

Chapter 1 : Indication of Interest Letter

(c) the provision of effective and appropriate means for the enforcement of trade-related intellectual property rights, taking into account differences in national legal systems; (d) the provision of effective and expeditious procedures for the multilateral prevention.

History[edit] Governments have been protecting trade names and trademarks used in relation to food products identified with a particular region since at least the end of the nineteenth century, using laws against false trade descriptions or passing off , which generally protect against suggestions that a product has a certain origin, quality or association when it does not. In such cases, the limitation on competitive freedoms which results from the grant of a monopoly of use over a geographical indication is justified by governments either by consumer protection benefits or by producer protection benefits. Items that meet geographical origin and quality standards may be endorsed with a government-issued stamp which acts as official certification of the origins and standards of the product to the consumer. Geographical indications have long been associated with the concept of terroir and with Europe as an entity, where there is a tradition of associating certain food products with particular regions. Under European Union Law , the protected designation of origin framework which came into effect in regulates the following systems of geographical indications: Protection afforded to geographical indications by law is arguably two folded. On the one hand it is granted through sui generis law public law , e. In other words, GI protection should apply through ex-officio protection, where authorities may support and get involved in the making of GI collective dimensions together with their corresponding GI regulatory council, where ongoing discourse with the government is implied for effective inspection and quality control. On the other hand, it is granted through common law private law. In other words, it is similar to the protection afforded to trade marks as it can be registered through collective trade marks and also through certification marks , i. Sometimes these laws also stipulate that the product must meet certain quality tests that are administered by an association that owns the exclusive right to license or allow the use of the indication. As GIs are recognised through public or private law, - depending on the GI protection system applied among the different WTO state members, either through common law or sui generis law,- the conflicts between prior trade mark registration and GIs is an international debate that is yet to be resolved and what makes the GI system rather positional in terms of international trade negotiations. These conflicts are generally resolved through three intellectual property protection approaches: Arguably trade marks are seen as a valuable asset in terms of private business and their economic assets while GIs are strongly connected to socio-economic development, along the lines of sustainability in countries rich in traditional knowledge. The consumer-benefit purpose of the protection rights granted to the beneficiaries generally speaking the GI producers , has similarities and differences to the trade mark rights: While GIs confer a geographical origin of a good, trade marks confer a commercial origin of an enterprise. While comparable goods are registered with GIs, similar goods and services are registered with trade marks. While a GI is a name characterised by tradition from a delineated area, a trade mark is a sign as a badge of origin for goods and services. While a GI is a collective entitlement of public-private partnership, a trade mark refers entirely to private rights. With GIs, the beneficiaries are always a community from which usually, regardless of who is indicated in the register as applicant, they have the right to use. Trade marks distinguish goods and services between different undertakings, thus it is more individual except collective trade marks which are still more private. While with GIs its particular quality is essentially because of the geographical area, although the human factor may also play a part collectively , with trade marks, even if there is any link to quality, it is essentially because of the producer and provider individually. While GIs are an already existing expression and is used by existing producers or traders, a trade mark is usually a new word or logo chosen arbitrarily. While GIs are usually only for products, trademarks are for products and services. While GIs cannot become numerous by definition, with trade marks there is no limit to the number that can be possibly be registered or used. While GIs may not normally qualify as trade marks because they are either descriptive or misleading and distinguish products from one region from those of another, trade marks normally do not constitute a geographical name as there is

