

Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods

of April 14, 1891

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Act revised at Washington on June 2, 1911, at The Hague on November 6, 1925, at London on June 2, 1934, and at Lisbon on October 31, 1958

Article 1

(1) All goods bearing a false or deceptive indication by which one of the countries to which this Agreement applies, or a place situated therein, is directly or indirectly indicated as being the country or place of origin shall be seized on importation into any of the said countries.

(2) Seizure shall also be effected in the country where the false or deceptive indication of source has been applied, or into which the goods bearing the false or deceptive indication have been imported.

(3) If the laws of a country do not permit seizure upon importation, such seizure shall be replaced by prohibition of importation.

(4) If the laws of a country permit neither seizure upon importation nor prohibition of importation nor seizure within the country, then, until such time as the laws are modified accordingly, those measures shall be replaced by the actions and remedies available in such cases to nationals under the laws of such country.

(5) In the absence of any special sanctions ensuring the repression of false or deceptive indications of source, the sanctions provided by the corresponding provisions of the laws relating to marks or trade names shall be applicable.

Article 2

(1) Seizure shall take place at the instance of the customs authorities, who shall immediately inform the interested party, whether an individual person or a legal entity, in order that such party may, if he so desires, take appropriate steps in connection with the seizure effected as a conservatory measure. However, the public prosecutor or any other competent authority may demand seizure either at the request of the injured party or ex officio; the procedure shall then follow its normal course.

(2) The authorities shall not be bound to effect seizure in the case of transit.

Article 3

These provisions shall not prevent the vendor from indicating his name or address upon goods coming from a country other than that in which the sale takes place; but in such case the address or the name must be accompanied by an exact indication in clear characters of the country or place of manufacture or production, or by some other indication sufficient to avoid any error as to the true source of the wares.

Article 3bis

The countries to which this Agreement applies also undertake to prohibit the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods, and appearing on signs, advertisements, invoices, wine lists, business letters or papers, or any other commercial communication.

Article 4

The courts of each country shall decide what appellations, on account of their generic character, do not fall within the provisions of this Agreement, regional appellations concerning the source of products of the vine being, however, excluded from the reservation specified by this Article.

Article 5

(1) Countries of the Union for the Protection of Industrial Property which have not acceded to this Agreement may accede at their request in the manner prescribed by Article 16 of the General Convention.

(2) The provisions of Articles 16bis and 17bis of the General Convention shall apply to this Agreement.

Article 6

(1) This Act shall be ratified and the instruments of ratification deposited at Berne not later than May 1, 1963. It shall come into force, between the countries in whose names it has been ratified, one month after that date. However, if before that date it has been ratified in the name of at least six countries, it shall come into force, between those countries, one month after the deposit of the sixth ratification has been notified to them by the Government of the Swiss Confederation, and, in the countries in whose names it has been ratified at a later date, one month after the notification of each of such ratifications.

(2) Countries in whose names the instrument of ratification has not been deposited within the period provided for in the preceding paragraph may accede under the terms of Article 16 of the General Convention.

(3) This Act shall, as regards the relations between the countries to which it applies, replace the Agreement concluded at Madrid on April 14, 1891, and the Acts resulting from subsequent revisions.

(4) As regards countries to which this Act does not apply, but to which the Madrid Agreement revised at London in 1934 applies, the latter shall remain in force.

(5) Similarly, as regards countries to which neither this Act nor the Madrid Agreement revised at London applies, the Madrid Agreement revised at The Hague in 1925 shall remain in force.

(6) Similarly, as regards countries to which neither this Act nor the Madrid Agreement revised at London nor the Madrid Agreement revised at The Hague applies, the Madrid Agreement revised at Washington in 1911 shall remain in force.

II Additional Act of Stockholm of July 14, 1967

Article 1

[Transfer of Depositary Functions in Respect of the Madrid Agreement]

Instruments of accession to the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, of April 14, 1891 (hereinafter designated as “ the Madrid Agreement ”), as revised at Washington on June 2, 1911, at The Hague on November 6, 1925, at London on June 2, 1934, and at Lisbon on October 31, 1958 (hereinafter designated as “ the Lisbon Act ”) shall be deposited with the Director General of the World Intellectual Property Organization (hereinafter designated as “ the Director General ”), who shall notify such deposits to the countries party to the Agreement.

Article 2

[Adaptation of References in the Madrid Agreement to
Certain Provisions of the Paris Convention]

References in Articles 5 and 6 (2) of the Lisbon Act to Articles 16, 16*bis*, and 17*bis*, of the General Convention shall be construed as references to those provisions of the Stockholm Act of the Paris Convention for the Protection of Industrial Property which correspond to the said Articles.

Article 3

[Signature and Ratification of, and Accession to, the Additional Act]

(1) This Additional Act may be signed by any country party to the Madrid Agreement and may be ratified or acceded to by any country which has ratified or acceded to the Lisbon Act.

(2) Instruments of ratification or accession shall be deposited with the Director General.

Article 4

[Automatic Acceptance of Articles 1 and 2 by Countries Acceding to the Lisbon Act]

Any country which has not ratified or acceded to the Lisbon Act shall become bound also by Articles 1 and 2 of this Additional Act from the date on which its accession to the Lisbon Act enters into force, provided however that, if on the said date this Additional Act has not yet entered into force pursuant to Article 5 (1), then, such country shall become bound by Articles 1 and 2 of this Additional Act only from the date of entry into force of this Additional Act pursuant to Article 5 (1).

Article 5

[Entry Into Force of the Additional Act]

(1) This Additional Act shall enter into force on the date on which the Stockholm Convention of July 14, 1967, establishing the World Intellectual Property Organization has entered into force, provided however that, if by that date at least two ratifications or accessions to this Additional Act have not been deposited, then, this Additional Act shall enter into force on the date on which two ratifications or accessions to this Additional Act have been deposited.

(2) With respect to any country which deposits its instrument of ratification or accession after the date on which this Additional Act has entered into force pursuant to the foregoing paragraph, this Additional Act shall enter into force three months after the date on which its ratification or accession has been notified by the Director General.

Article 6

[Signature, etc., of the Additional Act]

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

(2) This Additional Act shall remain open for signature at Stockholm until the date of its entry into force pursuant to Article 5 (1).

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

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

(5) The Director General shall notify the Governments of all countries party to the Madrid Agreement of signatures, deposits of instruments of ratification or accession, entry into force, and other relevant notifications.

Article 7

[Transitional Provision]

Until the first Director General assumes office, references in this Additional Act to him shall be construed as references to the Director of the United International Bureaux for the Protection of Intellectual Property.