



## EUROPEAN COMMISSION

Directorate-General for Communications Networks, Content and Technology

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**Subject: .vin and .wine - follow up to the Buenos Aires Communiqué**

*Dear friends,*

The European Union (EU), its Member States, Switzerland and Norway, would like to share their views on the current state of play regarding the delegation of .vin and .wine.

Following the deliberations at the Buenos Aires meeting, a large group of GAC members from different regions agreed to advise the ICANN Board accordingly. Only three countries explicitly expressed opposition against this stand, in favor of the delegation of the new gTLDs under the current conditions. The rest of the GAC remained neutral.

Furthermore, it is worth stressing again that during the Beijing Meeting there was a consensus to put on hold the delegation of .wine and .vin (see Beijing GAC Communiqué) contrary to many strings which were listed under safeguards 1 and 2 sections of the Communiqué. According to the position collectively expressed in the Beijing GAC Communiqué, the EU, its Member States, Switzerland and Norway still believe that these general safeguards are not sufficient and that the Beijing consensus was overruled inappropriately when the Chair advised the Board to proceed with the delegation of the wine gTLDs instead of presenting the different views on the matter and the fact that no consensus was reached. As you know, this opinion has been highlighted at a number of occasions to the GAC and to the Board (letters to the GAC of 29<sup>th</sup> July and 19<sup>th</sup> September and letters to the Board of 12<sup>th</sup> September and 7<sup>th</sup> November 2013). I attach for your convenience the letter of 29<sup>th</sup> July which sums up the viewpoint of EU Member States and EU right holders, its legal background as well as a set of proposals to carve out a way forward to the delegation of .vin and .wine.

As a major wine producer, the EU is committed to ensure that a high-level of protection of Geographical Indications (GIs), as well as compliance with relevant, international, regional and national legislation is being strictly applied by all businesses dealing with wine. However, they have been prey to abuse in the Domain Name System (DNS) for years. Already, back in 2001, the Second WIPO Internet Domain Name Process report reflected the amount of EU wine GIs registered by companies or individuals outside the EU without there being any relationship between the domain name registrant and the geographical area to which the identifiers refer (annexes VIII, IX, X and XI). The report asserted the abuse as an undeniable fact and claimed that these practices are misleading and harm, first, the integrity of the naming system in which those geographical identifiers operate, and secondly, the credibility and reliability of the DNS (paragraph 238).

Cybersquatting and other forms of abuse have a significant negative effect on the wine producing sector, mainly SMEs (small and medium-sized enterprises) and family business, rooted in rural areas that lack the resources and financial means to get to identify and address misappropriations that can affect them and to battle to defend the reputation of their products in the appropriate courts.

We need to remind you that there are international instruments (the Paris Convention; the Madrid Agreement; the Lisbon Agreement; the TRIPS Agreement, with 159 signatories and bilateral treaties), apart from national laws on the matter, which ought to be respected by ICANN according to its founding documents (Article 4 of its Articles of Incorporation).

All GAC members agree that geographical indications deserve adequate protection against misuse in the DNS (e.g.: Buenos Aires GAC Communiqué), a belief that is based on the assumption that they are recognized by law. But, the understanding of GIs and the degree of implementation of international conventions differ among members. Hence, a limited number of GAC members consider general safeguards for new gTLDs enough and we, along with other countries in the world, dissent.

Given the lack of common ground on GIs across different jurisdictions, and the possibility that the registry of .vin and .wine might be a corporation under a national regulatory regime which does not guarantee sufficient protection for GIs, the general safeguards fall short in granting effective protection to GI right holders. Safeguards 2, 5 and 6 refer to applicable law, which is generally construed to be the law of the country of establishment of the service provider.

Having been able to agree on a series of other complex and legally challenging issues in the GAC (e.g: protection of IGOs names and acronyms, of places within countries, of professional services, or strings with a high risk of cyberbullying...), we have not yet agreed a definite and consensual advice on the gTLDs .vin and .wine. The legal and political study recommended by the GAC in the Buenos Aires Communique can maybe enlighten you on the high sensitivity and economic value of the matter, but the fact remains that the current decision making procedure at GAC does not allow us to conclude on the matter.

