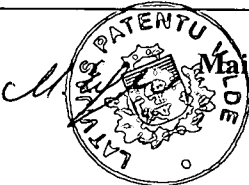


**MADRID AGREEMENT CONCERNING  
THE INTERNATIONAL REGISTRATION OF MARKS  
AND PROTOCOL RELATING TO THAT AGREEMENT**

**PROVISIONAL REFUSAL OF PROTECTION**

notified to the World Intellectual Property Organisation (WIPO)  
according to Article 5 of the Madrid Agreement and Madrid Protocol

<b>I. Office making the notification of refusal</b> <b>PATENT OFFICE OF THE REPUBLIC OF LATVIA</b> <b>7, Citadeles iela, PO Box 824</b> <b>LV 1010, Riga</b> <b>LATVIA</b>		phone 371 7099606 Fax 371 7099650
<b>II. Number of the international registration which is the subject of refusal</b> <b>WO 712220</b>		
<b>III. Name of the holder of the international registration concerning the subject of refusal</b> <b>PLUS SUPERMERCADOS, S.A. Avda. Cataluna, 37-39 E-28700 SAN SEBASTIAN DE LOS REYES</b> <b>(MADRID) (Espagne)</b>		
<b>IV. The grounds of refusal: Following sign – SUISS shall not be registered as trademark because this sign can mislead the consumers about geographical origin of the goods. Suisse – french name of SWITZERLAND.</b>		
<b>V. Reference to the corresponding essential provisions of the law (see materials attached)</b> <b>Article 6.(1)7)</b>		
<b>VI.</b> <input checked="" type="checkbox"/> Refusal for all goods and services  <input type="checkbox"/> Refusal for the following goods and services		
<b>VII. Possibilities to review or appeal</b> <b>The holder of the mark has the right, within 3 months from the date of reception of present decision, to submit his objections to the Patent Office of the Republic of Latvia through a professional local patent attorney. After expiration of the said period the Patent Office shall take a final decision.</b>		
<b>VIII. Date on which the present decision was pronounced</b>		<b>10.10.2005.</b>
<b>IX. Signature and seal of the office making the notification of refusal</b>		 <b>Maira Egle</b>

#### **Article 6. Absolute Grounds for Refusal and Invalidation of a Trademark Registration**

(1) The following signs shall not be registered as trademarks (if they have been registered, these registrations may be declared invalid pursuant to the provisions of this Law):

- 1) those which cannot constitute a trademark, that is, which do not comply with the provisions of Article 3 of this Law;
  - 2) those which lack any distinctive character with respect to the applied goods or services;
  - 3) those which consist solely of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, or the time of production of the goods or of providing the services, or other characteristics of the goods or services;
  - 4) those which consist solely of signs or indications which have become customary in the current language or in fair and established practices of the trade to designate the goods or services applied for (general designations);
  - 5) those which consist solely of a shape which is directly determined by the kind of goods (which results directly from the nature of the goods themselves), or which is necessary to obtain a particular technical result, or which gives substantial value to the goods;
  - 6) those which are contrary to public policy or to socially accepted principles of morality;
  - 7) those which are of such a nature as to mislead the consumers, for example, as to the nature, quality or geographical origin of the goods or services;
  - 8) those which contain signs, the registration of which would be refused or invalidated pursuant to Article 6-ter of the Paris Convention, including coats of arms and flags of the member countries of the Paris Union, their official marks indicating control or warranty, and hallmarks, as well as emblems, flags, names of international organisations and their abbreviations, without authorization by the competent authorities;
  - 9) those which, without authorization by the competent authorities given pursuant to the procedures set out in the statutory enactments of Latvia, contain the official heraldry approved by the State, national decorations, official Service insignia, as well as official marks indicating control, quality and warranty, official hallmarks, and signs indicating the safety of utilising goods which are used with respect to identical or similar goods or services in Latvia, or any other marks of high symbolic value, as well as religious symbols;
  - 10) with respect to wines - those which contain or consist of an indication of geographical origin identifying wines of particular origin, or with respect to spirits which contain or consist of an indication of geographical origin identifying spirits of particular origin, if such is not the genuine place of origin of the wines or spirits for which the trademark registration has been applied for;
  - 11) those which are intended for designation of agricultural products and foodstuffs and which contain an indication of geographical origin protected in relation to the same agricultural products and foodstuffs or which consist of such protected indication of geographical origin, if the products in relation to which the trademark registration has been applied for are not of the relevant origin, or if the use of the sign applied for registration in relation to these products is contrary to the statutory enactments governing the protection of geographical indications and designations of origin for agricultural products and foodstuffs.
- (2) A trademark also shall not be registered or, if registered, may be liable to be declared invalid pursuant to the provisions of this Law if the application for registration of the trademark was clearly made in bad faith by the applicant.
- (3) A trademark registration may not be refused on the basis of the provisions of Paragraph 1, Sub-paragraphs 2, 3 or 4 of this Article, and shall not be declared invalid on the basis of the same provisions if, as a result of the use of the mark, it has acquired a distinctive character in the perception of the relevant consumers in Latvia with respect to the goods and services for which registration has been applied for.

#### **Article 7. An Earlier Trademark as Grounds for Invalidation of a Registration**

(1) A trademark registration may be declared invalid pursuant to the provisions of this Law in the following cases:

- 1) if it is identical to an earlier trademark, and the goods or services for which the trademark was registered are identical to the goods or services with respect to which the earlier trademark was registered;
- 2) if because of its identity or similarity to an earlier trademark belonging to another person and because of the identity or similarity of the respective goods or services, there exists a likelihood of confusion of the trademarks or a likelihood of association between the trademarks on behalf of the relevant consumers.

(2) "Earlier trademarks" within the meaning of Paragraph 1 of this Article means:

- 1) trademarks valid in Latvia, which have been registered under national or international registration procedures, or as European Community trademarks (hereinafter referred to as "Community trademark") under the Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (hereinafter referred to as "Council Regulation No 40/94"), if their date of application for registration is earlier than the date of application for registration of the opposed trademark, considering also the priorities accorded to those marks;