

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

**SIDE-BY-SIDE PRESENTATION OF PROPOSALS**

Prepared by the Secretariat

1. The attached table sets out, side-by-side, the three proposals that have been submitted in written form to the Special Session of the Council for TRIPS for a multilateral system of notification and registration of geographical indications for wines and spirits: Hong Kong, China's proposal for an "Alternative Model for a Multilateral System of Notification and Registration of Geographical Indications Established under Article 23.4 of the TRIPS Agreement", contained in Annex A of TN/IP/W/8; the "Proposed Draft TRIPS Council Decision on the Establishment of the Multilateral System of Notification and Registration of Geographical Indications for Wines and Spirits", proposed by Argentina, Australia, Canada, Chile, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Japan, Mexico, New Zealand, Chinese Taipei and the United States, contained in TN/IP/W/10; and the European Communities' proposal for a "Multilateral System of Notification and Registration of Geographical Indications", contained in the Annex set out in TN/IP/W/11.
  2. In accordance with the mandate of the Special Session, set out in Article 23.4 of the TRIPS Agreement and paragraph 18 of the Doha Declaration, which is limited to the negotiation of the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits, this paper is limited to those elements that, in the view of the proponents of each proposal, are relevant to this mandate.
  3. This document has been prepared under the Secretariat's own responsibility and without prejudice to positions of Members and to their rights and obligations under the WTO.
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**SYNOPTIC TABLE OF WRITTEN PROPOSALS FOR A MULTILATERAL SYSTEM OF NOTIFICATION AND REGISTRATION  
OF GEOGRAPHICAL INDICATIONS FOR WINES AND SPIRITS**

**TN/IP/W/8**  
(Hong Kong, China)

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(Joint Proposal Group)

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***PREAMBLE\****

*Having regard* to paragraph 4 of Article 23 of the Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPS Agreement"), which provides that "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";

*Having regard* to paragraph 18 of the Doha Ministerial Declaration (WT/MIN(01)/DEC/1), which states 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 [Ministers] 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";

*Noting* that the purpose of the multilateral system of notification and registration of geographical indications for wines and spirits shall be to facilitate the protection of these geographical indications,

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\* Secretariat's note: The headings and sub-headings appearing in bold italics in this table have been inserted by the Secretariat to facilitate comparison of the proposals and are without prejudice to the headings that may be used in the text embodying the results of the negotiations.

**TN/IP/W/8**  
(Hong Kong, China)

**TN/IP/W/10**  
(Joint Proposal Group)

**TN/IP/W/11**  
(European Communities)

consistent with Part II, Section 3 of the TRIPS Agreement;

*Noting* that the system shall not confer any rights with respect to the geographical indications registered in the system;

*Noting* that the system shall not prejudice any rights or obligations of a Member under the TRIPS Agreement;

*Recognizing* that, as provided for in paragraph 1 of Article 1 of the TRIPS Agreement, each Member is free to determine the appropriate method of implementing the provisions of that Agreement within its own legal system and practice, and that systems for protecting geographical indications include: trademark law, including collective, guarantee or certification marks, specific protection systems for geographical indications, and other relevant laws such as those pertaining to unfair competition and consumer protection.

**LEGAL FORM**

The Council for Trade-Related Aspects of Intellectual Property Rights ("the Council for TRIPS")

Annex to the TRIPS Agreement (Article 23.4)

[Preamble]

*Decides as follows:*

1. Establishment of the system

A multilateral system for the notification and registration of geographical indications for wines and spirits ("the system") is hereby established.

## ***PARTICIPATION***

### **E. Participation**

Participation in the system is voluntary which means that:

1. Members should be free to participate and notify GIs protected in their territories.
2. The obligation to give legal effect to registrations under the system will only be binding upon Members choosing to participate in the system.

## ***NOTIFICATION***

### **A. Notification**

1. Members wishing to participate in the system ("Participating Members")<sup>1</sup> may notify the administering body<sup>2</sup> of any domestic geographical indications for wines and spirits which are protected under their domestic legislation, judicial decisions or administrative measures.

<sup>1</sup> It is assumed that the Participating Members will be making the notifications. It may become necessary to address the issue whether individual owners of geographical indications should be allowed to make notifications directly.

<sup>2</sup> So far the proposals from Members appear to be suggesting that the WTO Secretariat should be responsible for the operation of the system.

