

QUESTION 62

International protection of appellations of origin and indications of source

Yearbook 1975/III, pages 137 - 140
29th Congress of San Francisco, May 3 - 10, 1975

Q62

Question Q62

International Protection of Appellations of Origin and Indications of Source

Resolution

I. The IAPIP

confirms the opinion expressed in its Resolution of Melbourne in 1974 that the protection of appellations of origin and indications of source as it is provided for by national legislation or existing international arrangements reveals inconsistencies and deficiencies, requiring improvement in the present system of protection.

II. The IAPIP

underlines

- the economic value attaching to both appellations of origin and indications of source as means for advancing the marketing of goods in national and international trade; for encouraging the development of quality products, and for informing consumers with respect to the true geographic origin of products and with respect to their particular characteristics;

- the interest of producers as well as of consumers in more efficient protection against unfair competition and deception;

- the particular importance of indications of source for developing countries as a means for making their national products known in the world market and thus promoting their exportation.

III. The IAPIP

notes that the national and international protection of appellations of origin and indications of source is presently governed by different rules, depending on the countries in question:

- One group of countries provides only for a general prohibition against false indications of source by means of rules against unfair competition and/or deception;

- a second group of countries provides, in addition, for special protection of specific appellations of origin or indications of source, either by means of specific domestic rules of law, or by means of bilateral treaties, or by means of the Lisbon Agreement providing for international registration and procuring reinforced protection, not only against misleading use, but also against other forms of misuse.

IV. The IAPIP

considering that in the present state of affairs it does not seem possible to create by means of a reform of the Lisbon Agreement an improved system of protection of specific appellations of origin and indications of source to which both groups of countries could adhere without difficulty,

is of the opinion that the improvement of international protection should be sought in the two following directions:

1. by extending and reinforcing the general provisions against the use of false or misleading denominations of origin such as are contained in the Paris Convention and in the Madrid Agreement,

- either by a revision of these conventions;

- or by including such provisions in a new arrangement, possibly in the form of a general chapter capable of being adopted separately by certain countries independently of the other parts of the new arrangement;

2. by extending and reinforcing the provisions regarding the protection of *specific* appellations of origin and indications of source,

- either by improving the system of registration provided by the Lisbon Agreement with such improvements possibly to be realized by the above-mentioned new arrangement;

- or by the conclusion of bilateral treaties comprising lists of denominations protected in the respective countries;

- or - for countries with legislations difficult to be reconciled with systems of registration or listing of indications of source by increased application of a system whereby appellations of origin and indications of source can be registered as collective or certification marks notwithstanding any legislation prohibiting in general terms the registration of geographical denominations.

V. Concerning in particular the reforms of the system of protection presently provided by the Lisbon Agreement,

the IAPIP

- *confirms* the opinion which it gave under Sections 1, 2 and 3 of point I of the Melbourne Resolution, while clarifying the following points:

1. It would be of advantage to define in the future instrument the meaning of "indications of source" and "appellations of origin", the latter being a particular category of indications of source.

- Indication of source could be defined as being a denomination which directly or indirectly indicates the geographical origin of a product, whether it is a country, a region, or a locality.

- Appellation of origin should be defined by the terms of Article 1, paragraph 2, of the Lisbon Agreement.

2. In order to simplify the terminology, it does not seem convenient to mention the "other geographical denominations", it being understood that such denominations are covered by the notion of indication of source as above defined.

3. Access of indications of source to the new international rules of protection should not be limited to so-called "qualified" or "privileged" indications of source, i.e., those necessarily enjoying a particular reputation or evoking substantial qualities of the product; the contracting States should nevertheless be encouraged to apply only for registration of denominations having actual importance for their international trade.

4. Although it could be advantageous to improve the system of international registration by limiting the reasons of rejection, it nevertheless appears difficult to establish a complete list of such reasons which would be acceptable to all the States. At least, the rejections should be duly motivated, and the reasons thereof serve as a basis for negotiations with a view to finding amicable solutions.