no essential link with the geographical origin of goods. While GIs protect names designating the origin of goods, trade marks " collective and certification marks where a GI sui generis system exists " protect signs or indications. While with GIs the administrative action is through public law, the enforcement by the interested parties of trade marks is through private law. While GIs lack a truly global registration system, trade marks global registration system is through the Madrid Agreement and Protocol. While GIs are very attractive for developing countries rich in traditional knowledge, the new world, e. In the new world, GI names from abroad arrive through immigrants and colonisation, leading to generic names deriving from the GIs from the old world. Geographical indications have other similarities with trade marks. For example, they must be registered in order to qualify for protection, and they must meet certain conditions in order to qualify for registration. One of the most important conditions that most governments have required before registering a name as a GI is that the name must not already be in widespread use as the generic name for a similar product. Of course, what is considered a very specific term for a well-known local specialty in one country may constitute a generic term or genericized trademark for that type of product. For example, parmigiano cheese in Italy is generically known as Parmesan cheese in Australia and the United States. Rural development effects[edit] Geographical indications are generally traditional products, produced by rural, marginal or indigenous communities over generations, that have gained a reputation on the local, national or international market due to their specific unique qualities. The recognition and protection on the markets of the names of these products allows the community of producers to invest in maintaining the specific qualities of the product on which the reputation is built. Most importantly, as the reputation spreads beyond borders and demand grows, investment should be driven to the environment sustainability where these products originate and are produced. The application of circular economy will ensure socio-economic returns in the long-run to avoid growth at an environmental cost. This approach for GI development may also allow for investment together with promoting the reputation of the product along the lines of sustainability when and where possible. Rural development impacts from geographical indications, referring to environmental protection, economic development and social well-being, can be: None of these impacts are guaranteed and they depend on numerous factors, including the process of developing the geographical indications, the type and effects of the association of stakeholders, the rules for using the GI or Code of Practice , the inclusiveness and quality of the collective dimension decision making of the GI producers association and quality of the marketing efforts undertaken. This is especially true of food and beverage names which frequently use geographical terms, but it may also be true of other products such as carpets e. When products with GIs acquire a reputation of international magnitude, some other products may try to pass themselves off as the authentic GI products. This kind of competition is often seen as unfair, as it may discourage traditional producers as well as mislead consumers. Thus the European Union has pursued efforts to improve the protection of GI internationally. Inter alia, the European Union has established distinct legislation to protect geographical names in the fields of wines, spirits, agricultural products including beer. A register for protected geographical indications and denominations of origin relating to products in the field of agriculture including beer, but excluding mineral water, was established DOOR. Another register was set up for wine region names, namely the E-Bacchus register. A register of the geographical indications for spirits and for any other products is still missing in the European Union and most other countries in the world. The first attempts to do so were found in the Paris Convention on trademarks , still in force, members , followed by a much more elaborate provision in the Lisbon Agreement on the Protection of Appellations of Origin and their Registration. About geographical indications were registered by Lisbon Agreement members. Agreement on Trade-Related Aspects of Intellectual Property Rights[edit] The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights "TRIPS" defines "geographical indications" as indications that identify a good as "originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographic origin. Article 22 of the TRIPS Agreement says that all governments must provide legal opportunities in their own laws for the owner of a GI registered in that country to prevent the use of marks that mislead the public as to the geographical origin of the good. This includes prevention of use of a geographical name which although literally true "falsely

represents" that the product comes from somewhere else. This applies even where the public is not being misled, where there is no unfair competition and where the true origin of the good is indicated or the geographical indication is accompanied by expressions such as "kind", "type", "style", "imitation" or the like. Similar protection must be given to geographical indications identifying spirits. Article 23 says governments may refuse to register or may invalidate a trademark that conflicts with a wine or spirits GI whether the trademark misleads or not. Article 24 of TRIPS provides a number of exceptions to the protection of geographical indications that are particularly relevant for geographical indications for wines and spirits Article

