

國立交通大學

管理學院碩士在職專班科技法律組

碩士論文

From Legal Aspects to Formulate
a Workable Geographical Indication Protection System
In Light of WTO Doha Round Negotiations

(中譯：從法律層面探討世界貿易組織(WTO)

杜哈(Doha)回合談判下對地理標示保護之可行方式)

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Abstract

The globalization of economy has meant protecting intellectual property rights becomes important not only on a national and local basis but also on an international basis. This is evident from the negotiation and ultimately inclusion of the TRIPS Agreement, or Agreement on Trade-Related Aspects of Intellectual Property Rights, into the World Trade Organization. In the TRIPS Agreement, one protection to a local intellectual property on an international level is the protection of geographical indications, and such protection may be found in Articles 22 through 24 of the TRIPS Agreement.

Geographical indications are place names, or in some countries also words associated with a place, used to identify products with particular characteristics because they come from specific places. Currently, under Articles 22-24 of the TRIPS Agreement, a two-tier system is set up to protect geographical indications of wines and spirits with an increased level of protection and geographical indications of other goods with a lower level of protection. Two issues have developed as a result of Articles 22-24: (1) whether to extend the increased protections under Article 23 currently granted to wines and spirits to all products; and (2) how to establish a global registry for geographical indications. These two issues have caused heated debates during the Doha Round Negotiations of the World Trade Organization, resulting in

deadlocks among many WTO Members. This paper examines the legal aspects on geographical indications protection in order to formulate a workable geographical indication protection system in light of WTO Doha Round Negotiations.

Key words: geographical indication, extension issue, registration issue, Doha Round Negotiations, TRIPS



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摘 要

隨著經濟全球化的趨勢，有關智慧財產權的保護，在國際間逐漸成為重要的議題，世界貿易組織(WTO)下「與貿易有關之智慧財產權協定」(TRIPS)，就是智慧財產權保護走向國際化的最好證明；而在TRIPS所保護智慧財產權中，對「地理標示」(geographical indications)的保護，從國內保護走向國際保護的趨勢極為顯著，進而也在國際間引發很大的爭議。

TRIPS第22條至第24條，對於地理標示採「雙重標準」的保護模式——酒類商品享有較高度的保護；至於非酒類的一般商品，僅能享有一般性的保護。近年來，TRIPS對於地理標示保護所引發的爭議，主要有二：(1)對於酒類商品的高度保護，是否應擴大至其他商品？(2)如何在國際間建立酒類商品地理標示的通知與註冊制度？上述二點爭議，在2001年於杜哈(Doha)召開的WTO部長會議時，各國間之立場對立與利益衝突愈趨明顯；時至今日，仍舊無法達成共識，談判依然處於膠著。因此，在杜哈回合談判(Doha Round Negotiations)下，本論文擬從法律的層面，分析地理標示保護的法律本質，研究並提出地理標示保護之可行方式；以期在國際間談判對立與衝突之現狀下，提供一個平衡的參考與依據。

關鍵字：地理標示 (geographical indication)，擴張保護之爭議 (extension issue)，註冊爭議 (registration issue)，杜哈回合談判 (Doha Round Negotiations)，與貿易有關之智慧財產權協定 (TRIPS)。

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