

Quality Food Products Linked to Geographical Origin and Traditions  
FAO Seminar for the South-Eastern European Countries

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# Protection of Geographical Indications

- international legal framework

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## Content of the Presentation

- Global Overview of GI Protection Systems
- Subject-Matter of Protection
- Definitions
- Scope of Protection
- International Registration of GIs and AOs
- GIs in WIPO

# Global Overview of GI Protection Systems

# GI Protection Landscape Around the World

- Laws focusing on business practices
- Sui generis legislation
  - concerning specifically defined characteristics of the product or methods of their production
- Trademark law
- Other means of protection

# Terminology Landscape

appellation of origin	indication of geographical origin	agricultural and food product label
appellation d'origine contrôlée	viticultural area	agricultural and food product certificate
protected designation of origin	indication de provenance	vin de pays
protected geographical indication	geographical designation	denominación específica
geographical indication	indication of source	denominación de origen
quality wine produced in a specified region	reserved description	table wine

# Scope of Protection Landscape

- Use of a recognized GI by a person not eligible or authorized to use it, without any test as to the nature of that use
- Use which is "false", "incorrect", or "does not correspond to the place specified"
- Use which might mislead, deceive or create a false impression regarding the geographical origin of the products
- Misuse, imitation or evocation, even with delocalising qualifiers
- Use of a GI on products which, while originating in the indicated area, do not meet the production or product requirements on which the use of the GI is conditional
- Use damaging or exploiting the reputation, irrespective of whether the public is misled
- Acts contrary to "good practice" or "honest commercial practices"
- Conduct liable to mislead or deceive the public
- Non-authorized use of reputation or goodwill

## Recognition and Protection of a GI

- In the Country of Origin
- Abroad

## International Protection of GIs Recognized and Protected in their Country of Origin

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

# Subject-Matter of Protection

# Geographical Indications

- subject-matter of protection

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

- typicality
- reputation

## GI Definition Landscape:

- common denominators of the elements by which definitions aim to capture the value-added of GIs
- Typicality
  - quality or characteristics of a product that make the product unique and which allow the product to be identified geographically
- Reputation
  - (1) degree of recognition by consumers of the typicality of products and (2) the collective goodwill that they represent on the market

# Basis and Justification for Protection

- **Quality or Characteristics**
- **Reputation**
- **Link** between the Geographical Origin and the Quality, Reputation or Other Characteristics of the Product

# WIPO Standing Committee

Document SCT/10/4, paragraphs 10-13

## Quality

- legal criterion, allowing a product to be identified
- qualitative link different for GI than for AO ?
- disadvantage for countries whose GIs are industrial products ?
- products derived from traditional knowledge ?

# WIPO Standing Committee

Document SCT/10/4, paragraphs 27-30

## Characteristics

- natural and human factors
  - products derived from the “terroir”
  - products derived from traditional knowledge (TK)
- any element that contributes to the typicality of the product

# WIPO Standing Committee

Document SCT/10/4, paragraphs 23-26

## Reputation

- history of the product
- distinctive character of the product
- consumer's perception

## WIPO Standing Committee

Document SCT/10/4, paragraphs 31-36

### Link with the geographical origin

- explains the relationship between the geographical area where the product originates and its quality, reputation or other characteristics
- critical element for determining the delimitation of the geographical area

Some systems only require delimited zones to differ in geological terms from others

# The TRIPS and Lisbon Definitions

## Geographical Indication

Indication which **identifies** 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**

# Lisbon Agreement

## “Recognized” and “Protected” in the Country of Origin (Article 1(2))

- a product with a certain reputation, as defined in Article 2(2);
- whose appellation meets certain qualifications, as defined in Article 2(1); and
- is protected by virtue of some formal means (law, decree, judicial decision or registration)

## Lisbon Agreement

### - Definition of "Country of Origin" (Article 2(2))

#### Requirement of Reputation

The country whose name, or in which is situated  
the region or locality whose name,  
constitutes  
the appellation of origin  
which has given the product its reputation

## Lisbon Agreement

- definition of required qualifications (Article 2(1))

### Appellation of Origin

The geographical denomination of a country, region, or locality, which **serves to designate** a product originating therein, of which the **quality or characteristics** are **due exclusively or essentially to the geographical environment**, including natural and human factors

