

# Geographical Indications Beyond Doha: A Roadmap for a Better International Protection of GIs

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It is always easier to use  
the reputation of others  
instead of building up  
a reputation by one's own effort!



# Possible Ways Forward

- 1. State of play at the multilateral level**
- 2. Complementary approaches for international protection of geographical indications**
- 3. Benefit of bilateral and plurilateral agreements on the protection of geographical indications**



# What is the State of Play at the Multilateral Level ? (= at WIPO & WTO )





## GIs Issues at WIPO

- **Working Group for the Revision of the Lisbon Agreement**  
(→ Recommendation for the Lisbon Assembly 2009)
- **Protection of country names under the Paris Convention**  
**(Art. 6<sup>ter</sup>) (SCT/21 – June 2009 : Proposal by Jamaica)**
- **Protection of country names and geographical indications**  
**in domain names and on the internet ?**





# GI Issues at the WTO



Geneva watches  
made in Japan



L'Etivaz style cheese  
Produced in US



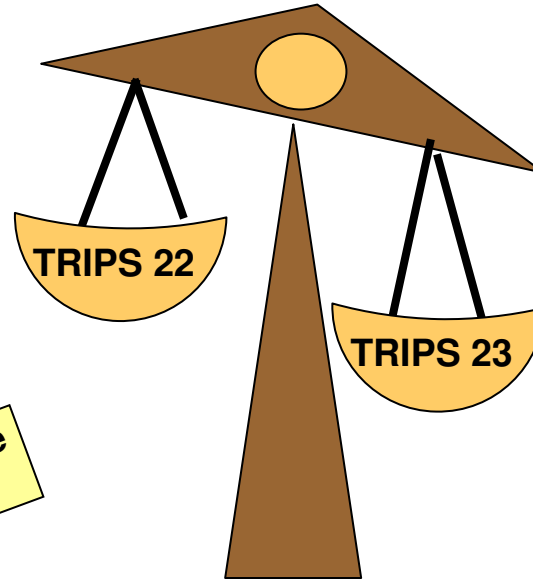
American  
Basmati Rice



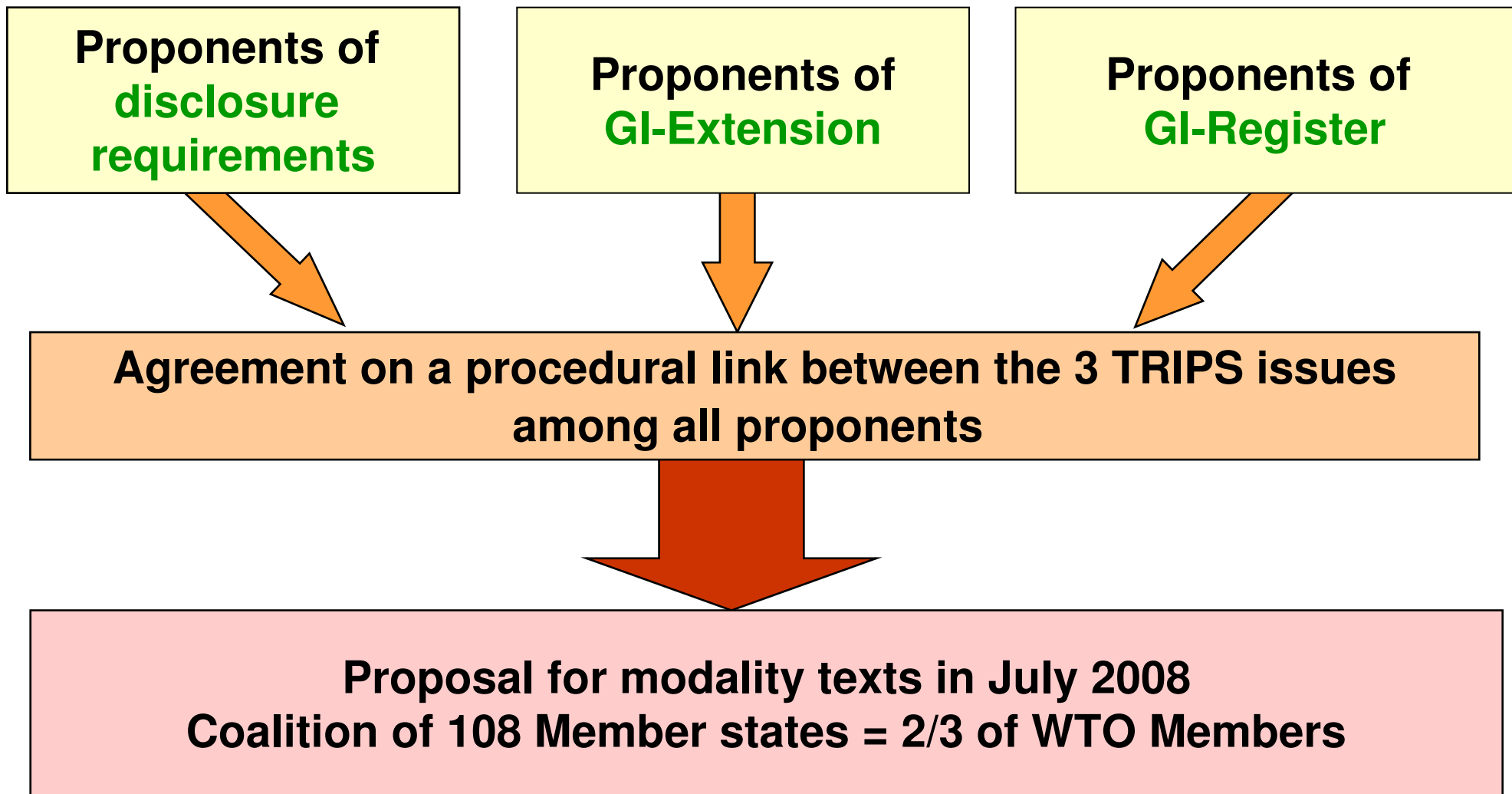
Jamaican Jerk  
from Trinidad



Hereke carpets  
Made in China



## Coalition of the «TRIPS-Proponents»



# What are the Complementary Approaches to Multilateral Negotiations for Protecting GIs Internationally?





# Complementary Approaches for International Protection of GIs (Option 1)

**National GI right holders have to protect (e.g. register) and enforce their GIs in each and every foreign country of importance ...**

- **complicate** (lack of uniform standard)
- **expensive** (costs for translations, registrations, attorneys, etc.)
- **time consuming** (multiplication of application procedures)
- **uncertain** (lack of legal certainty)



## Complementary Approaches for International Protection of GIs (Option 2)

**Negotiation of bilateral agreements among GI-interested countries  
on the mutual recognition and protection of GIs (incl. protection for  
