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**Council for Trade-Related Aspects  
of Intellectual Property Rights**

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## INFORMATION FROM MEMBERS ON ANY SYSTEMS FOR THE REGISTRATION OF GEOGRAPHICAL INDICATIONS WHICH THEY OPERATE

### Communication from Costa Rica

#### Addendum

At its meeting of 27 February 1997, the Council for TRIPS agreed to initiate preliminary work on issues relevant to the negotiations specified in Article 23.4 of the TRIPS Agreement through an information-gathering activity. In this connection, the Council invited Members to submit information on any systems for the registration of geographical indications which they operate. Reference is made to paragraph 73 of document IP/C/M/12.

The present document reproduces the information received by the Secretariat from the delegation of Costa Rica on 11 November 1997.

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## PRELIMINARY WORK ON NEGOTIATIONS SPECIFIED IN ARTICLE 23.4 OF THE AGREEMENT ON TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS

### Systems for the Protection and Registration of Geographical Indications: Costa Rican Laws

#### Document Prepared by the Permanent Mission of Costa Rica to the World Trade Organization

In connection with paragraph 34 of the 1996 Report of the Council for TRIPS concerning the review to be carried out under Article 24.2 of the Agreement on TRIPS, the Council agreed at its meeting of 27 February 1997 to initiate the preliminary work on issues relevant to the negotiations specified in Article 23.4 of the Agreement on TRIPS through an information-gathering activity. The Council for TRIPS therefore invited Member countries to submit information on any systems for the notification and registration of geographical indications which they operated in their territories.

The present document is Costa Rica's contribution to the task of information-gathering assigned to the Council on TRIPS under Article 23.4, which states:

"In order to facilitate the protection of geographical indications for wines, negotiations will 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".

## I. SCOPE

For the sake of defining the scope of this document, we wish to point out that it is a contribution to the Secretariat for the purposes of preparing a factual background note. It is therefore designed as a response to the request for information made by the Council for TRIPS in connection with Article 23.2 of the Agreement on TRIPS.

It should nevertheless be pointed out that present Costa Rican laws make no provision for a system of registration or protection exclusively for wines or spirits. The protection granted under Costa Rican laws covers geographical indications in general, and implicitly geographical indications that identify wines and spirits. Although that protection and registration of geographical indications is not exclusive to wines and spirits, we believe that the Costa Rican system of protection under that special intellectual property regime could be of interest to the other Members and contribute to the preparation of the factual background note entrusted to the Secretariat.

In the light of the foregoing, we recognise that this document sums up only the main provisions of Costa Rican laws concerning the protection and registration of geographical indications in general. It does not purport to be an interpretation of the provisions under reference nor an official position of Costa Rica, whether present or future, in the context of the negotiations to be held in pursuance of Article 23 of the TRIPS Agreement.

## II. CENTRAL AMERICAN AGREEMENT FOR THE PROTECTION OF INDUSTRIAL PROPERTY (MARKS, TRADE NAMES AND ADVERTISING SLOGANS OR SIGNS)

Considering its regional scope, we think it appropriate to refer specifically to the Central American Agreement for the Protection of Industrial Property (Marks, Trade Names and Advertising Slogans and Signs)<sup>1</sup> - hereinafter "the Agreement" - which regulates geographical indications, within the meaning of Section 3, paragraph II of the Agreement on TRIPS.

Title VI of this regional Agreement distinguishes between two concepts: "indications of source" and "appellations of origin". Article 72 of the Agreement defines "indication of source" as the geographical name of a locality, region or country affixed or appearing on any label, wrapper, packaging, cover or seal of any goods or directly on such goods, as the place where they were manufactured, produced or extracted.

The "appellation of origin" is the geographical name that designates a product manufactured, harvested or extracted in the place to which the name used for such designation corresponds and which serves to indicate specific quality and characteristics.

"Appellation of origin" as defined in the aforementioned Article 72 of the Agreement, is obviously closer to the concept of "geographical indications" as defined in the first paragraph of Article 22 of the Agreement on TRIPS.<sup>2</sup>

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<sup>1</sup> Decree No. 4543 of 18 March 1970. The parties to the Central American Agreement for the Protection of Industrial Property are Guatemala, El Salvador, Honduras, Nicaragua and Costa Rica.

