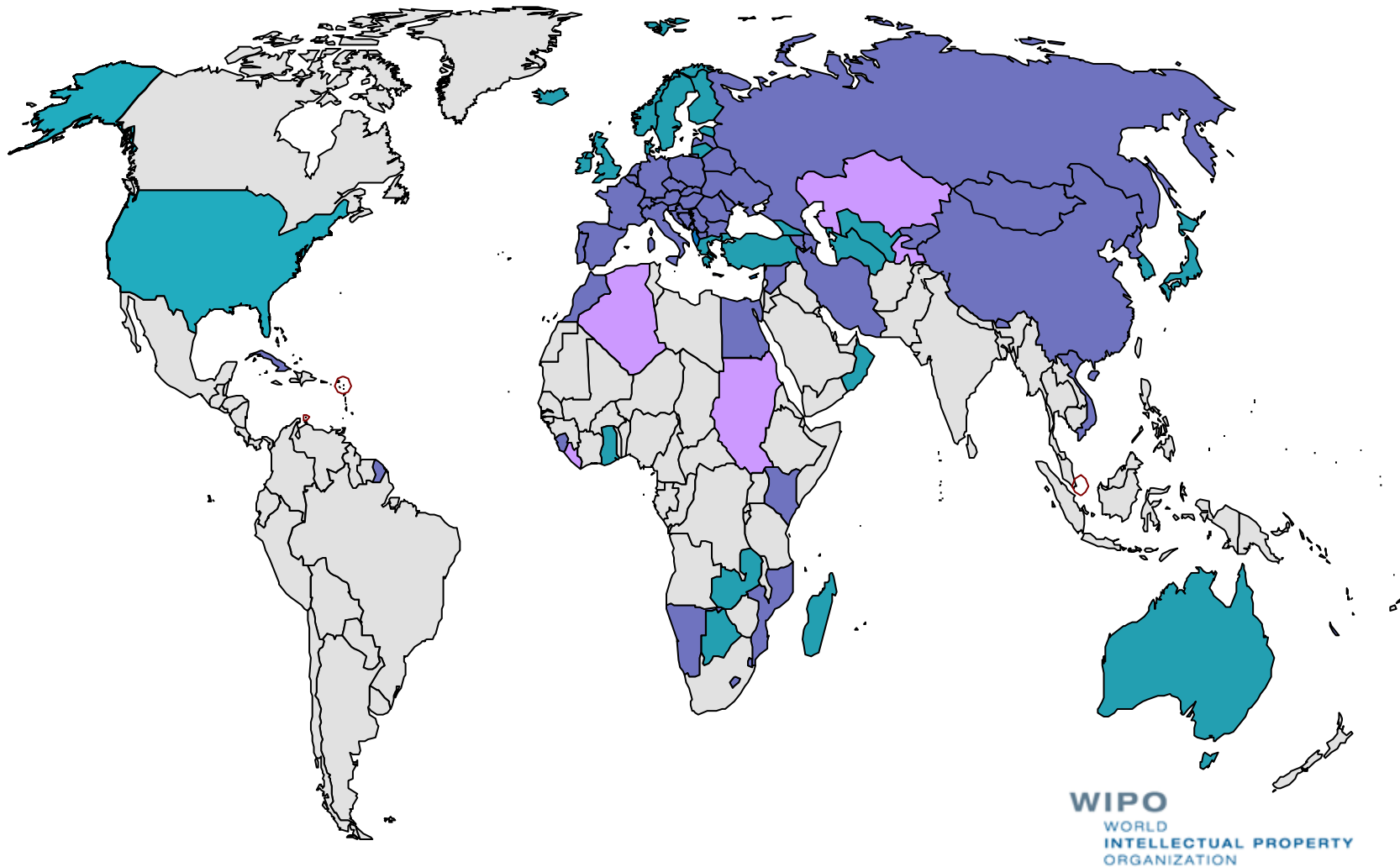
America (6): Costa Rica, Cuba, Haiti, Mexico, Nicaragua, Peru

Asia (4): Georgia, Islamic Rep. of Iran, Israel, DPR of Korea

Europe (10): Bulgaria, Czech Rep., France, Hungary, Italy, Moldova, Montenegro, Portugal, Serbia, Slovakia

Madrid Union

84 members



Legal Effect

Effect of international registration

- **Lisbon**: extension of protection to countries other than the country of origin
- **Madrid**: extension of protection to countries other than the country of origin, as designated
- **Lisbon**: indefinite (in principle)
- **Madrid**: renewable every 10 years

Except in a country that ...

