

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

**SPECIAL SESSION OF THE COUNCIL FOR TRIPS**

Report by the Chairman, Ambassador Eui-yong Chung,  
to the Trade Negotiations Committee

1. This report is submitted on the Chairman's responsibility.

**I. ORGANIZATION OF WORK**

2. On 1 February 2002, the Trade Negotiating Committee agreed that negotiations on the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits under the TRIPS Agreement would take place in the Special Session of the Council for TRIPS ("the Special Session") (TN/C/M/1). At its meeting of 13, 15 February and 1 March 2002, the General Council took note of the consensus regarding the appointment of officers to WTO bodies (WT/GC/M/73, paragraphs 55 and 77).

3. The mandate of the Special Session is set out in 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. ..."

4. The Special Session met in formal meetings on 8 March, 28 June, 20 September, and 28 November 2002, and on 21 February, 29-30 April, and 23 July 2003. The Chairman made a report of each formal meeting to the TNC (TN/IP/1-7). The minutes of the first six meetings are contained in documents TN/IP/M/1-6. The Chairman has also held a number of informal consultations, either in an open-ended mode or in other formats.

5. At its meetings to date, the Special Session's agenda has been structured around the following items: negotiation of the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits; observer status for intergovernmental organizations; and other business.

6. Independently of the question of observer status for intergovernmental organizations, the International Bureau of the World Intellectual Property Organization (WIPO) has been invited to be represented, in an expert capacity, for certain discussions regarding the "mechanics" of the system to be established, including such matters as procedures for notification, opposition and registration.

7. The work in the Special Session unfolded along the main lines set out by the Chairman in the "roadmap" that he suggested to participants in the negotiations at the first formal meeting and which consisted of two phases: a first phase, from March 2002 to the beginning of 2003, to be based on discussions, ideas and proposals already put forward by delegations as well as new ones, with a view

to clarifying options; and a second phase, in which the Special Session would work on a common negotiating basis containing a single set of provisions for the various areas where there might be a sufficient degree of commonality of position and which would identify options, in regard to areas where significant differences would remain.

8. To facilitate the first phase, the Chairman circulated in June 2002, on his own responsibility, a List of Points and Issues for Discussion (JOB(02)/49) in order to assist in structuring the discussions. Four categories of issues and points were identified: definition of the term "geographical indications" and eligibility of geographical indications for inclusion in the system; the purpose of the notification and registration system; what is meant by a "system of notification and registration"; and participation. The Special Session's discussions at its second through fourth meetings were structured around these categories of issues. The issues raised and points made are reflected in the minutes of the meetings (document TN/IP/M/- series), and were summarized by the Secretariat in a compilation of issues and points for the fifth meeting (February 2003) (TN/IP/W/7, subsequently updated as TN/IP/W/7/Rev.1 and Corr.1 to reflect comments and further developments). The main proposals on the table were: IP/C/W/107/Rev.1 (communication from the European Communities); IP/C/W/255 (communication from Hungary); TN/IP/W/3 (communication from Bulgaria, Cyprus, the Czech Republic, the European Communities and their member States, Georgia, Hungary, Iceland, Malta, Mauritius, Moldova, Nigeria, Romania, the Slovak Republic, Slovenia, Sri Lanka, Switzerland and Turkey); TN/IP/W/5 (communication from Argentina, Australia, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Japan, Namibia, New Zealand, the Philippines, Chinese Taipei and the United States); and TN/IP/W/6 (communication from Argentina, Australia, Canada, Chile, New Zealand and the United States). Subsequently, a proposal was received from Hong Kong, China (TN/IP/W/8). (A complete list of the documentation of the Special Session as of the date of this report is annexed.)

9. Following the February formal meeting, and in order to initiate the second phase of his roadmap, the Chairman held, with the aid of an Elements/Options paper (JOB(03)/60) that he had prepared on his own responsibility, intensive informal consultations with a view to obtaining guidance on the preparation of a negotiating text that he would, if necessary, be prepared to put on the table on his own responsibility.

