

oriGIn Report



Highlight of the month

Lack of Substantial Progress in Doha talks: What Future for the Round and for the WTO Itself?

On 21 April, reports by the negotiating Chairs were published by the WTO Secretariat. In a few cases, those reports consisted in new draft texts (such as the one on the multilateral register for GIs, by the Chairman, Ambassador D. Mwape: <http://ictsd.org/downloads/2011/04/trips-mwape.pdf>); in others (such as the report GI Extension, by the Chairman, WTO Director General Lamy: <http://ictsd.org/downloads/2011/04/trips-lamy.pdf>) they simply reported the state of play of the negotiations. Mr. Lamy in his "Cover Note" (available at <http://ictsd.org/downloads/2011/04/cover-note-lamy.pdf>) mentioned that there are still dividing issues which "put the successful conclusion of the Round at serious risk". Among them there are certainly the issues related to Non-Agricultural Market Access (NAMA).

With specific regard to the creation of a multilateral register for GIs, the above-mentioned consolidated text shows a few progresses (the number of brackets was significantly reduced compared to its previous version). However, fundamental differences remain on key issues: scope (whether the register should extend beyond wines and spirits); participation (whether the register is voluntary or compulsory); and legal effects of registration. As for GI extension, the above-mentioned report by Director General Lamy does not show any substantial progress.

Following the publication of the negotiating Chairs reports, informal meetings among key members took place on 28 April. On 29 April, Mr. Lamy convened the heads of delegations in the Trade Negotiations Committee. Heads of delegations excluded three scenarios for the future of the Round: continuing as before, stopping the negotiations and re-starting them from the beginning, and drifting away from problematic issues. Pascal Lamy will report back

to the membership at the next meeting on 31 May.

Meanwhile, the future of the Doha Round – and the WTO itself – is being discussed. According to some, instead of considering the Doha Round "dead", a better option would be to select a few issues where there is an agreement (such as trade facilitation, restrictions on export support in the area of agriculture and limits on fishery subsidies), leaving out the large and controversial areas (like NAMA and agriculture), and conclude the Round in the form of a narrower deal. On the WTO itself, some argue that broad and inclusive negotiations in the format of a "single undertaking" no longer work. Plurilateral and sector-specific agreements among the WTO Members willing to conclude such deals would prove to be more effective.

International Affairs

At Global Level

Good News from Malaysia: Cancellation of the Trademark 'Ponni' for Rice

The 'Ponni' rice is a premium variety developed and grown in India since 1971. In 2006, a Malaysian company registered the trademark 'Ponni' in connection with rice products. As a result, the Malaysian company, while importing ordinary rice from India, could distribute it in Malaysia under the trademark 'Ponni' (and the brand name 'Taj Mahal').

The Indian authorities brought an action in Malaysia against such trademark. In April, the High Court of Malaysia ruled that the Malaysian company did not have the right to monopolize the name 'Ponni' for rice. As the word 'Ponni' denotes the place in India where the rice variety is grown, the Court ruled that granting a trademark to the Malaysian company would cause confusion and deception amongst the public, which might believe that the rice product commercialized under that trademark corresponds to the "Ponni" variety grown in India.

This judgment is encouraging and shows a growing awareness of geographical names related issues by Malaysian courts.

“GI Dynamism” in Peru: Registration of the 7th and 8th National Appellations of Origin

On 20 March, “Machu Picchu-Huadquiña” (coffee) became the 7th national denomination of origin protected in Peru. On April 27, a new name was added to the list of national denominations of origin “Maca Junín-Pasco” (a root with a high level of minerals and strong energetic properties).

The other product names currently protected as denomination of origin in Peru are the spirit “Pisco”, the giant white corn “Maíz Blanco Gigante Cusco”, the ceramics “Chulucanas”, the butter bean “Pallar de Ica”, the coffee “Café Villa Rica” and the pumpkin “Loche de Lambayeque”.

