

PART V

INTELLECTUAL PROPERTY RIGHTS

CHAPTER 16

INTELLECTUAL PROPERTY RIGHTS

Article 16.1: Obligations

1. Each Party shall provide, in its territory, to the nationals of the other Party adequate and effective protection and enforcement of intellectual property rights, while ensuring that measures to enforce intellectual property rights do not themselves become unnecessary barriers to legitimate trade.
2. To provide adequate and effective protection and enforcement of intellectual property rights, each Party shall faithfully implement the international conventions it has acceded to, including the TRIPS Agreement.

Article 16.2: More Extensive Protection

A Party may implement in its domestic law more extensive protection of intellectual property rights than is required under this Agreement, provided that such protection is not inconsistent with this Agreement and the TRIPS Agreement.

Article 16.3: Protection of Trademarks

1. Article 6 *bis* of the Paris Convention shall apply, *mutatis mutandis*, to services. In determining whether a trademark is well known, the Parties shall take account of the knowledge of the trademark in the relevant sector of the public, including knowledge in the Party concerned, obtained as a result of the promotion of the trademark.
2. If the use of a trademark is required by the legislation of a Party to maintain registration, the registration may be cancelled only after an uninterrupted period of at least three years of non-use, unless valid reasons based on the existence of obstacles to such use are shown by the trademark owner.
3. When subject to the control of its owner, use of a trademark by another person shall be recognized as use of the trademark for the purpose of maintaining the registration.

Article 16.4: Protection of Geographical Indications

1. For the purpose of this Agreement, geographical indications are indications, which identify a good as originating in the territory of a Party, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.

2. With the recognition of the importance of the protection of geographical indications, both Parties shall protect, in compliance with their respective domestic legislation, the geographical indications of the other Party registered and/or protected by that other Party, that fall within the scope of protection stated in Articles 22, 23 and 24 of the TRIPS Agreement. Further to the acceptance of this obligation, both Parties shall not permit the importation, manufacture and sale of products, in compliance with their respective domestic legislation, which use such geographical indications of the other Party, unless such products have been produced in that other Party.

3. Chile shall protect the geographical indications listed in Annex 16.4.3 for their exclusive use in products originating in Korea. Chile shall prohibit the importation, manufacture and sale of products with such geographical indications, unless they have been produced in Korea, in accordance with the applicable Korean law.

4. Korea shall protect the geographical indications listed in Annex 16.4.4 for their exclusive use in products originating in Chile. Korea shall prohibit the importation, manufacture and sale of products with such geographical indications, unless they have been produced in Chile, in accordance with the applicable Chilean law. This shall in no way prejudice the rights that Korea may recognize, in addition to Chile, exclusively to Peru with respect to “Pisco”.

5. Within two years from the entry into force of this Agreement, both Parties shall enter into consultations to protect additional geographical indications. As a result of these consultations, both Parties shall protect and/or recognize, under the terms stated in this Agreement, the geographical indications listed in Annex 16.4.5 and any additional geographical indications submitted by the Parties that fall within the scope of protection of geographical indications set out in Articles 22, 23 and 24 of the TRIPS Agreement.

Article 16.5: Enforcement

The Parties shall provide in their respective laws for the enforcement of intellectual property rights consistent with the TRIPS Agreement, in particular, Articles 41 to 61 thereof.

Article 16.6: Consultative Mechanism

Any consultations between the Parties with respect to the implementation or interpretation of this Chapter shall be carried out under the dispute settlement procedures referred to in Chapter 19.

Annex 16.4.3

Geographical Indications of Korea

- Korean Ginseng (for Ginseng)
- Korean Kimchi (for Kimchi)
- Boseong (for Tea)

Annex 16.4.4

Geographical Indications of Chile

- Pisco (for wine and spirits)
- Pajarete (for wine and spirits)
- Vino Asoleado (for wine)

Annex 16.4.5

Geographical Indications of Wines Originating in Chile

Wines of the following regions, sub regions and zones:

Viticole Region of Atacama

- Subregion: Valle de Copiapó
- Subregion: Valle del Huasco

Viticole Region of Coquimbo

- Subregion: Valle del Elqui
- Subregion: Valle del Limarí
- Subregion: Valle del Choapa

Viticole Region of Aconcagua

- Subregion: Valle de Aconcagua
- Subregion: Valle de Casablanca

Viticole Region of Valle Central

- Subregion: Valle del Maipo
- Subregion: Valle del Rapel
 - Zone: Valle de Cachapoal
 - Zone: Valle de Colchagua
- Subregion: Valle de Curicó
 - Zone: Valle del Teno
 - Zone: Valle del Lontué
- Subregion: Valle del Maule
 - Zone: Valle del Claro
 - Zone: Valle del Loncomilla
 - Zone: Valle del Tutuvén

Viticole Region of the South/Sur

- Subregion: Valle del Itata
- Subregion: Valle del Bío-Bío