

# Understanding Geographical Indications (GIs): sifting the latest evidence

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## Issues covered in this seminar

- What are Geographical Indications (GIs)
- Understanding European Union (EU) GI policy
  - Impact on producer net incomes
  - Impact on regional prosperity
- GIs in trade negotiations
  - The EU demand
  - The US demand
  - Outcomes in the Canada, Korea and Vietnam EU agreements
  - Outcomes in the “TPPA”
  - Options for Australia-EU negotiations

We are videoing this seminar because we were asked to produce a “webinar” on GIs.

This also gives us an opportunity to provide our Australian constituency with an update of our systematic review of GIs project, drawing on our workshop in Berlin and discussions with Italian and UK industry associations, academics, government and international organisations.

The actual order of the presentation is somewhat different as it is important to establish **why** GIs are an important policy issue **before** looking at the economic evidence on the impact of GI policy.

So after looking at what a GI is, I look at:

- minimum TRIPS requirements (apply to all WTO members)
- EU vs US/Australia approach to GIs in trade policy
  - Because of TRIPS, IP chapters in bi-laterals benefit all WTO members (MFN)
  - Because GIs are a “make or break” trade negotiation for the EU, the current context requires Australia to consider EU GI demands fully
    - Might GI policy be beneficial for Australian primary producers and/or regional development?

## Some fundamentals

- Only discussing GIs for foods  
(excludes wines and spirits, but not beers)
- Not touching on “intellectual” “property” issues
  - Such discussions rarely evidence-based
- Focus is on economic impact of GIs
  - Draws on 1 key EU report and the results of a systematic search for empirical evidence on the economic impact of GI policy
    - Because main GI experience is in EU, largely about GIs experience in Europe
    - Motivated by search for any useful elements to use in Australian economic policy
    - Update based on Berlin workshop (4 Sept) and GI discussions in Italy and UK

Only foods GIs contentious in bi-lateral trade negotiations

For wines and spirits, the contentious issue of a compulsory or voluntary name register is a multi-lateral issue.

### **IP issues:**

GIs have been defined as a form of IP. The arguments for this are weak, and even in the EU the program is managed from the Directorate-General for Agriculture and Regional Development. From an economic viewpoint the most important IP issue is that it means GI policy is excluded from scrutiny under the free movement of goods provisions that lie at the heart of the Single Market because of the derogation relating to industrial and commercial property. Nonetheless, in the time available, IP issues lie outside the scope of this seminar.

### **Main EU data source on GIs:**

AND-International, 2012, *Value of production of agricultural products and foodstuffs, wines, aromatised wines and spirits protected by a geographical indication*, Commissioned by the European Commission (tender no. AGRI-2011–EVAL–04). Available at [http://ec.europa.eu/agriculture/external-studies/2012/value-gi/final-report\\_en.pdf](http://ec.europa.eu/agriculture/external-studies/2012/value-gi/final-report_en.pdf)

### **Systematic survey of GI empirical literature:**

Török, Á. and H.V.J. Moir, 2018, *Understanding the real-world impact of GIs: A critical review of the empirical economic literature*. Canberra: ANU Centre for European Studies Briefing Paper Series Vol.9 No.3 (July 2018). Available at:

[http://politicsir.cass.anu.edu.au/sites/default/files/docs/2018/7/Briefing\\_Paper\\_GeographicalIndications\\_Vol.9\\_No.3.pdf](http://politicsir.cass.anu.edu.au/sites/default/files/docs/2018/7/Briefing_Paper_GeographicalIndications_Vol.9_No.3.pdf)

## The essence of a GI

- A label indicating geographic source
  - only for goods where **quality, reputation** or **other characteristic** is “**essentially attributable**” to its geographic origin (TRIPS Art.22)
- Anyone has the right to use the registered name, **but only if**:
  - ❖ they are from the designated region; and
  - ❖ they use the designated production processes
- Similar to a trademark – indicates origin
  - But from **where** not from **whom**
  - Communally owned
  - Cannot be sold or licensed
- A GI name is specific to a **particular** product from a designated area, while a trademark covers a **class of goods**

There is a large legal literature on the shades of meaning for different terms linking a product to its place of origin.

