

# **ANNEX I**

## Annex I

Overview of the state of play of the  
bilateral and multilateral negotiations on  
GIs concerning IOC Members

## Table of content

Introduction.....	3
1. Multilateral and plurilateral negotiations covering geographical indications.....	4
1.1. Negotiations at the World Intellectual Property Organization level.....	4
1.2. Negotiations at the World Trade Organisation level .....	5
1.3. Negotiations of the Anti-Counterfeiting Trade Agreement.....	7
2. Bilateral negotiations covering geographical indications.....	8
2.1. Negotiations of bilateral agreements between the EU and non EU countries .....	8
2.1.1. Africa.....	9
2.1.1.1. EU – Morocco .....	9
2.1.1.2. EU – Tunisia .....	9
2.1.2. Africa, Caribbean and Pacific Countries .....	9
2.1.3. Americas.....	10
2.1.3.1. EU – Canada .....	10
2.1.3.2. EU – Chile.....	10
2.1.3.3. EU – Central America .....	10
2.1.3.4. EU – Mercosur.....	11
2.1.3.5. EU – Peru and Colombia .....	11
2.1.4. Asia.....	12
2.1.4.1. EU – China.....	12
2.1.4.2. EU – India .....	12
2.1.4.3. EU – Malaysia.....	12
2.1.4.4. EU – Singapore.....	13
2.1.4.5. EU – South Korea .....	13
2.1.4.6. EU – Vietnam.....	13
2.1.5. Europe .....	14
2.1.5.1. EU – Albania.....	14
2.1.5.2. EU – Armenia.....	14
2.1.5.3. EU – Azerbaijan.....	14
2.1.5.4. EU – Bosnia and Herzegovina.....	14
2.1.5.5. EU – Croatia .....	14
2.1.5.6. EU – Georgia .....	15
2.1.5.7. EU – Iceland .....	15
2.1.5.8. EU – Kosovo.....	15
2.1.5.9. EU – Moldova .....	15
2.1.5.10. EU – Montenegro.....	16
2.1.5.11. EU – Serbia.....	16
2.1.5.12. EU – Switzerland .....	16
2.1.5.13. EU – The Former Yugoslav Republic of Macedonia.....	16
2.1.5.14. EU – Turkey .....	16
2.1.5.15. EU – Ukraine.....	17
2.2. Negotiations of bilateral agreement between non EU countries.....	18
2.2.1. Possible Free Trade Agreement Negotiations between Canada & Morocco..	18
2.2.2. Possible Free Trade Agreement Negotiations between Canada & Turkey ....	18

## **Introduction**

The objective of this note is to provide the International Olive Council (IOC) with an updated overview of the current bilateral and multilateral negotiations on intellectual property concerning IOC Members. It does not go into the details of agreements covering geographical indications that have already been signed and have entered into force.

## **Methodology**

The Team Leader and the Junior Consultants gathered information on the bilateral and multilateral negotiations on geographical indications (GIs) which can be of interest to table olives and olive oils. This covered desk research and phone calls to negotiators.

This document aims at giving a short presentation of the current negotiations of interest to IOC and its Members. It has been updated on the 14<sup>th</sup> of September 2010.

## **Geographical coverage**

Only the IOC Member countries are covered in this document, i.e. Albania, Algeria, Argentina, Croatia, Egypt, the European Union (Greece, Italy, France, Portugal, Slovenia and Spain), Iran, Iraq, Israel, Jordan, Lebanon, Libya, Montenegro, Morocco, Serbia, Syria, Tunisia, and Turkey.

# 1. Multilateral and plurilateral negotiations covering geographical indications

There are currently two multilateral fora where negotiations on the protection of geographical indications take place: within the World Intellectual Property Organization (WIPO) and the World Trade Organisation (WTO). GI protection is also under discussion in the context of the ongoing plurilateral negotiations of the Anti-Counterfeiting Trade Agreement (ACTA).

## 1.1. *Negotiations at the World Intellectual Property Organization level*

In the GI field, WIPO is responsible for the administration of a number of international treaties, notably the Paris Convention for the Protection of Industrial Property and the Lisbon Agreement for the Protection of Appellations of Origin. WIPO is also competent for the International Registration of Appellations of Origin and administers the Lisbon System and its register.

Several IOC members are signatories to the Lisbon Agreement: Greece, France, Italy, Iran, Israel, Montenegro, Serbia and Tunisia. Spain, Morocco and Turkey signed it but did not ratify it. France is the only IOC member that has registered two olive oils as appellations of origin in the framework of the Lisbon system: “huile d'olives de Nyons” et “huile d'olive de la vallée des Baux de Provence”.

The Lisbon Agreement for the Protection of Appellations of Origin (AOs)<sup>1</sup> of 1958 was the first specific international treaty providing for the protection of AOs and establishing International Register for their protection. In 1975, WIPO issued a proposal for a Model Law on geographical indications.<sup>2</sup> A model law is not a draft international treaty. It is intended for use in national law as a standard or template, which can be adjusted or adapted to local conditions.

Within the WIPO, the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) works on the development of international norms to protect Appellations of Origin.

