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## SYMPOSIUM ON THE INTERNATIONAL PROTECTION OF GEOGRAPHICAL INDICATIONS

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THE PROTECTION OF GEOGRAPHICAL INDICATIONS IN MEXICO

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Good morning, it is an honor for me to participate in this Symposium on the International Protection of Geographical Indications. On behalf of the Mexican Industrial Property Institute, as the body responsible for administering the industrial property system in Mexico, I am especially grateful to WIPO and the Ministry of Industry, Energy and Mining of Uruguay for this invitation, since through this symposium we once again have the opportunity to share both national and international experience as regards the protection of geographical indications, a concept which unites us all in the face of the challenge presented by trade in the twenty-first century.

I will discuss the subject of protection of appellations of origin in Mexico as follows:

- I. Precedents and national and international legal framework for the protection of geographical indications in Mexico.
- II. Analysis of appellations of origin and collective marks (concept, requirements of source, functions, recognition).
- III. Links between appellations of origin and collective marks, and standards of quality.
- IV. The “tequila” case as an appellation of origin.
- V. Conclusions.

## I. PRECEDENTS AND NATIONAL AND INTERNATIONAL LEGAL FRAMEWORK FOR THE PROTECTION OF GEOGRAPHICAL INDICATIONS IN MEXICO

Mexico is a country which has an important tradition of protection for appellations of origin. Our legislation therefore recurrently contains two alternative forms of protection for geographical indications: collective marks and appellations of origin.

The first ever reference to appellations of origin is to be found in the Industrial Property Law of 1942, which established the concept of appellation of origin. Subsequently, with the reform of January 4, 1973, the procedure for its protection was introduced. On February 10, 1976 with the entry into force of the Law on Inventions and Marks, which repealed the 1942 Law, the possibility was established of instigating the protection process at the request of a party *ex officio*, and new obligations were added for the user of the appellation of origin. The 1991 Law on Industrial Property Promotion and Protection, the name of which was changed to the Industrial Property Law with the reform and addition of 1994, represents the legal framework in force in Mexico for the protection of appellations of origin (Title V).

Article 156 of the Industrial Property Law, based on the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, establishes the definition of appellation of origin: “Appellation of origin means the name of a geographical region of the country which serves to designate a product originating therein, the quality and characteristics of which are due exclusively to the geographical environment, including natural and human factors.”

For its part, the collective mark concept was introduced in national legislation in 1991 with the Law on Industrial Property Promotion and Protection and, in accordance with our legislation, it is the distinctive sign which is intended to distinguish the origin or any other common characteristic of products that have been produced or manufactured by a group of persons in a particular locality, region or country; thus Article 96 of Chapter II of the Industrial Property Law on trademarks states that “the associations or societies of producers, manufacturers, merchants or service providers that have been legally established may request the registration of a collective mark in order to distinguish, in the market, products or services of its members from the products or services of third parties.”

Furthermore, as regards the international legal framework for geographical indications in Mexico, our country is a party to the Paris Convention and various provisions of the Convention refer specifically to the subject of indications of source or appellations of origin: Article 1(2) refers to indications of source and appellations of origin as an industrial property subject; Article 10 makes explicit reference to the protection of indications of source, but does not contain any special provisions as regards the protection of appellations of origin; Article 9 stipulates a number of sanctions applicable, inter alia, in cases of direct or indirect use of false indications of source; and Article 10 ter strengthens the provisions of Article 9.

*The main advantage of the protection granted by the Paris Convention to indications of source lies in the territorial scope which currently comprises 162 members.*

Similarly, Mexico has been a party to the Lisbon Agreement since September 25, 1966. The definition of appellation of origin used in our Industrial Property Law is based on the definition established by Article 2(1) of the Lisbon Agreement.

Article 1(2) of the Lisbon Agreement provides that States parties shall undertake to protect, on their territories and in accordance with the terms of the Agreement, the appellations of origin of the products of other countries which are recognized and protected as such in the country of origin, and registered with WIPO.

In accordance with Article 5(1), international registration is carried out at the request of the competent administration of the country of origin. The protection granted by the registration in question has no time-limit and does not need to be renewed, i.e. it provides protection for an appellation of origin while it is protected as such in the country of origin.

