

PREPARATIONS FOR THE 1999 MINISTERIAL CONFERENCE

Agreement on TRIPS
Extension of the Additional Protection for Geographical Indications
to Other Products

Communication from the Czech Republic

The following communication, dated 11 June 1999, has been received from the Permanent Mission of the Czech Republic.

I. BACKGROUND

1. Undeniable progress has been made in the international protection of geographical indications by the conclusion of the TRIPS Agreement. The inclusion of specific provisions on geographical indications, which provide the protection for such indications against the use in a manner which misleads the public as to the geographical origin of the good or constitutes an act of unfair competition, and accord an absolute protection to some products even where the use was of such a nature as to mislead the public as to the true place of origin, emerged as a reaction to concerns of an ever greater number of countries to promote their goods which are fruits of their culture and know-how and their unique blend of soil, water and climate.

2. The area of geographical indications was by no means an easy one to negotiate and some important differences regarding the issue of national definitions of geographical indications and their acquisition and enforcement in various WTO Members remain to be addressed. Moreover, an additional level of absolute protection as set out in Article 23 of the TRIPS Agreement was provided only for geographical indications for wines and spirits, leaving other products of interest to other WTO Members outside the scope of Article 23. Thus, the scope and level of protection of geographical indications for other identified products is not as comprehensive as the relevant products would have deserved and there is, therefore, the need to enhance this protection.

3. To deal with the issue of the scope of Article 23, the Council for TRIPS agreed, in its 1996 Report endorsed by the Singapore Ministerial Conference, that WTO Members would have the opportunity in the framework of the review of the application of the provisions of the section on geographical indications as provided in Article 24:2 of the TRIPS Agreement to present inputs on the issue of the scope of the protection of geographical indications. It is in this context that a number of WTO Members have been pursuing the issue of limitation of the higher level of protection under Article 23 with a view to extending the additional protection also to products other than wines and spirits, for example to specific foodstuffs and handicraft products.

4. From the Czech Republic's perspective, it has presented a strong interest in extending the additional protection of geographical indications for beers which are particularly vulnerable to imitation, counterfeit and usurpation and whose protection of such indications against consumer deception is insufficient and trademark protection is not satisfactory due to its formal requirements such as registration and the use requirement.

5. No significant progress has been made as yet with regard to the expansion of the additional protection to products other than wines and spirits. In the light of the above, the Czech Republic is making the following proposal.

II. PROPOSAL

6. Notwithstanding ongoing work in the TRIPS Council aiming at establishing multilateral system of notification and registration to facilitate the protection of geographical indications and any action which the TRIPS Council may take under Article 24:2, the Czech Republic proposes that the General Council recommend to the 1999 Ministerial Conference that Ministers agree to continue the work with a view to expanding the scope of Article 23 of the TRIPS Agreement and providing the increased protection of geographical indications also to products other than wines and spirits. Such work should be completed within a given time-frame agreed by Ministers.
