

THE AUSTRALIAN GEOGRAPHICAL INDICATION PROCESS

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BACKGROUND

The first white settlers arrived in Australia in 1788 and brought grape vine cuttings with them. As migration to Australia continued to grow during the XIX Century more and more vine cuttings, viticulturists and winemakers from Britain, France, Germany, Italy, Switzerland and Yugoslavia founded their businesses. Firstly, in the State of New South Wales (N.S.W.) and then in the States of South Australia (S.A.), Victoria (VIC), Western Australia (W.A.), Tasmania (TAS) and Queensland (Q'land).

Phylloxera and the 1914-18 and 1939-45 wars and their aftermaths curtailed the growth of viti and viniculture, but since the second half of the XX Century growth has been quite rapid and has continued during the 1990s:

	1990	1998
Fresh Grapes Crushed		
for Winemaking	583,000 tonnes	950,000 tonnes
	1992	1997
Area Planted to Grapes	60,000 Ha.	88,000 Ha.

Grapegrowing and winemaking takes place in every State of Australia.

AUSTRALIAN WINE AND BRANDY CORPORATION (AWBC)

The AWBC is a Federal Statutory Marketing Authority established under the Australian Wine and Brandy Corporation Act 1980. The objects of the Act are:

- * to promote and control the export of grape products from Australia,
- * to promote trade and commerce in grape products within Australia,
- * to improve the production of... and consumption of, grape products in...Australia,
- * to enable Australia to fulfil its obligations under prescribed wine-trading agreements and,
- * to determine...and name...the boundaries of the various regions and localities in Australia in which wine is produced.

The AWBC is largely funded by an industry grape levy.

FUNCTIONS OF THE AWBC

*** Export Promotion (AWEC)**

The Australian Wine Export Council (AWEC) is part of the Corporation. Its mission Statement is “to enhance the global demand for Australian wine by creating a marketing environment in which wine producers, individually and collectively, are able, through their own initiatives, to achieve maximum long term demand for their products”.

AWEC comprises nominated Chief Executives of wine producing companies, exporters and AWBC Board members. It is funded by levies on grape production and the value of exports and industry contributions.

AWEC has representatives in the UK, Germany, Sweden, USA and Japan.

*** Export Control**

The AWBC:

- * licences exporters,
- * issues export permits and any additional documentation for specific markets,
- * ensures appropriate analysis of wine is documented,
- * performs sensory (taste) testing of export wine for typicity and quality.

*** Geographical Indications Committee (G.I.C.)**

The Committee is established under the Act to determine the names and boundaries of Australian Geographical Indications (wine growing regions). The Committee has a Presiding Member and a winemaker and a grapegrowers’ representative.

G.I.’s are determined on such factors as existing maps, history of the region and, grape growing attributes, such as climate, rainfall, temperature, humidity, sunshine, soils, elevation, water etc. Once determined, G.I.’s are entered into the Register of Protected Names, which protects in law all Australian and other Wine Agreement Countries’ geographical names and traditional expressions.

*** Label Integrity Program (L.I.P.)**

The program was created by the Australian Wine and Brandy Corporation (AWBC) following a request by the Australian wine industry to establish a system which would ensure the integrity of Australian wine for both domestic and export markets. As there was no scientific test which could identify the vintage, variety or regional source of wine, it was necessary to set up a recording system to provide an audit trail from grape purchase to finished product, to substantiate such label claims.

All wineries must record each step of the production process and keep them for 7 years for verification. Severe penalties apply under the AWBC Act for false or misleading description and presentation of wine.

