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Geographical Indications in International Dairy Trade

*Presented by Chloe J. Marie, Research Specialist and Ross H. Pifer,
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What is a geographical indication?

- An **indicator** – usually a name or a sign – found on a product packaging
- Used to identify a a product **originating from a specific geographical territory and whose unique features or reputation originate from said geographical territory**
 - There must be a **link** between the name of the product and its geographical origin
- Used to identify both **agricultural and non-agricultural products**
- Used to **protect** against usurpation or misuse of a product
- Must be **registered** with the competent national authority



GIs Multilateral Protection – TRIPS Agreement

Article 22

- Provides basic principles for the protection of GIs.
- Defines GIs as indicators *“which identify a good as originating in the territory of a Member, 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.”*
- Requires each member of the Agreement to provide legal protection to GIs against usurpation.

Article 24

- Provides exceptions to the protection of GIs, including:
- Members of the Agreement do not have to protect GIs if the names they do protect are generic terms in their countries.
- Protection of GIs cannot conflict with trademark rights that have been previously acquired in good faith.



GIs Protection in the United States

- In the U.S., GIs are protected as trademarks
 - Section 4 of the Lanham Trademark Act of 1946
 - The U.S. Patent and Trademark Office (PTO) allows the registration of GIs as a certification or collective marks
- A **certification mark** is a type of trademark. It shows to consumers that a product 1) comes from a specific geographical area and 2) meets specified standards with respect to quality, material, mode of manufacture, etc.
- A company generally owns a certification mark. It is the only one who has legitimate control over the use of the mark and the ability to determine the specified standards. Only authorized users may use the mark.



Examples of Foreign GIs Protected as Certification Marks

Roquefort

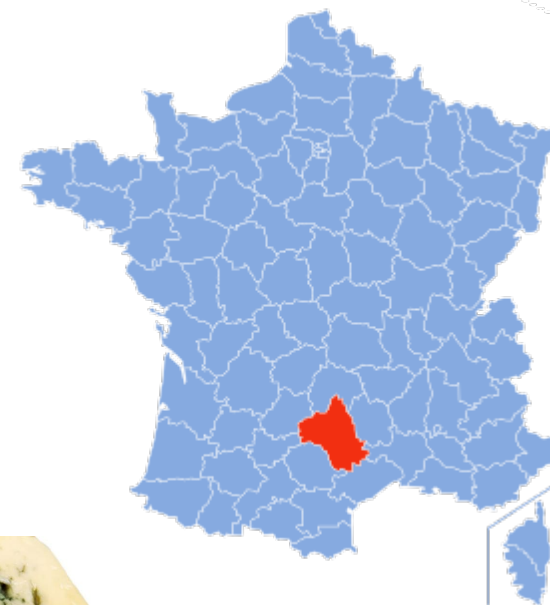
French cheese

Status: Active

Current trademark owner: Confédération Générale des Producteurs de Lait de Brebis et des Industriels de Roquefort.

The certification is used upon the goods to indicate that the same has been manufactured from sheep's milk only and has been cured in the natural caves of the community of Roquefort, Department of Aveyron, France.

ROQUEFORT





Examples of Foreign GIs Protected as Certification Marks

Parmigiano-Reggiano

Italian cheese

Status: Active

Current trademark owner: Consorzio del Formaggio
Parmigiano-Reggiano

The certification mark, as used by persons authorized by Certifier, certifies that the goods originate in the Parma-Reggio region of Italy, specifically the zone comprising the territory of the provinces of Parma, Reggio Emilia, Modena and Mantua on the right bank of the river Po and Bologna on the left bank of the river Reno.

PARMIGIANO-REGGIANO





GI Protection in the United States

- A **collective mark** is another type of trademark. It indicates membership in a collective entity (e.g. union, association or other organization) and distinguishes the geographical origin, quality mode of manufacture, etc. of a product.
- A collective mark implies that the members of the collective entity conform to the specified standards set by the parent organization.
- Unlike a certification mark, a collective mark is owned by a collective entity.
- The collective entity can advertise the mark as well as the products that are sold by its members under the mark.



Example of a Foreign GI Protected as a Collective Mark

Pecorino Romano

Italian cheese made from sheep's milk

1341101

Status: Active

Current trademark owner: Consorzio per la Tutela del Formaggio Pecorino Romano Unincorporated Association Italy

The mark consists of the Italian words “Pecorino Romano” which means “Roman cheese made from sheep milk” and the stylized representation of a sheep’s head within an inclined square





GI Protection in the European Union

- The European GI system is more protective than the U.S. trademark system
 - The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (as amended in September 1979)
 - The Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (as adopted in May 2015)
- The existing EU GI system distinguishes GIs into two categories:
 - **Protected Designation of Origin (PDO)**
 - **Protected Geographical Indication (PGI)**





GI Protection in the European Union

- **Protected Designation of Origin (PDO)**
 - Applies to agricultural products and foodstuff
 - Identifies a product originating from a specific geographical area whose quality or characteristic is essentially or exclusively due to a particular geographic environment and its natural and human factors
 - **Every step of the production, processing, and preparation process must take place in the same geographical area.**
- **Protected Geographical Indication (PGI)**
 - Applies to agricultural products and foodstuff
 - Identifies a product originating from a specific geographical area whose quality, reputation or other characteristic is essentially attributable to the geographical origin of the product.
 - **At least one of the steps of production, processing, or preparation must take place in the place of origin.**



