



STANDING COMMITTEE ON GEOGRAPHICAL INDICATIONS QUESTIONNAIRE TO NATIONAL GROUPS

Introduction

- 1) The purpose of this questionnaire is to seek information from AIPPI's National and Regional Groups on developments in their respective countries in relation to geographical indications (**GIs**) and appellations of origin (**AOs**) and on the positions taken with regard to issues that have emerged from AO and GI legislation.
- 2) According to the TRIPs Agreement GIs are “indications which identify a good as originating in the territory of a [Country], 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”. A similar definition is adopted by the WIPO Geneva Act.

Under the WIPO Lisbon Agreement an AO is a “geographical denomination of a country, region or locality, which serves to designate a product originating therein, the quality and characteristics of which are due exclusively or essentially to the geographical environment, including natural and human factors”. A similar definition is adopted by the WIPO Geneva Act.

- 3) Therefore, the rationale for protection of AOs and GIs is to protect signs identifying the geographical origin of goods whose characteristics and/or reputation are linked to such origin.
- 4) At a worldwide level, many contrasts and divergences have emerged with regard to protection of AOs and GIs. Some countries have enacted specific legislation on AOs / GIs supporting broad protection (particularly in relation to their local typical products). Other countries, who do not tend to favour strong protection of AOs / GIs regulate them, if at all, within the framework of trademark legislation.
- 5) It is intended that the information obtained by means of this questionnaire will:
 - enable AIPPI to further develop its position on issues relating to GIs and AOs, leading to a further Resolution aimed at harmonisation of national laws relating to GIs and AOs; and
 - thereby assist in the advocacy of AIPPI's position on such issues to national and regional governments and in international forums.

Previous work of AIPPI

- 6) AIPPI's most recent study of issues relating to GIs and AOs was Q191 – "Relationship between trademarks and geographical indications". A Resolution on Q191 was adopted in Gothenburg, Sweden in 2006 (**Gothenburg Resolution**). The Gothenburg Resolution is available at:

<http://aippi.org/wp-content/uploads/committees/191/RS191English.pdf>.

Further information on AOs and GIs, their legal regulation and the debate surrounding them can be found in the Study Guidelines for Q191 available at:

<http://aippi.org/wp-content/uploads/committees/191/WG191English.pdf>

- 7) Other work of AIPPI prior to the Gothenburg Resolution is summarised in the Study Guidelines for Q191,

<http://aippi.org/wp-content/uploads/committees/191/WG191English.pdf>

Discussion

- 8) Set out below is a brief discussion on international legal frameworks for the protection of GIs and AOs, including developments that have taken place since the Gothenburg Resolution.

- 9) At an international level, the two multilateral treaties committing signatory States to protect GIs which have gained the broadest adhesion worldwide are the Paris Convention within the WIPO system and the TRIPs Agreement within the WTO system.

- 10) Article 1(2) of the Paris Convention states that the subject-matter of protection of industrial property is (among other things) "indications of source or appellations of origin". Article 10 of the Convention states that seizures and other remedies "shall apply in cases of direct or indirect use of a false indication of the source of the goods or the identity of the producer, manufacturer, or merchant".

- 11) Article 22 of TRIPs requires the protection of "geographical indications". GIs are recognised by Article 1(2) of TRIPs as a category of intellectual property. Under the TRIPs Agreement, GIs are protected against uses misleading the public or constituting an act of unfair competition. Additional and stronger protection is only provided for GIs of wines and spirits. Discussions commenced under the Doha mandate on the question of increasing the level of protection of GIs under the TRIPs Agreement appear to have come to a deadlock.