The content of the protection granted to an internationally registered appellation of origin is very broad, since it stems from the provisions of Article 3 which indicate that any usurping or imitation of the denominations shall be prohibited, including if the true origin of the product appears, or if the denomination is used in translation or is accompanied by expressions such as gender, type, manner, imitations or the like.

It is important to emphasize that through the Foreign Affairs Secretariat, IMPI must process the international registration, under the Lisbon Agreement, of the appellations of origin that have been the subject of a declaration of protection.

*In this connection, Mexican appellations of origin are protected and internationally registered. Tequila has been registered since April 13, 1978, as number 669; Mezcal, since March 9, 1995, as number 731; Talavera since July 17, 1998, as number 883; and Olinalá since March 7, 1995, as number 732. As regards the appellations of origin Café Veracruz, Ámbar de Chiapas and Bacanora, those appellations are already being processed for international registration purposes. Contrary to the Paris Convention, the shortcoming of this Agreement is the territorial scope since this has currently been reduced to 20 countries.*

On the other hand, the international protection of geographical indications has also been obtained in trade agreements such as the Agreement on the Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) of the World Trade Organization (WTO) and the intellectual property rights' chapters of free trade agreements, as well as in exclusive bilateral agreements for the protection of these indications. The TRIPS Agreement entered into force in Mexico on January 1, 2000, as a result of the transition period specified in the actual Agreement for developing countries.

This Agreement defines geographical indications as those which identify a good as originating in the territory of a Member, or a region or locality in that territory (indication of source), where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin (appellation of origin). As may be seen, the definition in question is close to an appellation of origin in that it is an indication of source.

The protection granted under this Agreement refers to the fact that members must provide the legal means for interested parties to prevent:

1. 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 origin, in a manner which misleads the public as to the geographical origin of the good.
2. Any use which constitutes an act of unfair competition, within the meaning of the Paris Convention.

This Agreement also establishes a special provision for the protection of geographical origins of wines and spirits, whereby the provision in question makes compulsory the provision of legal means to prevent the use of a geographical indication identifying goods of this kind not originating in the place indicated by the geographical indication, even where the true origin of the goods is indicated or the geographical indication is used in translation or accompanied by expressions such as kind, type, style, imitation or the like, as established by the Lisbon Agreement for Appellations of Origin.

The TRIPS Agreement is the multilateral instrument that establishes the most specific form of protection with the greatest scope for geographical indications, as a result of the large number of member countries of the World Trade Organization.

As regards free trade agreements, I will refer only to the North American Free Trade Agreement (NAFTA), signed by Canada, Mexico and the United States, and which has been in force since 1994.

Within the intellectual property chapter, a definition is established for geographical indications, which relates to any indication identifying a good as originating in the territory of one of the parts, or a region or locality, of that territory, in cases where the given quality, reputation or other characteristics of the product are essentially attributed to its geographical origin.

It is stated that the parties must provide the legal means for interested persons to prevent:

1. 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 territory, region or locality other than the true place of origin, in a manner which misleads the public as to the geographical origin of the good.
2. Any other use which constitutes an act of unfair competition, within the meaning of Article 10 bis of the Paris Convention.

NAFTA provides that members may refuse to register or cancel the registration of a mark containing or consisting of a geographical indication relating to goods that do not

originate in the territory, region or locality indicated, if the use of such an indication of the mark for those goods is of a kind that misleads the public as to their geographical origin. This provision allows for the possibility of protecting a geographical indication as a mark..

Furthermore, Annex 313 of NAFTA states that Canada and the United States shall recognize Tequila and Mezcal as products originating from Mexico and, consequently, shall not permit the sale of any product as Tequila and/or Mezcal, unless they have been prepared in Mexico, in accordance with the laws and regulations of our country.

The Agreement between Mexico and the European Union concerning the mutual recognition and protection of appellations of origin in the spirits sector was signed on May 27, 1997. Mexico's interest in signing the Agreement in question is based on three principal factors:

- (i) the increase in consumption of Tequila and Mezcal;
- (ii) the marketing of drinks with the false appellations of Tequila and Mezcal;
- (iii) lack of recognition of these appellations of origin in countries of the European Union that are not party to the Lisbon Agreement, since the only countries which are party thereto are France, Italy and Portugal.