### **2. Participation**

2.1 In accordance with paragraph 4 of Article 23 of the TRIPS Agreement, participation in the System established in this Decision is strictly voluntary, and no Member shall be required to participate.

2.2 In order to participate in the System, a Member shall make a written notification to the WTO Secretariat of its intention to participate.

### **3. Notification**

3.1 Each Participating Member may notify to the WTO any geographical indication that identifies a wine or a spirit originating in that Member's territory.

### **1. Participation**

Each WTO Member may elect to participate by notifying geographical indications into the multilateral system of notification and registration of geographical indications ("the system") established by this [instrument] by [action to be taken]...<sup>1</sup> ("the participating Member"). Members that do not notify geographical indications into the system will be deemed to be "non-participating Members".

<sup>1</sup> The procedure relating to participation will depend on the legal form of the multilateral system.

### **2. Notification**

#### *Substantive conditions*

2.1 Each participating Member shall be entitled to notify to the [body administering the system] (the "administering body") each geographical indication which:

- (a) meets the definition of a geographical indication specified in paragraph 1 of Article 22 of the TRIPS Agreement; and
- (b) is protected in its territory and has not fallen into disuse in that territory.

**TN/IP/W/8**  
**(Hong Kong, China)**

Consideration may be given to whether other suitable international organizations should be charged with the responsibility of operating the system.

**TN/IP/W/10**  
**(Joint Proposal Group)**

**TN/IP/W/11**  
**(European Communities)**

***Mandatory elements in notifications***

2. Notifications submitted shall include the following:

- (a) Details of the geographical indication (e.g. the name, the place or area, quality, reputation or other characteristics, and goods indicated by the geographical indication).
- (b) The name and contact details of the owner of the geographical indication.
- (c) The Participating Member making the notification.
- (d) Details of the office competent to receive correspondence from the administering body.
- (e) Either:  
A statement executed under seal by the government of the notifying Member to the effect that the geographical indication:
  - (i) conforms with the definition in Article 22.1 of the TRIPS Agreement;
  - (ii) is protected by law and has not fallen into disuse in the territory of the notifying

3.2 The notification shall:

- (a) identify the notifying Member;
- (b) identify the geographical indication as it appears on wine or spirit goods in the territory of the notifying Member;
- (c) identify the territory, region or locality of the notifying Member from which the wine or spirit bearing the notified geographical indication is identified as originating;
- (d) when the geographical indication is in characters other than Latin characters, include, for information purposes only, a transliteration into Latin characters of the geographical indication using the phonetics of the language in which the notification is made ("transliteration"); and
- (e) specify whether the indication refers to a wine or spirit.

*Contents of the notification*

2.2 The notification shall include:

- (a) the geographical indication itself in the language or languages in which it is protected in its country of origin and, where the geographical indication is in characters other than Latin characters, a transliteration into Latin characters using the phonetics of the language in which the notification is made;
- (b) any available translation of the geographical indication itself into the language in which the notification is made if the language or languages in which the geographical indication is protected in the country of origin is not one of the languages referred to in paragraph 2.4 below;
- (c) a reference to the legal instrument by which the geographical indication is protected in the notifying Member, for example the relevant national or regional legislative or administrative text or the relevant judicial decision, including, where applicable, the registration number of the geographical indication in the notifying Member; where the text of

**TN/IP/W/8**  
**(Hong Kong, China)**

Participating Member; and

- (iii) a statement by the government of the notifying Participating Member that the geographical indication is for wines and/or spirits.

Or:

The relevant domestic legislation or judicial decisions protecting the geographical indication in the territory of the notifying Participating Member.

- (f) Any commencement or expiry date of protection under the relevant domestic legislation, administrative measures or judicial decisions of the notifying Member.
- (g) The requisite fee.<sup>3</sup>

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<sup>3</sup> The user-pays principle applies. The system will be run on a full-cost recovery basis. Consideration might be given to special and differential treatment in this regard for least-developed country Members and developing country Members.

**TN/IP/W/10**  
**(Joint Proposal Group)**

3. Notification

3.3 The notification may also include:

- (a) information concerning the date on which the geographical indication received protection in the territory of the notifying Member and the date, if any, on which protection will expire; and

**TN/IP/W/11**  
**(European Communities)**

the legal instrument in question has already been notified to the WTO and circulated as a TRIPS Council document, reference shall be made to the relevant TRIPS Council document;

- (d) where available, the date on which the geographical indication first received protection in the Member making the notification (the "notifying Member") and, if applicable, any date for the expiration of the protection currently accorded; and
- (e) the geographical area from which the good must originate in order to be eligible to be identified by the geographical indication.