5. There is agreement that the envisaged reform of the system of international registration must maintain the level of protection presently afforded to appellations of origin by the Lisbon Agreement.

Should the said reform be carried out by the conclusion of a new arrangement, the coexistence thereof with the Lisbon Agreement should be organized in such a manner that it would allow it to be progressively substituted for the Lisbon Agreement.

VI. The Congress

recommends that the Executive Committee continue the Working Committee as a Special Committee, requesting it

1. to follow the development of the question and to make recommendations at the appropriate point in time to the competent bodies of IAPIP regarding the drafts presently proposed within the framework of WIPO;

2. to continue the study of the question regarding the following points:

(a) whether there should be provided a limitation of the grounds of refusal on which the States can oppose an application for international registration;

(b) conflicts between a registered appellation of origin or indication of source and private rights, such as trademarks, trade names, etc.;

(c) effect of the international registration in those States for which protection is requested;

(d) requirements of registration of appellations of origin or indications of source as collective or certification marks.

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QUESTION 62

International protection of appellations of origin and indications of source

Yearbook 1977/I, pages 145 - 147
Executive Committee and Council of Presidents of Montreux,
September 26 - October 2, 1976

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Question Q62

International Protection of Appellations of Origin and Indications of Source

Resolution

The IAPIP

after having considered the Draft Treaty on the protection of geographical indications prepared by the International Bureau of WIPO (TAO/II/2) and the report adopted by the Committee of Experts of December 1975 (TAO/II/6)

pays homage to the quality of the work accomplished by WIPO in a very short period of time;

is pleased to verify that this draft reflects, in its concepts, the main features of the solutions proposed by the IAPIP at Melbourne in 1974 and at San Francisco in 1975;

reaffirms the necessity of granting effective protection, at national and international levels, to all forms of geographical indications including not only appellations of origin but equally indications of source, and

requests the International Bureau of WIPO and the governments of member states of the Convention of the Union of Paris to continue their efforts to the end of concluding a new Treaty on the protection of geographical indications.

With respect to the Draft Treaty prepared by WIPO:

The IAPIP

I. *therefore approves* the broad definition of geographical indications including:

- on the one hand, indications of sources in all their forms, as defined by Article 2 (ii) of the draft;

- on the other hand, appellations of origin, as defined by Article 2 (iii);

but makes a reservation about the fact that the definition of indications of source provides that they may apply not only to products but equally to *services*;

II. *approves* the principle of the division of the Treaty into two parts, the first of which deals with the protection of geographical indications in general and the second of which is limited to geographical indications which have been registered,

because this principle permits the provision that each state will be free to adhere either to the entire Treaty, or only to the first part, in accordance with the opinion expressed by the IAPIP at San Francisco in 1975;

III. *approves* in its general principles Chapter I (Art.4) of the Draft Treaty in that it extends and reinforces the general arrangements against the use of geographical indications which are false or deceptive;

but considers that sections 2, 3 and 4 of Article 4 require further study to avoid the possibility that rules which are too restrictive might prevent certain states from subscribing to the provisions of Chapter I.

IV. *With respect to Chapter II*, instituting new provisions for the international registration of geographical indications and the resulting protection,

the IAPIP

1. *is pleased* to confirm that this Chapter conforms with the opinions it expressed at Melbourne in 1974 and San Francisco in 1975 and that it deals both with the elimination of certain restrictive conditions imposed by the Lisbon Agreement and with the institution of a more flexible registration procedure and the application of the rules of protection by the national courts;

2. *approves* the principle of adopting, as in Article 8, a limited list of the grounds on which states may object to an application for registration,

but confirms that a general consensus could not be reached with regard to the contents of this list, particularly with respect to preexisting rights such as trademarks, commercial names, etc., nor with respect to the provisions of Article 16 concerning such preexisting rights,

and confirms its recommendation concerning the possibility of a state adhering solely to the first part of the contemplated Treaty;

3. *approves* the fact that Chapter II is intended to succeed the Lisbon Agreement which will continue to have effect between two member states with respect to appellations of origin registered in accordance with its provisions before the date of the entry into force of the new Treaty between those two states, while the new Treaty will apply to geographical indications registered or reregistered after that date.