# Scope of Protection under TRIPS

## TRIPS Agreement: Scope of Protection

- Incorporation of provisions Paris Convention (Art.2.1)
- Definition (Article 22.1)
- Basic level of protection (Article 22.2-4)
- Additional protection for wine and spirit GIs (Article 23)
- Exceptions (Article 24.3-9)
- Negotiations (Article 24.1)
- National treatment and MFN (Article 3-5)
- Procedures (Article 62)
- Enforcement (Part III)
- Dispute settlement



## Standards of Protection (Article 22.2-4)

### Any GI shall be protected against ...

- Any use in the designation or presentation of a good which **misleads the public** as to its geographical origin
- Any use which constitutes an act of **unfair competition** within the meaning of Art.10*bis* of the Paris Convention
- Registration of trademarks which **can mislead the public** as to the geographical origin of products
- **Deceptive** geographical indications



## Standards of Protection (Article 23)

GIs for wines or spirits shall benefit from additional protection against ...

- Any use of the GI which identifies a wine or a spirit **not originating in the area indicated**
  - Country allowed to opt for enforcement by administrative action only
- Registration of trademarks **not having the geographical origin indicated**
- **Homonymous** GIs (for wines)

## Exceptions

- Generics  
(Article 24.6)
- Prior Trademark Rights  
(Article 24.5)
- Other Prior Use  
(Article 24.4)
- Use of One's Own Name in Business  
(Article 24.8)
- GI Not Protected in Country of Origin  
(Article 24.9)

# WTO Dispute Settlement

## - Panel Report on GI Issues

Two cases concerning EC Regulation 2081/92

- US vs EC (wt/ds174)
- Australia vs EC (wt/ds290)

## Scope of Protection under Lisbon

## Lisbon Agreement: Scope of Protection (1)

### Usurpation

Protection shall be ensured against any usurpation or imitation, 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 “type”, etc.

### Records Lisbon Conference 1958, p.815

Infringement of the exclusive rights of the holders of the right to use the appellation through unlawful appropriation – in certain legislations called usurpation or counterfeiting – or fraudulent imitation

## Lisbon Agreement: Scope of Protection (2)

### Unfair Competition - Article 4 Lisbon

Confirms the protection that may already exist in a member country by virtue of other international instruments, national law or court decisions

### Records Lisbon Conference 1958, p.816

Apart from usurpation or counterfeiting, there are a whole range of acts that may qualify as acts of unfair competition and are to be prohibited

# International Registration of GIs and AOs

# International Registration of GIs

*Negotiations in the WTO*

## Article 23.4

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)

# International Registration of GIs

*The Existing Systems:  
Lisbon and Madrid*

*Lisbon and Madrid*

*applicable in respect of all categories  
of products*

## 26 Member States

<u>Africa (6):</u>	Algeria, Burkina Faso, Congo, Gabon, Togo, Tunisia
<u>America (6):</u>	Costa Rica, Cuba, Haiti, Mexico, Nicaragua, Peru
<u>Asia (4):</u>	Georgia, Islamic Rep. of Iran, Israel, DPR of Korea
<u>Europe (10):</u>	Bulgaria, Czech Rep., France, Hungary, Italy, Moldova, Montenegro, Portugal, Serbia, Slovakia