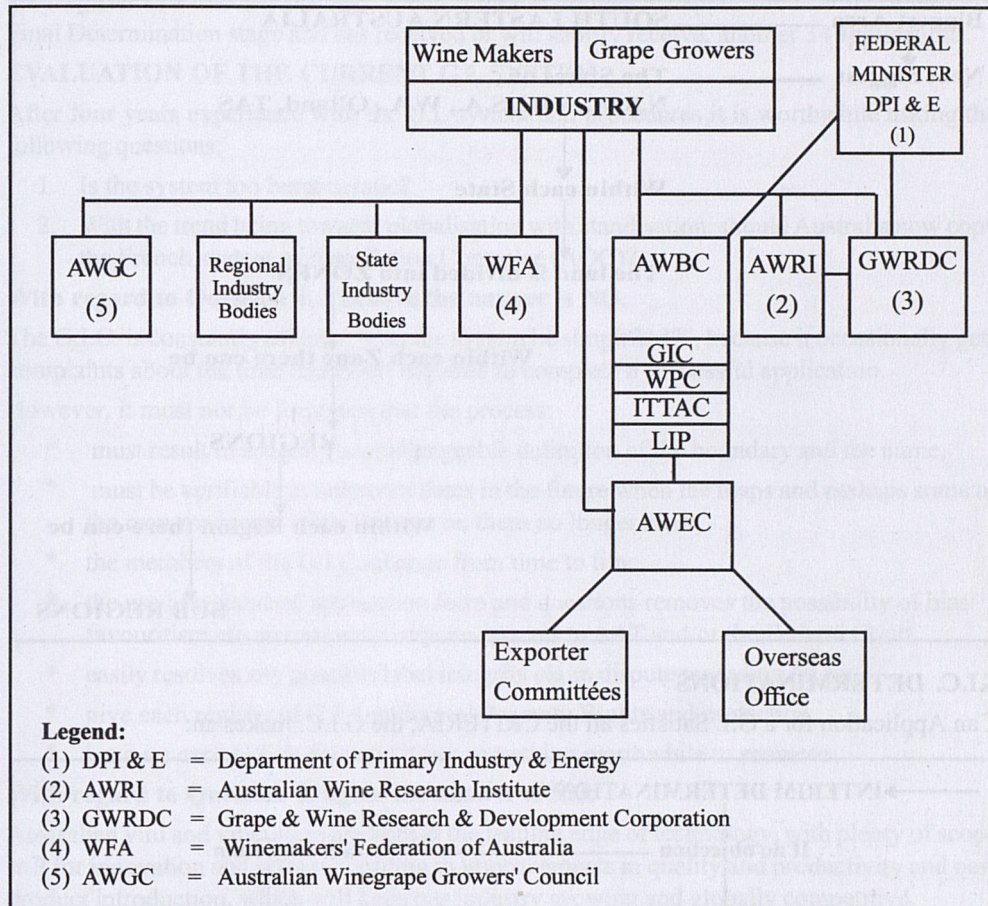
*** International Trade and Technical Committee (ITTAC)**

A Committee of the Corporation, which consists largely of industry representatives, who provide advice in relation to international trade and technical issues, particularly relating to overseas markets.

*** Wine Practices Committee (WPC)**

A Committee of the Corporation, which consists largely of industry representatives, to consider Australian winemaking practices in relation to Australian law and international practices.

AWBC IN RELATION TO THE INDUSTRY IT SERVES:



THE GEOGRAPHICAL INDICATIONS COMMITTEE (G.I.C.)

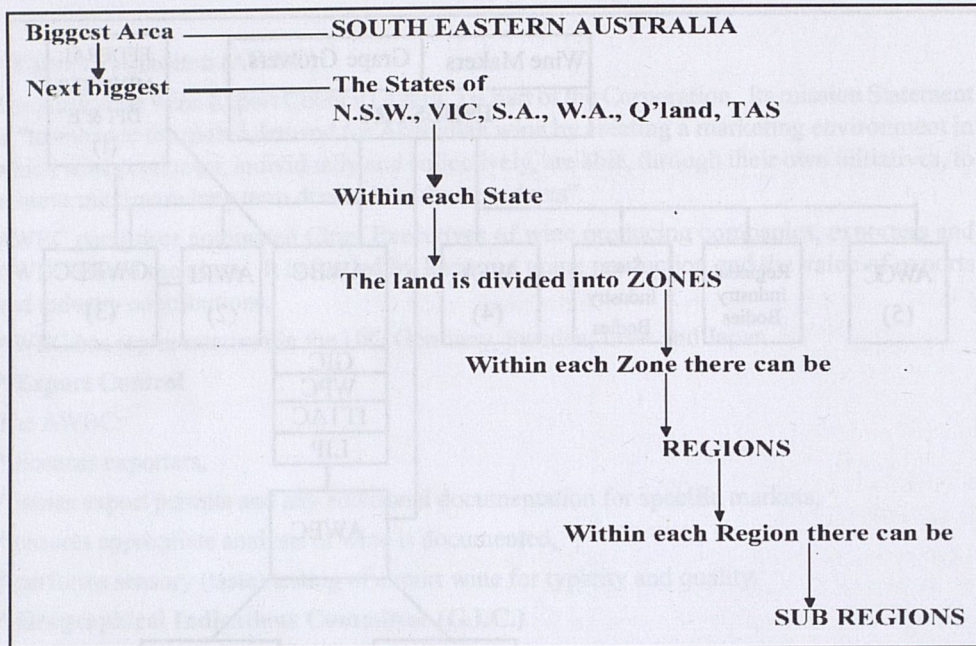
In order to implement international wine trading agreements (eg EU/Australia) and to improve consumer protection, the AWBC in 1993 was empowered to determine the names and boundaries of Australia's viticultural regions and to enter them and treaty partners G.I. names and T.E.'s into a Register of Protected Names. To do this, the G.I.C. was formed.

