Facts on Global Reform

Protecting Geographical Indications for Wine and Spirits

Geographical indications are place names (in some countries also words associated with a place) used to identify products with particular characteristics because they come from specific places. There are currently negotiations in the WTO on a register for wine and spirits, and two issues outside of these negotiations being discussed primarily by the European Union.

WTO Negotiations: A register for wine and spirits

The WTO is negotiating a system that will be used to notify and register geographical indications for wines and spirits.

> US position: The United States supports a voluntary system that helps Members make decisions on protecting geographical indications for wines and spirits but does not introduce new obligations. We oppose proposals to establish a legally binding register for all WTO members. This is because we are concerned that it could force countries to grant protection to products that are not entitled to protection.
>
> Benefits: The US proposal will facilitate protection without creating unnecessary new legal obligations. We want to avoid creating a complicated burdensome system that will be expensive for all Members, including developing country members to implement.   We want to protect the trademark rights of U.S. producers, and producers in developing countries.

Issue #1: Extending the "higher level of protection" to new products

The Agreement on Trade-Related Aspects of Intellectual Property (TRIPS Agreement) provides a higher level of protection to geographical indications for wines and spirits than for other products. The European Union is seeking to start negotiations to "extend" additional protections to products other than wine and spirits.

> US position: The TRIPS Agreement already requires that all geographical indications be protected against <u>any</u> misleading use. The US, along with other countries, including many developing countries, opposes starting negotiations to amend the TRIPS Agreement to extend the special protections to additional products beyond wines and spirits.
>
> Benefits: The United States is committed to avoiding unnecessary new obligations for geographical indications protection, for three reasons:
>
> 1. New levels of protection will be expensive to implement, especially for developing countries.
> 2. Extending protection to products other than wine and spirits is messy. The trade of food, for example, is nearly impossible to originate, and recent disputes over "feta" in the European Union prove the litigation that lies ahead of this path.
> 3. There is no evidence of harm from the lack of geographical indications protection in any area other than wine and spirits. Protection, on the other hand, would result in billions of dollars of charges to producers around the world forced to re-label and re-market products that have been sold to consumers under a particular name for decades.

Issue #2: "Clawback" protection

In the Agriculture negotiations, the European Union has submitted a proposal to "clawback" protection for certain names that have become generic outside of Europe, including parmesan, chablis, port, sherry and feta. The effect of the proposal is that the names, many of which are in wide-spread use in the U.S. and elsewhere as generic descriptive terms, could no longer be used, except by Europeans.

US position: The United States opposes this effort.

Benefits: The United States and other countries around the world have a legitimate right to use generic names, and this proposal is clearly outside of the scope of the WTO mandate to negotiate a system that will be used to notify and register geographical indications for wines and spirits. This proposal would eliminate existing trademarks, lead to global consumer confusion, and eliminate the ability of all Members outside of the EU to produce a wide range of high-quality products.