- issued a refusal (within the prescribed time-limit), or
- invalidated the effect of the international registration in its territory

Exceptions

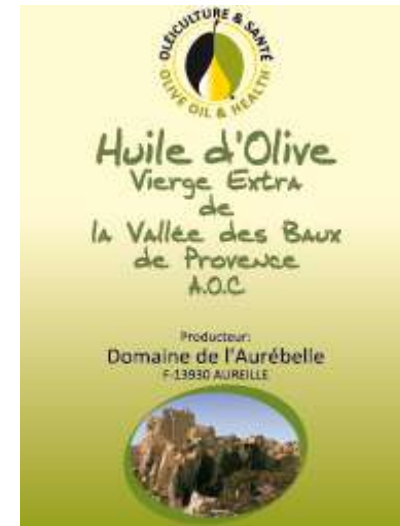
- Generics
- Prior Trademark Rights
- Other Prior Use
- Use of One's Own Name in Business
- GI Not Protected in Country of Origin

Overview of the Lisbon Agreement

- Established to facilitate the international protection of AOs through a **single registration procedure**
- Accession open to any country party to the **Paris Convention**
- Administered by WIPO, which keeps the **International Register of AOs**
- At present:
 - **26** contracting parties
 - A total of 891 AOs have been recorded in the International Register, of which **817** are currently in force

Example of an International Registration under Lisbon: Huile d'Olive de la Vallée des Baux de Provence (AO No. 806)

- **Registered** on 29.06.98
- **Holder:** Producers and groups of producers enjoying the appellation of origin in question
- **Area of Production:** Delimited territory within the department of Bouches-du-Rhône
- **Legal Basis:** Decree of August 27, 1997



Examples of Registered AOs under Lisbon



NON SI FABBRICA, SI FA.



Working Group on the Development of the Lisbon System

In September 2009, [the Assembly of the Lisbon Union](#):

- (i) approved **amendments** to the Regulations under Lisbon Agreement, as recommended by the Working Group
- (ii) agreed that the WG **continue with its review** of the Lisbon system
- (ii) noted that WIPO would conduct a **survey** among interested stakeholders and explore what changes to the Lisbon system might allow a wider membership
- (iii) noted that WIPO would prepare a **study** on the relationship between regional systems of protection for GIs and the Lisbon system (and an analysis of conditions for possible accessions to the Lisbon Agreement by intergovernmental organizations administering such systems)

Some Issues Raised in the Survey on the Lisbon System

■ The basis for protection in the country of origin

(should and AO be recognized and protected under *sui generis* legislation or can other means of protection also be accepted as a basis for international registrations under Lisbon?)

■ Should the AO definition under Lisbon be amended?

■ Is the scope of protection for AOs under Lisbon adequate?

(or should it require more extensive protection than against « usurpation and imitation », as it currently prescribes?)

END OF THE PRESENTATION

Thank you

ANNEXES

Sui Generis Systems for GIs and AOs

- Legal protection is based on an **act of public law** (law, decree (ex: *France*), ordinance (*Switzerland*)...) adopted at the conclusion of an **administrative procedure** involving representatives of the producers concerned and the government administration
- A group or a **natural or legal person** may apply for the *registration* of a geographical indication or the *promulgation of a decree* establishing an appellation of origin
- The application process typically involves an **opposition procedure** (within one-year from receipt of notification of registration of AO by another country)

Legal Regulation of Business Practices

■ Unfair Competition Law

Commercial practices which mislead the public with respect to the geographical origin of products constitute an act of unfair competition