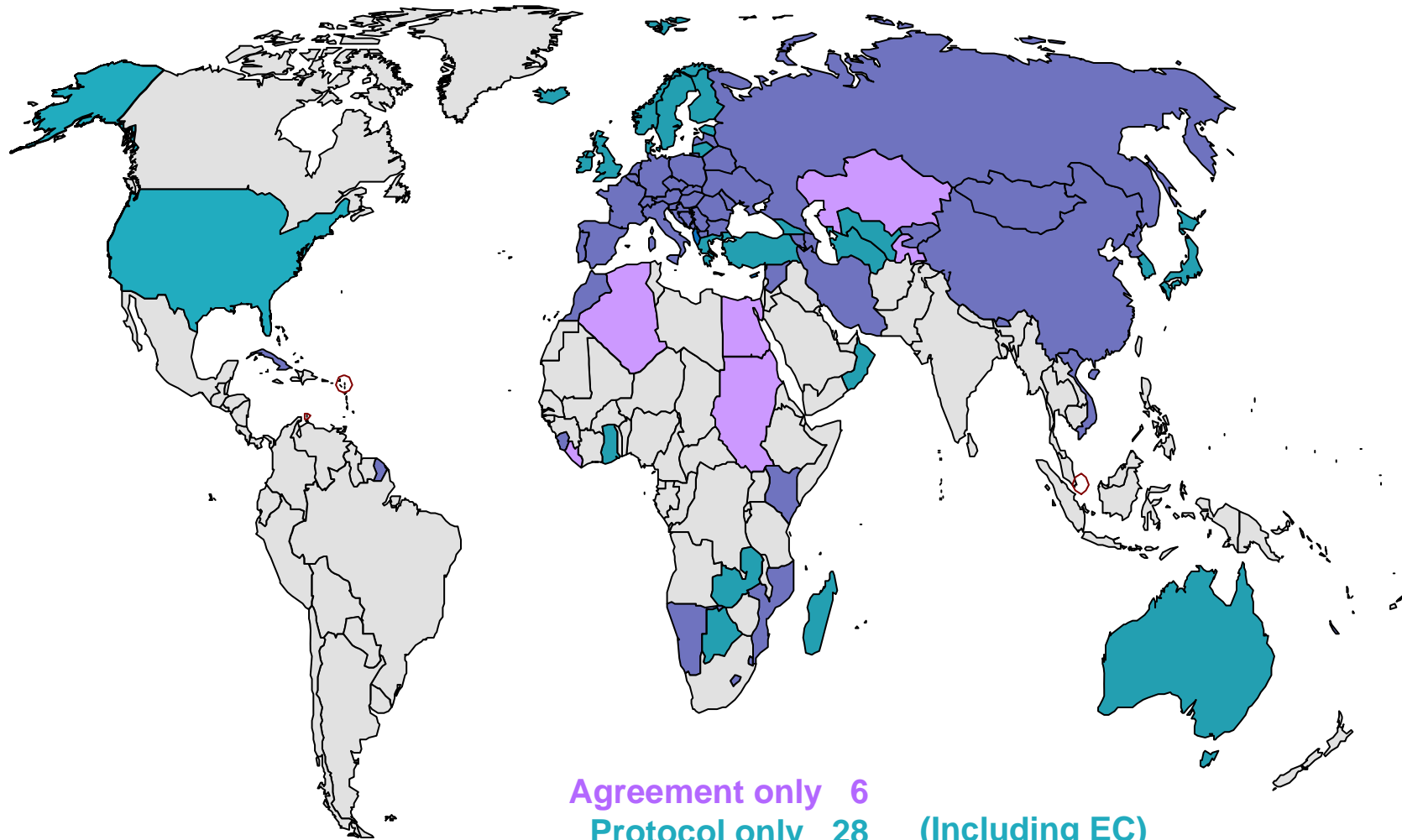
## Renewed Interest in Lisbon

- Increase in Membership since 1997
- **Assembly established Working Group**
  - to explore possible improvements to the procedures under the Lisbon Agreement
  - **first meeting: March 17 to 20, 2008**

# Madrid Union

84 members

Lisbon System



Agreement only	6	
Protocol only	28	(Including EC)
Agreement and Protocol	50	

## Effect of international registration

- extension of protection to countries other than the country of origin
- indefinite (in principle)