The scope of protection of this Agreement envisages two very important aspects. The first refers to the obligation of both parties to recognize as originating in those parties in the form of two lists, one Mexican and one European, appellations used to protect spirits.

The second relates to the agreement of the parties to prevent the marketing of spirits covered by the protected appellation that do not originate in the parties.

This Agreement guarantees for Mexico the exclusive use, and therefore exclusive marketing in the European market of the beverages protected by the appellations of origin Tequila and Mezcal and, at the same time, grants the national producers an additional incentive to increase export activity.

## II. ANALYSIS OF APPELLATIONS OF ORIGIN AND COLLECTIVE MARKS (CONCEPT, FUNCTIONS, SOURCE REQUIREMENTS, RECOGNITION)

### Appellation of origin (A.O.)

An appellation of origin contains three essential elements, as follows:

- (a) name of a geographical region.
- (b) a product from the geographical region designated by the same name.
- (c) the qualities and features of said product are due exclusively to the geographical environment, including natural and human factors.

The natural factors comprise the climate, temperature, humidity, height above sea level, characteristics of the soil and so on. On the other hand, the human factors include tradition, specialization in a particular art or occupation, and the use of special production processes.

It can be deduced from the definition of appellation of origin that the appellation has four basic functions, i.e.:

(i) Designating the product by means of the geographical appellation

This consists in designating the product by the name of the territory or locality in which the geographical production area is located.

(ii) Identifying the product's geographical origin

This refers to the area (country, territory or locality) in which the company or companies extracting, preparing or manufacturing the product corresponding to the appellation of origin is located.

(iii) Linking the quality and characteristics of the product to the geographical environment and human factors

This refers to the link between the quality and characteristics of the product and the geographical area, i.e. the quality and characteristics are due exclusively or essentially to its geographical origin, be it the climate, soil, latitude, altitude and the human factors relating to traditional production methods, selection of plants, cultivation and breeding methods, or conversion or manufacturing processes.

(iv) Preventing a situation where the appellation in question becomes a generic term

This consists in preventing and forestalling a situation where the appellation of origin with which a product is designated becomes a generic name.

IMPI is authorized to declare the protection of an appellation of origin ex officio or at the request of a party demonstrating legal interest. In accordance with Article 158 of the Industrial Property Law, the following shall have legal interest:

- (a) Natural or legal persons that devote themselves directly to the extraction, production or preparation of the product(s) for which coverage is provided by the appellation of origin;
- (b) The chambers or associations of manufacturers or producers;
- (c) and the bodies answerable to or within the Federal Government and the governments of Federation bodies.

A request for a declaration of protection for an appellation of origin must be made in writing and be accompanied by the requisite documentation justifying and corroborating the legal interest of those requesting protection, as well as proof of payment of the appropriate fee.

The application must contain:

- (i) name, domicile and nationality of the applicant;
- (ii) nature and activities undertaken in the case of a legal person;
- (iii) the legal interest of the applicant;
- (iv) the indication of the appellation of origin; and,
- (v) a detailed description of the product covered by the appellation of origin, including:

- the characteristics and components;
- the form of extraction and production or preparation processes
- the official standards established by the Secretariat of the Economy, to which the product is subject;
- packing, packaging, labeling and wrapping standards;
- the place(s) of extraction, production or preparation of the product; and,
- the delimitation of the territory of origin, according to the geographical characteristics and divisions; and

- (vi) an indication of the links between appellation, product and territory.

Once the Institute has received the application, it examines the data and documents submitted. If the documents do not satisfy the legal requirements or are insufficient, IMPI grants the applicant a period of two months to make the necessary clarifications or additions. Where the applicant does not comply with the requirement within the period granted, the applicant shall be considered to have been abandoned, although the possibility of IMPI continuing the process ex officio does exist.