For a detailed legal discussion of the differences between GIs in TRIPS and Appellations of Origin in the Lisbon Agreement, see Evans, G. E. and M. Blakeney, 2006, "The Protection of Geographical Indications After Doha: Quo Vadis?," *Journal of International Economic Law* 9(3): 575-614. (<https://doi.org/10.1093/jiel/jgl016>)

Another useful article is Gangjee, D.S., 2017, "Proving Provenance? Geographical Indications Certification and its Ambiguities " *World Development* 98: 12-24. (<https://www.sciencedirect.com/science/article/abs/pii/S0305750X15000935>)

In the EU a registered name is for a very specific product made by a highly specified process. There are no provisions for more broadly delineated GIs – for example Huon Valley apples (all varieties) or Bruny Island cheese (all types) – which might better suit conditions in a country like Australia.



## TRIPS: GI requirements

- “Geographical indications ... identify a good ... where a given **quality, reputation or other characteristic** of the good is **essentially attributable** to its geographical origin.” (Article 22.1)
- Article 22: provides legal means to prevent misleading use of a name, or use which is unfair competition (Paris Convention, 10bis)
- Article 23: applies only to wines and spirits. Provides stronger “protection” to names
  - can’t say “Burgundy-style wine from the Napa Valley”
- Article 24: provides exceptions, various follow-ups and **protects all current users of names from any new rules**
- All WTO members must follow these rules.

### **Background:**

- The term Geographical Indication was first introduced in the TRIPS Agreement – but the definition differs from the Lisbon Agreement’s appellations of origin. Geographical Indications are goods “where a given **quality, reputation or other characteristic** of the good is **essentially attributable** to its geographical origin” (TRIPS, Article 22(1))
- The 1883 Paris Convention was the earliest international agreement on forms of intellectual property and covered patents, designs and trade marks. Article 10bis covers unfair competition, particularly regarding trade marks and consumer confusion.  
[https://www.unido.org/sites/default/files/2014-04/Paris\\_Convention\\_0.pdf](https://www.unido.org/sites/default/files/2014-04/Paris_Convention_0.pdf)
- There are only 28 countries that have signed the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration  
[https://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=10](https://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=10)
- For full text of the Agreement on Trade Related Intellectual Property Rights (TRIPS treaty) see:  
[https://www.wto.org/english/tratop\\_e/trips\\_e/trips\\_e.htm](https://www.wto.org/english/tratop_e/trips_e/trips_e.htm)

## EU trade policy and GIs

- GIs are “make or break” issue in EU trade negotiations > 2006
  - Wine and spirit issues resolved through bi-lateral treaties
  - But GIs for foods are an issue
- Trade disagreement over GI names for foodstuffs:
  - EU demands are:
    - Strong-form GIs for foodstuffs (usually only names specified in Annex)
    - Administrative enforcement (*sui generis* style system)
    - GIs recognised even if pre-existing trademarks
  - US/Australia demands are:
    - Processes to challenge registration of GIs
    - Processes to recognise generic names
    - Owner-based enforcement (trademark style system)

For bi-lateral wine agreements see:

[https://ec.europa.eu/agriculture/wine/third-countries\\_en](https://ec.europa.eu/agriculture/wine/third-countries_en)

which lists 20 specific agreements. Two of these cover more than one country.

