

Reserved Designations and Added-Value Claims: a Québec regulatory system that is an innovation in North America

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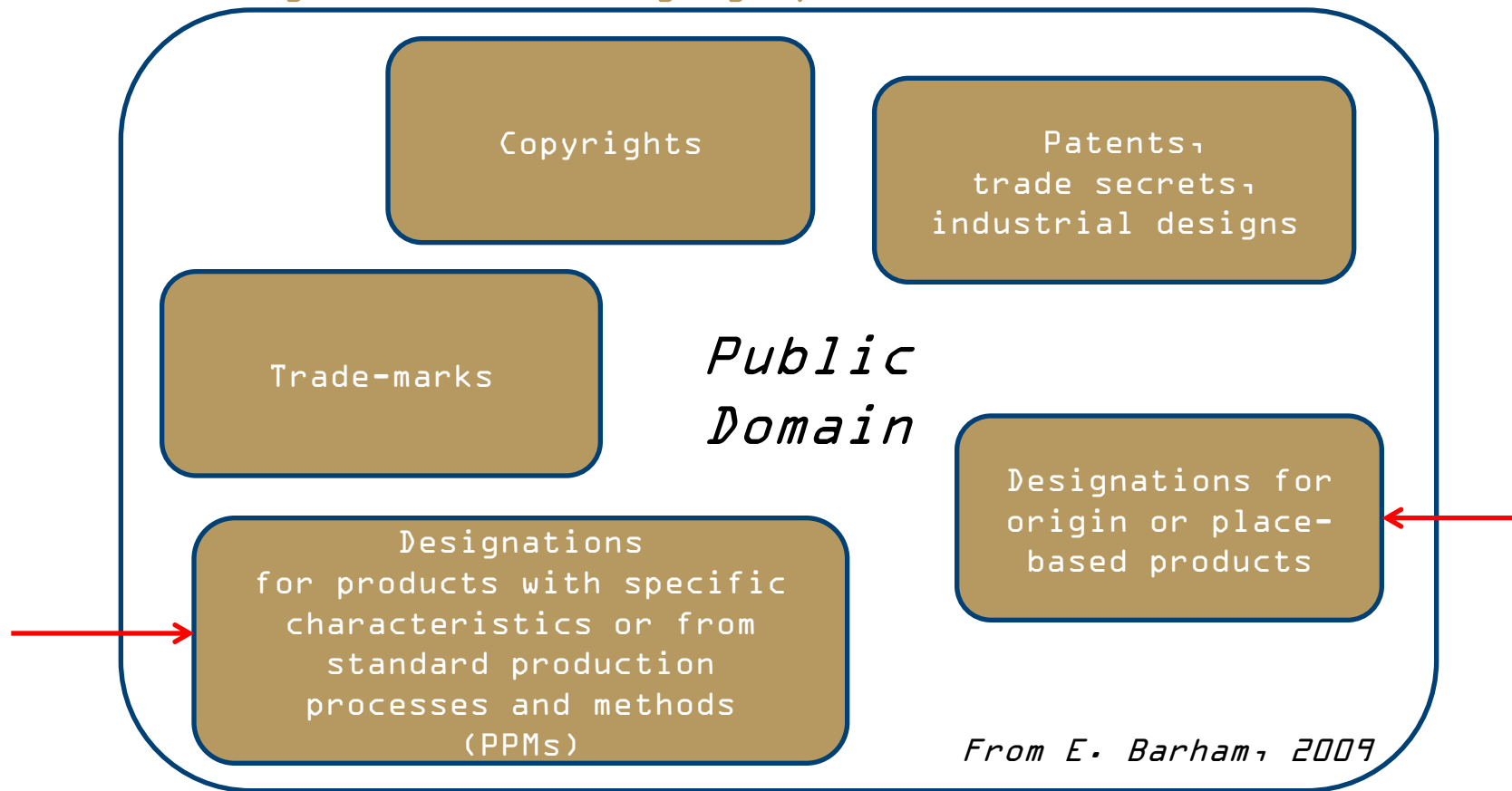
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1. Intellectual Property Rights

Designations as Intellectual Property Tools

Among the intellectual property tools available under the Agreement on Trade-Related aspects of Intellectual Property Rights (TRIPs),

designations are the only instruments allowing public registration of a generic name or geographical name