When the documents presented satisfy the legal requirements, IMPI publishes an extract of the application in the Official Federation Gazette and a period of two months is granted, starting from the publication date, for any third party with legal interest to make observations, raise objections and provide such proof as is deemed appropriate. For this purpose, all types of proof are accepted, apart from those of a confessional or testimonial nature. Expert evidence is to be provided by IMPI or by any representative body, and it may also carry out investigations and use all the elements it considers relevant.

Once the submission of proof is complete and the studies have been carried out, the Institute issues an appropriate resolution. If the resolution in question grants protection for the appellation of origin, IMPI produces a declaration to that effect and publishes it in the Official Federation Gazette. It should be pointed out that in accordance with Article 166 of the Industrial Property Law, the terms of the declaration of protection for an appellation of origin may be amended at any time, be it ex officio or at the request of an interested party.

The validity of the declaration of protection for an appellation of origin is determined by the continuing existence of the conditions which gave rise to it, i.e. the declaration of protection will take effect for as long as the conditions that generated the appellation of origin prevail.

It is important to mention that the State of Mexico is the owner of the appellations of origin and IMPI is the body responsible for authorizing their use.

I will now explain the administrative procedure for authorizing use of an appellation of origin. As already mentioned, the authorization for use of an appellation of origin must be requested from IMPI and is granted to any natural person or legal entity complying with the requirements established in Article 169 of the Industrial Property Law, i.e. where:

- (i) the use is devoted to the extraction, production or preparation of the products protected by the appellation of origin;
- (ii) such an activity is carried out within the territory stated in the declaration;
- (iii) the use complies with the official standards established by the Secretariat of the Economy, according to the applicable laws, with respect to the products in question; and,
- (iv) it complies with the other requirements indicated in the declaration.
- (v) Thus, in order to obtain authorization for use of an appellation of origin, an application form must be submitted, in which the following must be indicated:

- (a) name, nationality and domicile of the applicant;
- (b) location of the industrial establishment where the product is made;
- (c) the name of the attorney or legal representative, where appropriate; and
- (d) the domicile for hearing and receiving notifications.

Similarly, the following documents must be attached to the application:

- (i) a document accrediting the applicant's activity;
- (ii) a document accrediting the personality of the attorney, where appropriate;
- (iii) proof demonstrating the applicant's activity within the territory established in the declaration of protection for the appellation of origin; and,
- (iv) appropriate proof of payment.

Once the application has been received, IMPI examines the data and documents supplied and, where the legal requirements are not satisfied or, in the Institute's opinion, are insufficient for the purposes of understanding the application, the applicant will be granted a two-month period to make the relevant clarifications or supplement the information or documentation. If the application complies with the legal requirements, IMPI issues the corresponding authorization for use, which is often years' duration, starting from the application filing date and is renewable for periods of equal duration.

It is important to mention that the user of an appellation of origin has two fundamental rights: the first refers to the transfer of the use of the appellation of origin and the second to permission for the use thereof.

In other words, on the one hand the user may transfer his right to a third party and the transfer will take effect only once it has been registered with the Institute, and subject to verification that the new user complies with the conditions and requirements mentioned for

the use of the appellation of origin. On the other hand, the user may allow the use of the appellation of origin by third parties, by means of an agreement with those selling or distributing the products of their marks. The agreement in question must be sanctioned by IMPI and take effect from the time it is registered. In addition, the agreement must contain a clause which establishes that the distributor or marketers shall comply with the requirements to which I have referred above, i.e. the information given in the declaration of protection.

Similarly, it should be pointed out that an authorization for use of an appellation of origin may cease to take effect when any of the following causes are cited:

- (i) Nullity: where the authorization has been granted in contravention of the provisions of the Law or with regard to falsed documentation.
- (ii) Cancellation: where the appellation of origin is used in a form other than that established in the declaration, i.e. the user is obliged to use the appellation of origin as protected under the declaration.
- (iii) Period of validity: until such time as it is not renewed.

The administrative declarations of nullity and cancellation are made in writing by the Institute, ex officio or at the request of a party or the Federal Public Prosecutor's Office. Mexico currently has seven protected appellations of origin, three for spirits, Tequila, Mezcal and Bacanora, two for craft products, Talavera and Olinalá, one for coffee, Café Veracruz, and one for the semi-precious stone Ambar de Chiapas.