For example, Members are not obliged to bring a geographical indication under protection where it has become a generic term for describing the product in question. Measures to implement these provisions should not prejudice prior trademark rights that have been acquired in good faith; and, under certain circumstances " including long-established use " continued use of a geographical indication for wines or spirits may be allowed on a scale and nature as before. Some governments participating in the negotiations especially the European Communities wish to go further and negotiate the inclusion of GIs on products other than wines and spirits under Article 23 of TRIPS. These governments argue that extending Article 23 will increase the protection of these marks in international trade. This is a controversial proposal, however, that is opposed by other governments including the United States who question the need to extend the stronger protection of Article 23 to other products. They are concerned that Article 23 protection is greater than required, in most cases, to deliver the consumer benefit that is the fundamental objective of GIs laws. Differences in philosophy[edit] One reason for the conflicts that occur between the European and United States governments is a difference in philosophy as to what constitutes a "genuine" product. In Europe, the reigning theory is that of terroir , that there is a specific property of a geographical area, and that dictates a strict usage of geographical designations. By contrast, in the United States, the naming is generally considered to be a matter of intellectual property. Thus, the name "Grayson" belongs to Meadowcreek Farms, and they have to a right to use it as a trademark. Nobody, even in Grayson County, Virginia , can call their cheese Grayson, while Meadowcreek Farms, if they bought up another farm elsewhere in the United States, even if nowhere near Grayson County, could use that name. It is considered that their need to preserve their reputation as a company is the quality guarantee. This difference causes most of the conflict between the United States and Europe in their attitudes toward geographical names. Vidalia onions , Florida oranges , and Idaho potatoes. In each of these cases, the state governments of Georgia , Florida, and Idaho registered trademarks, and then allowed their growers" or in the case of the Vidalia onion, only those in a certain, well-defined geographical area within the state" to use the term, while denying its use to others. The European conception is increasingly gaining acceptance in American viticulture, as well, as vintners in the various American Viticultural Areas are attempting to form well-developed and unique identities as New World wine gains acceptance in the wine community. Finally, the United States has a long tradition of placing relatively strict limitations on its native forms of whiskey ; particularly notable are the requirements for labeling a product " straight whiskey " which require the whiskey to be produced in the United States according to certain standards and the requirement, enforced by federal law and several international agreements NAFTA among them that a product labeled Tennessee whiskey be a straight Bourbon whiskey produced in the state of Tennessee. Inversely, some European products have adopted a more American system:

Chapter 2 : Articles 2-20 The TRIPS Agreement

The European Union-Canada Comprehensive Economic and Trade Agreement (CETA) was provisionally implemented today. Of deep concern to the U.S. dairy industry is the automatic protection the EU gained for five generic cheese names: "asiago," "feta," "fontina," "gorgonzola" and "munster."

