

No. 14494

**FRANCE
and
AUSTRIA**

**Agreement on the protection of indications of source,
appellations of origin and designations of agricultural
and industrial products (with protocol). Signed at
Vienna on 10 May 1974**

Authentic texts: French and German.

Registered by France on 29 December 1975.

**FRANCE
et
AUTRICHE**

**Accord sur la protection des indications de provenance, des
appellations d'origine et de dénominations de produits
agricoles et industriels (avec protocole). Signé à Vienne
le 10 mai 1974**

Textes authentiques : français et allemand.

Enregistré par la France le 29 décembre 1975.

[TRANSLATION — TRADUCTION]

**AGREEMENT¹ BETWEEN THE FRENCH REPUBLIC AND THE
REPUBLIC OF AUSTRIA ON THE PROTECTION OF INDICA-
TIONS OF SOURCE, APPELLATIONS OF ORIGIN AND
DESIGNATIONS OF AGRICULTURAL AND INDUSTRIAL
PRODUCTS**

The President of the Senate, provisionally exercising the functions of President of the French Republic, and the Federal Chancellor, exercising the functions of Federal President of the Republic of Austria,

Desiring to protect indications of source, appellations of origin and other designations of agricultural and industrial products against unfair competition,

Have decided to conclude an agreement to that end and have designated as their plenipotentiaries:

The President of the Senate, provisionally exercising the functions of President of the French Republic: Mr. Augustin Jordan, Ambassador Extraordinary and Plenipotentiary of the French Republic in Austria,

The Federal Chancellor, exercising the functions of Federal President of the Republic of Austria: Mr. Josef Staribacher, Federal Minister of Commerce, Crafts and Industry,

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

Article I. Each Contracting State shall take all necessary measures, in accordance with the present Agreement, to ensure effective protection of the designations of agricultural and industrial products originating in the territory of the other Contracting State against unfair competition in trade and to guarantee such protection.

Article II. 1. The present Agreement shall apply to indications of source, appellations of origin and designations of agricultural and industrial products which belong to the categories referred to in article IV and are listed in the Convention referred to in article V.

2. For the purposes of the present Agreement, indications of source, appellations of origin and other designations of agricultural and industrial products shall include all terms which refer, directly or indirectly, to the origin of a product. Such a term generally consists of a geographical name. It may, however, consist of other indications if, for the persons concerned in the country of origin, those indications as used in connexion with the product in question evoke associations with the said country. Besides geographical origin, they may specify the particular characteristics of the product in question, characteristics which depend exclusively, or principally, on geographical factors and also on human factors.

Article III. Protection under this Agreement shall also extend to the terms "French Republic", "France", the names of the former French provinces, the terms "Republic of Austria", "Austria", and the names of the federal *Länder* of Austria, if they form part of the designations of agricultural or industrial products.

¹ Came into force on 22 September 1975, i.e., 90 days after the date of the exchange of the instruments of ratification, which took place at Paris on 24 June 1975, in accordance with article XVIII (1) and (2).

Article IV. 1. The categories of Austrian products are as follows:

- A. wines;
 - B. food and agricultural products (excluding wines):
 - 1. baked goods,
 - 2. beer,
 - 3. mineral water,
 - 4. cheeses,
 - 5. spirits (liqueurs and brandies),
 - 6. confectionery,
 - 7. Austrian specialities,
 - 8. miscellaneous;
 - C. industry:
 - 1. textile articles,
 - 2. other industrial products and handicrafts,
 - 3. stoneware, stones, earthenware,
 - 4. miscellaneous.
2. The categories of French products are as follows:
- A. wines and spirits;
 - B. mineral water;
 - C. other beverages;
 - D. cheeses;
 - E. other agricultural and food products:
 - 1. fruits,
 - 2. vegetables,
 - 3. poultry,
 - 4. miscellaneous;
 - F. industrial products and handicrafts;
 - G. miscellaneous.

Article V. 1. The designations of the various products which fulfil the conditions set forth in articles II and IV and which shall be protected under this Agreement are listed in a Convention concluded between the Government of the French Republic and the Federal Government of Austria.

2. The two Governments, taking into account articles II and IV, may by common agreement make any future changes they may deem appropriate in the lists of designations contained in the Convention referred to in paragraph 1.

Article VI. 1. The Austrian designations protected by the Agreement in the territory of the French Republic as defined in article XVII shall be reserved exclusively to the Austrian products to which they apply and may be used there only in accordance with the conditions laid down in Austrian legislation. However, certain provisions of that legislation are declared inapplicable under the protocol to this Agreement, which forms an integral part hereof.