I will now refer in brief to certain details relating to each of the appellations that I have just mentioned. As regards Tequila, in 1973 Tequila Herradura, S.A. and the Regional Chamber of the Tequila Industry applied for the declaration of protection for this appellation of origin from the Secretariat of Trade and Industrial Promotion, in order to protect the blue variety of Agave Tequilana Weber distilled liquor. The declaration of protection in question was published in the Official Federation Gazette of December 9, 1974, which provided that Tequila could be applied only to the liquor of the same name, was drawn up in accordance with the Official Quality Standard (NOM) for Tequila, and delimited the territory of origin.

In 1977, the declaration in question was amended in order to extend the geographical area, including to the State of Tamaulipas. Subsequently, on June 22, 1999 the extract of the application for an amendment to the Declaration of Protection for Tequila was published in the Official Federation Gazette, having been made by the Municipality of Marcos Castellanos of the State of Michoacán, since this Municipality was excluded from the territory covering the appellation of origin in question as the result of an administrative division. Consequently, on November 3, 1999 the amendment to the declaration mentioned was published in the Official Federation Gazette and included the Municipality of Marcos Castellanos. Similarly, on June 26, 2000 a further amendment to the Declaration of Protection for Tequila was published and included the Municipality of Romita of the State of Guanajuato.

Finally, on August 16, 2001 the Official Federation Gazette published an extract of an amendment to the Declaration of Protection for Tequila so as to include the rules for indirect use of Tequila in other beverages. The twelve-month period, established by Article 161 of the Industrial Property Law for any interested third party to make observations, raise objections and provide such proof as is deemed to be appropriate with regard to the amendment in question, is currently underway.

Furthermore, the declaration of protection for the appellation of origin Mezcal was applied for in 1994 from the Secretariat of Trade and Industrial Promotion (SECOFI) by the National Chamber of Industry of Mezcal A.C., for the protection of the liquor distilled from the Agave plant, known by the same name. The Declaration of Protection for Mezcal was published in the Official Federation Gazette on November 28, 1994, in accordance with the provisions of the Industrial Property Law in force, which stipulated that the appellation of origin in question should be applied to the alcoholic drink of the same name, to which the corresponding Mexican standard refers, and delimiting the geographical area in which it must be produced. The Declaration of Protection for Mezcal has not been amended, although an application for an amendment to extend the geographical area does exist and was published in 1998.

Similarly, in 1994 an application was made to SECOFI by the company La Talavera de Puebla S.A. de C.V., for protection for the appellation of origin Talavera de Puebla, to be applied to Talavera craft products which are manufactured with raw materials from the judicial districts within the region known as the "Zone of Talavera de Puebla." The Declaration of Protection for Talavera de Puebla was published on March 17, 1995, in the Official Federation Gazette, and, in accordance with the provisions of the Industrial Property Law in force, provided that the appellation of origin in question applied to Talavera craft products prepared with raw material from the judicial districts within the Zone of Talavera de Puebla, and described the process of manufacturing the protected products.

Subsequently, on September 10, 1996 the Government of the State of Puebla applied to IMPI in writing for the amendment of the appellation of origin Talavera de Puebla to Talavera, given that the State Executive Decree which had declared the Zone of Talavera de Puebla was amended in 1996, and had replaced the name of the geographical area with that of the Zone of Talavera. The application in question was published in the Official Federation Gazette on February 20, 1997.

Finally, on September 11, 1997 the Declaration of Protection for the appellation of origin Talavera was published in the Official Federation Gazette and designated the craft product which complies with the applicable legal requirements and originates from the geographical region known as the Zone of Talavera.

The fourth appellation of origin is Olinalá. The Declaration of Protection for Olinalá was applied for in 1993 by the Union of Craftsmen of Olinalá, A.C., from the Secretariat of Trade and Industrial Promotion, to be applied to the wooden craft products manufactured with raw materials from the Municipality of Olinalá, in the State of Guerrero. The Declaration of Protection for this appellation of origin was published in the Official Federation Gazette on November 28, 1994.

