

Protection of Geographical
Indications:
General Introduction,
International Protection and
Recent Developments

Denis Croze

Head

International Law Development Section

WIPO

Terminology

- Indications of source
 - Paris Convention (1883)
 - Madrid Agreement (1891)
- Appellations of Origin
 - Paris Convention
 - Lisbon Agreement (1958)
- Geographical Indications
 - TRIPS Agreement (1994)

Indication of Source

“Indication referring to a country or to a place situated therein as being the country or place of origin of a product”

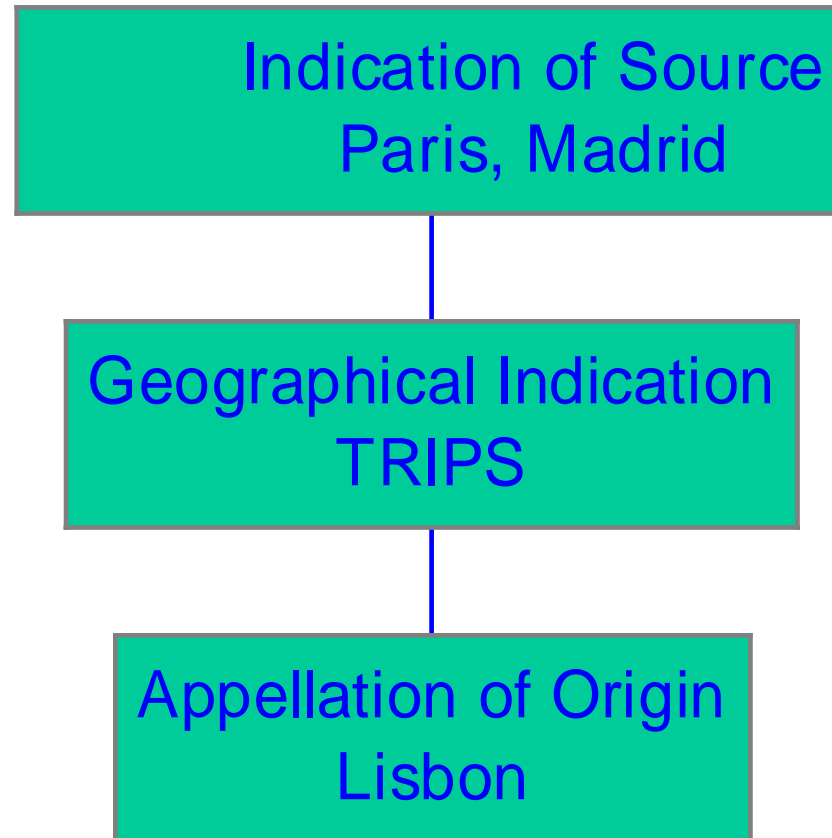
Appellation of Origin

“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” (Lisbon)

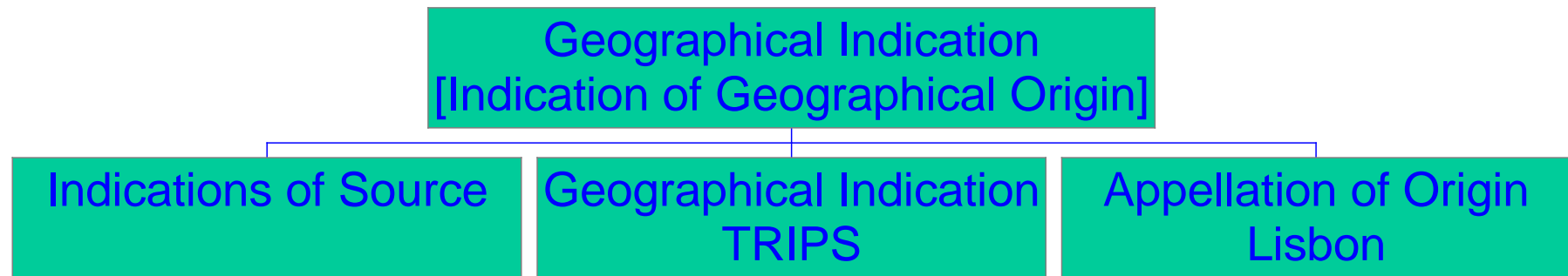
Geographical Indication

“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” (TRIPS)

Relationship (i)



Relationship (ii)



International Protection

- Bilateral Agreements
- Multilateral Agreements

Multilateral Agreements

- Paris Convention for the Protection of Industrial Property (1883)
- Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods (1891)
- Lisbon Agreement for the protection of appellations of origin and their international registration (1958)
- TRIPS Agreement (1994)

Paris Convention

- Protection against “**direct or indirect use of a false indication** of the source of goods”
Seizure of the goods; prohibition of importation
- 164 Member States

Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods (1891)

- Protection against use of “**false or deceptive** indications of source”
- 33 Member States

Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration

- For appellations protected **as such**
- Definition of “appellation of origin”
- Definition of “country of origin”
- Registration and possible objection
- 20 Member States
- 835 registrations (766 valid)

TRIPS Agreement 1994

- 144 Members
- TRIPS Articles 22 to 24
- Definition of subject matter
- Scope of Protection
- International Negotiations; Exceptions
- Built-in Agenda

Existing Systems of Protection

- Protection against unfair competition (Passing off)
- Protected appellations of origin
- Collective or certification marks
- Administrative systems of protection

Protection under unfair competition

- Article 10*bis* of the Paris Convention
- Unauthorized used of GIs should:
 - be shown by plaintiff
 - be misleading
 - result in damages or likelihood of damages
- + Specific statutory provisions

Protected Appellations of Origin

- Definition
- Legal protection
 - based on an act of public law (Law, Decree..)
 - at the conclusion of an administrative procedure
- Recognition
- Protection against unauthorized use
 - Criminal and civil responsibility

Collective or Certification Marks

- Marks which indicate that the goods and services on which they are used have specific qualities which may also include geographical origin
- Owner of the mark (not user) to ensure the certified quality
- Enforcement under general trademark law

Problems in Obtaining Effective Protection in Other Countries

- Unfair competition *versus* statutory protection

point of view of users (not compliance with international agreements)

- Generic character
- Conflicts between TMs and GIs

Administratives Schemes for Protection

- To ensure fair trade and consumer protection
- Administrative approval procedure to market some goods
- Compliance of the product for which marketing authorization is sought with relevant legal requirements

SCT

- Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications
- Historical Background, Nature of Rights, Existing Systems, Effective Protection (SCT/6/3)

8th Session SCT

(May 27 to 31, 2002)

- Consensus reached on continuation of discussions at the 9th session (Nov.2002)
- List of issues:
 - Application of the TRIPS definition
 - Practical differences between the different systems of protection
 - Links, reputation

Geographical Indications and the Internet

- Joint Recommendation on the Protection of Industrial Property Rights in Signs
- Second WIPO Domain Name Process

Thank you

Denis.croze@wipo.int