

No. 10715

FRANCE
and
FEDERAL REPUBLIC OF GERMANY

Agreement on the protection of indications of source, appellations of origin and other geographical designations (with annexes, protocol and exchange of letters). Signed at Bonn on 8 March 1960

Authentic texts of the Agreement and protocol: French and German.

Authentic texts of annex A and letter II: German.

Authentic texts of annex B and letter I: French.

Exchange of notes constituting an agreement concerning the entry into force of the new annexes A and B of the above-mentioned Agreement. Paris, 27 August and 12 September 1969

Authentic texts of the exchange of notes and annex B: French.

Authentic text of annex A: German.

Registered by France on 3 September 1970.

[TRANSLATION — TRADUCTION]

**AGREEMENT BETWEEN THE FRENCH REPUBLIC AND
THE FEDERAL REPUBLIC OF GERMANY ON THE
PROTECTION OF INDICATIONS OF SOURCE, APPELLATIONS
OF ORIGIN AND OTHER GEOGRAPHICAL
DESIGNATIONS**

The President of the French Republic, President of the Community, and
The President of the Federal Republic of Germany,

Recognizing that it is in the interests of each Contracting State to ensure effective protection against unfair competition in natural or manufactured products and in particular the protection of indications of source, including appellations of origin, and the protection of other geographical designations reserved for certain specified products and goods.

Have resolved to conclude an Agreement to that end and have designated as their plenipotentiaries:

The President of the French Republic, President of the Community:

Mr. François Seydoux de Clausonne, Ambassador of France to the Federal Republic of Germany;

The President of the Federal Republic of Germany:

Dr. Albert Hilger van Scherpenberg, State Secretary, Ministry of Foreign Affairs;

who, having exchanged their full powers, found in good and due form, have agreed as follows:

Article 1

Each Contracting State shall take any necessary measures to ensure effective protection of natural and manufactured products originating in the territory of the other State against unfair competition in trade and to ensure effective protection for the designations specified in annexes A and B to this Agreement, in accordance with the provisions of articles 2 to 9 below.

¹ Came into force on 7 May 1961, one month after the exchange of the instruments of ratification, which took place at Paris on 7 April 1961, in accordance with article 14, paragraphs 1 and 2.

Article 2

The designations specified in annex A to this Agreement shall be reserved exclusively, in the territory of the French Republic as defined in article 13, paragraph 1, to German products or goods and they may be used there only in accordance with the conditions laid down in the legislation of the Federal Republic of Germany. However, certain provisions of that legislation may be declared to be inapplicable by means of a protocol.

Article 3

The designations specified in annex B to this Agreement shall be reserved exclusively, in the territory of the Federal Republic of Germany, to French products or goods and they may be used there only in accordance with the conditions laid down in the legislation of the French Republic. However, certain provisions of that legislation may be declared to be inapplicable by means of a protocol.

Article 4

1. The use, in trade, in contravention of the provisions of articles 2 and 3, of any of the designations included in annexes A and B to this Agreement on any products or goods or on their inner or outer packaging or on invoices, way-bills or other commercial documents, as well as in advertising, shall be subject to all the legal or administrative penalties provided in the respective legislation of each Contracting State, including seizure where this is permitted under the legislation in question.

2. The provisions of this article shall apply even when the designations specified in annexes A and B to this Agreement are used either in translation or with an indication of the true source, or with the addition of such terms as "kind", "type", "style", "imitation", or similar terms.

3. The provisions of this article shall not apply to products or goods in transit.

Article 5

The provisions of article 4 of this Agreement shall likewise apply when use is made on products or goods, on their inner or outer packaging or on invoices, way-bills or other commercial documents, or in advertising, either directly or indirectly, of designations, trade marks, names, inscriptions or illustrations which contain false or misleading indications of the source, origin, nature, variety or essential qualities of the products or goods.

Article 6

1. The protection provided under articles 4 and 5 of this Agreement shall be automatic.

2. Either Contracting State may request the other State to permit the importation of products or goods covered by one of the designations specified in annexes A and B to this Agreement only if those products or goods are accompanied by a document proving that they are entitled to the said designation. In such a case, products or goods which are not accompanied by such a document shall be refused entry.

3. The Contracting State which makes the request mentioned in paragraph 2 above shall inform the other State which authorities are competent to issue the document in question. A specimen of the document must accompany such notification.

Article 7

1. Actions for damages on grounds of the unlawful use of any of the designations specified in annex A to this Agreement or the use of false or misleading indications within the meaning of article 5 may be brought before the courts of the French Republic not only by individuals and bodies corporate entitled to do so under the legislation of the French Republic but also by federations, associations and organizations representing interested producers, manufacturers or tradesmen and having their headquarters in the territory of the Federal Republic of Germany, where the legislation of the French Republic permits such actions to be brought by French federations, associations and organizations.

