

Stakes and State of the International Negotiations: WTO & WIPO

Technical Seminar
**Quality Food Products Linked to Geographical Origin and
Tradition in Southeastern Europe**
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Overview on the presentation

- 1. What is the state of play of the negotiations at the World Trade Organization (WTO)?**
- 2. What is the state of play of the negotiations at the World Intellectual Property Organization (WIPO)?**
- 3. Bilateral negotiations: a complementary approach!**



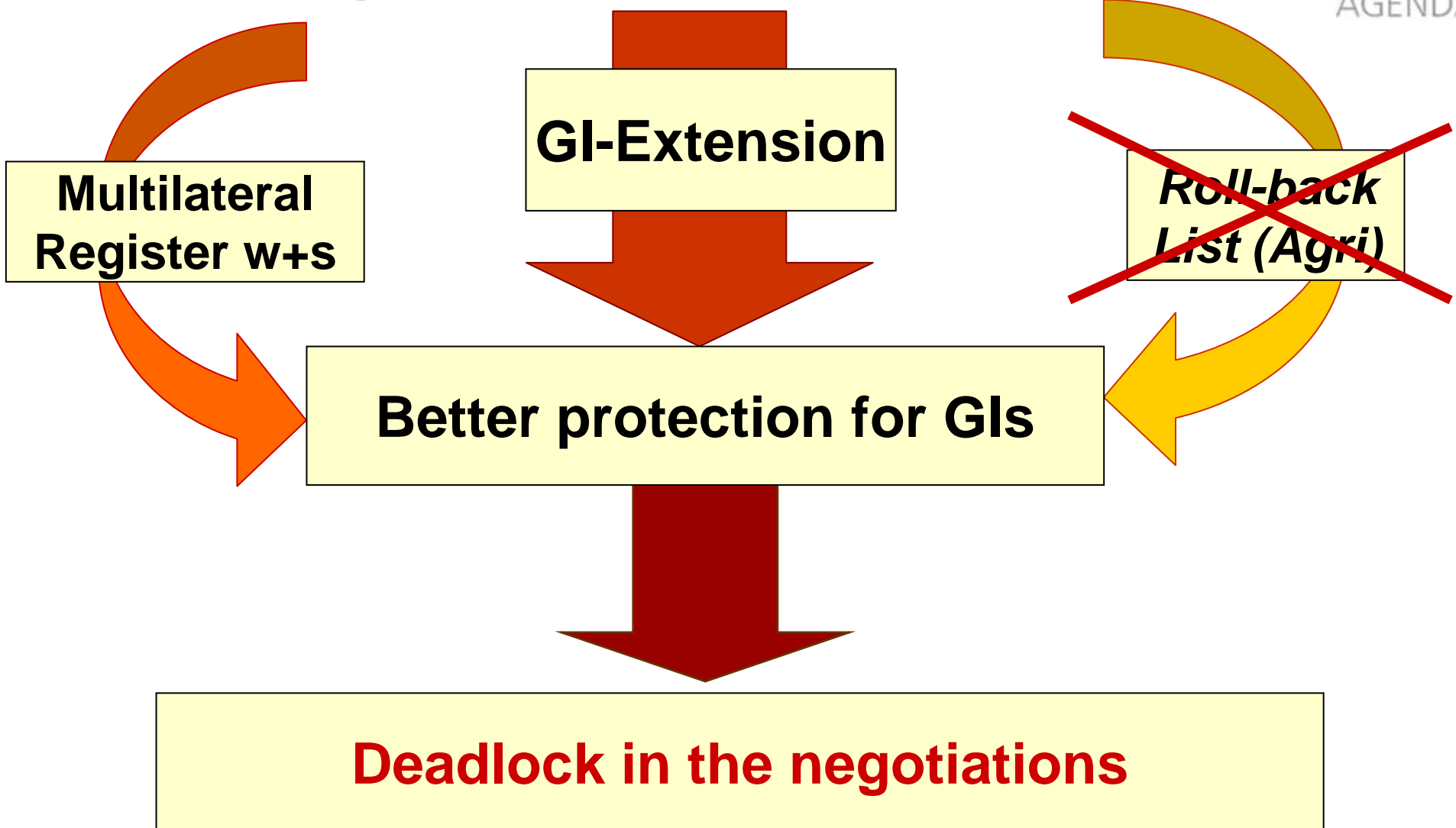


It's always easier to use the reputation of others rather than to build up a reputation by his own effort!