## Except in a country that ...

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



Certification Trade Mark



**PARMIGIANO  
REGGIANO**



Résultats de la recherche dans Lisbonne - Microsoft Internet Explorer

File Edit View Favorites Tools Help

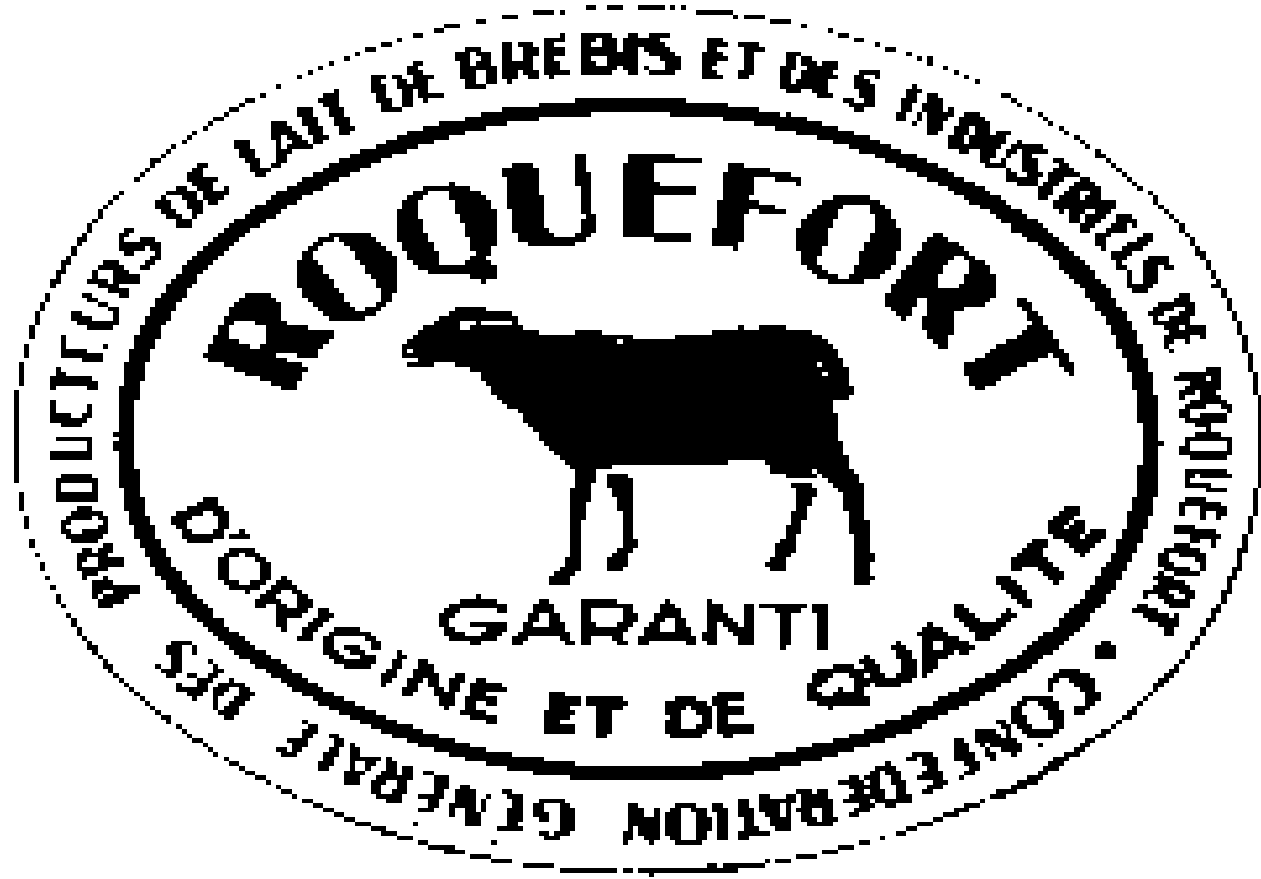
[Récapitulation des résultats]  
**Résultats de la recherche dans LISBON pour:**  
**AP/parmigiano** : 1 document  
*document 1 à 1 sur 1 :*

Affiner l'interrogation

No.	Appellation
1.	513 <a href="#">PARMIGIANO-REGGIANO</a>

**Récapitulation des résultats**  
**AP/parmigiano**: 2 occurrences dans 1 document.  
Durée de la recherche: 0.07 secondes.  
▲

Local intranet



Résultats de la recherche dans Lisbonne - Microsoft Internet Explorer

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Recherche dans LISBON...

[\[Récapitulation des résultats\]](#)

**Résultats de la recherche dans LISBON pour:**  
**AP/roquefort:** 1 document  
*document 1 à 1 sur 1 :*

Affiner l'interrogation

No. Appellation	
1.	459 <a href="#">ROQUEFORT</a>

**Récapitulation des résultats**

**AP/roquefort:** 2 occurrences dans 1 document.

Durée de la recherche: 0 secondes.