More information at:
<http://www.andina.com.pe/ingles/Noticia.aspx?id=CE+j0t2irDI=> and <http://www.layemadelgusto.com/agenda-sabrosa/macajunin-pasco-recibiramanana-denominacion-de-origen>

Mexican GIs Strengthen Cooperation: 2nd Meeting of the “Asociación Nacional de las Denominaciones de Origen” (ANDO)

On 4 April, the 2nd Meeting of ANDO was held. The aim of this meeting was to promote cooperation among Mexican producers’ groups and the national authorities involved in the protection of appellations of origin. The meeting was also an opportunity for national producers’ groups to share experiences, challenges and sectoral perspectives. Mexico currently protects 13 appellations of origin: Tequila, Mezcal, Olinalá, Talavera, Ámbar de Chiapas, Bacanora, Café Veracruz, Sotol, Charanda, Mango Ataulfo del Soconusco Chiapas, Chiapas, Chile Habanero de Yucatán and Vainilla de Papantla.

Through the ANDO, Mexican producers’ groups aim to get support for their activities of management, legal protection and promotion of appellations of origin.

“Rioja” Appeals a Decision in Favour of “La Rioja Argentina”

On 7 April, the ‘Consejo Regulador de la Denominación de Origen Calificada Rioja’ (Spain) appealed a decision in favor of the GI “La Rioja Argentina” made by the Juzgado Nacional de Primera Instancia en lo Contencioso Administrativo Federal N° 4, in Buenos Aires (Argentina). The legal action was brought by the Spanish Consejo against the Instituto Nacional de Vitivinicultura (INV) to contest resolution C32 (of November 2002), which recognized the denomination ‘La Rioja Argentina’ as a GI. The action later reached the National Court, which ruling the Consejo Regulador appealed.

The reasoning of the Juzgado Nacional de Primera Instancia was based on article 23.3 of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs). This article provides that ‘in the case of homonymous geographical indications for wines, protection shall be accorded to each indication, subject to the provisions of paragraph 4 of Article 22. Each Member shall determine the practical conditions under which the homonymous indications in question will be differentiated from each other, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled’. The judge found that the evidence provided by the plaintiff did not demonstrate nor prove the likelihood of confusing or misleading consumers. Furthermore, the judge held that the added word “Argentina” was an effective and convincing differentiating term that left no doubt that the name “La Rioja Argentina” indicated a product from Argentina, contrary to what was argued by the Spanish Consejo Regulador. Along these lines, the judge found that the homonyms were not only differentiated, but also that the concrete origin of the product was indicated without risk of confusing consumers and that they respect the national and international laws which govern this matter.

More information is available at (only in Spanish):
http://www.rioja2.com/n-78861-701-DOC_Rioja_apela_fallo_favorable_indicacion_geografica_Rioja_Argentina

The list of GI wines currently protected in Argentina is available at:
<http://www.inv.gov.ar/PDF/ig.PDF>

USA – Colombia: Progress in the Negotiations of the FTA

The USA and Colombia have been negotiating a Free Trade Agreement (FTA) since 2006. Its conclusion was delayed due to the opposition within the US Congress. Several preconditions had been formulated by the US Congress in to allow the conclusion of such the FTA. One of them relates to the improvement of labour rights in Colombia.

On 7 April, Mr. Obama, President of the USA met Mr. Santos, President of Colombia. They agreed on an 'action plan' which requires the Colombian government to take a number of steps, from 22 April, to improve its domestic labour law. Such plan concerns the increase of administrative and investigative capacity to deal with anti-union abuses and the strengthening of the Colombian laws against disruption of union organisation activities. Following this, on 11 April, the US Government said it could send the FTA to Congress for approval within weeks.

The ratification of the FTA would eliminate the majority of tariffs between the USA and Colombia.

oriGIn Stresses the Need for Enhanced Technical Assistance in the Field of GIs

On 15 April, oriGIn was invited to a meeting at the International Trade Center (ITC) – the technical assistance agency for trade and development of the UN and the WTO - to deliver a presentation on the conditions for the GI scheme to be successful in developing countries, as well as the benefits that derive from GIs in terms of sustainable development and trade opportunities.

