

EVOLUTION OF THE APPELLATION OF ORIGIN CONCEPT IN THE VINEYARDS OF AUSTRALIA

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ABSTRACT

Australia is the seventh largest producer of wine and crushed 1.42 million tonnes of wine grapes in the 2001 vintage.

The Australian Wine and Brandy Corporation Act 1980, and its attached Regulations, created the Australian Wine and Brandy Corporation ("AWBC") with the following objectives:

- To promote and control the export of grape products from Australia;
- To promote trade and commerce of grape products within 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 grapes are produced.

It became obvious in the early 1980's that Australian wine labels did not give enough information or protection to consumers nor did they always meet importing countries labelling requirements.

In the late 1980's the Label Integrity Programme became law and was attached to the AWBC Act. Its objective was to help ensure the truth regarding grape variety, Geographic Indications origin and vintage date statements on labels, commercial documents, etc.

During the late 1980's and early 1990's, the winemakers, the AWBC and the Australian government decided, after much debate, to adopt a Geographic Indication system and not a European style AOC system to delineate regions and localities in Australia.

In 1992, to comply with the terms of the EU-Australia wine treaty, a "temporary" list of 423 possible Australian GI's were inserted into Annex II of the treaty.

In 1994, the AWBC Act was added to by forming a Geographic Indications Committee with the function of making determinations of GI's for wine in relation to regions and localities in Australia.

Between 1994 and 2002, the GIC declared and entered into the Register of Protected Names, 94 regions and localities in Australia and deleted a significant number of the "temporary" GI's in Annex II of the treaty in 1999.

The GIC expects to complete its work in 2003, at which time it will revert to a "care and maintenance" format. The Register of Protected Names will contain 115 entries of GI's and will replace the "temporary" list contained in Annex II.

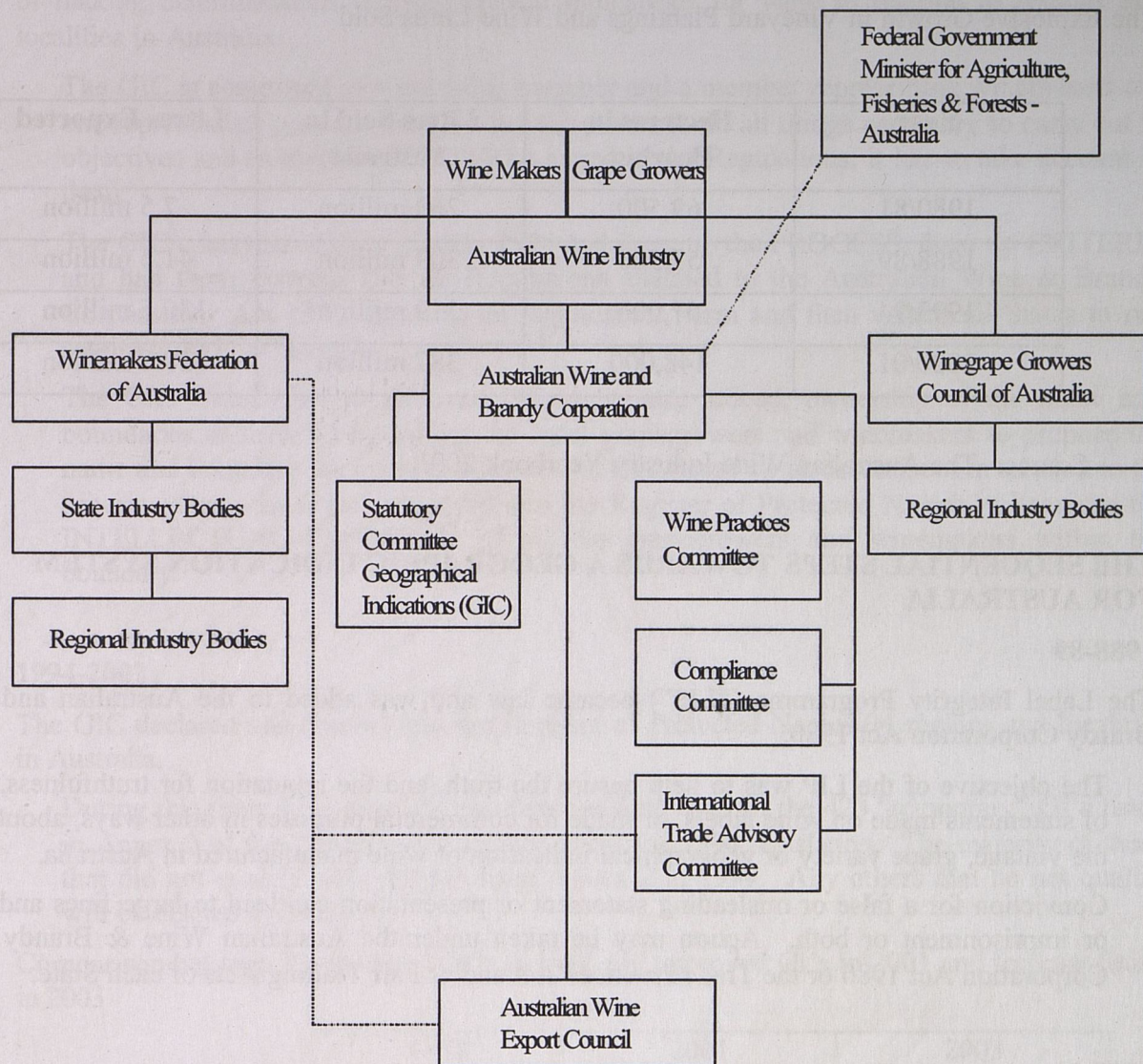
Of all the determinations made so far by the GIC, only one (Coonawarra) has been appealed to the Administrative Appeals Tribunal, whose decision, in turn, has been appealed to the Federal Court who will hear the case in June 2002.

