ARANJAMENTUL PRIVIND PROTECȚIA INDICAȚIILOR LOCULUI DE ORIGINE A PRODUSELOR ȘI ÎNREGISTRAREA LOR INTERNAȚIONALĂ*

ADOPTAT LA LISABONA, LA 31 OCTOMBRIE 1958

(REVIZUIT LA STOCKHOLM, LA 14 IULIE 1967
ȘI 28 SEPTEMBRIE 1979)

AGREEMENT FOR THE PROTECTION OF APPELLATIONS OF ORIGIN AND THEIR INTERNATIONAL REGISTRATION

DONE AT LISBON ON OCTOBER 31, 1958

(AS REVISED AT STOCKHOLM ON JULY 14, 1967,
AND SEPTEMBER 28, 1979)

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* *În vigoare pentru Republica Moldova din 5 aprilie 2001.*

Article 1

(1) The countries to which this Agreement applies constitute a Special Union within the framework of the Union for the Protection of Industrial Property.

(2) They undertake to protect on their territories, in accordance with the terms of this Agreement, the appellations of origin of products of the other countries of the Special Union, recognized and protected as such in the country of origin and registered at the International Bureau of Intellectual Property (hereinafter designated as "the International Bureau" or "the Bureau") referred to in the Convention establishing the World Intellectual Property Organization (hereinafter designated as "the Organization").

Article 2

(1) In this Agreement, "appellation of origin" means 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.

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

Article 3

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 "kind," "type," "make," "imitation," or the like.

Article 4

The provisions of this Agreement shall in no way exclude the protection already granted to appellations of origin in each of the countries of the Special Union by virtue of other international instruments, such as the Paris Convention of March 20, 1883, for the Protection of Industrial Property and its subsequent revisions, and the Madrid Agreement of April 14, 1891, for the Repression of False or Deceptive Indications of Source on Goods and its subsequent revisions, or by virtue of national legislation or court decisions.

Article 5

(1) The registration of appellations of origin shall be effected at the International Bureau, at the request of the Offices of the countries of the Special Union, in the name of any natural persons or legal entities, public or private, having, according to their national legislation, a right to use such appellations.

(2) The International Bureau shall, without delay, notify the Offices of the various countries of the Special Union of such registrations, and shall publish them in a periodical.

(3) The Office of any country may declare that it cannot ensure the protection of an appellation of origin whose registration has been notified to it, but only in so far as its declaration is notified to the International Bureau, together with an indication of the grounds therefor, within a period of one year from the receipt of the notification of registration, and provided that such declaration is not detrimental, in the country concerned, to the other forms of protection of the appellation which the owner thereof may be entitled to claim under Article 4, above.

(4) Such declaration may not be opposed by the Offices of the countries of the Union after the expiration of the period of one year provided for in the foregoing paragraph.

(5) The International Bureau shall, as soon as possible, notify the Office of the country of origin of any declaration made under the terms of paragraph (3) by the Office of another country. The interested party, when informed by his national Office of the declaration made by another country, may resort, in that other country, to all the judicial and administrative remedies open to the nationals of that country.

(6) If an appellation which has been granted protection in a given country pursuant to notification of its international registration has already been used by third parties in that country from a date prior to such notification, the competent Office of the said country shall have the right to grant to such third parties a period not exceeding two years to terminate such use, on condition that it advise the International Bureau accordingly during the three months following the expiration of the period of one year provided for in paragraph (3), above.

Article 6

An appellation which has been granted protection in one of the countries of the Special Union pursuant to the procedure under Article 5 cannot, in that country, be deemed to have become generic, as long as it is protected as an appellation of origin in the country of origin.

Article 7

(1) Registration effected at the International Bureau in conformity with Article 5 shall ensure, without renewal, protection for the whole of the period referred to in the foregoing Article.

(2) A single fee shall be paid for the registration of each appellation of origin.

Article 8

Legal action required for ensuring the protection of appellations of origin may be taken in each of the countries of the Special Union under the provisions of the national legislation:

(a) at the instance of the competent Office or at the request of the public prosecutor;

(b) by any interested party, whether a natural person or a legal entity, whether public or private.

