



Members' Voice

Trade Union fights to protect Waterford glass in the EU

By Mr. Bernard O'Connor, NCTM O'Connor



Waterford is a town and county in the south of Ireland. People have been blowing and cutting and carving glass there since the 1700s. Production stopped during the difficult times between England and Ireland but was revived after the second world war. Coming up to the millennium Waterford Glass, the main but not the only producer, employed nearly 3000 people. In the 1990s Waterford was the third most recognised brand in the US. It provided the trophies for golf tournaments and Formula 1 car races.

Then things began to go a bit wrong. The millennium was a bubble for glass ware. And production had to be cut back. But worse was to follow. Waterford was married to another famous brand, Wedgwood porcelain, to form Waterford Wedgwood. And even though the Waterford part of the business restructured and remained profitable it was dragged down by Wedgwood and went bankrupt in 2009. The brand was bought up by a US company, KPS Capital Partners. They started up production not in Waterford but in Eastern Europe. But they still sold the glass ware under the Waterford trademark. KPS brought a small amount of production back to Waterford itself but the vast majority continues to be produced outside the origin.

EU trademark law says that a trademark can be revoked if it deceives the consumer as to the true geographical origin of the products using the trademark. This is clearly the case for Waterford. Consumers continue believe the glass comes from Ireland and on average 300,000 visitors a year ago came to see the limited production at the Waterford tourist centre.

Unite, a trade union representing the Waterford glass workers, wants the link between Waterford and glass production to remain. They are looking for GI protection for the name Waterford in relation to glass. Neither Ireland nor the EU have non-agricultural GI laws. So getting GI recognition is going to be a long process. The first step is to establish, in law, the link between Waterford and glass production. This is being done by challenging, at the OHIM in Alicante, the deceptive misuse of the trademark by its owners. The use of trademark is deceptive if the glass is not made in Waterford and the consumer thinks it is. This will take a couple of years. In the meantime, the second step is to get Ireland or the EU to introduce laws to allow GI protection like there is for Murano glass in Italy or Solingen knives in Germany. Work has already started at the EU level.

The glass making tradition of Waterford is part of its very life blood. The link cannot be broken in the minds of glass lovers or in the spirit of the people of Waterford. It cannot be broken by economics. The legal path may be long but common sense says that it is the way to go and it will be successful in the long run.

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INTERNATIONAL AFFAIRS

AT THE GLOBAL LEVEL

WIPO:

Tremendous progress at Working Group on the development of the Lisbon System

Early in May, the Working Group (WG) aimed at making proposals to amend the WIPO Lisbon Agreement on the Protection of Appellations of Origin and Their International Registration meet in Geneva.

The progress toward the proposal of a new Treaty which extends the scope of application of the Lisbon Agreement beyond appellations of origin to geographical indications and strengthens the level of protection for both legal categories has been tremendous. In light of this, the WG decided to recommend the convening of a high-level negotiating meeting in 2015 to approve the revision of the current Lisbon Agreement. **oriGIn contribution over the 4 years of activity of the WG has been crucial. We are pleased to note that our recommendations on the need to draft a new treaty with a single and ambitious level of protection for both appellations of origin to geographical indications has finally prevailed.**

Further information at:

http://www.wipo.int/edocs/mdocs/mdocs/en/li_wg_dev_7/li_wg_dev_7_6.pdf

ICANN:

News on safeguards for IPRs in new gTLDs

The 46th meeting of the Internet Corporation for Assigned Names and Numbers (ICANN) took place in Beijing from 7 to 11 April.

One of the most awaited information at this meeting was the advice of the Governmental Advisory Committee (GAC) on the new Generic Top Level Domains (gTLD) Program (see oriGIn report of March for more details on the concerns that such Program raises for GIs). The GAC sent ICANN a long list of criteria that applications for new gTLDs, including the ones affecting intellectual property rights, must fulfill as well as a number of obligations for registrars

(companies which will manage new gTLDs) and registries (companies which will obtain the right to use such domains). If implemented, such recommendations would make these companies acting like enforcement agencies for gTLDs. The aim is to mitigate abusive activities such as phishing, piracy and intellectual property rights infringements.

Further information at:

<http://www.ip-watch.org/2013/04/12/debate-in-beijing-icann-as-online-content-regulator/>

WTO:

Brazil's Roberto Azevêdo is the new DG

The selection process for the next Director General of the World Trade Organization (WTO) was finalized on May 7.

Mr Roberto Carvalho de Azevêdo from Brazil became the next head of the World Trade Organization (the first candidate from the BRIC club of emerging economies to take the job).

