THE EU AND CHINA IN INTERNATIONAL NEGOTIATIONS ON TRADE-RELATED INTELLECTUAL PROPERTY RIGHTS – COOPERATION AND CHALLENGES

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Abstract

In the multilateral forum of the WTO, trade-related intellectual property issues constitute one of the reasons for the dilemma in Doha negotiations. It is interesting to note, however, an increasing convergence between the EU and China’s policies in supporting the improvement of international intellectual property (IP) protection, and these two actors have even formed an alliance to promote stronger protection for the geographical indications. In order to understand the EU’s and China’s standpoint in international IP regulatory cooperation, it is necessary to examine their interaction and proposals in the WTO framework. This examination will provide insight into the issues on which these two major actors are readily able to reach agreement. It will also reveal the issues on which their differences still remain or have gradually narrowed to facilitate a rapprochement of views; accordingly, this paper reviews cooperation between the EU and China in multilateral negotiations on genetic resources and protection of geographical indications. The study will further examine the challenges leading to obstruction of the Doha negotiations.

Keywords: EU, China, genetic resources, geographical indications, multilateral negotiations

1. Introduction

The World Trade Organisation (WTO), created in 1995 by the Marrakesh Agreement establishing the World Trade Organization (hereafter the Marrakesh Agreement), replaced the General Agreement on Tariffs and Trade (GATT) of 1947. This multilateral forum represents a relatively favourable ground for the representation of the European Union (EU) as sui generis entity. The EU (former European Community) is admitted as a full member and can affirm itself as a

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1 Osman F. (dir.). (2001), L'organisation Mondiale du Commerce : vers un droit mondial du commerce?, Bruxylant.

2 Flaesch-Mougin C. (2005), Les relations avec les organisations internationales et la participation à celles-ci, dans Louis J-P. et Dony M. (dir.), Commentaire J. Mégrret, Le droit de la CE et de l’Union européenne, Vol. 12, Relations extérieures (2° éd.), Edition de l’Université de Bruxelles, pp. 337-438.
single global actor.\textsuperscript{3} As a result, the WTO allows the EU to execute its exclusive external competences in the trade area, in particular, the trade-related aspects of intellectual property.

With full access to the institutional structure of the multilateral trading system, the EU has the ability to cooperate with or assert its capacity to influence other members as do other WTO members, notably China (143\textsuperscript{rd} WTO member)\textsuperscript{4} or certain member states of the Association of Southeast Asian Nations (ASEAN), such as Vietnam (150\textsuperscript{th} WTO member).\textsuperscript{5} As sovereign and independent entities, the EU and China can address intellectual property rights (IPR) issues through diplomatic or conventional channels; in fact, bilateral cooperation between these two parties through dialogue or cooperation programmes is not the only way for both to discuss the issue of IPR, as the EU also has the possibility to act \textit{vis-à-vis} China through international organizations, where it has recourse to various instruments to carry out its external action in the form of cooperation, negotiation or even conclusion of new international treaties.

With regard to the intellectual property (IP) area, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), which forms Annex 1C of the Marrakesh Agreement, is the first international agreement that contains not only the standards to protect IPR, but also the enforcement of these rights.\textsuperscript{6} The TRIPS Agreement thus fills the gaps in the World Intellectual Property Organisation (WIPO) legal framework, since this international organisation specializing in the IP field lacks normative competence in IPR enforcement.\textsuperscript{7} In reality, other different international fora exist or are being created with mandates covering one or more aspects of IP, such as the International Union for the Protection of New Varieties of Plants (UPOV) and the international framework established by the Convention on Biological Diversity (CBD) under the auspices of the United Nations (UN). Because of the important role of WTO

\textsuperscript{3} Frid, R. (1995), \textit{The Relations between the EC and International Organizations: Legal Theory and Practice}, The Hague: Kluwer Law International, pp. 148–153.

\textsuperscript{4} China became a member of the WTO on December 11, 2001.

\textsuperscript{5} Vietnam became a member of the WTO on January 11, 2007.

\textsuperscript{6} Cottier, T. (2005), ‘The Agreement on Trade-Related Aspects of Intellectual Property Rights’, in Appleton A. E., Macrory P. F. J. & Plummer M. G. (eds.), \textit{The World Trade Organization Legal, Economic and Political Analysis}, Vol. 1–3, New York: Springer, pp. 1041–1120.

\textsuperscript{7} Françon A. (1993), ‘L’action de l’OMPI : perspectives d’avenir’, in Desbois D. H. (éd.), \textit{L’avenir de la propriété intellectuelle : Colloque}, Paris, 26 octobre 1993, Litec, pp. 111–117.
in international regulation and negotiation in regards to trade-related aspects of IP, this study focuses more specifically on interaction and cooperation between the EU and China in the institutional structure of these multilateral organizations, especially their respective stands and attitudes stated in the Doha Round of trade negotiations on IP.

In a multipolar world still under construction, the EU and the United States (US) are losing their hegemonic position in international cooperation. These two great powers have occupied a dominant position in international IPR regulations, particularly during the negotiations on the TRIPS Agreement. Nevertheless, China has progressively shown its ambition to affirm its role as a main actor alongside the EU and the US in international cooperative endeavours, including those relative to IP. In order to defend its interests well and assert itself as a key negotiator in this regard, China has begun to be more involved in international negotiations in the IP area. Faced with the leading role of the EU and the US, China and certain emerging countries, notably Brazil and India, have begun to establish themselves as key players. China has tended to join these emerging players, but this does not mean that this country is systematically opposed to the conventional initiatives proposed by the EU or the US. When the interests of the EU and China converge on the subject at hand, their positions move closer together. For example, in 2012, this Asian giant has participated, alongside the EU, in the Beijing Diplomatic Conference of the WIPO adopting the Beijing Treaty on Audiovisual Performances, with this post-TRIPS treaty being also signed and ratified two years later by China.

Despite the fact that the world trading system has been affected by protectionism declared by the US Trump administration, the EU remains a true believer of the multilateralism and international cooperation and continues to promote its strategy for a “Global Europe”. In the multilateral forum of the WTO, the trade-related IP issues constitute one of the prime reasons for the dilemma in Doha negotiations (1.1). It is interesting to note an increasing convergence between the EU’s and

8 Cabestan J. P. (2010), La politique internationale de la Chine, Presse de la fondation nationale des sciences politiques, pp. 333-360.
9 Karayanidi M. (2011), ‘Bargaining Power in Multilateral Negotiations on Intellectual Property Rules: Paradox of Weakness’, The Journal of World Intellectual Property, 14(3-4), pp. 265-275.
10 European Commission (2006), Global Europe: Competing in the World - A Contribution to the EU’s Growth and Jobs Strategy, COM(2006) 567 final.
China’s policies in supporting the improvement of international IPR protection (1.2). Confronted by consistent opposition from certain members, these two actors have even formed an alliance to promote stronger protection for geographical indications.