Since 2008, WIPO is working on the revision of the Lisbon Agreement for the Protection of Appellations of Origin. In September 2008, it established a Working Group responsible for exploring possible improvements of the procedures under this Agreement. The Working Group is discussing proposed amendments of the Agreement concerning in particular:

- the introduction of the concept of GI based on the WTO TRIPS Agreement definition in parallel to the existing concept of appellation of origin
- the scope of protection to be given
- The relationship with other intellectual property rights
- the registration procedures in order to simplify them

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<sup>1</sup> - Countries signatories to the Lisbon Agreement are: Algeria, Bulgaria, Burkina Faso, Congo, Costa Rica, Cuba, Czech Republic, Democratic People's Republic of Korea, France, Gabon, Georgia, Haiti, Hungary, Iran (Islamic Republic of), Israel, Italy, Mexico, Montenegro, Nicaragua, Peru, Portugal, Romania, Serbia, Slovakia, Togo, Tunisia. 5 countries have signed the Agreement in 1958 and 1959 but have not ratified it: Greece, Morocco, Republic of Moldova, Spain and Turkey. Please note that the EU is not a member of the Lisbon Agreement. For more information: [www.wipo.int/lisbon/en/](http://www.wipo.int/lisbon/en/)

<sup>2</sup> Model Law for Developing Countries on Appellations of Origin and Geographical Indications, 1975, PJ/91/2, January 1975. WIPO Monograph “Model Law for Developing Countries on Appellations of Origin and Indications of Source”. Geneva, 1975, Sign. 6/W.

## 1.2. *Negotiations at the World Trade Organisation level*

The most significant step in international protection of GIs came through the **WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs)** which has a specific section dedicated to GIs. This was the first multilateral text dealing with GIs as such<sup>3</sup>. The TRIPs Agreement is a minimum standards agreement, which allows Members to provide more extensive protection of intellectual property rights if they so wish. WTO Members are left free to determine the appropriate method of implementing the provisions of the Agreement within their own legal system and practice.

Protection of geographical indications required under the TRIPs Agreement is defined in two articles (articles 22 and 23) while exceptions are provided for in article 24.

Article 22 of the TRIPs Agreement provides a definition of geographical indications (§1) and certain minimum standards of protection for all GIs:

- WTO Members must provide the legal means for interested parties to prevent both (a) the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin of the good and (b) any use which constitutes an act of unfair competition within the meaning of Article 10 bis of the Paris Convention.
- WTO Members shall, *ex officio* or at the request of an interested party, refuse or invalidate the registration of a trademark which contains or consists of a GI with respect to goods not originating in the territory indicated but if use of the indication in the trademark for such good in that Member is of such a nature as to mislead the public as to the true place of origin

Here, the central element is either unfair competition or that the public should not be misled as to the geographical origin of the good.

Article 23 provides for an additional protection of GIs for wines and spirits:

- Legal means must be provided to prevent the use of a GI identifying wines and spirits not originating in the place indicated by the GI, even where the true origin of the goods is indicated (and, therefore, arguably not misleading the public) or the GI is used in translation or accompanied by expressions such as “kind”, “type”, “style”, “imitation” or the like
- The registration of a trademark which contains or consists of a GI identifying wines or spirits, must be refused or invalidated *ex officio* or at the request of an interested party with respect to wines or spirits not having this origin
- In case of homonymous GIs for wines, protection must be accorded to each indication provided that consumers are not misled and producers are equally treated

Article 23.4 provides that negotiations should be undertaken concerning the establishment of a multilateral system of notification and registration of GIs for wines eligible for protection in those Members participating in the system. The scope of the negotiations has been extended to cover spirits<sup>4</sup>.

Article 24 sets out requirements for future negotiations and exceptions:

- A standstill clause: article 24.3 states that WTO Members shall not diminish the protection of GIs that existed immediately prior to the date of entry into force of the WTO Agreement.

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<sup>3</sup> - [www.wto.org/english/tratop\\_e/trips\\_e/gi\\_background\\_e.htm](http://www.wto.org/english/tratop_e/trips_e/gi_background_e.htm)

<sup>4</sup>See WTO Doha Declaration's paragraph 18:  
[http://www.wto.org/english/thewto\\_e/minist\\_e/min01\\_e/mindecl\\_e.htm](http://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_e.htm)

- A genericity exception: article 24.6 provides that nothing shall require a Member to apply its provisions in respect to a GI of any other Member with respect to goods or services for which the relevant indication is identical with the term customary in common language as the common name of such goods or services in the territory of that Member.
- Two grandfather clauses:
  - Article 24.5 states that when a trademark has been acquired or registered in good faith before the date of application of the TRIPS Agreement or before the GI was protected in its country of origin, measures to implement GIs in the TRIPS Agreement shall not prejudice eligibility for or the validity of registration or the right to use a trademark, on grounds that such trademark is identical to the GI.
  - Article 24.4 refers specifically to wines and spirits. It provides that nothing prevents a Member to continue the use of a particular GI of another Member identifying wines or spirits in connection with goods or services by any of its nationals who have used that GI in a continuous manner with regard to the same goods or services in the territory of that Member either (a) for at least 10 years preceding 15 April, 1994 or (b) in good faith preceding that date.
- The right to use a person's name: article 24.8 recognizes the right of any person to use, in the course of trade, his name or the name of his predecessors in business, except where such name is used in such a manner as to mislead the public.
- An extinction clause: article 24.9 states that in order to be protected in a third country, a GI must be protected or in use in its country of origin.
- Conditions for resolving GI and trademark issues: article 24.7 provides that any request made in connection with the use or registration of a trademark must be presented within five years of the adverse use of the protected GI has become generally known or after the date of registration of the trademark. In addition, the GI should not be used or registered in bad faith.