2. Notification

2.3 The notification may also include any other information that the notifying Member considers might be useful in facilitating protection of the geographical indication, such as:

- (a) suggested translations of the geographical indication in languages other than the language or languages

***Optional elements in notifications***

**TN/IP/W/8**  
(Hong Kong, China)

**TN/IP/W/10**  
(Joint Proposal Group)

**TN/IP/W/11**  
(European Communities)

- (b) information concerning how the notified geographical indication is protected in the territory of the notifying Member.

referred to in paragraph 2.2(a) and 2.2(b) above;

- (b) information on the natural or legal persons that have, according to the law of the notifying Member, the right to use the geographical indication; these natural or legal persons may be designated collectively or, where collective designation is not possible, by name;
- (c) any bilateral, regional and/or multilateral agreement under which the geographical indication is protected, for information purposes.

***Format and other aspects of notifications***

3. Notifications may be made at any time. However, the administering body may fix the maximum number of applications to be processed each year, having regard to the administrative capacity and resources constraints of the administering body.

3.4 The notifications of each geographical indication shall be made on the basis of a standard form to be adopted by the TRIPS Council prior to the entry into operation of the System.

***Form of the notification***

2.5 Notifications shall be made on the basis of a format to be adopted by the Council for TRIPS prior to the entry into operation of the system. The format of the notification shall be such as to limit notifications, wherever possible, to no longer than two pages, not counting any attached or cross-referenced texts. The [committee responsible for managing the system] shall have the authority to modify this format as it considers appropriate.

**TN/IP/W/8**  
(Hong Kong, China)

**TN/IP/W/10**  
(Joint Proposal Group)

**TN/IP/W/11**  
(European Communities)

*Language of the notification*

2.4 The notification shall be made in English, French or Spanish. The notification, with the exception of the geographical indication itself, shall be translated by the administering body into the other two languages.

*Circulation to Members and publication of notification*

2.6. The administering body shall, immediately after receipt of a notification, circulate it to all Members and publish it on the Internet. The administering body shall also transmit any notification regarding trademarks which contain or consist of a notified geographical indications, pursuant to paragraphs 3.3, 4(c) and 5(b) below.

**REGISTRATION**

***Formality examination***

**B. Registration**

1. After receiving notifications from Participating Members, the administering body shall undertake formality examination of the notifications and ensure that documents submitted are in order. The examination process does not involve substantive examination.

2. The administering body may require the notifying Participating Member to rectify any deficiency if it considers the documentation submitted fails to meet the stipulated minimum formal requirements.



***Reservations***

3. Registration

3.1 The administering body shall register notified geographical indications on the Register of Geographical Indications ("the Register") in accordance with the following procedures:

3.2 Any Member may, within 18 months from the date on which the notification was circulated and published, lodge a reservation with the administering body to the effect that it considers the notified geographical indication not to be eligible for protection in its territory for any of the grounds mentioned in this paragraph or that it has serious doubts in such respect. The reservation shall identify the applicable ground or grounds and be duly substantiated. A reservation may be based on any of the following grounds:

- (a) the notified geographical indication does not meet the definition of a geographical indication specified in paragraph 1 of Article 22 of the TRIPS Agreement;
- (b) the notified geographical indication, although literally true as to the territory, region or locality in which the goods identified by it originate, falsely represents to the public that the goods originate in its territory, as provided for in paragraph 4 of Article 22 of the TRIPS Agreement;

- (c) the notified geographical indication is identical with the term customary in common language as the common name for a wine or spirit in the territory of the Member lodging the reservation ("the challenging Member") or, with respect to products of the vine, with the customary name of a grape variety existing in the territory of the challenging Member as of the date of entry into force of the WTO Agreement, ...\* as provided for in paragraph 6 of Article 24 of the TRIPS Agreement.

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\* *Secretariat's note: See paragraph 2 of the cover page.*

Articles 24.4 and 24.5 of the TRIPS Agreement cannot form the basis of a reservation but may be invoked under domestic law at any time if the legislation so permits.

3.3 For information purposes only, if so requested by a participating Member filing a notification, a WTO Member will also notify the existence, if any, of a trademark that contains or consists of the notified geographical indication.