Article 9

(1) (a) The Special Union shall have an Assembly consisting of those countries which have ratified or acceded to this Act.

(b) The Government of each country shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each delegation shall be borne by the Government which has appointed it.

(2) (a) The Assembly shall:

(i) deal with all matters concerning the maintenance and development of the Special Union and the implementation of this Agreement;

(ii) give directions to the International Bureau concerning the preparation for conferences of revision, due account being taken of any comments made by those countries of the Special Union which have not ratified or acceded to this Act;

(iii) modify the Regulations, including the fixation of the amount of the fee referred to in Article 7(2) and other fees relating to international registration;

(iv) review and approve the reports and activities of the Director General of the Organization (hereinafter designated as "the Director General") concerning the Special Union, and give him all necessary instructions concerning matters within the competence of the Special Union;

(v) determine the program and adopt the biennial budget of the Special Union, and approve its final accounts;

(vi) adopt the financial regulations of the Special Union;

(vii) establish such committees of experts and working groups as it may deem necessary to achieve the objectives of the Special Union;

(viii) determine which countries not members of the Special Union and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;

(ix) adopt amendments to Article 9 to Article 12;

(x) take any other appropriate action designed to further the objectives of the Special Union;

(xi) perform such other functions as are appropriate under this Agreement.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(3) (a) Each country member of the Assembly shall have one vote.

(b) One-half of the countries members of the Assembly shall constitute a quorum.

(c) Notwithstanding the provisions of subparagraph (b), if, in any session, the number of countries represented is less than one-half but equal to or more than one-third of the countries members of the Assembly, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the conditions set forth hereinafter are fulfilled. The International Bureau shall communicate the said decisions to the countries members of the Assembly which were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of this period, the number of countries having thus expressed their vote or abstention attains the number of countries which was lacking for attaining the quorum in the session itself, such decisions shall take effect provided that at the same time the required majority still obtains.

(d) Subject to the provisions of Article 12(2), the decisions of the Assembly shall require two-thirds of the votes cast.

(e) Abstentions shall not be considered as votes.

(f) A delegate may represent, and vote in the name of, one country only.

(g) Countries of the Special Union not members of the Assembly shall be admitted to the meetings of the latter as observers.

(4) (a) The Assembly shall meet once in every second calendar year in

ordinary session upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.

(b) The Assembly shall meet in extraordinary session upon convocation by the Director General, at the request of one-fourth of the countries members of the Assembly.

(c) The agenda of each session shall be prepared by the Director General.

(5) The Assembly shall adopt its own rules of procedure.

Article 10

(1) (a) International registration and related duties, as well as all other administrative tasks concerning the Special Union, shall be performed by the International Bureau.

(b) In particular, the International Bureau shall prepare the meetings and provide the secretariat of the Assembly and of such committees of experts and working groups as may have been established by the Assembly.

(c) The Director General shall be the chief executive of the Special Union and shall represent the Special Union.

(2) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly and of such committees of experts or working groups as may have been established by the Assembly. The Director General, or a staff member designated by him, shall be ex officio secretary of those bodies.

(3) (a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for the conferences of revision of the provisions of the Agreement other than Article 9 to Article 12.

(b) The International Bureau may consult with intergovernmental and international non-governmental organizations concerning preparations for conferences of revision.

(c) The Director General and persons designated by him shall take part, without the right to vote, in the discussions at those conferences.

(4) The International Bureau shall carry out any other tasks assigned to it.

Article 11

(1) (a) The Special Union shall have a budget.

(b) The budget of the Special Union shall include the income and expenses proper to the Special Union, its contribution to the budget of expenses common to the Unions, and, where applicable, the sum made available to the budget of the Conference of the Organization.

(c) Expenses not attributable exclusively to the Special Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the Unions. The share of the Special Union in such common expenses shall be in proportion to the interest the Special Union has in them.

(2) The budget of the Special Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organization.

