

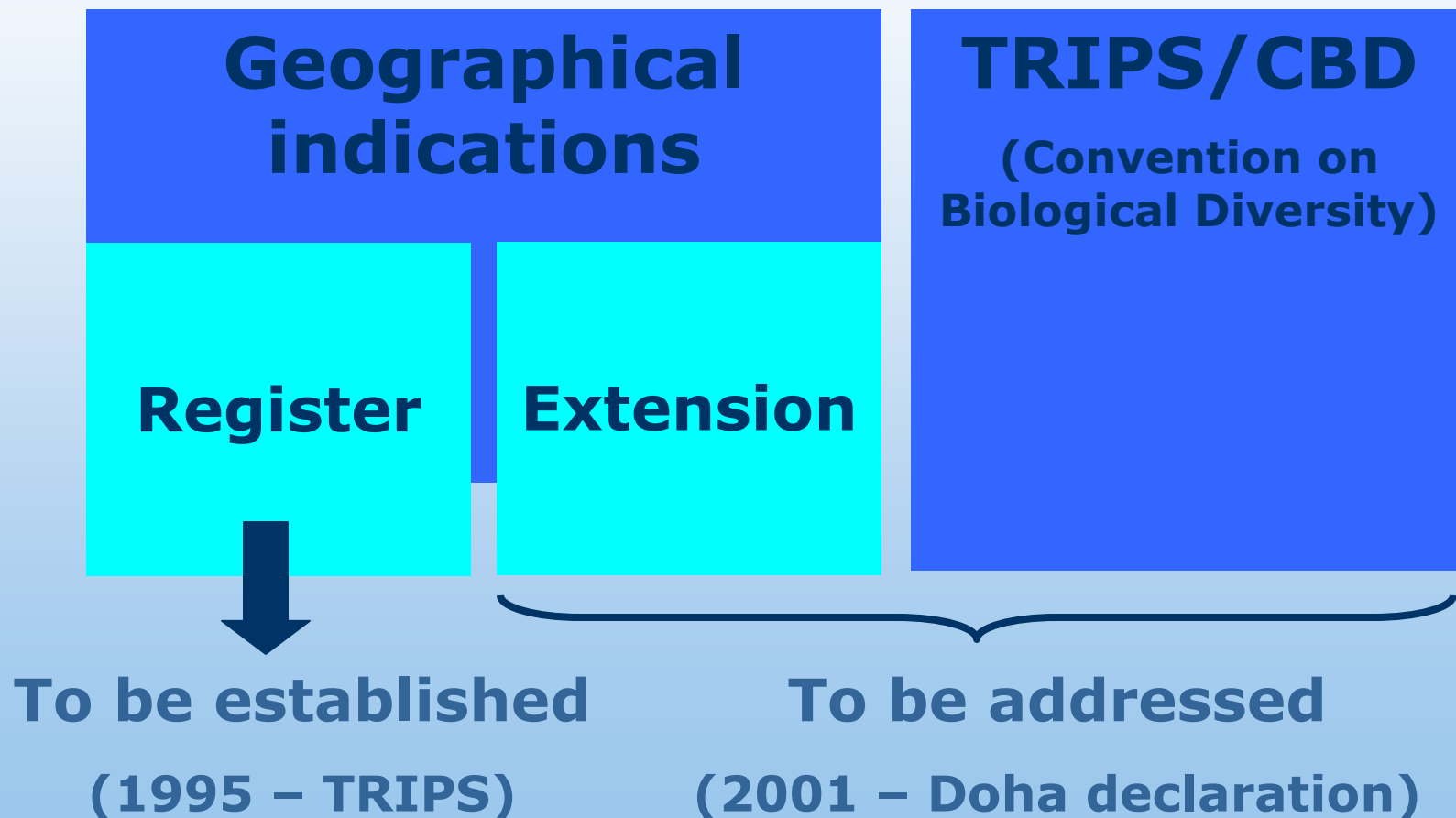
Geographical Indications in the Doha Development Round

Luc-Pierre Devigne

Head of Unit – Intellectual property and Public procurement

DG TRADE - European Commission

TRIPS issues at stake



What has been done so far?

- **1995-2001** : post-UR on GI Register
- **2001** : DDA mandate on GI Register + GI Extension and TRIPS/CBD
- **2001-2008** : DDA discussions
- **17 July 2008** : draft modalities on TRIPS issues by an alliance > 100 Members
- **Geneva Ministerial conference (July 2008):** TRIPS issues not discussed by Ministers.