3.4 Where a reservation has been lodged in respect of a notified geographical indication within the 18-month period referred to in paragraph 3.2 above, the notifying Member and the challenging Member shall, before the expiry of that period, enter into negotiations aimed at resolving the disagreement if so requested by the notifying country, in line with Article 24.1

**TN/IP/W/8**  
(Hong Kong, China)

**TN/IP/W/10**  
(Joint Proposal Group)

**TN/IP/W/11**  
(European Communities)

of the TRIPS Agreement.

- 3.5(a) The administering body shall, at the expiry of the 18-month period referred to in paragraph 3.2 above, register the notified geographical indication on the Register.
- (b) To the extent that a reservation lodged in respect of that geographical indication has not been withdrawn by the challenging Member at the time of registration, the registration shall be accompanied by an annotation referring to the reservation.
- (c) Where the reservation is withdrawn by the challenging Member after the geographical indication has been registered, the administering body shall record the withdrawal on the Register.

**Registration**

B. Registration

3. Once the administering body is satisfied that the formalities and documents submitted are in order and the requisite fee has been paid, the geographical indications shall be recorded in the Register of Geographical Indications. For each geographical indication recorded on the Register, the administering body shall, as soon as practicable, issue an official copy of the Certificate of Registration to the relevant Participating Member. Certificates of registration may be issued in electronic form.

4. Registration on the Database

4.1 The WTO Secretariat shall, following receipt of the notification, register the notified geographical indication on the Database of Geographical Indications for Wines and Spirits ("the Database").

4.2 The registration of a geographical indication on the Database shall consist of the recording of the information provided under paragraph 3.2.

3. Registration

- 3.5(a) The administering body shall, at the expiry of the 18-month period referred to in paragraph 3.2 above, register the notified geographical indication on the Register.
- (b) To the extent that a reservation lodged in respect of that geographical indication has not been withdrawn by the challenging Member at the time of the registration, the registration shall be accompanied by an annotation referring to the reservation.

- (c) Where the reservation is withdrawn by the challenging Member after the geographical indication has been registered, the administering body shall record the withdrawal on the Register.

### *Content of registrations*

#### B. Registration

4. The Register of Geographical Indications shall contain the following information in respect of each registered geographical indication:

- (a) The name of the geographical indication.
- (b) The place or area, other quality, reputation or characteristics, and the goods indicated by the geographical indication.
- (c) The name and contact details of the owner of the geographical indication.
- (d) The Participating Member making the notification.
- (e) Details of the office competent to receive correspondence from the administering body.
- (f) The relevant statement executed under seal by the government of the notifying Participating Member (as in A.2.(e) above) or the relevant domestic legislation, judicial decisions or administrative measures protecting

#### 4. Registration on the Database

4.2 The registration of a geographical indication on the Database shall consist of the recording of the information provided under paragraph 3.2.

#### 3. Registration

*Form of the Register and contents of registration*

3.7 The registration of a geographical indication shall consist of the recording of:

- (a) the geographical indication itself, as notified under paragraph 2.2(a) above, together with any translation submitted under paragraph 2.2(b) or paragraph 2.3(a) above;
- (b) the notifying Member;
- (c) the reference to the legal instrument referred to in paragraph 2.2(c) above;
- (d) any date(s) indicated under paragraph 2.2(d) above;
- (e) a reference to the document containing the notification of the geographical indication;
- (f) any annotations relating to reservations lodged in respect of the geographical indication; and
- (g) any other information that the [committee responsible for managing the system] may decide to include in

**TN/IP/W/8**  
(Hong Kong, China)

the geographical indication.

- (g) Any commencement or expiry date of protection under the domestic legislation, administrative measures or judicial decisions of the notifying Participating Member.
- (h) A statement to the effect that the date of notification and registration shall not be taken as providing evidence of priority between conflicting claims in respect of identical or similar geographical indications.
- (i) The date of registration.
- (j) The serial number of registration.

***Form of register***

**B. Registration**

6. The Register (which should be kept up-to-date by the administering body) shall be made available on the WTO Internet website for access and search by the public. The administering body shall distribute a copy of the Register to every Participating Member on an annual basis.

**TN/IP/W/10**  
(Joint Proposal Group)

**4. Registration on the Database**

4.3 The Database shall be searchable on-line, free of charge, accessible to all WTO Members and the public, and provide a means to access the original notifications.

4.4 With the exception of each notified geographical indication itself and, as applicable, its transliteration, the Database shall be available in all three WTO languages.

