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# The Estey Centre Journal of **International Law and Trade Policy**

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## **The Provisions on Geographical Indications in the TRIPS Agreement**

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This article provides an overview of the provisions on geographical indications contained in the TRIPS Agreement and how they came about in the Uruguay Round of multilateral trade negotiations, which took place from 1986 to 1994 and resulted in the establishment of the World Trade Organization. The article underscores the difficulties involved in arriving at international standards in this area of intellectual property by putting the TRIPS provisions on geographical indications in their historical perspective of more than 120 years of international negotiations and by explaining their compromise character in the context of the single undertaking of the Uruguay Round and the continuing discussions at the international level, notably under the Doha Development Agenda.

Keywords: agriculture, geographical indications, intellectual property, WIPO, WTO

## Introduction

With respect to geographical indications, the TRIPS Agreement reflects a very sensitive compromise in an area that was one of the most difficult to negotiate in the Uruguay Round of multilateral trade negotiations, which took place between 1986 and 1994 among trading partners under the auspices of the GATT (General Agreement on Tariffs and Trade) and which resulted in the establishment of the World Trade Organization. In fact, on certain issues concerning geographical indications, further work was still required once the negotiations were concluded and, as a result, the TRIPS Agreement contains a number of provisions requiring such further work within the framework of the WTO.

The history of the discussions on geographical indication protection at the international level goes back to the late 19<sup>th</sup> century, and it is sometimes revealing to see how that history has determined the issues in this area that present themselves today in the international arena. I refer to the development towards *sui generis* systems for geographical indication protection, such as in France; the debate resulting in the incorporation of a number of provisions on the subject into the Paris Convention for the Protection of Industrial Property in 1883; the conclusion of the Madrid Agreement on the Repression of False Indications of Source in 1891; the debate at, for example, the Paris Convention Revision Conference in 1911 in Washington; the conclusion of the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration in 1958; and subsequent attempts to arrive at, for example, a new international registration treaty.<sup>2</sup> Many of the questions that were on the negotiating table in the past continue to be issues dividing governments on geographical indications under the built-in agenda items in the WTO's TRIPS Council, in discussions at WIPO's Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications and in the negotiations under the WTO's Doha Development Agenda.

Of course, one big difference from the pre-WTO situation is that geographical indications are now embedded in the WTO system, as they comprise one of the categories of intellectual property that are the subject of the TRIPS Agreement, which itself is an integral part of the WTO Agreement.<sup>3</sup> Consequently, non-compliance with TRIPS obligations on geographical indications can be challenged under the WTO dispute settlement mechanism, and if a country fails to implement a ruling, if it is indeed not in compliance, it could eventually be faced with sanctions in areas of international trade governed by other parts of the WTO Agreement and lose benefits that accrue to it under that agreement for as long as it does not remedy the situation.

However, what has not changed after the conclusion of the WTO Agreement is the wide diversity in the means of protection for geographical indications available from country to country. This was another aspect recognized by the Uruguay Round negotiators when they incorporated a number of built-in agenda items on geographical indications in the TRIPS Agreement. This diversity not only was confirmed in the peer group review of national implementing legislation in the WTO's TRIPS Council, but also is illustrated by the summary paper<sup>4</sup> the WTO Secretariat prepared of information on national systems for the protection of geographical indications by individual WTO members in the context of the TRIPS Council's review of the application of the TRIPS Agreement's provisions on geographical indications under the built-in agenda item stipulated in Article 24.2 of the agreement.

Neither have geographical indications lost their controversial character after the entry into force of the WTO Agreement. In this regard it should be noted that, in the Uruguay Round, a link was made by some delegations between the negotiation of obligations with respect to trade in agricultural products and the negotiation of obligations to provide protection for geographical indications in the context of the TRIPS Agreement. This link has obviously not been forgotten by delegations at work in either area since 1995. The WTO system is designed to establish conditions of competition aimed at regulating the opportunities for goods from its members in the competitive environment of their markets and at liberalizing trade in goods, building upon about half a century of experience in the GATT. When, as a result of the negotiations in the Uruguay Round, trade in agricultural products came under the discipline of a rule-based system, a consequence thereof was believed to be that this might encourage moves towards added value in agricultural production and exports, since market shares will be increasingly determined by basic competitiveness rather than the ability and inclination to subsidize. Consequently, investments for the development of quality products like high-value, consumer-ready food preparations and other food and drink items increased. At the same time, however, the demands for protection against misappropriation of geographical indications and other forms of intellectual property became stronger.<sup>5</sup>