10. On the basis of the discussions held on the Elements/Options paper and the written and oral proposals on the table, the Chairman put forward, prior to the April 2003 formal meeting, a "Draft Text of Multilateral System of Notification and Registration of Geographical Indications for Wines and Spirits" (JOB(03)/75). This was done on his own responsibility and without prejudice to the position of any delegation. While making it clear that no degree of acceptance was implied, the Draft Text proposed a single set of provisions on some matters such as procedures for notification, and options reflecting the different positions of delegations on other matters, such as international mechanisms for settling differences, the legal effects of the registration of a geographical indication and participation by Members in the system to be established.<sup>1</sup> The Draft Text was extensively discussed at the April formal meeting. The discussion has been reflected in TN/IP/M/6.

11. Following the April meeting, the Chairman undertook informal consultations in order to assess whether there was sufficient flexibility to warrant him circulating a new draft text prior to the July formal meeting. Based on those informal consultations, the Chairman informed participants that it was his appreciation that, in the light of the current state of the negotiations in the area and of the Doha Development Agenda as a whole, delegations did not as yet feel in a position to be sufficiently flexible in their positions, in particular with regard to the two key issues of legal effects and participation, to warrant him tabling a new draft text for the July meeting. Therefore, the Special Session continued at that meeting discussion on the basis of the Draft Text contained in JOB(03)/75.

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<sup>1</sup> The Draft Text does not cover the Hong Kong, China proposal (TN/IP/W/8), which was tabled after JOB(03)/75.

## **II. OUTSTANDING ISSUES**

12. Other than the issue of observer status for intergovernmental organizations – a question with horizontal implications – there are no outstanding procedural issues in the Special Session at this time.

13. As far as substance is concerned, positions remain divided on many issues, in particular with regard to the key issues of the international mechanisms for settling differences, legal effects and participation. While considerable headway has been made in finding common ground on some aspects and clarifying options on others, further work is required on the key issues as well as a number of more detailed aspects, such as notification, the form of the register and its contents, modifications of notifications and registrations, withdrawals, fees and costs, contact points and administering body.

## **III. FUTURE WORK**

14. The Doha mandate of the Special Session is to complete the negotiation of 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. Given the current status of the negotiations, it will be necessary to provide for the continuation of the negotiating process in the remaining period before Cancun. In this process, it will be necessary to determine the level of ambition within the mandate which is acceptable to all sides, especially as regards legal effects and participation, and to finalize the more technical aspects concerning the multilateral system.

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ANNEX

LIST OF DOCUMENTS OF THE SPECIAL SESSION OF THE COUNCIL FOR TRIPS  
(1997-2003)

Document Symbol	Communication from	Title	Distribution Date
<b>2003</b>			
TN/IP/7	Chairman	Seventh Session of the Council for TRIPS Report by the Chairman, Ambassador Eui-yong Chung, to the Trade Negotiations Committee	4 July 2003
TN/IP/M/6	Secretariat	Minutes of the meeting of 29-30 April 2003	1 July 2003
TN/IP/W/Rev.1/Corr.1	Secretariat	Corrigendum	20 June 2003
JOB(03)/123	European Communities	Non-paper – Legal Effects	25 June 2003
TN/IP/W/7/Rev.1	Secretariat	Discussions on the Establishment of a Multilateral System of Notification And Registration of Geographical Indications for Wines And Spirits: Compilation of Issues and Points	23 May 2003
TN/IP/6	Chairman	Sixth Session of the Council for TRIPS Report by the Chairman, Ambassador Eui-yong Chung, to the Trade Negotiations Committee	5 May 2003
JOB(03)/75	Chairman	Draft Text of Multilateral System of Notification and Registration of Geographical Indications for Wines and Spirits	16 April 2003
TN/IP/M/5	Secretariat	Minutes of the meeting of 21 February 2003	28 April 2003
TN/IP/W/8	Hong Kong, China	Multilateral System of Notification and Registration of Geographical Indications Under Article 23.4 of the TRIPS Agreement	23 April 2003
JOB(03)/76	European Communities	Traditional Expressions	23 April 2003
JOB(03)/75	Chairman	Draft Text of Multilateral System of Notification and Registration of Geographical Indications for Wines and Spirits	16 April 2003
JOB(03)/60	Chairman	Multilateral System of Notification and Registration of Geographical Indications for Wines and Spirits: Possible Elements/Options	20 March 2003
JOB(03)/51	Australia	Traditional Expressions	6 March 2003
TN/IP/5	Chairman	Fifth Session of the Council for TRIPS Report by the Chairman, Ambassador Eui-yong Chung, to the Trade Negotiations Committee	28 February 2003