2. The provisions of paragraph 1 shall not preclude the use of a French proper name in the territory of the French Republic if that name corresponds in whole or in part to an Austrian proper name which is also a designation protected under the Agreement. In such a case, the French proper name shall not be translated into German.

3. If an Austrian designation protected under the present Agreement corresponds to the name of a region or of a place situated outside the territory of the Republic of Austria, paragraph 1 shall not preclude its use in reference to products or goods produced in that region or place, without prejudice to the complementary provisions of the protocol.

Article VII. 1. The French designations protected by the Agreement in the territory of the Republic of Austria shall be reserved exclusively to the French products to which they apply and may be used there only in accordance with the conditions laid down in French legislation. However, certain provisions of that legislation are declared inapplicable under the protocol to this Agreement, which forms an integral part hereof.

2. The provisions of paragraph 1 shall not preclude the use of an Austrian proper name in the territory of the Republic of Austria if that name corresponds in whole or in part to a French proper name which is also a designation protected under the Agreement. In such a case, the Austrian proper name shall not be translated into French.

3. If a French designation protected under the present Agreement corresponds to the name of a region or of a place situated outside the territory of the French Republic as defined in article XVII, paragraph 1 shall not preclude its use in reference to products or goods produced in that region or place, without prejudice to the complementary provisions of the protocol.

Article VIII. 1. If any designation protected under the present Agreement is used in trade, in contravention of the provisions of articles VI and VII, on any products, particularly on their inner or outer packaging, or on invoices, waybills or other commercial documents, or in advertising, all the legal and administrative measures provided for in the legislation of the Contracting State in which protection is claimed in order to combat unfair competition or to repress in any other way the unlawful use of designations shall be applied, in the conditions specified by such legislation and in accordance with the provisions of article X.

2. The provisions of the present article shall also apply when the designations protected under the present 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 other similar terms.

3. The provisions of paragraph 1 shall not apply to the translation of a designation of one Contracting State when such a translation, in the language of the other Contracting State, is a word in common use.

Article IX. 1. The provisions of article VIII of the present Agreement shall likewise apply when use is made on products whose designations are protected under the Agreement, on their inner or outer packaging or on invoices or waybills of indications, trade marks, names, inscriptions or illustrations which, directly or indirectly, contain false or misleading indications of the source, origin, nature, variety or essential qualities of the products.

2. If the names or illustrations of places, buildings, monuments, rivers, mountains, etc., of a Contracting State are used in trade in the other Contracting State for products which do not originate in the former State, such use shall be presumed likely to mislead as to the origin of such products, unless it can, under the circumstances, reasonably be considered that there is no deception.

Article X. 1. Actions on grounds of violations of the present Agreement may be brought before the courts of the French Republic not only by natural and juridical persons entitled to bring such actions under the legislation of the French Republic but also by federations, associations and organizations having their headquarters in the territory of the Republic of Austria and representing interested producers, manufacturers or tradesmen, where the legislation of the French Republic permits such actions to be brought by French federations, associations and organizations.

2. Actions on grounds of violations of the present Agreement may be brought before the courts of the Republic of Austria not only by natural and juridical persons entitled to bring such actions under the legislation of the Republic of Austria but also by federations, associations and organizations having their headquarters in the territory of the French Republic and representing interested producers, manufacturers or tradesmen, where the legislation of the Republic of Austria permits such actions to be brought by Austrian federations, associations and organizations.

Article XI. 1. Each Contracting State may, if necessary for the achievement of the purposes of the Agreement, request, by means of a note addressed to the other Contracting State, that, for wines and spirits whose appellations are covered by this Agreement, import or temporary entry permits should be granted only when such products are accompanied by a certificate attesting that they are entitled to the appellation. The other Contracting State must acknowledge receipt of such note. In such cases, products not accompanied by a certificate shall not be granted customs clearance.

2. A Contracting State shall, in addressing to the other Contracting State the note referred to in paragraph 1, indicate which authorities or other services are competent to issue the certificate. A specimen of the certificate must accompany such communication.

Article XII. 1. Products, packaging and advertising material as well as invoices, waybills and other commercial documents which, at the time of the entry into force of the Convention referred to in article V, are in the territory of one of the Contracting States and lawfully bear indications whose use is prohibited under the present Agreement may be sold or used within a period of two years from the entry into force of the Convention.

2. In the event of modification or extension of the lists of designations contained in the Convention referred to in article V, the provisions of paragraph 1 shall apply and the period of two years shall run from the time when the modified Convention enters into force.