*Note: unfair competition laws afford **civil remedies** to traders and producers damaged by the unauthorized use of GIs by third parties, rather than protecting the GI as such*

■ Administrative Regulations

Administrative regulation of **product labeling** and **food safety standards** represent another means of ensuring fair trade and consumer protection

Prior Use

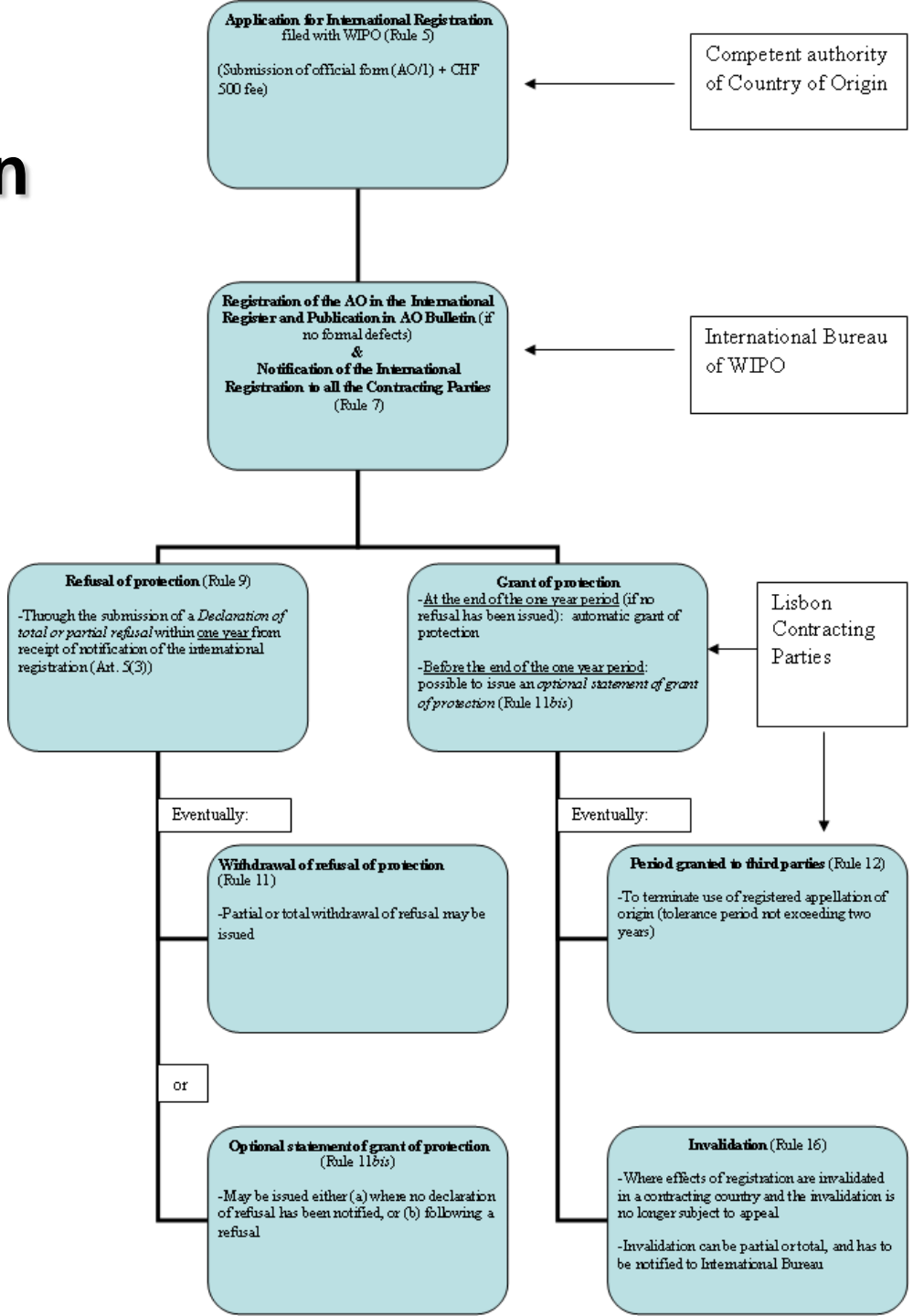
■ Under Lisbon

- Art. 5(6): prior uses of a term inscribed in the International Register as a protected AO may be granted a transition period of up to two years to terminate use of the term by the prior user