April 01, I. Introduction While it may seem strange for an agreement on intellectual property rights to affect food products, this is indeed the case with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights 1. TRIPS, signed on January 1, 1994, provides minimum standards for the protection of certain intellectual property types and the enforcement of intellectual property rights. Among the types of intellectual property protected by TRIPS are names of particular food products associated with specific geographic places "Food Geographic Indications". The assignment of intellectual property right to Food Geographic Indications means that TRIPS increasingly may become a factor in agricultural trade disputes. Paris Convention Article 10 defines industrial property to include "all manufactured or natural products, for example, wines, grain, tobacco leaf, fruit, cattle, minerals, mineral waters, beer, flowers, and flour. Under Article 22.1, geographic indications are defined as those names "which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation, or other characteristic of the good is essentially attributable to its geographic indication. TRIPS contains two basic protection standards for geographic indications. First, Article 22.2 requires countries to provide a legal means to prevent the use of a geographic indication that "suggests that the good in question originates in a geographic area other than the true place of origin. TRIPS provides an even stronger level of protection for geographic indications for wines and spirits. Under Article 23, countries must provide a legal means to prohibit the inaccurate use of a geographic indication for wines and spirits regardless of whether the use of the indication on a similar product would be misleading. For instance, a geographic indication does not have to be protected when it is a generic term for a product or is identical to the customary name of a grape variety. Thus, a dairy farmer in the U. S. A geographic indication also does not have to be protected if it has not been protected in its country of origin. Thus, if EU or Italian law did not already protect the name "Prosciutto di Parma," this name could be used on pork product similar to the famous one produced in Emilia-Romagna. In addition, a trademark that includes a geographic indication does not have to be protected if it has been obtained in good faith in one country either prior to the implementation of TRIPS in that country or prior to the protection of the trademark in the country of origin. Thus, if a producer had trademarked a seal similar to the Black Rooster symbol used by Chianti producers in a non-EU country prior to implementation of TRIPS in that country without knowledge of the protection of this name in the EU and Italy, the non-EU country would not be required to provide a legal means for Chianti producers to prohibit the use of this trademark. Finally, a geographic indication for wines and spirits does not have to be protected if it has been used in a country continuously and in good faith for at least 10 years prior to 15 April 1994. While WTO members have begun to make some progress on both issues, it is not clear that they will make progress quickly enough to prevent disputes that may disrupt agricultural trade. Thus, the Background Note is useful in understanding how any future WTO registration scheme may work. The main system of the first type was created by the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration the "Lisbon Agreement". The Lisbon Agreement, which entered into force 25 September 1988, is a special agreement under the aegis of the Paris Convention and currently has 18 members. Article 2 of the Lisbon Agreement defines an appellation of origin as "the geographical name of a country, region, or locality, which serves to designate a product originating therein, the quality and characteristics of which are due exclusively or essentially to the geographical environment, including natural and human factors. Under Article 3 of the Lisbon Agreement, parties to the agreement must protect against any imitation of a registered appellation of origin even when the true origin of the product is indicated or the appellation of origin is used in translation or is accompanied by terms such as "kind", "type", "make", "imitation", or the like. In order to become registered under the Lisbon Agreement, an appellation of origin must first be protected in its country of origin. Registration applications must be submitted to the International

Bureau of the World Intellectual Property Organization by national governments. The Franco-German Agreement contains a list of German geographic indications that are protected in France on the basis of German law and a list of French geographic indications that are protected in Germany on the basis of French law. Any addition of geographic indications to the lists requires a new negotiation under the agreement. Both have been modeled after the Lisbon Agreement. The EU has proposed creating a system that imposes an obligation on WTO members to "fully and indefinitely" protect any wine and spirit geographic indications voluntarily registered under the WTO. Other WTO members have weighed in on these two proposals. These countries would also like to expand the registration system to include geographic indications on various other products including fish e. The EU and South Africa signed a comprehensive free trade agreement in October that was to take effect beginning January 1, The implementation of the agreement was delayed until February 4, however, because of a dispute over the use of the names "grappa" and "ouzo" by South African spirits producers. Under the original terms of the agreement, South Africa had agreed to phase out the use of the names "port" and "sherry" over a 12 year period because of the claim by Portugal and Spain that these names were geographic indications native to their countries. Just prior to final approval of the trade agreement in the EU, Italy and Greece claimed that "grappa" and "ouzo" merited similar protection. After a month of negotiations, South Africa formally agreed to additionally phase out the use of these names even though South African production of grappa amounts to only 30, bottles a year and the production of ouzo is even less. If the WTO had already had a geographic indication registration system in place, this dispute may have been settled legally rather than politically. Nothing in this proposal would require South Africa to prohibit the continued use of these names because of their use in the EU. Under the EU proposal, however, South Africa would have been required to end the domestic use of the names grappa and ouzo because of their protection in the EU. Thus, the eventual form of the WTO registration system may have a significant impact on agricultural trade. The first method relies on existing intellectual property and competition laws. For example, South Africa provides protection for geographic indications through its general trademark and alcohol laws. Section 10 12 then provides that a trademark "which is inherently deceptive" shall not be registered as a trademark or shall, if registered, be capable of being removed from the trademark registry. Thus, these provisions are intended to meet TRIPS prohibition against the use of geographic indications in a misleading manner. This section provides that "no person shall use any name, word, expression, reference, particulars or indication in any manner either by itself or in coherence with any other verbal, written, printed, illustrated or visual material in connection with the sale of a liquor product in a manner that conveys or creates or is likely to convey or create a false or misleading impression as to the nature, substance, quality, composition or other properties, or the class, cultivar, origin, age, identity, or manner or place of production, of the liquor product. In fact, even a statement that provides the true origin of the product may be unlawful under this provision. The second method for protecting geographic indications is through legislation specifically designed for this purpose. Article 2 of the Origin Regulation provides two classes of geographic indications. The first, the protected designation of origin PDO , designates the name of a region, place, or country that is the origin of a product "whose quality is exclusively due to a particular geographic environment. This may lead to a new type of agricultural trade dispute. For example, on June 1, , the U. Article 12 provides that the protections provided in the Origin Regulation will apply to foreign geographic indications as long as 1 the foreign geographic indication meets the requirements regarding the connection between the product and the place of origin as required in the Origin Regulation it does not specify whether the PGI or PDO standard applies , 2 the foreign country has inspection requirements to ensure the proper use of origin names as required in the Origin Regulation, and 3 the foreign country provides a level of protection for EU geographic indications equivalent to that provided in the Origin Regulation. Conclusion If the U. It is not clear how such a panel will approach the issue especially given the paucity of TRIPS litigation to date. Those concerned with such disputes, therefore, may need to pay close attention to the development of TRIPS and its related jurisprudence. Berkey is a regulatory policy analyst at the Institute of International Finance and can be reached at jberkey iif. He graduated from the University of Virginia B. All views expressed in this article are those of the author alone. It is not clear if this provision is sufficient to support the continued use of the word "Champagne" on sparkling