### **Standards for the Protection of Geographical Indications under Section 3 of Part II of the TRIPS Agreement<sup>6</sup>**

The structure of the TRIPS Agreement's section on geographical indications is such that its provisions can be outlined by dividing them into four main parts:

- first, a definition of geographical indications;

- second, the general standards of protection that must be available for all geographical indications;
- third, the additional protection that must be accorded to geographical indications for wines and spirits;
- fourth, the provisions concerning, on the one hand, future negotiations aimed at increasing the protection of geographical indications and, on the other, permissible exceptions to the protection required under the agreement.

The protection provided under the agreement has to be available to rights holders from WTO members without discrimination as to their nationality.<sup>7</sup> The agreement also specifies in some detail the procedures and remedies that must be available so as to allow rights holders to effectively enforce their rights with the assistance of judicial or other competent authorities.<sup>8</sup> It also incorporates, by reference, the provisions of the Paris Convention relating to geographical indications.<sup>9</sup>

### ***Definition***

The agreement defines geographical indications in Article 22.1 as indications which identify a good as originating in the territory of a member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin. Thus, this definition specifies that the quality, reputation or other characteristics of a good can each be a sufficient basis for eligibility as a geographical indication, where these are essentially attributable to the geographical origin of the good.<sup>10 11</sup>

### ***General Standards of Protection***

Article 22.2 refers to the general standards of protection that must be available for all geographical indications. In particular, the agreement provides that legal means must be provided to prevent the use of geographical indications in ways that mislead the public as to the geographical origin of the good.<sup>12</sup> In addition, the agreement requires that legal means must be provided to prevent use which constitutes an act of unfair competition within the meaning of Article 10*bis* of the Paris Convention.<sup>13</sup> Protection must also be available against the registration of a trademark that contains a geographical indication with respect to goods not originating in the territory indicated whose use for such goods would be of such a nature as to mislead the public as to the true place of origin.<sup>14</sup>

### ***Additional Protection for Wines and Spirits***

Article 23 of the TRIPS Agreement provides for additional protection in relation to geographical indications for wines and spirits. Pursuant to Article 23.1, interested parties must have the legal means to prevent *the mere use* of a geographical indication

identifying a wine when used on a wine that does not originate in the place indicated by that geographical indication. In other words, for this form of protection to apply, there is no requirement to show that the use in question might mislead the public or amounts to unfair competition, irrespective of whether the true origin of the good is indicated or the geographical indication is accompanied by expressions such as “kind”, “style”, “type”, “imitation” or the like. Protection must also be available against the registration of a trademark for wines, if the trademark contains a geographical indication identifying wines and the wines do not have the origin indicated by the geographical indication.<sup>15</sup> Similar protection must be given to geographical indications identifying spirits. With respect to use of these geographical indications for other products, the general standards of protection under Article 22 apply.

In the case of homonymous geographical indications (that is, different geographical indications that consist of or contain the same identifier),<sup>16</sup> protection should be accorded to each homonymous indication. However, this protection may not hold if use of one of the homonymous geographical indications in a given WTO member would falsely represent to the public in that member that the products in question originate in the territory of the other homonymous geographical indication.<sup>17</sup> The agreement contains a specific rule<sup>18</sup> concerning homonymous geographical indications for wines, laying down that, in the case of such geographical indications, practical conditions must be determined so as to differentiate the homonymous indications, taking into account the need to ensure equitable treatment of the relevant producers and also to ensure that consumers are not misled.

### *Exceptions*

Article 24 contains a number of exceptions regarding the protection of geographical indications. They should be read in conjunction with the provisions in the same article<sup>19</sup> concerning negotiations aimed at increasing the protection of geographical indications and which WTO members are not allowed to refuse to enter into or conclude on the basis of the existing exceptions applied in accordance with Article 24.