This is why we encouraged interested parties to negotiate the terms of protection of GIs under those gTLDs with a view to inserting them in the prospective registry contracts. It has done so with the protection afforded to country names and ISO codes related to country names and to a certain extent, with the names of the International Olympic Committee and the International Red Cross and Red Crescent Movement through the

Applicant Guidebook. It could follow suit with GIs, with even more legal reasons to do this.

At this point, it would be pertinent to comment on the letter the Australian Government sent to you setting out its position on .vin and .wine. It is certainly true that the legal framework for GIs was developed for trade *in goods*, but international legislation, notably the TRIPS agreement, forbids any use of the GI in *the presentation* of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin or *any other use* that constitutes an act of unfair competition. That is not restricted to bottle labels or adverts, and certainly encompasses the use of GIs under an unmistakably specific TLD such as .vin or .wine.

The abovementioned letter also claims that GIs are protected territory by territory and that there is no consensus on their international protection. All the foregoing discredits that statement. Furthermore, affording GIs adequate safeguards against a proven and high risk of abuse of their reputation in .vin and .wine does not entail any renegotiation of TRIPS or other international agreements, but applying its provisions to the assignment and use of domain names. In this regard, we are of the opinion that principles of protection of GIs translate into the on-line world. Otherwise, there would be a huge void as regards any activity carried on on-line since all the treaties negotiated before the Internet era or that do not include specific rules for the Internet would not be applicable.

Once more, we wish to assure the ICANN Board that European countries (EU, Switzerland and Norway) present in the GAC give a very high priority to these consultations under the multi-stakeholder approach defined by ICANN, paying due regard to national law and the rights of legitimate title holders in the sphere of geographical indications. We believe that pursuing enhanced dialogue between interested parties is the way to find a prompt and adequate solution for the delegation of .vin and wine.

Therefore, the EU firmly recommends putting the delegation of these new gTLDs on hold until the foregoing bilateral negotiations between GI right holders and applicants reach a successful outcome.

In the event these such necessary negotiations are effectively undermined or prevented for any reason, we would conclude that the Board has no option other than to reject the applications because the harm their operation as TLDs may cause to wine GI right holders, producers and consumers worldwide. Those strings could be applied for when the international talks on the furtherance of Part II, Section 3 of the TRIPS Agreement render more positive results.

A copy of this letter is sent in parallel to the Australian GAC delegation.

Yours sincerely,



Linda Corugedo Steneberg  
on behalf of the EU, EU Member  
States, Norway and Switzerland

Enclosed: letter of 29<sup>th</sup> July from LCS to GAC





EUROPEAN COMMISSION

Directorate-General for Communications Networks, Content and Technology

Cooperation  
The Director

Brussels, 29 July 2013  
D1/CM

Subject: Follow-up to the **47<sup>th</sup> ICANN meeting (Durban, South Africa, 14-18 July 2013) – GEOGRAPHIC INDICATIONS: “.wine” and “.vin”**

Dear GAC Members;

This note aims at giving an overview of the main elements of the debate taking place within the Governmental Advisory Committee (GAC) of ICANN (since its 46<sup>th</sup> meeting in Beijing until the recently held ICANN Durban meeting) **on the protection of Geographical Indications**, which also beg the question of protection of **Designations of Origin**, and in particular on the new gTLDs **".vin"** and **".wine"**.

The note provides the **integrated position of all the European Commission services competent on the matter**, as well as the political and legal argumentation of the EU as regards why the two strings would warrant stronger safeguards and particular precaution when being delegated. The note also proposes a **way forward to conclude on GAC advice, within the 30 days agreed** after long negotiations **in Durban**.