Differences between EU GIs and U.S. Trademarks

- A good originating from a specific place vs. originating from a particular company
- A private right vs. a collective right
- A trademark belongs to the company that created the trademark and can be licensed to anyone. A GI belongs to any producer located in the region identified by the GI



Economical Value of EU GIs

“Citizens and consumers in the Union increasingly demand quality as well as traditional products. They are also concerned to maintain the diversity of the agricultural production in the Union. This generates a demand for agricultural products or foodstuffs with identifiable specific characteristics, in particular those linked to their geographical origin” – Reg. EU No. 1151/2012 on quality schemes for agricultural products and foodstuffs

EU GIs benefit:

- **Producers**, because GIs allow for higher prices on the market – on average x2 the price of a conventional product – and a better division of the added value along the food chain
- **Consumers**, because GIs provide a guarantee on the origin, quality and authenticity of the product. GIs are signs of commercial trust
- **Society**, because GIs protection help secure jobs and maintain economic activities in rural – sometimes remote – areas; encourage the preservation of biodiversity and sustainable agriculture, local and traditional knowledge; and promote tourism.



Economical Value of EU GIs

- “The **total sales value of GIs** was estimated at **EUR 74.8 billion in 2017 (≈ \$88 billion)**. More than half (51.1%) of this value was accounted for wines; **35.4% was covered by agricultural product and foodstuffs**; spirit drinks represented 13.4%; and aromatized wine products made up 0.1%.”
 - The **global increase of the value** is estimated at **37%**, which represented an amount of **EUR 20.2 billion (≈ \$24 billion)**
- **Exports of GI products to non-EU countries** accounted for **EUR 16.95 billion (≈ \$20 billion)**
 - Came mainly from France (Champagne, Cognac), Italy (Grana Padano, Parmigiano-Reggiano, Prosecco) and the United Kingdom (Scotch Whisky)

Source: [Study on economic value of EU quality schemes, geographical indications \(GIs\) and traditional specialties guaranteed \(TSGs\) Final Report, European Commission \(February 2021\)](#)



Economical Value of EU GIs

**Table 9 - Sales value under GIs per category of agri-food products in EU
(million EUR)**

Agri-food sales value	2005	2010	2011	2012	2013	2014	2015	2016	2017	%	Evol. 2017/10	% of growth
Cheeses	5 276	6 308	6 689	7 149	7 176	7 714	8 010	8 522	8 993	36%	43%	32%
Meat products	2 395	3 190	3 312	3 135	3 204	3 475	3 732	4 089	3 955	16%	24%	9%
Beers	2 301	2 859	2 973	3 080	3 084	3 171	2 854	3 147	3 327	13%	16%	6%
Fresh meat (and offal)	1 319	1 515	1 646	2 070	2 175	2 237	2 658	2 982	2 980	12%	97%	18%
Fruit, vegetables and cereals	771	986	1 075	1 343	1 389	1 603	1 658	1 907	1 940	8%	97%	11%
Fresh fish, molluscs, and crustaceans	528	443	637	691	775	881	901	983	1 109	4%	150%	8%
Other products of Annex I	107	369	618	741	581	715	717	853	852	3%	131%	6%
Bread, pastry, cakes etc.	291	279	312	377	401	442	742	509	567	2%	104%	3%
Oils and fats	359	348	428	437	417	494	522	537	555	2%	59%	2%
Other products¹⁷	218	306	395	403	503	577	607	643	672	3%	119%	4%
Total	13 566	16 603	18 083	19 425	19 706	21 310	22 402	24 171	24 950	100%	50%	100%

Source: AND-International study for DG AGRI



Impacts of EU GIs on the U.S. Dairy Sector

- The real issue has to do with the scope of protection granted to GIs and Europe's agenda to register names that have already entered the public domain and are considered to be generic terms according to the U.S.
 - A generic term is a common name referring to the nature or class of a product and must be understood as such by the public. Anyone can use a generic term.
 - Ex: Brie, Ricotta and Saint-Paulin are generic cheese names in the U.S.
- Some generic cheese names have been used for generations in the U.S. and become part of brand names.
 - If a generic cheese name becomes a protected GI, it would be economically harmful to U.S. producers



Impacts of subsequent GI restrictions on common cheese names in the U.S.

- “... total U.S. milk equivalent consumption would fall between 56 billion and 136 billion pounds.”
- “Farm-gate margins would remain significantly below breakeven levels ... forcing greater liquidation of the U.S. dairy herd. The loss in herd size would range between 460,000 to 740,000 head due to the implications of GI restrictions on common cheese terms in the U.S.”
- “... farm revenue losses would continue to mount with the delayed impacts, reaching a cumulative \$71.8 billion in lost revenue ...”

Source: [Assessing the Potential Impact of Geographical Indications for Common Cheeses on the US Dairy Sector, Prepared for the U.S. Dairy Export Council \(November 2018\)](#)



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Thank you!

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GIs in the News

- **The European Commission initiated a review process of its legislative framework for GIs.**
 - This review process is part of a bigger strategy to move the European economy towards sustainability
 - The Commission proposes to make the GI registration system more efficient; improve protection and enforcement of GIs on the Internet; increase market perception of GIs and consumer awareness of EU quality schemes and logos.
- **The U.S. Trade Representative Office released in May 2021 its annual [Special 301 report](#), addressing global challenges regarding intellectual property issues.**
 - The report states, “The EU GI agenda remains highly concerning, because it significantly undermines the scope of trademarks held by U.S. producers and imposes barriers on market access for U.S.-made goods that rely on the use of common names, such as parmesan or feta.”



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