<b>Document Symbol</b>	<b>Communication from</b>	<b>Title</b>	<b>Distribution Date</b>
TN/IP/W/7	Secretariat	Discussions on the Establishment of a Multilateral System of Notification and Registration of Geographical Indications for Wines and Spirits: Compilation of Issues and Points	18 February 2003
TN/IP/M/4	Secretariat	Minutes of the Meeting of 28 November 2002	6 February 2003
<b>2002</b>			
TN/IP/4	Chairman	Fourth Session of the Council for TRIPS Report by the Chairman, Ambassador Eui-yong Chung, to the Trade Negotiations Committee	4 December 2003
TN/IP/W/4/Add.1	Secretariat	Multilateral Notification and Registration Systems – Addendum	27 November 2002
TN/IP/W/6	Argentina, Australia, Canada, Chile, New Zealand and the United States	Multilateral System of Notification and Registration of Geographical Indications for Wines (and Spirits)	29 October 2002
TN/IP/W/5	Argentina, Australia, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Japan, Namibia, New Zealand, the Philippines, Chinese Taipei and the United States	Proposal for a Multilateral System for Notification and Registration of Geographical Indications for Wines and Spirits Based on Article 23.4 of the TRIPS Agreement	23 October 2002
TN/IP/M/3	Secretariat	Minutes of the Meeting of 20 September 2002	21 October 2002
TN/IP/3	Chairman	Third Session of the Council for TRIPS Report by the Chairman, Ambassador Eui-yong Chung, to the Trade Negotiations Committee	30 September 2002
TN/IP/W/4	Secretariat	Multilateral Notification and Registration Systems	18 September 2002
TN/IP/M/2	Secretariat	Minutes of the Meeting of 28 June 2002	26 August 2002
JOB(02)/94	Australia	Intervention Made by the Delegation of Australia at the Special Session of 28 June 2002	26 July 2002

<b>Document Symbol</b>	<b>Communication from</b>	<b>Title</b>	<b>Distribution Date</b>
TN/IP/2	Chairman	Second Session of the Council for TRIPS Report by the Chairman, Ambassador Eui-yong Chung, to the Trade Negotiations Committee	9 July 2002
TN/IP/W/3	Bulgaria, Cyprus, the Czech Republic, the European Communities and their member States, Georgia, Hungary, Iceland, Malta, Mauritius, Moldova, Nigeria, Romania, the Slovak Republic, Slovenia, Sri Lanka, Switzerland and Turkey <sup>2</sup>	Negotiations Relating to the Establishment of a Multilateral System of Notification and Registration of Geographical Indications	24 June 2002
JOB(02)/70	The European Communities and their member States	Negotiations Relating to the Establishment of a Multilateral System of Notification and Registration of Geographical Indications – Issues for Discussion at the Special Session of the TRIPS Council of 28 June 2002 – Informal Note	24 June 2002
JOB(02)/49	Chairperson	List of Points and Issues for Discussion at the June 2002 Meeting	4 June 2002
JOB(02)/44	The European Communities and their member States	How to Achieve a Focused and Structured Agenda to Negotiate the Establishment of a Multilateral System of Notification and Registration	28 May 2002
TN/IP/1	Chairman	First Session of the Council for TRIPS Report by the Chairman, Ambassador Eui-yong Chung, to the Trade Negotiations Committee	12 April 2002
TN/IP/W/2	United States	Issues for Discussion in the Negotiation Under Article 23.4	10 April 2002
TN/IP/W/1	United States	Questions and Answers – Comparison of IP/C/W/107/Rev.1 ("EC Proposal"), IP/C/W/133/Rev.1 ("Joint Proposal"), IP/C/W/255 ("Proposal by Hungary")	9 April 2002
TN/IP/M/1	Secretariat	Minutes of the Meeting of 8 March 2002	22 March 2002
<b>2001</b>			
IP/C/M/33	Secretariat	Minutes of the Meeting of 19-20 September 2001	2 November 2001
IP/C/M/32	Secretariat	Minutes of the Meeting of 18-22 June 2001	23 August 2001
IP/C/M/30	Secretariat	Minutes of the Meeting of 2-5 April 2001	1 June 2001

<sup>2</sup> For Estonia see document TN/IP/M/2, para. 21.