Three firms unrelated to the wine sector, have applied to manage the new Internet domain **".wine"**: June Station LLC – Donuts.co (USA); Afilias Limited (Ireland); dot Wine Limited (Gibraltar). For **".vin"**: Holly Shadow LLC – Donuts.co (USA) has filed an application. Applications provoked concerns amongst EU wine industry and Member States, which did file early warnings before the 46<sup>th</sup> ICANN Beijing meeting. However, at that time it was impossible to achieve GAC consensus on a number of strings including **".vin"** and **".wine"**. The EU's attempt to include specific safeguards for both strings under Category 1 was rejected, and as a result, it was agreed that **those strings would be put on hold (not to proceed beyond the initial evaluation) until the GAC could provide further advice**. The EU felt that the **general safeguards<sup>1</sup> applicable to**

<sup>1</sup> Safeguard 2 - Mitigating abusive activity: terms of use for registrants to include prohibitions against distribution of malware, operation of bonnets, phishing piracy, IPR infringement, counterfeiting, fraudulent practices or any activity contrary to applicable law.

Safeguard 5 - Making and handling complaints: registries to implement mechanism for making complaints to registries for inaccurate WHOIS information or domain name used in connection with cybercrime or any activity contrary to applicable law.

Safeguard 6 - Consequences: consistent with applicable law and any related procedures, registries shall ensure immediate consequences for provision of false WHOIS data or the use of domain in breach of applicable law, including suspension of the domain name.

**all new gTLDs were not enough to meet EU public policy concerns and to fully respect EU legislation on Geographical Indications** (which are recognised IPRs within the EU).

The EU also pointed out in Beijing that at least, **the registration of second level domain names for ".vin", ".wine" which consists, contains or unduly evokes Geographical Indications must be authorised by the relevant GI Governing Body**, which should also be granted sufficient representation in the registries' policy drafting committees.

Allowing the interested parties (in this case the GI right-holders' organisations and the applicants) to work on a suitable solution is much in line ICANN's multi-stakeholder approach to decision making and would also avoid Governments deliberating on the sensitive issue relating to the status of GIs in International law.

Since Beijing, the European Federation of Origin Wines (EFOW) and associated European wine organisations have been working on a possible solution. A draft of the solution proposed by the legal representation of such associations was shared with the Commission on **5 July 2013**. The text of the letters sent on 11 July to the applicants by the legal representation of such organisations was shared with the Commission on **12 July 2013**, and a second round of letters sent to applicants on 30 July were shared on 1 August 2013. The solution in the course of being proposed to the applicants, who are expected to provide feedback on the two rounds of letters mentioned above. The European Commission has been informed that the solutions to be presented to the applicants once they reply to the letters are not meant to protect EU interests only, but accommodate the interests of GIs right holders in the wine sector **worldwide**.

**The letters sent to applicants can be consulted in Annex 3.**

In Durban, the European Commission reported on the state of play of the negotiations with applicants but in a limited manner as these were (and are) at a very embryonic stage. **We therefore drew the GAC's attention to the importance of allowing enough time to public authorities and applicants to achieve an appropriate solution in those cases whereby strong public interests are at stake.** Lengthy argumentations at Durban only resulted in the consensus of continuing discussions for another month (coinciding with the summer break).

However, it must be stressed that the understanding of the European Union, its Member States and EU GI's right-holders was that the *status quo of the Beijing Communiqué* **as regards the ".wine" and ".vin" strings would be maintained until a satisfactory solution would be found, as "further GAC consideration may be warranted including at the GAC meetings to be held in Durban"**<sup>2</sup>; Hence, the Beijing Communiqué does not

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<sup>2</sup> *"In addition to this safeguard advice, the GAC has identified certain strings where further GAC consideration may be warranted including at the GAC meetings to be held in Durban. Consequently, the GAC advises the ICANN Board not to proceed beyond the initial evaluation with the following strings: .shenzhen (IDN in Chinese), .persiangulf, .guangzhou (IDN in Chinese), .amazon (and IDNs in Japanese and Chinese), .patagonia, .date, .spa, .yun, .thai, .zulu, .wine, .vin"*

set forth any deadline or need to conclude on the matter in Durban (or one month after), nor that after Durban the GAC would withdraw its advice that .vin and .wine should not proceed beyond the initial evaluation. **We are of the opinion that changing the Beijing position requires consensus in the GAC.**

Secondly, it is also important to stress the **economic and political significance** of the issue in the EU and the potential damage a failure would have on the support of the EU to the GAC and multi-stakeholder approach of managing ICANN. To date, besides the EU Member States' authorities and the European Commission's own services, various concerns over the negative impact of the delegation of the “.wine” and “.vin” strings without adequate safeguards have been voiced within the EU.