wines from California. BATF continues to permit this use in the U. The scope of the requirement was broadened to include geographic indications for spirits at the Singapore WTO Ministerial. Applications must contain the following information according to Rules 1 2 and 5 4 of the Lisbon Agreement regulations: The Background Note lists three other agreements that created similar systems: These grounds are the following: Although the TRIPS took effect on January 1, , different implementation deadlines were provided for different groups of countries. Developed countries were given one year to ensure that their domestic laws and practices conformed with TRIPS. Developing countries and transition economies, on the other hand, were given until January 1, One of the unresolved issues raised at the attempted Seattle Round of trade negotiations was whether this deadline should be extended. Protection for wine and spirit geographic indications in the EU is provided by the national law of each EU member state. A list of the national laws that protect wine and spirit geographic indications is provided in EU Official Journal No. C 15 November On June 30, , Canada formally requested to be included in the ongoing talks between the EU and U. Economist July 10, , p. Educational and news media copying is permitted with due acknowledgement. Caitlin Behles serves as the managing editor. Please click the button below to get started.

Chapter 3 : EUROPEAN UNION: Budweiser & Budvar: Indications of Origin, the Austrian Issue Again

*2 Executive Summary ICER Policy Summit Indication-specific Pricing of Pharmaceuticals in the US Health Care System
The Institute for Clinical and Economic Review (ICER) held a Policy Summit on December 9 - 11, with*