India:

New GI Registrations

On 4 April the GI Register of the Indian Intellectual Property Office, based in Chennai, granted the GI status to 21 product names for traditional non-agricultural products coming from different States of India.

Several GIs are from the State of Tamil Nadu: Madurai malli (jasmine), Pattamadai pai (mat), Nachiarkoil kuthuvilakku (lamp), Toda embroidery, Thanjavur veena and Chettinad kottan (palmyra basketry).

Moreover, in the State of Andhra Pradesh, the Mangalagiri Master Weavers' Association (MMWA) celebrated the long awaited GI recognition for Mangalagiri saris and fabrics. These traditional saris and womens' dress are characterized by design and color patterns which made them unique and are crafted by skilled weavers in the region for well over 100 years.

Finally, in the State of Uttar Pradesh the GI status was granted to Narayanpet handloom saris and Bangalore blue grapes from Karnataka and Agra durrie (carpet), Farrukhabad prints, Lucknow zardozi (embroidery, especially with gold or silver) and shuttle-woven Banaras brocades.

Further information at:

http://articles.timesofindia.indiatimes.com/2013-04-04/chennai/38277306_1_gi-tag-gi-certification-special-status

&

<http://www.thehindu.com/news/national/andhra-pradesh/gi-certification-brings-cheer-to-weavers/article4634435.ece>

Cameroon: Towards a GI registration for cocoa?

After the recent GI recognition for “Poivre de Penja” (pepper) and “miel d’Oku” (honey) by the African Intellectual Property Organization (AIPO), there is a growing interest in a possible GI recognition for cocoa in Cameroun.

Cameroun is the fifth largest world producer of cocoa with a total production that reached the 230.000 tons at the end of the season 2011/2012. Cameroon’s cocoa has specific quality and characteristics in terms of flavour, colour and aroma in which chocolate makers are particularly interested. It is cultivated by some 600.000 farmers in 7 areas of production and represents the 30% of Cameroon national export. The first export market is the European Union, in particular the Netherlands.

The AIPO encourages the GI protection of Cameroon’ cocoa in the framework of a project financed by the French Agency for Development (AFD) for the establishment of GIs in its member States. Tree pilot areas have been already identified: Nkondjock in the province of Littoral, Mbam-et-Inoubou in the center and Tonga in the West of the country.

More information is available (only in French) at: <http://www.afriqinfos.com/articles/2013/4/3/cameroun-cacao-letude-indications-geographiques-221260.asp>

The beginning of such process in Cameroun dates back to September 2010, when an experts meeting was held in Yaoundé with the purpose of opening the debate on the relevance and feasibility of the GI process in Cameroon in the coffee and cocoa sectors. oriGIn was among the organizers of the workshop.

The outcomes of the meeting are available at:

http://www.origin-gi.com/index.php?option=com_content&view=article&id=141&Itemid=97&lang=en

Brazil: 4th GI for wine

On 18 April, the GI certificate (“indicação de procedência” in the Brazilian Law) for “Altos Montes” has been granted by the Brazilian National Institute of Industrial Property (INPI). This GI distinguish wine and sparkling wine produced in the municipalities of Flores da Cunha and Nova Pádua, located in Rio Grande do Sul, the State that with 7 is the first in Brazil for number of GI granted, together with Minas Gerais.

Further information (only in Portuguese) at:

http://www.inpi.gov.br/portal/artigo/indicacao_geografica_marca_nova_fase_dos_vinhos_de_altos_montes_rs

Costa Rica: Changes in the GI Law

After the conclusion of the Free Trade Agreement between the European Free Trade Association (EFTA) and countries from Central America, the Costa Rica’s trade office has decided to implement a new legal framework for protecting GIs.

The changes are related to the GIs and DOs registration in order to facilitate the modalities and to increase the number of registered product names.

The ratification of the EFTA Agreement is still pending in Costa Rica.

Further information at:

http://www.gaceta.go.cr/pub/2013/02/19/CO_MP_19_02_2013.pdf

Colombia : “Café de Huila” gets GI protection

On April 16 the Colombian Superintendence of Industry and Commerce (SIC) granted the GI protection to “Café de Huila”.

The particularities of this Arabica coffee are its balanced overall impression with a sweet acidity, a medium body and an intense fruit and caramel fragrance sensations.

In its Resolution, the SIC highlights the effort of the Colombian Coffee Growers Federation, Cenicafe and Almacafe, in the process of registration. This is an achievement of the Federation’s strategy aimed at protecting regional origins to obtain an added value that directly benefit domestic producers.

