



**A I P P I**

**ASSOCIATION INTERNATIONALE  
POUR LA PROTECTION DE LA PROPRIETE INTELLECTUELLE**

**INTERNATIONAL ASSOCIATION  
FOR THE PROTECTION OF INTELLECTUAL PROPERTY**

**INTERNATIONALE VEREINIGUNG  
FÜR DEN SCHUTZ DES GEISTIGEN EIGENTUMS**

**Congress**

**Seoul**

**October 20 to 23, 2012**

**Report  
Special Committee Q220**

**Geographical indications**

**Indications géographiques**

**Geografische Herkunftsangaben**



## Report Q220

### Geographical Indications

#### Names and Functions of Committee Members

Chair	Giulio E. Sironi	(Italy)
Co-Chair	Graciela Perez de Inzaurraga	(Argentina)
Secretary	Tom Reid	(Australia)
Members	Laura Collada Atsushi Aoki Viktoriya Sopilnyak Carlos Henrique Fróes	(Mexico) (Japan) (Ukraine) (Brazil)
Responsible Reporter	Sarah Matheson	(Australia)

**1. Annual Report of Special Committee Q220 – Geographical Indications**  
by Giulio E. Sironi

**2. Summary**

2.1. Current and future issues.

The main tasks of SC Q220 are to monitor developments in the field of geographical indications (GIs) at international and domestic levels; to prepare position statements on GIs on behalf of AIPPI; to represent AIPPI at international fora – in particular, at the moment, the WIPO sessions for revision of the Lisbon system - and to present AIPPI's standpoints on relevant issues during meetings and sessions at these fora. Other activities of the Committee include preparing, whenever opportune, questionnaires and resolutions and to draft papers for AIPPI publications on matters of interest.

2.2. Deadline for any action

There are currently no deadlines.

2.3. Action recommended

No particular action to recommend at present.

### **3. Introduction**

In the field of GIs the issues of principal interest – at an international level – are the on-going works for revision of the Lisbon system at WIPO and the proposal for modification of the provisions on GIs in the TRIPs. In the European Union the studies on non-agricultural GIs requested by the Commission will have to be monitored in the near future. An important decision in matters of GIs was issued in Argentina in May 2012 by the Federal Administrative Court of Appeals. In upholding the First Instance decision it dismissed the action brought by the Control Board (Consejo Regulador) for the Spanish denomination Rioja for wines against use of the denomination La Rioja Argentina, again for wines, and ruled that the two denominations could co-exist under Art. 23.3 TRIPs. The Committee follows all these developments and attempts to have increasingly broad coverage of new issues within its area of competence.

### **4. Report of Committee's activities**

- SC Q220 was established in the course of 2011 and assigned the tasks indicated in point 2.1. The Committee held a kick-off meeting at the ExCo in Hyderabad and then had conference calls in the course of 2011 and 2012. The members of the Committee have also regularly exchanged reports, documents and opinions via e-mail.

- Being a new Committee, its first activities involved organizational matters and manning. The draft of the Terms of Reference was first discussed in the Hyderabad meeting, subsequently amended and finally approved by the Bureau. Right from its very first meeting the Committee has agreed on the need to have more members from different jurisdictions in order to gain broader coverage of regional and domestic developments. New members have been appointed in the course of 2012. Upon the suggestion of the Committee a number of further National Groups have been contacted by the Bureau with an invitation to indicate possible members. At the moment answers are still being awaited.

- The main substantial activity of the Committee in its first year concerned the WIPO Sessions for revision of the Lisbon system. The Committee collected and studied all relevant documents prepared at WIPO by the Working Group on the Development of the Lisbon System. Prior to the Fourth Session in Geneva in December 2011 (December 12 to 16) the Committee focused in particular on the "Draft new instrument on the international registration of geographical indications and appellations of origin", the "Notes on the draft new instrument" and the "Draft regulations under the draft new instrument concerning the international registration of geographical indications and appellations of origin". The content of these documents was compared with previous AIPPI resolutions on GIs and generally found to be consistent with them. The issues noted as being of interest for AIPPI were the new system of multilateral registration of GIs, the definitions of appellations of origin and geographical indications, the scope of protection and the relationship between trademarks and GIs. Comments on the Draft new instrument were prepared before the session in Geneva and submitted to the Bureau. In the Fourth Session in Geneva AIPPI was represented by Ms. Laura Collada, who then drafted a report published on the AIPPI website. The report stressed that the discussion at the Session mainly focused on the definitions of appellations of origin and geographical indications, scope of protection and prior use. During the session Ms. Collada intervened, presenting AIPPI's position in favour of the "first in time, first in right" rule as the guiding principle in solving conflicts between trademarks and GIs. She also stressed the importance of clear and non-ambiguous wording of the instruments to be adopted and the need to keep them abreast of real life needs.

- The Committee performed similar work with regard to the Fifth Session held in Geneva in June 2012 (June 11 to 15). The new versions of the Draft new instrument, Notes

on the draft new instrument and Draft regulations were examined, with few, but not immaterial, changes being found. In particular the Committee found that, while the Draft new instrument was still consistent with AIPPI resolutions, it was somehow less clear than the previous draft on the scope of protection and that it was necessary to reaffirm, in line with point 2 of AIPPI resolution Q191, that GIs must be protected against any use that is liable to mislead the public or misappropriate their reputation. Ms. Laura Collada also represented AIPPI at the Fifth Session and then drafted a report on it. The main new issue of the Fifth Session consisted of the proposal not to provide for a different level of protection for appellations of origin and geographical indications but to adopt a system with a single, high level of protection for both appellations of origin and geographical indications.

- Upon the request of the Reporter General and the Chairman of the Programme Committee, the Committee identified and submitted a list of possible hot topics for workshops and working questions. These topics include the acquisition of rights on GIs and the system of registration, the protection of foreign GIs at a national or regional level and the relationship between GIs and collective or certification marks.

- Currently the Committee is working on the project of a questionnaire to submit to the National Groups in order to obtain information on developments in their countries in the last few years, at the level of both legislation and case-law, which are worthy of note for GIs.

- Following an invitation from the WIPO, the Committee is also assessing the advisability of drawing up comments and drafting suggestions to submit to WIPO in the course of the works for revision of the Lisbon system.

- The Committee also intends to establish cooperation with Committee Q94 - WTO/TRIPs regarding revision of the TRIPs in matters of GIs and to begin to participate in the work of the WTO relating to this issue.

## **5. Recommendations**

Apart from going on with the activities and the projects indicated in point 4, in the following year the Committee intends to prepare reports on local developments in the GI sector, also on the basis of the planned questionnaire. A report will be prepared on the current status of the case-law of the European Court of Justice in matters of GIs. The currently awaited European study on non-agricultural GIs will also be studied by the Committee as soon as it is available.