**TN/IP/W/11**  
(European Communities)

the registration.

**3. Registration**

***Form of the Register and contents of registration***

3.6 The Register shall take the form of a searchable on-line database, freely accessible to all Members and to the public.

***CONSEQUENCES OF REGISTRATION (PROPOSED "EFFECT OF REGISTRATION"/"PARTICIPATION", "PROCEDURES TO BE FOLLOWED BY PARTICIPATING MEMBERS"/"ACCESS FOR OTHER MEMBERS" OR "LEGAL EFFECTS IN PARTICIPATING MEMBERS"/"LEGAL EFFECTS IN NON-PARTICIPATING MEMBERS"/"LEGAL EFFECTS IN LEAST-DEVELOPED COUNTRY MEMBERS")***

***In participating Members***

D. Effect of registration

1. The Certificate of Registration (or such copies of the Certification as domestic laws may permit) shall be proof of inclusion of the relevant geographical indication in the Register of Geographical Indications in any domestic courts, tribunals or administrative bodies of the Participating Members in any judicial, quasi-judicial or administrative proceedings related to the geographical indication.

2. Registration of an indication on the Register shall be admitted as prima facie evidence to prove:

- (a) ownership of the indication;
- (b) that the indication satisfies the definition in Article 22.1 of the TRIPS Agreement as a geographical indication; and
- (c) that the indication is protected in the country of origin (i.e. Article 24.9 of the TRIPS Agreement does not apply)

in any domestic courts, tribunals or administrative bodies of the Participating Members in any judicial, quasi-judicial or administrative proceedings related to the

5. Procedures to be Followed by Participating Members

Each Participating Member commits to ensure that its procedures include the provision to consult the Database when making decisions regarding registration and protection of trademarks and geographical indications for wines and spirits in accordance with its domestic law.

4. Legal effects in participating Members

Each participating Member which has not lodged a reservation in respect of a notified geographical indication within the 18-month period referred to in paragraph 3.2 above, or which has withdrawn such a reservation, shall:

- (a) subject to subparagraph (b) below, provide the legal means for interested parties to use the registration of the geographical indication as a rebuttable presumption of the eligibility for protection of that geographical indication;
- (b) not refuse protection of the registered geographical indication on any of the grounds referred to in paragraph 3.2(a), (b) and (c) above;
- (c) notify the [administering body] of any applications for trademark registration that contain or consist of a geographical indication that has been registered or applied for, if the notifying participating Member has required so.

**TN/IP/W/8**  
(Hong Kong, China)

**TN/IP/W/10**  
(Joint Proposal Group)

**TN/IP/W/11**  
(European Communities)

geographical indication. The issues will be deemed to have been proved unless evidence to the contrary is produced by the other party to the proceedings. In effect, a rebuttable presumption is created in relation to the above three issues.<sup>5</sup>

3. Any of the facts intended to be proved by the prima facie evidence in paragraph D.2 above may be rebutted by evidence to the contrary. Members may further provide, if their legal system so permits, that costs may be awarded against the party who has unsuccessfully challenged the prima facie evidence.<sup>6</sup>

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<sup>5</sup> For jurisdictions where there is a distinction between legal burden and evidential burden of proof, the proposed legal tool will shift the evidential burden of proof on issues (a)-(c) mentioned in this paragraph.

<sup>6</sup> Such a provision may help to deter potential abuse of the right to challenge the prima facie evidence on the basis of a Certificate of Registration.

4. For the avoidance of doubt:

- (a) A Participating Member may refuse protection of a geographical indication in accordance with its domestic laws, if any of the grounds or exceptions under Articles 22 to 24 of the TRIPS Agreement is found to be applicable by its domestic courts, tribunals or administrative bodies having regard to the relevant local circumstances.

**TN/IP/W/8**  
(Hong Kong, China)

- (b) Decisions of the domestic courts, tribunals or administrative bodies of Participating Members shall only have territorial effect.
- (c) The admittance of the prima facie evidence is not intended to affect the operation of other presumptions which may be applicable under domestic laws.

***In non-participating Members***

E. Participation

2. The obligation to give legal effect to registrations under the system will only be binding upon Members choosing to participate in the system.

**TN/IP/W/10**  
(Joint Proposal Group)

6. Access for Other Members

Members who choose not to participate are encouraged, but are not obliged, to consult the Database in making decisions under their domestic law involving registration or protection of trademarks and geographical indications for wines and spirits.