This is the fourth GI to be granted for coffee in Colombia after “Café de Colombia”, “Café de Nariño” and “Café de Cauca”.

Further information (only in Spanish) at: http://www.federaciondecafeteros.org/particulares/es/sala_de_prensa/detalle/superintendencia_de_industria_y_comercio_de_colombia_declara_al_cafe_del_huila/

Switzerland: From “AOC” to “AOP”

At the General Assembly of the “Association Suisse des AOC-IGP”, which took place in Neuchâtel on May 7, the members approved the proposal to replace the Swiss “Appellation d’origine contrôlée” (AOC) with the “Appellation d’origine protégée” (AOP), to align the Swiss system with the one existing in the European Union (EU).

Since 1997, the Swiss Law authorizes the use of both denomination AOC and AOP.

Further information (only in French) at: http://www.aop-igp.ch/upl/files/cp_AG_AOC-IGP_07-05-2013.pdf

BILATERAL / REGIONAL ISSUES

EU/USA

In the process of starting the negotiations of the EU-US Transatlantic Trade and Investment Partnership Agreement (TTIP), progress have been made by both parties, even if the leak of the confidential draft mandate, proposed by the EU Commission for the negotiations, reveals topics that could be controversial for the US.

The mandate seems to insist on an enhanced protection for Geographical indications (GI) but also extensive procurement commitments and the establishment of cooperation mechanisms on animal welfare. On the contrary, nothing is mentioned on farm subsidies.

However, on 18 April, the EU Trade Ministers have announced that they are timely to reach a final agreement on the mandate and to start the talks on the TTIP Agreement at the end of June.

A step forward in the negotiating process has been made also on the other side of the Atlantic. Recently, the Office of the US Trade Representative requested to collect public comments on US interests and priorities as well as to organise a public hearing on 29-30 May. The range of topics that can be subject to comments is wide and include relevant trade-related intellectual property rights issues. The interested parties can submit written comments until 10 May.

Further information at:

http://www.ip-watch.org/2013/04/04/us-trade-office-calls-for-comments-on-transatlantic-trade-deal/?utm_source=post&utm_medium=email&utm_campaign=alerts

oriGIn is following closely the developments of the talks on TTIP stressing to the European Commission the importance of the American market for the European PDO-PGI sector and the problems encountered to secure and enforce their protection.

Furthermore, in partnership with the Berkeley School of Law, oriGIn recently published a preliminary list of candidate U.S. GIs which show the potential of origin-based

products in this country (See: http://www.origin-gi.com/images/stories/PDFs/English/OriGIn_publications/Press_releases/Press_Release_US_GI_List_19_04_2013_.pdf).

EU/Canada

The trade negotiations between the European Union and Canada should be concluded by summer's end.

Officials remain optimistic that an agreement will be reached on the pending sensitive issues such as agriculture, patents protection for pharmaceutical products and government procurement.

Additional information is available at: <http://ictsd.org/i/news/bridgesweekly/160090/>

EU/Japan

On 25 March, the European Union and Japan launched officially the negotiations of a Free Trade Agreement (FTA). One month later, the first round of discussions concluded in Brussels and has been considered as "a good start" even if some difficult issues have been raised.

The talks were based on the outcome of a joint scoping exercise completed last May and covered goods, services and investment, elimination of tariffs, non-tariff barriers, public procurement, regulatory issues, competition and sustainable development.

Further information at: <http://trade.ec.europa.eu/doclib/press/index.cfm?id=887>

EU/Mercosur

Started in 1999 the talks between the European Union and the Mercosur stalled in 2004. There is an attempt to re-launch the process during the second half of 2013.

The main difficulties encountered in the negotiations are related to agricultural market access and to the suspension of Paraguay from the Mercosur. Negotiators from both sides have

expressed a willingness to move forward to reach an agreement shortly.

For more information: <http://ictsd.org/i/news/bridgesweekly/159681/>

EU/India

The negotiations of a bilateral Agreement between the European Union and India are ongoing since 2007. Even if remain sensitive issues to be addressed, some progress have been reached during a meeting celebrated mid-April.

Additional information is available at: <http://ictsd.org/i/news/bridgesweekly/160090/>

UE/Morocco

The first round of negotiations between the EU and Morocco for a Deep and Comprehensive Free Trade Area (DCFTA) took place on 22 April.

With the aim to upgrade the former association agreement signed in 2000, the current negotiations cover new areas such as services and public procurement, protection for investment, new commitments on competition and intellectual property rights. The existing provisions will also be updated in order to simplify customs procedures and to reduce trade barriers.