the country names of the Contracting Parties)**



**GIs of each Contracting Party are **automatically** protected  
on the territory of the other Party against usurpation**



# The Possible Benefits of Bilateral Agreements on the Mutual Protection of GIs



# Content of Bilateral GI-Agreement (I)

- **Negotiation of a bilateral agreement aiming at protecting all or selected GIs meeting the definition of Art. 22:1 TRIPS**
- **Exchange of lists → Mutual recognition and automatic protection** (= without individual registration by the GI right holders)



## Content of Bilateral GI-Agreement (II)

- **Protection equivalent to Article 23 TRIPS in the Contracting Parties for GIs of all products** (= for agricultural, handicraft and industrial products)
  - **Protection against incorrect use** (for identical and similar products)  
**and against misleading uses** (for other products)  
**Protection against any misuse, imitation or evocation and practice liable to mislead the consumer**
  - **Protection against incorrect or misleading trademarks**
  - **Protection against abusive homonymous indications**
  - **Protection for products marketed in the territory of the Parties as well as for products for export or in transit**



## Content of Bilateral GI-Agreement (III)

- **Protection of the country names of the Contracting Parties**
  - according to Article 6<sup>ter</sup> Paris Convention
  - independent of GI protection
  - including adjectives, official abbreviations of the country names and translations
- **Protection of flags and State emblems and their imitations in TM, design, firm names, etc.**



# Benefits of a bilateral GI Agreement

- **In partner country:**
  - **No obligation for right holders to register a GI**
  - **Automatic recognition of the statute of a GI by the authorities**
  - **Efficient, affordable and effective protection of GIs**
  - **Efficient and effective enforcement mechanisms for GI producers**
  - **Absolute protection of country name**
- **Publicity of GIs → no TM® for products not originating in true place of origin**