The G.I.C. is composed of a Presiding Member and a member representing winemakers and a member representing grapegrowers. It has the power to do all things necessary to carry out its objects, but if there are any CRITERIA stated in the Regulations, then the G.I.C. has to take account of them.

The G.I.C. commenced duty in early 1994 and drew up the PROCESS (see Guidelines for applicants - Appendix A), drew up CRITERIA (see Appendix B) and got them into Regulations, drew up an APPLICATION Form (see Appendix B) and then visited all States to run seminars on how to apply.

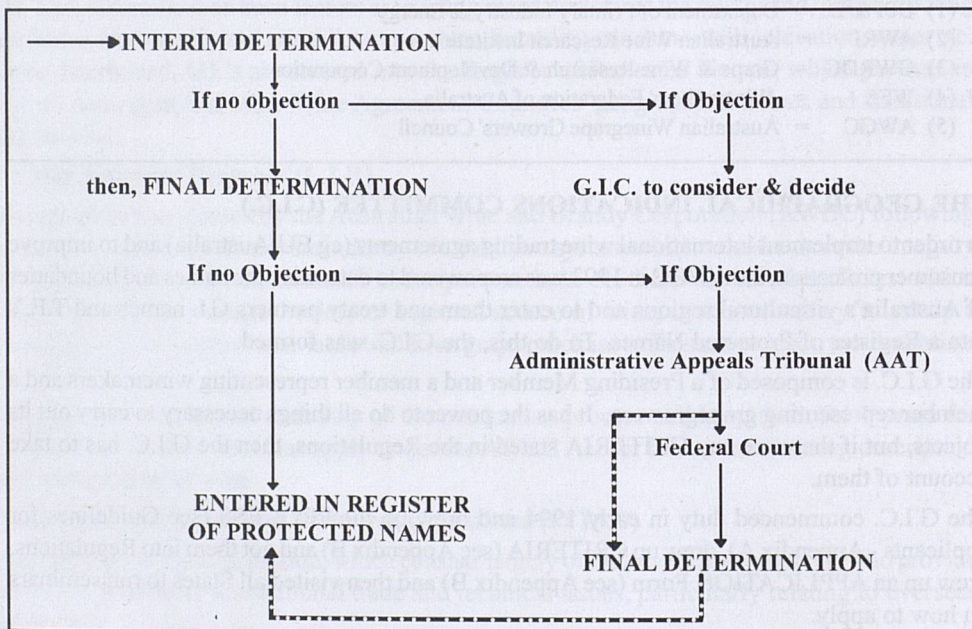
The G.I.C. endeavours to achieve acceptance and indeed ownership of the boundaries by asking the local winemakers and grapegrowers and their representative organisations to propose the name and boundary for consideration by the Committee based on an assessment in relation to the criteria.

STRUCTURE OF G.I.'s IN AUSTRALIA



G.I.C. DETERMINATIONS

If an Application for a G.I. Satisfies all the CRITERIA, the G.I.C. makes an:



CURRENT SITUATION WITH AUSTRALIAN G.I.'s

A "temporary" list of Australian G.I.'s was drawn up and attached to the Australia-EC Treaty as part of Annex II which was prior to the setting up of the G.I.C.

The G.I.C. has, since its inauguration, made 58 Determinations which have been entered into the Register of Protected Names. It currently has another 15 applications at the Interim or Final Determination stage and has received or will shortly receive, another 34 applications.

EVALUATION OF THE CURRENT G.I. SYSTEM

After four years experience with the G.I. system and procedures it is worthwhile asking the following questions:

1. Is the system too bureaucratic?
2. With the trend being towards globalisation with standardisation, should Australia now copy the French system of Appellation Controllee (AOC)?

With regard to Question 1, I believe the answer is NO.

The G.I.C. is constantly asking - "Can the system be simplified?", because it occasionally gets complaints about the time and effort required to complete a successful application.

However, it must not be forgotten that the process:

- * must result in a legally unchallengeable definition of the boundary and the name,
- * must be verifiable at unknown dates in the future when the maps and perhaps some of the man-made and other features on them no longer exist,
- * the members of the G.I.C. change from time to time,
- * the use of a standard application form and questions removes the possibility of bias/favouritism etc and assists if anyone appeals to AAT and/or the Federal Court,
- * easily resolves any possible label integrity claim dispute regarding origin,
- * give each registered G.I. Intellectual Property Rights and protection,
- * because each G.I. is discrete, it has something worthwhile to promote.

