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Appellations of origin and geographical indications in the wine sector: historical overview of the evolution of these two notions, the role of the OIV as an intergovernmental organisation of the vitivinicultural sector

Tatiana Svinartchuk¹

The OIV is an intergovernmental organisation of scientific and technical character created in 1924. It currently counts 48 Members States, which are responsible for 86% of worldwide production of wine and for over 65% of total world wine consumption.

Wine sector has been at the origin of the development of the systems of recognition and protection of appellations of origin and geographical indications and contributed considerably to their international acceptance and promotion.

This article presents a historical overview of debates that took place in the OIV since its creation in 1924. We will present the evolution of the definitions, recommendations regarding protection and recognition, the link with other intergovernmental debates on protection of intellectual property.

The OIV is in a constant process of revision of these two main concepts. While being a major actor in their development and promotion, the OIV needs to keep concepts agreed for wine sector in line with main international agreements. We have recently adopted (2021) new updated definitions of a Geographical Indication and an Appellation of Origin in the vine and wine sector. The new definitions are based on the TRIPS agreement and on the Geneva act of the Lisbon agreement and reply to major concerns of our sector. Finally, we will illustrate the evolution of the link to the geographical origin of a product over the last decades: from an appellation of origin to international definition of "terroir" and finally, the role of the link to the place of elaboration in the overall sustainability of production systems.

Keywords – OIV, geographical indication, appellation of origin, definition, terroir, WTO, WIPO.

INTRODUCTION

The link to the terroir and the place of production is of particular importance for the wine sector. The protection of appellations of origin has been at the heart of the concerns of the OIV since its creation in 1924. Indeed, article 1 of the Agreement establishing the International Wine Office signed on 29 November 1924 already provided that the Office would be responsible for submitting to the governments all proposals likely to ensure both in the interest of the consumer and that of the producer... the protection of appellations of origin of wines. The Agreement of 3 April 2001 on the creation of the International Organization of Vine and Wine also retains the attribution of "submitting to its members all proposals relating to... protecting geographical indications,

especially vine and wine growing areas and the related appellations of origin, whether designated by geographical names or not, insofar as they do not call into question international agreements relating to trade and intellectual property".

How to ensure that the link between the quality of the product and its place of production is guaranteed against usurpation? Throughout its existence, the OIV has worked on the international harmonization of the concepts of geographical indications (GI) and appellations of origin (AO). The concepts were defined three times, in 1947, 1992 and in 2021, adapting constantly to the changes of production models and the expectations of the market. These major periods were accompanied by actions aimed at strengthening the international protection of GIs and AOs and improving their promotion. Finally, the notion of terroir saw its international definition adopted by the OIV in 2010.

1947 : DEFINITION OF THE APPELLATION OF ORIGIN (AO)

The first definition of the AO was adopted by the General Assembly in 1947 (OIV, 1947) and was indirectly confirmed in 1983 by the adoption of the "OIV international wine labeling standard". The definition does not directly require that an AO must be a geographical name. The door remained open to the traditional names of products originating from a particular geographical area (Sherry, ouzo, etc.) The essential features are:

- The uses and notoriety of the product and area
- Natural factors (soil, climate, exposure)
- Human factors
- Defined grape varieties

The notoriety of AO was already considerable in 1947. The wine-growing community was concerned about the possible similitude of treatment with trademarks and general product designations. Indeed, at the same time discussions on these issues are initiated by the Food and Agricultural Organisation and International Trade Organisation. By adopting the definition of AO, the OIV seeks to ensure effective differentiation of appellations that have already acquired a reputation. "This definition is that of the 'Club' of historic and traditional appellations" (Tinlot, 1989).