With regard to international negotiations, article 24.1 states that WTO Members availing themselves of the use of these exceptions must be willing to enter into negotiations about their continued application to individual geographical indications (paragraph 1).

In addition, article 41 of the TRIPs Agreement provides that WTO Members shall ensure that enforcement procedures are available under their law to permit effective action against any act of infringement of intellectual property rights, while stipulating in particular that they may not be used to create trade barriers. In addition, article 42 of the TRIPs Agreement provides that WTO Members must ensure that fair and equitable civil judicial proceedings are available to right holders to enforce their intellectual property rights.

As explained above, the TRIPs Agreement has a built-in agenda on GIs: article 23.4 provides for the negotiation on the establishment of a multilateral system of notification and registration of GIs for wines and spirits (so-called multilateral register). The Fourth WTO Ministerial meeting, held in Doha in November 2001, at which WTO Members agreed to launch a new multilateral round of negotiations, identified two issues relating to the protection of GIs:

- the extension of the higher level of protection for wines and spirits to other goods; and
- the establishment of a multilateral register of GIs for wines and spirits.

Both issues are still being negotiated. With regard to the extension of the additional protection to all GI products, there are clearly two opposing positions: those who are supporting the extension, arguing that this issue is part of the single undertaking of the Doha Development Agenda (DDA) of the WTO, and those against it who consider that this issue does not fall within the scope of the DDA. As to the negotiations on the multilateral register, several proposals have been tabled with the WTO,<sup>5</sup> but no progress has been achieved on the content and legal value of the proposed system of registration yet. The negotiations are ongoing and linked to the wider DDA discussions.

The IOC Members, which are members of the WTO, are: Albania, Argentina, Croatia, Egypt, the European Union, Israel, Jordan, Morocco, Tunisia and Turkey. Algeria, Iraq, Iran, Lebanon, Libya, Montenegro, Serbia and Syria are observer governments.

### **1.3. Negotiations of the Anti-Counterfeiting Trade Agreement**

The Anti-Counterfeiting Trade Agreement (ACTA) is a plurilateral agreement which is being negotiated since June 2008. It aims at establishing international standards on intellectual property rights enforcement. The negotiating countries are Australia, Canada, the European Union, Japan, Mexico, Morocco, New Zealand, the Republic of Korea, Singapore, Switzerland and the United States.

The EU and Morocco are the only members of the IOC to be negotiating parties to this agreement.

It is not clear yet if GI will be included in the scope of the agreement. They are not mentioned in the latest published draft text. However, at the 10<sup>th</sup> round of negotiation which took place in the USA at the end of August, the EU, Mexico and Switzerland repeated that they want GIs to be included in the scope of the ACTA and the agreement to protect GIs "ex officio". The *ex officio* protection means that the public authorities have to act to stop the illegal use of a protected name without a complaint of the owner of the right or a decision of a judge, i.e. a prior authorisation. However, the USA and Canada, in particular, do not want GIs to be included in the scope of the agreement.

If an agreement is found, the ACTA will become a legal instrument independent from the WTO or the WIPO. Countries, which do not take part to the initial negotiations, will be able to join on a voluntary basis.

Shortly after the start of the negotiations, several non-governmental groups expressed their disappointment on that the fact that the content of the talks was not disclosed. Some institutions follow suit such as the European Parliament which adopted a "resolution on transparency and the state of play of ACTA negotiations"<sup>6</sup> on 10 March 2010, in which asks the Commission and the Council to grant public access to the negotiations texts. The negotiators agreed to publish a draft text and committed themselves to reveal the content of the final draft before any adoption<sup>7</sup>. The text includes long parts between brackets, which means that the negotiations are still ongoing on the subject. Furthermore, it does not disclose the positions of the different countries.

The next round of negotiation will take place in Japan in late September 2010.

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<sup>5</sup> - Proposals on multilateral register are from the EU, a US led group of countries and Hong Kong, China: All documents can be found at [http://www.wto.org/english/tratop\\_e/trips\\_e/gi\\_background\\_e.htm#wines\\_spirits](http://www.wto.org/english/tratop_e/trips_e/gi_background_e.htm#wines_spirits).

<sup>6</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+MOTION+B7-2010-0154+0+DOC+XML+V0//EN>

<sup>7</sup> [http://trade.ec.europa.eu/doclib/docs/2010/april/tradoc\\_146029.pdf](http://trade.ec.europa.eu/doclib/docs/2010/april/tradoc_146029.pdf)

