WORLD TRADE ORGANIZATION

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General Council
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

Report by the Director-General

1. As reported to various meetings of the General Council[1] and the TNC[2], Deputy Director-General Rufus Yerxa has been consulting on my behalf on 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 ("GI extension") and those related to the relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD), pursuant to the mandate relating to outstanding implementation issues in paragraph 39 of the Hong Kong Ministerial Declaration (WT/MIN(05)/DEC). The purpose of this note is to report on the status of these discussions.

GI extension

2. The work continues to be characterized by different views on both the merits of GI extension and on whether it was agreed at Doha that this is part of the negotiations and of the Single Undertaking. There are also different views on whether this matter should be addressed in the context of the modalities decision.

3. On the one hand, we have a number of Members who support GI extension and who want clear guidance on this question as part of the modalities decision. In this connection, these Members have tabled the followote2ETBT1 0 0 bTJETBT1 0 0 1 431 72.024 290.57 Tdclear guidanc

without prejudice to the outcome and the positions of Members and provided that there is a readiness to engage meaningfully on technical matters.

TRIPS/CBD

5. There is important common ground on key underlying objectives, notably the importance of the TRIPS Agreement and the CBD being implemented in a mutually supportive way, the avoidance of erroneous patents for inventions that involve the use of genetic resources and related traditional knowledge and securing compliance with national access and benefit-sharing regimes. Moreover, there is wide acceptance of the need for patent offices to have available to them the information necessary to make proper decisions on the grant of patents and to avoid any undermining of the role of the patent system in providing incentives for innovation. However, the work continues to be characterized by different approaches to meeting these objectives, including whether the TRIPS Agreement needs to be amended and whether it was agreed at Doha that this issue is part of the negotiations and of the Single Undertaking. There are also different views on whether this matter should be addressed in the context of the modalities decision.

6. On the one hand, we have a large group of developing country Members who have proposed an amendment of the TRIPS Agreement to introduce a mandatory disclosure requirement in patent applications and who want clear guidance on this matter as part of the modalities decision. In this connection, these Members have tabled the following proposal for action: "Members agree to the inclusion in the TRIPS Agreement of a mandatory requirement for the disclosure of origin of biological resources and/or associated traditional knowledge in patent applications. Text-based negotiations shall be undertaken in Special Sessions of the TRIPS Council, and as an integral part of the Single Undertaking, on an amendment to the TRIPS Agreement establishing an obligation for Members to require patent applicants to disclose the origin of biological resources and/or associated traditional knowledge, including prior informed consent and access and benefit sharing" (WT/GC/W/590 – TN/C/W/49).

7. On the other hand, we have a number of Members who are opposed to negotiations on this matter. They believe that the case has not been made as to how disclosure requirements of the sort proposed would contribute towards meeting the commonly accepted objectives, which these delegations believe can be met without amending not wita36b/7(a36b/7(a36b/7-240(T)-275(i)6(x(t)-4(p[t)-4(he))15