There are three main exceptions that are of particular relevance with respect to the additional protection for geographical indications for wines and spirits. The first main exception provides that a member state is not obliged to protect a geographical indication in cases where a geographical indication has become the generic name in a country for the products in question or for a grape variety.<sup>20</sup>

The second main exception deals with the situation where a geographical indication may conflict with pre-existing trademark rights acquired in good faith, which should be protected in accordance with the TRIPS provisions on trademarks, as

contained in Section 2 of Part II of the TRIPS Agreement.<sup>21</sup> In addition, the agreement specifies that measures adopted to implement the TRIPS provisions on geographical indications shall not prejudice the eligibility for or the validity of the registration of a trademark, or the right to use a trademark, on the basis that such a trademark is identical with or similar to a geographical indication.<sup>22</sup>

The third main exception allows, under certain circumstances, continued use of a geographical indication that has been used in a WTO member prior to the conclusion of the Uruguay Round,<sup>23</sup> even where the indication in question has not become generic and a pre-existing trademark right does not exist. The scope of this exception, however, is heavily circumscribed. It only applies to geographical indications which identify a wine or those which identify a spirit. It can only benefit those nationals or domiciliaries of the WTO member using the exception who had previously used the geographical indication in good faith or for at least 10 years prior to the conclusion of the Uruguay Round, and in any case continuously. Moreover, use of the geographical indication under the exception must be “similar” to the previous use. “Similar” use has been taken to mean that the subsequent use must be similar in scale and nature.<sup>24</sup>

The agreement also provides that the exceptions cannot be used to diminish the protection of geographical indications that existed immediately prior to the entry into force of the TRIPS Agreement.<sup>25</sup>

### **Built-in Agenda Items<sup>26</sup>**

Three of the TRIPS Agreement’s built-in agenda items relate to the protection of geographical indications and are based on Articles 23.4, 24.1 and 24.2. In 2001, part of this work became part of the work programme of the Doha Development Agenda, as adopted by the WTO’s Ministerial Conference.

#### ***Article 24.1***

There are situations where a particular geographical indication may not enjoy, or may not fully enjoy, the protection provided for in Article 22 or 23, in accordance with the exceptions provisions contained in Article 24 as applied by a country with respect to that geographical indication. The relevant indication may, in that country, for example, be a generic term in accordance with Article 24.6, or the subject of prior trademark rights in accordance with Article 24.5. If the country of origin of the geographical indication in question would like to change such a situation, it will have to resort to bilateral or multilateral negotiations. In this regard, reference should be made to the provisions of Article 24.1 of the TRIPS Agreement, which establish a negotiating right in this respect for the country of origin.

### **Article 24.2**

In November 1996, the TRIPS Council initiated, under Article 24.2 of the TRIPS Agreement, its review of the application of the provisions of the section of the agreement pertaining to geographical indications. In the context of this review, a checklist of questions was prepared concerning various aspects of national regimes for the protection of geographical indications.<sup>27</sup> Following the submission of responses by members, the WTO Secretariat issued a summary paper of these responses, as requested by the council.<sup>28</sup> Following the receipt of further responses, the document has meanwhile been updated once.<sup>29</sup>

This summary paper provides, in its first section, a general overview of the various means of protection that exist in this area of law. The succeeding seven sections of the summary paper enter into the details that members provided as to the following features of the systems they are employing:

(a) the various definitions of protectable subject matter and any other substantive criteria that may need to be complied with in order for a geographical indication to be eligible for protection;

(b) procedures applied in relation to the formal recognition of geographical indications as being eligible for protection;

(c) who is entitled to use a protected geographical indication and any procedures that apply to obtain such an entitlement; the duration of protection of geographical indications; arrangements regarding cancellation or forfeiture of geographical indications; and arrangements for monitoring the use of geographical indications;

(d) protection available to prevent unauthorised use of geographical indications, including use by those who are not from within the area to which the geographical indication refers and those who are eligible or authorised users but are not using the geographical indication properly;

(e) enforcement procedures;

(f) the relationship of geographical indications to trademarks, including protection provided to prevent the registration as trademarks of signs containing or consisting of geographical indications.