Mr. Vittori explained that, while international trade witnesses a proliferation of 'voluntary standards' used by producers to provide consumers with information concerning certain qualities of the product as well as the way is elaborated (i.e.: GIs, Fairtrade, Rainforest Alliance, Organic Farming, Good Agricultural Practices - GAP, etc.), over the last few years the GI scheme has been raising particular interest, especially in

developing countries. On top of guaranteeing that the product originates in a given 'terroir' and that its qualities are due to such geographical origin, through GIs producers have a unique chance to define themselves the standards of production. Based on oriGIn's experience, Mr. Vittori explained that GIs represent a flexible tool that can be easily adapted to specific local needs.

Furthermore, Mr. Vittori stressed the importance of enhancing the effectiveness of technical assistance and co-operation for GIs in developing countries. He invited the ITC to explore possible ways in which the organization could act as a partner for developing GI project.

At the European Level

EU – Moldova: Conclusion of a Bilateral Agreement on GIs

On 18 April, The EU and Moldova concluded negotiations on an agreement on the protection of GIs of agricultural products and foodstuffs.

Under this agreement, more than 3.200 European GIs for food products, wines and spirits will be protected in Moldova. The initial protection in the EU of 2 GI wines from Moldova will be the first step to encourage the development of such system in Moldova (this list in fact can be extended to other categories of products).

On 7 April, the Commission had published the list of 2 wines with GIs for which Moldova seeks protection within the EU (available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2011:10:8:0011:0013:EN:PDF>). Any Member State, third country, natural or legal persons having a legitimate interest, established or resident in a Member State or in a third country can submit objections to such protection by lodging a duly substantiated statement. Those statements of objection must contain an explanation of the objection, based on the examples contained in the published document, and must reach the Commission (AGRI-B3-GI@ec.europa.eu) before the 7 June.

For further information: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2011:10:8:0011:0013:EN:PDF>

The agreement also aims at promoting trade relations in agricultural products and foodstuffs between the two parties. The Council and the European Parliament, as well as the Parliament of Moldova, have to approve the agreement before it can enter into force. More information at: <http://europa.eu/rapid/pressReleasesAction.do?reference=P/11/481&format=HTML&aged=0&language=FR&guiLangue=fr>

UE – Croatia: Protection of Croatian GIs for Wines, Aromatised Wines and Spirits

The Republic of Croatia is negotiating its accession to the EU.

Among other issues, the accession talks cover the protection of Croatian GI for wines, aromatised wines and spirits. In the framework of this negotiation, on 14 April, the European Commission published in the Official Journal of the European Union an information notice concerning a public consultation on 23 GI for wines, aromatised wines and spirits from Croatia. The list can be consulted at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2011:11:6:0012:0014:EN:PDF>. Upon accession of Croatia to the EU, these names would eventually be granted protection in the EU for a transitional period. During the transitional period, Croatia will have to submit to the Commission the complete files regarding these product names.

The Commission invites any stakeholders having a legitimate interest to submit objections to the protection of these products by lodging a duly substantiated statement. This statement must be sent to the Commission (AGRI-B2@ec.europa.eu) before the 14 June. The statements of objection must show that the protection of the name proposed would:

- Be wholly or partially homonymous with a name already protected in the EU or covered by the agreements the EU has concluded with the Albania, Australia, Bosnia and Herzegovina, Canada, Chile, Former Yugoslav Republic of Macedonia, Mexico, Montenegro, Serbia, South Africa, Switzerland and the USA.
- In the case of a trademark used for a long time, mislead the consumer as to the true identity of the product.

oriGIn in the « City of the Popes »

On 28 April, oriGIn participated in the Avignon Fair to increase public awareness on the importance of GIs. This was possible thanks to the initiative of the Fédération des syndicats de producteurs de Châteauneuf-du-Pape (Federation of the unions of producers of Châteauneuf-du-Pape) which invited oriGIn for a presentation of its activities in the pavilion “terroir and products”.