The fifth appellation of origin is Bacanora. On June 30, 1999, the Government of the State of Sonora applied for the Declaration of Protection for the Appellation of Origin. The Declaration in question was published in the Official Federation Gazette on November 6, 2000.

The sixth appellation of origin is Ambar de Chiapas. On March 14, 2000, the Government of the State of Chiapas applied for the Declaration of Protection for the Appellation of Origin. The Declaration in question was published in the Official Federation Gazette on November 15, 2000.

TheseventhappellationoforiginisCaféVeracruz.OnMarch28,2000,theVeracruz CoffeeCouncilappliedfortheDeclarationofProtectionfortheAppellationofOrigin.The DeclarationinquestionwaspublishedonNovember15,2000.Ishouldmentionthaton December17,1999,anapplicationwasfiledfortheDeclarationofProtectionforthe AppellationofOriginTalaveradeGuanajuato,whichiscurrentlybeingprocessed.

Collectivemark :

InaccordancewithArticle96ofourIndustrialPropertyLaw,theownerofacollective markmaybeanassociationorsocietyofproducers,manufacturers,marketersorservice providers,establishedaccordingtothelaw.Statesmayalsobecomeownersofacollective mark,providedthattheirnationallegislationsopermits(LondonConference,1934).

Theapplicationforacollectivemarkmustincludethefollowingdocumentation :

- (i) accreditationofpersonality;
- (ii) associationorsocietystatutes;
- (iii) rulesforuse;
- (iv) paymentforexaminingtheapplication.

The rules foruseconstituteanextremelyimportantdocumentsincetheyestablishthe parametersandrequirementswithwhichthemembersoftheassociationorsocietyinquestion mustcomplyfortheuseofthecollectivemark.

The rulesinquestionmustcontainthefollowing :

- (i) nameanddomicileoftheapplicant;
- (ii) purposeoftheassociationorsociety;
- (iii) activityoftheassociationorsociety;
- (iv) bodiesauthorizedtorepresenttheassociationorsociety;
- (v) membershipconditions;
- (vi) personsauthorizedtousethemark;
- (vii) quality, components,originoranyothercharacteristicoftheproductsto whichthecollectivemarkwillapply;
- (viii) conditionsofuse;
- (ix) supervisionmeasures;
- (x) placementrules;
- (xi) qualityrulesorstandardssthatwouldbeused;
- (xii) sanctions.

OneofthecurrentprioritiesoftheMexicanIndustrialPropertyInstituteistopromote thefactthatassociationsorsocietiesofproducers,manufacturersorcraftsmenuse,asatool, theregistrationofacollectivemarkasadistinctalternativeformofprotectionfortheir products. Forsuchpurposes,anyofthescenarioswhichIshallnowdescribemaybeadopted:

*Horizontalcollectivemarks*Stategovernmentswouldbeinvolvedsothatthisscheme wouldbesuccessfulinStatesoftheRepublicofMexico.Forexample,inourcountry, in Oaxaca,oneofournationalStates,theseal“AuthenticProductofOaxaca”iscurrentlybeing promoted.

*Sectoral collective marks* : those which apply to a particular sector of industry. This scheme has already been used in the cotton industry.

Thus, collective marks may have a series of benefits which I will outline in brief:

1. They reduce the cost of and fees required for the registration and protection of individual marks in many countries, since they permit large -scale and costly advertising for small producers from a particular place or for a special product which, in isolation, would be unable to extend their mark beyond a particular area.
2. The usefulness of the collective mark is demonstrated since the public recognizes both the name of the individual producer and the territorial source of the product, the guarantee of its origin, method of production and the quality of the merchandise acquired.
3. The purchaser is not exposed to deception, since the origin of the article is denoted by the association mark.
4. Where a quality policy exists in the agribusiness sector, the collective mark has an order regulating the sector in question (manufacture, complete commercialization, whole processor part thereof).
5. The products to which the collective mark is applied will have added value.
6. Rules for distribution based on consensus exist.
7. The advantage of the collective mark over the appellation of origin lies in the fact that such a mark has a shorter registration period and is self-regulating in terms of its rules for use; it is also protected as a geographical indication at the international level in the countries which are parties to the Paris Convention and members of the World Trade Organization.