1.1. Trade-related intellectual property rights: One of the challenging issues in the WTO Doha Round

The WTO TRIPS Agreement provides a comprehensive set of international standards for most IPR. However, certain provisions of this multilateral treaty need to be improved and updated in line with the changing needs of society and new technologies. For this reason, this agreement mandates a review of article 27:3(b) to address the patentability or non-patentability of inventions relating to plants and animals, and the protection of plant varieties. The discussion of this issue - in terms of the need to strengthen the protection of genetic resources11 - as well as issues relating to geographical indications (GIs),12 are part of the mandate of the WTO multilateral trade negotiations, as set out in the Doha Ministerial Declaration of 2001.13

The protection of GIs and the protection of genetic resources in patent applications are thus included in the Doha negotiations.14 For the former, besides the negotiation to strengthen the multilateral protection of GIs for products other than wines and spirits, WTO members must also conduct negotiations to create a multilateral system of notification and registration of GIs for wines and spirits. These two GI matters are therefore being discussed in the TRIPS Council under the Doha mandate.15

Although the European and Chinese positions on IPR negotiation issues seem to be aligned, no overall compromise has been reached among

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11 Paragraph 19 of the 2001 Doha Declaration encourages Members to address the relationship between the TRIPS Agreement and the Convention on Biological Biodiversity (CBD). The talks on this issue thus focus on strengthening the protection of genetic resources.

12 In accordance with paragraphs 12 and 18 of the Declaration of the WTO Ministerial Conference adopted in Doha, 14 November 2001, WT/MIN(01)/DEC/1, 20 November 2001.

13 Ibid., paragraphs 12, 17 and 18.

14 Gervais D. J. et Schmitz I. (2010), L’accord sur les ADPIC, Larcier, pp. 311-326.

15 Ngo M. A. (2006), ‘La protection des indications géographiques : les enjeux du mandat de Doha’, Economie Rurale, 294-295 (juillet-octobre), p. 117-123 et Arhel P. (2009), ‘Registre multilatéral des indications géographiques, travaux récents de l’OMC’, Propriété industrielle, 2(février), p. 11.
the WTO members; thus, multilateral works in favour of strengthening rules in these areas are at an impasse. The Doha Round, launched in 2001, is not yet finalised. These long and laborious negotiations, already exceeding the duration of the Uruguay Round of the GATT, are now breaking all records in the history of trade negotiations. Numerous press comments, using provocative expressions, announce the “death” or “end” of the Doha Round, while some authors describe the “crisis”, “paralysis” or “blockage” of the WTO.

Given the lack of progress in WTO negotiations, a number of members, including the EU, the US and also China, tend to adjust their policies to circumvent the difficulties encountered at the multilateral level. These actors are reflecting on a new approach called “TRIPS-plus” to be implemented in other alternative frameworks to the WTO. The shift towards the WIPO forum and bilateralism has indeed the precise objective of establishing standards going further than those required in the TRIPS Agreement.

1.2. Gradual convergence between the EU and China in multilateral negotiations on IPR issues

In the process of setting new international standards related to IPR, the EU and China participate in the work of the WTO or WIPO, including the drafting, negotiation and adoption of new rules or treaties. One of their main objectives is to improve existing standards at the international level, such as those of the WTO TRIPS Agreement. They both show a willingness to defend their interests in this area, and can propose initiatives for debate or cooperation with each other or other third countries within the TRIPS Council at the WTO. In this regard, the EU and China remain two actors actively involved in multilateral work. Despite the difficulties in the

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16 Petiteville F. (2013), ‘Les négociations multilatérales à l’OMC : L’épuisement d’un modèle’, in Petiteville D. F. et Placidi-Frot D. (dir.), Négociations internationals, Presse de Sciences Po, pp. 345-367.
17 Cottier T. (2004), ‘Les tâches de l’OMC : Évolution et defies’, Revue internationale de droit économique, XVIII (3), pp. 273-291.
18 Helfer L. R. (2004), ‘Regime Shifting: The TRIPs Agreement and the New Dynamics of International Intellectual Property Making’, Yale Journal of International Law, 29, pp. 1-83.
19 Sell S. K. (2007), ‘TRIPS-Plus Free Trade Agreements and Access to Medicines’, Liverpool Law Review, 28, pp. 41-75.
20 Steward D. & Williams B. G. (2003), ‘The Impact of China’s WTO membership on the review of the TRIPs Agreement’, in Cass D. Z., Williams B. G. & Barker G. (eds.) (2003), China and the World Trading System: Entering the New Millennium, New York: Cambridge University Press, pp. 363-386.
WTO negotiations, both sides continue to seek to raise the level of IPR protection, notably to promote enhanced protection of genetic resources and GIs. Moreover, the converging willingness of these two actors to strengthen IPR protection is also reflected in the conclusion of their respective bilateral free trade agreements (FTA) incorporating more stringent binding provisions than the TRIPS Agreement.

However, European and Chinese support is not enough to convince all other WTO members to finalise the talks. A number of difficult matters remain to be resolved in the talks with a view to strengthening international standards on the protection for genetic resources and GIs. The momentum of negotiations largely depends on the subject under discussion and the attitude of other members as well; otherwise stated, the conduct of negotiations in the multilateral forum of the WTO depends on the good will of other members.21

In order to understand the positions of China and the EU taken in IP regulatory cooperation, it is necessary to examine their interaction in the WTO framework. This examination will provide insight into the issues on which these two major actors are relatively easy to reach agreement. It will also reveal the issues on which their differences still remain or have gradually narrowed to facilitate a rapprochement of views; accordingly, this paper aims to review the cooperation between the EU and China in multilateral negotiations on genetic resources (2) and GIs (3) protection. The study will further examine the challenges leading to the talks being blocked. The European and Chinese positions are generally aligned on these two sets of issues, which are still ongoing as part of the work of the TRIPS Council.

2. The EU and China in multilateral negotiations on genetic resources protection

The European and Chinese have both shown an attitude in favour of strengthening the international protection of genetic resources (2.1), but the overall convergence of their positions is nevertheless insufficient to convince other WTO members to reach a consensus on the modalities of protection (2.2).