More information at: http://europa.eu/rapid/press-release_IP-13-344_en.htm?locale=en

EUROPEAN AFFAIRS

GI POLICY

Public hearing on GI protection for non-agricultural products

In March, the European Commission had published a Study on "Geographical indications (GI) protection for non-agricultural products in the internal market" conducted by Insight Consulting in collaboration with oriGIn and REDD.

The results of the Study were presented at a public hearing held in Brussels on 22 April. At this occasion, representatives of Intellectual Property offices, European Institutions and producers gathered to assess stakeholders' needs and discuss expectations on GI protection for non-agricultural products in the EU.

The European Commission intends to publish a legislative proposal on the protection of non-agricultural GIs in the EU before the renewal of the "college des commissaries" scheduled for October 2014.

Further information at:
http://ec.europa.eu/internal_market/indprop/geo-indications/index_en.htm

Towards a GI protection for "Belgian Chocolate" in the EU?

Belgium is well known for its long chocolate making tradition: the fine pralines - the hard-shelled, cream-filled chocolates - were invented here in 1912. More than 200 chocolate firms are based in the country. On the other hand, the increasing number of copycats sold as 'made in Belgium' or 'Belgian style', without any connection with Belgium, has the potential to undermine the reputation built over centuries and raised the concern of the Belgian confectionary industry.

In this context, the Royal Association of the Biscuit, Chocolate, Pralines and Confectionary (Choprabisco), is currently exploring the possibility to seek GI protection in the EU for "Belgian Chocolate" under the EU Regulation 1151/2012, which includes chocolate and derived products in its scope of application. Choprabisco intends to avoid that "Belgian Chocolate" becomes a generic name and ensure that only chocolates produced in Belgium can be labeled as "Belgian chocolate" or "Made in Belgium".

More information is available at:
<http://www.reuters.com/article/2013/03/27/us-belgium-chocolate-idUSBRE92Q05M20130327>

OTHER POLICIES

The EU Commission initiative for a Trade Mark Reform

On March 27, the EU Commission presented a package of initiatives to improve trade mark registration systems in the European Union. It aims to make trade mark protection easier, cheaper, and more effective also by harmonizing procedures at the Member State level with the current community trademark system. The package includes the recast of the Directive and revision of the Community Trade Mark Regulation (See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2013:0161:FIN:EN:PDF> and <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2013:0162:FIN:EN:PDF>).

We believe this reform is a good chance for oriGIn to reiterate our requests concerning the possibility to seize as well counterfeited PDO-PGI in transit in the EU (see art. 9.4 and 9.5 of the proposed Regulation) as well as to clarify the absolute grounds for refusing trade mark applications consisting or containing PDO-PGI (see art.7.1j and art.7.1k of the proposed Regulation). oriGIn will work with the EU institutions to improve the Proposed Regulation along those lines.

CAP Reform

State of play of the trilogue negotiations

Since April 11, 6 trilogue took place already: 2 on direct payments, 2 on the single CMO, 1 on rural development and 1 on the horizontal regulation.

If during the meeting notably Spain, Portugal and Italy expressed that they will not accept a final compromise at any cost, the EU Commissioner for Agriculture, Dacian Cioloş call Ministers to show more willingness and to be more flexible on key areas such as redistribution (internal convergence), payment for young farmers and the threshold for activating 'financial discipline' if they want to reach an agreement before the end of June.

As some Member States' positions seem to be intractable but also to secure a political agreement, the Council might require a revised mandate for the on-going talks at the next meeting scheduled in May.

Further information at:
<http://eu2013.ie/news/news-items/20130422postagripr/>

Furthermore, on April 18 the European Commission published proposals to provide transitional arrangements in 2014 in order to ensure continuity of the measures between the two programming periods.

The main measures concern direct payments, rural development, Croatia and the incorporation of the new financial framework.

Further information at:
http://ec.europa.eu/agriculture/newsroom/114_en.htm

NEWS ON GI REGISTRATIONS

Registration requests

- « Westfälischer Knochenschinken » (PGI) France - 09/04
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:102:0008:0011:EN:PDF>

Modification requests

- « Volaille de Bresse » / « Poulet de Bresse » / « Poularde de Bresse » / « Chapon de Bresse » (PDO) France - 09/04
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:102:0012:0021:EN:PDF>

- « Raschera » (PDO) Italy- 16/04
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:109:0012:0017:EN:PDF>

-« Riz de Camargue » (PGI) France - 4/05
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:127:0017:0026:EN:PDF>

NEWS ON TSG REGISTRATIONS

Registration requests

- «Moules de Bouchot » (TSG) France, 7/05
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:125:0013:0014:EN:PDF>

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