**TN/IP/W/11**  
(European Communities)

5. Legal effects in non-participating Members

Each non-participating Member which has not lodged a reservation in respect of a notified geographical indication within the 18-month period referred to in paragraph 3.2 above, or which has withdrawn such a reservation, shall

- (a) not refuse protection of the registered geographical indication for any of the grounds referred to in paragraph 3.2(a), (b) and (c) above;
- (b) notify the [administering body] of any applications for trademark registration that contain or consist of a geographical indication that has been registered or applied for, if the notifying participating Member has required so.



**TN/IP/W/8**  
(Hong Kong, China)

**TN/IP/W/10**  
(Joint Proposal Group)

**TN/IP/W/11**  
(European Communities)

*In least-developed country Members*

6. Legal effects in least-developed country Members

With respect to any least-developed country Member, any legal effect referred to in paragraphs 4 and 5 above shall only become applicable when that Member is required to apply the provisions of Section 3 of Part II of the TRIPS Agreement.

***DURATION AND RENEWALS OF REGISTRATIONS***

C. Updating of the multilateral register

1. Initial registrations shall be valid for a period of 10 years. Subject to the payment of a specified fee, Participating Members may submit a request to the administering body for the renewal of registrations. Each renewed term shall be a further period of 10 years, and there shall be no limit on the number of times renewals can be made.

2. Participating Members requesting renewal of a geographical indication on the Register shall submit the information set out in paragraph A.2 above, subject to any factual changes that have occurred since the original registration or subsequent amendment. Such applications shall be subject to a formality examination as described in Part B of this Annex.

**MODIFICATIONS AND WITHDRAWALS OF NOTIFICATIONS AND REGISTRATIONS**

B. Registration

5. The administering body shall notify the Participating Members of any new or amended registrations. This may be done by electronic means.

C. Updating of the multilateral register

3. The relevant Participating Members shall, as soon as possible, notify the administering body of any amendments or corrections to the registrations on the Register. The administering body shall allow such amendments or corrections to the registrations if it is satisfied that the notification is in order and a specified fee has been paid.

5. If any registered geographical indications are no longer protected or have fallen into disuse in the country of origin, the Participating Member who submitted the original application shall notify the administering body and such geographical indications shall be removed from the Register accordingly.

6. Any Participating Member may notify the administering body that a registered geographical indication is refused protection by the courts, tribunals or administrative bodies in its country or territory on grounds permitted under Articles 22 to 24 of the TRIPS Agreement. The administering body shall, as soon as possible, upon receipt of such a notice, transmit it to the Participating Member who submitted the original application and, at the

7. Modifications of Notifications and Registrations of Geographical Indications

Each Participating Member may, at any time, submit to the WTO amended notifications of geographical indications. The provisions of paragraphs 3 to 5 above shall apply to amended notifications.

8. Withdrawals

8.1 Each Participating Member may, at any time, withdraw a notification it has made earlier of a geographical indication. Any withdrawal shall be notified to the WTO Secretariat in writing.

8.2 The previously-registered geographical indication for which the notification of withdrawal was made shall thereupon be removed from the Database.

7. Modifications of notifications and registrations

Each participating Member may, at any time, notify the modification of a notification it has made earlier of a geographical indication. The provisions of paragraphs 2 to 6 above shall apply to the notification of such modifications.

8. Withdrawals

8.1 Each participating Member may, at any time, withdraw a notification it has made earlier of a geographical indication. If the geographical indication ceases to fulfil the conditions for protection, including the requirement that a geographical indication be protected in the territory of the notifying Member and has not fallen into disuse in that territory (Article 24.9 of the TRIPS Agreement), the notifying Member shall withdraw the relevant notification. Any withdrawal shall be notified to the administering body.

8.2 The administering body shall, immediately after receipt of the notification of withdrawal of a notification of a geographical indication by a Member, circulate the notification of withdrawal to all Members and publish it on the Internet. Any registration of the geographical indication shall be cancelled from the Register.

**TN/IP/W/8**  
(Hong Kong, China)

**TN/IP/W/10**  
(Joint Proposal Group)

**TN/IP/W/11**  
(European Communities)

same time, record the refusal in the Register together with the reasons for refusal.<sup>4</sup>

<sup>4</sup> The recordal procedure is aimed at enhancing transparency. The decision of the domestic courts, tribunals or administrative bodies to refuse protection of a registered geographical indication shall only have binding effect within its territory.