2.1. The overall alignment of European and Chinese positions for a better protection of genetic resources

Genetic resources represent an area closely related to biodiversity. According to the definition of the Convention on Biological Diversity

21 Petiteville F. (2013), supra note 16, pp. 350-351.
(CBD), the term “genetic resources” refers to genetic material of actual or potential value. They can either be collected in situ (in nature and at their place of origin) on public or private property, or be found ex situ (in public or private collections, botanical gardens or gene banks in the form of whole organisms or samples). Regarding the link between IP and genetic resources, the latter, existing in nature, are not creations of the human mind and therefore cannot be protected as IP. Inventions or plant varieties based on genetic resources or developed on the basis of genetic resources can however be patented or protected by plant breeders’ rights. Access to genetic resources has consequently become an issue for research and industry following the development of biotechnologies since the 1980s. These resources are a strategic component for several sectors, in particular the pharmaceutical, cosmetics, biotechnology and food industries.

The entry into force of the TRIPS Agreement in 1995 and the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity (Nagoya Protocol) in 2014 has set out basic principles, but the relevant international law seems insufficient, in particular due to the absence of international rules to ensure effective compliance with the conditions on access and benefit sharing. The lack of appropriate legal instruments for adequate protection of genetic resources causes concerns for the countries such as providing biological or genetic resources (in particular China, Brazil, and India). Since acts of so-called “biopiracy” (illegitimate appropriation of genetic resources) may be rooted in the inadequacy of international regulations, these countries believe that they do not benefit sufficiently from the valorisation of their resources and traditional knowledge.

This is a reason why China implements the disclosure of origin requirement in its patent regime, and furthermore, this country is also committed to promoting this requirement in the WTO and WIPO forums. The EU also supports the need of source countries for

22 Morin J. F. (2005), ‘La divulgation de l’origine des ressources génétiques : Une contribution du droit des brevets au développement durable’, Les Cahiers de la propriété intellectuelle, 17(1), pp. 131-147.
23 Clavier J. P. (1998), Les catégories de la propriété intellectuelle à l’épreuve des créations génétiques, L’Harmattan.
24 According to the WIPO, traditional knowledge (TK) is knowledge, know-how, skills and practices that are developed, sustained and passed on from generation to generation within a community, often forming part of its cultural or spiritual identity.
enhanced protection of genetic resources in principle, and these two parties both attach great importance to discussions on this issue in the multilateral work of the WTO.

In addition, the obligation to disclose genetic resources in patent application has been a matter of bilateral Sino-European cooperation. During the Chinese patent legislative revision process (between 2006 and 2008), this question was repeatedly raised by the EU in order to conduct an in-depth exchange of views with China.\textsuperscript{25} The constructive exchanges through dialogue and technical cooperation at the bilateral level have allowed the EU and China to better understand their respective positions on the mandatory disclosure of genetic resources in patents, while both sides have also emphasised the need to advance the process of multilateral WTO negotiations for the conclusion of a legal instrument on genetic resources.

The rapprochement of the Chinese and European positions results from the similarity in their legal regimes. Given that China has a rich heritage of genetic resources, it is logical that its new patent law (2008) contains provisions to ensure the effective protection of genetic resources. Indeed, article 5 of the Chinese Law excludes from patentability those inventions based on genetic resources acquired or used illegally. Moreover, if a genetic element has been used in an invention, Chinese law requires the applicant to disclose the direct or indirect origin of the genetic resources used and to specify any information relating to the genetic resource in the patent application. Failure to comply with this obligation for disclosure might result in the inadmissibility of the patent application.\textsuperscript{26}

The EU law in the field of genetic resources remains less developed. European regulation only concerns access to genetic resources, conservation, information gathering and sustainable use of genetic resources available in agriculture, such as plant, microbial and animal genetic resources that are or could be useful for agriculture.\textsuperscript{27}

Nevertheless, it is possible to understand the European position through the preamble of the EU directive on the legal protection of

\textsuperscript{25} See for example the Joint Minutes of 7th EU-China IP Working Group Meeting (24 June 2010), point 3.

\textsuperscript{26} Article 26(5) of the Chinese Patent Law (2008).

\textsuperscript{27} Council Regulation (EC) No 870/2004 of 24 April 2004 established a Community programme on the conservation, characterisation, collection and utilisation of genetic resources in agriculture, and repealed Regulation (EC) No 1467/94.
biotechnological inventions. It states that if an invention relates to or uses biological material of plant or animal origin, the patent application must, if necessary, include information concerning the geographical place of origin of this material. This provision, considered as an incentive to mention the geographical origin of the biological material in the patent application, does not constitute an obligation. Unlike the Chinese legislation, the failure to mention the source has no legal consequences on the patent applications and the validity of the rights arising from granted patents.

Although the difference between the EU and China exists in term of the consequences of non-compliance with the obligation to disclose genetic resources, a similarity can still be found in provisions of FTAs concluded respectively by these two parties. A number of trade agreements between China and other countries including Peru and Costa Rica (countries providing genetic resources) contain provisions affirming the importance of establishing appropriate measures to ensure effective protection of genetic materials.

The EU’s flexible approach to the disclosure requirement is also reflected in the external agreements concluded by the European side with other countries. For example, the provisions of the FTA with South Korea (signed in 2010) do not contain any obligations regarding disclosure of origin, but it states that the parties shall actively participate in multilateral discussions on this issue, notably in the framework of WIPO, WTO and CBD.

With regard to less developed or developing partners, such as the African, Caribbean and Pacific Group of States (ACP), Peru and Colombia, provisions of the trade agreements concluded by the EU with these countries are richer, but they merely acknowledge the main principles of the CBD and define the framework for future cooperation. On this subject, there is criticism of the EU’s reluctance to apply more stringent protection for genetic material in the interests of its ACP partners.

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28 Directive 98/44/EC of the European Parliament and of the Council of 6 July 1998 on the legal protection of biotechnological inventions.
29 For example, see article 165 of China-New Zealand FTA (2008), article 145 of China-Peru FTA (2009) and article 111 of China-Costa Rica FTA (2011).
30 For example, article 10.4.0.1 of the EU-South Korea FTA (2009).
31 Jaeger T. (2015), ‘The EU Approach to IP Protection in Partnership Agreements’, in Antons C. & Hilty R. M. (Eds.). Intellectual Property and Free Trade Agreements in the Asia-Pacific Region, Berlin, Heidelberg: Springer, pp. 171-210.
32 EU-Colombia-Peru Trade Agreement (2012).
partner countries. For example, the relevant provisions provide that the parties “may require”\(^{33}\) or “it is useful to require”\(^{34}\) the disclosure of the origin or source of genetic resources and associated traditional knowledge in patent applications. Indeed, the EU’s agreements with these partner countries adopt a much less binding formula, which is close to a joint declaration on the importance of ensuring the equitable sharing of benefits arising from the use of genetic resources.