- 12) Within the WIPO system further agreements concerning AOs and GIs have been adopted, generally providing for a high level of protection:

- a) the Lisbon Agreement of 1958 protects "appellations of origin" against any form of usurpation or imitation, whether or not this usurpation or imitation is misleading for the public. The Lisbon Agreement provides for the establishment of a system for the deposit of "appellations of origin" with the International Bureau operated by WIPO. Under the Lisbon Agreement, each signatory state is required to protect

the appellations of origin registered by another state. A provision is inserted protecting AOs against becoming generic. The list of contracting parties to the Lisbon Agreement can be found at http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=10

- b) the Geneva Act of the Lisbon Agreement, adopted in 2015, protects both appellations of origin and geographical indications. Protection is given against various types of use, including uses liable to mislead consumers and/or "impair or dilute in an unfair manner, or take unfair advantage of" the reputation of a AO/GI. Further provisions of the Geneva Act protect AOs/GIs against becoming generic and regulate the relationship between AOs/GIs and trademarks. The list of countries that have signed the Geneva Act can be found at http://www.wipo.int/treaties/en/ActResults.jsp?act_id=50.
- 13) Within the WIPO Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications, there are discussions about the proposal by some delegations concerning the protection of GIs in the domain name system. This is particularly with regard to possible modification of the WIPO UDRP in order to "permit complaints to be made concerning registration and use of domain names in violation of the protection of geographical indications".
- 14) Due to the above divergences, the WIPO Agreements have received limited support among WIPO Member States. Only a relatively small number of States have signed them. This debate emerged in particular during the negotiations leading to the adoption of the WIPO Geneva Act. Negotiations were characterized by a clash between countries pushing for a very high level of protection and other countries refuting the content of the Act and even the legitimacy of the negotiations.
- 15) In addition to the protection for GIs and AOs afforded by the international treaties described above, a high level of protection for GIs and AOs relating to agricultural products and foodstuffs is granted in the European Union under EU Regulation 1151/2012 and other regulations pertaining to specific products. EU Regulation 1151/2012 protects "designations of origin" and "geographical indications" against acts which are of a nature to mislead the public and/or to unduly exploit or freeride on the reputation of the GI/AO. The Regulation contains provisions protecting GIs and AOs against becoming generic and in general against a possible loss of rights, as well as regulating relationships between GIs/AOs and trademarks. The EU system is based on registration and EU case law restricts protection of GIs/AOs which are not registered at EU level.

The European Commission is currently investigating the possibility of expanding the protection of GIs and AOs to non-agricultural products.

- 16) Differences and disagreements which have emerged within the international framework regard several key points of legislation on GIs and AOs, such as the way of acquiring rights, the prerequisites for protection, the scope of protection, maintaining protection in the face of supervening circumstances and relationships with other IP rights. The questions below are intended to touch upon these issues.

Name of your National/Regional Group

**By Tal Band, Adv. and Moran Katz, Adv., members of the Israeli Group.
The report reflects the position of the authors.**

Questions

Your Group is invited to submit a Report addressing the questions below. If your Group considers that the answer to a question has already been given in its report on Question Q191, and that nothing has changed since then, a cross-reference to the specific paragraph in your Group's report on Q191 is sufficient.

In each case please specify whether your answer differs:

- (a) as between GIs and AOs; and
- (b) depending on whether the GI or AO is foreign or domestic.

I. Analysis of current legislation and case law

- 1) Are GIs and/or AOs protected under your Group's current law?

Both Geographical indications ("GIs") and appellations of origin ("AOs") are governed, in Israel, by statute, under the Appellations of Origin and Geographical Indications (Protection) Law, 5725-1965 ("the AOGI Law"). Israel is a member of the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration ("the Lisbon Agreement") and the AOGI Law was enacted in order to implement, in Israel, the provisions of the Lisbon Agreement.

In addition, AOs and GIs may also be registered as certification or collective marks, provided that the relevant registration requirements are complied with by the applicant. The registration of certification/collective marks is governed by the Trade Marks Ordinance [New Version], 5732-1972 ("the Trade Marks Ordinance").

The term "certification mark" is defined in the Trade Marks Ordinance and refers to a mark intended to be used by a person, other than a person carrying on a business, to certify the origin, components, mode of manufacture, quality or any other features of goods in which he is interested, or to certify the nature, quality or type of service in which he is interested.