The European Commission has received **several letters (some of them also addressed to ICANN by EFOW and oriGIn)** from a large number of right-holders, EU Geographical Indication Governing Bodies and producers addressing this issue and demanding that the level of protection to Geographical Indications with regard to the attribution of new gTLDs be in compliance with EU law. Given the value of the GIs as identifiers and the importance of the Internet as a **commercial communication and marketing channel**, some rights owners are understandably worried that their identifiers fall victim to **deceptive and abusive practices** on the Internet. Undermining the status of such identifiers also compromises the credibility of the DNS (Domain Names System) and **consumers'** trust in the Internet as a medium for commercial exchange.

Furthermore, a number of prominent European politicians, including members of the **European Parliament** have stressed the economic and political importance for their constituencies to uphold the protection of GIs when delegating the new gTLDs. **See also Annex I.**

The EU, the European Commission and concerned Member States, have consulted other GAC members and are in regular contact with the Governing Bodies and their legal representation to keep track of the discussions with the applicants.

Despite the evolution of the negotiations with the applicants and the discussions within the GAC, the European Commission would like to highlight that Section 9.3 of the Affirmation of Commitments reads as follows: "*ICANN will ensure that as it contemplates expanding the top level domain space, the various issues that are involved (including competition, consumer protection, security, stability and resiliency, malicious abuse issues, sovereignty concerns and rights protection) will be adequately addressed prior to implementation*"(emphasis added).

It is therefore essential that both the GAC and ICANN take into due consideration all the principles it has set out for itself to adhere to and which are listed above. Among these, the protection of IP rights of legitimate titleholders is of utmost importance; moreover **there is a clear basis in existing international law which should be applied to protect the reputation and business interests of GI holders** and by extension to protection consumers from the risk of fraudulent practices.

**A more detailed legal analysis on GIs is provided in Annex 2.**

## Way forward

Bearing in mind the above considerations, we would like to propose the following way forward. Our assessment is that this solution does not alter any international agreements on GIs nor it creates additional standards or represents a risk to national trade interests and jurisdictional competences:

- A) The European Union requests that the GAC advises the Board to further **put on hold** these applications so that ICANN **does not proceed** beyond their initial evaluation, pending an agreement between the applicant and the party with a public interest in GIs. To this end, the additional period of **one month is deemed not sufficient** and not proportionate to the complexity of the issue. As mentioned before, since Beijing, the EU wine Governing Bodies and specialized legal support have been working on a **global solution, pending applicant's feedback**, and therefore additional time is required.
- B) As regards safeguards, it is proposed to include GI's **in the Annex I (Beijing Communiqué) of the Safeguards on New gTLDs under the category of Intellectual Property Rights, with explicit mention to "Geographical Indications"**; only by means of this inclusion, and **enabling the possibility to protect GIs**, the GAC deliberations would be in compliance with the WTO TRIPS agreement and guarantee consumer protection. Please note that the protection displayed for GIs does not need to be stronger than the one displayed for trademarks, which is at the core of international talks.
- C) In order to avoid any inaccuracies, it is proposed that in the case of general safeguards 2 and 5; the Applicant Guidebook; and the ICANN contractual framework, **a mention to GIs is added in the part of the text which refers to the protection/infringement of trade marks, e.g.: ([...] trade mark, geographical indication or copyright infringement [...]).**
- D) In the registration policies and terms of use, **registries should be required to explicitly inform registrants of legal issues associated with the use of Geographical Names and Geographical Indicators.** This could include reference to the Arts 22-24 of the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) and associated national legislation.
- E) **ICANN should develop procedures that ensure that GI names at the second-level cannot be reserved by third parties** and enable organisations responsible for the protection of GIs to **oppose the reservation of a domain name that consists of, or contains, (or otherwise unduly evokes) the name of a GI<sup>3</sup>.** It should be clear that all wine GIs protected under national legislation (including EU legislation) should be covered by the Trade Mark Clearing House and make

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<sup>3</sup> Please note that the wording "contains" or "consists" often does not cover all possible situations where a GI is not appropriately protected: "contains" or "consists" covers "bordeaux.wine" or "bordeauxcalifornia.wine", but it does not cover "burdeos.wine": the latter does not contain or consist of a GI as such, it is however a translation thereof and, accordingly, **an undue clear evocation covered by Article 23 TRIPS and Article 118m of the EU wine Regulation**; likewise, "kava.wine"/"cavva.vin" are misuses/evocations but do not "consist on" or "contain" the GI "cava", and they should nevertheless be tackled.

sure that GI representative bodies can have access to the Sunrise periods (running for at least, 30 days).