Additionally, each Party shall make best efforts to register scent marks. A Party may require a concise and accurate description, or graphical representation, or both, as applicable, of the trademark. TPP provides a broad definition of eligible subject matter by prohibiting Parties from requiring that signs be visual perceptible. A Party is not obligated to treat certification marks as a separate category in its domestic law, provided that such marks are protected. Each Party shall also provide that signs that may serve as geographical indications are capable of protection under its trademark system This is a significant benefit since many World Trade Organization WTO Members have separate GI systems which do not accept trademark registrations including collective or certification marks as a basis for extension of protection as a GI. Instead, they can use their existing trademark system to accommodate GIs. In the case of the use of an identical sign for identical goods or services, a likelihood of confusion shall be presumed. With specific reference to geographical indications, the TPP provisions are a significant international step in the treatment of GIs as private intellectual property rights “not supranational monoliths bartered among governments. Further, for some WTO members, GIs may only be enforced or challenged at a government-to-government level, and can never become generic. The TPP text on both trademarks and geographical indications offers perspective and balance, treating trademarks and GIs as private intellectual property rights for all aspects of right acquisition, maintenance, challenge, and enforcement. Article 6bis of the Paris Convention for the Protection of Industrial Property shall apply, mutatis mutandis, to goods or services that are not identical or similar to those identified by a well-known trademark,¹⁶ whether registered or not, provided that use of that trademark in relation to those goods or services would indicate a connection between those goods or services and the owner of the trademark, and provided that the interests of the owner of the trademark are likely to be damaged by such use. Each Party shall provide for appropriate measures to refuse the application or cancel the registration and prohibit the use of a trademark that is identical or similar to a well-known trademark,¹⁷ for identical or similar goods or services, if the use of that trademark is likely to cause confusion with the prior well known trademark. A Party may also provide such measures inter alia in cases in which the subsequent trademark is likely to deceive. Since the Joint Recommendation includes concepts of dilution, passing off, and bad faith, as well as conflict with business identifiers and domain names, owners of well-known or famous marks should find this TPP provision adequate. Written decisions may be provided electronically. More transparency and accountability in trademark prosecution matters. If a Party does not have or chooses not to create a pre-registration opposition procedure, they must provide a similar cancellation procedure. All Parties must permit electronic filing and electronic search. Each Party shall provide that: Conversely, each Party shall provide that goods or services may not be considered as being dissimilar from each other on the ground that, in any registration or publication, they are classified in different classes of the Nice Classification. Requires use of the Nice Classification June 15, , as revised and amended. However, Parties may not use Nice Classification as a per se standard for determining likelihood of confusion. The international standard for trademark registration terms are moving in the direction of 10 years. This language gets Parties out of the business of using license recordation or lack thereof as a proxy for validity. There does not appear to be a numbered Article C. It is unclear whether this is merely a technical omission likely or whether there exists a super-secret Article C. Section A” General Provisions. Section H is quite far-reaching in its subject matter and merits special study by itself.

Chapter 4 : EU and China sign geographical indications agreement | Managing Intellectual Property

The Agreement provides for the cases and the manner in which seizure may be requested and effected. It prohibits the use, in connection with the sale, display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods.

