

No. 24594

**AUSTRIA
and
HUNGARY**

Agreement on the protection of indications of source, appellations of origin and other designations indicative of the provenance of agricultural and industrial products (with protocol). Signed at Vienna on 21 July 1972

Authentic texts: German and Hungarian.

Registered by Austria on 8 January 1987.

**AUTRICHE
et
HONGRIE**

Accord sur la protection des indications de provenance, appellations d'origine et autres dénominations relatives à l'origine des produits agricoles et industriels (avec protocole). Signé à Vienne le 21 juillet 1972

Textes authentiques : allemand et hongrois.

Enregistré par l'Autriche le 8 janvier 1987.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE REPUBLIC OF AUSTRIA AND THE HUNGARIAN PEOPLE'S REPUBLIC ON THE PROTECTION OF INDICATIONS OF SOURCE, APPELLATIONS OF ORIGIN AND OTHER DESIGNATIONS INDICATIVE OF THE PROVENANCE OF AGRICULTURAL AND INDUSTRIAL PRODUCTS

The Republic of Austria and the Hungarian People's Republic, desiring to protect indications of source, appellations of origin and other designations of agricultural and industrial products against unfair competition, have to that end decided to conclude the following Agreement:

Article I. Each Contracting State shall take all necessary measures effectively to protect against unfair competition in trade, in accordance with the provisions of this Agreement, the designations of agricultural and industrial products which originate in the territory of the other Contracting State and are defined in article II, and to guarantee such protection.

Article II. 1. This Agreement shall apply to indications of source, appellations of origin and other designations indicative of the provenance of agricultural and industrial products which fall within the categories referred to in article IV and are specified in the Convention provided for in article V.

2. For the purposes of this Agreement, indications of source, appellations of origin and other designations indicative of provenance shall include all indications which relate directly or indirectly to the origin of a product. Such an indication shall generally consist of a geographical appellation. It may also, however, consist of other information which, if applied to the product concerned, is seen by interested commercial circles in the country of origin to constitute a reference to the producing country. The aforementioned appellations may include, in addition to an indication of provenance from a specific geographical region, a declaration concerning the quality of the product concerned. Such special qualities of products shall be determined exclusively or predominantly by geographical or even human factors.

Article III. This Agreement shall also apply to the name "Republik Österreich" ("Osztrák Köztársaság"), the appellation "Österreich" ("Ausztria"), the names of the Austrian provinces including their translation into Hungarian, the name "Ungarische Volksrepublik" ("Magyar Népköztársaság") and the appellation "Ungarn" ("Magyarország"), where these are used to designate agricultural or industrial products.

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

A. *Wines*

B. *Food and agricultural products (excluding wines)*

1. *Baked goods;*

¹ Came into force on 11 August 1973, i.e., 60 days after the exchange of the instruments of ratification, which took place at Vienna on 12 June 1973, in accordance with article XVII (2).

2. Beers;
3. Mineral waters;
4. Cheeses;
5. Meats and meat products;
6. Fruits and horticultural products;
7. Spirits (liqueurs and brandies);
8. Confectionery;
9. Specialities (Austrian and Hungarian);
10. Miscellaneous products.

C. *Industrial products*

1. Textile goods;
2. Other industrial and artisanal products;
3. Miscellaneous goods.

Article V. 1. The designation of the various products to which the provisions of articles II and IV apply and which are to be protected under this Agreement shall be listed in a Convention to be concluded by the competent national authorities of each Contracting Party.

2. The provisions of paragraph (1) shall apply to any limitation, amendment or expansion of the Protocol.

Article VI. 1. The Austrian designations protected under this Agreement shall be reserved in the territory of the Hungarian People's Republic exclusively for Austrian products to which the said designations apply.

2. The provisions of paragraph (1) of this article shall not preclude the use of a proper name in the territory of the Hungarian People's Republic by a person entitled to use it if that name is in whole or in part an Austrian designation protected under this Agreement. In such a case, the proper name may only be used unchanged and in a manner which allows of no misunderstanding.