With regard to Question 2, again the answer is NO.

Australian vintners and viticulture are both at the leading edge of technology, with plenty of scope still for innovation and research leading to improvements in quality and productivity and new product introduction, which will keep our industry growing and globally competitive.

The industry is also relatively young, ie without the hundreds of years' experience of Europe and therefore we don't yet know with certainty what grape varieties should grow best in which regions. Also bear in mind the size, climatic and soil variables in Australia.

REGISTER OF PROTECTED NAMES

The Register of Protected Names came into being with the passing of the Wine and Brandy Corporation Amendment Act 1993, and is part of the Process of the implementation in Australian Law of the terms of the EC/Australian Wine Agreement.

The purpose of the Register is to officially record and give legal recognition to the geographical indications, traditional expressions, names of grape varieties and other words or expressions of the Australian wine industry and agreement countries, and to record any conditions of use that may be established for the use of any such names or expressions appearing on the Register.

The Australian Register of Protected Names also contains all the names of the Geographical Indicators of the Member States of the European Union, thus giving them full protection under Australian wine law.

Attention is drawn to the fact that the false or misleading use of any of the Australian or overseas (agreement countries) names appearing in the Register, or a failure to observe the conditions of use assigned to any of these names, will lead to prosecution.

**GUIDELINES FOR APPLICANTS FOR THE DETERMINATION
OF AUSTRALIAN GEOGRAPHICAL INDICATIONS**

AUSTRALIAN WINE AND BRANDY CORPORATION
P.O. BOX 595, MAGILL SOUTH AUSTRALIA 5072
555 THE PARADE MAGILL SOUTH AUSTRALIA 5072
PHONE: (08) 834 2828 - FAX (08) 8364 5151

WHO MAY APPLY

SECTION 40R OF THE AWBC ACT 1980 SETS OUT DETAILS OF WHOM MAY APPLY FOR THE DETERMINATION OF AN AUSTRALIAN GEOGRAPHICAL INDICATION.

“40R Any of the following may apply in writing to the Committee for the determination of a geographical indication in relation to a region or locality in Australia:

- (a) a declared winemakers organization,
- (b) a declared wine grape growers organization;
- (c) an organisation representing winemakers in a State or Territory;
- (d) an organisation representing growers of wine grapes in a State or Territory;
- (e) a winemaker;
- (f) a grower of a wine grape.

THE GEOGRAPHICAL INDICATIONS COMMITTEE IS ONLY ABLE TO ACCEPT APPLICATIONS FROM THOSE PERSONS OR ORGANISATIONS DESCRIBED ABOVE.

DEFINITIONS

THE FOLLOWING DEFINITIONS FOR CERTAIN KEY WORDS APPEARING IN THE AWBC ACT 1980 AND THE ATTACHED REGULATIONS ARE PROVIDED IN ORDER TO ASSIST APPLICATION FOR AUSTRALIAN GEOGRAPHICAL INDICATIONS.

THE OFFICIAL REFERENCE SOURCE FOR THE DEFINITION OF THE FOLLOWING WORDS IS THE MACQUARIE DICTIONARY, SECOND EDITION, 1991.

DEGREE a step or stage in an ascending or descending scale, or in a course or process.

DISCRETE detached from others, separate; distinct.

DISTINCT different in nature or qualities; dissimilar.

HOMOGENEOUS of the same kind or nature, essentially alike.

MEASURABLE that may be measured.

SUBSTANTIAL of ample or considerable amount, quantity, size, etc.

THE OFFICIAL REFERENCE SOURCE FOR THE DEFINITION OF THE FOLLOWING

WORDS IS THE AUSTRALIAN WINE AND BRANDY CORPORATION REGULATIONS, 1994.

“REGION means an area of a land that:

- (a) may comprise one or more subregions;
- (b) is a single tract of land that is discrete and homogeneous in its grape growing attributes to a degree that:
 - (i) is measurable; and
 - (ii) is less substantial than in a subregion; and
- (c) usually produces at least 500 tonnes vineyards of at least 5 hectares each that do not have any common ownership, whether or not it also comprises 1 or more vineyards of less than reasonably; and
- (e) may reasonably be regarded as a region.”

“ SUBREGION means an area of land that:

- (a) is part of a region;
- (b) is a single tract of land that is discrete and homogeneous in its grape growing attributes to a degree that is substantial; and
- (c) usually produces at least 500 tonnes of wine grapes in a year; and
- (d) comprises at least 5 wine grape vineyards of at least 5 hectares each that do not have any common ownership, whether or not it also comprises 1 or more vineyards of less than 5 hectares; and
- (e) may reasonably be regarded as a subregion.”