V. The IAPIP

maintains the Special Committee organized in San Francisco with its main purpose to continue to follow the development of the question and to continue the study of the points for which a solution has not yet been found, particularly the usefulness of the collective mark or certification mark for the protection of geographical indications;

instructs the Special Committee with the establishment of a draft doctrine of IAPIP on the protection of geographical names generally and in particular with regard to trademarks, trade names and generic terms.

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QUESTION 62

International protection of appellations of origin and indications of source

Yearbook 1980/I, pages 115 - 117

Q62

Executive Committee and Council of Presidents of Toronto, September 23 - 29, 1979

Question Q62

International protection of appellations of origin and Indications of source

Resolution

I. General

Having taken cognizance of document PR/DC/4 prepared by WIPO, the IAPIP is gratified by the proposal to insert in the Paris Convention new provisions designed to assure more efficient protection for geographical indications and to establish principles for the regulation of conflicts between trademarks and geographical indications.

The IAPIP which, in its earlier meetings since 1974, affirmed the importance that geographical indications have for both industrial and developing countries, notes that the proposals contained in document PR/DC/4 largely parallel those which were formulated by it at the Munich Congress in 1978.

II. As to the proposal to refer in Article 6^{ter} to the official names of the countries of the Union

The IAPIP

while approving the principle of assuring that the official names of countries of the Union be protected against usurpation, is of the opinion that such protection cannot be assured by way of Article 6^{ter} of the Convention.

In effect, the insertion of a reference to the official names of countries in Article 6^{ter} will oblige traders and producers of a country to prove that they have obtained the authorization of the competent authorities to apply to their goods the official name of their own country, even if reference to the said name constitutes only an incidental element of the trademark and may actually be obligatory to indicate the origin of the goods.

In short, the proposal, as it is formulated, seems to have a very limited scope since it appears that the official names of countries often do not coincide with the customary designations of the countries.

Consequently, the IAPIP is of the opinion that the means to assure protection for the official names of countries ought to be found within the framework of a new Article 10^{quater}.

III. As to new Article 10^{quater} of the Convention

The IAPIP

considering that the different alternatives proposed by the industrial countries, the developing countries and the socialist countries for the terms of a new Article 10^{quater} already disclose a large measure of agreement for a new system for the protection of geographical indications,

is of the opinion that it ought to be possible to reach a commonly acceptable solution at the next Diplomatic Conference of Revision with respect to the points still under discussion,

and, taking account of the fact that it includes in its membership the representatives of different groups of countries,

makes the following observations on the paragraphs of the proposed Article:

As to paragraph 1:

The IAPIP approves the principle proposed in paragraph 1, but expresses the view that the following modifications should be made in such paragraph:

As to sub-paragraph (i):

a) In the text of Alternative A, substitute:

"... to refuse to invalidate the registration of a trademark which contains a geographical *denomination or any other sign, including a graphic representation directly indicating a country of the Union ...*".

Actually, the expression appearing in Alternative A and reading "a geographical or other indication directly or indirectly suggesting a country ..." appears to be too broad.

On the other hand, the counter expression of the sub-variant reading "a geographical indication *denominating ...*" appears to be too narrow.

However, it is appropriate that a graphic representation also be mentioned as a non-limited example of a "sign" mentioned above in the proposed substitution.

Modifications corresponding to those recommended above should be carried out at other places in the proposed new Article 10^{quater} where the same terms appear.

b) The provision should not apply solely to goods but, equally, to services and this recommendation is made generally as to the entire proposal for a new Article 10^{quater}.

As to paragraph 2:

The IAPIP approves the provision according to which the principle established by paragraph 1 is made applicable to geographical indications which, while literally true, are nevertheless capable of misleading the public as to the origin of the goods.