For a discussion of GIs and trade negotiations see, for example:

Das, K., 2015, "The protracted WTO battle over a multilateral GI register: what lies beneath", *Journal of World Trade* 49(6), 1073-1102

<http://www.kluwerlawonline.com/abstract.php?area=Journals&id=TRAD2015041;>

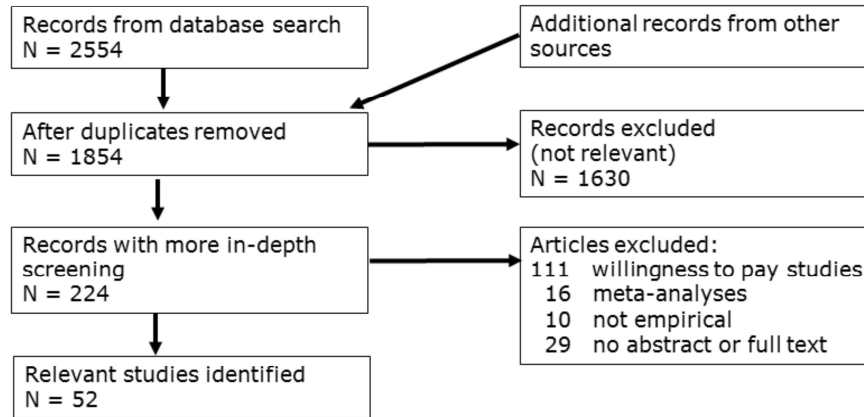
Moir, Hazel V. J., 2017, "Understanding EU Trade Policy on Geographical Indications", *Journal of World Trade* 51:6, 1021–1042

<http://www.kluwerlawonline.com/abstract.php?area=Journals&id=TRAD2017040>

## Responding to EU GIs demands

- Investigate whether GIs can provide benefits
  - Do they work to increase net producer incomes?
    - For what kinds of products
    - In what kinds of circumstances
    - How big is the market?
  - Do they work to enhance regional prosperity?
    - Under what conditions?
- Systematic review of empirical studies on GI impacts
  - Actual and potential market size for GI foods
    - evidence on willingness of consumers to pay a premium
  - GI impact on net producer income
  - GI impact on regional prosperity

## Systematic review: GI empirical studies



Source: Török, Á. and H.V.J. Moir, 2018, *Understanding the real-world impact of GIs: A critical review of the empirical economic literature*. Canberra: ANU Centre for European Studies Briefing Paper Series Vol.9 No.3 (July 2018): 7.

Source: Török, Á. and H.V.J. Moir, 2018, *Understanding the real-world impact of GIs: A critical review of the empirical economic literature*. Canberra: ANU Centre for European Studies Briefing Paper Series Vol.9 No.3 (July 2018): 7.

[http://politicsir.cass.anu.edu.au/sites/default/files/docs/2018/7/Briefing\\_Paper\\_GeographicalIndications\\_Vol.9\\_No.3.pdf](http://politicsir.cass.anu.edu.au/sites/default/files/docs/2018/7/Briefing_Paper_GeographicalIndications_Vol.9_No.3.pdf)

Relevant studies:

Market size	23
Price premium	29
Rural development	12

## EU: market size, 2010

Population: 0.5 b	GDP: €11,793 b
EU food and drink output: €956.2 b	GIs: 5.7% (€54.3 b)
just foodstuffs	GIs: (€15.8 b)
EU food and drink exports: €75.6 b	GIs: 15.2% (€11.5 b)
just foodstuffs exports: €61.7 b	GIs: 1.6% (€1.0 b)
<i>excluding Switzerland (estimated)</i>	<i>(€0.9 b)</i>

Source: AND-International (2012), [http://ec.europa.eu/agriculture/external-studies/2012/value-gi/final-report\\_en.pdf](http://ec.europa.eu/agriculture/external-studies/2012/value-gi/final-report_en.pdf)  
European Commission, Agriculture in the EU Statistical and Economic Information Report 2010, ISBN: 978-92-79-19302-6

### Sources:

Food and drink data from AND-International (2012),  
[http://ec.europa.eu/agriculture/external-studies/2012/value-gi/final-report\\_en.pdf](http://ec.europa.eu/agriculture/external-studies/2012/value-gi/final-report_en.pdf);

Population and GDP data from European Commission, Agriculture in the EU Statistical and Economic Information Report 2010, ISBN: 978-92-79-19302-6

### AND-International (2012):

Estimated foodstuffs exports excluding Switzerland based on actual reported foodstuffs exports of €1,007,000,000 less 7.3% which is Swiss share of all EU GI exports including wine and spirits.