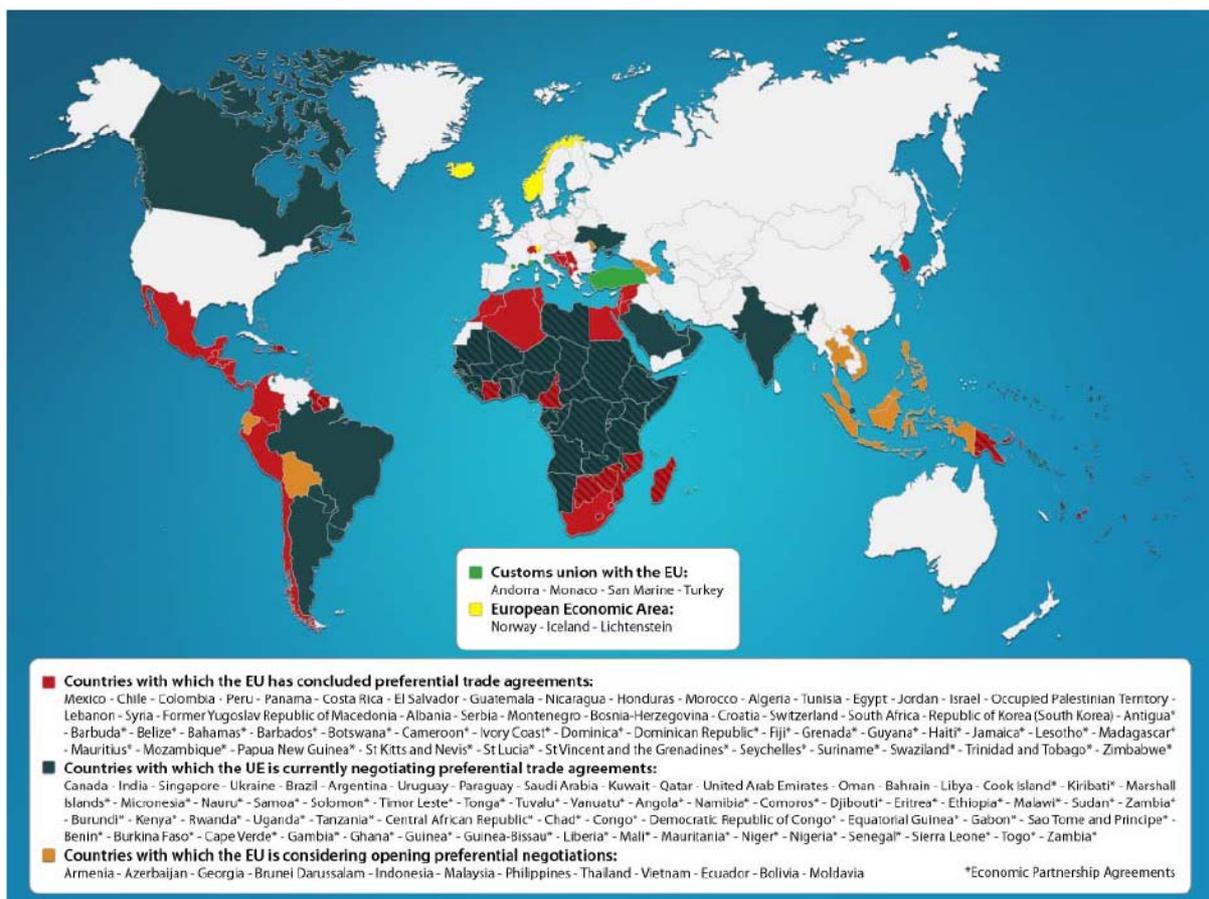
## 2. Bilateral negotiations covering geographical indications

Because of the difficulties met by countries in the context of the Doha Development Round where no concrete progress has been made on multilateral negotiations, there has been a surge of bilateral negotiations in recent years. Members of the IOC are taking part in many of the ongoing negotiations with the EU being at the forefront of bilateral deals' discussions. A lot of the agreements contain a chapter on intellectual property rights and cover notably geographical indications.

You will find below a rapid overview of the ongoing negotiations of bilateral agreements in which IOC members are participating.

### 2.1. Negotiations of bilateral agreements between the EU and non EU countries

The EU and non EU countries are currently negotiating Free Trade Agreements (FTAs). As it can be seen on the map below, negotiations of FTA have already started and new negotiations are planned. FTAs include a chapter on intellectual property rights, including GIs. Most of the agreements signalled on the map will thus protect them.



Source: [http://trade.ec.europa.eu/doclib/docs/2006/december/tradoc\\_118238.pdf](http://trade.ec.europa.eu/doclib/docs/2006/december/tradoc_118238.pdf)

We decided to focus on the most important agreements being negotiated and on the ones for which the negotiations are active.

As far as the protection of GIs is concerned, the EU seems to follow two different strategies:

1. With neighbouring countries and Mediterranean countries, the EU seeks the protection of all European GIs;
2. With other countries, the EU is negotiating the protection of a shortlist of products. In 2008, in the framework of the negotiations with South Korea, the EU decided to create a shortlist of GIs the protection of which would be sought during the negotiations. It later decided to use of this shortlist approach in several bilateral negotiations: with Peru and Colombia, Central America, India and Singapore. The products on the shortlist are not always the same. The shortlist evolves according to the country which is a party to the bilateral agreement, the specificities of the concerned market and the requests of EU Member States.

Agreements covering GIs are being negotiated between the EU and third countries in several geographical zones. This subsection is thus divided into continental zones: Africa, Americas, Asia, and Europe.

### **2.1.1. Africa**

In Africa, Morocco and Tunisia are currently negotiating an agreement with the EU.

#### **2.1.1.1. EU – Morocco**

On 17 December 2009, the negotiators signed agreed minutes concluding the negotiations of an Association Agreement on improving bilateral trade conditions for products from the agri-food and fisheries sector between the EU and Morocco. The agreement also provides that negotiations of an ad hoc agreement on the protection of all geographical indications will be opened between Morocco and the EU when the Association Agreement enters into force.