2.2. Mandatory disclosure of genetic resources in patent application, problematic issue in WTO negotiations

At the TRIPS Council, the EU, China and other members have struggled to reconcile their divergent positions on the sanction for non-compliance with the obligation to disclose the source of genetic resources in patent applications. Due to the continuing differences among members, former WTO Director General Pascal Lamy organized in 2011 informal consultations, known as green room negotiations, for the purpose of examining the proposals of different delegations on disclosure of the source of biological materials.\(^{35}\)

Four different proposals have been submitted respectively by the EU, the US, Switzerland and a group of emerging countries, developing countries (DCs) and less developed countries (LDCs).\(^{36}\) The proposal from the last-mentioned group, submitted by China, Brazil, India and others, is the most elaborate. It aims to amend the TRIPS Agreement. These countries propose inserting a new article 29\(bis\) requiring the obligation to disclose the origin of genetic resources and/or associated traditional knowledge.\(^{37}\) This new article would impose an obligation on the patent applicant to disclose the country of origin of the

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\(^{33}\) For example, article 150:4 of the CARIFORUM-EU Economic Partnership Agreement (2008).

\(^{34}\) For example, article 201:7 of the EU-Colombia-Peru Trade Agreement (2012).

\(^{35}\) WTO (2011), Report of the Director General to the Trade Negotiations Committee: Issues related to the extension of the protection of geographical indications provided for in article 23 of the TRIPS agreement to products other than wines and spirits and those related to the relationship between the TRIPS agreement and the Convention on Biological Diversity (TN/C/W/61).

\(^{36}\) Ibid.

\(^{37}\) WTO (2011), Draft decision to enhance mutual supportiveness between the TRIPS agreement and the convention on biological diversity - Communication from Brazil, China, Colombia, Ecuador, India, Indonesia, Peru, Thailand, the ACP Group, and the African Group (TN/C/W/59). See also Endeshaw A. (2005), ‘Asian Perspectives on Post-TRIPS Issues in Intellectual Property’, *The Journal of World Intellectual Property*, 8(2), pp. 211-235.
biological resources and traditional knowledge associated with the genetic resources used in the invention. The patent applicant would also have to provide evidence of prior informed consent and proof of fair and equitable benefit-sharing in accordance with the CBD.

Furthermore, sanctions (such as administrative sanctions, criminal sanctions, fines and adequate compensation for damages) should be imposed for violation of these obligations. This group of countries for the South even proposes that other measures and sanctions, including revocation of the patent, could be applied in case of non-compliance with the obligations.

From the same perspective of strengthening the protection of genetic resources, the EU, in supporting China’s stand, favours the possibility of obligating the applicant of a patent application to disclose the source or origin of the genetic material. However, in the EU’s view, it would not be appropriate to provide for the legal consequences of failure to comply with this obligation.38

Multilateral negotiations on this subject are continuing in the TRIPS Council.39 WTO members recognize that disclosure of the origin of genetic resources in patent applications is one of the possible ways to facilitate the tracking of transfers of genetic resources. However, their views continue to differ on whether the implementation of a disclosure mechanism for genetic resources would be useful and effective to ensure that the patent system contributes to the achievement of the objectives of the CBD.40 More specifically, members agree on the obligation of the applicant to disclose the source or origin of the genetic resource in patent application, but debate continues on the legal consequences of failing to do so.

The key question raised here is whether a breach of this obligation can suspend the grant of the patent or invalidate the granted patent. This deadlock does not discourage the EU and China from continuing

38 WTO (2002), Communication from the European Communities and member States - Review of Article 27.3(B) of the TRIPS Agreement, and the Relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD) and the Protection of Traditional Knowledge and Folklore (IP/C/W/383).
39 WTO (2020), Minutes of meeting: Council for Trade-Related Aspects of Intellectual Property Rights held in the Centre William Rappard on 6 February 2020 (IP/C/M/94). paragraphs 11-15.
40 WTO (2014), Meeting minutes of the Council for TRIPS held on 25-26 February 2014 (IP/C/M/75/Add.1). paragraphs 44-45.
negotiations within the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (hereafter IGC) in order to seek an alternative solution to what is proposed within the framework of WTO.41

3. The EU and China in multilateral negotiations on the protection of geographical indications

The promotion of GIs in international trade is one of the EU’s priority strategies, since adequate protection of European geographical names helps to combat the use of misleading practices and avoid the usurpation of these indications. Similarly, in order to preserve and enhance the country’s traditions and cultural heritage, China is seeking to better protect its local products through GIs. Adequate protection of GIs is thus of economic and political interest to both the EU and China. As a result, there is a similarity in their systems for ensuring the protection of GIs. For the EU and China, rich in tradition and history, their regimes provide higher and more extensive protection than the relevant provisions in the TRIPS Agreement.

The means of protecting GIs among WTO members is diverse, as the protection of GIs at the national level is defined by different legal concepts developed in specific historical and economic contexts. It is thus difficult for the Sino-European alliance to obtain a compromise from certain WTO members, especially those from the “New World” (3.1). Their opposition to the Sino-European proposal to strengthen multilateral protection for geographical indications leads to the blockage of multilateral negotiations on this issue (3.2).

3.1. The Sino-European alliance facing strong opposition from New World countries

In an increasingly globalized trade, the strengthening of this global competition forces agricultural producers to identify specific characteristics to position themselves on export markets.42 The protection of the reputation of local products responds to a growing need of European and Chinese producers to specialize their traditional and cultural identity on the international market. According to article 5(2) of the EU regulation,43 “geographical indication” is a name which

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41 Helfer L. R. (2004), supra note 18, p. 63-71.
42 Delphine M. V. (2012), La protection des indications géographiques: France, Europe, Inde. Editions Guae, p. 47.
43 Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs.
identifies a product originating in a specific place, region or country and the quality, reputation or other characteristic of this given product is essentially attributable to its geographical origin or at least one of the production steps of which take place in the defined geographical area. Since the qualities depend on the geographical place of production, there is a strong link between the product and its original place of production. These include European GIs such as Bordeaux (French wine), Prosciutto di Parma (Italian ham), Parmigiano Reggiano (Italian cheeses), as well as foreign GIs such as Café de Colombia, Blue Mountain (coffee from Jamaica) and Jinhua (Chinese ham).