■ Under TRIPS

- Art. 24.4: prior use of a GI identifying a wine or a spirit can be continued in connection with goods or services, if certain conditions are met
- Art. 24.5: implementation of TRIPS must be without prejudice to the registration of a TM identical or similar to a GI, if the TM is applied for in good faith prior to the moment as of which the GI became protected in the country in question
- Article 24.6: no obligation for a WTO Member to protect a GI, if the GI is a generic indication for goods or services in the country in question

Registration Procedure



Registered AOs

The Database

The screenshot shows the 'Lisbon Express - Structured Search' page in a Microsoft Internet Explorer browser window. The address bar shows the URL: <http://www.wipo.int/ipd/en/lisbon/search-struct.jsp>. The page features the WIPO logo and navigation links for 'ABOUT WPO', 'IP SERVICES', 'PROGRAM ACTIVITIES', 'RESOURCES', and 'NEWS & EVENTS'. The main content area is titled 'Lisbon Express - Structured Search' and includes a 'Simple Search' link. Below this, there are search criteria fields organized into two columns. The left column has a 'Sort Results' dropdown set to 'Chronologically' and a 'Query' section with a series of 'AND' dropdowns. The right column has a 'By Relevance' section with a series of '=' dropdowns. The search criteria fields are: Number, Date, Holder, Appellation, Transliteration, Translation, Publication, Country of origin, Nice Classification, Product, Area of production, and Link e-mail. The bottom of the browser window shows the taskbar with various open applications like 'WPO Applications for R...', 'Inbox - Microsoft Outlook', 'X:\SHARE\Rosaf...', 'Microsoft PowerPoint - [...]', and 'Lisbon Search - Micro...'. The status bar at the bottom indicates 'Slide 10 of 20', 'Default Design', 'English (U.S.)', and '100%' zoom.

WORLD INTELLECTUAL PROPERTY ORGANIZATION

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Home > IP Services > Intellectual Property Digital Library

Lisbon Express - Structured Search

[Simple Search](#)

Sort Results: ☒ Chronologically ☐ By Relevance

Query:

AND	Number	=	
AND	Date	=	
AND	Holder	=	
AND	Appellation	=	
AND	Transliteration	=	
AND	Translation	=	
AND	Publication	=	
AND	Country of origin	=	
AND	Nice Classification	=	
AND	Product	=	
AND	Area of production	=	
AND	Link e-mail	=	

Waiting for <http://www.wipo.int/ipd/en/lisbon/search-struct.jsp>...

Slide 10 of 20 Default Design English (U.S.)

Start WPO Applications for R... Inbox - Microsoft Outlook X:\SHARE\Rosaf... Microsoft PowerPoint - [...] Lisbon Search - Micro...

The Bulletin



The Bulletin “Appellations of origin” is the official publication of the Lisbon system. It is issued by WIPO for the publication of new registrations and other recordings in the International Register as well as information concerning changes in the legal framework of the Lisbon system.

Lisbon: 891 registrations – 817 in force

■ France	508	■ Algeria	7
■ Czech Rep.	76	■ Portugal	7
■ Bulgaria	51	■ Tunisia	7
■ Slovakia	37	■ DPR of Korea	6
■ Hungary	28	■ Peru	4
■ Italy	31	■ Montenegro	2
■ Georgia	20	■ Moldova	1
■ Cuba	19	■ Israel	1
■ Mexico	12		

Working Group Approved Amendments to the Lisbon Regulations

- Introduction of new Rule **11bis** - Optional Statements of Grant of Protection
- New Rule **23bis**: Establishment of Administrative Instructions (possibility of using **electronic means of communication** is introduced)