▲

Done Local intranet

## Lisbon: 885 registrations - 811 in force

• France	508	• Algeria	7
• Czech Rep.	76	• Portugal	7
• Bulgaria	51	• Tunisia	7
• Slovakia	37	• DPR of Korea	4
• Hungary	28	• Peru	4
• Italy	28	• Montenegro	2
• Georgia	20	• Moldova	1
• Cuba	19	• Israel	1
• Mexico	11		

# Effect of Lisbon registration

## Records Lisbon Conference 1958, p.816-818

- Other countries will know the precise appellation to be protected
- These countries will be required to take position with regard to the appellation
- They may refuse protection but, if they don't, they should, in principle, prevent the appellation from becoming generic

## Rule 16 Lisbon Regulations

- Procedure for notification of invalidation

## Effect of a refusal

### Article 5(3)

- The competent authority is entitled to declare, within a time-limit of one year, that protection cannot be ensured
- Requirement to indicate the grounds for such a refusal

### Records Lisbon Conference 1958, p.817

- Refusal can be based on any situation of fact or law preventing the grant of protection
- The grounds for refusal constitute the basis for negotiating a possible understanding



Number	840
Date	02.10.2001
Holder	État Mexicain (Mexique) / State of Mexico (Mexico) / Estado Mexicano (México)
Appellation	<b>Café Veracruz</b>
Publication	N° 31 : 01/2002
Country of Origin	MX
Nice Classification	30
Product	Café vert ou grillé / Green or roasted coffee / Café verde o tostado
Area of Production	L'État de <b>Veracruz</b> / State of <b>Veracruz</b> / Estado de <b>Veracruz</b>
Legal basis	Loi sur la Propriété Industrielle, publiée dans le Journal Officiel du 2 août 1994. Déclaration Générale de Protection de l'appellation d'origine Café <b>Veracruz</b> , publiée dans le Journal Officiel du 15 novembre 2000 / Law on industrial property, published in the Official Journal on August 2, 1994. General Declaration of protection of the Café <b>Veracruz</b> appellation of origin, published in the Official Journal on November 15, 2000 / Ley sobre la Propiedad Industrial, publicada en el Boletín Oficial de 2 de agosto de 1994. Declaración General de Protección de la Denominación de Origen Café <b>Veracruz</b> , publicada en el Boletín Oficial de 15 de noviembre de 2000
Refusal	PT - 07.10.2002
Language	Français / French / Francés
Note	À l'égard des enregistrements internationaux effectués à partir du 1er avril 2002, les traductions de l'appellation d'origine et, le cas échéant, leur translittération, figurent dans des rubriques distinctes de celle de l'appellation d'origine elle-même. / With regard to international



Number	1
Date	22.11.1967
Holder	Les organisations qui, dans la région, s'occupent de la production des produits mentionnés / The organisations that produce, in this region, the said products / Las organizaciones que se ocupan, en la región, de la producción de los productos mencionados
Appellation	<b>PLZEŇ</b> <b>PILSEN PILS</b> <b>PILSENER</b> <b>PILSNER</b>
Publication	N° 1 : 03/1968
Country of Origin	CZ
Nice Classification	32
Product	Bière / Beer / Cerveza
Area of Production	Ville de Plzeň ( <b>Pilsen</b> ) / City of Plzeň ( <b>Pilsen</b> ) / Ciudad de Plzeň ( <b>Pilsen</b> )
Legal basis	Arrêté n° 12.594/66-01/31 du 3 novembre 1966 du Ministère de l'industrie alimentaire / Executive Order N° 12.594/66-01/31 of November 3, 1966 of the Ministry of Food Processing Industry / Decreto 12.594/66-01/31 de 3 de noviembre de 1966 del Ministerio de la Industria Alimentaria
Refusal	FR - 10.04.1969 YU - 24.05.2000
Withdrawal	MX 22.05.1980 (Date du refus initial / Date of the initial refusal / Fecha de la denegación inicial: 11.06.1969)
Language	Français / French / Francés
Note	À l'égard des enregistrements internationaux effectués à partir du 1er avril 2002, les traductions de l'appellation d'origine et, le cas échéant,

