

ANNEX II

Registration Procedure and Possibility of Refusal

Application Procedure

1. When a geographical denomination is recognized in the country of origin as the denomination of a geographical area (e.g., a country, region or locality) serving to designate a product that originates therein and meets certain qualifications, it is possible to seek its registration with the International Bureau of WIPO.
2. The application for registration has to be filed by the competent national authority of the country of origin. Registration is in the name of the natural persons or legal entities, public or private, having, according to their national legislation, the right to use the appellation in the country of origin. Apart from the name of the appellation and of the holder or holders of the right to use the appellation, the application must indicate the product to which the appellation applies, the area of production of the product and an indication of the legal basis for the protection in the country of origin.
3. The application has to be filed in English, French or Spanish and be accompanied by the registration fee (1000 Swiss francs). The International Bureau does not carry out a substantive examination of the application for registration, but it does undertake an examination as to form. If the application contains a defect of form, a period of three months is allowed for the defect to be remedied. If the application meets all the requirements as to form, the International Bureau records the appellation of origin in the International Register of Appellations of Origin and notifies the registration to the national authorities of the countries of the Lisbon Union. The registration is also published in the Bulletin *Appellations of Origin*.
4. The international registration bears the date on which the international application was received by the International Bureau, except where such international application was missing any of the following particulars: the country of origin; the holders of the right to use the appellation of origin; the appellation of origin for which registration is sought, and the product to which the appellation applies. In this case, the international registration bears the date on which the last of the missing elements was received by the International Bureau.

Refusal Procedure

5. The competent authorities of the Member States that have received notice of the registration of an appellation of origin may declare that the appellation of origin cannot be protected in the territory of their country. Such declaration of refusal has to meet two basic requirements:
 - (i) The first is a time requirement: the refusal has to be notified to the International Bureau within a period of one year from the date of receipt by that country of the notice of registration;

(ii) The second is a requirement regarding content: the declaration of refusal has to specify the grounds for refusal. For instance, a country may refuse to protect an appellation of origin because it considers that the appellation has already acquired a generic character in its territory in relation to the product to which it refers or because it considers that the geographical denomination does not meet to the definition of an appellation of origin under the Lisbon Agreement or because the appellation would conflict with a trademark or other right already protected in the country concerned.

6. When the International Bureau receives a declaration of refusal within the prescribed period, it notifies it to the competent authority of the country of origin, enters it in the International Register and publishes it in the Bulletin. The competent authority of the country of origin communicates it in turn to the interested parties concerned, who may avail themselves of the same administrative and legal remedies against the refusal as nationals of the country that pronounced it.

7. Refusal can be based on any situation of fact or law. However, the grounds on the basis of which the country decides not to grant protection constitute a basis for possible discussions for the purpose of reaching an understanding. Such an understanding may result in the withdrawal of a refusal, in whole or in part. A procedure is available for the notification of such withdrawals and their recording in the International Register.

Procedures in case no refusal is issued or if a refusal is withdrawn

8. A member country that does not refuse protection to an appellation of origin that was being used by a third party on its territory prior to the date of notification of the international registration has the option of allowing that third party a period not exceeding two years within which to terminate such use. In that case, the competent authority of the country in question has to inform the International Bureau accordingly within the three months following the expiry of the period of one year provided for the refusal of protection.

9. Since January 1, 2010, a contracting country has the option to issue, instead of tacitly accepting the protection in its territory of a given appellation of origin registered under the Agreement, a statement of grant of protection. Such statements of grant of protection are not obligatory but can be issued either (a) where no declaration of refusal has been notified, or (b) following a refusal. In respect of statements as mentioned under (a), the date of the statement will be recorded in the International Register and, in respect of statements as mentioned under (b), the date on which protection was granted.

Procedures in case of invalidation

10. If no declaration of refusal is submitted but the effects of an international registration are, subsequently, invalidated in a contracting country and the invalidation is no longer subject to appeal, the competent authority of the country concerned is to notify the International Bureau accordingly while indicating the grounds on the basis of which the international registration was invalidated. Following such a notification, the International Bureau enters the invalidation in the International Register and sends a copy of the notification to the competent authority of the country of origin.

11. As regards the grounds for invalidation, reference is made to what has been said above in connection with the possibility for a contracting party to submit a declaration of refusal. However, as long as an appellation is protected in the country of origin, a member country that did not submit a declaration of refusal cannot deem that appellation to have become generic in its territory. This does not prevent, however, such an invalidation to be based on the fact that the appellation had already become generic prior to the date of international registration.

Cancellation or Amendment of Registration

12. The international registration of an appellation of origin may be cancelled at any time at the request of the competent authority of the country of origin.

13. That authority may likewise renounce protection in one or more countries party to the Lisbon Agreement, either in the actual application for registration or in a request filed later.

14. The competent authority of the country of origin may also request the entry in the International Register of one or more of the following:

- (i) a change in the holder of the right to use the appellation of origin;
- (ii) a modification to the names or addresses of the holders of the right to use the appellation of origin;
- (iii) a modification to the limits of the area of production of the product to which the appellation of origin applies;
- (iv) a modification relating to the titles and dates of legislative or administrative provisions or of court decisions recognizing protection in the country of origin;
- (v) a modification relating to the country of origin that does not affect the area of production of the product to which the appellation of origin applies.

15. On the other hand, an amendment of the appellation of origin itself or the product to which it relates require the filing of a new application for international registration.