
**Council for Trade-Related Aspects of
Intellectual Property Rights**

Original: English

**PROPOSAL FOR A MULTILATERAL SYSTEM FOR NOTIFICATION AND
REGISTRATION OF GEOGRAPHICAL INDICATIONS BASED
ON ARTICLE 23.4 OF THE TRIPS AGREEMENT**

Revision

Communication from Canada, Chile, Japan and the United States¹

The present document reproduces a revised version of the proposal for a multilateral system for notification and registration of geographical indications based on Article 23.4 of the TRIPS Agreement circulated in document IP/C/W/133, which has been received from the delegations of Canada, Chile, Japan and the United States, on 8 July 1999.

Introduction

Article 23.4² of the TRIPS Agreement calls for negotiations to be undertaken in the TRIPS Council aimed at establishing a multilateral system of notification and registration of geographical indications for wines eligible for protection in the territory of WTO Members participating in the system. The paragraph makes clear that the purpose of the system is to facilitate the protection of geographical indications for wines under Section 3 of Part II of the TRIPS Agreement. The Singapore Ministerial Declaration extended the scope of preliminary work to include issues relevant to a notification and registration system for spirits.³ During the meeting of the TRIPS Council in April 1999, Australia recommended that, in order to facilitate work and avoid confusion, discussion of the nature of the system for notification and registration of geographical indications be separated from discussion of the scope of coverage of such system. A number of other delegations supported the recommendation. In keeping with that recommendation, this proposal, where necessary for clarity, uses the expression "covered products" or similar expressions, rather than referring to particular products. Where possible, reference to products has been avoided altogether in order to focus discussion on the system for notification and registration of geographical indications.

During the discussions in the TRIPS Council under Article 23.4, a number of delegations have noted that the purpose of any system established under Article 23.4 is to facilitate protection of geographical indications. These delegations expressed the view that any system that might be

¹ The original proposal, circulated as document IP/C/W/133, was submitted by Japan and the United States only.

² Article 23.4 states: "In order to facilitate the protection of geographical indications for wines, negotiations shall be undertaken in the Council for TRIPS concerning the establishment of a multilateral system of notification and registration of geographical indications for wines eligible for protection in those Members participating in the system."

³ Ministers agreed that " ... the Council will initiate ... preliminary work on issues relevant to the negotiations specified in Article 23.4 of the TRIPS Agreement ... for wines. Issues relevant to a notification and registration system for spirits will be part of this preliminary work."

developed should not establish new obligations or diminish the rights and obligations contained in Section 3 of Part II of the TRIPS Agreement; should accommodate the various systems for protection of geographical indications existing in all WTO Members' legal regimes; should not impose undue burdens or costs on the WTO Secretariat; and should be voluntary and non-burdensome for the WTO Members choosing to participate. Finally, a number of delegations asserted that any system of notification and registration should involve the voluntary submission of information to the Secretariat and that such information should be made available for WTO Members' use.

Reasons for Proposal

In order to further development of a system that meets each of the identified criteria, Canada, Chile, Japan and the United States propose the following system for notification and registration of geographical indications for covered products eligible for protection in participating WTO Members' territories. We believe that this system fulfils the criteria that have been identified by a number of WTO Members as appropriate for the system of notification and registration to be negotiated under Article 23.4.

- The proposed system will simply facilitate the protection of geographical indications for participating WTO Members.
- The proposed system will not impose substantive obligations regarding protection of geographical indications beyond those currently set out in Section 3 of Part II of the TRIPS Agreement.
- The proposed system will allow voluntary participation, as reflected by the words in Article 23.4, "in those Members participating in the system". A WTO Member is not required to participate in this system to obtain full protection under the TRIPS Agreement for its geographical indications.
- The proposed system will recognize and accommodate the various regimes of WTO Members for protection of geographical indications described in the responses to the Article 24.2 questionnaire, if those regimes are consistent with the TRIPS Agreement.
- The proposed system will be simple and not costly for those choosing to participate.
- The proposed system will allow participating WTO Members and others to use information submitted without undue burden or cost.
- The proposed system will not impose undue administrative burdens and costs on the WTO Secretariat.

**MULTILATERAL SYSTEM FOR NOTIFICATION AND REGISTRATION
OF GEOGRAPHICAL INDICATIONS
ESTABLISHED UNDER ARTICLE 23.4 OF THE TRIPS AGREEMENT**

1. Notification

WTO Members wishing to participate in the system may submit⁴ to the Secretariat a list of domestic geographical indications for covered products recognized as eligible for protection under their national legislation, indicating for each indication the date, if any, on which protection will expire.

In the interests of transparency and to ease use of the register by other WTO Members participating in other multilateral agreements for the protection of geographical indications, those WTO Members participating in such agreements must indicate the other multilateral agreements under which each of the notified geographical indications is protected.

Subsequent notifications shall include only additional domestic geographical indications eligible for protection under a WTO Member's national legislation and any previously notified geographical indication no longer eligible for such protection.

To minimize the administrative burden on the WTO Secretariat, notifications shall be made [semi-annually][annually].

WTO Members may decide to participate or discontinue participation in the system at any time.

2. Registration

Following receipt of notifications, the Secretariat shall compile a database of all notified geographical indications for covered products⁵. Copies of the lists of notified geographical indications shall be distributed to all WTO Members. In accordance with Article 23.3, the same or similar geographical indication may be submitted by more than one WTO Member, provided the geographical indication is recognized by each notifying WTO Member in accordance with its national regime for protecting geographical indications. The lists shall indicate with respect to each indication the WTO Member that notified the indication; the expiration date of protection, if any; and any other multilateral agreement for geographical indications under which the indication is protected. To ensure maximum transparency, the Secretariat shall, in addition to distributing copies of the lists to WTO Members, make the lists accessible on the WTO's Internet Web Site (www.wto.org).

After the initial notification, the WTO Secretariat shall revise the database of notified geographical indications, adding or deleting indications in accordance with WTO Members' notifications.

3. Legal Effects under National Legislation

WTO Members choosing to participate in the system will agree to refer to, along with other sources of information, the WTO lists of notified geographical indications for covered products when making decisions to provide protection for geographical indications for such products in accordance

⁴ The format for submissions shall be established through negotiations or, if the WTO Members so agree, by the Secretariat.

⁵ The Secretariat shall have no discretion to decline to accept a geographical indication notified by a WTO Member.

with their national legislation. Information obtained from the WTO lists would be considered in making those decisions in accordance with that national legislation.

WTO Members not participating in the system will be encouraged to refer to the WTO lists, along with other sources of information, in making similar decisions under their national legislation in order to base such decisions on the most complete information available.

Appeals from, or objections to, any decisions granting or rejecting protection for particular geographical indications, whether notified to the WTO or not, shall occur at the national level at the request of appropriate interested parties in accordance with each WTO Member's national legislation. Should any appeal or objection result in a final decision that a domestic geographical indication for a covered product is ineligible for protection within the notifying WTO Member's territory, that WTO Member shall so notify the WTO Secretariat during the subsequent notification period.

Any geographical indication for covered products established in accordance with national legislation is entitled to protection under Section 3 of Part II of the TRIPS Agreement, whether or not it is registered in the WTO database.

4. Review

The TRIPS Council shall conduct a review of the operation of the multilateral system for notification and registration of geographical indications for covered products two years after establishment to determine its effectiveness in assisting participating WTO Members in protecting geographical indications for such products in accordance with Section 3 of Part II of the TRIPS Agreement.