### Share of GIs in national food & drink industry

France: 14.5%

Italy, Portugal, Greece: around 10%

10% for cheese – highest GI share

90% of total GI labelled cheese sales value from Italy, France and Greece

Italy: Gran Padano, Parmigiano Reggiano

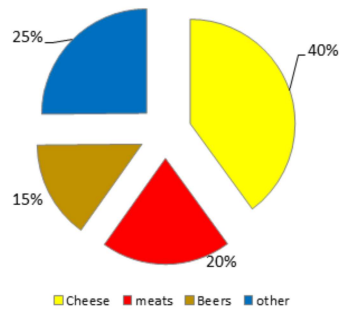
France: Comté, Roquefort and Reblochon

Greece: feta

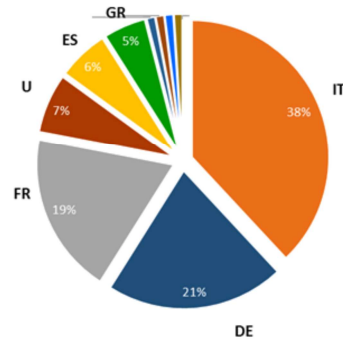
# EU GI foodstuffs, 2010

Share of sales value by

**Product class**



**Country**



Source: AND-International (2012), [http://ec.europa.eu/agriculture/external-studies/2012/value-gi/final-report\\_en.pdf](http://ec.europa.eu/agriculture/external-studies/2012/value-gi/final-report_en.pdf)

AND-Int'l	GI sales value	EUR million	% of foodstuffs
p.51 text	all foodstuffs	15,800	
p.58 text	fruit, vegetables and cereals	978	6.2%
p. 52 text	cheeses	6,300	39.9%
p. 53 text	meat products	3,200	20.3%
p. 54 text	beer	2,400	15.2%
p. 55 text	fresh meat	1,200	7.6%
p.58 text	fresh fish	443	2.8%
p.59 text	olive oil	203	1.3%

Country share data:

Figure 24 – Share of the sales value under GI and the number GIs in agricultural products and foodstuffs scheme by MS (2010)

## Impact on net producer incomes: consumer willingness to pay

It is difficult to determine...

- **what type** of product                      wines, coffee (?)
- **what kind** of origin                      Mediterranean EU (?)  
    receive a price premium
- **what kind** of consumer                      socioeconomic, awareness
- **what proportion** of consumers              only a segment
- **how much**                                      high variation  
    pay a price premium

Source: Török, Á. and H.V.J. Moir, 2018, *Understanding the real-world impact of GIs: A critical review of the empirical economic literature*. Canberra: ANU Centre for European Studies Briefing Paper Series Vol.9 No.3 (July 2018): 16-18.

For the detailed analysis on which this summary is based see:

Török, Áron and Hazel V J Moir, 2018, *Understanding the real-world impact of GIs: A critical review of the empirical economic literature*. Canberra: ANU Centre for European Studies Briefing Paper Series Vol.9 No.3 (July 2018): 16-18.