The « alliance proposal »

- Covers GI Register, GI Extension, TRIPS/CBD;
- Focus on key parameters at Ministerial level
→ Technical details later.
- Result of a negotiation with compromises by all sides.
- Balanced ambition ensuring support by a large majority.
- Avoid burden and costs.
- Attention to developments needs.



Register

Need to facilitate the protection

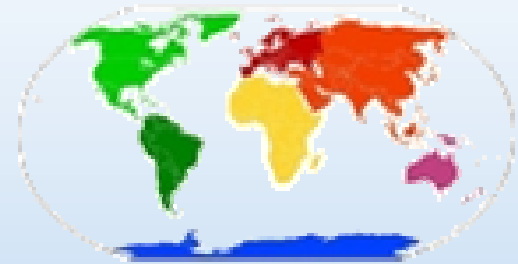


Register

- **For whom?**

- **All WTO Members:**

- may notify;
 - must take the Register into account (NOT only those choosing to notify).



Register: how to take into account?

- Decisions on trademarks and GIs
- National authorities will consult the Register and take its information into account



1) *Prima facie* evidence that the name meets the TRIPS **GI definition** – unless proof to the contrary

2) If someone argues that a name is **generic**, the assertion must be **substantiated**.

Register - Example in Ruritania

- Notification by the EC: "CHIANTI" → Register
- GI right holders will seek protection
- Registration authorities will consult the Register and take it into account



★ May be registered in Country A

★ May be considered generic in Country B – protection refused



Register

Dispelling a few myths

- **« Extra-territorial »?**
 - **National authorities, national procedures;**
 - **Each country decides on GI definition and GI protection**
 - **Exceptions available as per TRIPS.**
- **Costly and cumbersome?**
 - **A simple system of notification and registration**
 - **Opposition phase unlimited in time and space.**

Extension



Additional protection

« **objective** »

(*"Parma ham from Australia" NOT allowed*)

subjective test

(Does *"Parma ham from Australia"* mislead the consumer?)



Granting all GIs the same level of protection

Extension

- exceptions available as per TRIPS, e.g.:
 - prior uses,
 - prior trademarks,
 - generic names.



Extension

... dispelling a few myths

- Only for names protected as Gis in the country of origin
 - Not the case of *cheddar*, *mozzarella*, *camembert*, ...
- No « claw back list »



Development needs

- « *Special and differential treatment shall be an integral part of negotiations (...) in favour of developing countries and in particular least-developed countries* »
- **In all 3 issues**

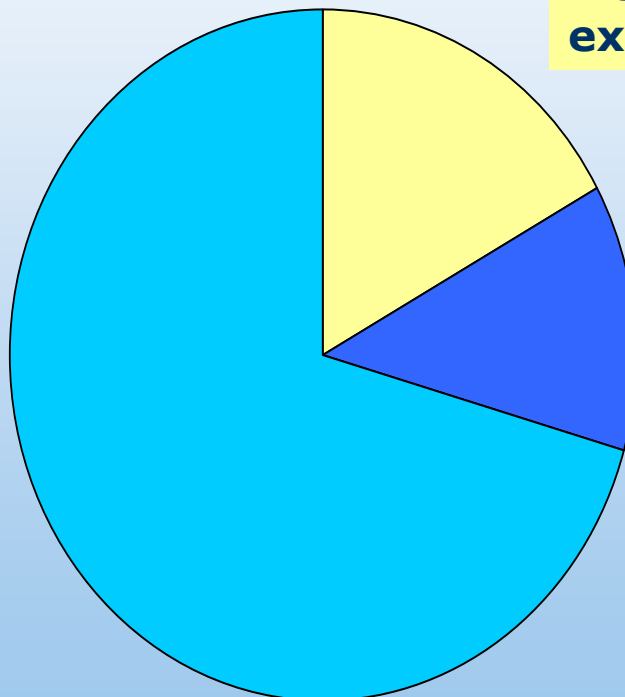


Where do we stand?

**108 Members =
2/3 of WTO
Membership,
including EC**

(proposal of July 2008)

- meaningful Register for all Members,
- yes to Extension,
- amending TRIPS on TRIPS/CBD



**Members with no
expressed position**

Others

- voluntary database Register (**Proposal of 2002 - 19 Members**),
- No to Extension,
- No to amending the TRIPS agreement on TRIPS/CBD.

Conclusion

- **TRIPS issues: *conditio sine qua non* for a DDA outcome.**
- **The Alliance Members have shown much flexibility.**
- **The 108 Members proposal: a compromise solution capturing steps made by all co-sponsors.**



Thank you !



<http://ec.europa.eu/trade/>