

In the WTO, this finding might appear to weaken the position of those advocating 'additional protection' for all GIs – not just wines and spirits – under TRIPS Article 23, as it could be argued that if GIs are not culturally justified, they should remain as much as possible within the narrower TRIPS Article 22 consumer protection equation. However, insofar as the abolition of 'additional protection' for wines and spirits is not on the negotiation table, the only way to prevent the current discrimination against developing countries whose GIs cannot now enjoy 'additional protection' is to extend the latter to all GIs.

Moreover, with or without extension, developing countries that are considering adopting GIs as a suitable vehicle for the protection of rights regarding traditional knowledge – or that would like to see stronger specialised rules for cultural protection in the WTO and elsewhere – should be aware that although such modalities may increase the commercial value of existing cultural goods and services, their effect on cultural preservation and diversity is indeterminate at best, as GI-protected traditions might nevertheless in the future succumb to economic pressures and international consumer preferences. GIs and other trade-related measures must be complemented by more comprehensive flanking policies if cultural diversity is to be preserved.

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ENDNOTES

¹ See EU Background Note No. 01/04 *Why Do Geographical Indications Matter to Us?* (2004), available at http://jpn.cec.eu.int/home/news_en_newsobj553.php.

² See public opinion surveys presented by the EU, WTO Doc. IP/C/M/38 at 32-33.

³ UNESCO, 33 C/23, *Preliminary Draft of a Convention on the Protection and Promotion of the Diversity of Cultural Expressions* (the 'UNESCO Draft Convention'), Paris, August, 2005, available at: http://portal.unesco.org/culture/en/ev.php-URL_ID=28182&URL_DO=DO_TOPIC&URL_SECTION=201.html.

WIPO Development Agenda Status Unclear

The General Assembly of the World Intellectual Property Organisation agreed in early October to establish a 'provisional committee' to continue discussions on proposals to mainstream a 'development agenda' into all of WIPO's work.

A year ago, Argentina, Bolivia, Brazil, Cuba, the Dominican Republic, Ecuador, Egypt, Iran, Kenya, Peru, Sierra Leone, South Africa, Tanzania and Venezuela (known as the 'Friends of Development') convinced WIPO members to hold a series of intersessional intergovernmental meetings to discuss their proposals for wide-ranging changes to the mandate and functioning of the organisation (Bridges Year 8 No.9, page 21). This year's General Assembly (GA) had to decide if, where, and how to continue talks on the development agenda.

In closed informal meetings, delegations disagreed on whether to continue the discussions in the high-level intergovernmental meetings that reported directly to the GA, or to confine them to the Permanent Committee on Co-operation for Development Related to Intellectual Property (PCIPD), a body of minor importance. For the first time, the 'Friends', led by Brazil, expressly linked the development agenda to the Substantive Patent Law Treaty under elaboration at WIPO, refusing to discuss the latter in the absence of progress on the former.

Negotiators eventually compromised by creating the 'provisional committee', which is to hold two one-week sessions on the development agenda. In the interim, the PCIPD will cease to exist. Delegates differ in their interpretations of the significance of the new committee, particularly as to whether it will enjoy the high status of the intergovernmental meeting process.

Substantive Patent Law Treaty

The General Assembly focused particular attention on how developing country concerns would be reflected in the discussions on the Substantive Patent Law Treaty (SPLT), especially with regard to public interest flexibilities, genetic resources, traditional knowledge and competition. In an effort to address these concerns, the GA agreed to hold, in early 2006, a three-day informal open forum in Geneva, followed by an informal session of the WIPO Standing Committee on the Law of Patents charged with agreeing on an agenda for a five-day formal meeting later in the year, which will in turn report to the 2006 GA.

Genetic Resources and Traditional Knowledge

The GA extended the mandate for the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC). A number of industrial countries, which continue to oppose raising these issues of particular importance to developing countries in the WTO's Council for TRIPS, contend that WIPO, and the IGC in particular, is the appropriate forum to address them. However, in its five-year existence, the body has not come up with any significant recommendations. The General Assembly admitted several new civil society observers to the IGC, including the International Centre for Trade and Sustainable Development, the Third World Network and Consumers International.

Protecting Broadcasters' Rights

Existing treaties, such as the WTO's TRIPS Agreement and the Berne Convention, allow states to limit the protection of broadcasts to the authors of copyrighted subject matter. This has motivated broadcasters to lobby for an additional layer of protection to be granted specifically to them, independent of existing copyrights. The issue before the GA was whether and when a diplomatic conference for the adoption of a broadcasting treaty should be scheduled. Countries finally agreed to hold two additional meetings of the Standing Committee on Copyright and Related Rights with the aim of finalising a "basic proposal for a treaty [...] in order to enable the 2006 WIPO General Assembly to recommend the convening of a Diplomatic Conference in December 2006 or at an appropriate date in 2007."

The next issue of Bridges will carry more detailed analysis on the General Assembly outcome.