[http://politicsir.cass.anu.edu.au/sites/default/files/docs/2018/7/Briefing\\_Paper\\_GeographicalIndications\\_Vol.9\\_No.3.pdf](http://politicsir.cass.anu.edu.au/sites/default/files/docs/2018/7/Briefing_Paper_GeographicalIndications_Vol.9_No.3.pdf)

Two alternative excellent summaries of selected aspects of the willingness to pay literature are:

- Grunert and Achmann, 2016, who set up a useful model of the psychological steps in brand choice and review 35 studies related to these steps. Although their review focuses very much on the EU GI labels, it is a useful and serious analysis of the available material. (Grunert, K.G. and K. Achmann, 2016, "Consumer reactions to the use of EU quality labels on food products: A review of the literature," *Food Control* 59: 178-187.) <https://www.sciencedirect.com/journal/food-control/vol/59/suppl/C> ; and
- Deselnicu and colleagues who undertake a meta-analysis of 25 studies estimating GI price premiums (Deselnicu et al., 2013, "A Meta-analysis of Geographical Indication Food Valuation Studies: What Drives the Premium for Origin-Based Labels?," *Journal of Agricultural and Resource Economics* 38(2): 204-219). <http://www.waeonline.org/publications/jare> and search for Deselnicu.

## How to measure?

- For producer income effect:
  - data to calculate producer income net of costs
    - for GI vs non-GI producers
    - variation between products and regions?
  - actors in the supply chain
    - Where does increased net income end up?
- Few empirical studies – all case studies
  - difficult to generalise
    - when or where do GIs work?
    - some negative outcomes

Source: Török, Á. and H.V.J. Moir, 2018, *Understanding the real-world impact of GIs: A critical review of the empirical economic literature*. Canberra: ANU Centre for European Studies Briefing Paper Series Vol.9 No.3 (July 2018): 18-26.

For the detailed analysis on which this summary is based see:

Török, Áron and Hazel V J Moir, 2018, *Understanding the real-world impact of GIs: A critical review of the empirical economic literature*. Canberra: ANU Centre for European Studies Briefing Paper Series Vol.9 No.3 (July 2018): 18-26.

[http://politicsir.cass.anu.edu.au/sites/default/files/docs/2018/7/Briefing\\_Paper\\_GeographicalIndications\\_Vol.9\\_No.3.pdf](http://politicsir.cass.anu.edu.au/sites/default/files/docs/2018/7/Briefing_Paper_GeographicalIndications_Vol.9_No.3.pdf)



## Regional development

- GI production usually requires higher level of employment
  - high quality standards
  - often accompanied with extensive production (mountain area)
  - traditional and labor intensive production methods
- Indirect impact on regional prosperity

Source: Török, Á. and H.V.J. Moir, 2018, *Understanding the real-world impact of GIs: A critical review of the empirical economic literature*. Canberra: ANU Centre for European Studies Briefing Paper Series Vol.9 No.3 (July 2018): 26-29.

For the detailed analysis on which this summary is based see:

Török, Áron and Hazel V J Moir, 2018, *Understanding the real-world impact of GIs: A critical review of the empirical economic literature*. Canberra: ANU Centre for European Studies Briefing Paper Series Vol.9 No.3 (July 2018): 26-29.

[http://politicsir.cass.anu.edu.au/sites/default/files/docs/2018/7/Briefing\\_Paper\\_GeographicalIndications\\_Vol.9\\_No.3.pdf](http://politicsir.cass.anu.edu.au/sites/default/files/docs/2018/7/Briefing_Paper_GeographicalIndications_Vol.9_No.3.pdf)

## Part of an extended strategy

- no single tool is adequate for sound regional development policy
- in the EU – other initiatives also used
- role of GIs is unclear, due to limited evidence-based studies. Single GI unlikely to have enough impact.
- “basket of goods” approach, connecting the GI producers with others
  - powerful food, wine, hospitality nexus
  - also handicrafts

Source: Török, Á. and H.V.J. Moir, 2018, *Understanding the real-world impact of GIs: A critical review of the empirical economic literature*. Canberra: ANU Centre for European Studies Briefing Paper Series Vol.9 No.3 (July 2018): 26-29.

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Török, Áron and Hazel V J Moir, 2018, *Understanding the real-world impact of GIs: A critical review of the empirical economic literature*. Canberra: ANU Centre for European Studies Briefing Paper Series Vol.9 No.3 (July 2018): 26-29.

