

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

SPECIAL SESSION OF THE COUNCIL FOR TRIPS

Report by the Chairman, Ambassador Manzoor Ahmad,
to the Trade Negotiations Committee

1. This report on the negotiations on the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits is submitted on the Chairman's own responsibility and is without prejudice to the position of any delegation and to the outcome of the negotiations.

2. Article 23.4 of the TRIPS Agreement provides that

"[i]n 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."

The mandate of the Special Session is set out in the first sentence of paragraph 18 of the Doha Ministerial Declaration, which reads as follows:

"18. 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."

In respect of the Special Session's and of certain other areas of negotiations, paragraph f of the General Council Decision of 1 August 2004 (WT/L/579) provides that

"... [t]he [General] Council reaffirms Members' commitment to progress in all of these areas of the negotiations in line with the Doha mandates."

3. Since the Fifth Ministerial Conference in 2003, the Special Session has held eight meetings: on 7 April, 18 June, 23 September, 30 November 2004, and on 11 March, 16-17 June, 16 September and 27 October 2005. The Chairman has also held a number of informal consultations, either in an open-ended mode or in other formats. The minutes of the formal meetings are contained in document series TN/IP/M/-.

4. The work of the Special Session this year has been characterized by an enhanced level of activity, with the tabling of submissions spelling out in legal form proposals for a multilateral system. A detailed and useful discussion of the issues and proposals has taken place, with an exchange of questions and answers on many specific points. This has been aided by document TN/IP/W/12, prepared by the Secretariat, which sets out side by side the elements of the three proposals tabled that, in the view of the proponents of each proposal, are relevant to the mandate of the Special Session: Hong Kong, China's proposal, contained in Annex A of TN/IP/W/8; the Joint Proposal of Argentina, Australia, Canada, Chile, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Japan, Mexico, New Zealand, Paraguay, Chinese Taipei and the United States in TN/IP/W/10 and Add.1; and the European Communities' proposal, contained in the Annex set out in TN/IP/W/11.

5. Despite the active engagement of delegations and the detailed discussion of the proposals, it is a matter of concern that the level of convergence in these negotiations has not significantly expanded in the period since the last Ministerial Conference. In particular, important differences remain on two key issues:

- the extent to which legal effects at the national level should be consequent on the registration of a geographical indication for a wine or a spirit in the system; and
- the question of participation, including whether any legal effects under the system should apply in all WTO Members or only in those opting to participate in the system.

6. Further work is also required on a range of other points, including on questions of costs and administrative burdens for WTO Members, in particular for developing countries. It will be difficult to make major headway on these issues, together with other details of the mechanism to be established, without greater convergence on the two key issues mentioned above. Some delegations have indicated that it would help the process if Ministers could provide guidance at the Sixth Ministerial Conference on how and where this convergence could be found, since in their view the Special Session's mandate is not specific enough to determine the issue. Some other delegations have opposed this on the ground that the existing mandate in Article 23.4 of the TRIPS Agreement and paragraph 18 of the Doha Ministerial Declaration is clear and that convergence should be found within the existing mandate.

7. On the basis of the consultations held, it is the Chairman's understanding that the points on which there is general support for recommendations to the TNC at this stage are that, at the Sixth Ministerial Conference, Ministers take note of the report of the Chairman of the Special Session of the Council for TRIPS setting out the progress in the negotiations on the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits, as mandated in Article 23.4 of the TRIPS Agreement and paragraph 18 of the Doha Ministerial Declaration, (document TN/IP/14) and agree to intensify these negotiations in order to complete them within the overall time-frame for the conclusion of the negotiations foreseen in the Doha Ministerial Declaration.
