GEOGRAPHICAL INDICATIONS

PRELIMINARY REMARKS

• The aim of the Factsheet is to explain to EU exporters of products protected by EU geographical indications (GIs), the opportunities offered by the EU-Japan Agreement for an Economic Partnership (EPA) as regards such protection in Japan.

• The complete text of the EPA, and Annexes, incorporating the Articles on GIs, can be found on the following website of the European Commission: http://trade.ec.europa.eu/doclib/press/index.cfm?id=1684. The list of EU and Japanese GIs, protected under the Agreement is in Annex 14-B.
1. IN A NUTSHELL

- The EPA foresees full protection for more than 200 EU GIs (foodstuffs including beers, wines and spirits). The legal provisions guaranteeing this protection are of the same high level as those foreseen for wine and spirits products in Article 23 of the WTO TRIPS Agreement [1], but now extended to other agricultural products, including beers.

- *Ex officio* administrative enforcement of GI rights by Japanese authorities to protect the GIs listed in the EPA in addition to civil enforcement on request and remedies.

- On the relationship between GIs and trade marks (TMs): refusal of registration in Japan of subsequent TMs which are likely to mislead consumers; coexistence with pre-existing TM is addressed.

- Phasing out of prior uses identified on the Japanese market within 5 years after entry into force of the Agreement for alcoholic beverages, and within 7 years for foodstuff GIs.

- Possibility to add new GIs to the relevant list in the Agreement.

2. WHAT IS A GI?

- A geographical indication is a name used to identify a product as originating in the territory of a particular country, region or locality where its quality, reputation or other characteristic is linked to its geographical origin. [2]

- In the European Union, the protection of GIs for agricultural products can be obtained in one of the following ways: as a protected designation of origin (PDO) or protected geographical indication (PGI) for wines and agricultural products and foodstuffs, or as a geographical indication (GI) for spirit drinks and aromatized wines.

- In case of PDO products, its quality or characteristics are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors, and where the steps in production all take place in the defined geographical area. Furthermore, **raw materials must come from, and all stages of production must take place in the geographical area concerned.**
• In case of **PGI/GI products**, on the other hand, the given quality, reputation, or other characteristic is essentially attributable to its geographical origin, and in relation to which, at least one of the steps in production takes place in the defined geographical area.

• A further difference is the colour of their logo:

![PDO](image1.png) ![PGI](image2.png)

• In the EPA no distinction is made between PDO and PGI.

The relevant EU GI legislation depends on the product category:

- Agricultural products and foodstuffs: Regulation (EU) No 1151/2012 [3]

• The details on GI application procedures, including relevant templates, can be found on the following website: https://ec.europa.eu/info/food-farming-fisheries/food-safety-and-quality/certification/quality-labels


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3. SCOPE OF PROTECTION

3.1. UNDER THE TRIPS AGREEMENT

- The WTO TRIPS Agreement, which came into effect on 1 January 1995, is a comprehensive multilateral agreement on intellectual property. Its Articles 22 to 24 cover the protection of GIs. Not all GIs are protected at the same level.
- Article 22 only provides for a standard protection level in WTO Members if the evidence that consumers are misled is given. This becomes difficult in cases where the GI is presented in combination with expressions such as ‘style’, ‘kind’ or ‘like’ or in combination with the origin.
- A higher level of protection is provided in Article 23 for wine and spirits GIs. These GIs must be protected without the requirement to prove misleading of the consumer, even where the true origin of the product is indicated and where the GI is presented in combination with expressions such as “like”, “type”, “imitation” and “kind”, or in translation.

3.2. UNDER THE EPA

- Japan will provide a high-level TRIPS Article 23 protection for all 211 EU GIs. However, contrary to the TRIPS provisions, this high-level protection will not be limited to wines and spirits, but applicable to all GIs, including those related to foodstuffs and beers.
- As a result, Japan shall provide the legal means to prevent in its territory the use of a GI identifying a good for a like good not meeting the requirement of specification of the GI, and this even if the true origin of the good is indicated (e.g. ‘New Zealand Roquefort’), or the GI is used in translation, or the GI is presented in combination with expressions such as “like”, “kind”, or “type” (e.g. “Comté Style”).
- In the context of this protection, Japan guarantees an administrative, ex officio enforcement, in addition to an enforcement on request by the EU.

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[7] TRIPS Article 22.2: “In respect of geographical indications, Members shall provide legal means for interested parties to prevent the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin in a matter which misleads the public as to the geographical origin of the good (…).”

[8] “Ex officio” enforcement means that Japan must take the necessary measures to stop GI infringements on its territory.
• This protection will be direct, i.e. without costly and burdensome application provisions to the Japanese GI system.

• The EPA provides for co-existence between homonymous GIs. It has been agreed that the Parties may decide the practical conditions under which such GIs will be differentiated from each other in the respective territories, taking into account equitable treatment of the procedures and that consumers are not misled.

Should in this context, Japan be confronted with a request to protect a GI from another country which is homonymous with an EU GI – protected under the Agreement, then Japan shall inform the EU not later than the date of publication of the opposition procedure. In this context, a GI protection can be refused if as a result of the existence of a homonymous GI in Japan, the use of the EU GI would mislead consumers with regard to the true origin of the good.

