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# Public-Private Initiative for the Registration/Notification of Geographical Indications: A new proposal to settle an old debt to Intellectual Property

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## Resumen

Since the establishment of the World Trade Organization, and as part of its regulatory framework, we find a very particular mandate directed to its Members.

Article 23 of the Agreement on Trade-Related Aspects of Intellectual Property (TRIPS), in its 4th section, determines that negotiations should be initiated in the TRIPS Council on the establishment of a multilateral system of notification and registration of geographical indications (GI), particularly those related to wines that are susceptible to protection, with the aim of facilitating the protection of GIs for this type of product.

We know that currently, there was no consensus that would allow the implementation of the desired registration and notification system (Source: WTO - TRIPS: Geographical Indications - Background).

Therefore, based on a public-private collaboration, we found an alternative to fill this gap.

The proposed system would be based on private financing by the GI holders themselves throughout the world.

In order to move forward, all GI holders would qualify for entry into the system, as long as they agreed with a single definition of the institute/right, under the definition provided by the TRIPS Agreement (art. 22.1), that is, there would be no differentiation between levels or degrees of intensity in the geographical link of the product (as various local and regional regulations do) in order to make up for terminological deficiencies, and to adopt a uniform definition for all distinct signs based on geography.

The participation of the States (WTO Members) in this proposal, within the framework of article 23 of the TRIPS Agreement, would enable the link between them and, in turn, each State would be the unifying force of its local GI holders in front of the new entity that would manage the registration and notification system. The aforementioned entity should take the form of a private legal entity with no profit motive but with public utility. A successful example of this type of legal structure is the Internet Corporation for Assigned Names and Numbers (ICANN).

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\*Ponente

In our proposal, financing would come from private contributions from GI holders (who would pay for said membership).

The States should commit, through their national Trademark Offices, to carry out a consultation of the global database that will be managed by our new entity, prior to the registration of any trademark (the same should be done by local authorities that grant GIs).

This method, through a complex set of agreements, aimed at financing and effective consultation, is understood to be an appropriate way to avoid the emergence of unfair competition in the terms of article 10 BIS of the Paris Convention for the Protection of Intellectual Property, looking forward for good practices in trade, in addition to help to comply with the mandate of the TRIPS Agreement.

**Contraseña:** GI Registration/Notification, Public/private management, Legal definition