### III. LINKS BETWEEN APPELLATIONS OF ORIGIN AND COLLECTIVE MARKS, AND STANDARDS OF QUALITY

Quality standards are mechanisms that are used to enable the quality of a product with an appellation of origin or a collective mark to be reflected, since the importance attached to standards of quality in the product aids in their recognition and in the prestige which the product may enjoy among both national and foreign consumers.

These mechanisms provide the economic sectors concerned with the tools necessary to monitor the quality of the product being prepared or marketed.

We have two types of standards, Mexican Standards (NMX) and Official Mexican Standards (NOMs). These standards establish rules, specifications, attributes, testing methods, characteristics or instructions applicable to a product, process, activity, service, or method of production or operation, as well as those relating to symbols, terminology, packaging and labeling.

There is a difference between these two types of standards, which lies in the fact that compliance with the first group is voluntary, while observance of the second group is compulsory. The first group may therefore be used in collective marks and the second are required in an appellation of origin.

Aims of standards :

Means of reference are important in both domestic and international trade. They unify parameters to which products, processes or services must be adjusted. As regards quality, compliance with the standards in question saves on production costs and prevents repeated errors from occurring in the relevant processes. They promote consumer protection since they are instruments which provide appropriate quality of products and services. As to the subject under consideration, one of the aims of the Official Mexican Standards is as a form of support for appellations of origin.

The Official Mexican Standards are closely linked to the protection of appellations of origin. In accordance with our Industrial Property Law for the granting of authorization for use of an appellation of origin, owned by the State of Mexico, the applicant must provide proof, inter alia, that he has complied with the Official Standards established by the Secretariat of the Economy, according to the laws applicable to the products in question. For example, if a natural person or legal entity applies for the granting of authorization for use of the appellation of origin Tequila, he must provide proof that compliance has been achieved with the Official Mexican Standard applicable to this product.

Any product protected by an appellation of origin must necessarily have a special quality. One of the mechanisms used to ensure that the product acquires this quality are the standards, since they guarantee that the product to which the appellation of origin applies has been developed with strict observance of the specifications and compulsory features established by the standards.

Mechanisms exist for certification, verification and monitoring of compliance with the standards, thereby ensuring that the product actually meets the standards of quality. For this purpose, there are accredited Certification Authorities which certify that a particular product complies with the standard and can therefore use the appellation of origin under consideration. Similarly, these Authorities may also be accredited as a verification unit for carrying out monitoring and supervision of compliance with the Official Mexican Standards on a continuous basis.

For its part, the protection of appellations of origin is important in that it constitutes very valuable information for consumers as to the geographical origin of the products, as well as their quality and inherent characteristics, combined with the fact that the appellations of origin are bound up with traditions, customs and methods of production which also merit a minimum level of protection.

In other words, a mark identifies the products or services offered by a particular commercial enterprise and appellations of origin identify the geographical area from which the product comes, as well as the location of the company manufacturing a particular product for which the appellation in question is used.

#### IV. THE "TEQUILA" CASE AS AN APPELLATION OF ORIGIN

Tequila is the alcoholic drink obtained from an agricultural variety produced in a limited area of Mexico. "Agave Azul Tequilana Weber" has been protected as an appellation of origin since 1974 and it was in that year that the appellation of origin Tequila became

binding, protected as it was by an Official Mexican Standard as industrial property, although the beverage had already been subject to compliance with standards since 1949.

In each sip of Tequila we raise to our mouths between eight and twelve years of cultivation of the blue Tequila Weber agave, which is part of the magic of tequila since every few beverages in the world require almost a decade of work in the countryside before they are tasted, not counting the years of aging of each sample. The appellation of origin provides that in Mexico the cultivation of this variety of agave is permitted throughout the State of Jalisco, 20 municipalities of Michoacán, six in Guanajuato, seven in Nayarit, and ten in the State of Tamaulipas, for which reason no other agave cultivated in Mexico or in the world outside this area, may be used to produce tequila. The Official Mexican Standard in force, published in the Official Federation Gazette in 1997, allows Tequila to be marketed with a content ranging from a minimum of 51 to 100 percent of agave sugars, these being the two existing categories, defining terms referring to tequila, smoothness, maturing, white tequila, young tequila, mature tequila, old tequila, and bulk product, and establishes the classification between Tequila and 100 percent agave tequila, and the different types of tequila, chemical and physical specifications, sampling and demonstration methods, as well as information for the packaging, labeling and wrapping of the product.