- F) **GIs should be excluded from auctions.** There are two kinds of auctions envisaged in .vin application and in .wine application by Afiliás: Auctions in case there are more than one application for a given name during the Sunrise period. Auctions for premium names, which are likely to take place before the Sunrise period.
- G) GI Right holders' associations should be granted sufficient **representation** in the **registries' policy drafting committees and should maintain close cooperation with them in the implementation** of the registration policies.
- H) The European Commission is sensitive to the need of **having clear guidelines** for applicants in this regard. The European Commission would like to propose that the **GAC engages with the Board and the ICANN community to develop better methodologies and criteria for handling applications affecting Geographical Indications** and to ensure the openness, inclusiveness and transparency of the process also with other constituencies. It is proposed to address the issue within the GAC Working Group on new gTLDs.

We believe that these extra safeguards are necessary to conclude on a final GAC advice to the Board in order to allow the safe delegation of the two strings and that the reasons why the general safeguard are not enough have been duly explained.

We therefore request your consideration of the concerns expressed, the legal basis and the proposed solutions in the light of the sensitivity of this issue in Europe, and kindly ask you to reply by **Monday 12 August 2013**, enabling the GAC to discuss how to conclude on the matter.

Linda Corugedo Steneberg

Enclosed:     Annex 1 – Concerns expressed by EU right holders  
                  Annex 2 - Geographical Indications in EU law and International law. EU  
                  bilateral agreements  
                  Annex 3 – First letter sent to the applicants of ".wine" and ".vin"

## ANNEX 1 – Concerns expressed by EU Right holders

To date, various **concerns over the negative impact of the delegation of the “.wine” and “.vin” strings without adequate safeguards** have been voiced by EU Geographical Indication Governing Bodies; EU organisations, EU producers; other right-holders.

The European Commission has received letters from the following organisations and Governing Bodies addressing this issue and demanding that the level of protection to Geographical Indications with regard to the attribution of new gTLDs be in compliance with EU law:

- ✓ **The European Federation of Origin of Wines (EFOW)**
- ✓ **Vignerons d 'Appellation d'Origine (CNAOC)**
- ✓ **Organization for an International Geographical Indications Network (oriGIn)**
- ✓ **Comité Interprofessionnel du vin de Champagne (CIVC)**
- ✓ **Bureau National Interprofessionnel du Cognac (BNIC)**
- ✓ **Comité National des Interprofessions des Vins a Appellation d'Origine (CNIV)**

Furthermore a number of **Members of the European Parliament** have stressed the economic and political importance for their constituencies to uphold the protection of GIs on when delegating the new gTLDs. (**“Wine; Fruits and Vegetables; Tradition and Quality foodstuffs Intergroup”**). The problem has also been highlighted in European press stressing the needs for EU to safeguard European and national legalisation on and off line.

The main comments received are as follows:

1. The “.wine” and “.vin” gTLDs are supposed to allow **right-holders in the wine sector to register a distinctive web address on the basis of their activity, brand name, Protected Geographical Indication or Protected Designation of Origin**. At the moment, the private firms which have applied for those strings have **no relationship with the wine sector**. The use of those strings should be allowed, but ensuring that they are delegated with adequate safeguards once commercialisation begins.
2. If GIs are not adequately protected as part of the “.wine” and “.vin” TLD and the string is **used by unauthorised parties, this may have adverse consequences for the EU wine market (responsible for close to 65% of the world wine production) and for its consumers**. To the contrary, if both TLDs re seen as and proven to be **sound and secure**, they will become **attractive** for the producers, Governing Bodies, traders, retailers and other right-holders in the wine sector. If the strings are delegated without adequate safeguards,

