

Draft modalities texts on TRIPS

June 30, 2008

GI-Register:

Members agree to establish a register open to geographical indications for wines and spirits protected by any of the WTO Members as per TRIPS. Following receipt of a notification of a geographical indication, the WTO Secretariat shall register the notified geographical indication on the register. The elements of the notification will be agreed.

Each WTO Member shall provide that domestic authorities will consult the Register and take its information into account when making decisions regarding registration and protection of trademarks and geographical indications in accordance with its domestic procedures. In the framework of these procedures, and in the absence of proof to the contrary in the course of these, the Register shall be considered as a *prima facie* evidence that, in that Member, the registered geographical indication meets the definition of "geographical indication" laid down in TRIPS Article 22.1. In the framework of these procedures, domestic authorities shall consider assertions on the genericness exception laid down in TRIPS article 24.6 only if these are substantiated.

Text based negotiations shall be intensified, in the Special Sessions of the TRIPS Council and as an integral part of the Single Undertaking, to amend the TRIPS Agreement in order to establish the Register accordingly.

TRIPS/CBD disclosure:

Members agree to the inclusion in the TRIPS Agreement of a mandatory requirement for the disclosure of the country providing/source of genetic resources, and/or associated traditional knowledge for which a definition will be agreed, in patent applications. Patent applications will not be processed without completion of the disclosure requirement.

Members agree to define the nature and extent of a reference to Prior Informed Consent and Access and Benefit Sharing.

Text based negotiations shall be undertaken, in Special Sessions of the TRIPS Council, and as an integral part of the Single Undertaking, to implement the above. Additional elements contained in Members' proposals may also be raised in these negotiations.

GI-Extension:

Members agree to the extension of the protection of Article 23 of the TRIPS Agreement to geographical indications for all products (including the extension of the Register).

Text based negotiations shall be undertaken, in Special Sessions of the TRIPS Council and as an integral part of the Single Undertaking, to amend the TRIPS Agreement in order to extend the protection of Article 23 of the TRIPS Agreement to geographical indications for all products as well as to apply to these the exceptions provided in Article 24 of the TRIPS Agreement *mutatis mutandis*.