This initiative allowed oriGIn to meet with consumers from Avignon, as well as several groups of producers of the Provence region. The Pruneaux d’Agen, the cheeses of the Conseil national des appellations d’origine laitières (French National Council of dairy designations of origin) and the wine Châteauneuf-du-Pape were honoured during this presentation.

EU Issues

Policy Developments

GI Policy

Romania:

1st Product Name Registered as PGI

On 8 April, the 1st Romanian product name, ‘Magiun de prune Topoloveni’, was registered at the EU level as PGI. It is a fine, homogenous paste with a shiny surface, produced in the South of Romania. It is made using quality plums that are carefully selected when they are fully ripe. This gives the products a dark brown colour (the colour is influenced as well by the long boiling time during the concentration phase). Plums also confer the final product a high nutritional value.

Further information can be found at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:24:1:0003:0007:en:PDF>

Quality Policy: Publication of the Draft Report of the European Parliament

On 5 April, the Draft Report of Mrs. Garcia Perez on the proposal for a regulation of the European Parliament and of the Council on agricultural product quality schemes was published on the European Parliament website (see:

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARG+PE-460.980+02+DOC+PDF+V0//EN&language=EN>).

oriGIn had met Mrs. Garcia Perez in February to explain her position on the proposal of the European Commission and it was pleased to see that some of its priorities were in the report. An amendment on the management of production volumes was included in the Draft Report. It also includes oriGIn's amendments on homonymous names, product specification and protection of GIs. oriGIn has been in touch with various MEPs and ensured that all its amendments were tabled before the deadline of 3 May. oriGIn will continue working with the MEPs to ensure that the Agriculture Committee votes in favour of these amendments.

Calendar:

- 20 June: vote of the Agriculture Committee of the Parliament on the draft report
- 27 September: vote during the plenary session

'Bud' Case: the EUCJ Sent Back the Case to the General Court

On 29 March, the Court of Justice of the European Union (EUCJ) has sent back to the General Court (the name of the Tribunal of First Instance since the adoption of the Lisbon treaty) a long running legal dispute between the American company 'Anheuser-Busch InBev' and the Czech 'Budejovický Budvar' over rights to the 'Bud' trademark and which dates back to the late 1990's.

The EUCJ found fault in the legal conclusions of the earlier judgment of the General Court. Between 1996 and 2000, 'Anheuser-Busch' lodged applications at the Office for Harmonization in the Internal Market (OHIM) for a community trademark for the 'Bud' word sign and a figurative sign containing the word for a range of products, including beer. 'Budejovický Budvar' opposed the registration alleging its prior right on the name Bud which consisted of an appellation of origin protected in Austria (under a bilateral agreement) and in France (under the Lisbon Agreement). The OHIM rejected 'Budejovický Budvar's' objections. In 2008, the General Court overrules this rejection and the OHIM's findings. 'Anheuser-Busch' lodged an

appeal in front of the EUCJ. The latter found that legal errors were made in the initial ruling concerning the evaluation of 'Budejovický Budvar's' plea in law relative to the way the Board of Appeal of the OHIM applied the condition relating to use in the course of trade of a sign of more than mere local significance.

The EUCJ thus decided to refer the case back to the General Court, which will have to re-rule on the case. The ruling of the EUCJ can be consulted at: <http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=en&alljur=alljur&jurcdj=jurcdj&jurtpi=jurtpi&jurfp=jurfp&numaff=C-96/09&nomusuel=&docnodecision=docnodecision&allcommjo=allcommjo&affint=affint&affclose=affclose&alldocrec=alldocrec&docor=docor&docav=docav&docsom=docsom&docinf=docinf&lldocnorec=alldocnorec&docnoor=docnoor&docppoaq=docppoaq&radtypeord=on&newform=newform&docj=docj&docop=docop&docnoj=docnoj&typeord=ALL&domaine=&mots=&resmax=100&Submit=Rechercher>

oriGIn continues its advocacy campaigns aimed at trademark offices (and OHIM in particular) to apply correctly the EU Regulations on GIs, thereby rejecting *ex officio* the registration of trademarks containing GIs registered at the EU level. This would avoid costly opposition proceedings by GI producers' groups.