Please enter your email address Please enter a valid email Please enter a maximum of 5 recipients. Use ; to separate more than one email address. Please enter an email address Please enter valid email addresses Recipient name s: Please enter a recipient name Email yourself a copy? Under the agreement, each side will protect around geographical indications from the other. The approval stage in the agreement has now passed, and it is expected to be applied in full by the end of this year. After that, the big test will be how effectively GIs can be enforced in China, and what impact the new protection will have on GI holders, consumers and other parties. With around GIs involved from each side, the project can be regarded as a landmark in the economic relationship between the EU and China. This article explores how this agreement has come about and its ramifications for GIs, intellectual property owners and consumers. Geographical indications Following the definition of the World Intellectual Property Organization WIPO a GI is generally considered to be "a sign used on products that have a specific geographical origin and possess qualities or a reputation that are due to that origin". To be protected as such, a product must therefore be labelled as being produced in a given region and must exhibit certain qualities and characteristics, which are dependent on the environmental or cultural conditions of the relevant place. Usually a GI consists of a geographical name, although a sign or symbol associated with a certain region can meet the abovementioned criteria as well. With the TRIPs Agreement asking its member states to provide legal means to protect GIs in Article 23 , their importance for producers, economists and consumers has increased continuously over the last 20 years. Though varying from country to country, the different compliance and monitoring measures are to prevent the use of an indication by someone whose product does not accord to the standards set out by a certain GI. However, a GI is not a defensive right against anyone making a product by using the required technique. Typical products that show characteristics of their place of origin would be agricultural products, foodstuffs as well as wines and spirit drinks such as Roquefort cheese or Grana Padano. But this listing is not exhaustive, and handicrafts and other industrial products such as Swiss watches can also be suitable for a GI. However, the high export rate of Chinese agricultural products suggests an impact also on local producers. Though GIs were the earliest names protected in the Chinese legal system, it did not distinguish them from other trade marks. Only with a revision in , following WTO membership, was the Trade Mark Law amended to define GIs with the protection of certification and collective marks. Nowadays they are protected in a dual system – first through the mentioned Trade Mark Law, and second by a sui generis system. Recognition of a GI via the Trade Mark Law is done by its registration as a certification or collective mark. For foreign producers it should be remarked that consumers prefer to accept a Chinese translation of the respective name. Like the European regulatory framework, an application is only accepted if the name to be registered already enjoys protection in its country of origin. In addition to that, China only accepts the GI organisation of the country of origin as an admissible applicant. This system is a first-to-file system, meaning that a GI may have already been registered as a trade mark by another producer. However, any person or organisation whose product meets the quality standards of the GI can request the use of the already registered certification or collective mark. This sui generis system will offer protection by recognising products which meet certain standards and are of high quality. Though China does not seem to have clear implementing rules for any bilateral agreements and the multiple registration system is quite unclear , the now published lengthy list is expected to strengthen and extend the protection. And nevertheless, apart from the 10plus10 project see below , quite a few businesses have already registered GIs in China. The names Bordeaux, Champagne, Scotch Whisky, White Stilton Cheese and Pomerol, to name just a few, have already made their way through the Chinese registration system. EU legal framework for GI protection The laws of the member states of the EU have always shared the goal to protect consumers from misleading labelling and to preserve producers from unfair competition. The key issue for GIs

has therefore always been represented in the individual laws of countries. However, as early as the Cassis de Dijon judgment made it necessary to seek a common, European approach. In this sense, the European protection of GIs has become a sui generis system. And ever since, the EU has entered into many bilateral and multilateral agreements on GI protection with trade partners such as Australia, Canada and Mexico. According to the European Commission for Agriculture and Rural Development, the initiatives have encouraged non-EU countries to develop a protection system on their own, eventually building a global consensus for the protection of GIs. Besides the bilateral agreements, aspirants may also register GIs directly by passing the following stages: While EU applications are to be processed through the respective national legislation, parties from non-member states may apply directly through the Commission. However, protection will be granted only if the product is already protected in its country of origin. The Commission will then examine whether the application meets the demands of the Regulation and will make a decision within no more than 12 months. In the next stage, the Commission will publish the list of names, which have been registered. Within six months of the publication, any member state, third country or person having a legitimate interest to object has the opportunity to challenge the names listed. The procedure intends to give parties with admissible concerns the opportunity to come to an agreement on the names listed. At this point we can see a parallel with the present agreement with China. Though not being a direct registration, the recent publication of names aims to give interested parties the opportunity to raise concerns or to comment. With completion of the above stages, the name will be registered in the European Register of Protected Geographical Indications and Designations of Origin. Though this procedure applies only to agricultural products, its steps are identical to the process of the regulatory framework for the protection of wines and spirits. Bilateral agreement between EU and China The present list of names is not a random compilation and they certainly came not by surprise. The names are the result of long cooperation between the EU and China and several years of negotiation were put into their publication. The first discussions began 10 years ago with the protection of only 10 GIs from each side, called the 10plus10 project. The negotiations on this, much wider and therefore more influential, treaty started in With the publication of the names, it is now up to any interested party to comment or raise concerns within a timeframe of two months. As a matter of fact, 21 of the European GIs have been already registered in China directly sui generis but they are planned to be attached to the agreement anyway. Concerning these names, no objections are expected to be raised. Nevertheless, the next few weeks will indicate whether any comments have been given on the remaining GIs, both from the European and the Chinese side. This is the stage in which outside parties may take the biggest influence on the agreement and undertake consultations with the European Commission and the Chinese authorities. Therefore we expect the publication to already have quite an effect on the marketing strategies of the relevant companies and regional producers. The next weeks will show a result but it seems that the long-developed, well-balanced list will not fall victim to any significant modification. The cited products were selected based on their predicted demand in the countries and include names such as Bayerisches Bier, Feta, Gorgonzola and Pecorino Romano from the European side. Future steps and implications There being strong economic ties between the EU and China, the success of the 10plus10 project is to be extended. And as there is a growing taste for European food and drink products in China, the Chinese agricultural sector wants to make its products more widely available in Europe too. As mentioned above, the country is rather late in protecting GIs. However, there is a wide range of local products corresponding to the concept of GIs, which shall now be protected globally. The same applies for producers in Europe. With their GIs being protected in China, they hope to reduce the risk of counterfeiting in the country. Moreover, China ranks among the five most important export markets for European GI products. Securing IP rights in an attractive and ever-growing market such as China is the biggest interest the EU pursues. Yet the names are nowhere near being enforceable. In this sense, the agreement is still in the stage of negotiation and, as mentioned above, some modification and further negotiation is possible if not even indispensable. However, with the deadline of two months being over, the agreement has now entered a new stage. The further negotiations with concerned parties are intended to be concluded by the end of and the agreement will then be ready for ratification. It will have to be implemented into the respective legal framework. As members of the TRIPs Agreement, both parties are obliged to take measures for compliance and monitoring and to provide