<b>Document Symbol</b>	<b>Communication from</b>	<b>Title</b>	<b>Distribution Date</b>
IP/C/W/259	The European Communities and their member States	Establishment of a Multilateral System of Notification and Registration of Geographical Indications Under Article 23.4 of the TRIPS Agreement – Comparative Table of the Main Proposals Submitted to Date	31 May 2001
IP/C/W/260	The European Communities and their member States	Establishment of a Multilateral System of Notification and Registration of Geographical Indications under Article 23.4 of the TRIPS Agreement - Comments on the Proposal Jointly Submitted by Canada, Chile, Japan and the United States (IP/C/W/133/Rev.1)	30 May 2001
IP/C/W/255	Hungary	Incorporation of Elements Raised by Hungary in IP/C/W/234 into the Proposal by the European Communities and their member States on the Establishment of a Multilateral System of Notification and Registration of Geographical Indications	3 May 2001
IP/C/M/29	Secretariat	Minutes of the Meeting of 27-30 November and 6 December 2000	6 March 2001
<b>2000</b>			
IP/C/W/234	Hungary	Opposition/Challenge Procedure in the Multilateral System of Notification and Registration of Geographical Indications	11 December 2000
IP/C/M/28	Secretariat	Minutes of the Meeting of 21-22 September 2000	23 November 2000
IP/C/M/27	Secretariat	Minutes of the Meeting of 26-29 June 2000	14 August 2000
IP/C/W/189	New Zealand	New Zealand's System of Protection for Geographical Indications and the Multilateral Notification and Registration System for Geographical Indications Under Article 23.4 of the TRIPS Agreement	22 June 2000
IP/C/W/107/Rev.1	The European Communities and their member States	Implementation of Article 23.4 of the TRIPS Agreement Relating to the Establishment of a Multilateral System of Notification and Registration of Geographical Indications - Revision	22 June 2000
IP/C/M/26	Secretariat	Minutes of the Meeting of 21 March 2000	24 May 2000
<b>1999</b>			
IP/C/M/25	Secretariat	Minutes of the Meeting of 20-21 October 1999	22 December 1999
IP/C/M/24	Secretariat	Minutes of the Meeting of 7-8 July 1999	17 August 1999
IP/C/W/133/Rev.1	Canada, Chile, Japan and the United States	Proposal for a Multilateral System for Notification and Registration of Geographical Indications for Wines and Spirits Based on Article 23.4 of the TRIPS Agreement	26 July 1999
IP/C/M/23	Secretariat	Minutes of the Meeting of 21-22 April 1999	2 June 1999

<b>Document Symbol</b>	<b>Communication from</b>	<b>Title</b>	<b>Distribution Date</b>
IP/C/M/22	Secretariat	Minutes of the Meeting of 17 February 1999	9 April 1999
IP/C/W/134	United States	Suggested Method for Domestic Recognition of Geographical Indications for WTO Members to Produce a List of Nationally-protected Geographical Indications	11 March 1999
IP/C/W/133	Japan and the United States	Proposal for a Multilateral System for Notification and Registration of Geographical Indications for Wines and Spirits Based on Article 23.4 of the TRIPS Agreement	11 March 1999
IP/C/M/21	Secretariat	Minutes of the Meeting of 1-2 December 1998	22 January 1999
<b>1998</b>			
IP/C/M/20	Secretariat	Minutes of the Meeting of 17 September 1998	15 October 1998
IP/C/M/19	Secretariat	Minutes of the Meeting of 16 July 1998	5 August 1998
IP/C/W/107	The European Communities and their member States	Proposal for a Multilateral Register of Geographical Indications for Wines and Spirits Based on Article 23.4 of the TRIPS Agreement – Establishment of the Register and Registration Procedure	28 July 1998
IP/C/M/18	Secretariat	Minutes of the Meeting of 12 May 1998	11 June 1998
IP/C/M/17	Secretariat	Minutes of the Meeting of 24 February 1998	23 March 1998
<b>1997</b>			
IP/C/M/16	Secretariat	Minutes of the Meeting of 17-21 November 1997	5 December 1997
IP/C/W/85	Secretariat	Overview of Existing International Notification and Registration Systems for Geographical Indications Relating to Wines And Spirits	17 November 1997
IP/C/M/15	Secretariat	Minutes of the Meeting of 19 September 1997	15 October 1997
IP/C/M/14	Secretariat	Minutes of the Meeting of 15 July 1997	15 August 1997