Legal Framework for Designations

- A reserved designation is the public recognition of a product's authenticity relating to its designation
- It is an intellectual property tool to protect collective designations, including place names and generic terms
- The applicant is not the owner of the designation but has an exclusive right to use it
- However, the use of the designation is restricted to those who comply with criteria and requirements set out in a legal framework
- In order to be able to register publicly food designations, a legal framework must be in place
- Several countries, including most European countries, have set up legislations or public regulations for designations
- In North America, only the government of Québec has implemented a legislation on food designations

2. Québec Reserved Designation and Added-Value Claims Legislation

History of Québec Designations Regulation

- 1996: first *Reserved Designations Act* developed in accordance with the European model
- 2000: recognition of the *organic designation*: success and development of the industry
- 2006: after a review and a broad consultation, adoption of the *Act respecting Reserved Designations and Added-Value Claims (A-20.03)*
- 2008: implementation of the Act, with full power given to the CARTV
- 2010: new *Regulation respecting Reserved Designations*
- 2009: recognition of the designation PGI “Agneau de Charlevoix” (Charlevoix lamb):
Marks the beginning of a comprehensive recognition system

Act Respecting Reserved Designations and Added-Value Claims (ARDAVC)

Purpose

To recognize **designations** labelled on products in order to identify their **characteristics** and provide added value for consumers

Object

“To protect the **authenticity** of products and of terms used to identify and promote them”

Designation

“A reserved designation may be recognized where it designates products which, by reason of their **special characteristics or method of production, are distinguishable** from the other products in the same class”

Product

“An unprocessed or processed agricultural, aqua-cultural or other food product that is intended for sale”

Act Respecting Reserved Designations and Added-Value Claims (ARDAVC)

Compliance / certification

- To qualify for a reserved designation, a product must be certified by an accredited certification body as compliant with a specification manual

Exclusive Right

- Recognition of a reserved designation grants the parties registered with an accredited certification body the exclusive right to use the designation,
- However, it is an open system that allows all those who comply with the registered specification manual to use the related designation

Public Protection

- The defense and monitoring of designations are no longer the concern of their beneficiaries
- ARDAVC grants CARTV with inspection and prosecution powers

Reserved designation categories

1. Reserved designations relating to a **method of production**



e.g., "Bio Québec" designation

2. Reserved designations relating to a link with a **terroir**

- Designation of Origin (DO)
- Protected Geographical Indication (PGI)



3. Reserved designations relating to a **specificity**

- Specificity
- Traditional specificity



Added-Value Claims

Definition

“An authorized added-value claim identifies a **special characteristic** of a product, generally a method of production or preparation, that is **sought by the consumer**”

Characteristics

- Does not require an application from a group of operators
- Authorization of an added-value claim, following the **initiative of the Minister**, who asks the Board to assess the specific characteristics of products
- Not necessarily distinctive qualities of the final product
- Standards that products must meet in order to be designated by the added-value claim are set out in a **ministerial regulation**
- Applicable to products or product categories, e.g., farmhouse cheeses, artisanal bread

Act Respecting Reserved Designations and Added-Value Claims (ARDAVC)

Applicants and Specification Manuals

- All applications should come from groups that:
 - Are legally constituted of members from all production/processing/preparation sectors of the certified product
 - Are representative of the majority of those who practise the production method
 - Have clear and transparent internal statutes and regulations
- The specification manual must describe how the product meets the general criteria that apply to the requested designation. It must include the certification requirements (standards)
- The principle of traceability is the basis for recognizing all designations: a description of the traceability assurance system for all stages of production, processing and marketing must be included in the specification manual