[http://politicsir.cass.anu.edu.au/sites/default/files/docs/2018/7/Briefing\\_Paper\\_GeographicalIndications\\_Vol.9\\_No.3.pdf](http://politicsir.cass.anu.edu.au/sites/default/files/docs/2018/7/Briefing_Paper_GeographicalIndications_Vol.9_No.3.pdf)



Regional advertising for Alto Adige drawn to attention of Canberra Understanding GIs workshop by Professor Filippo Arfini. Data from websearch 6 December 2018 “alto adige logo”.

In Australia, “brand Tasmania” is a highly successful strategy for selling a wide range of locally produced goods and services. The Brand Tasmania Council is an independent organisation funded by the Tasmanian Government with bipartisan support (see <https://www.brandtasmania.com/>). Brand Tasmania has been successful in supporting the sale of a wide variety of high-end agricultural products into demanding overseas markets.

One of the limitations of the EU’s GI policy from the perspective of regional development is that registration is for a very specific product made by a very specific process. It is unclear quite how this rather rigid approach would work where there is a wide range of products from the region. How would GIs add value to brand Tasmania? Many successful Tasmanian food producers use trademarks (e.g. Hill Farm Preserves, Reid Fruits) or have co-operative arrangements such as the Tasmanian Abalone Council. Adding a layer of GI names between these trademarks and councils and brand Tasmania might well create confusion rather than enhancing `competitive advantage.

## Using GIs for regional development in Australia

- RIRDC report suggested in some situations might work
  - For example Granite Belt wines and associated foods/tourism
    - specific locational advantage outside Brisbane
- But in other situations Australia's geography makes it hard
  - Very few boutique cheese makers in any one region
  - Restriction to specific class of food – consider “brand Tasmania”
- Australia has a tradition of local specialties
  - Wine regions well known before GI policy
  - Other regions – Tasmania, King Valley, Yarra well recognised
  - Also have metropolitan-ethnic food links (Melbourne-Italy; Adelaide-Germany)
  - What is the evidence that a new labelling policy would be beneficial?
    - Limited Australian demand for certification trademarks for place names (2)

Source: van Caenegem, W., P. Drahos, and J. Cleary, 2015, *Provenance of Australian food products: is there a place for Geographical Indications?*, Rural Industries Research and Development Corporation 15/060, <https://rirdc.infoservices.com.au/downloads/15-060>

### Australian demand for certification marks

- Australian TM register search, 6 Dec 2018 – searched for pending or registered certification marks in the food classes (29,30,31,32) N= 181 (if remove “associated classes, ie wines etc).
- For geographic names for foods find just 19 applicants, with 31 certification marks
  - 2 Australian registered:
    - NORTHERN RIVERS FOOD
    - M MORNINGTON PENINSULA PRODUCE (also artisanal mark))
  - 8 Italian
    - Grana Padano (3 marks)
    - Parmigiano Reggiano (4 marks)
    - Parma ham (5 marks)
    - Mortadella Bologna
    - Pecorino Toscana
    - Gorgonzola
    - Raddichio Rosso di Treviso
    - Aceto Balsamico di Modena
    - In addition an application for Asiago has been accepted, but is opposed
  - Republic of Cyprus (Halloumi)
  - Germany (Verein Munchener Brauereien e.V.)
  - USA: California Milk Producers Advisory Board (2 marks)
  - Sri Lanka Tea Board
  - Coffee Marks Ltd., Jamaica (2 marks)
  - Thai government
  - Tea Board, India
  - Switzerland: Gruyère

One Australian certification mark application is pending (Wild Cape York Barramundi), but individual as applicant, so expect a problem.

## EU GI treaty outcomes

- Strong form protection for GI names
  - Names listed in Annex
    - In CETA 8 listed names do not gain strong form protection
  - Key GI names
- Sui generis (stand-alone) system
  - Administrative enforcement
- GIs to co-exist with pre-existing trademarks

Names in Annex	Korea, 2010	Canada, 2014	Vietnam, 2015
EU names	60	171*	63
Partner names	63	0	38

Sources: treaty texts

### EU registered GIs:

Data downloaded from DOOR, 2 December 2018.

