

GIs - Review of TRIPs Negotiations

(Impromptu) Presentation at DOLPHINS

3rd Meeting

10-11 February 2003

Toulouse, France

Dwijen Rangnekar

Senior Research Fellow on Policy Innovation

School of Public Policy, University College London

10/11 Feb. 2003

Dwijen Rangnekar
School of Public Policy, UCL

Background to the Debate

- Developing Country interests in GIs
 - link to protecting indigenous knowledge and rural development
 - nature of GIs as an instrument of intellectual property protection
 - informal innovation systems
 - knowledge is in the public domain
 - non-transferable
 - protection is perpetual ...

Background to this research

- UNCTAD/ICTSD Capacity Building Project on Intellectual Property Rights and Sustainable Development (www.ictsd.org/unctad-ictsd)
- Review of submissions to the TRIPs Council
 - focussing on GI-extension
 - pre-Seattle and up to Doha Round

GIs in the TRIPs Agreement

- Article 22: basic/minimum protection
 - definition of GIs
 - scope of protection
- Article 23: additional protection for wines and spirits
 - scope of additional protection
- Article 24: exceptions to obligation, built-in agenda for further negotiations

The Tension at TRIPs

- Old/New World: one more 'bottle' of wine?
- North/South tension: yet another 'missed' opportunity?
- Some other points
 - 'Antarctica Bananas' and 'Antarctica Merlot': what's the difference?
 - Are wines and spirits unique?

Themes in the debate at TRIPs

- The Uruguay Round Balance: immutable or renegotiable?
- Is Article 22 insufficient, will Article 23 be absolute?
- The potential impact of GI-extension???

Uruguay Round Balance

- **JUSTIFICATION**

- Unique clause: single subject matter definition; but hierarchy in scope and standards of protection

- **JURIDICAL BASIS**

- no specific mandate exists for discussing GI-extension; issue will open-up the Agreement (raising question of new trade-offs)
- Doha Round??

Sufficient versus Absolute Protection

- **Is Article 22 sufficient?**
 - Use of certification marks in the US
 - No evidence of loss of trade; but problems of free riding and threat of genericisation (US and Canada)
- **Will Article 23 be absolute?**
 - Exceptions in Article 24
 - Extension does not guarantee economic returns: but provides potential and makes protection easier to access

Potential Impact of GI-extension

- Administrative burden
- Consumer confusion
- Production disruption