In order to enter into force, the respective authorities must now approve the agreement. At the EU level, this should happen before the end of 2010. If adopted by the Council of Ministers and approved by the European Parliament, the agreement could enter into force in 2011. The negotiations of the ad hoc agreement could then start in 2011 or 2012.

#### **2.1.1.2. EU – Tunisia**

Tunisia and the EU are currently negotiating a trade agreement. It is based on the approach used with Morocco. When the trade agreement enters into force, the parties will start negotiating ad hoc agreement on the protection of all geographical indications protected in these countries.

### **2.1.2. Africa, Caribbean and Pacific Countries**

The EU and the Africa, Caribbean and Pacific (ACP) Countries are currently negotiating Economic Partnership Agreements (EPAs). EPAs are trade agreements, which contain a chapter on intellectual property rights, notably GIs.

Seven ACP regions on the three continents are taking part to the talks:

1. Africa

- a. Southern African Development Community (SADC) which includes Angola, Botswana, Lesotho, Namibia, Mozambique, Swaziland and South Africa.
  - b. Eastern and Southern Africa (ESA) which includes Comoros, Djibouti, Eritrea, Ethiopia, Madagascar, Malawi, Mauritius, Seychelles, Sudan, Zambia and Zimbabwe.
  - c. East African Community (EAC) which includes Burundi, Kenya, Rwanda, Uganda and Tanzania.
  - d. West Africa which includes all the members of ECOWAS (Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, Gambia, Ghana, Guinea-Bissau, Liberia, Mali, Nigeria, Senegal, Sierra Leone, and Togo) and Mauritania
  - e. Central Africa which includes the six members of the Economic Community of Central African States (CEMAC), and the Democratic Republic of Congo and São Tomé and Príncipe.
2. Pacific: the Pacific Islands Forum (PIF)
  3. Caribbean: the Caribbean Forum of Caribbean States (CARIFORUM)

### **2.1.3. Americas**

In the Americas, the EU is currently negotiating an agreement with Canada, Chile, Central America, Mercosur, Peru and Colombia.

#### **2.1.3.1. EU – Canada**

In May 2009, the EU and Canada launched the negotiations for a Comprehensive Economic and Trade Agreement (CETA). Mid-July 2010, a round of negotiations between the EU and Canada took place in Brussels. In the framework of the negotiations with Canada, the EU is notably willing to ensure the protection of agricultural products with GIs. However, Canada does not want to include agricultural products with GIs in the scope of the future agreement. The next meeting is scheduled in Ottawa in October.

#### **2.1.3.2. EU – Chile**

In 2000, the EU and Chile concluded an Association Agreement, which included a Free Trade Agreement that entered into force in February 2003. This FTA covers intellectual property rights. The Association Agreement contains an "Evolution clause", which impose the revision of the agreement after a period of time. Exploratory talks started in 2006.

The EU and Chile are currently revising the Association Agreement and discussions on the protection of GIs are an important part of the negotiations. The European Commission seeks to obtain that Chile recognises and protects a limited list of EU geographical indications. The EU and Chile exchanged a shortlist of products to be protected on the other party's territory. However, at this stage of the negotiations, it cannot be said if an agreement on GIs will be agreed upon.

#### **2.1.3.3. EU – Central America**

The Central America region is composed of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama. The EU and this region are negotiating a FTA. After a break in the negotiation between June 2009 and February 2010, because of the political situation in

Honduras, the talks finally resumed. The EU is seeking the protection of a shortlist of in the framework of this agreement which includes 1 Greek table olives - Ελιά Καλαμάτας (Elia Kalamatas) and 13 olives oils:

- “Huile d'olive de Haute-Provence” from France
- “Σητεία Λασιθίου Κρήτης” (Siteia Lasithi Crete) from Greece;
- “Toscano” from Italy ;
- “Azeite de Moura” and “Azeites de Trás-os-Montes” from Portugal;
- “Aceite del Baix-Ebre-Montsía”, “Aceite del Bajo Aragón”, “Antequera”, “Baena”, “Priego de Córdoba”, “Sierra de Cádiz”, “Sierra Mágina” and “Sierra de Segura” from Spain.

The parties reached an agreement on 17 May and the text of the Agreement is currently under legal and linguistic review. The text should be finalised soon. The European Commission will send a proposal to the Council of Ministers to be approved by the 27 Member States of the EU at the end of the year or at the beginning of 2011. The agreement could enter into force at the end of 2011 or at the beginning of 2012.

#### **2.1.3.4. EU – Mercosur**

The Mercosur brings together Argentina, Brazil, Paraguay, Uruguay and Venezuela. Its associate members are Bolivia, Chile, Colombia, Ecuador and Peru. Mexico has an observer status.

Talks between the EU and the Mercosur on a Free Trade Agreement started in 1999. However, they were frozen in 2004 because of disagreements on the liberalisation of agricultural trade. The Mercosur countries wanted the EU to open its market more to their farm products but the EU refused.

On 17 – 19 May 2010, at the summit of European, Latin American and Caribbean heads of State, the EU and Mercosur, officially announced their decision to reopen trade negotiations. The 1<sup>st</sup> round of negotiations was held from 29 June to 2 July. The talks may cover GIs.

