

CHAPTER 10

INTELLECTUAL PROPERTY

Article 10.1: Definitions

For the purposes of this Chapter:

TRIPS Agreement means the *Agreement on Trade-Related Aspects of Intellectual Property Rights*, which is part of the WTO Agreement;

Intellectual property refers to all categories of intellectual property that are the subject of Sections 1 through 7 of Part II of the TRIPS Agreement namely: copyright and related rights; trade marks; geographical indications; industrial designs; patents; layout designs (topographies) of integrated circuits; protection of undisclosed information.¹

Article 10.2: Intellectual Property Principles

1. The Parties recognise the importance of intellectual property in promoting economic and social development, particularly in the new digital economy, technological innovation and trade.
2. The Parties recognise the need to achieve a balance between the rights of right holders and the legitimate interests of users and the community with regard to protected subject matter.
3. The Parties are committed to the maintenance of intellectual property rights regimes and systems that seek to:
 - (a) facilitate international trade, economic and social development through the dissemination of ideas, technology and creative works;
 - (b) provide certainty for right-holders and users of intellectual property over the protection and enforcement of intellectual property rights; and
 - (c) facilitate the enforcement of intellectual property rights with the view, *inter alia*, to eliminate trade in goods infringing intellectual property rights.

¹ For the purpose of this Chapter “intellectual property” also includes the protection of plant varieties.

Article 10.3: General Provisions

1. The Parties affirm their existing rights and obligations with respect to each other under the TRIPS Agreement and any other multilateral agreement relating to intellectual property to which they are party. To this end, nothing in this Chapter shall derogate from existing rights and obligations that Parties have to each other under the TRIPS Agreement or other multilateral intellectual property agreements.

2. Nothing in this Chapter shall prevent a Party from adopting appropriate measures to prevent the abuse of intellectual property rights by right holders or the resort to practices that unreasonably restrain trade or adversely affect the international transfer of technology, provided that such measures are consistent with this Agreement. In particular, nothing in this Chapter shall prevent a Party from adopting measures necessary to prevent anti-competitive practices that may result from the abuse of intellectual property rights.

3. Subject to each Party's international obligations the Parties affirm that they may:

- (a) provide for the international exhaustion of intellectual property rights;
- (b) establish that provisions in standard form non-negotiated licenses for products do not prevent consumers from exercising the limitations and exceptions recognised in domestic intellectual property laws;
- (c) establish provisions to facilitate the exercise of permitted acts where technological measures have been applied; and
- (d) establish appropriate measures to protect traditional knowledge.

4. The Parties shall provide for reproduction rights and communication to the public rights to copyright owners and phonogram producers that are consistent with the *World Intellectual Property Organization Copyright Treaty (WCT)* and the *World Intellectual Property Organization Performances and Phonograms Treaty (WPPT)*. The Parties shall provide performers' rights consistent with the TRIPS Agreement. The Parties may establish limitations and exceptions in their domestic laws as acceptable under the *Berne Convention for the Protection of Literary and Artistic Works (1971)*, the TRIPS Agreement, the WCT and the WPPT. These provisions shall be understood to permit Parties to devise new exceptions and limitations that are appropriate in the digital environment.

5. Subject to their obligations under the TRIPS Agreement, each Party may limit the rights of the performers and producers of phonograms and broadcasting entities of the other Party to the rights its persons are accorded within the jurisdiction of the other Party.

Article 10.4: Trade Marks

1. Each Party shall afford an opportunity for interested parties to oppose the application of a trade mark and request cancellation of a registered trade mark.
2. In relation to trade marks, Parties are encouraged to classify goods and services according to the classification of the *Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (1979)*.

Article 10.5: Geographical Indications

1. The terms listed in Annex 10.A are recognised as geographical indications for wines and spirits in the respective Party, within the meaning of paragraph 1 of Article 22 of the TRIPS Agreement. Subject to domestic laws,² in a manner that is consistent with the TRIPS Agreement, such terms will be protected as geographical indications in the territories of the other Parties.
2. At the request of a Party, the Commission may decide to add or remove geographical indications from Annex 10.A.

Article 10.6: Country Names

The Parties shall provide the legal means for interested parties to prevent commercial use of country names of the Parties in relation to goods in a manner which misleads consumers as to the origin of such goods.

Article 10.7: Cooperation

The Parties agree to cooperate, consistent with the principles set out in Article 10.2. Such cooperation may include, *inter alia*:

- (a) the notification of contact points for the enforcement of intellectual property rights;
- (b) exchange of information relating to developments in intellectual property policy in their respective agencies. Such developments may include,

² For greater certainty, the Parties acknowledge that geographical indications will be recognised and protected in Brunei Darussalam, Chile, New Zealand and Singapore only to the extent permitted by and according to the terms and conditions set out in their respective domestic laws.

but are not limited to, the implementation of appropriate limitations and exceptions under copyright law and the implementation of measures concerning the appropriate protection of digital rights management information;

- (c) exchange of information on the implementation of intellectual property systems, aimed at promoting the efficient registration of intellectual property rights;
- (d) promotion of the development of contacts and cooperation among their respective agencies, including enforcement agencies, educational institutions and other organisations with an interest in the field of intellectual property rights;
- (e) policy dialogue on initiatives on intellectual property in multilateral and regional forums;
- (f) exchange of information and cooperation on appropriate initiatives to promote awareness of intellectual property rights and systems; and
- (g) such other activities and initiatives as may be mutually determined among the Parties.

Annex 10.A

Lists of Geographical Indications

List of Geographical Indications from Chile

WINES	Name of Appellation
	Valle de Aconcagua
	Alhué
	Valle del Bío Bío
	Buin
	Valle del Cachapoal
	Valle de Casablanca
	Cauquenes
	Chillán
	Chimbarongo
	Valle del Choapa
	Coelemu
	Valle de Colchagua
	Valle de Copiapó
	Valle de Curicó
	Region de Aconcagua
	Region de Atacama
	Region de Coquimbo
	Valle del Claro
	Region del Sur
	Region del Valle Central
	Valle del Elqui
	Valle del Huasco
	Illapel
	Isla de Maipo
	Valle del Itata
	Valle de Leyda
	Valle del Limarí
	Linares
	Valle del Loncomilla
	Valle del Lontué
	Lolol
	Valle del Maipo
	Maria Pinto
	Valle del Marga-Marga
	Valle del Maule
	Marchigue
	Valle del Malleco
	Melipilla
	Molina
	Monte Patria
	Mulchén
	Nancagua

Ovalle
Paiguano
Pajarete
Palmilla
Panquehue
Parral
Pencahue
Peralillo
Peumo
Pirque
Portezuelo
Puente Alto
Punitaqui
Quillón
Rancagua
Valle del Rapel
Rauco
Rengo
Requínoa
Río Hurtado
Romerol
Sagrada Familia
Valle de San Antonio
San Juan
Salamanca
San Clemente
San Fernando
San Javier
San Rafael
Santa Cruz
Santiago
Talagante
Talca
Valle del Teno
Valle del Tutuvén
Traiguén
Vicuña
Villa Alegre
Vino Asoleado
Yumbel

SPIRITS Name of Apellation	Country
Pisco	Chile