Furthermore, although Tequila has been produced in Jalisco for centuries, this has not been the case for the past few decades, during which it has begun to receive the attention it deserves. A few years ago, it was still considered to be a cheap regional liquor which was consumed only by the "machomen" from the lower spheres of society or rural areas. The change in image of Tequila from plebeian to noble was not fortuitous, nor did it take place overnight; it was the result of the protection of the beverage as an appellation of origin and by the companies producing 100 percent pure agave tequila, i.e. those which, although the Official Mexican Standard (NOM) allows an additional 49 percent of sugars from an alternative source to be used, introduced into the national and international market the concept of 100 percent tequila as a product exhibiting greater quality and purity; similarly, different kinds of tequila are appearing, to suit consumer tastes: white, mature and old, the formulation of which is smoother since it is directed at another important market: the throats of women as tequila drinkers. Moreover, when the Tequila Governing Council (CRT) was set up as a body to verify compliance with the Official Mexican Standard, pseudo-tequilas and the counterfeit products that damaged the image of tequila began to disappear; similarly, the presentation of Tequila was revolutionized, since ever more original and sophisticated bottles and packaging, which gave the product added value, were relaunched on the market.

Just as the change in the image of tequila did not take place overnight, then, and international prestige which tequila now enjoys is not recent history, since it was a task that began to be undertaken more than four decades ago, in order to make this beverage known as a Mexican product originating from this country and with a quality of world-wide renown. One of the clear stages of this explosion of tequila overseas occurred when, in the 1970s, the Margarita cocktail was born in the United States. Despite the fact that a few years ago only exclusive tequila producers made the beverage with 100 percent agave, the tequila formulation which uses 51 percent agave now tends to be in a minority and the tequila produced with an agave honey base has increased by 372 percent in the past three years, according to figures provided by CRT, owing to the international flow of information from world-wide consumers who recognize the superior taste and content of 100 percent tequila. Similarly, according to figures issued by CRT for the 582 marks active in the market, only 58 percent correspond to companies producing the beverage, which in one way or another are linked to the countryside and those that cultivate it, thereby generating a guaranteed supply of

agave. The remaining 247 marks correspond to companies which only package tequila and have difficulty in obtaining some kind of guarantee of producing sufficient quantities of the beverage at times when the main ingredient is in short supply. In this context, tequila, an industry which represents scarcely 1.5 percent of world beverage consumption, faces, at the beginning of the new century, at least the following challenges:

1. Integrating the production chain between the countryside and industry, thereby guaranteeing the main component: agave.
2. Ensuring complete production.
3. Meeting the demand for tequila fully (100 percent).
4. Modernizing the sector by means of technology.
5. Consolidating the Mexican identity and origin in new markets.

Thus, although the international recognition of tequila as an appellation of origin and the tequila industry have raised the profile of tequila throughout the world, the arrival of the new millennium opens up a promising market but is also replete with challenges for the tequila industry, such that on a daily basis it faces an ever more informed market which demands high-quality beverages.

## V. CONCLUSIONS

The importance for both developed and developing countries of establishing and protecting the geographical origin of products by means of distinctive signs accrediting a series of qualitative features, by virtue of which a product is accepted and distinguished by consumers in the national and international market, is undeniable.

Mexico is a country with an important tradition in relation to the protection of appellations of origin, which has been established and developed throughout history in its industrial property legislation, and recognized internationally with its accession to the Lisbon Agreement and its inclusion in free trade agreements.

The term geographical indications is linked to cultural traditions rooted in countries which have developed and enhanced the manufacture of a product specific to its region. It is related to specific cultural values and represents the sum total of experiences handed down through generations.

To sum up, geographical indications are our regional contribution from the past to the globalized world of the future.

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