A "collective mark" is defined in the Trade Marks Ordinance as a trademark or service mark belonging to a body of persons interested in the goods or service for which the mark is intended to designate, and used, or intended to be used, by the members of that body in respect of such goods or service.

2) If yes, please briefly describe the following:

a) How AOs and GIs are defined and the prerequisites (in particular the type, nature and intensity of link with a territory).

An AO is the geographical name of a country, region or locality contained in the name of a product which is intended to convey that such product has its origin in such country and that its quality and properties are mainly due to that geographical area, including its nature and people.

A GI is an indication which identifies, in Israel, a product as originating from a territory of a member country of the WTO or a region or locality within such territory, where a given quality, characteristic or the reputation of such product may be attributed essentially to the fact that it originates from that geographical origin.

b) Whether that protection is provided by sui generis laws; solely as aspects of other laws, such as by registration as collective or certification marks; or by other (and if so, what) means.

As mentioned in our response to question (1), GIs and AOs are protected, in Israel, by statute, under the AOGI Law. A GI/AO may also be registered as a certification/collective mark.

c) If GIs and/or AOs are protected by sui generis laws, whether your Group's laws provide for a system of registration. If so, what are the steps of this procedure including the content of the application and the possibility of opposition by third parties.

Rights in AOs are protected by means of registration granted by the [Israel Trade Marks Office.

*An application to register a local AO is filed with the Israeli Registrar of Trade Marks ("**the Registrar**"). Said application must specify the product, the special details demonstrating that the designation of the product indeed constitutes an AO, and not merely an indication of a provenance or type; the identity of the applicant and other details, as may be determined. The application is examined by the Registrar in order to ascertain whether: (i) the applicant has duly complied with the formalities established under the AOGI Law; and (ii) such local AO, prima facie, may indeed be classified as an AO. In addition, local AOs may be subject to opposition proceedings.*

A foreign AO must first be approved for registration in its country of origin and is thereafter sent by the International Bureau to all members of the Lisbon Agreement,

which have the discretion to refuse protection. Applications for the registration of foreign AOs in Israel are generally subject to the same examination procedure as that existing for local AOs and opposition proceedings may also be filed against the registration of such foreign AOs.

GIs are protected as such and no system of registration specifically catering to GIs exists in Israel. GIs are protected for so long as they fall within the definition of a "GI" under the AOGI Law. In order to qualify for protection as a GI, it is necessary to establish, inter alia, that the GI has acquired goodwill as such in Israel.

In addition, a GI/AO may be protected as a certification/collective mark, provided that it complies with all the requirements provided therein for the registration of a trademark. An application to register a trademark is filed with the Registrar and is examined in order to ascertain whether it is registrable as a trademark. According to the Trade Marks Ordinance, the Registrar may register a certification mark if he is satisfied that the proprietor of the mark is competent to certify the characteristics to be designated by the mark. The Registrar may register a collective mark if he is satisfied that it is intended for use by the members of the body of persons concerned and that such body has control over the use of the mark by its members. It should be noted that in the case of an application for the registration of a certification mark, the applicant is required to submit regulations regulating the use of the mark.

It should be noted that according to the Trade Marks Ordinance, a certification mark need not have distinctive character (contrary to other trademarks, including collective marks). However, one District Court has interpreted this provision to mean that a certification mark need not distinguish one producer from another; but that it should still have distinctive character in the sense that it is required to distinguish goods or services which are certified from those which are not.

- 3) If your country does not protect GIs and/or AOs, was this a deliberate decision and, if so, why?

The question is irrelevant as GIs and AOs are protected in Israel .

- 4) What are the grounds of invalidity/loss of rights for GIs and/or AOs under your Group's law (e.g. becoming generic, lack of use, not paying fees) and where can such be invoked (which court, office etc.)? Please specify the applicable test, how such is proven (e.g. consumer surveys, expert advice, dictionaries, etc.) and who bears the burden of proof.