The summary paper treats the differing means of protection in three broad categories. The first relates to laws focusing on business practices. Typically, the issue at stake in legal proceedings regarding the use of a geographical indication under such laws is not whether the geographical indication as such is eligible for protection but, rather, whether a specific act involving the use of a geographical indication has contravened the general standards contained in laws covering unfair competition, consumer protection, trade descriptions, food standards, etc. The second category

concerns protection through trademark law. Trademark law may provide two types of protection for geographical indications. On the one hand, protection may be provided against the registration and use of geographical indications as trademarks. On the other hand, protection may be provided through collective, guarantee or certification marks. In contrast to the general means of protection of the first and second categories, the third category of protection concerns means specifically dedicated to the protection of geographical indications. Some of these means provide *sui generis* protection for geographical indications that relate to products with specifically defined characteristics or methods of production; other means apply without such specific definitions.

### *The Doha Work Programme*<sup>30</sup>

At the Fourth Ministerial Conference, held in Doha, Qatar, in November 2001, ministers adopted the Doha Ministerial Declaration,<sup>31</sup> which provides the mandate for negotiations on a range of subjects, including on agriculture and services, as well as issues concerning the implementation of the various agreements that form part of the WTO Agreement. Paragraph 18 of the Doha Declaration in particular says that

With a view to completing the work started in the Council for Trade-Related Aspects of Intellectual Property Rights (Council for TRIPS) on the implementation of Article 23(4), we agree to negotiate the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits by the Fifth Session of the Ministerial Conference. We note that issues related to the extension of the protection of geographical indications provided for in Article 23 to products other than wines and spirits will be addressed in the Council for TRIPS pursuant to paragraph 12 of this Declaration.

The first sentence extends the mandate of Article 23.4 for the negotiation of the multilateral system of notification and registration of GIs for wines to *spirits*. The second sentence, which deals with the protection of GIs for other products, refers to paragraph 12 of the Doha Declaration, which reads in turn that

Negotiations on outstanding implementation issues shall be an integral part of the [Doha] Work Programme ... (1) where we provide a specific negotiating mandate in this Declaration, the relevant implementation issues shall be addressed under that mandate; (2) the other outstanding implementation issues shall be addressed as a matter of priority by the relevant WTO bodies, which shall report to the Trade Negotiations Committee, established under paragraph 46 below, by the end of 2002 for appropriate action.

Members have different views on the interpretation of Paragraph 18 with regard to the issue of “extension”: proponents of extension (see below) have advanced that

there is a clear mandate to launch negotiations, while opponents have claimed that there is no agreement to negotiate any extension.

For purposes of negotiations regarding the register, an ad hoc negotiating group, the Special Session of the Council for TRIPS, has been established.

### Negotiations on a multilateral register of GIs for wines and spirits

The special session established by the Doha Declaration has, to date, not managed to achieve a significant narrowing of differences of view between members. The two key issues are (1) what the legal effects or consequences should be of a registration under the system to be negotiated and (2) whether participation in the system should be voluntary or mandatory for WTO members. There are currently three proposals on the table:<sup>32</sup>

- The joint proposal.<sup>33</sup> This proposal is sponsored by Argentina, Australia, Canada, Chile, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Japan, Mexico, New Zealand, Nicaragua, Paraguay, Chinese Taipei and the United States. These members propose a purely voluntary system. Members wishing to participate would notify a list of GIs, which would then be recorded on a database administered by the WTO Secretariat. Participating members would commit to ensure that their procedures include the provision to consult the database when making decisions regarding registration and protection of trademarks and GIs for wines and spirits in accordance with their domestic law. Non-participating members would be encouraged, but would not be obliged, to consult the database.