<sup>2</sup> For the purposes of this document, the concepts "appellation of origin" and "geographical indication" will be used synonymously, without thereby attempting to overlook the differences between them.

Article 73 of the Convention accords any manufacturer, trader or supplier of services who is established in a specific country, place or region, the right to use its geographical name as an indication of quality and certain characteristics. A geographical name used as an appellation of origin or indication of source, however, "shall correspond exactly to that of the place where the goods assumed their specific character or substance or from where they came".<sup>3</sup>

The Agreement also prohibits the use of appellations of origin that do not correspond to the place where the products, goods or services were manufactured, produced, harvested or extracted. The inclusion of false indications of source or appellations of origin on any label, wrapper, packaging, cover or sealing device of any goods or directly on such goods, whether the said goods are identified by registered marks or not, will render those responsible liable to the penalties provided for under Chapter VIII of Title VII of the Agreement.

The Convention establishes neither a system of registration for geographical indications in general nor for geographical indications specifically identifying wines or spirits.

In order to bring national legislation into line with the provisions of the Agreement on TRIPS, the Legislative Assembly is currently studying the signing of a Protocol Amending the Central American Agreement with a view to creating a registration system for geographical indications. If this was approved by the Legislative Assembly, the other Member States would be informed of its operation.

### III. OTHER MULTILATERAL AND BILATERAL INSTRUMENTS SIGNED BY COSTA RICA FOR THE PROTECTION OF GEOGRAPHICAL INDICATIONS

Although the Agreement was for a long time the body of rules governing appellations of origin in Costa Rica, it should be mentioned that Costa Rica adapted the protection afforded to geographical indications to the rules laid down in other multilateral and bilateral agreements dealing with this subject and which are therefore worth mentioning.

Costa Rica has signed and currently applies the following multilateral agreements:

- (a) The Paris Convention, Article 10 of which protects geographical indications.<sup>4</sup>
- (b) The Lisbon Agreement.

As both these multilateral agreements are the main instruments of international law governing the protection and registration of geographical indications<sup>5</sup> and are widely known and used by Members of the World Trade Organization, we will not attempt to describe or summarize their provisions.

We would like to state expressly that Costa Rica does use the registration system created under the Lisbon Agreement, which is administered by WIPO. Under the Lisbon Agreement, Costa Rica recognizes and protects geographical indications that have been registered with the International Bureau of the World Intellectual Property Organization. Costa Rica's Industrial Property Registry has registered and actually recognized, *inter alia*, tobacco and spirits, duly supported by certificates issued by WIPO and by the authorities of the country of origin claiming protection or recognition.

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<sup>3</sup> Article 74 of the Agreement.

<sup>4</sup> Article 10 refers *inter alia*, to Articles 9 and 10 *ter*, which are also applied.

<sup>5</sup> In addition to the Madrid Agreement of 1891.

To date, Costa Rica has neither recognized by law any geographical indication designating a product originating within the national territory, nor requested international registration of any product.

As far as bilateral agreements are concerned, the Free Trade Agreement between Costa Rica and Mexico contains provisions regarding the protection of geographical indications and therefore merits brief mention.

#### IV. FREE TRADE AGREEMENT BETWEEN COSTA RICA AND MEXICO

One of the objectives of Chapter XIV (Intellectual Property) of the Free Trade Agreement between Costa Rica and Mexico (hereinafter "the Agreement") is to lay down substantive provisions on geographical indications or indications of source and appellations of origin.

The Agreement contains four substantial Articles dealing with the protection of geographical indications. The first two draw a distinction between the concept of "appellation of origin" on the one hand, and "geographical indication" on the other. "Geographical indication" is a more general concept which uses the geographical name to identify the place of origin or the source of goods, or where they were processed, harvested or extracted. Another Article contains a provision that is almost identical to paragraph 3 of Article 22 of the Agreement on TRIPS.

The Agreement does not create a specific system for the registration or notification of geographical indications or appellations of origin.

#### V. CONCLUSION

The legal system of Costa Rica grants basic protection to geographical indication through various multilateral, regional and bilateral instruments of international law. There is no exclusive system for the registration or notification of wines and spirits, however. In that regard, the registration system for geographical indications generally implemented by the Industrial Property Registry abides by the rules laid down mainly in the Lisbon Agreement. Therefore, some geographical indications identifying wines and spirits have been registered with the responsible authority, pursuant to the appropriate international legal provision.