Governing Bodies and analogous right-holders **will most likely voluntarily refrain from using a TLD that allows inappropriate use of their GIs.**

3. So far applicants only have to abide by **Specification 5** of the Registry Agreement according to which operators shall prohibit the registration of country and territory names recognized by the UN or of their ISO codes in front of the extensions “.wine” and “.vin”. Hence the registration of “france.wine” would be protected, but “bordeaux.wine” could be registered by any entity, for any purpose.
4. Protection is necessary at the **second-level**, since registrars can commercialise the strings therefore allowing individuals and organizations to combine both gTLDs with a second-level domain name and create web addresses like “chianti.wine”; “champagne.vin”; “rioja.wine”; “port.vin”, “bordeaux.vin” and many other combinations.
5. The Delegation could lead to abuses of Geographical Indication wines Intellectual Property Rights (IPRs). Contrary to trade marks, the **lack of precise rules or objection procedure** that would safeguard GIs, which are recognized IPRs under EU law, could lead to infringements of such GI names, especially in the wine sector.
6. It is foreseen to allow registrations of second-level domain names attributed by **public auction** to the highest bidders, without any further specifications. It is also of concern the creation of list of “**premium**” names which will be also sold via auctions. Whereas objections by trade mark owners are foreseen, no similar process of objection is mentioned for entities which have intellectual property rights on geographical indications.
7. GIs are understood by consumers to **denote the origin and the quality of products produced in a special geographical area**. Many of them have acquired valuable reputations which, if not adequately protected, may be misrepresented by dishonest commercial operators.
8. In the field of **e-Commerce**, on the rise in the wine sector, the consequences for consumers can be the purchase of wines under the **false belief they benefit from a Geographical Indication**. Consumers would be deceived into believing that they are buying a genuine product with specific qualities and characteristics when they are in fact purchasing **counterfeited goods**.
9. **Legitimate producers** would also be deprived from valuable business; they will face cases of **cybersquatting; misappropriation of brand and subsequent loss of brand value; reputation damage; deceptive practices; or lack of consumer trust.**
10. The protection displayed by ICANN rules on its **agreements and Applicant Guidebook** is too general and does not make reference to Geographical Indications. There are only generic mentions to trade marks and IPRs.
11. A proper system of **dispute resolution** based on the **legitimate rights of the GI holders and beneficiaries** should be established by ICANN.

12. As GIs is mainly a system of **small and medium sized enterprises**, in the vast majority of cases small rural producers that play a crucial role in the **sustainable development of their communities** – as the large experience and success stories within the European Union clearly show – it is crucial that such system takes into account the limited financial means of local producers and **does not put unnecessary financial burdens to them.**

## ANNEX 2 - Geographical Indications in EU law and International law. EU bilateral agreements

The European Commission would like to bring to the attention of GAC members the following legal basis in the field of Geographical Indications:

**The Paris Convention for the Protection of Industrial Property** (1883) which included "indications of source or appellations of origin" as objects of protection;

**The Madrid Agreement for the Repression of False or Deceptive Indications of Source of Goods** (1891), allows to secure protection on important markets not covered by the Lisbon Agreement (below), in particular in the USA and Member States not contracting parties to the Lisbon Agreement;

**The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration** (1958), administrated by WIPO (first specific international treaty providing for the protection of Appellations of Origin, free of charge);

**The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)**, of which the vast majority of GAC Members are signatories, including the EU, USA, China etc.) – this agreement deals with protection of GIs related to all kinds of products. It's a **minimum standard agreement**, which allows Members to provide more extensive protection. WTO Members are free to determine the appropriate method of implementing the provisions of the Agreement within their own legal system.

GIs are defined under TRIPS as "*indications which identify a good as originating in the territory of a Member, or a region or locally in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin*". TRIPS recognizes GIs as an independent category of intellectual property, along with copyright, trademarks, patents and industry designs.