2. Prohibitory actions on grounds of the unlawful use of any of the designations specified in annex B to this Agreement or the use of false or misleading indications within the meaning of article 5 may be brought before the courts of the Federal Republic of Germany not only by individuals and bodies corporate entitled to do so under the legislation of the Federal Republic of Germany but also by federations, associations and organizations representing interested producers, manufacturers or tradesmen and having their headquarters in the territory of the French Republic, where the legislation of the Federal Republic of Germany permits such actions to be brought by German federations, associations and organizations. The same shall apply to the criminal-law action of *Privatklage*.

Article 8

Products and goods, packaging, invoices, way-bills or other commercial documents and advertising material which, at the time of the entry into force of this Agreement, are in the territory of the Contracting States and lawfully bear of mention indications the use of which is prohibited by this Agreement may be sold or used for a period of two years after the entry into force of this Agreement.

Article 9

1. The lists contained in annexes A and B to this Agreement may be modified or extended by means of a written communication from one of the Contracting States, subject to agreement by the other Party. Either Contracting State may, however, make deletions in the list of designations covering products or goods originating in its territory without the agreement of the other Party.

2. In the event of modification or extension of the list of designations relating to products or goods originating in the territory of one of the Contracting States, the provisions of article 8 shall apply and the period of two years shall run from the time when the other Party announces the modification or extension.

Article 10

The provisions of this Agreement shall be without prejudice to the protection which is or may be accorded to the designations specified in annexes A and B to this Agreement under the internal legislation of either Contracting State or under other international agreements.

Article 11

1. In order to facilitate the application of this Agreement, a Mixed Commission composed of representatives of the Governments of both Contracting States shall be established.

2. The Mixed Commission shall be responsible for reviewing any proposals to modify or extend the lists contained in annexes A and B which require the approval of the Contracting States and for considering any questions connected with the application of this Agreement.

3. Either Contracting State may request a meeting of the Mixed Commission.

Article 12

This Agreement shall also apply to *Land* Berlin, unless the Government of the Federal Republic of Germany notifies the Government of the French Republic to the contrary within three months after the entry into force of this Agreement.

Article 13

1. This Agreement shall apply, in the case of the French Republic, to the metropolitan *départements*, the Algerian *départements*, the *départements* of Oasis and Saoura, the *départements* of Guadeloupe, Guiana, Martinique and Réunion and the Overseas Territories (New Caledonia and dependencies, French Polynesia, St. Pierre and Miquelon, French Somaliland and the Comoro Archipelago).

The provisions of this Agreement may, by exchange of notes between the Governments of the two Contracting States, be extended to the States Members of the Community, or to one or more of them, in accordance with the arrangements specified in each case in the relevant exchange of notes.

Article 14

1. This Agreement shall be subject to ratification; the instruments of ratification shall be exchanged at Paris as soon as possible.

2. This Agreement shall enter into force one month after the exchange of the instruments of ratification and shall remain in force indefinitely.

3. Either Contracting State may denounce this Agreement by giving one year's notice in writing to the other State.

IN WITNESS WHEREOF the above-named plenipotentiaries have signed this Agreement and have thereto affixed their seals.

DONE at Bonn, on 8 March 1960, in two original copies in the French and German languages, both texts being equally authentic.

François SEYDOUX

Albert Hilger VAN SCHERPENBERG

ANNEX A

ANNEX B

[For the texts of annexes A and B see pp. 14 to 37 of this volume]

PROTOCOL

The High Contracting Parties,

Desiring to regulate in greater detail the application of certain provisions of the Agreement on the Protection of Indications of Source, Appellations of Origin and Other Geographical Designations of today's date,

Have agreed on the following provisions, which shall be annexed to the present Agreement:

1. Articles 2 and 3 of the present Agreement shall not oblige either Contracting State to apply, when products or goods covered by the designations listed in annexes A and B to the present Agreement are marketed in its territory, the legal and administrative provisions of the other State relating to administrative supervision, for instance those which concern the keeping of registers of receipt and dispatch and the circulation of such products or goods.

2. The inclusion in the lists contained in annexes A and B to the present Agreement of designations covering products or goods shall not affect the provisions in either Contracting State governing the importation of the products or goods in question.

3. Indications of essential qualities within the meaning of article 5 of the present Agreement shall, in particular, include the following:

- (a) In the case of German and French wines:
 - An indication of the crop year (vintage);
 - The name of one or more varieties of grape;
- (b) In the case of German wines:
 - Naturwein, naturrein, Wachstum, Gewächs, Kreszenz, Originalwein, Originalabfüllung, Originalabzug, Kellerabfüllung, Kellerabzug, Schlossabzug, Eigengewächs, Fass Nr. ..., Fuder Nr. ..., Spätlese, Auslese, Beerenauslese, Trockenbeerenauslese, Hochgewächs, Spitzengewächs, Cabinetwein;

(c) In the case of French wines:

Blanc de blanc, rosé, sec, doux, Zwicker, Edelzwicker, haut, grand cru, cru classé, premier cru, grand vin, pétillant, méthode champenoise, mousseux, brut, appellation contrôlée, appellation d'origine, appellation réglementée, vin délimité de qualité supérieure (or V.D.Q.S.), mise en bouteille au château, mise en bouteille à la propriété;

(d) In the case of French brandies;

V.O., V.S.O.P., Réserve, extra, Napoléon, Vieille réserve, Trois étoiles.