Number	837
Date	24.11.2000
Holder	BUĎJOVICKÝ MĚŠTANSKÝ PIVOVAR, Lidická 458/51, 370 54 České Budějovice, République tchèque / Lidická 458/51, 370 54 České Budějovice, Czech Republic / Lidická 458/51, 370 54 České Budějovice, República Checa
Appellation	<b>Budějovický měštanský var</b> <b>Budweiser Bürgerbrau</b>
Publication	N° 30 : 01/2001
Country of Origin	CZ
Nice Classification	32
Product	Bière / Beer / Cerveza
Area of Production	République tchèque, České Budějovice / Czech Republic, České Budějovice / República Checa, České Budějovice
Legal basis	Enregistrement national n° 152 en date du 20 décembre 1991 en vertu de la Loi tchèque n° 159/1973 du Recueil des lois du 12 décembre 1973 / National Registration N° 152 of December 20, 1991, under Law N° 159/1973 of the Collection of Laws of the Czech Republic of December 12, 1973 / Registro Nacional N° 54, de 1 de febrero de 1974, con arreglo a la Ley checa 159/1973 del Compendio de Leyes de 12 de diciembre de 1973
Refusal	IL - 30.05.2001 CR - 03.09.2001 MX - 16.01.2002 IT - 18.01.2002 HU - 22.01.2002 HT - 23.01.2002 PT - 07.02.2002 MD - 05.04.2002
Language	Français / French / Francés

Searching LISBON...

[\[Search Summary\]](#)

**Results of searching in LISBON for:**

**AP/porto:** 2 records

Showing records 1 to 2 of 2 :

Refine Search

AP/porto

**No. Appellation**

1. 696 [Vin de Corse - Porto Vecchio](#)
2. 682 [PORTO](#)

**Search Summary**

**AP/porto:** 4 occurrences in 2 records.

Search Time: 0 seconds.



Number 865

Date 19.05.2005

Holder L'État péruvien est le titulaire de l'appellation d'origine. En l'espèce, l'état péruvien est représenté par l'INDECOPI / The titleholder of the appellation of origin is the Peruvian State. The Peruvian State is represented in this case by INDECOPI / El titular de la denominación de origen es el Estado Peruano. El Estado Peruano está representado en este caso por INDECOPI

Appellation **PISCO**

Publication N° 35 : 01/2006

Country of Origin PE

Nice Classification 33

Product Boisson alcoolique, le Pisco est une liqueur de raisin élaborée à partir de la fermentation de bouillons frais de moûts de raisin selon les méthodes traditionnelles établies dans les zones de fabrication préalablement délimitées, conformément aux critères de production énoncés dans la norme technique nationale péruvienne 211-001:2002 / Alcoholic beverage, Pisco is a liquor of grape, obtained by distilling fresh must of recently fermented grapes in accordance with traditional methods established in the production areas previously recognized and classified as such in the normative rules contained in the Peruvian Technical Standard 211-011:2002 / Bebida alcohólica, el Pisco es una bebida espirituosa de uva que se obtiene de la destilación del mosto fresco de uvas recién fermentadas, según métodos tradicionales establecidos en las áreas de producción previamente reconocidas y clasificadas como tales en la Norma Técnica Peruana Obligatoria 211-001:2002

Area of Production La région de production exclusive du Pisco est sise dans la zone côtière des départements de Lima, Ica, Arequipa, Moquegua et dans les vallées de Locumba, Sama et Caplina du département de Tacna, toutes sur le territoire péruvien / The geographical area recognized for the production of Pisco is located in the coast of the Departments of Lima, Ica, Arequipa, Moquegua and the valleys of Locumba, Sama and Caplina in the Department of Tacna, all in Peru / El área geográfica reconocida para la producción de Pisco está situada en la costa de los Departamentos de Lima, Ica, Arequipa, Moquegua y los valles de Locumba, Sama y Caplina, en el Departamento de Tacna, todos en el Perú

Legal basis Enregistrement national ou régional. (Résolution Directoriale n° 072087-DIPI du 12 décembre 1990, Registre n° 1) / National or regional registration. (Directorial Resolution No. 072087-DIPI of December 12, 1990, Register No. 1) / Registro nacional o regional (Resolución Directoral N° 072087-DIPI, del 12 de diciembre de 1990, Registro N° 1)

Refusal  
 MX - 19.06.2006  
 CZ - 07.07.2006  
 FR - 07.07.2006  
 IT - 07.07.2006  
 SK - 10.07.2006  
 HU - 10.07.2006  
 CR - 13.07.2006  
 PT - 13.07.2006  
 BG - 14.07.2006

Language Anglais / English / Inglés

- International Registration
- Technical Assistance to Member States
- Protection of Traditional Knowledge
- Symposia
- Standing Committee on the Law of TMs, IDs and GIs
- Arbitration (Domain Names)

THANK YOU

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