The TRIPS Agreement specifically protects GIs in Articles 22 to 24, establishing those international minimum standards of protection that WTO members must provide for GIs. Although Article 23 provides additional protection for GIs for wines and spirits and sets forth the conditions of this enhanced protection in relation to the registration of trademarks, **the goal of the European Union is not to grant GIs a more favourable treatment than to trade marks, but to afford them equal opportunities. GIs should be defended against cybersquatting and other infringements in the same way as trademarks. However**, the level of protection for GIs considered by certain GAC members as acceptable must in fact be considered "**TRIPS-minus**".

In addition, the EU concluded the following **bilateral agreements** in the field of wines and/or spirits:

- **Australia** (Council decision 2009/49 /EC of 28 November 2008),
- **Canada** (Council decision 2004/91/EC of 30 July 2003). In Annex III a) and b) of the Agreement there is a list of wines deserving protection in the parties' territories),
- **Chile** (Council decision 2002/979/EC of 18 November 2002),

- **Mexico** (Council decision 97/361/EC of 27 May 1997),
- **South Africa** (Council decision 2002/53/EC of 21 January 2002),
- **Switzerland** (Agreement between the European Community and the Swiss Confederation on trade in agricultural products OJ L114/132),
- **United States** (Council Decision 2006/232/EC of 20 December 2006) In Annex IV and V of the Agreement with the US a list of names to be protected in each of the parties' territories is included;

At EU level - Protection of GIs in the agricultural field is currently governed by four EU Regulations namely:

- **Regulation (EU) No 1151/2012 of 21 November 2012** on quality schemes for agricultural products and foodstuffs,
- **Regulation (EC) No 1234/2007 of 22 October 2007** on the common organisation of agricultural markets and on specific provisions for certain agricultural products (amended by Council Regulation (EC) No 491/2009),
- **Regulation (EC) No 110/2008 of 15 January 2008** on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks,
- **Council Regulation (EC) 1601/91** laying down general rules on definition, description and presentation of aromatized wines, aromatized wine-based drinks and aromatized wine-product cocktails.

Article 118m of Regulation (EC) No 1234/2007 provides protection to protected designations of origin and geographical indications for wine against:

(a) any direct or indirect commercial use of a protected name by comparable products not complying with the product specification of the protected name or in so far as such use exploits the reputation of a designation of origin or a geographical indication;

(b) any misuse, imitation or evocation, even if the true origin of the product or service is indicated or if the protected name is translated or accompanied by an expression such as “style”, “type”, “method”, “as produced in”, “imitation”, “flavour”, “like” or similar;

(c) any other false or misleading indication as to the provenance, origin, nature or essential qualities of the product, on the inner or outer packaging, advertising material or documents relating to the wine product concerned, and the packing of the product in a container liable to convey a false impression as to its origin;

(d) any other practice liable to mislead the consumer as to the true origin of the product.

Besides, according to Article 118m(4) of the aforesaid regulation and Article 19 of Regulation (EC) No 607/2009, EU Member States authorities shall, on their own initiative or at the request of a party, take the steps necessary to stop unlawful use of protected designation of origin and protected geographical indications and to prevent any marketing or export of products at issue.

In Europe, we have also developed the [E-Bacchus](#)<sup>4</sup> database which consists of the **register of designations of origin and geographical indications protected in the EU in accordance with Council Regulation (EC) No 1234/2007**. In particular, it lists non-EU countries' Geographical Indications and names of Origin protected in the EU in accordance with bilateral agreements on trade in wine concluded between the EU and the non-EU countries concerned, and lists the traditional terms protected in the EU in accordance with Council Regulation (EC) No 1234/2007.

Last not least, the International Organisation on Vine and Wine (OIV) – to which the majority of wine producing countries represented in GAC are members, with the exception of the USA, China and Canada - has also adopted definitions about geographical indication and appellation of origin<sup>5</sup> and publishes on its website [www.oiv.int](http://www.oiv.int) a list of geographical indications for wines<sup>6</sup> which could be used as a good reference.

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<sup>4</sup> <http://ec.europa.eu/agriculture/markets/wine/e-bacchus/index.cfm?&language=EN>

<sup>5</sup> <http://www.oiv.int/oiv/info/enindicationgeo>

<sup>6</sup> <http://www.oiv.int/oiv/info/enlisteindication>