Marketing and promotion of regional GI's is undertaken by each Regional Association either on its own initiative, or in combination with others, at user pay events organised by State Associations and/or the Australian Wine Export Council. Regional and State Associations also co-operate with Local and State Tourist Authorities who are keen to use wine tourism as a major tourist attraction. Larger wine producers also help market regional GI's by emphasising the GI on their well-known, advertised and promoted brands eg, Wynns Coonawarra Cabernet Sauvignon.

AUSTRALIA - WINE AND GRAPE STATISTICS

Total area of winegrape vines harvested in 2001*	=	148,275 hectares
Total area of winegrape vines not yet in bearing	=	17,676 hectares
Total winegrapes crushed for winemaking in 2001*	=	1.42 million tonnes
Australia is the seventh largest producer of wine		
Total sales of Australian wine in Australia 2001*	=	386.7 million litres
Total exports of Australian wine in 2001*	=	339.0 million litres
Australian per capita consumption of wine 2001*	=	19.8 litres

* year to 30 June 2001



THE NEED FOR AN APPELLATION/GEOGRAPHIC INDICATION SYSTEM FOR AUSTRALIA

The Explosive Growth in Vineyard Plantings and Wine Litres Sold

Year	Hectares in Bearing	Litres Sold in Australia	Litres Exported
1980/81	69,500	263 million	7.5 million
1988/89	57,500	309 million	41.5 million
1993/94	67,000	319 million	130.5 million
2000/01	148,000	387 million	339.0 million

Source: The Australian Wine Industry Yearbook 2001

THE SEQUENTIAL STEPS TOWARDS A GEOGRAPHIC INDICATION SYSTEM FOR AUSTRALIA

1988-89

The Label Integrity Programme ("LIP") became law and was added to the Australian and Brandy Corporation Act 1980.

The objective of the LIP was to help ensure the truth, and the reputation for truthfulness, of statements made on wine labels, or made for commercial purposes in other ways, about the vintage, grape variety or geographical indication of wine manufactured in Australia.

Conviction for a false or misleading statement or presentation can lead to large fines and or imprisonment or both. Action may be taken under the Australian Wine & Brandy Corporation Act 1980 or the Trade Practices Act and or Fair Trading Acts of each State.

1988-91

The Australian wine industry and the Australian Government debated at length whether to have a European style appellation system or a geographic indication system.

The latter was decided on for many reasons, amongst which were:

- Australia did not have the hundreds of years of experience in vine and viticulture practises that Europe had and from which evolved the AOC system.
- New viticultural regions were emerging all the time in Australia, e.g. Wrattenbully, South Burnett, Lenswood, etc.
- New viti- and vinicultural practices were being developed.

1994

The Australian Wine and Brandy Corporation Act 1980 and Regulations had added a Statutory Committee called the Geographic Indications Committee (“GIC”) with the function of making determinations of geographical indications for wine in relation to regions and localities in Australia.