The 'Consejo Regulador de la Denominación de Origen Toro' Prevents the Registration of the Trademark 'Toro de Piedra'

On 13 April, the General Court of the European Union rejected an appeal of the Chilean company 'Sociedad Agrícola Requiñua', confirming the refusal of its application for the community trademark 'Toro de Piedra' in relation with wine.

The ruling confirms the view of the 'Consejo Regulador de la Denominación de Origen Toro' which had brought an opposition proceeding, claiming the likelihood of confusion with the trademark previously registered by the Consejo. The Chilean company had challenged the decision of the Office for the Harmonization in the Internal Market (OHIM), which had denied the registration of the trademark 'Toro de Piedra' after the opposition from the Consejo.

The General Court found that the consumers' perception of the trademarks in question played a decisive role in the overall assessment of the risk of confusion. In this sense, given that the products designated by conflicting trademarks

were identical, and that the trademarks were similar, the General Court concluded that the word 'toro', which appeared on the label of the two, would be equally understood as a reference to the production region of the wine, and that there existed a risk of confusion for the relevant public. The ruling of the General Court of the EU can be found at: <http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=Submit&numaff=T-358/09>

Other EU Policies

The Commission will Recover € 530 million from the Member States of Unduly spent CAP Expenditure

On 15 April, the Commission claimed back to Member States € 530 million corresponding to unduly spent Common Agricultural Policy funds. The spending is irregular if it does not comply with EU rules or control procedures on agricultural expenditure. These € 530 million will return to the EU budget. Bulgaria, Denmark, Germany, Greece, Spain, France, Italy, the Netherlands, Portugal, Romania and United Kingdom are concerned. For further information: <http://europa.eu/rapid/pressReleasesAction.do?reference=P/11/476&format=HTML&aged=0&language=EN&quiLanguage=en>

News on GI registrations

GI registration

- "Magiun de prune Topoloveni" (PGI) Rumania – 08/04
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:094:0021:0022:EN:PDF>
- "Farina di castagne della Lunigiana" (PDO) Italy – 16/04
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:102:0013:0014:EN:PDF>
- "Formaggella del Luinese" (PDO) Italy – 16/04
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:102:0015:0016:EN:PDF>
- "Kielbasa myśliwska" (TSG) Poland – 19/04
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:103:0006:0007:EN:PDF>
- "Kielbasa jałowcowa" (TSG) Poland – 19/04
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:103:0002:0003:EN:PDF>

Amendment registration

- "Montasio" (PDO) Italy – 13/04
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:098:0006:0007:EN:PDF>

Amendment request

- "Carne de Vacuno del País Vasco" / "Euskal Okela" (PGI) Spain – 29/03
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2011:096:0013:0018:EN:PDF>
- "Pataca de Galicia" / "Patata de Galicia" (PGI) Spain – 07/04
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2011:108:0019:0022:EN:PDF>
- "Speck Alto Adige" / "Südtiroler Markenspeck" / "Südtiroler Speck" (PGI) Italy – 14/04
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2011:119:0019:0023:EN:PDF>

Registration request

- "Terre Aurunche" (PDO) Italy – 07/04
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2011:108:0014:0018:EN:PDF>
- "Ptujski Lük" (PDO) Slovenia – 07/04
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2011:108:0023:0025:EN:PDF>
- "Holsteiner Katenschinken" / "Holstein Er Schinken" / "Holsteiner Katenrauschschinken" / "Holsteiner Knochenschinken" (PDO) Germany – 08/04
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2011:109:0006:0008:EN:PDF>
- "Ciliegia dell'etna" (PDO) Italy – 08/04
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2011:109:0002:0005:EN:PDF>
- "Miód Z Sejneńszczyzny/Łódzieszczyzny" / "Seinų/Lazdijų Krašto Medus" (PDO) Poland & Lithuania – 14/04
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2011:116:0015:0019:EN:PDF>
- "Figue de Solliès" (PDO) France – 14/04
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2011:119:0015:0018:EN:PDF>