As to paragraph 3:

The IAPIP approves this provision which corresponds to the view it expressed at the Munich Congress in 1978 with respect to geographical names which have acquired a reputation in international trade and to resolutions adopted at earlier meetings with regard to the protection of famous trademarks and trade names.

As to paragraph 4:

As to sub-paragraph (i):

The IAPIP approves Alternative A which provides that respect be accorded to acquired rights resulting from a use undertaken in good faith before the entry into force of the new provisions when such use could not have been prohibited under the national law of the country.

The IAPIP is of the opinion that it ought not support the proposal to insert a wording into subparagraph 4 (i) that would have the effect of testing whether or not the national law prohibited the use of a geographical name, "*at the time of the entry into force of the new provisions.*"

The IAPIP expresses the wish that sub-paragraph (i) should read as follows:

"No country of the Union shall be required to apply this Article to geographical denominations or other signs as provided in paragraph 1, the use of which was begun in good faith before the entry into force of this Act in that country, where such use could not have been prohibited before ..." (insert here the closing date of the Diplomatic Conference).

As to sub-paragraph (ii):

The IAPIP approves Alternative A and is of the opinion that it is not opportune to give effect to the modification proposed in the sub-variant.

As to paragraph 5:

The IAPIP approves the rules of interpretation set out in this paragraph for the appreciation, on the one hand, of the importance of a geographical indication and, on the other hand, the distinctive character that a mark in conflict with a geographical indication, has acquired by reason of the length of time it has been in use.

The IAPIP further expresses the wish that such rules should refer not only to the application of paragraphs 1 and 2 but also to paragraph 3.

As to paragraph 6:

It is impossible not to approve this paragraph which reserves the possibility of concluding bilateral and multilateral agreements.

As to paragraph 7:

The IAPIP understands the desire of developing countries to obtain the reservation for each such country of the possibility of claiming rights in geographical names not only of a country but also of a region or locality of that country, and which could indicate the origin of goods or services which may originate from that country, region or locality either at the time the list is notified or in the relatively near future thereafter.

However, the proposals contained in paragraph (7) raise serious difficulties of application. First it could create conflicts between, on the one hand, a geographical name the protection of which is claimed by a developing country, and on the other hand a geographical name or a surname, or even a generic or commonly used expression existing in another country.

Such a conflict may occur not only in the said other country but also in any third country into which goods originating from the said other country could be imported.

Moreover the country, in which the conflict may arise, can be a developing country, which would run the risk of being barred from, e.g. for its traders, the right to use the name of one of its localities even as an accessory part of a mark.

The IAPIP therefore, believes that a solution can and should be found according to which the proposals of paragraph (7) would not prohibit or limit the right to use a geographical name, or a surname, or a generic or commonly used name already existing in another country.

Furthermore the proposals contained in paragraph (7) appear exaggerated in relation to the number of names which would be reserved by each country, as well as to the duration of the periods during which such lists of names could maintain their effectiveness.

As to the new system as a whole:

The IAPIP finally makes the observation that the new Article 10^{quarter} protects geographical indications as far as the designated goods or services do not originate from the *country* to which the indication refers, even if said indication is a regional or local indication. The new Article does not, except in the case of geographical names having an international reputation, provide a complete protection of the actual place of origin within a given country.

The IAPIP is prepared to accept such a gap in international protection but expresses the wish that the new system should be understood as establishing only a minimum protection and recalls its wish as expressed at Munich of extending the application of Article 10^{bis}, paragraph 3, subparagraph 3, of the Paris Convention to the geographical origin of goods or services.

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QUESTION 62

International protection of appellations of origin and indications of source

Yearbook 1984/I, pages 155 - 156
32nd Congress of Paris, May 22 - 27, 1983

Q62

Question Q62

International Protection of Appellations of Origin and Indications of Source

Resolution

The AIPPI,

having taken note of the work of the third session of the Diplomatic Conference on the Revision of the Paris Convention which was held at Geneva from October 4 to 30, 1982, is pleased that the study of the protection for geographic indications has been commenced and has yielded positive results.