For both the EU and China, the protection of GIs represents an asset and an offensive interest for their producers, as their international competitiveness can be enhanced by quality rather than quantity. The fact that the sui generis protection of GIs in Chinese law is essentially inspired by the EU regime then provides an additional explanatory element for the alignment of their positions in the work carried out at the international level, and while the WTO remains the essential and priority forum for dealing with GIs, these two actors thereby act in synergy and combine their efforts in the work at the multilateral level of the WTO.

The EU therefore wants GIs to be adequately protected in international markets. China and some countries, such as India, Sri Lanka, Guatemala, Thailand, etc., are also calling for better protection of GIs. These countries are at the forefront of the international debate on GIs because they are concerned about similar products from other countries being called “Long Jing” tea, “Darjeeling” tea, “Ceylon” tea, “Antigua” coffee, “Basmati” rice or “Jasmine” rice. These two major players, associated with certain emerging and developing countries (Brazil, India, Colombia, Thailand, etc.), are brought together in the “W/52 coalition”.

Contrary to these proponents for GIs protection, the countries of the “New World” (notably the US, Australia, Canada and New

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44 European Commission (2014), Green Paper - Making the most out of Europe’s traditional know-how: a possible extension of geographical indication protection of the European Union to non-agricultural products, COM(2014) 469 final, p. 9.

45 WTO (2008), Communications from Albania, Brazil, China, Colombia, Ecuador, the European Communities, Iceland, India, Indonesia, the Kyrgyz Republic, Liechtenstein, the Former Yugoslav Republic of Macedonia, Pakistan, Peru, Sri Lanka, Switzerland, Thailand, Turkey, the ACP Group and the African Group (TN/IP/W52).
Zealand) adopt another approach by favouring the trademark system to protect the geographical signs. These countries are also opposed to “TRIPS-plus” protection of GIs, because this could impede international trade in their agricultural products, wines and foodstuffs, such as their cheese with a generic name such as “feta”, “parmesan” or “mozzarella”. Starting from such a different logic around agricultural, wine, food and even culinary traditions and cultures, these “New World” countries are in favour of a “minimalist” protection of GIs at the international level.

This disparity in approaches is the main difficulty encountered by the EU and China in promoting GIs on the international scene. This explains the reason why they favour the bilateral conventional route with the intention of circumventing the obstacle at the multilateral level and to improve GI protection. In fact, in 2019, the EU and China concluded negotiations on an agreement concerning protection of GIs. This bilateral reciprocal agreement seeks to protect 100 EU GIs in China and 100 Chinese GIs in the EU against imitation and usurpation.

3.2. Double failure of the EU-China cooperation to strengthen multilateral protection for geographical indications

Due to strong opposition from the US, Canada, Japan, Australia and others, the Sino-European joint efforts to extend the protection of article 23 of the TRIPS Agreement to all products (1) and to establish a multilateral register of GIs for wines and spirits (2), have so far failed to produce satisfactory results in the multilateral work.

3.2.1. The challenge to extend additional GI protection to products other than wines and spirits

The obligation to provide multilateral protection for GIs is set out in two articles of the TRIPS Agreement. This multilateral agreement establishes a double level of protection: article 22 provides

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46 Resinek N (2007), ‘Geographical Indications and Trade Marks: Coexistence or ‘First in Time, First in Right’ Principle’, European Intellectual Property Review, 29(11), pp. 446-455.

47 Evans, P. (2006), ‘Geographical Indications, trade and the functioning of markets’, in Pugatch M. P. (ed.), The Intellectual Property Debate: Perspective from Law, Economics and Political Economy, Cheltenham: Edward Elgar Publishing, pp. 345-360.

48 Ibid.

49 European Commission (2020), EU and China signed a landmark agreement protecting European Geographical Indications. Retrieved from https://ec.europa.eu/commission/presscorner/detail/en/IP_20_1602 [accessed on 5 October 2020].
protection for all products, while article 23 provides a higher level of GIs protection for wines and spirits. Unlike the general scope of minimum protection under article 22, the scope of so-called additional protection conferred by article 23 is limited to wines and spirits only. In other words, GIs for wines and spirits enjoy a higher level of protection than other GIs.

Considering the lower multilateral protection for products other than wines and spirits, the Doha mandate encourages WTO members to discuss the extension to a wide range of products (including agricultural and non-agricultural) of the level of GI protection currently granted only to wines and spirits under article 23 of the TRIPS Agreement. Multilateral negotiations on this issue have been conducted in regular meetings of the TRIPS Council, pursuant to the decision of the Trade Negotiations Committee (TNC) of February 1, 2002.50

However, after some years of unproductive trade talks, the Hong Kong Ministerial Conference decision requests the Director General to intensify, without prejudice to the positions of Members, the consultation process with a view to moving the negotiations forward.51 It is within the framework of these informal consultations that formation of the “W/52 coalition” between the EC (now the EU) and China took place. These two parties believe that the negotiations should be oriented towards an amendment to the TRIPS Agreement in order to extend the additional protection of article 23 to GIs for all products. This idea of extending protection by amending the TRIPS Agreement has not received unanimous support among other members.52 Up to February 2011, eleven rounds of informal consultations on the issue of extension of protection have been held with participation of a small group of delegations representing different positions.53

50 WTO (2002), Trade Negotiations Committee: Statement by the Chairman of the General Council (TN/C/1).
51 WTO (2005), Doha Working Programme - Ministerial Declaration adopted on 18 December 2005 (WT/MIN(05)/DEC). paragraph 39.
52 WTO (2008), Report by the Director-General: Issues related to the extension of the protection of geographical indications provided for in article 23 of the TRIPS agreement to products other than wines and spirits and those related to the relationship between the TRIPS agreement and the Convention on Biological Diversity (TN/C/W/50).
53 WTO (2011), Report by the Director-General: Issues related to the extension of the protection of geographical indications provided for in article 23 of the TRIPS agreement to products other than wines and spirits and those related to the relationship between the TRIPS agreement and the Convention on Biological Diversity (TN/C/W/61).
Because of this practice of “green room” negotiations, the exchanges of views are structured and reduced essentially to three substantive subjects.\(^5^4\) The first deals with the differences between the general protection under article 22 and the additional protection for wines and spirits under article 23.\(^5^5\) The second question refers to the effects of extending a higher level of protection to GIs for other products. Lastly, the discussions should consider whether possible commercial benefits of GI extension can also be obtained through other legal means, such as trademarks. In this regard, the EU and China consider GIs and trademarks to be two distinct categories, and they insist that GIs are the most appropriate legal means.