An AO may lose validity at several junctures:

- (1) When an application for registration of an AO has been accepted, the Registrar shall publish same in the Israeli Official Gazette (Reshumot). Within three months from the date of publication of acceptance of the application, any person may oppose same by notifying the Registrar thereof in writing. Grounds which may be raised for opposing the registration of an AO include the following: (a) the designation for which registration has been applied is not an AO, but merely an indication of a provenance or type; or (b) the*

person claiming to be the person entitled to the AO is not entitled to use same.

- (2) *An interested party may file with the Registrar an application for revocation of an AO at any time after its registration. Grounds which may be raised for requesting the revocation of the registration of a local AO include the following: (a) the designation, the revocation of which is being applied for, ceased to be an AO, and is merely an indication of a provenance or type or (b) the conditions that served as the basis for the registration ceased to exist. The revocation of a foreign AO may be requested if it is not protected in its country of origin or if it ceased being protected in same. In both cases, the Registrar may initiate the revocation. In addition, the Supreme Court has recognised the possibility that a fundamental defect in the examination by the Registrar prior to registration may also serve as a ground for the invalidity of a foreign AO.*
- (3) *The validity of local AOs is reviewed every ten years (i.e., when their term of protection is over and before grant of the extended protection). At such stage, the grounds listed in paragraph (2) above can be relied upon for denying the applicant the extended protection.*

In addition, according to the AOGI Law, a GI or a registered AO (whether local or foreign) may also be challenged on the ground that it is not essentially an AO or a GI, as defined in the AOGI Law, in any legal proceedings (whether conducted in court or before the Registrar) instituted by the proprietor of an AO or a GI when seeking its enforcement.

According to a District Court decision (and based on the provisions of the Lisbon Agreement, to which, as aforesaid, Israel is a party), a registered AO cannot become generic.

While no provisions as to who bears the burden of proof can be found in the AOGI Law and regulations enacted thereunder or in the relevant case law, it should be noted that in related fields (such as patents and trademarks) the Israeli law generally provides that the applicant bears the burden of proof in opposition proceedings (i.e., before the grant of the relevant IP right), while the party seeking revocation of the relevant IP right bears the burden of proof in revocation proceedings (i.e. after the grant of the relevant IP right). It may therefore be argued that similar principles will apply in the case of AOs. No limitations are imposed as to the type of evidence that may be filed (other than those applicable under the general laws of evidence).

The registration of a certification/collective mark may also be opposed on the grounds that (a) there exists any reason for the Registrar to refuse to register the mark or (b) the opponent claims for ownership of the mark. After registration, the certification/collective mark may lose its validity if (a) it is invalid for registration or (b) the registration creates unfair competition, provided that an application for revocation of the mark is filed with the Registrar within 5 years after its registration. An application for revocation of the registration of a certification/collective mark on the ground that the application for its registration was filed in bad faith may be filed with the Registrar at any time after its registration. In addition, subject to certain conditions, a certification/collective mark may lose its validity due to lack of use or if no renewal fees were paid. The District Court may also order for the revocation of a certification mark if, during an infringement suit, it is proven that the certification mark is invalid.

- 5) What is the scope of protection of GIs/AOs under your Group's current law?

Any unlawful use of an AO amounts to infringement, even if the true origin is indicated alongside the AO and even if the AO is accompanied by expressions such as "kind", "type", "class", "imitation" or the like. Unlawful use of an AO may also give rise to criminal liability.

Unlawful use of a GI means use of a GI with respect to a product not originating from the indicated region, if such use is likely to cause confusion with respect to the true geographical origin of the product. Such use shall be considered as infringement of an AO. Unlawful use of a GI for wines and alcoholic beverages occurs when use of the GI is made with respect to wines or alcoholic beverages not originating from the indicated region (with likelihood of confusion not being relevant in this case). The AOGI Law implements the exceptions listed in sections 24(4), 24(6) and 24(9) of TRIPS. In addition, the AOGI Law permits the use, with respect to wine, of GIs that are identical in their writing or pronunciation but have different meanings. A suit with respect to the latter exception will be brought before the District Court, and it is to make sure that equal treatment to producers is ensured and that consumers will not be misled by said use.