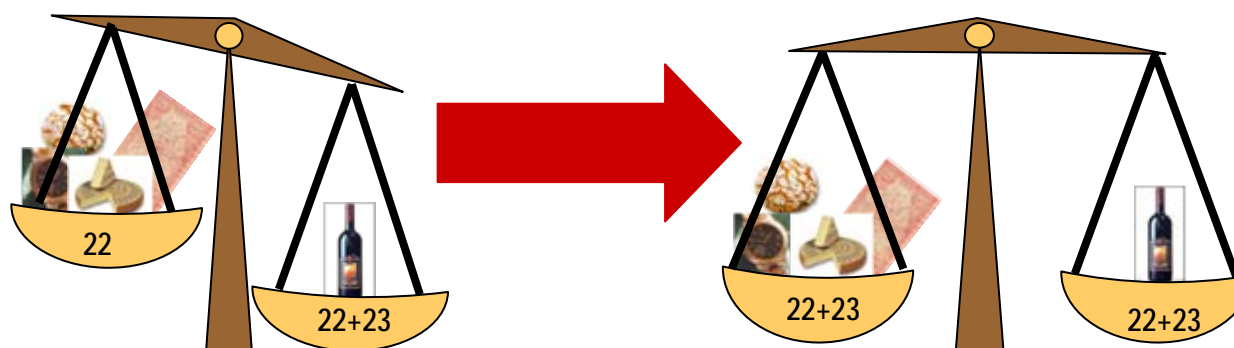
Part 1: What is the state of play of the negotiations at the World Trade Organization?

WTO - Negotiations on GIs



The proposal for extension (IP/C/W/353)

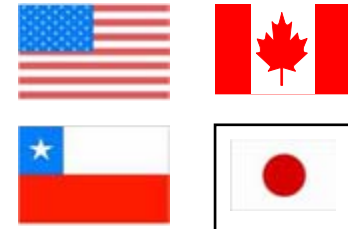
- The **protection of Article 23** of the TRIPS Agreement should apply to geographical indications **for all products**
- The **multilateral register** to be established should be open for geographical indications **for all products**
- The **exceptions** contained in Article 24 of the TRIPS Agreement should **apply *mutatis mutandis***



Multilateral Register for wines and spirits

- **US, most Cairns Group countries:**

Database with commitment of participating Members to consult for decisions at national level



- **EC and most other European countries:**

Registration system with bilateral negotiations and legal effects (presumption of eligibility for protection) applicable in all WTO Members



→ *Flexibilities (October 2007)*

- **Compromise proposal by Hong Kong/China**



Coalition of the «TRIPS Proponents»

**Proponents of
Disclosure
requirements**

**Proponents of
GI-Extension**

**Proponents of
GI-Register**

**Agreement on a procedural link between the 3 TRIPS issues
(Fall 2007 → June 2008)**

**Proposal for modality texts: TN/C/W/52/Add.3 (July 2008)
108 MS = 2/3 WTO Members**

Draft modalities for TRIPS related issues

(TN/C/W/52/Add)

- **GI-Register for wines and spirits for all WTO Members**
 - *prima facie* evidence that the registered GI = GI acc. to the TRIPS Agreement
 - registered GIs only can be considered generic if genericness = substantiated
- **Extension of the Art. 23 TRIPS protection level to GIs for all products**
 - incl. an extension of the GI register
 - exceptions of Art. 24 TRIPS shall apply *mutatis mutandis*
- **Mandatory disclosure of the country/source of genetic resources and/or associated traditional knowledge in patent applications**
 - Members agree to define the nature and extent of a reference to PIC and ABS

Text based negotiations for all 3 TRIPS issues in the TRIPS Special Session with a view to amend the TRIPS Agreement as an integral part of the Single Undertaking

Timeframe of the WTO negotiations

November 2001



Doha Declaration – Para.18

Feb. 02 – Aug 03

TRIPS Council / TNC

Consultations on implementation issues

September 2003



Cancun Ministerial Conference

July 2004

Decision of the General Council

December 2005



Hong Kong Ministerial Conference

Mandate for further consultations + GC to take appropriate action till July 2006

July 2008

Geneva Mini-Ministerial

Failure on modalities AGRI, NAMA + TRIPS

December 2008

Agreement on modalities ?????