Although 110 members, nearly three-quarters of WTO members, seem to be able to support the proposal of the “W/52 coalition”, the US and a number of members are holding to their position. These countries also argue that improved protection would be an additional burden and would disrupt existing legitimate marketing practices. Since continuing divergence between the proponents of extended protection (EU, Switzerland, China, India, Thailand and some African countries)\(^5^6\) on the one hand, and the opponents (US, Canada, Australia, Argentina, etc.)\(^5^7\) on the other hand, it is extremely difficult to find mutually acceptable solutions that could lead to a global compromise among WTO members. Diplomatic efforts are unable to find a way to resolve this deep division, and there is still no visible progress on the question of extending the scope of protection granted by article 23 of the TRIPS Agreement.\(^5^8\)

54 Ibid. paragraphs 23–26.
55 Blakeney M. (2006), ‘Geographical Indications and TRIPS’, in Pugatch M. P. (ed.), supra note 47, pp. 293–304.
56 Including Bulgaria, China, Guinea, India, Jamaica, Kenya, Madagascar, Mauritius, Morocco, Pakistan, Romania, Sri Lanka, Switzerland, Thailand, Tunisia, Turkey and the EU. See for example, WTO (2011), Communication from Albania, China, Croatia, European Union, Georgia, Guinea, Jamaica, Kenya, Liechtenstein, Madagascar, Sri Lanka, Thailand, Turkey, and Switzerland – Draft decision to amend Section 3 of Part II of the TRIPS agreement (TN/C/W/60).
57 Including Argentina, Australia, Canada, Chile, Colombia, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, New Zealand, Panama, Paraguay, Philippines, Chinese Taipei (Taiwan), and the United States.
58 WTO (2011), Report by the Director-General: Issues related to the extension of the protection of geographical indications provided for in article 23 of the TRIPS agreement to products other than wines and spirits and those related to the relationship between the TRIPS agreement and the Convention on Biological Diversity (TN/C/W/61). op. cit.
3.2.2. The challenge to establish a multilateral register of GIs for wines and spirits

The article 23:4 of the TRIPS Agreement states that “in order to facilitate the protection of geographical indications for wines, negotiations shall be undertaken in the Council for TRIPS concerning the establishment of a multilateral system of notification and registration of geographical indications for wines eligible for protection in those Members participating in the system”. Consequently, the WTO negotiations on this matter were initiated in 1997 as part of the regular work of the TRIPS Council and subsequently integrated into the Doha Round in accordance with paragraph 18 of the Doha Declaration. Negotiations on the establishment of multilateral register now take place at Special Sessions of the TRIPS Council. This issue is discussed separately from that on the extension of additional GI protection to other products.

As an ally of the EU on GI issues, China supports several key points in the European proposals. The EU indeed acts early to defend its interests in the GI registry negotiations. Before this issue was addressed in the Doha negotiations, the EC (now EU) submitted two communications in 1998 and 2000 to advance discussions at the regular meetings of the TRIPS Council. For the European side, the register is not only a useful tool to ensure equal treatment between national and foreign GIs, but is a practical instrument for importers, exporters, administrative and judicial authorities, producers and consumers as well, and to these ends, the first proposal of 1998 proved to be much bolder than its subsequent proposals. The European side has proposed that GIs should enjoy absolute and unlimited protection by all WTO members after one year of notification to the WTO Secretariat. Its proposal even incorporated the additional obligation to provide appropriate measures to ensure protection of GIs registered in the multilateral system.

59 WTO (1998), Communication from the European Communities and their Member States: Proposal for a multilateral register of geographical indications for wines and spirits based on article 23.4 of the TRIPS agreement (IP/C/W/107).
60 WTO (2000), Communication from the European Communities and their Member States: Implementation of article 23.4 of the trips agreement relating to the establishment of a multilateral system of notification and registration of geographical indications (IP/C/W/107/Rev. 1).
61 Panizzon M. & Cottier T. (2006), Traditional Knowledge and Geographical Indications: Foundations: Interests and Negotiating Positions. NCCR Trade Regulation Working Paper No. 2005/01. Retrieved from http://dx.doi.org/10.2139/ssrn.1090861 [accessed 7 September 2020].
Facing strong resistance from “New World” countries to mandatory participation in the multilateral registration system, the content of European communication in 2005\textsuperscript{62} has been made more flexible than previous initiatives. At the time, the EC presented a proposal allowing members to participate voluntarily in the multilateral notification and registration system. The legal effect resulting from the registration of GIs has also been reduced, so that participating members would only commit themselves to providing legal means for interested parties to use registration as a presumption of GI protection; however, this proposal to facilitate GI protection for wines and spirits has not received an enthusiastic response at the TRIPS Council.\textsuperscript{63}

The European proposal seems particularly unacceptable for those representing wine trade in the “New World”, such as Argentina, Australia, Canada, Chile, South Africa, the US and New Zealand. This group of countries has suggested a much more flexible approach.\textsuperscript{64} Instead of amending the TRIPS Agreement, this group has proposed to set up a voluntary system under which notified GIs would be registered in a database for information purposes. Members not participating in this system would be “encouraged” to consult the database but “not obliged” to do so. They have therefore called for a simple, voluntary, low-cost registration system that would be designed only to facilitate access to information on GIs by members.

Negotiators’ attention is focused on whether or not the GI register should create a legally binding effect for participating members. With the aim of establishing a meaningful multilateral registry, the EU has proposed to “multilateralize” the legal effects of registration even for members that choose not to participate in the registry system. This

\textsuperscript{62} WTO (2005), Communication from the European Communities - Geographical indications (TN/IP/W/11).

\textsuperscript{63} WTO (2007), Minutes of meeting - Council for Trade-Related Aspects of Intellectual Property Rights Special Session held on 18 October 2017 (TN/IP/M/32), specially paragraphs 1.20 and 1.33.

\textsuperscript{64} WTO (2005), Submission by Argentina, Australia, Canada, Chile, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Japan, Korea, Mexico, New Zealand, Nicaragua, Paraguay, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu and the United States - Proposed draft TRIPS council decision on the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits (TN/IP/W/10/Rev.4).
argument is notably supported by China and Switzerland. China insists on the need for a “multilateral” register, believing that the coverage of the registration should be extended to products other than wines and spirits, such as rice and tea. At the 2010 meeting, the Chinese delegation even expressed its willingness to participate only in a GI register that includes all products.

The current state of negotiations at the TRIPS Council illustrates a challenge of reaching an overall compromise on the GI register issue. The debates of the last few years have not allowed for a real rapprochement of points of view between two camps: that of the EU and China, on the one hand, and that of the US and Australia, on the other. Their differences are not limited to questions of the legal effect of registration, but also concern the fundamental question of participation in the registry. As the Chairman’s Report by Ambassador Darlington Mwape indicates in 2011, it is clear that there is a long way to go to move to a more focused, concrete and informed substantive debate. The issue of legal effect certainly constitutes the main stumbling block to progress in the negotiations, because members have not been able to engage constructively on this issue. No visible progress has been made since 2011. It appears that WTO members are not yet ready to advance negotiations on the GI register for wines and spirits.