On the subject of the amendment of article 6ter

The AIPPI approves the proposal of Committee I to insert the "official names of States" that are countries of the Union in the list of items with respect to which registration or use as a trademark is prohibited.

However, bearing in mind that such provision is of very limited effect, it should to be accompanied by a complementary provision assuring protection to names that do not

always correspond to the official names of States but are names commonly used to designate States; such provision should be placed in the context of new article 10quater, such as originally provided (WIPO Document PR/DC/4).

On the subject of Article 10quater

I. - The AIPPI has examined the suggestions of the Working Group of Committee I with respect to paragraphs 1, 2, 5 and 6 of Article 10quater.

1) On paragraph (1) a

approves the rules set out in paragraph (1) (a) according to which each country of the Union undertakes to refuse or cancel the registration of a mark, or prohibit the use of a

mark, if such mark contains or consists of a geographic or other indication designating or evoking a country of the Union in relation to articles which do not originate from that country, if use of the indication in relation to such articles is of such nature as to mislead the public about the true country of origin.

In effect, the expression *geographic or other indication* extends to all marks, including graphic representations;

2) *On paragraph (1) b*

welcomes the provisions set out in paragraph (1) (b) according to which names commonly used to designate States of the Union and their translations, modified forms, adjective or abbreviated forms are entitled to the benefits of the protection afforded by paragraph (a);

3) *On paragraph (2)*

also *welcomes* the fact that paragraph 2 sets out that the provision of paragraph (1) apply to geographical indications which, although literally accurate, are nonetheless susceptible of misleading the public as to the origin of the products;

4) *On paragraph (5)*

approves paragraph (5) establishing a rule of interpretation according to which all the circumstances of the case must be taken into account, particularly the reputation of the geographic indication but also the duration of the use of the mark.

The AIPPI has always pointed out the impropriety of the French version of the text which requires taking into account *l'étendue dans laquelle* the place designated or evoked is known whereas one should read *en tenant compte de la mesure dans laquelle...*;

5) *On paragraph (6)*

approves the principle of paragraph (6) according to which the provisions of Article 10quater do not prevent countries of the Union concluding bilateral or multilateral agreements concerning the protection of geographic indications.

congratulates the Working Group of Committee I which has considerably improved the text of the basic proposals.

II. - While appreciating the progress that has been achieved

The AIPPI

wishes that the Diplomatic Conference during its next session, adopt not only paragraphs (1), (2), (5) and (6) of proposed Article 10quater but also paragraphs (3) and (4) of the basic proposals, for reasons set out in the Resolution of the Executive Committee at Toronto in 1979, and take into account the suggestions expressed in such resolution with respect to paragraph (4).

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QUESTION 62

International protection of appellations of origin and indications of source

Yearbook 1984/III, page 95
Council of Presidents of Athens, November 6 - 9, 1983

Q 62

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International protection of appellations of origin and indications of source

Resolution

On Article 10quater

The AIPPI

reaffirms its previous resolutions concerning the usefulness of the insertion in the Paris Convention of a provision specifically protecting geographical indications;

and considers that the adoption of Paragraphs 1, 2, 5 and 6 of the basic proposals, as amended by the Working Group of Committee I, would already constitute a clear progress.

On Paragraph 2

considers that Paragraph 2 should be retained, according to which paragraph the prohibition established in Paragraph 1 would be equally applicable to a geographical indication which, even though literally correct as to the country, the region or the locality in which the products originate, nevertheless leads the public to the mistaken belief that the products originate in another country;

and deems that the introduction, either in addition to the present Paragraph 2, or instead of the latter, of a provision recognizing the possibility of relying upon the true name pointing to the origin consisting in a real geographical name, on the condition that the public not be deceived, would be superfluous in the first case and in the second case would constitute a weakening of the scope of the principle established in Paragraph 2.