(3) The budget of the Special Union shall be financed from the following sources:

(i) international registration fees collected under Article 7(2) and other fees and charges due for other services rendered by the International Bureau in relation to the Special Union;

(ii) sale of, or royalties on, the publications of the International Bureau concerning the Special Union;

(iii) gifts, bequests, and subventions;

(iv) rents, interests, and other miscellaneous income;

(v) contributions of the countries of the Special Union, if and to the extent to which receipts from the sources indicated in items *(i)* to *(iv)* do not suffice to cover the expenses of the Special Union.

(4) (a) The amount of the fee referred to in Article 7(2) shall be fixed by the Assembly on the proposal of the Director General.

(b) The amount of the said fee shall be so fixed that the revenue of the Special Union should, under normal circumstances, be sufficient to cover the expenses of the International Bureau for maintaining the international registration service, without requiring payment of the contributions referred to in paragraph (3)*(v)*, above.

(5) (a) For the purpose of establishing its contribution referred to in paragraph (3)*(v)*, each country of the Special Union shall belong to the same class as it belongs to in the Paris Union for the Protection of Industrial Property, and shall pay its annual contributions on the basis of the same number of units as is fixed for that class in that Union.

(b) The annual contribution of each country of the Special Union shall be an amount in the same proportion to the total sum to be contributed to the budget of the Special Union by all countries as the number of its units is to the total of the units of all contributing countries.

(c) The date on which contributions are to be paid shall be fixed by the Assembly.

(d) A country which is in arrears in the payment of its contributions may not exercise its right to vote in any of the organs of the Special Union if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. However, any organ of the Union may allow such a country to continue to exercise its right to vote in that organ if, and as long as, it is satisfied that the delay in payment is due to exceptional and unavoidable circumstances.

(e) If the budget is not adopted before the beginning of a new financial period, it shall be at the same level as the budget of the previous year, as provided in the financial regulations.

(6) Subject to the provisions of paragraph (4)(a), the amount of fees and charges due for other services rendered by the International Bureau in relation to the Special Union shall be established, and shall be reported to the Assembly, by the Director General.

(7) (a) The Special Union shall have a working capital fund which shall be constituted by a single payment made by each country of the Special Union. If the fund becomes insufficient, the Assembly shall decide to increase it.

(b) The amount of the initial payment of each country to the said fund or of its participation in the increase thereof shall be a proportion of the contribution of that country as a member of the Paris Union for the Protection of Industrial Property to the budget of the said Union for the year in which the fund is established or the decision to increase it is made.

(c) The proportion and the terms of payment shall be fixed by the Assembly on the proposal of the Director General and after it has heard the advice of the Coordination Committee of the Organization.

(8) (a) In the headquarters agreement concluded with the country on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such country shall grant advances. The amount of those advances and the conditions on which they are granted shall be the subject of separate agreements, in each case, between such country and the Organization.

(b) The country referred to in subparagraph (a) and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

(9) The auditing of the accounts shall be effected by one or more of the countries of the Special Union or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

Article 12

(1) Proposals for the amendment of Article 9, Article 10, Article 11, and the present Article, may be initiated by any country member of the Assembly, or by the Director General. Such proposals shall be communicated by the Director General to the member countries of the Assembly at least six months in advance of their consideration by the Assembly.

(2) Amendments to the Articles referred to in paragraph (1) shall be adopted by the Assembly. Adoption shall require three-fourths of the votes cast, provided that any amendment to Article 9, and to the present paragraph, shall require four-fifths of the votes cast.

(3) Any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of the countries members of the Assembly at the time it adopted the amendment. Any amendment to the said Articles thus accepted shall bind all the countries which are members of the Assembly at the time the amendment enters into force, or which become members thereof at a subsequent date, provided that any amendment increasing the financial obligations of countries of the Special Union shall bind only those countries which have notified their acceptance of such amendment.

Article 13

(1) The details for carrying out this Agreement are fixed in the Regulations.

(2) This Agreement may be revised by conferences held between the delegates of the countries of the Special Union.

Article 14

(1) Any country of the Special Union which has signed this Act may ratify it, and, if it has not signed it, may accede to it.

(2) (a) Any country outside the Special Union which is party to the Paris Convention for the Protection of Industrial Property may accede to this Act and thereby become a member of the Special Union.