Article XIII. The present Agreement shall not apply to designations of products in transit in the territory of one of the Contracting States.

Article XIV. Without prejudice to the provisions of article XI, the protection accorded by the present Agreement to designations of products shall not affect the provisions which regulate or may regulate the import of those products in either Contracting State.

Article XV. The provisions of the present Agreement shall be without prejudice to any further protection which is or may be accorded in the Contracting States to the designations protected by the present Agreement under their internal legislation or under other international agreements.

Article XVI. The representatives of the Contracting Parties shall maintain direct contact with each other with regard to all questions relating to the implementation of the present Agreement. In particular, the competent French authorities shall notify the Austrian authorities, in each case, of judicial decisions concerning the conditions set forth in article VII, paragraph 1, relating to the use of designations. Similarly, the competent Austrian authorities shall notify the French authorities of judicial decisions which have a bearing upon the application of the Agreement.

Article XVII. The present Agreement shall apply, in the case of the French Republic, to the territory of the French Republic, to the French Overseas *Départements* and to the French Overseas Territories.

Article XVIII. 1. The present Agreement shall be subject to ratification; the instruments of ratification shall be exchanged at Paris as soon as possible.

2. The present Agreement shall enter into force ninety days after the exchange of the instruments of ratification and shall remain in force indefinitely.

3. Either Contracting State may denounce this Agreement by giving the other State at least one year's notice in writing, through the diplomatic channel.

4. The Convention referred to in article V, paragraph 1, may be concluded before the entry into force of the present Agreement. However, it may not enter into force before this Agreement.

IN WITNESS WHEREOF the respective plenipotentiaries have signed the present Agreement and have thereto affixed their seals.

DONE at Vienna, on 10 May 1974, in duplicate in the French and German languages, both texts being equally authentic.

For the President of the Senate,
provisionally exercising the functions
of the President of the French Republic:

[Signed]

A. JORDAN

For the Federal Chancellor,
exercising the functions
of the Federal President of the Republic of Austria:

[Signed]

J. STARIBACHER

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 Designations of Agricultural and Industrial Products of today's date, have agreed on the following provisions, which shall be an integral part of the Agreement:

1. A designation which relates to a specific beverage is included in the Convention referred to in article V and is therefore protected under the Agreement may not be used to designate a beverage of the other Contracting State, of whatever kind.

2. The protection under the Agreement of the French appellations of origin “Cassis”, “Griotte Chambertin” and “Mirabelle de Lorraine” shall not preclude the use in Austria of the words “Cassis”, “Griotte” and “Mirabelle” for products manufactured from black currant, morellos or cherries, or mirabelle plums.

3. The provisions of the Agreement shall not preclude the use of the names of varieties of grape, whether used alone or in conjunction with a geographical or other description.

The Austrian designations of varieties of grape are, in particular:

Bouviertraube	Muskat-Ottonel
Blaufränkisch	Muskat-Sylvaner
Blauber Portugieser	Neuburger
Blauer Wildbacher (or Schilcher)	Rheinriesling (or Riesling)
Burgunder or Pinot (Klevner, Blauburgunder, Grauburgunder, Weissburgunder)	Rotgipfler
Cabernet	Ruländer (or Grauer Burgunder)
Cabernet-Sauvignon	Saint-Laurent (or Laurenzitraube)
Jubiläumsrebe	Sauvignon (or Muskat-Sylvaner)
Mädchentraube	Sylvaner
Malvasier	Traminer (Roter Traminer, Gewürztraminer)
Merlot	Veltliner (Grüner Veltliner, Roter Veltliner, Frühroter Veltliner)
Morillon (or Chardonnay)	Welschriesling (or Riesling)
Müller-Thurgau	Zierfandler (or Spätrot)
Muskat	Zweigeltrebe.
Muskateller	

The designation “Burgunder” is not used alone in Austria but only in the composite names “Weissburgunder”, “Blauburgunder” or “Grauburgunder” or accompanied by an Austrian geographical designation.

The names of the grape varieties “Cabernet”, “Morillon” (or “Chardonnay”), “Saint-Laurent”, “Sauvignon” and “Pinot” are used for Austrian wines only in conjunction with an Austrian geographical designation or an unequivocal reference to their Austrian origin.

4. The Austrian designations “Baden”, “Heiligenstein”, “Nussdorf” and “Winden” may be used in France only in conjunction with an unequivocal reference to their geographical origin.