#### **2.1.3.5. EU – Peru and Colombia**

Peru and Colombia are members of the Andean Community as Bolivia and Ecuador. Negotiations between the EU and the Andean Community on Association Agreement were launched in 2007. The talks were suspended in June 2008 due to a lack of agreement between Andean countries on the objectives and scope of the trade part. The negotiations between the EU and Colombia, Peru and Ecuador restarted in January 2009 because they were willing to negotiate a multiparty Trade Agreement. However, in July 2009, Ecuador suspended the talks. On 1 March 2010, the EU, Peru and Colombia completed their Free Trade Agreement talks.

This agreement covers GIs. The European Commission defined a shortlist of European GIs to be protected in the Andean countries. The EU and Peru and Colombia thus exchanged a shortlist of products to be protected on the other party’s territory which includes 1 Greek table olives - Ελιά Καλαμάτας (Elia Kalamatas) and 13 olives oils:

- “Huile d'olive de Haute-Provence” from France
- “Σητεία Λασιθίου Κρήτης” (Siteia Lasithi Crete) from Greece;
- “Toscano” from Italy ;
- “Azeite de Moura” and “Azeites de Trás-os-Montes” from Portugal

- “Aceite del Baix-Ebre-Montsía”, “Aceite del Bajo Aragón”, “Antequera”, “Baena”, “Priego de Córdoba”, “Sierra de Cádiz”, “Sierra Mágina” and “Sierra de Segura” from Spain.

The Agreement has not entered into force yet since the EU Member States and the European Parliament need to give their approvals. However, it could enter into force in early 2011.

#### **2.1.4. Asia**

In Asia, negotiations covering geographical indications are currently ongoing between the EU and, respectively, China, India, Malaysia, Singapore, South Korea and Vietnam.

##### **2.1.4.1. EU – China**

Negotiations of a comprehensive Partnership and Cooperation Agreement (PCA) are ongoing between the EU and China since January 2007. A stand alone bilateral agreement on the protection of GIs is being negotiated in the framework of this PCA. The negotiations were launched but no negotiation round took place yet. No text has been presented or negotiated. The EU will define a shortlist of products it would like to protect in China. On 10 September 2010, the EU Trade Ministers gave the European Commission a mandate to start negotiations on the mutual recognition of GIs for wines, spirits, agricultural products & foodstuffs with China. This follows the EU-China summit in November 2009 where the parties agreed to move forward on the mutual recognition of GI products. Meetings could take place before the end of the 2010.

In the meantime, on 11 July 2007, the EU and China exchanged ten GI files. The aim is to facilitate the protection of 10 Chinese GIs in the EU and the protection of 10 EU GIs in China. It was the first time that the EU and a third country launched an initiative to register a group of GIs outside the framework of a bilateral agreement. This exchange concludes the work began in November 2006 and based on a Memorandum of Understanding signed between the EU and China in September 2005. Two Spanish olive oils are amongst the 10 products the EU would like to register in China: “Sierra Mágina” and “Priego de Córdoba”. The Chinese list does not contain olive oil. The two sides are currently processing the applications.

##### **2.1.4.2. EU – India**

The EU is currently negotiating a Free Trade Agreement with India. The discussions are still at an early stage. The intellectual property rights chapter includes provisions on protection and enforcement of these rights, including GIs. In June, a shortlist of GIs has been distributed to the EU Member States. The list has been finalised and sent by the European Commission to India. It seems that French, Greek and Spanish olive oils are on the list. The next negotiation meeting will take place at the beginning of October.

##### **2.1.4.3. EU – Malaysia**

Malaysia is one of the 10 members of the Association of Southeast Asian Nations (ASEAN). In 2007, the EU initiated negotiations of a Free Trade Agreement with the ASEAN. As they

proved difficult, the EU decided to negotiate Agreements with individual countries. On 10 September 2010, the EU Trade Ministers gave the European Commission the authorisation to begin the negotiations of a Free Trade Agreement with Malaysia. These talks are expected to begin in October. There will be a chapter on GIs and the EU will probably send a shortlist of GIs products it would like to protect in Malaysia.

#### **2.1.4.4. EU – Singapore**

Singapore is one of the 10 members of the Association of Southeast Asian Nations (ASEAN). In 2007, the EU initiated negotiations of a Free Trade Agreement with the ASEAN. As they proved difficult, the EU decided to negotiate Free Trade Agreements with individual countries of the ASEAN. On 3 March 2010, the EU and Singapore launched the negotiations of a Free Trade Agreement. Exploratory talks are ongoing. GIs will be covered by the agreement.

In June 2010, the EU sent a shortlist of 196 GIs for wines, spirit and foodstuffs it would like to protect in Singapore to the negotiating authorities of this country. As of beginning of September, the EU did not receive any comments on this list. A meeting between the EU and Singapore will take place on 12 September and the shortlist was discussed. The shortlist is not definitive yet and could evolve. However, 1 or 2 Greek olive oils, more than 10 Spanish olive oils and 1 French one are on it at the moment.

#### **2.1.4.5. EU – South Korea**

The Free Trade Agreement (FTA) between the EU and the Republic of Korea is the first of the new generation of FTAs launched in 2007. It has been finalised on 15 October 2009. It was submitted to the European Parliament and the Council in May 2010 and should enter into force at the end of 2010. The vote of the European Parliament is expected in October.