According to a recent district court decision, the scope of protection granted to an AO should be determined on a case by case basis and may be extended to products other than those in respect of which the AO was registered, though it will not cover use with respect to any type of products.

Unlawful use of a certification/collective mark means use of such mark, or a confusingly similar mark, on other goods of the same class (well-known marks are entitled to broader protection).

- 6) Against what kind of conduct are GIs/AOs protected? For example, against use misleading consumers, parasitism and free riding.

See answer to question (5) above.

- 7) Who has legal standing to protect a GI/AO. For example, individual producers, consortiums and associations, public bodies.

Generally, the owner of a registered AO has legal standing to protect the AO. The AOGI Law does not contain specific provisions relating to legal standing with respect to GIs. Nonetheless, the AOGI Law does provide that, the Registrar shall not exercise any authority conferred on him under the AOGI Law, without providing an opportunity to any person who, in the Registrar's opinion, may be harmed by his/her decision, to argue before him/her. The AOGI Law further provides that the Registrar shall publish any legal proceedings conducted in accordance with the AOGI Law in the Official Gazette and in any other manner, 30 days before conducting same, and shall also invite any rights owner to present his/her arguments in relation to the said proceedings. Any such rights owner must inform the Registrar of his/her appearance at least 5 days in advance.

In addition, the District Court has recognized the standing of Comite Interprofessionnel du Vin

de Champagne, a statutory organisation encompassing the producers of champagne and their rights in GIs, AOs and trademarks bearing that name, and the owner of the registered AO "Champagne", to file suit against an Israeli company that made use of the name "Champagne" in relation to mineral water, inter alia, on the grounds that such use infringes the rights in the said registered AO/GI.

As explained above, in order to qualify for protection as a GI, it is necessary to establish, inter alia, that the GI has acquired goodwill as such in Israel. According to a decision rendered by the Israeli District Court dealing with grapes grown in a certain area, geographical goodwill is not necessarily shared by all the manufacturers or cultivators in a geographical region but, rather, vested (in that particular area) in the group or entity which manufactures or cultivates its products in a geographical region in a specific manner which confers on the relevant product a particular quality, characteristic or reputation that results in recognition of the indication as a GI. (That decision was based on the tort of passing-off and was given before the enactment of statutory protection for GIs.)

If the AO/GI is registered as a certification/collective mark, then the owner of such mark has legal standing to enforce it.

8) What remedies are available in the case of violation of rights in a GI/AO?

The remedies specified in the AOGI Law in the case of infringement of an AO are injunctive relief and costs. According to two District Court decisions, damages for infringement of an AO may be claimed under the tort of breach of statutory duty. According to the AOGI Law, the infringement of rights in a GI shall be viewed as an infringement of rights in a registered AO, thus facilitating for relief in the form of injunctive relief to be granted.

*The remedies in the case of infringement of a certification mark are specified in the Trade Marks Ordinance. The available remedies include injunctive relief and damages. In addition, the court may order one of the following: (a) destruction of the goods that were produced while the infringement was ensuing or that were used for carrying out the infringing activity ("**the Goods**"); (b) if the owner of the mark so requests, transfer of the Goods to him/her, in consideration for payment of their value, had no infringement occurred; or (c) any other act that may be performed in respect of the Goods.*

9) How does your Group's law regulate the conflict between a GI/AO and a prior trademark? Does the GI/AO or the trademark prevail or do they coexist? Under what conditions?

According to the AOGI Law, the registration of an AO or the lawful use of a GI shall not prevent a person from using his/her own name or the name of his/hers predecessor in business, if such use is made in good faith and in a manner that is not misleading.