End of the Round

?????

Part 2: What is the state of play of the works at the World Intellectual Property Organization (WIPO)?



GIs at WIPO: Possible issues (1)

- **Creation of a Working Group for a possible revision of the Lisbon Agreement**
(= Decision of General Assemblies 2008)
 - **«partial refusal»**
 - **Time-limit for notifying declarations of refusal**
 - **Electronic communication systems**
 - **Others?**





GIs at WIPO: Possible issues (2)

- **Protection of country names under the Paris Convention ?**
- **Protection of country names and GIs in domain names and on the Internet ?**



ORganisation for an International Geographical Indications Network:

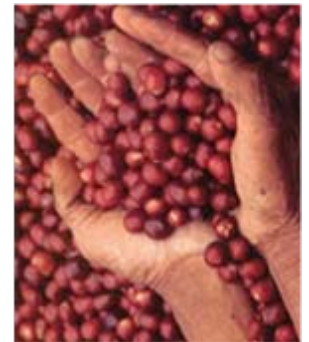
- **NGO launched in June 2003**
- **First international network of GI producers**
- **Around 70 organisations of producers**
- **More than two millions GI producers**
- **From 30 countries (Africa, Asia, North and South America, Eastern and Western Europe)**
- **WIPO Observer Status – September 2004**

www.origin-gi.com



Statutes - Objectives

- **Encourage exchanges and cooperation among GI producers, such as transfer of experience and expertise**
- **Campaign for the granting of technical assistance in favour of producers throughout the world in order to let them benefit from the assets of GIs**
- **Communicate in a coherent way producers' opinions in favour of better protection for GIs in negotiations held at the international level**



Part 3: **Bilateral negotiations: a complementary approach!**

A bilateral GI Agreement

- **Negotiation of a bilateral treaty aiming to protect (all or selected) GIs meeting the definition of Art. 22:1 TRIPS and country names**
- **Exchange of lists**
- **Mutual recognition and an automatic (= without individual registration by the GI right holder!) mutual protection equivalent to Article 23 TRIPS in the contracting parties for GIs of all products**



Possible benefits of a bilateral GI Agreement

- **No duty for the right holder to register the GI in the ‘other’ country**
- **Automatic recognition of the statute of a GI by the authorities of the ‘other’ country**
- **Efficient, affordable and effective protection of GIs in the ‘other’ country**
- **Efficient and effective enforcement mechanisms for GI producers in the ‘other’ country**
- **Publicity of the GIs → no TM® for products not originating in the true place of origin**
- **Absolute protection of the country name in the ‘other’ country**



Example of a concrete benefit thanks to a bilateral Agreement: Abuse of a GI in Spain:

 **PICÓ 66**



turrón ~~SIJEZO~~ (CHOCOLATE CON ALMENDRAS)