For the first time in a bilateral agreement, the EU accepted to protect a limited number of GIs for wines and spirits<sup>8</sup>, as well as other products<sup>9</sup>. The EU and South Korea thus exchanged a shortlist of products to be protected on the other party's territory.

9 olive oils and 1 table olive are mentioned in this list:

- Olive oils
  - “Huile d'olive de Haute-Provence” from France
  - “Baena”, “Sierra Mágina”, “Aceite del Baix-Ebre-Montsía”, “Aceite del Bajo Aragón”, “Antequera”, “Priego de Córdoba”, “Sierra de Cádiz” and “Sierra de Segura” from Spain; and
- Table olive: Ελιά Καλαμάτας (Elia Kalamatas) from Greece

#### **2.1.4.6. EU – Vietnam**

Vietnam is one of the 10 members of the Association of Southeast Asian Nations (ASEAN). In 2007, the EU initiated negotiations of a Free Trade Agreement with the ASEAN. As they proved difficult, the EU decided to negotiate Free Trade Agreements with individual countries of the ASEAN. On March 2010, the EU and Vietnam officially agreed to launch negotiations of a bilateral Free Trade Agreement (FTA). The European Commission is going to discuss the next steps with the Council of the EU and the European Parliament. The negotiations will cover GIs and could be launched officially in the coming months.

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<sup>8</sup> Annex 10 B : [http://trade.ec.europa.eu/doclib/docs/2009/october/tradoc\\_145182.pdf](http://trade.ec.europa.eu/doclib/docs/2009/october/tradoc_145182.pdf)

<sup>9</sup> Annex 10 A : [http://trade.ec.europa.eu/doclib/docs/2009/october/tradoc\\_145181.pdf](http://trade.ec.europa.eu/doclib/docs/2009/october/tradoc_145181.pdf)

## **2.1.5. Europe**

Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Croatia, Georgia, Iceland, Kosovo, Moldova, Montenegro, Serbia, Switzerland, The Former Yugoslav Republic of Macedonia, Turkey and Ukraine are currently negotiating bilateral agreements with the EU. These agreements have an intellectual property rights chapter and cover GIs.

### **2.1.5.1. EU – Albania**

Albania is a potential candidate country for EU accession since 2003. On 28 April 2009, it submitted its application for EU membership. However, the accession talks have not started yet. When Albania becomes a member of the EU, it will have to apply all the legislations in force in the Union, notably the specific legislation on the protection of GIs.

### **2.1.5.2. EU – Armenia**

In July 2010, the EU launched association agreement talks with Armenia. Such an agreement aims at strengthening political and economic ties between the parties and will cover a broad range of issues including trade. This agreement is part of the European Neighbourhood Policy of the EU. A Free Trade Agreement could also be negotiated in the future, depending on the degree of preparation of the countries. This FTA could include a part on intellectual property rights. Moreover, the European Commission has the mandate to negotiate a stand-alone agreement on the protection of geographical indications for agriculture products.

### **2.1.5.3. EU – Azerbaijan**

In July 2010, the EU launched association agreement talks with Azerbaijan. This agreement is part of the European Neighbourhood Policy of the EU. A Free Trade Agreement could also be negotiated in the future, depending on the degree of preparation of the countries. This FTA could include a part on intellectual property rights. Moreover, the European Commission has the mandate to negotiate a stand-alone agreement on the protection of geographical indications for agriculture products.

### **2.1.5.4. EU – Bosnia and Herzegovina**

Bosnia and Herzegovina is a potential candidate to the accession to the EU. Within the enlargement context, the European Commission is currently negotiating an agreement with Bosnia and Herzegovina which covers intellectual property rights, notably GIs. The European Commission seeks the protection of all the European GIs. GIs are already covered by the Interim Agreement on trade and trade-related issues, which entered into force on 1 July 2008, between the EU and Bosnia and Herzegovina. The negotiations towards the accession to the EU could be launched soon. Bosnia and Herzegovina would thus have to comply with all the "*acquis communautaire*" which is all the EU legislation, including the one applicable to GIs.

### **2.1.5.5. EU – Croatia**

Croatia is a candidate for the EU membership since 2004. Accession negotiations with the EU started in 2005. Intellectual property rights are covered by these negotiations. By the date

of its accession, Croatia will have to apply the “*acquis communautaire*”, that is to say the legislation in force in the EU, notably the specific legislation on the protection of GIs.

#### **2.1.5.6. EU – Georgia**

The EU and Georgia are currently negotiating a bilateral agreement on protection of geographical indications for agricultural products and foodstuff. Georgia was the 1<sup>st</sup> EU Neighbourhood Policy East country to initiate negotiation with the EU on the protection of GIs. On 17 February 2010, the European Commission published a list<sup>10</sup> of the 18 wines with GIs for which Georgia seek protection within the EU in the Official Journal of the European Union in order to open an opposition period. On 27 February, the Commission published a new information notice<sup>11</sup> which annuls and replaces the text published on 17 February. This opposition period was opened until the 27 April and allowed interested parties to send to the European Commission its opposition to the registration in the EU of the Georgian products. This publication indicates that the negotiations are going well and that an agreement could be concluded soon.

In the meantime, in July 2010, the EU launched association agreement talks with Georgia. This agreement is part of the European Neighbourhood Policy of the EU. A Free Trade Agreement could also be negotiated in the future, depending on the degree of preparation of the countries. This FTA could include a part on intellectual property rights.

