

**MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND**

RESTRICTED

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Negotiating Group on Trade-Related  
Aspects of Intellectual Property Rights,  
including Trade in Counterfeit Goods

DRAFT TEXT ON GEOGRAPHICAL INDICATIONS

Communication from Australia

The attached communication has been received from the Australian Permanent Mission, with the request that it be circulated to members of the Negotiating Group.

The following text could be incorporated into a TRIPS agreement either as an amendment to Article IX:6 of the General Agreement or incorporated into an Annex J with other standards.

.....

Protection to be Afforded

1. Contracting parties undertake (either ex officio if their legislation so permits or) at the request of an interested third party:

(a) to refuse or invalidate registration of a trademark which contains or consists of a geographical or other indication denominating or suggesting the territory of a contracting party, a region or a locality in that territory with respect to goods not originating in that territory if the use of the indication for such goods is of a nature as to mislead or confuse the public as to the true place of origin; and

(b) to prohibit the use of such an indication if that use for such goods misleads the public as to the true place of origin.

2. Contracting parties agree that the provisions of the preceding paragraph shall also apply to a geographical indication which, although literally true as to the territory, region or locality in which the goods originate, falsely represents to the public that the goods originate in the territory of another contracting party.

3. Contracting parties shall provide appropriate measures aimed at preventing, (either ex officio if their legislation so permits or) at the request of an interested third party a geographical indication generally known in the territory of the contracting party to consumers of given products or of similar products as designating the origin of such products manufactured or produced in the territory of another contracting party, from developing, as a result of use in the trade for identical or similar products of a different origin, into a designation of generic character for these products or for similar products.

4. No contracting party shall be required to apply the provisions in the preceding paragraphs:

- (a) to the prejudice of holders of rights relating to an indication identical with or similar to a geographical indication or name and used or filed in good faith before the date of the entry into force of this [amendment] [Annex] in the contracting party; and
- (b) with regard to goods for which the geographical indication or name is in the common language the common name of goods in the territory of that contracting party, or is identical with a term customary in common language.

5. Contracting parties agree that the provision of the preceding paragraphs shall not prevent the conclusion pursuant to Article 19 of the Paris Convention for the Protection of Industrial Property as revised at Stockholm in 1967, of bilateral or multilateral agreements concerning the rights under those paragraphs, with a view to increasing the protection for specific geographical or other indications, and further agree that any advantage, favour, privilege or immunity deriving from such agreements are exempted from the obligations under Article I of the General Agreement [and Article .... (Most-Favoured-Nation Treatment/Non-Discrimination) of this Annex.]

6. The expression "geographical indication" is for the purpose of this [amendment] [Annex], an indication which designates goods as originating from the territory of a contracting party, or a region or a locality in that territory, where a given quality, reputation or other characteristic of the goods is attributable exclusively or essentially to the geographical environment, including natural and human factors.