Under the opposition procedure, Japan shall not be required to protect a name listed in Annex 14-B of the Agreement on the basis of the following grounds:

• the name conflicts with a name of a plant variety or a breed and as a result could mislead consumers, and

• the name is term customary in common language as the common name for the good concerned.

As regards the relationship between GIs and TMs, if a GI is protected under the EPA, Japan shall refuse the registration of a TM if its use would likely mislead the consumer as to the quality of the good, provided that the application for registration is submitted after the applicable date for protection of the GI concerned in Japan. This date shall be the entry into force of the Agreement if the GI concerned is already listed in Annex 14-B; for GIs added to Annex 14-B after the entry into force of the Agreement, the applicable date for protection shall be the date on which the amendment to Annex 14-B enters into force.

However, a parallel use/coexistence is foreseen between GIs and TMs if such TM has been registered in good faith before the GI has been protected under the EPA.

While in the TRIPS Agreement nothing requires a WTO Member to prevent a continued and similar use of a (wines and spirits) GI name of another WTO Member for a good by one of its nationals for a number of years before a given date (so-called Prior Use), the EPA provides that Japan shall prevent such Prior Use after a transitional period of 7 years from the date of protection by Japan of GIs identifying agricultural products other than alcoholic beverages, and a transitional period of 5 years for GIs identifying alcoholic beverages.

Both Parties agreed on the possibility to add new GIs to Annex 14-B, after completion of the above-mentioned opposition procedure.

[9] Homonymous GIs are those that are spelled or pronounced alike, but which identify products originating in different places, usually in different countries.
### 4. OVERVIEW OF GIS WITH EPA PROTECTION

211 EU GIs are protected in Japan under the EPA. These names are listed in Annex 14-B (Part 1 – Section A for the EU GIs for agricultural products, and Part 2 – Section A for the EU GIs for alcoholic beverages). While in this Annex GIs are classified by Member State, the below table classifies them by product category.

<table>
<thead>
<tr>
<th>CATEGORIES</th>
<th>GIs NAMES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fruit, vegetables and cereals</td>
<td>Steirischer Kren, Pruneaux d’Agen/Pruneaux d’Agen mi-cuits, Ελιά Καλαμάτας / Elia Kalamatas, Mela Alto Adige / Südtiroler Apfel, Pêra Rocha do Oeste, Citricos Valencianos / Citrics Valencians</td>
</tr>
<tr>
<td>Oils and fats</td>
<td>Steirisches Kürbiskernöl, Beurre d’Ardenne, Σητεία Λασιθίου Κρήτης / Sitia Lasithiou Kritis, Aceite del Bajo Aragón, Antequera, Baena, Priego de Córdoba, Sierra de Cazorla, Sierra de Segura, Sierra Mágamma, Siurana</td>
</tr>
<tr>
<td>Meat products</td>
<td>Tiroler Speck, Jambon d’Ardenne, Canard à foie gras du Sud-Ouest (Chalosse, Gascogne, Gers, Landes, Périgord, Quercy), Jambon de Bayonne, Nürnberger Bratwürste / Nürnberger Rostbratwürste, Szegedi szalámi / Szegedi téliszalámi, Bresaola della Valtellina, Mortadella Bologna, Prosciutto di Parma[^10], Prosciutto di San Daniele, Prosciutto Toscano, Zampone Modena, Guijuelo, Jabugo, Jamón de Teruel / Paleta de Teruel</td>
</tr>
<tr>
<td>Bread, pastry, cakes, confectionary, biscuits and other baer’s wares</td>
<td>Λουκούμι Γεροσκήπου / Loukoumi Geroskipou, Lübecker Marzipan, Nürnberger Lebkuchen, Jijona, Turron de Alicante</td>
</tr>
<tr>
<td>Cheeses</td>
<td>Danablu, Brie de Meaux, Camembert de Normandie, Comté, Emmental de Savoie, Reblochon/Reblochon de Savoie, Roquefort, Φέτα/Feta, Asiago, Fontina, Gorgonzola, Grana Padano, Mozzarella di Bufala Campana, Parmigiano Reggiano, Pecorino Romano, Pecorino Toscano, Provolone Valpadana, Taleggio, Edam Holland, Gouda Holland, Queijo S. Jorge, Idiazabal, Mahón-Menorca, Queso Manchego</td>
</tr>
<tr>
<td>Essential oils</td>
<td>Huile essentielle de lavande de Haute-Provence / Essence de lavande de Haute Provence</td>
</tr>
<tr>
<td>Fresh fish, molluscs, and crustaceans and products derived therefrom</td>
<td>Huitres Marennes Oléron</td>
</tr>
<tr>
<td>Natural gums and resins</td>
<td>Μαστίχα Χιού, Masticha Chiou</td>
</tr>
</tbody>
</table>

[^10]: This product is listed for the record but it has been registered by Japan in accordance with its domestic GI law

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### Geographical Indications

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#### Categories

<table>
<thead>
<tr>
<th>Category</th>
<th>GI Names</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Beers</strong></td>
<td>Budějovické pivo, Budějovický měštanský var, České pivo, Českobudějovické pivo, Bayerisches Bier, Münchener Bier</td>
</tr>
<tr>
<td><strong>Other products</strong></td>
<td>Žatecký chmel, Hopfen aus der Hallertau, Aceto Balsamico di Modena, Aceto balsamico tradizionale di Modena, Azafrán de la Mancha</td>
</tr>
</tbody>
</table>
DISCLAIMER

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