

CCFN's Views on Key Issue Details at Stake in the Discussions of Geographical Indications and Common Food Names

The Consortium for Common Food Names wants to ensure that questions from both casual observers and those very familiar with the topic of geographical indications are sufficiently addressed. This document seeks to address the latter audience and provide more specific information on CCFN's views on some of the finer points at issue in the debate surrounding the importance of preserving the usage of common food names within geographical indications systems.

Importance of Principle of Territoriality

The Consortium for Common Food Names (CCFN) supports the principle of territoriality. Given the European Commission's (EC) use of bilateral trade agreements to leverage decisions by its trading partners on European GI names and regulations, we question whether this important principle is fully supported by the EC. For example, the EU worked arduously to negotiate enhanced protections for Champagne in the United States despite the name's long-standing generic nature and wide-spread usage in that country. They are now putting the same type of effort into negotiating bilateral agreements that violate territoriality by pressuring EU trading partners to register EU names and accept EU decisions on generic-ness.

In our view, it is clear that judgments regarding generic-ness will vary from one country to the next. However, we do believe that, in considering applications for registration of a name as a GI, officials in every country should carefully consider whether that name is a common name for a type of product, rather than a distinctive product that is associated exclusively with one geographical region.

Is a Historic Linkage Incompatible with Generic-ness?

CCFN recognizes the long culinary traditions that exist in many countries. In fact, many of those traditions were "exported" generations ago in European countries' waves of emigration to many nations around the world. In light of this historical sharing of cultures, it should not be surprising that many in other countries began generations ago to produce and market in good faith quality wines, meats and cheeses, as well as other products, in keeping with the traditions they were familiar with from their home countries. In fact, in many cases it has been New World producers who, through the quality of their products and decades of marketing, have created much of the demand from which some European producers are now benefiting and seeking to expropriate for their sole benefit.

It is important to note that the mere association of a product with a given country in no way demonstrates that the name for that product is not in common usage. Consumers around the world have proven capable of comprehending that pizza traces its roots back to Italy while avoiding the misimpression that all pizzas come exclusively from Italy. This is the case even in restaurants that may decorate their walls with pictures of the Coliseum and Italian flags.

Similarly, the presence of an association between mozzarella and Italy, emmental and Switzerland, or feta and Greece, does not inherently indicate those names are not generic. Instead, a careful evaluation of criteria (see below) is required to determine if the name in question has already entered into common usage, perhaps while retaining a historical association to a given region.

Approval of a GI for “Greek Feta” rather than for “Feta” would be a more reasonable way forward in those instances where a product name is determined to already be in wide-spread and good faith usage in areas outside of its historic origins as was the case with feta prior to its monopolization by Greece within the EU. This approach most appropriately prioritizes the interests of clarity to consumers rather than emphasizing primarily the interests of producers in particular regions.

Relevant Factors in Determining Common Usage

Among the factors we believe officials should consider in determining if a name is in common usage are the following:

- Whether the product associated with the term is produced or traded in significant quantities outside the proposed protected region;
- Whether the product in question is imported in significant quantities from outside the proposed protected region;
- Whether granting protection for the name to the proposed protected region would impair the value of market access concessions granted to other WTO members;
- Whether the Codex Alimentarius has adopted a standard of identity for the product;
- Whether countries outside the proposed protected region have adopted standards of identity for the product;
- Whether the term is used to refer to the type of product in question in dictionaries, newspapers, relevant websites, publicly-available research databases, or any other competent sources; and
- Whether the term is used in product descriptions in the tariff schedules of WTO member countries or in the Harmonized Commodity Description and Coding System.

If a term has become a common name, it should not be registered as a single-term GI. This approach is fully consistent with the WTO TRIPS Agreement.

Useful precedents for this approach exist, such as the recent registration of “Gouda Holland”, an EU GI, where the registration decision specifies that protection applies solely to the full compound term, not the individual components, and clarifies that producers outside of the protected region remain free to use the common name “gouda.” CCFN encourages wide-spread adoption of this “win-win” model throughout the world.