- The EC proposal.<sup>34</sup> This proposal calls for a system whereby members electing to participate would notify GIs into the system. Upon publication, other members would have an 18-month period during which to lodge a reservation against (i.e., to challenge) the notified GI on certain grounds, such as non-compliance with the Article 22.1 definition or genericness. In the absence of challenges or if the challenges were withdrawn, the GI would be registered. Differences regarding challenges would be resolved through direct negotiations between the notifying and challenging members. Once registered, the GI would produce an irrebuttable (i.e., no longer challengeable) presumption of eligibility for protection in the members who have not challenged the GI or have withdrawn the challenges. This presumption also applies to non-participating members that have not lodged reservations within the 18 months. The registered GI can be challenged at any time in participating members on other grounds such as prior trademarks or grandfathered uses.

- The Hong Kong, China proposal.<sup>35</sup> The Hong Kong government has proposed a voluntary system whereby a registered GI would create a rebuttable presumption or “*prima facie* evidence” in participating members with regard to the ownership of the GI, compliance with the Article 22.1 definition and protection in the country of origin. While Hong Kong, China is not a producer of wines and spirits, it has made the proposal for systemic reasons. Its concern is that failure in this negotiating group might endanger the whole Doha Development Agenda.

The special session has also discussed costs and other burdens that the future system might entail.<sup>36</sup>

### Extension of the protection of Article 23 to GIs for other products

The issue of extension was discussed in the regular session of the TRIPS Council up to the end of 2002. Thereafter, it has become the subject of consultations chaired by the Director General of the WTO.

Proponents for extension claim that the higher protection of GIs for wines and spirits is a discrimination, which could be corrected by extending that protection to GIs for other products. They have proposed accordingly, i.e., Article 23 should apply to GIs for all products and the Article 24 exceptions should apply *mutatis mutandis*. Moreover, the multilateral register to be negotiated for GIs for wines and spirits should apply to all GIs.<sup>37</sup>

Their opponents hold the view that this discrimination could as well be corrected through suppressing Article 23 and limiting the protection of GIs in all sectors to that provided by Article 22.

The merits of extension have been extensively debated.<sup>38</sup> The divide in the talks is the same as in the negotiations on the multilateral register, namely, the EC, other European countries and several developing countries on one side, and the same countries that have sponsored or expressed sympathy for the joint proposal, together with some other developing countries, on the other side. The debate revolves around issues such as the possible benefits of GI extension to GI holders; the cost for non-GI holders; the costs for consumers; and the impact of extension in third markets.

### EC's claw-back proposal in the agriculture negotiations

In the context of the agriculture negotiations, the EC has submitted a proposal that is relevant to the geographical indications debate. It concerns a list of names that, in the EC, constitute geographical indications but that in other countries are used generically to indicate a type or kind of product. The proposal aims to “claw back” such names by reserving their use for EC producers in the geographical locations to

which such names refer. Some other members have argued that the Doha text on agriculture does not provide a mandate for such a proposal.

## Outlook

The International Symposium that WIPO organized together with the Government of China in Beijing in June 2007<sup>39</sup> showed once more that, for the protection of geographical indications, there would not appear to be a “one size fits all” solution. Important elements determining how a country protects geographical indications are linked to the national infrastructure for the production and commercialization of products, historical factors and the political power of producer groups. Thus, for their coffee, Ethiopia has been pursuing an approach different from Colombia’s; the European Union has its various systems for geographical indication protection; and China has a basis for its certification mark system different from that of the United States.

For a number of years, the Chinese government has been strongly promoting among its enterprises protection of the value-added component of their products with the help of trademarks and, where possible, geographical indications. Similar policies exist in other countries, such as, for example, India, Sri Lanka, the Philippines and Indonesia. At the abovementioned symposium, China underlined the importance of this policy for, in particular, their farmers, whose income had increased significantly as a result. Some results of studies into the relationship between geographical indication protection and price premia were also contained in the WTO’s World Trade Report of 2004 – with respect to Bordeaux wine and Darjeeling tea – but the report concluded that more study into this relationship was clearly needed.