***TERMINATION OF PARTICIPATION IN THE SYSTEM***

9. Termination of Participation

A Member may also terminate, at any time, its participation in the System. Any termination shall be notified to the WTO Secretariat in writing. Once a Member has terminated its participation in the System, all geographical indications previously notified by that Member shall be removed from the Database.

13. [Withdrawals from the system]

***FEES AND COSTS***

A. Notification

2. Notifications submitted shall include the following:

...

(g) the requisite fee.<sup>3</sup>

<sup>3</sup> The user-pays principle applies. The system will be run on a full-cost recovery basis. Consideration might be given to special and differential treatment in this regard for least-developed country Members and developing country Members.

9. Fees and costs

9.1 Each notification of a geographical indication or of the modification of that notification shall be subject to the payment of a fee. However, any participating least-developed country Member shall be exempted from the payment of such fees.

9.2 The amounts of the fees shall be fixed by the [committee responsible for managing the system] so as to cover all the expenses incurred by the administering body in connection with the administration of the system.

**TN/IP/W/8**  
(Hong Kong, China)

**TN/IP/W/10**  
(Joint Proposal Group)

**TN/IP/W/11**  
(European Communities)

9.3 The initial cost of setting up and administering the multilateral system shall be borne by the central budget of the administering body and subsequently reimbursed from the fees.

9.4 The participating Member may fix, at its own discretion, and collect, for its own benefit, a fee which it may require from the applicant for multilateral registration or from the holder of the multilateral registration in connection with the filing of the multilateral application [or the renewal of the multilateral registration].

9.5 The registration of a geographical indication shall be subject to the advance payment of a multilateral fee which shall include,

- (i) a basic fee;
- (ii) an individual fee.

9.6 The basic fee shall cover the costs described in paragraphs 9.2 and 9.3.

9.7 The individual fee shall cover the costs incurred by WTO Members requested to provide, for a given application,

- (a) the information indicated in paragraph 3.3 in a manner that would cover but not exceed the cost for a given Member to produce a search report indicating whether there are any trademarks containing or consisting of a notified geographical indication.

**TN/IP/W/8**  
(Hong Kong, China)

**TN/IP/W/10**  
(Joint Proposal Group)

**TN/IP/W/11**  
(European Communities)

- (b) the information regarding the monitoring regarding conflicting trademark applications subsequent to the registration of a geographical indication pursuant to paragraph 4(c) and 5(b) above.

9.8 WTO Members shall notify the national component of the individual fee which it wishes to receive, amount which may be changed later but may not be higher than the equivalent of the amount which the relevant administration of the WTO Member would be entitled to receive from a national applicant in the framework of a domestic procedure, where such an individual fee is payable. The notification of a national component should be based on a duly substantiated statement.

9.9 For each individual application, the WTO Secretariat will calculate the addition of 9.5(i) and (ii) above and indicate it to the applicant. The applicant WTO Member will pay those fees in advance.

9.10 WTO Members shall commit to provide trade-related technical assistance to developing and least-developed countries with a view to enabling them to profit and actively participate in the system.

**REVIEW**

F. Review

The notification and registration system shall be subject to review after [four] years from establishment of the system. In particular, the question of scope of participation should be revisited as part of the review.

**CONTACT POINT**

10. Contact point

Each Participating Member shall notify to the WTO a contact point, from which further information on geographical indications notified by that Member can be obtained. The WTO Secretariat shall publish the contact points in the Database.

14. [Review by competent committee]

10. Contact point

Each Member shall notify to the administering body a contact point at the national level, from which other Members can obtain clarifications or further information on geographical indications notified by that Member. The administering body shall circulate the notification to all Members and publish it on the Internet.

***ADMINISTERING BODY/OTHER BODIES***

A. Notification

1. ... the administering body<sup>2</sup>...

<sup>2</sup> So far the proposals from Members appear to be suggesting that the WTO Secretariat should be responsible for the operation of the system. Consideration may be given to whether other suitable international organizations should be charged with the responsibility of operating the system.

C. Updating of the multilateral register

4. The administering body shall be responsible for the compilation, maintenance and updating of the Register.

11. [Committee responsible for managing the system]

12. [Administering body]

***DATE OF ENTRY INTO OPERATION***

11. Date of entry into operation

15. [Date of entry into operation]

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