In addition, Section 33A of the AOGI Law (which was enacted in 2000 in order to implement Article 24(5) of TRIPS into the Israeli legislation) provides that where an application is made to register a trademark or where a trademark was registered in good faith or where rights to a trademark have been acquired through use in good faith, the eligibility to register the trademark, the validity of its registration or the right to use the trademark will not be harmed

due to the fact that the trademark is identical or similar to a GI or an AO provided that the filing of the application for registration of the trademark or the acquisition of the rights to use the trademark as aforesaid, was done prior to January 1, 2000 or prior to the date on which the GI or the AO was granted protection in a member country in which the geographical area mentioned in the GI is located or in the country of origin of the AO, as applicable.

Accordingly, the existence of a GI may adversely affect the rights of a third party in a trademark which is similar or identical to such AO/GI, in the event the relevant date of acquisition of such rights or the filing of an application to use such rights, occurred after January 1, 2000 and after the date on which such AO/GI was granted protection in the relevant member state or country of origin. Post-January 1, 2000, competing rights in a AO/GI, or in a trademark which is identical or similar to such AO/GI, will be determined on a "first in time, first in right" basis.

- 10) Is there any specific provision or practice concerning the inclusion of a GI/AO in a domain name?

No.

- 11) Is there anybody that administers GIs/AOs in your country and/or is responsible for the verification of compliance of goods bearing a GI/AO? Please briefly describe the relevant processes, e.g. the process by which compliance with product specifications is verified before such goods are put on the market and/or the subsequent market controls on such goods?

*Under the Merchandise Marks Ordinance, 1929, the customs manager is entitled to delay the export of goods that are unlawfully assigned with the AO "Jaffa" (the only local AO registered in Israel). In addition, the Regulations for the Supervision on the Export of the Plant and Products thereof (the Export of Citrus Fruit), 1975, set a supervision mechanism for the export of citrus and, inter alia, the use of the AO "Jaffa". However, no specific Israeli authority is responsible for the verification of compliance of goods bearing other GIs/AOs. Similarly, no specific provision is made in the AOGI Law (or any other Israeli legislation) to ensure such compliance. Nonetheless, the Consumer Protection Law, 5741-1981 ("**the Consumer Protection Law**") provides that a dealer shall do nothing likely to mislead a consumer as to any matter material to a transaction. In this regard the Consumer Protection Law emphasizes, inter alia, that the identity of the producer or the provider of the service and the location of production of the goods, shall be regarded as matters material to a transaction. The Consumer Protection Law further provides that Israel Customs shall be authorized to seize imported goods if the identity of the producer or the provider of the service and the location of production of the goods is not correctly marked on them and/or if a dealer misleads customers with regard to said goods.*

In the case of certification marks, the Trade Marks Ordinance further provides that the owner of a registered trademark (including a certification/collective mark) may inform Israel Customs that his/her rights in the relevant mark have been infringed or are likely to be infringed and request that release of the infringing goods be delayed.

- 12) Please describe any other developments in your country in relation to GIs or AOs

which you consider relevant, including any proposals for reform. For example, to the extent that your country has been involved in any negotiations or discussions regarding the protection of GIs and AOs in any fora, such as multilateral, regional or bilateral agreements, please specify whether your country is negotiating or has signed any agreement with other countries that includes provisions on AOs/GIs and whether it was necessary to amend domestic legislation as a result of such agreements.

Israel participated in The Diplomatic Conference that was held in Geneva from May 11 to 21, 2015, which adopted the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications, and signed the Final Act. However, neither Israel's participation at the conference nor the signing of the Final Act can be interpreted as a decision or a declaration by Israel that it intends to become party to the amended Lisbon Agreement or to implement same in the domestic legislation.

