

QUESTION 7

Appellations of origin

Yearbook 1958, New Series No. 5, 61st Year, pages 262 - 263
Executive Committee of Oslo, June 10 - 13, 1957

Q7

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Appellations of origin

Resolution

The Executive Committee of OSLO has made a very probing study of the question and has done excellent work.

The deliberations of the Executive Committee may be analysed as follows:

I. Definitions

1. The Executive Committee has found that the difficulties relating to the setting of rules for indications of origin and appellations of origin to a great part stem from the ambiguity of these terms or at least from the different meanings which are given to them in the respective countries.

2. In consequence, the Executive Committee unanimously proposes to define the concepts of the indication of origin and of the appellation of origin in the following manner:

a) The indication of origin is a direct or indirect indication of the place (country, region, locality, etc.) where a product or a merchandise originates from.

b) The appellations of origin constitute a particular category of the indications of origin. The appellation of origin of a product is the geographic name of the place (country, region, locality, etc.) where that product is cultivated, manufactured or produced in any other manner, providing that it derives its qualities from the soil, the climate, the usages or the techniques of the place in question.

3. The question is raised how to introduce these definitions into the text of the Convention.

a) First of all, it would be necessary to do away with the present ambiguous wording in which the terms "indication of origin" and "appellation of origin" are used in an alternative manner, as if they were synonyms.

Article 1, § 2 of the Convention should thus be modified as follows:

"... the indications of origin, including the appellations of origin."

Furthermore, in every instance where the two expressions are used together, they should be connected by the conjunction "and", and not by the conjunction "or".

b) The introduction of the definitions as above worded should furthermore be considered either at the end of the present article 1 or in a separate provision.

II. Article 10 of the Union Convention

1. Article 10 concerns the protection of the indications of origin such as they have been defined above.

2. Article 10, in its present wording, is limited in two respects:

- On the one hand, the false indication of origin is not to be repressed unless it is joined to a fictitious or assumed trade name with fraudulent intention;
- On the other hand, the penalty consists merely in the seizure provided for in article 9.

The Executive Committee is of the opinion that it should go further than the Congress of WASHINGTON. It has suggested, firstly to suppress the twofold limitation of the present Article 10, and secondly to enhance protection by prohibiting any false or fallacious indication, used directly or indirectly.

3. The Executive Committee thus proposes that Article 10 of the Convention should be replaced by the following provision:

"Any use, whether direct or indirect, of a false or misleading indication concerning the source of a product or the identity of the producer, manufacturer or dealer shall besides being subject to the seizure provided for in article 9, be forbidden and suppressed in all countries of the Union."

4. Finally, the Executive Committee considered the text it had worked out to be preferable to that proposed by the International Bureau of Berne for the LISBON Conference.

III. But the Executive Committee finds it impossible to go any further in the protection of indications of origin and of appellations of origin.

The Executive Committee especially could not approbate the propositions put forward by the International Bureau of Berne for the LISBON Conference:

- as concerns the amendment of Article 4 of the Arrangement of MADRID of 1891.
- as concerns the conclusion of a new arrangement relating to the protection of appellations of origin.

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QUESTION 7

Appellations of origin

Yearbook 1958, New Series No. 6, 61st Year, page 44
23rd Congress of Stockholm, May 26 - 31, 1958

Q7

QUESTION Q7

Appellations of origin

Resolution

The Congress,

1. approves of the following definitions of the expressions „indications of source“ and „appellations of origin“
 - a) The indication of source is a direct or indirect indication of the place (country, region, locality, etc.) where a product or merchandise originates from.
 - b) The appellations of origin constitute a particular category of the indications of source. The appellation of origin of a product is the geographic name of the place (country, region, locality, etc.) where that product is cultivated, manufactured or produced in any other manner, providing that it derives its qualities or its reputation from the soil, the climate, the traditional usages or the techniques of the place in question;
2. expresses the wish,
 - a) that these definitions should be introduced into the text of the Union Convention;
 - b) that article 1, paragraph 2 of the Union Convention should be modified by replacing the term „the indications of source or appellations of origin“ by the term „the indications of source including the appellations of origin“.
3. expresses the wish,
 - a) that article 10, paragraph 1 of the Union Convention should be replaced by the following provision:

„Any use, whether direct or indirect, of a false or misleading indication concerning the source of a product or the identity of the producer, manufacturer or dealer, shall, besides being subject to the seizure provided for in article 9, be forbidden and suppressed in all countries of the Union“;

- b) that article 10, paragraph 2, of the Union Convention should be maintained, providing that after the word „shall“ in the last part of the phrase, the words „especially and“ shall be including;
- 4. refers to the Executive Committee for a complementary study of the questions relating to the revision of the Arrangement of Madrid for the prevention of false indications of origin on goods;
- 5. refers to the Executive Committee, for a complementary study of the Draft International Arrangement relating to the protection of appellations of origin and their international registration, it being specified that this reference implies no basic opposition against the draft.

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