IN WITNESS WHEREOF the plenipotentiaries have signed this Protocol and have thereto affixed their seals.

DONE at Bonn, on 8 March 1960, in two original copies in the French and German languages, both texts being equally authentic.

François SEYDOUX

Albert Hilger VAN SCHERPENBERG

EXCHANGE OF LETTERS

I

EMBASSY OF FRANCE

Bonn, 8 March 1960

Sir,

With reference to the Agreement on the Protection of Indications of Source, Appellations of Origin and Other Geographic designations of today's date, I have the honour, on behalf of the Government of the French Republic, to make the following declaration:

Under French law (Act of 31 December 1922, article 9), the designations relating to rum listed in annex B are reserved exclusively for spirits obtained from the distillation of juice of the sugar-cane, or of molasses or syrups derived from the manufacture of cane sugar. Such spirits may not be blended with other spirits or with neutral alcohol.

In addition, such spirits must originate in the region indicated in their appellation of origin.

Accept, Sir, etc.

F. SEYDOUX

His Excellency Dr. Albert Hilger van Scherpenberg
State Secretary, Ministry of Foreign Affairs

II

STATE SECRETARY, MINISTRY OF FOREIGN AFFAIRS

Bonn, 8 March 1960

Sir,

I have the honour to acknowledge receipt of your letter of today's date addressed to me on the occasion of the signing of the Agreement on the Protection of Indications of Source, Appellations of Origin and Other Geographical Designations, which reads as follows:

[See letter I]

Accept, Sir, etc.

A. H. VAN SCHERPENBERG

His Excellency Mr. François Seydoux de Clausonne
Ambassador of France

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT ¹
BETWEEN THE GOVERNMENT OF THE FRENCH
REPUBLIC AND THE GOVERNMENT OF THE FEDERAL
REPUBLIC OF GERMANY CONCERNING THE ENTRY
INTO FORCE OF THE NEW ANNEXES A AND B TO
THE AGREEMENT OF 8 MARCH 1960 ² ON THE
PROTECTION OF INDICATIONS OF SOURCE, APPEL-
LATIONS OF ORIGIN AND OTHER GEOGRAPHICAL
DESIGNATIONS

I

EMBASSY OF GERMANY
PARIS

Wi III A 5 - 84.01/2

Paris, 27 August 1969

The Embassy of the Federal Republic of Germany presents its compliments to the Ministry of Foreign Affairs and has the honour to inform it of the following:

In his letter of 26 August 1968, the Ambassador informed the Ministry of Foreign Affairs that the new annex B to the Agreement between the French Republic and the Federal Republic of Germany on the protection of indications of source, appellations of origin and other geographic designations, signed at Bonn on 8 March 1960, ² elicited no objections on the part of the Government of the Federal Republic of Germany.

Since the date of that communications, the Bundesrat has ratified the annex in question. The Embassy has been instructed to notify the French Government of the Federal Republic of Germany's formal agreement on the content of the said annex.

The Embassy proposes, in addition, that annexes A and B to the aforementioned Agreement should enter into force on 1 November 1969. It would be grateful if the Ministry would inform it whether this date meets with its approval. However, should the Ministry be unable to state its decision within the next three weeks, the Embassy would appreciate its suggesting a new date for the

¹ Came into force on 12 September 1969 by the exchange of the said notes.

² See p. 71 of this volume.

entry into force of annexes A and B, which should not be sooner than two months at the minimum from the date of the Ministry's note in reply.

The Embassy of the Federal Republic of Germany takes this opportunity, etc.

A.

[SEAL]

The Ministry of Foreign Affairs
Paris

II

LIBERTY - EQUALITY - FRATERNITY

FRENCH REPUBLIC

MINISTRY OF FOREIGN AFFAIRS

Paris, 12 September 1969

The Ministry of Foreign Affairs presents its compliments to the Embassy of the Federal Republic of Germany and has the honour to refer to the Embassy's note Wi III A 5 - 84.01/2, dated 27 August 1969.

The Ministry thanks the Embassy for having notified it of the ratification by the Bundesrat of the new annex B to the Agreement between the French Republic and the Federal Republic of Germany on the protection of indications of source, appellations of origin and other geographical designations, signed at Bonn on 8 March 1960, thus furnishing the Ministry with final confirmation of the Federal Republic of Germany's agreement on the content of the annex in question, following the letter of 26 August 1968 in which the Ambassador informed the Minister that the said annex elicited no objections on the part of the Government of the Federal Republic of Germany.

The Ministry confirms the French Government's agreement as previously signified to the Embassy concerning annex A to the aforementioned Agreement and has the honour to inform it that the date of 1 November 1969 suggested for the entry into force of annexes A and B to the Agreement of 8 March 1960 meets with its approval.

The Ministry of Foreign Affairs takes this opportunity, etc.

R. L.

[SEAL]

The Embassy of the Federal Republic of Germany
Paris

ANNEX A

ANNEX B

[For the texts of annexes A and B see pp. 46 to 70 of this volume]
