International protection of EU Geographical Indications

Advisory Group
International Aspect of Agriculture

25 June 2012

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Outline

• What Are GI’s and Why Are They Important?
• Protection of Geographical indications (GIs) in the EU
• Protection of GIs at international level
• DDA negotiations
• Bilateral agreements
What Are GI’s and Why Protect Them?

- GI’s are an IPR, like patents or copyright
- GI protection against imitations rewards producer
- GI protection adds value to the product – marketing tool
- GI status give consumer a guarantee of quality, distinctiveness
Value of EU GI production

- **Foodstuffs:** 14.5 billion € (wholesale price)
- **Wine:** 13 billion € (farm gate price)
- **Spirits:** 30 billion € (consumer prices)
Value of EU GI exports

- **Foodstuffs**: 0,7 billion €
- **Wine**: 5,9 billion €
- **Spirits**: 5,7 billion €

- Around 80 % of total wine exports are GIs
- Almost all spirits are exported as GIs

- Total exports of all agricultural products: 105 billion €, of which 67 billion € are final products
Protection of GIs in the EU

Protection of legitimate interests of consumers and producers

by

- Protection of IP in names
- Marketing assistance (EU logos)
Protection of GIs in the EU

*Protected Designation of Origin (PDO)*

*Protected Geographical Indication (PGI)*
Protection of GIs at international level

**WTO – TRIPS Agreement:**

- The same level of protection is not provided for all GIs:

- All products are covered by Article 22 (basic level of protection)
- Wines and spirits are covered by Article 23 (higher level of protection)
- Non agricultural GI’s are also protected
- Wide leeway for means of protection
Protection of GIs at international level

**Article 22 of TRIPS Agreement - basic level of protection:**

- To prevent the use of a GI name, evidence must be provided that consumers are misled
- Applies to all GI’s, including non agricultural GI’s
Protection of GIs at international level

Article 23 of TRIPS Agreement - higher level of protection for wines and spirits:

- Use of a GI name not originating in the place indicated by the GI in question should be prevented even if consumers are not misled, i.e. when the true origin of the goods is indicated ("Chinese Bordeaux"), when the GI is used in translation ("Burgundy") or when it is accompanied by expressions such as "kind", "style", "type", etc.
- So no need for confusion, and translations must be protected
Shortcomings of TRIPS

- Poor protection for foodstuffs
- Low enforcement standards
- Large exceptions
- Uruguay Round mandate for further negotiations
DDA negotiations

Main EU objectives:

- To establish a multilateral register for wines and spirits
- To extend the higher level of protection beyond wines and spirits (end discrimination)
- Link to Biodiversity
Protection of GIs at international level

Main EU objectives:

• To assure protection of EU GIs
• To reach extension of the level of protection for foodstuffs and agricultural products
• To agree on co-existence with prior trade marks
• To guarantee administrative protection in addition to a judicial action
Bilateral agreements

Why negotiate bilaterally?

Two approaches:

- Stand alone GI agreement
- Free Trade Agreement
Bilateral agreements

EU objectives:

- To establish a list of EU GIs to be protected directly and indefinitely in a 3rd country from the entry into force of the agreement,
- To obtain at least the extension of GI protection provided by Article 23 of TRIPS to agricultural products and foodstuffs,
- To allow co-existence with prior trade marks,
Bilateral agreements

EU objectives:

- To phase out prior uses of EU names,
- To obtain administrative protection,
- To avoid that protection of EU GIs depends on individual applications,
- To ensure a right of use (opposed to trade mark license system),
- To create a co-operation mechanism / dialogue.
Wine / Spirits concluded

Negotiations concluded

Ongoing negotiations

Future negotiations
Bilateral Challenges

• Countries with no GI tradition or interest
• Countries with a Trade Mark based system
• Common law jurisdictions
• New World opponents of GI’s
• Trans-Pacific Partnership (TPP) countries
• Non-Agricultural GI’s
Political Economy of GI’s

• *Significant, albeit hard to measure value added exports*
• *Important social, SME and rural development dimension*
• *Counter to EU defensive interests in agriculture*