Article VII. 1. The Hungarian designations protected under this Agreement shall be reserved in the territory of the Republic of Austria exclusively for Hungarian products to which the said designations apply.

2. The provisions of paragraph (1) of this article shall not preclude the use of a proper name in the territory of the Republic of Austria by a person entitled to use it if that name is in whole or in part a Hungarian designation protected under this Agreement. In such a case, the proper name may only be used unchanged and in a manner which allows of no misunderstanding.

Article VIII. 1. If any designation protected under this Agreement is used in trade in contravention of the provisions of articles VI and VII of the Agreement, particularly in connection with the presentation or packaging of products or on invoices, way-bills or other commercial documents or in advertising, all judicial and administrative measures available under the legislation of the Contracting State in which protection is sought for the purpose of combating unfair competition or preventing the unlawful use of designations shall be applied in accordance with the conditions laid down in the said legislation and with the provisions of article X.

2. The provisions of this article shall also apply where designations protected under this Agreement are used in translation or with an indication of the true source, or with additions such as “class”, “type”, “style”, “imitation” or the like.

3. The provisions of paragraph (1) of this article shall not apply to translations of designations of a Contracting State if the translation is a word in common use in the language of the other Contracting State.

Article IX. 1. The provisions of article VIII of this Agreement shall also apply where use is made, directly or indirectly, for products whose designations are protected under the Agreement or in connection with the presentation or packaging or on invoices, way-bills or other commercial documents or in advertising of indications, trademarks, names, inscriptions or illustrations, in particular national or provincial colours, emblems or flags, which contain false or misleading indications of the source, origin, nature, class or essential qualities of the products.

2. If names or illustrations of places, buildings, monuments, rivers, mountains or the like of a Contracting State are used in trade in the other Contracting State for products or goods which do not originate in the first-mentioned State, such use shall be presumed to be misleading as to the origin of the products or goods thus designated unless, in the specific circumstances, no attempt to mislead can reasonably be assumed.

Article X. 1. Actions on grounds of violation of the provisions of this Agreement may be brought before the courts of the Hungarian People's Republic not only by natural and juridical persons entitled to bring such actions under the legislation of the Hungarian People's Republic but also by federations, associations and organizations having their headquarters in the Republic of Austria and representing the producers, manufacturers or traders concerned, where the legislation of the Hungarian People's Republic permits such actions to be brought by Hungarian federations, associations and organizations.

2. Actions on grounds of violations of the provisions of this 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 Hungarian People's Republic and representing the producers, manufacturers or traders concerned, where the legislation of the Republic of Austria permits such actions to be brought by Austrian federations, associations and organizations.

Article XI. 1. This Agreement shall not preclude the use of a trademark registered and in use prior to 1 January 1971.

2. Where a designation becomes subject to this Agreement as a result of amendment or expansion of the lists contained in the Convention provided for in article V, the provisions of paragraph (1) shall apply as from the date of entry into force of the amended Protocol.

Article XII. 1. Products, packaging and advertising material, and invoices, way-bills and other commercial documents which are in the territory of one of the Contracting States at the time of the entry into force of the Convention provided for in article V and lawfully bear indications whose use is prohibited under this Agreement may be used for a period of one year from the date of entry into force of the Protocol.

2. In the event of amendment or expansion of the lists of designations contained in the Convention provided for in article V, the provisions of paragraph (1) shall apply and the period of one year shall run from the date of entry into force of the amended Convention.

Article XIII. This Agreement shall not apply to designations of products which are merely in transit through the territory of one of the Contracting States.

Article XIV. The acceptance of designations for products protected by this Agreement shall not affect the provisions in force in either Contracting State concerning the import of such products.

Article XV. The provisions of this Agreement shall not preclude any more extensive protection which is or may hereafter be accorded in the Contracting States, under internal legislation or international agreements, to the designations protected under this Agreement.