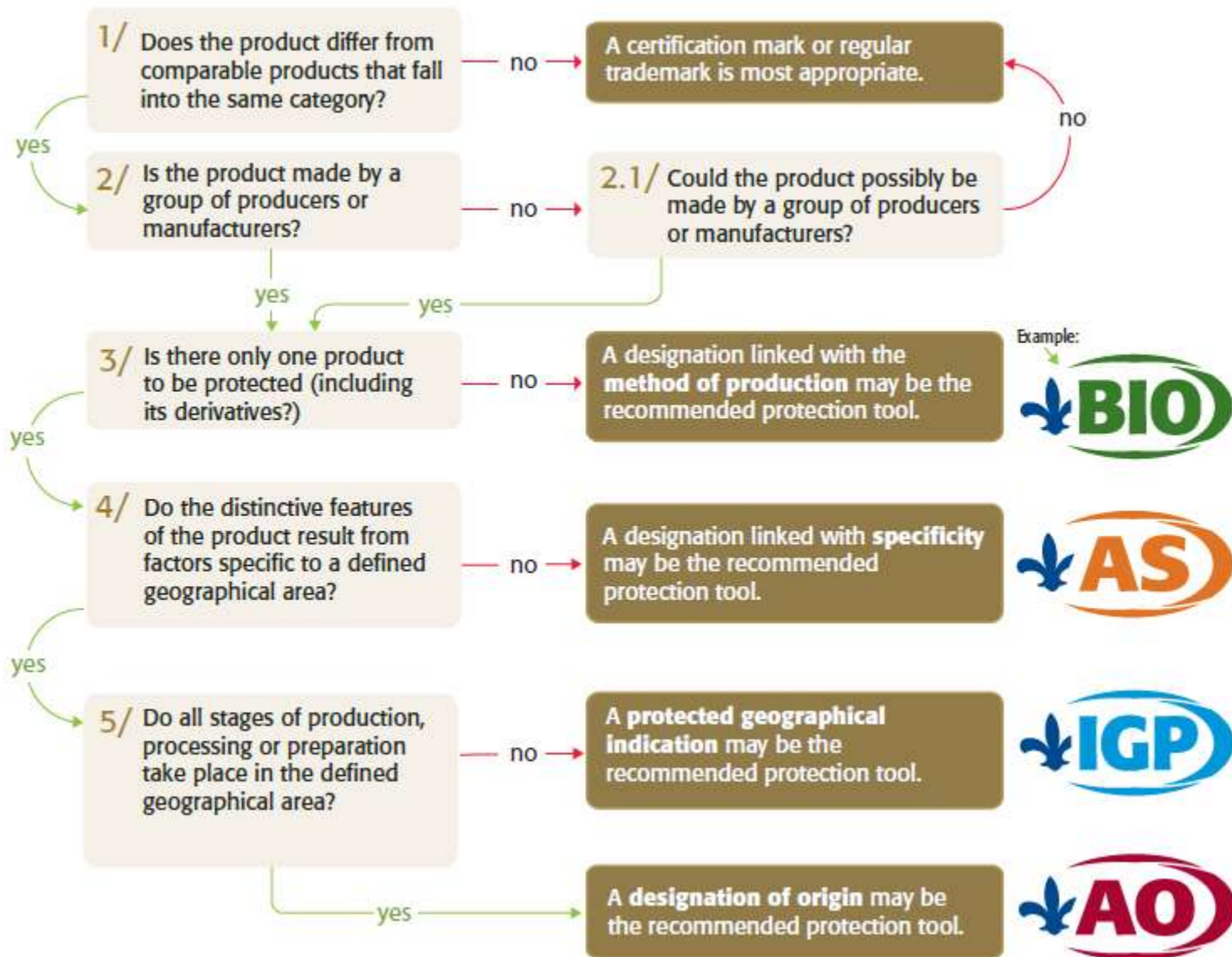
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Recognition Process

- Application made and submission of a specification manual
- Review of the specification manual by the CARTV technical committee
- Amendments to the specification manual when it does not meet requirements
- Public consultation (60 days)
- Accreditation of a certification body for the scope of the designation
- Recommendation made to the Minister by the CARTV Board once it has accredited a certification body and has approved the specification manual
- Recognition by the Minister of the requested designation

The whole system includes recognition and protection mechanisms that are identical from one designation to another, regardless of its category: specification manual, common recognition procedure, certification, protection from usurpation and imitation

Which reserved designation category do products fall under?