There are currently 635 PDO registrations, with a further 77 pending.

There are currently 747 PGI registrations, with a further 135 pending.

Total 1,382 with 212 pending

Note that the number of EU GI names listed in treaty annexes is far smaller than the total number registered in the EU. For most GIs, produce is consumed very locally. AND-International (2012: Table 26) shows that 78% of EU GI foods are consumed in the country in which they are produced. Sixteen percent of GI foods travel between EU countries and just 6% is exported from the EU. The largest export market is the USA, followed by Switzerland.

### Sui generis system

- Korea agreed – but only for listed EU GIs, others follow trademark system
- Canada position still unclear
- Vietnam

Administrative enforcement: all agreed, but meanings unclear

### Co-existence with prior trademarks

- Major win for EU in Canada – Parma ham

For a useful discussion of GIs in Korea and Vietnam see:

O'Connor, B. and G. de Bosio, 2017, "The Global Struggle Between Europe and United States Over Geographical Indications in South Korea and in the TPP Economies" pp. 47-79 in *The Importance of Place: Geographical Indications as a Tool for Local and Regional Development*, edited by W. van Caenegem and J. Cleary: Springer. [https://link.springer.com/chapter/10.1007%2F978-3-319-53073-4\\_3](https://link.springer.com/chapter/10.1007%2F978-3-319-53073-4_3)

## The key GI names: treaty outcomes

GI name	Degree of "protection" provided to EU GI		
	Korea	Canada	Vietnam
Asagio	✓	✗	✗
Comté	✓	---	✓
Feta	✓	✗	✗
Fontina	✓	✗	✗
Gorgonzola	✓	✗	✗
Grana Padano	✓	✓	✓
(Queso) Manchego	✓	---	✓
Mozzarella di Buffala Campana	✓	✓	✓
Parmigiano Reggiano	✓	✓	✓
Pecorino Romano	✓	✓	✓
Queijo São Jorge	✓	---	✓
Reblochon	✓	---	✓
Roquefort	✓	---	✓
Mortadella Bologna	✓	✓	✓
Prosciutto di Parma	✓	✓	✓
Prosciutto di San Daniele	✓	✓	✓
Prosciutto Toscano	✓	✓	✓
Azafrán de la Mancha	✓	---	✓
Jijona y Turrón de Alicante	✓	---	✓

- Key points to note:
  - Most of the listed names are highly specific
    - Mozzarella di Buffala Campana (indeed mozzarella is a TSG not a PDO/PGI)
    - Azafrán de la Mancha, not Azafrán
  - All granted in Korea treaty, concluded before Korea negotiated a trade agreement with the USA
  - Canada under significant pressure from USA as well as EU
  - So too was Vietnam, which was involved in Trans Pacific Partnership Agreement (TPPA) negotiations with the USA prior to commencing bi-lateral negotiations with the EU
  - Poorest outcomes for EU in Canada, where 4 key names did not gain *strong form* protection and a further 7 were not listed at all in the Annex.
    - Canada first to list **but not grant** strong form protection
      - For 5 cheeses, 3 meats there are specific provisions protecting the continued use of these 8 names by Canadian producers
  - Vietnam came in after Canada and adopted same policy for the 4 key names as in Canada. Vietnam did list all the other names.
- 19 key food names tabled some years ago in list of 41 names, including key wines.

## TPPA proposed GI rules

- Emphasis on processes of **opposition** and **revocation**
- Processes for generic names
- GIs must be registerable as TMs
  - but must also allow choice of TM system or *sui generis* system
- Allows for GIs, but prioritises TMs

Trans Pacific Partnership Agreement (TPPA) – now that US has withdrawn, superseded by the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTTP)

The final text of the TPPA is at

<https://ustr.gov/trade-agreements/free-trade-agreements/trans-pacific-partnership/tpp-full-text>

See <https://ustr.gov/sites/default/files/TPP-Final-Text-Intellectual-Property.pdf> for the intellectual property chapter.