(b) Notification of accession shall, of itself, ensure, in the territory of the acceding country, the benefits of the foregoing provisions to appellations of origin which, at the time of accession, are the subject of international registration.

(c) However, any country acceding to this Agreement may, within a period of one year, declare in regard to which appellations of origin, already registered at the International Bureau, it wishes to exercise the right provided for in Article 5(3).

(3) Instruments of ratification and accession shall be deposited with the Director General.

(4) The provisions of Article 24 of the Paris Convention for the Protection of Industrial Property shall apply to this Agreement.

(5) (a) With respect to the first five countries which have deposited their instruments of ratification or accession, this Act shall enter into force three months after the deposit of the fifth such instrument.

(b) With respect to any other country, this Act shall enter into force three months after the date on which its ratification or accession has been notified by the Director General, unless a subsequent date has been indicated in the instrument of ratification or accession. In the latter case, this Act shall enter into force with respect to that country on the date thus indicated.

(6) Ratification or accession shall automatically entail acceptance of all the clauses and admission to all the advantages of this Act.

(7) After the entry into force of this Act, a country may accede to the original Act of October 31, 1958, of this Agreement only in conjunction with ratification of, or accession to, this Act.

Article 15

(1) This Agreement shall remain in force as long as five countries at least are party to it.

(2) Any country may denounce this Act by notification addressed to the Director General. Such denunciation shall constitute also denunciation of the original Act of October 31, 1958, of this Agreement and shall affect only the country making it, the Agreement remaining in full force and effect as regards the other countries of the Special Union.

(3) Denunciation shall take effect one year after the day on which the Director General has received the notification.

(4) The right of denunciation provided for by this Article shall not be exercised by any country before the expiration of five years from the date upon which it becomes a member of the Special Union.

Article 16

(1) (a) This Act shall, as regards the relations between the countries of the Special Union by which it has been ratified or acceded to, replace the original Act of October 31, 1958.

(b) However, any country of the Special Union which has ratified or acceded to this Act shall be bound by the original Act of October 31, 1958, as regards its relations with countries of the Special Union which have not ratified or acceded to this Act.

(2) Countries outside the Special Union which become party to this Act shall apply it to international registrations of appellations of origin effected at the International Bureau at the request of the Office of any country of the Special Union not party to this Act, provided that such registrations satisfy, with respect to the said countries, the requirements of this Act. With regard to international registrations effected at the International Bureau at the request of the Offices of the said countries outside the Special Union which become party to this Act, such countries recognize that the aforesaid country of the Special Union may demand compliance with the requirements of the original Act of October 31, 1958.

Article 17

(1) (a) This Act shall be signed in a single copy in the French language and shall be deposited with the Government of Sweden.

(b) Official texts shall be established by the Director General, after consultation with the interested Governments, in such other languages as the Assembly may designate.

(2) This Act shall remain open for signature at Stockholm until January 13, 1968.

(3) The Director General shall transmit two copies, certified by the Government of Sweden, of the signed text of this Act to the Governments of all countries of the Special Union and, on request, to the Government of any other country.

(4) The Director General shall register this Act with the Secretariat of the United Nations.

(5) The Director General shall notify the Governments of all countries of the Special Union of signatures, deposits of instruments of ratification or accession, entry into force of any provisions of this Act, denunciations, and declarations pursuant to Article 14(2)(c) and Article 14(4).

Article 18

(1) Until the first Director General assumes office, references in this Act to the International Bureau of the Organization or to the Director General shall be construed as references to the Bureau of the Union established by the Paris Convention for the Protection of Industrial Property or its Director, respectively.

(2) Countries of the Special Union not having ratified or acceded to this Act may, until five years after the entry into force of the Convention establishing the Organization, exercise, if they so desire, the rights provided for under Article 9 to Article 12 of this Act as if they were bound by those Articles. Any country desiring to exercise such rights shall give written notification to that effect to the Director General; such notification shall be effective from the

date of its receipt. Such countries shall be deemed to be members of the Assembly until the expiration of the said period.

Signed at Stokholm, on July 14, 1967.