# Example of a concrete benefit thanks to Bilateral Agreement: Abuse of Swiss GI in Spain

 **PICÓ 66**



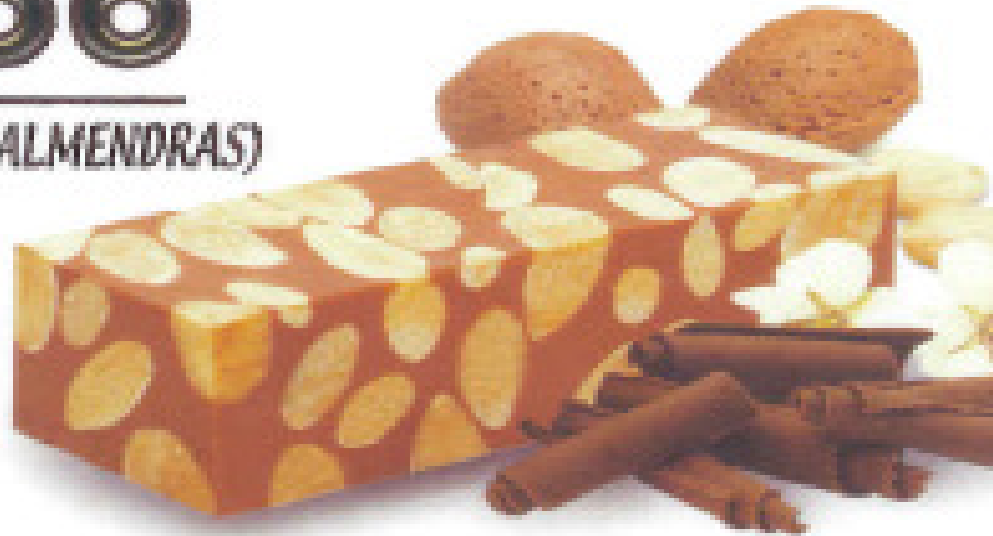
turrón ~~SWIZO~~ (CHOCOLATE CON ALMENDRAS)

 **PICÓ 66**

turrón ~~SWIZO~~ (CHOCOLATE CON ALMENDRAS)

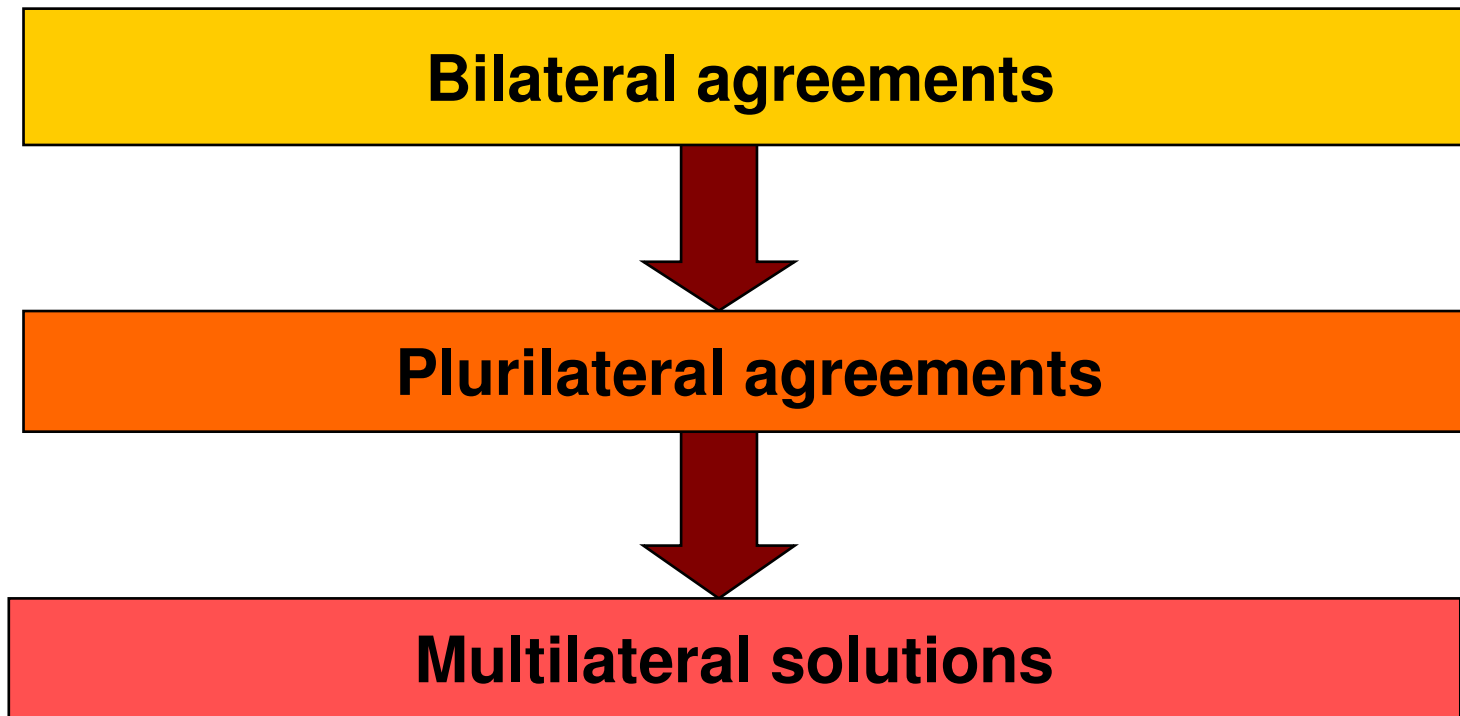
calidad suprema

*Antonio Picó*





# Roadmap for a Better International Protection of Geographical Indications



**= in the interest of all ORIGIN Members !!**