Article XVI. The competent authorities of the Contracting States shall maintain regular contacts for the purpose of consultation on proposals for the amendment or expansion of the Convention referred to in article V or on any questions which may arise from the application of this Agreement.

Article XVII. 1. This Agreement shall be subject to ratification. The instruments of ratification shall be exchanged as soon as possible at Vienna.

2. This Agreement shall enter into force 60 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 at least one year's notice in writing.

4. Protocols under article V may be concluded before the entry into force of the Agreement, but shall take effect at the earliest on the entry into force of the Agreement.

IN WITNESS WHEREOF the Plenipotentiaries of the two Contracting States have signed this Agreement and have thereto affixed their seals.

DONE at Vienna on 21 July 1972, in two originals, each in the German and Hungarian languages, both texts being equally authentic.

For the Republic of Austria:

STARIBACHER

For the People's Republic of Hungary:

BIRÓ

PROTOCOL

The High Contracting Parties,

Desiring to regulate in greater detail the application of certain provisions of the Agreement concluded this day on the protection of indications of source, appellations of origin and other designations of agricultural and industrial products,

Have agreed on the following provisions, which shall form an integral part of the Agreement:

1. Nothing in the Agreement shall, in principle, restrict the use of the following designations of varieties of grape:

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

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

- Indication of vintage (year),
- Name of one or several varieties of grape,
- Alcohol content, producer, bottler, distributor;
- the designations: weiss, rosé, Schiller (Siller), rot, méthode champenoise, Wachstum, Gewächs, Kreszenz, original, Originalabfüllung, Originalabzug, Kellerabfüllung, Kellerabzug, Eigengewächs, Spätlese, Auslese, Beerenauslese, Trockenbeerenauslese, Ausbruch, Hochgewächs, Spitzengewächs, Clarettwein, Kabinett (Cabinet), Tischwein (Tafelwein), Bratenwein, Qualitätswein, Delikatesswein, aromatisierter Wein, Dessertwein, Schaumwein, Perlwein.

3. For the purposes of articles VI and VII of the Agreement, the term “proper names” shall mean both personal names and place names.

4. For the purposes of article VIII, paragraph 2, the term “translation” shall also mean a traditional designation in the other language or in Latin.

5. Inclusion of the designations “Magyar Szalami” and “Magyar marhagulyas” in annex B of the Protocol to this Agreement shall not preclude the use of these designations in German translation in the Republic of Austria for Austrian products on the following conditions:

- (a) The additional words “österreichisches Erzeugnis” or “made in Austria” shall be inserted close to the designation “ungarisch” in letters of the same style, size and colour as that designation;

(b) The name and business address of the manufacturing firm must be indicated.

6. Inclusion of the designation “Csabai kolbász” in annex B of the Protocol to this Agreement shall render the use of the designations “Csabai” or “Czabaier” for Austrian products permissible, provided that their Austrian source is clearly indicated.

7. Inclusion of the designation “Debreceni páros-kolbász” in annex B of the Protocol to this Agreement shall not restrict the use of the designation “Debreziner” in Austria.

8. The Agreement shall not apply to freshly prepared foods sold or served directly to the consumer, for example, in restaurants and inns.

9. The designation “Helvécia” in annex B, category “Wines”, of the Protocol to this Agreement may be used in the Republic of Austria only in this spelling and only with the addition of the designation “Ungarn”.

10. The designation “Györ” may be used for Hungarian products only in this form or as “Györ-Raab”. Use of the designation “Raab” for Austrian products shall not be restricted by the foregoing.

11. For the purpose of implementing article XVI of the Agreement, the Contracting Parties have decided to establish a Joint Commission composed of representatives of the competent authorities of the Contracting States and of experts to be invited by them. The Commission shall meet regularly at least once a year in order to confer and discuss problems and experiences arising from the practical implementation of the Agreement.

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

DONE at Vienna on 21 July 1972, in two originals, each in the German and Hungarian languages, both texts being equally authentic.

For the Republic of Austria:

STARIBACHER

For the Hungarian People's Republic:

BIRÓ