The history of the birth of the geographical indication system in France shows the strong sentiments among wine producers from an area famous for its wine who wanted the government to do something to protect them from wine producers who were using the name of the area but not able to produce the same quality wine – thus prejudicing the interests of those who are able to produce the quality wine. Illustrative in this respect is the following adaptation of an article that appeared in *The Economist*.<sup>40</sup> The adapted version is entitled “Running Out of Grapes in Champagne” and reads as follows:

One of the world’s most valuable GIs is Champagne. In the 1850s, it sold around 10 million bottles; by 1999, it had sold 327 million bottles, becoming a US\$7 billion industry. The major manufacturers and marketers of Champagne are corporate giants, but small farmers of grapes have retained their sway in the industry. Controlling 90 per cent of the vineyards, some 15,000 grape growers have forced the big companies

to conform to their interests. The law prohibits big companies from buying out small landholders. In 1911, when the companies sought to buy grapes from outside the region there was a riot. An attempt to expand the geography of the “Champagne” region also led to violence. Small growers have retained their clout because increasing demand for Champagne requires an ever-increasing supply. But vineyards are fixed, and grape prices can only rise. Further, as GIs are about “quality”, and with consumers becoming more discerning, small farmers are increasingly becoming their own producers of “exclusive” Champagne. This is like in Burgundy, where the best wines are made and bottled by small farmers. EU rulings on anti-competition prohibit companies from colluding with growers to fix grape prices. An analysis of Champagne’s evolution has two lessons for new GI marketing in Asia-Pacific. First, it takes a lot of time, patience, savvy marketing and quality control to create a valuable GI. (Champagne took 150 years.) Second, pro-development legal regulations by the state can empower small farmers and users of traditional knowledge to retain their influence over corporate juggernauts.

In many, if not all, countries, unfair competition laws or consumer protection laws contain general provisions dealing with the misappropriation of indications serving to designate products that originate in a geographical area. In addition, many countries have also put in place special systems aimed at providing the necessary transparency about those geographical indications that deserve special protection because of the specific, geographically determined qualifications that make certain products unique. Securing protection for such geographical indications in other countries has, however, been complicated due to differences in approach as to whether protection is justified or what kind of protection is appropriate, and due to the difficulty to reconcile these differences given their historical, economic or commercial context.

International rules for the protection of geographical indications would perhaps better be designed starting from the premise that a wide diversity in national systems simply exists. In particular, procedures for the international registration of geographical indications should recognize this. A flexible interpretation and application of the Lisbon Agreement provides a possible basis for a solution in this respect, as does the possible creation of a link between the Lisbon Agreement and the Madrid Protocol.<sup>41</sup>

## Endnotes

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1. Matthijs Geuze has been Senior Counsellor in the World Intellectual Property Organization since 2002. From 1989 to 2002 he was employed by the Secretariat of the GATT and the World Trade Organization, and from 1981 to 1989 by the Dutch Patent Office. The views expressed are his personal views rather than those of the organisations with which he is or has been affiliated.
2. See WIPO document SCT/8/4.
3. The WTO Agreement is a reflection of the single undertaking embarked upon in the Uruguay Round of multilateral trade negotiations: a negotiating package consisting of subjects put forward by the various trading partners, which, when negotiated on their own, would not likely have led to a successful outcome among all trading partners. This negotiating package had to be adopted as a whole, i.e., “nothing was agreed until everything was agreed.”
4. WTO document IP/C/W/253 and IP/C/W/253/Rev.1.
5. Matthijs Geuze, “Protection of Geographical Indications under the TRIPS Agreement and Related Work of the World Trade Organization.” WIPO Symposium on the International Protection of Geographical Indications in the Worldwide Context, Eger, Hungary, 24-25 October 1997. WIPO Publication No. 760.
6. Dariel de Sousa, “Protection of Geographical Indications under the TRIPS Agreement and Related Work of the World Trade Organization (WTO).” WIPO Symposium on the International Protection of Geographical Indications, Montevideo, Uruguay, 28-29 November 2001.
7. The provisions that lay down these obligations are contained in Articles 3 and 4 of the TRIPS Agreement. Australia and the United States initiated dispute settlement procedures against the European Communities for its non-compliance with these obligations. See the panel reports contained in WTO documents WT/DS174/R and WT/DS290/R.
8. Part III of the TRIPS Agreement (i.e., Articles 41 to 61).
9. Article 2.1 of the TRIPS Agreement.
10. For background information on proposals tabled in the negotiations, reference is made to Daniel Gervais, *The TRIPS Agreement – Drafting History and Analysis*. 2<sup>nd</sup> edition. London: Sweet and Maxwell, 2003.
11. As regards the definition of the Lisbon Agreement, reference is made to Matthijs Geuze, “Let’s Have An Other Look at the Lisbon Agreement – its Terms in their