The coalition between the EU and China has not abetted finalization of the Doha negotiations on this issue. It is difficult for

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65 WTO (2009), Minutes of meeting: Council for Trade-Related Aspects of Intellectual Property Rights Special Session held in the Centre William Rappard on 10 June 2009 (TN/IP/M/22). paragraph 143.

66 WTO (2009), Minutes of meeting: Council for Trade-Related Aspects of Intellectual Property Rights Special Session held in the Centre William Rappard on 5 March 2009 (TN/IP/M/21). paragraph 58.

67 WTO (2008), Minutes of meeting: Council for Trade-Related Aspects of Intellectual Property Rights Special Session held in the Centre William Rappard on 29 April 2008 (TN/IP/M/19). paragraph 27.

68 WTO (2011), Minutes of meeting: Council for Trade-Related Aspects of Intellectual Property Rights Special Session held in the Centre William Rappard on 28 October 2010 (TN/IP/M/27). paragraph 72.

69 Arhel P. (2007). ‘Cycle de Doha : bilan et perspectives’, Recueil Dalloz, p. 1984.

70 WTO (2011), Report by the Chairman, Ambassador Darlington Mwape (Zambia) to the Trade Negotiations Committee: Multilateral system of notification and registration of geographical indications for wines and spirits (TN/IP/21). paragraphs 18–19.

71 WTO (2014), Report by the Chairman, Ambassador Alfredo Suscum (Panama): Multilateral system of notification and registration of geographical indications for wines and spirits (TN/IP/22).
these two parties to defend their quality products against countries claiming a “minimalist” protection of geographical names. This failure in the multilateral negotiations has thus marked the beginning of a development of the “TRIPS-plus” approach at the bilateral level. Sino–European bilateral agreement on GIs signed in 2019 shows their commitment to working closely in this regard. This agreement contains two lists of registered GI names from both sides, including 100 European GIs and 100 Chinese GIs. These 200 names shall be protected from unfair competition and usurpation on each other’s market. Moreover, four years after entry into force of the agreement, the scope of the agreement will expand to introduce an additional 175 GI names from both sides. In order to circumvent the difficulties encountered at the WTO, the strategic partnership between the EU and China has played its role in facilitating the emergence of a common approach favourable to conclusion of the bilateral agreement providing better GIs protection.

Conclusion
The analysis demonstrates limited capacity of the EU and China to influence the WTO standard setting, as their capacity varies according to the subjects under negotiation and is dependent on the willingness of other members. Taking the GI, central issue of the EU trade policy, as an example, despite their joint efforts, the EU and China are not able to overcome the hostility of the “New World” countries. The state of progress of multilateral work on GI issues suggests that consensus with other countries does not seem conceivable in the short term. No solution is in sight, even if some countries are ready to continue the debate. Negotiations are therefore impeded, but this persistent deadlock at the WTO does not necessarily prevent the EU and China from resorting to bilateral channels to conclude the 2019 bilateral agreement, which is better adapted to their needs in terms of GIs. EU’s bilateral approach to promote better GI protection has also been implemented through its recent FTA with some Asian countries, notably the Article 12.23 to Article 12.33 of the EU-Vietnam FTA (EVFTA) signed on 30 June 2019 and took effect on 1st August 2020; these provisions state the reciprocal protection mechanism for over 169 EU GIs and 39 Vietnamese GIs and the obligation to enforce GI rights by appropriate administrative action.

Despite maintaining close cooperation with certain countries at the bilateral level, the EU and China do not always have the same position
on the subjects discussed within the WTO. As the review illustrates, the US is opposed to the European proposals on GIs, while China supports strengthening protection of geographical names, because this issue reflects a convergence of interests between the EU and China. On the other hand, when the EU and the US join forces in favour of tightening IPR enforcement measures, China has revealed antagonism to their joint proposals (such as their proposals to the TRIPS Council). Strengthening IPR enforcement measures remains a sensitive issue for China. In this regard, China’s foreign policy is mixed when it comes to provisions to strengthen IPR protection and enforcement.

China’s increasing participation in work of international organizations is part of this country’s national strategy. This Asian giant plans to consolidate its voice and position on the international scene through its gradual involvement in regional and international forums. China’s active participation in international IPR regulatory cooperation shows its commitment to improving IPR protection as well as its ambition to become an influential actor. The conclusion of Sino–European agreement on GIs has made it possible to strengthen, vis-à-vis other countries, their joint fight for better protection of GIs. In this respect, China’s international promotion of enhanced IPR protection is not only beneficial to European operators on the Chinese market, but to Chinese operators who wish to protect their IP more effectively as well.

References

Monographs

[1] Antons C. & Hilty R. M. (eds.) (2015). Intellectual Property and Free Trade Agreements in the Asia-Pacific Region, Berlin, Heidelberg: Springer
[2] Appleton A. E., Macrory P. F. J. & Plummer M. G. (eds.) (2005), The World Trade Organization Legal, Economic and Political Analysis, Vol. 1-3, New York: Springer
[3] Cass D. Z., Williams B. G. & Barker G. (eds.), China and the World Trading System: Entering the New Millennium, New York: Cambridge University Press
[4] Clavier J. P. (1998), Les catégories de la propriété intellectuelle à l’épreuve des créations génétiques, L’Harmattan
[5] Delphine M. V. (2012), La protection des indications géographiques: France, Europe, Inde. Editions Guae
[6] Frid, R. (1995), The Relations between the EC and International Organizations: Legal Theory and Practice, The Hague: Kluwer Law International
[7] Gervais D. J. et Schnitz I. (2010), L’accord sur les ADPIC, Larcier
[8] Louis J-P. et Dony M. (dir.) (2005), Commentaire J. Méret, Le droit de la CE et de l’Union européenne, Vol. 12, Relations extérieures (2e éd.), Edition de l’Université de Bruxelles
[9] Osman F. (dir.). (2001), L’organisation Mondiale du Commerce : vers un droit mondial du commerce?, Bruylant
[10] Petiteville D. F. et Placidi-Frot D. (dir.) (2013), Négociations internationals, Presse de Sciences Po

[11] Pugatch M. P. (ed.) (2006), The Intellectual Property Debate: Perspective from Law, Economics and Political Economy, Cheltenham: Edward Elgar Publishing