On Paragraph 3

confirms its previous resolutions approving Paragraph 3 of the basic proposals, ensuring wider protection to geographical indications which have acquired a reputation in international commerce; considers that in the absence of agreement among the

participants in the Diplomatic Conference of Revision of the Convention on Paragraph 3 of the basic proposals, it would be desirable to adopt a provision analogous to that set forth in Article 6^{bis} of the Convention on the subject of well-known trademarks;

believes that, even supposing that it has any significance at all, a provision pursuant to which each country would undertake to take measures to prevent the degeneration of geographical indications deemed by the national authority of the country as having a reputation in relation to a given country, would of itself be entirely inadequate.

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QUESTION 62

International protection of appellations of origin and indications of source

Yearbook 1992/II, pages 341 - 342
Council of Presidents of Lucerne, September 15 - 19, 1991

Q62

Question Q62

International protection of appellations of origin and indications of source

Resolution

The International Association for the Protection of Industrial Property (AIPPI) wishes to solemnly protest against the Draft EC Regulation on the Protection of Geographical Indications and Designations of Origin for Agricultural Products and Foodstuffs (SEC (90) 2415 Final Brussels, January 21, 1991).

AIPPI is an international Association with more than 6,500 members coming from more than 90 countries among which are included all member countries of the Community. Such members are owners of/or interested parties to industrial property rights which comprise among others trademarks and geographical indications (appellations of origin and indications of source.)

AIPPI notes that this Draft Regulation does not take into consideration the existence, in all countries of the world, of legally-acquired industrial property rights which are regularly used within the European Common Market, and which could be expropriated in a manner which is all the more intolerable in that this could occur without compensation and for no legitimate reason.

The protection of such rights is guaranteed by international conventions which were ratified many years ago by all or some of the Community Member Countries, in particular the Paris Convention for the protection of industrial property, the Madrid Agreement on the repression of false or deceptive indications of source on products and the Lisbon Agreement on the protection of Appellations of Origin.

AIPPI recalls that the Treaty of Rome in Article 234 respects the obligations of Member Countries arising from international conventions which they have ratified.

AIPPI observes that the Draft Regulation is in obvious contradiction with the principle of free choice by enterprises for their distinctive signs, especially trademarks, including collective marks and geographical indications, and also in contradiction with the principle of free use of such signs without any preliminary control or authorization by government

authorities, principles which are the basis of international conventions concerning Industrial Property and which represent a fundamental element of each free market economy.

Also, the Draft Regulation takes no account of the international discussions which have for many years taken place in the World Intellectual Property Organization (WIPO), supported by the AIPPI, directed to the adoption of a Treaty for the protection of geographical indications and which is to be applicable without exception to all products, agricultural and industrial.

Consequently, the AIPPI asks that the Draft Regulation be abandoned or at least fundamentally changed.

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QUESTION 62

Appellations of origin, indications of source and geographical indications

Yearbook 1998/VIII, pages 389 - 392
37th Congress of Rio de Janeiro, May 24 - 29, 1998

Q62

Question Q62

Appellations of origin, indications of source and geographical indications

Resolution

Considering that

1. The resolution of the Executive Committee at Copenhagen in 1994 (Copenhagen Resolution) for the purposes of Question 118 adopted a meaning of Geographical Indications, which enumerates the categories of geographical names which were required to be considered in the context of that Question;
2. The meaning so adopted in its broadest sense covered not only indications of source and appellations of origin but also neutral geographical indications and generic geographical indications.
3. This Question 62 requires the consideration of appellations of origin, indications of source and geographical indications in the context of the TRIPS Agreement, the EC Regulations and the NAFTA Agreement.

The AIPPI therefore adopts for the purpose of this Question 62 the definition of geographical indication contained in Article 22 paragraph 1, of the TRIPS Agreement, that is to say:

Geographical indications are indications which identify a good as originating in the territory of a state, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.

For the purpose of this Question the AIPPI understands the term geographical indications as including **appellations of origin**.

The AIPPI further understands the term **indications of source**, as meaning geographical names or other signs perceived by the public as indicating the geographical origin of the goods or services.