3. The CARTV's Roles and Mission

The CARTV

Since January 1, 2008, the Conseil des appellations réservées et des termes valorisants (CARTV) has been the **provincial competent authority** responsible for managing and protecting reserved designations and added-value claims in Québec



Mission set out in the ARDAVC:

- **advise** the Minister on reserved designations recognition and added-value claims authorization
- hold **consultations**
- **accredit** certification bodies (+ **develop** reference manuals that contain accreditation standards and criteria)
- **monitor** the use of reserved designations and added-value claims

Structure

- A **Board** made up of 9 members from different sectors of the Quebec agricultural and agri-food industries. Five technical committees with about 40 “experts” from industry, government and academia:
 - Organic Standards Committee
 - Territorial Designations Committee
 - Specificity Designations Committee
 - Accreditation Committee
 - Supervision Committee

- **Staff** of 8 employees, including the CEO

CARTV's roles - Accreditation, Inspection and Information

Once a designation has been recognized

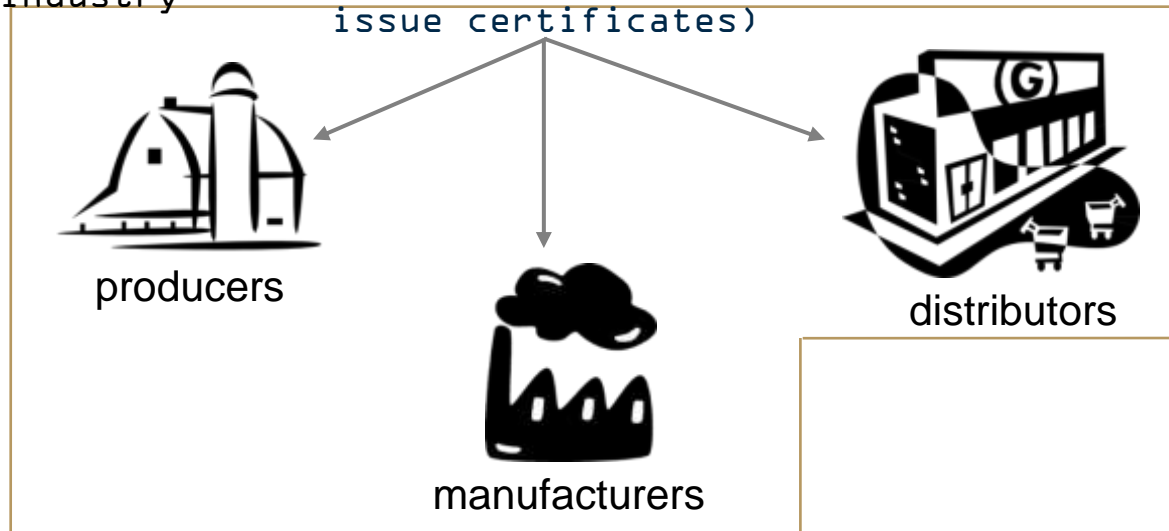


Carries out market supervision of products bearing designations in points of sales
↓
inspects

Disseminates information on designations to the public and the industry

accredits
↓
Certification bodies
(evaluate operations and issue certificates)

Retail business sites



4. Towards a North American Protection and Added-Value System

An innovative System for *terroir* and Specificity Products

- Québec legislation mainly based on the *European Union agricultural product quality policy*
- **Adaptation to the North American agri-food environment:** appropriation of the concept of historicity, *terroir* and origin
- Complementary protection and added-value tools to those offered by the *Canada Trade-marks Act*
- **Strong potential for *Designations of Specificity*** to distinguish products with a specific characteristic, reputation or know-how
- Many European and American publications support the CARTV's expertise

Reserved Designations in Québec

Today

- 2 reserved designations
- 2 applications being processed
- 1 project being developed
- Functional designation recognition system (reference manuals and regulations, evaluation and decision-making bodies, etc.)
- Strong expertise

Objectives

- 10-20 reserved designations by 2018, representing about 5% of Québec's agri-food production value
- Make reserved designations an essential tool to assist Québec businesses (local and export market), promote regional development, province's heritage and specific resources, etc.



- About us
- Board and technical committees
- CARTV Programs
- Act, Regulations and Approved Specification Manuals
- Québec Reserved Designations
- Organic Designation
- PGI Agneau de Charlevoix
- Documentation
- Useful Links



PGI - Agneau de Charlevoix

First Protected Geographical Indication in North America



[Learn more](#)

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Categories of reserved designations provided for in Québec

- Production method
- Protected Geographical Indication

Also in this section

- ▶ The Act respecting reserved designations and added-value claims [+]
- ▶ Advantages of the act respecting reserved designations and added-value claims [+]
- ▶ Reserved designations: one of many commercial identification

Useful Explanation



Guide de demande pour une appellation de spécificité (AS) ou pour une appellation de spécificité traditionnelle (AST) (in French)