

Dispute: Chile and Peru Due to the Pisco's Origin Denomination

By Oscar Mago Carranza, OMC Abogados & Consultores, Lima-Perú

A few Months ago, an article entitled “Chile wins (commercial) dispute on Pisco to Peru in key countries” was published in the Chilean Newspaper “La Tercera”. This news caused commotion within the political, intellectual and academic circles in Peru, to such point that its most radical exponents indicated this could disturb or suspend the bilateral Free Trade Agreement between both countries.*

The news, given by the Chilean newspaper, originated from the fact that of 25 countries integrating the Lisbon Agreement (Agreement managing WIPO for Origin Denominations), 9 countries¹ have not accepted the Peruvian request to recognize pisco as an “exclusive” Peruvian origin denomination, sharing this protection with Chile. The remaining 15 countries² granted exclusivity rights on such origin denomination to Peru.

The beginning of this dispute within the international legal scope – since it has historic roots that we will mention later – was on July 2005, when Peru ratifies the Lisbon Agreement, and at the same time requests to be recognized as titular of the origin denomination of pisco. The reasons of these nine countries that did not accept the exclusivity of pisco’s origin denomination, are due to extra-judicial reasons (Peru has taken too long to be part of the Lisbon Agreement); commercial reasons (Chile has bilateral free trade agreements with the majority of those countries, and a greater production and exportation than Peru); or even reprisals (the case of Check Republic, Peru did not recognize Pilsener as origin denomination of such country because in Peru, there is a trademark named “PILSEN”, which is confusing with such denomination).

Pisco is a quechua word that means “bird”, and also, it is the name of a valley in the south of Peru. Pisco valley was a producer of beverages even before the arrival of the grape; the beverages were made of *sara* (corn). When Spaniards arrived, the grape replaced the corn and the valley started producing grape aguardiente. In the mid 16th century, there was the exportation of grape aguardiente called Pisco to Spain, which also was exported to the central valleys that today is Chile, country that in the beginning recognized the origin of such beverage from Peru, and from 1928 that they plead the

¹ These countries are Bulgaria, Costa Rica, Slovakia, France, Hungary, Italy, Mexico, Portugal and Czech Republic.

² These countries granted to Peru the protection and recognition of the origin denomination Pisco as exclusive. These countries are: Algeria, Burkina Faso, Congo, Cuba, Georgia, Haiti, Israel, Democratic Republic of Korea, Republic of Moldavia, Serbia, Togo and Tunisia.

* This Agreement was signed on August 22, 2006.

existence of Chilean production. And one of the characteristics that it should have to be recognized as origin denomination, it must come from a specific region or geographical zone and which quality or product characteristic are due to the geographical environment exclusively, including, mainly the natural factors. In 1936, in the Chilean region Coquimbo, the town's name "La Union" was changed to "Pisco Elqui", therefore, the first step was taken and the support to dispute the origin of pisco, the same that is going on until nowadays.

We should highlight that in Chile, prominent authorities have searched for conciliatory formulas to cold the dispute, in order that such dispute does not disturb the good relations between both countries, proposing to do a worldwide pisco promotion campaign by both countries. However, without diminishing such interesting initiative, it is very difficult that Peru will accept and recognize the shared titular status of such origin denomination, since it is exclusive patrimony of the Peruvian nation. Therefore, it is difficult to suppose that countries such as Mexico would share the origin denomination of tequila with its Northern neighbours, or France would accept – for commercial reasons – to promote, with Spain, the champagne's consumption worldwide, in order to share its titular status of such origin denomination.

For more information, please contact:

Oscar Mago Carranza

OMC Abogados & Consultores

omago@omcabogados.com.pe