legal means to ensure the protection of GIs. What impact will the agreement have when entering into force and what will the companies have to prepare for? First of all, the publication of the names should have been followed closely by producers of the relevant products. This was the time for them to get involved in the negotiation and to secure their sales on the market. But the phase of objections has now come to an end so what are the implications of a ratified and implemented agreement? Like any other registered GI, the recognition of names functions as a system of protection for both the consumer from misleading labelling and the producer from unfair competition. Moreover, the GIs will be used as a marketing tool by guaranteeing a certain quality and character. And, maybe not of great importance for companies but doubtlessly for the respective regions, the agreement will boost rural development. The impact of the EU-China agreement depends on the definition of standards, which need to be maintained. With the present list, the biggest if not only impact can obviously be seen in the agricultural and the wines and spirits sectors. Here the companies will need to check the labelling of their products and examine whether their products meet the required standards. For effective enforcement of their GIs, the relevant companies will have to invest in marketing and promotion of the product. In the long term, for companies both in the EU and China there will for sure be an even higher export chance for GI holders. A success story The agreement seems to be the result and the extension of a long success story for GIs. It is not only a system of protection for consumers and local farmers, but also enables the relevant companies to export their products in a promising market such as China. Conversely, the agreement offers the same chance for the Chinese agricultural sector, as around of its own GIs will be registered under EU law. Moreover, the list manages to protect GI holders without hampering the ethos of free trade. If the published list gets through, this treaty can be seen as a landmark in economic relations between China and the EU and even in the global field of IP rights.

Chapter 5 : Implications of the WTO Protections for Food Geographic Indications | ASIL

*Agreement on Trade-Related Aspects of Intellectual Property Right, Apr. 15, , Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, Legal Instruments*â€”*Results of the Uruguay Round, 33 I.L.M. , () [hereinafter TRIPs.*

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Chapter 6 : Geographical indication - Wikipedia

2 The Madrid Agreement for the Repression of False or Deceptive Indications of Source of Goods was adopted in and revised at Washington (), The Hague (), London (), and Lisbon ().

Chapter 7 : Geographical Indications In Canada - Intellectual Property - Canada

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Chapter 8 : WTO | intellectual property (TRIPS) - agreement text - standards

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