In addition, in 2016, a bill for the amendment of the AOGI Law was introduced. Inter alia, it was proposed that appeals on decisions rendered by the Registrar under the AOGI Law will be filed with the District Court, instead of an appeal committee, as has been the case under the AOGI Law in its current form. In addition, it was proposed that notices and applications with respect to AOs will be published on the website of the Israel Patents Office, instead of their publication in the Official Gazette. The bill has yet to be approved.

II. Proposals for improvements and for harmonisation

- 13) Should there be harmonised definitions of AOs and GIs? If so, please propose appropriate definitions and prerequisites.

In our opinion, the definitions could be harmonized, as part of a comprehensive arrangement which will also address the scope of protection, registration, opposition and revocation grounds and procedure, etc., as briefly described herein. The definition of a GI, which is wider than the definition of an AO (and encompasses the definition of an AO) may be used instead of the dual definitions.

- 14) Should there be a registration procedure for AOs and GIs? If so, what should its key features be? For example, content of the application; examination by competent bodies; possibility of opposition by third parties.

As stated above, the current Israeli legislation does not provide a system of registration or procedure specifically catering to GIs.

In our opinion, there is an advantage in implementing such type of system/procedure in view of the transparency and legal certainty to be gained from the due and proper registration of AOs and GIs. If this type of system will indeed be implemented, then it will need to be subject to the scrutiny of competent bodies and subject to challenge.

- 15) What should the grounds of invalidity/loss of rights for GIs and/or AOs be? For example, becoming generic, lack of use, not paying fees. Please specify what the

applicable test should be, how such should be proven and who should bear the burden of proof.

In our opinion, the grounds for invalidity should, in general, be similar to those relied upon in cases of invalidity of trademarks and certification marks, subject to the necessary modification. Such grounds should include, inter alia, prior rights, becoming generic, public order/deception, non-renewal, lack of use, conduct leading to acquiescence, laches and abandonment.

Such grounds should be proven in accordance with the general evidence law. The burden of proof should be borne similarly as in other related fields (see our answer to question 4 above).

- 16) How should conflicts between GIs/AOs and prior trademark rights be regulated?

Subject to transitional provisions, conflicts between trademarks and GIs should be resolved upon a “first in time, first in right” basis, along with the principles of exclusivity and territoriality.

- 17) What scope of protection should GIs/AOs have and should it matter if these are domestic or foreign? Against which conduct by third parties should they be protected?

In our opinion, the scope of protection granted to GIs and AOs should be as closely in line as possible with the standards of trademark law – likelihood of confusion and the special protection for well-known marks – which would, on the one hand, ensure that GIs and AOs are protected against misleading and abusive use and, on the other hand, offer a far higher degree of predictability and legal certainty.

- 18) Who should have legal standing to protect a GI/AO and which remedies are appropriate?

The specific right holder should have legal standing to protect a GI/AO, as it is the body that encompasses the relevant persons/bodies who are entitled to use the AO/GI and supervises its use. In our opinion, the absence of a specific legal entity that has legal standing to enforce and/or protect an AO/GI, may cause difficulties in the enforcement and protection of the AO/GI as well as the undesired outcome of multitude of legal proceedings in relation to each infringement of an AO/GI.

- 19) Should there be a specific provision or practice concerning the inclusion of a GI/AO in a domain name?

In our opinion, specific provisions/practices relating to the inclusion of AOs/GIs in domain names are not required as the general legislation provides adequate arrangements applicable also to disputes relating to same. In addition, in view of the global nature of domain names, we are of the opinion that such provisions/practices should in any event not be adopted before uniformity in the definitions, and the scope of protection of AOs and GIs, is achieved.

With respect to resolution of domain related disputes, in our opinion, the subject matter of AOs/GIs does not fit to be resolved by means of dispute resolution proceedings by the UDRP,

due to the complexity of the issues arising in the framework of proceedings relating to AOs/GIs.

Responses to this Questionnaire

Groups are requested to submit responses to this questionnaire **by May 29, 2017**. Responses should be sent by email to StandingCommittees@aippi.org and should clearly indicate that they are responses to this questionnaire.