**Articles**

[12] Endeshaw A. (2005), ‘Asian Perspectives on Post-TRIPS Issues in Intellectual Property’, *The Journal of World Intellectual Property*, 8(2), pp. 211-235

[13] Helfer L. R. (2004), ‘Regime Shifting: The TRIPS Agreement and the New Dynamics of International Intellectual Property Making’, *Yale Journal of International Law*, 29, pp. 1-83

[14] Karayanidi M. (2011), ‘Bargaining Power in Multilateral Negotiations on Intellectual Property Rules: Paradox of Weakness’, *The Journal of World Intellectual Property*, 14(3-4), pp. 265-275

[15] Morin J. F. (2005), ‘La divulgation de l’origine des ressources génétiques : Une contribution du droit des brevets au développement durable’, *Les Cahiers de la propriété intellectuelle*, 17(1), pp. 131-147

[16] Ngo M. A. (2006), ‘La protection des indications géographiques : les enjeux du mandat de Doha’, *Economie Rurale*, 294-295 (juillet-octobre), pp. 117-123

[17] Resinek N (2007), ‘Geographical Indications and Trade Marks: Coexistence or ‘First in Time, First in Right’ Principle’, *European Intellectual Property Review*, 29(11), pp. 446-455

[18] Sell S. K. (2007), ‘TRIPS-Plus Free Trade Agreements and Access to Medicines’, *Liverpool Law Review*, 28, pp. 41-75

**EU law**

[19] Directive 98/44/EC of the European Parliament and of the Council of 6 July 1998 on the legal protection of biotechnological inventions

[20] Council Regulation (EC) No 870/2004 of 24 April 2004 establishing a Community programme on the conservation, characterisation, collection and utilisation of genetic resources in agriculture, and repealing Regulation (EC) No 1467/94

[21] Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs

**EU documents**

[22] European Commission (2006), *Global Europe: Competing in the World - A Contribution to the EU’s Growth and Jobs Strategy*, COM(2006) 567 final

[23] European Commission (2014), *Green Paper - Making the most out of Europe’s traditional know-how: a possible extension of geographical indication protection of the European Union to non-agricultural products*, COM(2014) 469 final

**WTO documents**

[24] WTO (1998), Communication from the European Communities and their Member States: Proposal for a multilateral register of geographical indications for wines and spirits based on article 23.4 of the TRIPS agreement (IP/C/W/107)

[25] WTO (2000), Communication from the European Communities and their Member States: Implementation of article 23.4 of the trips agreement relating to the establishment of a multilateral system of notification and registration of geographical indications (IP/C/W/107/Rev. 1)

[26] WTO (2002), Trade Negotiations Committee: Statement by the Chairman of the General Council (TN/C/1)

[27] WTO (2002), Communication from the European Communities and member States - Review of Article 27.3(B) of the TRIPS Agreement, and the Relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD) and the Protection of Traditional Knowledge and Folklore (IP/C/W/383)

[28] WTO (2005), Doha Working Programme - Ministerial Declaration adopted on 18 December 2005 (WT/MIN(05)/DEC)
[29] WTO (2005), Communication from the European Communities - Geographical indications (TN/IP/W/11)

[30] WTO (2005), Submission by Argentina, Australia, Canada, Chile, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Japan, Korea, Mexico, New Zealand, Nicaragua, Paraguay, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu and the United States - Proposed draft TRIPS council decision on the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits (TN/IP/W/10/Rev.4)

[31] WTO (2007), Minutes of meeting - Council for Trade-Related Aspects of Intellectual Property Rights Special Session held on 18 October 2017 (TN/IP/M/32)

[32] WTO (2008), Report by the Director-General: Issues related to the extension of the protection of geographical indications provided for in article 23 of the TRIPS agreement to products other than wines and spirits and those related to the relationship between the TRIPS agreement and the Convention on Biological Diversity (TN/C/W/50)

[33] WTO (2008), Communications from Albania, Brazil, China, Colombia, Ecuador, the European Communities, Iceland, India, Indonesia, the Kyrgyz Republic, Liechtenstein, the Former Yugoslav Republic of Macedonia, Pakistan, Peru, Sri Lanka, Switzerland, Thailand, Turkey, the ACP Group and the African Group (TN/IP/W52).

[34] WTO (2008), Minutes of meeting: Council for Trade-Related Aspects of Intellectual Property Rights Special Session held in the Centre William Rappard on 29 April 2008 (TN/IP/M/19)

[35] WTO (2009), Minutes of meeting: Council for Trade-Related Aspects of Intellectual Property Rights Special Session held in the Centre William Rappard on 5 March 2009 (TN/IP/M/21)

[36] WTO (2009), Minutes of meeting: Council for Trade-Related Aspects of Intellectual Property Rights Special Session held in the Centre William Rappard on 10 June 2009 (TN/IP/M/22)

[37] WTO (2011), Draft decision to enhance mutual supportiveness between the TRIPS agreement and the convention on biological diversity - Communication from Brazil, China, Colombia, Ecuador, India, Indonesia, Peru, Thailand, the ACP Group, and the African Group (TN/C/W/59)

[38] WTO (2011), Communication from Albania, China, Croatia, European Union, Georgia, Guinea, Jamaica, Kenya, Liechtenstein, Madagascar, Sri Lanka, Thailand, Turkey, and Switzerland - Draft decision to amend Section 3 of Part II of the TRIPS agreement (TN/C/W/60)

[39] WTO (2011), Report of the Director General to the Trade Negotiations Committee: Issues related to the extension of the protection of geographical indications provided for in article 23 of the TRIPS agreement to products other than wines and spirits and those related to the relationship between the TRIPS agreement and the Convention on Biological Diversity (TN/C/W/61)

[40] WTO (2011), Report by the Chairman, Ambassador Darlington Mwape (Zambia) to the Trade Negotiations Committee: Multilateral system of notification and registration of geographical indications for wines and spirits (TN/IP/21)

[41] WTO (2011), Minutes of meeting: Council for Trade-Related Aspects of Intellectual Property Rights Special Session held in the Centre William Rappard on 28 October 2010 (TN/IP/M/27)

[42] WTO (2014), Meeting minutes of the Council for TRIPS held on 25-26 February 2014 (IP/C/M/75/Add.1)

[43] WTO (2014), Report by the Chairman, Ambassador Alfredo Suescum (Panama): Multilateral system of notification and registration of geographical indications for wines and spirits (TN/IP/22)

[44] WTO (2020), Minutes of meeting: Council for Trade-Related Aspects of Intellectual Property Rights held in the Centre William Rappard on 6 February 2020 (IP/C/M/94)