

**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 delegations. This report covers the work of the Special Session at its formal meetings of 12-13 June and 19 July as well as at informal consultations held in various formats in recent months.
2. Further work has taken place during this period on the basis of the list of priority concerns that was drawn up in March, to which I referred in my previous report to the TNC, and the side-by-side document (TN/IP/W/12).¹ This has been useful in further clarifying the issues to be resolved in these negotiations.
3. In regard to notifications under the system to be negotiated, the Special Session has had intensive informal discussions taking up in turn each of the elements that have been suggested in the proposals on the table. To facilitate this, I shared with participants my own assessment of the state of the work on this matter, identifying six elements on which there seemed to be a significant measure of common thinking, even if the precise language differed², and seven others on which there appeared to be greater differences.³ On these latter points, I raised a number of questions for discussion. The discussions that took place were useful and served to broadly confirm that significant common ground exists on some elements and also to clarify the questions that still need to be settled on others. While this work should be valuable in contributing to the development of a unified text in this area, there are limits to how far this work can go without greater clarity on the key issues of participation and legal effects.

¹ This document sets out, side by side, the three proposals that are on the table: proposal by Hong Kong, China in TN/IP/W/8; "Joint Proposal" by Argentina, Australia, Canada, Chile, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Japan, Mexico, New Zealand, Nicaragua, Paraguay, Chinese Taipei and the United States in TN/IP/W/10, Add.1, 2 and 3; and proposal by the European Communities in TN/IP/W/11.

² These were: the notifying Member; the GI itself; transliteration into Latin characters where necessary; place in the notifying Member; the right of a Member to notify GIs originating in its territory only; and the use of a standard format.

³ These were: the requirement that the notified GI meet the Article 22.1 definition and is protected and has not fallen into disuse in its country of origin; information on the legal basis in the notifying Member for the protection of the GI; translations; product for which protection is sought; information on the quality, reputation or other characteristics of the goods; information on the owner of the GI or persons entitled to use it; and date on which the GI has obtained protection in its country of origin and any date on which that protection will expire.

4. There is, I believe, a wide view that the purpose of the system should not be to increase the level of protection for geographical indications for wines and spirits provided for in the TRIPS Agreement, but to facilitate that protection, and that the exceptions provided for in Article 24 would remain applicable. Further, it is my sense that no delegation is seeking to remove from national authorities the right to determine whether a notified term can be protected as a GI in their territories, consistently with the relevant provisions of the TRIPS Agreement. Nonetheless, on the issue of legal effects and also on that of participation, positions remain far apart and it remains difficult to identify where the landing zone might lie. Some Members have indicated a readiness to consider, at least to some extent, ways of taking account of the concerns of other delegations, but often with the proviso that this would depend on reciprocal movement by those other delegations and/or on the overall progress of the Round. It is also not clear how far the flexibility to which some delegations have alluded so far would, if realized, go in bridging the gaps that exist.

5. On the issue of costs and administrative burdens, it is my sense that it is widely accepted that the system should not be more costly and burdensome than necessary to comply with the mandate, in particular for developing countries. However, further work is required on this and a range of other matters. Once again, it will be difficult to carry this work much further without greater clarity on the key questions of participation and legal effects.

6. In these circumstances, I believe that, taken with the observations in paragraphs 3 to 5 above, the side-by-side document continues to represent a valid description of the state of the proposals in the Special Session. Further work is required on the preparation of a new working document. It is my view that progress towards establishing a common basis for the final negotiating phase will require all delegations to be creative in finding new flexibility; it will not be possible to find a solution unless all delegations are willing to move.