0A. The AIPPI resolves that

1. the previous resolutions in which the AIPPI affirmed the importance of appellations of origin and indications of source and the need for effective protection must be strongly reaffirmed;
2. subject to the above definitions, the Copenhagen Resolution can also be confirmed;
3. the protection afforded to appellations of origin should be strengthened above that provided for geographical indications in general.

The AIPPI notes that

in broad terms, the national legislations of the different countries are in harmony with the TRIPS Agreement, but believes that there should be more effective enforcement of these laws in some countries.

1B. The AIPPI expresses the following views:

1. The AIPPI does not take a position on the general extension of the special provisions of Article 23 of the TRIPS Agreement to geographical indications in fields other than wines and spirits, but leaves open the possibility of extending those provisions on a case by case basis.
2. In the context of conflict between a trademark and a geographical indication of high reputation, the AIPPI affirms the principle expressed in Article 5.2 of the Copenhagen Resolution, that a mark can be refused protection, if it is identical or similar to an indication of source or appellation of origin of high reputation, even if the goods or services are not similar, if use of the mark would take unfair advantage of or be detrimental to the distinctive character or repute of the indication or appellation.
3. AIPPI considers the protection afforded to geographical indications in relation to wines and grape musts contained in Article 40 of EC Regulation 2392/89 to be excessive in so far as it provides that a geographical indication prevails over an earlier filed or used trademark.

The AIPPI takes note of the principle of "first in time, first in right" and considers that it could be a guiding principle for the resolution of conflicts between geographical indications and trademarks; the AIPPI therefore recommends that at least the principle of coexistence expressed in Article 5.3 of the Copenhagen Resolution should be applied:

"to settle such conflicts AIPPI recommends in principle coexistence, unless the mark has acquired reputation or renown prior to the date the indication of source or appellation of origin has been established or recognized as such. In this case, protection of the indication or appellation should be denied, and registration refused or cancelled. This, however, does not preclude the use of the indication or appellation to identify the geographical origin of the goods or services under the conditions specified in Paragraph 3.1 of this Resolution".

4. The AIPPI recalls the criticisms of the Draft of EC Regulation No. 2081/92 which are contained in the Resolution of the Council of Presidents at Lucerne held in 1991, and notes that many of those criticisms remain applicable to the Regulation.

In particular, the AIPPI notes with concern that

- a) the text of the Regulation is ambiguous in a number of important respects;
 - b) the administrative procedure is unnecessarily cumbersome and complex;
 - c) a party resident or established in the EU can only object to the proposed registration of a geographical indication through the competent authority of his Member State;
 - d) the national treatment principle is violated in that a party not resident or established in the EU, including such a party having trademark rights in a Member State, has no right at all to object to a proposed registration of a geographical indication;
 - e) the Regulation contains no provision at all to protect the right of a proprietor of a trademark which is used in a Member State but is unregistered, to continue the use of such trademark notwithstanding the subsequent registration of a conflicting geographical indication.
5. The AIPPI affirms that an existing geographical indication cannot be appropriated as a trademark of an individual, and must remain available to all those having a right to use it.
 6. The AIPPI affirms the principle expressed in Art. 4.2 of the Copenhagen Resolution that a geographical indication can be protected as a collective mark or as a certification mark provided that any local producer who complies with the requirements for the use of that mark is entitled to use the mark, in accordance with the specifications, and, in the case of a collective mark, to become a member of the group.
 7. The AIPPI further notes with concern the different concepts of collective and certification marks applying in different countries and mentioned in the Copenhagen Resolution, and recommends further study with a view to harmonisation of these concepts.
 8. The AIPPI:
 - a) notes that the protection of geographical indications is currently afforded under an increasing number and diversity of national laws and bilateral and multilateral treaties with divergent and sometimes contradictory results,
 - b) has considered whether it is opportune or appropriate to adopt a new multilateral treaty for the protection of geographical indications,

- c) recommends that the study of the desirability of such a treaty be continued in the light of further national and international developments and that priority be given in such a study to the establishment of consistent definitions for indications of source, appellations of origin and geographical indications.