The final text of the CPTTP is at

<https://www.mfat.govt.nz/en/trade/free-trade-agreements/free-trade-agreements-concluded-but-not-in-force/cpttp/comprehensive-and-progressive-agreement-for-trans-pacific-partnership-text/>

See <https://www.mfat.govt.nz/assets/Trans-Pacific-Partnership/Text/18.-Intellectual-Property-Chapter.pdf> for the intellectual property chapter.

## EU-AU trade negotiations

- AU dairy/meat producers likely to resist even CETA-style GIs
  - can the EU offer a genuine offset as they did to wine producers?
  - improved access to EU market would likely for different producers
    - so internal political issue for AU
  - unless there are **real net benefits** overall, AU just say “no thanks”
- Accept CETA-style arrangements
  - limited list of names with strong-form GI privileges
  - strong perpetual protections for names currently generic in AU
  - owners to pay for legal challenges, not taxpayers
- Agree to more than Canada did
  - doesn't seem necessary
  - would create problems with US trading relationship

The most likely outcome from the current trade negotiations seems to be some variant of the CETA outcome, allowing for economic and political differences between Canada and Australia.

One area where we might expect different outcomes is the EU GI names where local producers receive a perpetual exemption from EU strong-form GI policy (i.e. local producers are fully protected from the policy change). The exempted names in CETA are: Asiago, feta, fontina, Gorgonzola and Munster (cheeses); and Nurnburger bratwürste, Jambon de Bayonne and Beaufort (meat products). For more detail see Moir, 2015, *European trade treaties: key intellectual property demands*: ANU Centre for European Studies Briefing Paper Series, Vol. 6, No. 4 ([ANUCES Briefing Paper 6-4 rev 2016 pdf.pdf](#)); or Moir, 2017, *Understanding EU trade policy on geographical indications*, paper presented at the 12th Annual EPIP Conference: *Claims on Area*, University of Bordeaux, available at <https://ssrn.com/en/>

Secondly, Canada agreed that newly recognized GI names would be allowed to co-exist with previously registered trademarks. However Canada had granted a trademark for “Parma ham”, so *Consorzio del Prosciutto di Parma* members could not sell into Canada under the name Parma ham. The co-existence policy change means that ham from Parma can now be sold in Canada as Parma ham. Whether the trademark owner has been compensated for any loss in income is unknown.

The situation in Australia is different – there do not seem to be any problematic trademarks. If this is correct, Australia should resist agreeing to the principle that later GIs can co-exist with earlier trademarks. Resisting such pressure would assist in discussions with US interests in respect to the planned Australia-EU treaty.

At a minimum there should be clear opposition processes for all proposed EU names for strong-form GI protection.



## Improving GI policy

- Ensure GI labels are neither deceptive nor misleading:
  - review exceptions for pre-1984 PDOs (raw materials from outside the region)
    - but develop pathway for climate change impacts
  - introduce tighter controls for regional share of product for PGIs
- Introduce competition review into process for registering new GI
  - or remove GI exception from competition clauses
- Review prohibitions on evocation
- Re-consider use of name qualifiers, perhaps where link to region weak
- Require periodic re-registration
  - ensures database stays up-to-date, provides opportunity to collect producer and output data as administrative by-product
  - another opportunity to challenge any anti-competitive effects?
  - a useful post-Brexit opportunity for the UK?

Problems with respect to EU GI policy are covered more specifically in the companion seminar:

***Geographical Indications (GIs) Webinar: the basics***

(see <http://politicsir.cass.anu.edu.au/centres/ces/research/projects/jean-monnet/understanding-geographical-indications>)

The suggestions regarding competition and evocation come from extensive study of the GI literature over the past 3 years.

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