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1 ARTICLE 23

1.1 Text of Article 23

Article 23

Additional Protection for Geographical Indications for Wines and Spirits

1. Each Member shall provide the legal means for interested parties to prevent use of a geographical indication identifying wines for wines not originating in the place indicated by the geographical indication in question or identifying spirits for spirits not originating in the place indicated by the geographical indication in question, even where the true origin of the goods is indicated or the geographical indication is used in translation or accompanied by expressions such as "kind", "type", "style", "imitation" or the like.⁴

(footnote original) ⁴ Notwithstanding the first sentence of Article 42, Members may, with respect to these obligations, instead provide for enforcement by administrative action.

2. The registration of a trademark for wines which contains or consists of a geographical indication identifying wines or for spirits which contains or consists of a geographical indication identifying spirits shall be refused or invalidated, *ex officio* if a Member's legislation so permits or at the request of an interested party, with respect to such wines or spirits not having this origin.

3. In the case of homonymous geographical indications for wines, protection shall be accorded to each indication, subject to the provisions of paragraph 4 of Article 22. Each Member shall determine the practical conditions under which the homonymous indications in question will be differentiated from each other, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled.

4. 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.

1.2 General

1. In the second sentence of paragraph 18 of the Doha Ministerial Declaration, adopted on 14 November 2001, Ministers "note[d] that issues related to the extension of the protection of geographical indications provided for in Article 23 to products other than wines and spirits will be addressed in the Council for TRIPS pursuant to paragraph 12 of this Declaration."¹ On 1 August 2004, the General Council adopted a decision on "Doha Work Programme". In its paragraph 1.d, the General Council *inter alia* "request[ed] the Director-General to continue with his consultative process on all outstanding implementation issues under paragraph 12(b) of the Doha Ministerial Declaration, including on issues related to the extension of the protection of geographical indications provided for in Article 23 of the TRIPS Agreement to products other than wines and spirits".² In paragraph 39 of the Hong Kong Ministerial Declaration, Ministers *inter alia* "[took] note of the work undertaken by the Director-General in his consultative process on all outstanding implementation issues under paragraph 12(b) of the Doha Ministerial Declaration, including on issues related to the extension of the protection of geographical indications provided for in

¹ The text of the Declaration can be found in [WT/MIN\(01\)/DEC/1](#).

² The text of the Decision can be found in [WT/L/579](#).

Article 23 of the TRIPS Agreement to products other than wines and spirits and those related to the relationship between the TRIPS Agreement and the Convention on Biological Diversity", and "request[ed] the Director-General, without prejudice to the positions of Members, to intensify his consultative process on all outstanding implementation issues under paragraph 12(b)".³

1.3 Article 23.4

2. In paragraph 34 of its Annual Report (1996), the Council for TRIPS agreed to "initiate in 1997 preliminary work on issues relevant to the negotiations specified in Article 23.4 of the TRIPS Agreement concerning the establishment of a multilateral system of notification and registration of geographical indications for wines. Issues relevant to a notification and registration system for spirits will be part of this preliminary work."⁴ This preliminary work was initiated at the Council's meeting in February 1997.⁵

3. The first sentence of paragraph 18 of the Doha Ministerial Declaration, adopted on 14 November 2001 provides that "[w]ith 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."⁶

4. On 1 February 2002, the TNC established the Special Session of the Council for TRIPS to conduct the negotiations. On 1 August 2004, the General Council adopted a decision on "Doha Work Programme". In its paragraph 1.f, the General Council reaffirmed Members' commitment to progress in this area of negotiations in line with the Doha mandates.⁷ In paragraph 29 of the Hong Kong Ministerial Declaration adopted on 18 December 2005, Ministers "agree[d] to intensify these negotiations in order to complete them within the overall time-frame for the conclusion of the negotiations that were foreseen in the Doha Ministerial Declaration".⁸

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³ The text of the Declaration can be found in [WT/MIN\(05\)/DEC.](#)

⁴ The text of the Annual Report (1996) can be found in [IP/C/8.](#)

⁵ [IP/C/M/12](#), para. 73.

⁶ The text of the Declaration can be found in [WT/MIN\(01\)/DEC/1.](#)

⁷ The text of the Decision can be found in [WT/L/579.](#)

⁸ The text of the Declaration can be found in [WT/MIN\(05\)/DEC.](#)