

*Quality of Life and Management of Living Resources*

Key Action n° 5

Sustainable agriculture, fisheries and forestry, and integrated development of rural areas including mountain areas

**Development of Origin Labelled Products :  
Humanity, Innovation, and Sustainability**

***DOLPHINS***

Contract QLK5-2000-00593

**First Meeting**

**10-12/09/2001**

**Lecture**

 **12/09/2001 - 11.00**

**Fundamental Cultural/Historical  
Differences of Perspective between  
the US and the EU**

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## **“Catholic” legal system (particularly Southern Europe):**

- ?? “Old Country” perspective: geographically-linked products well known
- ?? hierarchical; state intervention more acceptable
- ?? strong state-led public welfare goals; progress linked to social solidarity
- ?? more distrust of change for the sake of change; stability seeking
- ?? less confidence in science versus traditional knowledge, customs
- ?? legal reasoning based on fundamental principles
- ?? moral rights of individual (enjoyment of quality, etc.)
- ?? regulates geographic and human factors
- ?? “quality” as taste, excellence
- ?? geographical indication belongs to area, not individual(s), protected by state; viewed as part of heritage and identity of a country/region
- ?? emphasis on non-deception of consumer relative to product origin
- ?? appellations for wine and other food products
- ?? question of possible extension of appellations to crafts
- ?? use by state as development tool to promote marginalized rural areas
  - Ex's: EU multifunctional agriculture -> French CTE -> assistance to new AOC creation; assistance to AOC promotion by EU LEADER program (employment, equity, promotion of collective efforts, transparency in context of EU)
- ?? as historically agrarian country, intellectual property value of place-linked products is much more important

## **“Protestant” or “Anglo-Saxon” American system:**

- ?? “New Country” perspective: geographically-linked products less well known than company-linked products (i.e., trademarks)
- ?? distrust of hierarchy and state intervention; strong federalist tradition
- ?? “welfare” viewed as charity; emphasis on competition leading to progress
- ?? greater acceptance of change as positive
- ?? strong reliance on science for decision making
- ?? case law
- ?? reliance on federal trademark law
- ?? reliance on state “unfair competition” law
- ?? deference to state/local law as departing principle (deference to national law on international scene)
- ?? “quality” as primarily safety, security, not taste/excellence/tradition
- ?? importance of regularity, control of product/production
- ?? little regulation/recognition of geographic/human factors
- ?? ambivalence toward place attachment/identity (sentimental or nostalgic; looks to the past; can be devious (fascism, territorially-based disputes, etc.))
- ?? as historically “new” country, much more concern with protecting intellectual property rights connected with new inventions and advanced technology, in which U.S. leads (computer technology, including internet domain names; entertainment (videos, music CDs); biotechnology)
- ?? preference for “trademark” which recognizes origin or source of products in relation to a specific enterprise, or—in the case of collective marks—an association and its members meeting certain requirements with respect to the production, manufacture or supply of the goods in question
- ?? conflicts over trademarks are usually—with a few exceptions for co-existence of identical or similar signs—resolved according to the priority indicated by “first in time, first in right,” meaning that disputes over similar intellectual property rights should be settled according to the concept of prior rights—the oldest holder of the right should prevail over younger holders
- ?? in U.S., geographical indications can be “owned” by a government, an association of producers, or even an individual (USPTO)
- ?? co-existence of similar rights must be reserved for very exceptional circumstances, as it dilutes the principle of prior rights
- ?? influence of Prohibition (1919-1933)
  - ?? some remaining state/county restrictions on production/sale
- ?? regulation by Dept. of Treasury, Bureau of Alcohol, Tobacco, and Firearms (BATF)
  - ?? generic: vermouth, sake

- ?? depends on whether it is generic *in the United States*
- ?? some of most celebrated AOCs are generic in U.S. (artifact of particular European history of the US, and fact that it was a settler country, which is unusual globally)
- ?? semi-generic: Burgundy, Chablis, Champagne, Chianti, Marsala, Moselle, Port, Rhine Wine, Sherry
- ?? non-distinctive, nongeneric: American, California, Lake Erie, Napa Valley, New York State, French, Spanish
- ?? distinctive, nongeneric: Bordeaux Blanc, Chateau Yquem
- ?? recognizes appellations on political boundaries (country, state, county, and multi-county) and "vicultural areas" (maintains list of these): 85%
- ?? recognizes appellations of other areas (non-political boundaries): 75%
- ?? bottling/cellaring of wine not required to be in area (but must be in same state)
  
- ?? strongest protection for appellations under state law (protects only *within* state, and does not protect importers of foreign food/beverages)
  - ?? ex: Vidalia onion
  - ?? ex: Minnesota wild rice
- ?? geographical indications can be registered as "certification marks"
  - ?? ex: Roqufort cheese (France)
  - ?? ex: Parma ham (Italy)
- ?? "Commercial speech" (i.e., forms of advertising) are considered Constitutionally protected speech intended to inform the consumer, unless government shows "substantial government interest"

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- ?? protection of foreign AOC *within* United States:
  - ?? does "typical" American consumer recognize the geographic location?
  - ?? does this association affect the consumer's decision to purchase?
  - ?? what other trade mark rights will be affected?
  - ?? who will pay for the system?