#### **2.1.5.7. EU – Iceland**

Iceland is a member of the European Free Trade Association (EFTA) since 1970 and has a bilateral Free Trade Agreement with the European Economic Community since 1972. A significant part of the EU legislation is applied in Iceland. Iceland thus enjoys a high degree of integration with the EU. Iceland submitted its application for EU membership in July 2009. On 17 June 2010, the negotiations were officially launched. The European legislation on the protection of GIs will thus apply in Iceland when and if it joins the EU.

#### **2.1.5.8. EU – Kosovo**

Kosovo is a potential candidate to the membership of the EU. The integration of the EU legislation in Kosovo will have to be done before it becomes a member. The EU legislation on the protection of GIs will thus apply in the country.

#### **2.1.5.9. EU – Moldova**

The EU and Moldova are negotiating an Association Agreement in the framework of the European Neighbourhood Policy of the EU. This future agreement will notably establish a comprehensive Free Trade Area between the EU and Moldova. The EU and Moldova are also currently negotiating a bilateral GI agreement. All the GIs from the two parties will be protected in the framework of this future agreement. A Free Trade Agreement could also be negotiated in the future, depending on the degree of preparation of the countries. This FTA could include a part on intellectual property rights.

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<sup>10</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:040:0018:0020:EN:PDF>

<sup>11</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:050:0006:0008:EN:PDF>

#### **2.1.5.10. EU – Montenegro**

Montenegro is in the Balkan region and is a neighbouring country of the EU. It is a potential candidate for membership to the EU since 2008. However the accession talks were not officially launched yet. Montenegro, as a new member of the EU, will then have to apply all the legislations in force in the Union. It will thus have to apply the specific legislation on the protection of GIs and have to apply for the protection of its own GIs at the EU level.

#### **2.1.5.11. EU – Serbia**

Serbia is in the Balkan region and is a neighbour of the EU. It is a potential candidate for membership to the EU since 2003. However the accession talks were not officially launched yet. When Serbia becomes a member of the EU, it will have to apply all the legislations in force in the EU. It will thus have to apply the specific legislation on the protection of GIs and have to apply for the protection of its own GIs at the EU level.

#### **2.1.5.12. EU – Switzerland**

On 11 December 2009, the EU and Switzerland concluded negotiations on a bilateral agreement for the protection of their respective GIs for agricultural products and foodstuffs. In August 2010, the EU and Switzerland reached an agreement on the products to be covered by the draft agreement: 818 GIs registered in the EU and 22 GIs registered in Switzerland. All the EU GIs are covered by this draft agreement, which means that all the table olives and olives oils of the EU will be protected in Switzerland once the agreement enters into force. The negotiation phase is officially closed. The ratification of the agreement is expected in 2011.

#### **2.1.5.13. EU – The Former Yugoslav Republic of Macedonia**

The Former Yugoslav Republic of Macedonia has the candidate country status for EU membership since 2005. As a part of the accession process, the European Commission is currently negotiating with the Former Yugoslav Republic of Macedonia. The latter will have to incorporate the “*acquis communautaire*”, that is to say the EU norms, into the national legislation. It will thus have to apply the specific EU legislation on the protection of GIs and have to apply for the protection of its own GIs at the EU level.

#### **2.1.5.14. EU – Turkey**

Turkey and the EU are not negotiating any bilateral free trade agreement covering the protection of intellectual property rights. However, they are negotiating the accession of Turkey to the EU. Turkey is a candidate country for EU membership since 1999. Accession negotiations started in October 2005. The protection of GI is negotiated in two chapters: the one on intellectual property law and the one on agriculture and rural development, which covers the European legislation on quality policy. By the date of its accession, Turkey will have to apply the “*acquis communautaire*”, that is to say the legislation in force in the EU. Under the legislation covering GIs, it will have to apply for the protection of its GIs in the EU.

#### **2.1.5.15. EU – Ukraine**

In March 2007, the EU and Ukraine launched the negotiations of an Association Agreement, which aims at creating a Free Trade Area, in the framework of the European Neighbourhood Policy of the EU. Intellectual property rights will be covered by the Agreement.

Since 2008, the EU and Ukraine are also negotiating a Free Trade Agreement, which contains a part on intellectual property rights. GIs are covered. As Ukraine is a neighbouring country of the EU, the “*acquis*” approach is used in the negotiations, which means that the European Commission is seeking the protection of all the GIs of the EU in Ukraine. The negotiations are ongoing and the next round of negotiations will take place in Kiev on 4-8 October 2010.

## **2.2. *Negotiations of bilateral agreement between non EU countries***

Some non EU countries that are members of the COI also negotiate bilateral agreements which cover GIs or are planning to do so.

### **2.2.1. Possible Free Trade Agreement Negotiations between Canada & Morocco**

On 1-3 June 2009, Canada and Morocco decided to start exploratory discussions on the possibility of launching free trade agreement (FTA) negotiations between the two countries. On October 2009, Canada launched a public consultation on the FTA negotiations. It seems that the negotiations have not started yet.

### **2.2.2. Possible Free Trade Agreement Negotiations between Canada & Turkey**

In February 2010, exploratory discussions on the possibility of launching free trade agreement (FTA) negotiations between Canada and Turkey took place in Ottawa. In October 2010, formal exploratory meetings will take place in Ankara. In the meantime, Canada launched a public consultation on the FTA negotiations.