In 1958, eleven years after the adoption of the definition of AO by the OIV, the adoption of Lisbon

Agreement, marks the beginning of multilateral protection of AOs

1992: DEFINITION OF THE RECOGNISED APPELLATION OF ORIGIN AND THE RECOGNISED GEOGRAPHICAL INDICATION

The 1947 OIV's and 1958 WIPO's definitions of AO, requiring the accumulation of three elements – geographical origin, natural and human factors – have not been able to integrate the realities of many producing countries. Indeed, some countries use the geographical designation in the description of the product without requiring the human factor. These designations are a demonstrated quality factor for both the producer and the consumer, and they deserve adequate protection. Faced with this observation, the OIV initiated the process of revision of the 1947 definition. Two concepts were then defined in 1992 (OIV, 1992): Recognized Appellation of Origin (RAO) and Recognized Geographical Indication (RGI). Like its predecessor, the RAO requires the accumulation of the three factors. As for the RGI, either the natural factor or the human factor is required. The new definitions of the concepts describe them as being geographical names (likewise the definition of the AO of the Lisbon Agreement). For wines, all the grapes must be harvested in the zone defined both for the RGIs and the RAOs. In addition to this condition, for the RAOs vinification must take place in the area defined. For spirit drinks, the obligation of the entire harvest in the area applies only to RAOs. For a spirit drink benefiting from a RGI, it is the place of transformation that provides the link with the geographical area.

In 1994 the WTO adopted the TRIPS Agreement. Only Geographical Indications are concerned. Wines and spirits were granted a specific consideration in this instrument.

2021: REVISION OF THE DEFINITION OF RGI AND RAO WITH THE OBJECTIVE TO MAXIMISE THEIR HARMONISATION WITH OTHER MULTILATERAL PROTECTION INSTRUMENTS

Several findings prompted the OIV to review the definitions of GI/AO concepts once again. The growing popularity of promoting strategies based on the link with the terroir in the wine sector requires better considering the production realities of the new countries that are entering the scene. Indeed, given the geographical constraints, the location of the vineyards is sometimes geographically separated from the vinification units. Protection instruments of AOs and GIs have evolved and been refined in national legislation, in bilateral and supranational agreements.

We note the establishment of a rule of use for wines benefiting from a GI concerning the minimum percentage of grapes harvested in the area. In most jurisdictions this percentage is 85%. Some countries apply the value of 75%. Thus, the new 2021 OIV's definition of the GI (OIV, 2021) establishes that for wines at least 85% of grapes must be harvested in the defined geographical area. However, it does not have a requirement for vinification location. For spirits, it is once again the decisive phase of the

transformation which ensures the link with the defined geographical area.

A need to clearly mark the difference between the two concepts is observed. This difference lies in the consideration of the human factor. The human factor is then excluded from the new definition of the GI, as it is also the case in that of the TRIPS Agreement. Finally, the new definitions clearly indicate references to international agreements on intellectual property: TRIPS Agreement (WTO) and Geneva Act of the Lisbon Agreement (WIPO). With the new definitions, wine and spirits have their own definitions of AO and GI, in accordance with international agreements and which consider their specificities.

The work carried out brings us closer to the objective of harmonization and the improvement of international protection of GI and AO.

2010 : DEFINITION OF THE CONCEPT OF TERROIR

The link with the place of wine production is an extremely important concept for the wine sector. We were able to illustrate the evolutions of the concepts of GI and AO in the considerations of the OIV.

The concept of terroir is at least as much important. It was defined by the OIV in 2010 (OIV, 2010). This notion refers to an area in which collective knowledge of the interactions between the identifiable physical and biological environment and applied vitivinicultural practices develops, providing distinctive characteristics for the products originating from this area. Once a "terroir" is described, it can contribute to the recognition for the vitivinicultural products originating from that "terroir".

In the current works of the OIV, the link between the place of production and the social and cultural roles played by the sector is reinforced in the resolutions related to sustainable vitiviniculture.

CONCLUSION

The role of the OIV is not the enforcement of the legal protection of GI and AO, but rather to contribute to harmonisation of these concepts and to facilitate creation of multilateral instruments for effective international legal protection.

Since its creation in 1924 the OIV is working on these aspects. The notoriety and importance of these concepts all over the world, their consideration in major international agreements on the subject is clearly a success for the whole sector.

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