 **PICÓ 66**

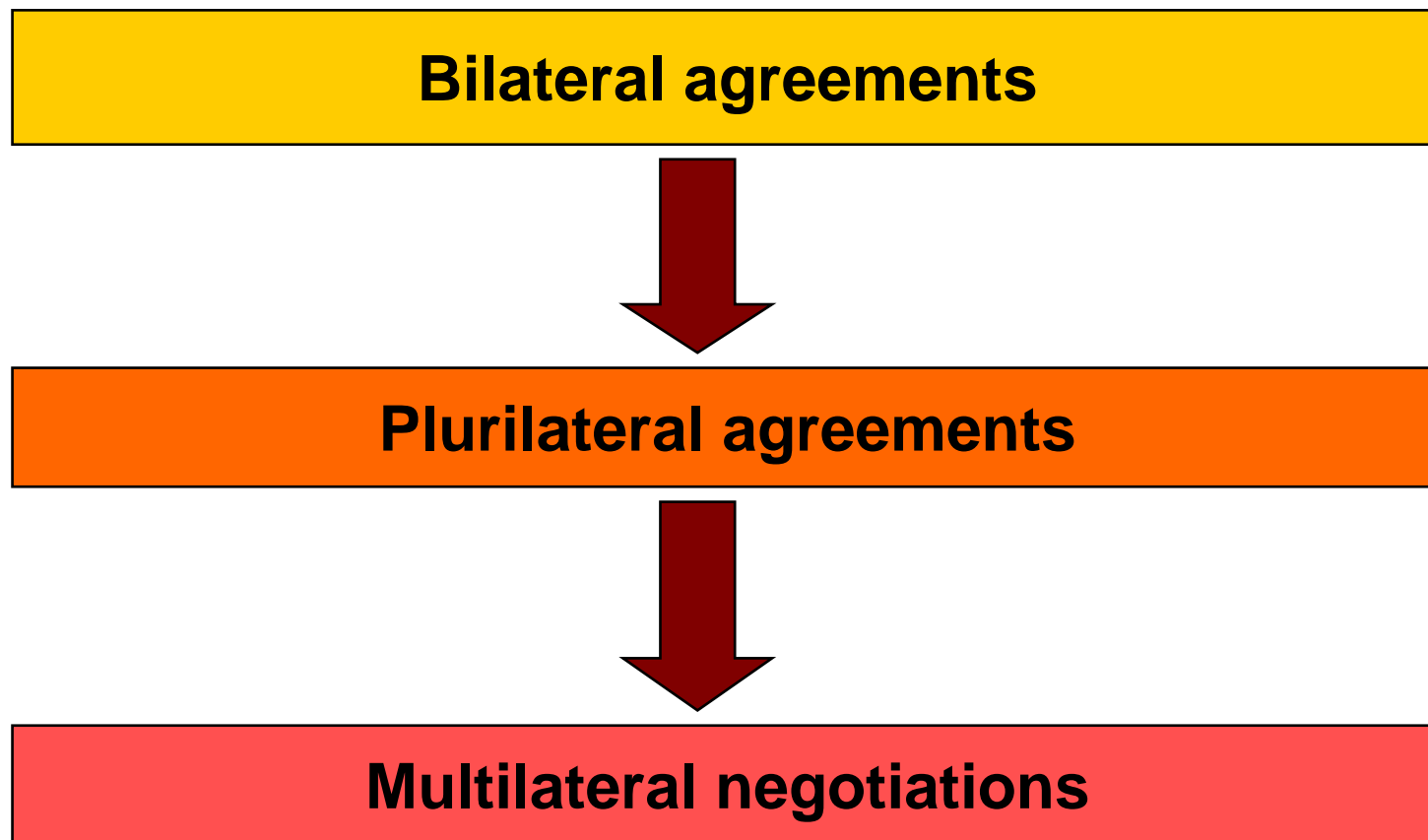
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calidad suprema

Antonio Picó

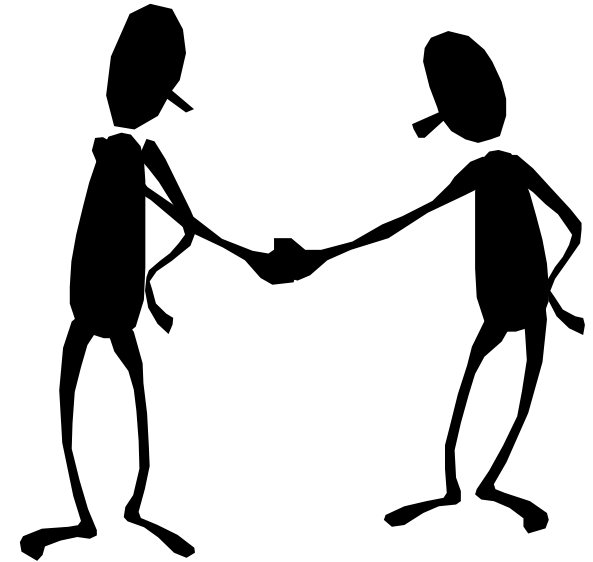


Possible roadmap



An adequate protection of geographical indications at the international level:

An issue that is in the interest for ALL OF US!



For more information or questions:
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