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- Context and in the Light of its Object and Purpose.” WIPO International Symposium on Geographical Indications, Beijing, China, 26-28 June 2007.
12. TRIPS, Article 22.2(a).
  13. TRIPS, Article 22.2(b). Pursuant to Article 10*bis* of the Paris Convention, this includes “any act of competition contrary to honest practices in industrial or commercial matters”, in particular
    - “All acts of such a nature as to create confusion by any means whatever with the establishment, the goods, or the industrial and commercial activities, of a competitor;
    - “False allegations in the course of trade of such a nature as to discredit the establishment, the goods or the industrial and commercial activities, of a competitor;
    - “Indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quality of the goods.”
  14. TRIPS, Article 22.3.
  15. TRIPS, Article 23.2.
  16. An example is “Rioja”, La Rioja being the name of wine-producing regions that exist in both Argentina and Spain.
  17. TRIPS, Article 22.4.
  18. TRIPS, Article 23.3.
  19. See section III below.
  20. TRIPS, Article 24.6.
  21. Australia and the United States initiated dispute settlement procedures against the European Communities for its alleged non-compliance with these obligations. See the panel reports contained in WTO documents WT/DS174/R and WT/DS290/R.
  22. TRIPS, Article 24.5.
  23. 15 April 1994.
  24. TRIPS, Article 24.4.
  25. TRIPS, Article 24.3.
  26. Dariel de Sousa, “Protection of Geographical Indications under the TRIPS Agreement and Related Work of the World Trade Organization (WTO).” WIPO Symposium on the International Protection of Geographical Indications, Montevideo, Uruguay, 28-29 November 2001.

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27. IP/C/13 and IP/C/13/Add.1.
  28. IP/C/W/253.
  29. IP/C/W/253/Rev.1.
  30. Thu-Lang Tran Wasescha, “Geographical Indications in the International Arena – the Current Situation.” WIPO International Symposium on Geographical Indications, Beijing, China, 26-28 June 2007.
  31. WT/MIN(01)/DEC/1.  
See [http://www.wto.org/english/thewto\\_e/minist\\_e/min01\\_e/mindecl\\_e.htm](http://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_e.htm).
  32. For a side-by-side presentation of these proposals, see WTO document TN/IP/W/12.
  33. WTO document TN/IP/W/10.
  34. WTO document TN/IP/W/11.
  35. WTO document TN/IP/W/8.
  36. See WTO documents TN/IP/W/12/Add.1 and Corr.1.
  37. See WTO documents TN/C/W/14/Add.2, JOB(05)61/Add.2 and TN/C/W/26.
  38. A compilation of issues raised and views expressed is contained in WTO document TN/C/W/25-WT/GC7W/546.
  39. WIPO organizes such symposia every other year in cooperation with a host government. The presentations at these symposia have been published by WIPO, between 1988 and 1999 in book form and thereafter on the WIPO website.
  40. The original article “Uncorking Success”, published in *The Economist* of 21 December 2002, was published in the adapted version – quoted here – in “Geographical Indications as Trade-Related Intellectual Property”, Discussion Paper, Asia-Pacific Trade and Investment Initiative, UNDP regional Centre in Colombo, January 2007.
  41. Matthijs Geuze, “Let’s Have An Other Look at the Lisbon Agreement – its Terms in their Context and in the Light of its Object and Purpose.” WIPO International Symposium on Geographical Indications, Beijing, China, 26-28 June 2007; and “International Registration of GIs: Building on Existing Systems.” WIPO International Symposium on Geographical Indications, Parma, Italy, 27-29 June 2005.

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