The GIC is composed of a presiding member and a member representing winemakers and one representing grapegrowers. It has the power to do all things necessary to carry out its objectives and as there are CRITERIA stated in the Regulations, it has to take account of them.

The GIC commenced duty in early 1994 and drew up the PROCESS, drew up CRITERIA and had them inserted into the Regulations attached to the Australian Wine & Brandy Corporation Act 1980, drew up an Application Form and then visited all States to run seminars on how to apply.

The GIC endeavours to achieve acceptance and, indeed, ownership of the name and boundaries of each GI by asking the local grapegrowers and winemakers to propose the name and boundary for consideration by the GIC based on an assessment in relation to the criteria. Once the name is entered into the Register of Protected Names, it becomes the INTELLECTUAL PROPERTY of all the grapegrowers and winemakers within the boundary.

1994-2002

The GIC declared and entered into the Register of Protected Names 94 regions and localities in Australia.

During this time, it became obvious that nowhere near all the 423 “temporary” GI’s listed in Annex 2 of the Treaty would qualify under the 1994 legislation. The majority of those that did not qualify were deleted from Annex 2 in 1999. Any others that do not qualify will be deleted in 2002/03.

Comparison between “temporary” GI’s in 1992 and approved GI’s in 2001 and forecast finish in 2003

	1992	2001	2003
States & Territories	8	8	8
Zones	31	28	28
Regions	169	49	60
Sub Regions	215	9	19
TOTALS	423	94	115

2001

The first hearing before the Administrative Appeals Tribunal ("AAT") occurred in February 2001, when 47 objections were made against the GIC's determination of Coonawarra. The AAT handed down its verdict in September 2001 and, whilst agreeing with the process adopted by the GIC, ruled that some minor adjustments be made to the boundary. Most of the objectors accepted the AAT's decision. However, five objectors disagreed and have appealed to the Federal Court, who will hear the appeal in June 2002.

2002

The AWBC and the GIC are conducting a review into the Act and Regulations governing Geographic Indications. In particular, the following aspects are being canvassed:

The qualifications for a region or sub-region application included a requirement that irrespective of the total number of vineyards within it, there must be 5 independent vineyards of at least 5 hectares and the area must produce at least an average 500 tonnes of winegrapes each vintage.

The underlying philosophy being to have a sufficient quantity of wine (more than 30,000 cases of 9 litres each) that could be distributed far and wide enough to promote the region and to prevent any one vineyard having a monopoly on the use of the GI.

In view of the growth of the Australian wine industry over the last ten years, should the 500 tonnes become 1,000 tonnes?

Up to now, the cost of the GIC has been paid by the AWBC from the funds it receives in the way of levies on tonnes of grapes crushed by each winemaker.

In future, should the cost of considering a GI application be paid for by the applicant?

The Marketing and Promotion of Australian Regions

Marketing strategies of packaging, price, promotion and distribution are part of defining product differentiation in an attempt to produce a sustainable competitive advantage. However, they all have one weakness - they can all be copied.

What cannot be copied is the intellectual property ownership of a GI where climate + soil + human intervention = products.

It is therefore worthwhile promoting GI's to enhance the sales and growth of regions that have their GI in the Register of Protected Names.

Regional marketing and promotion takes many forms in Australia.

Firstly, to get a regional GI there must be a regional association and amongst its many objectives are usually:

- the encouragement of quality improvements;
- the staging of promotional events;
- the enlistment of local government and local business support for the association's activities and the development of tourism.

The region must also produce at least 500 tonnes of winegrapes each vintage as this provides sufficient products to enable good geographical spread of distribution and sufficient volume for promotional activity.

Regional associations also exhibit at local State and national wine shows and other events, e.g. Wine Australia, Rutherglen winery walkabout, Barossa Gourmet Weekend, Opera in the vineyards, etc.

Tourism is a growth industry in Australia and winery tourism is an important feature in regional and State tourist authorities' promotional literature and advertisements. The State of Victoria for example produces a booklet for each region with a map showing the location of each winery and the location of hotels, restaurants, etc., along with other places of interest to visit and things to do.

Winery tourism is particularly important for the smaller wineries who rely more on cellar door sales and visitors who want to go onto the wineries' mailing lists.

Major wineries will also promote the region through the advertising and promotion of their brands, e.g. Wynns Coonawarra Shiraz, Tollara Eden Valley Riesling, etc.