5. The Austrian federal *Länder* mentioned in article III of the Agreement are:

Burgenland	Steiermark
Kärnten	Tirol
Niederösterreich	Vorarlberg
Oberösterreich	Wien.
Salzburg	

The former French provinces mentioned in article III of the Agreement are:

Alsace	Aunis
Angoumois	Auvergne
Anjou	Béarn
Artois	Bourgogne

Bretagne	Marche
Champagne	Comté de Nice
Comté de Foix	Nivernais
Corse	Franche-Comté
Dauphiné	Gascogne
Flandre	Normandie
Berry	Orléanais
Bourbonnais	Picardie
Guyenne	Poitou
Ile-de-France	Provence
Languedoc	Roussillon
Limousin	Saintonge
Lorraine	Savoie
Lyonnais	Touraine
Maine	Comtat Venaissin.

6. Adjectives derived, in all their forms, from the designations referred to in article III of the Agreement (and article 5 of the protocol) are also protected under the Agreement.

7. Articles VI and VII of the Agreement shall not oblige either Contracting State to apply, when products covered by the designations protected under the Agreement are marketed in its territory, the legal and administrative provisions of the other State relating to administrative supervision, such as those which concern the keeping of registers of receipt and dispatch and the circulation of such products.

8. Within the meaning of articles VI and VII of the Agreement, proper names shall be understood to mean the names of persons as well as geographical designations.

9. Indications of essential qualities within the meaning of article IX of the Agreement are, in particular:

(a) in the case of Austrian and French wines and brandies:

- an indication of the crop year (vintage);
- the name of one or more varieties of grape;
- the indications: rosé, sec, doux, brut, mousseux, V.O., V.S.O.P., Réserve, Extra, Trois étoiles (in graphic form);

(b) in the case of Austrian wines:

- the alcohol content, the producer, the bottler, the dealer;
- the indications: weiss, rot, Wachstum, Gewächs, Kreszens, original, Originalabfüllung, Originalabzug, Kellerabfüllung, Kellerabzug, Eigengewächs, Spätlese, Spätlesewein, Auslese, Auslesewein, Beerenauslese, Beerenauslesewein, Ausbruch, Ausbruchwein, Trockenbeerenauslese, Hochgewächs, Spitzengewächs, Clarettwein, Kabinett (Cabinet), Tischwein, Tafelwein, Bratenwein, Wualitätswein, Qualitätswein besonderer Reife und Leseart, Siegelwein, Dessertwein, Aromatisierter Wein, Wermut (Vermouth), Perlwein, Schaumwein, Sekt, Qualitätsschaumwein, Qualitätssekt.

(c) in the case of French wines: blanc de blanc, Zwicker, Edelzwicker, haut, grand cru, cru classé, premier cru, grand vin, pétillant, appellation contrôlée,

appellation d'origine, vin délimité de qualité supérieure (or V.D.Q.S.), vins de pays, mise en bouteille au château, mise en bouteille à la propriété.

(d) in the case of French brandies: appellation réglementée, Napoléon, Vieille réserve.

10. The certificate referred to in article XI of the Agreement shall not be required when these products, under the regulations of the Contracting State into whose territory they are imported:

- (a) are exempt from customs duties;
- (b) are imported as gifts, namely, for Austria, up to a limit of twenty litres for wines and four litres for spirits;
- (c) are part of the removal of a household, of an inheritance or of a trousseau;
- (d) are brought in by travellers and residents of frontier areas as provisions for the road or for their domestic use.

11. The Agreement shall not apply to prepared dishes sold or served directly to the final consumer, for example at restaurants or public houses.

12. It is understood, by common agreement, that the product designated as "Ungarische Salami, Österreichisches Erzeugnis" may be marketed in France on the condition that it shall conform to French regulations, especially as regards its source.

13. The provisions of the Agreement shall not bar the owners of trade marks duly registered before 1 January 1970 from continuing to use them until 31 December 1979. This right to continue to use the trade mark may not be transferred by succession or assigned unless the firm, or part thereof, which owns the trade mark is also transferred or assigned.

IN WITNESS WHEREOF the respective plenipotentiaries have signed the present Agreement and have thereto affixed their seals.

DONE at Vienna, on 10 May 1974, in duplicate in the French and German languages, both texts being equally authentic.

For the President of the Senate,
provisionally exercising the functions
of the President of the French Republic:

[Signed]

A. JORDAN

For the Federal Chancellor,
exercising the functions
of the Federal President of the Republic of Austria:

[Signed]

J. STARIBACHER