Congressional Research Service
Informing the legislative debate since 1914

Geographical Indications (GIs) in U.S. Food and Agricultural Trade

Updated March 21, 2017

Congressional Research Service
https://crsreports.congress.gov
R44556

CRS REPORT
Prepared for Members and
Committees of Congress

Summary

Geographical indications (GIs) are place names used to identify products that come from these places and to protect the quality and reputation of a distinctive product originating in a certain region. The term is most often applied to wines, spirits, and agricultural products. Some food producers benefit from the use of GIs by giving certain foods recognition for their distinctiveness, differentiating them from other foods in the marketplace. In this manner, GIs can be commercially valuable. GIs may be eligible for relief from acts of infringement or unfair competition. GIs may also protect consumers from deceptive or misleading labels. Examples of registered or established GIs include Parmigiano Reggiano cheese and Prosciutto di Parma ham from the Parma region of Italy, Toscano olive oil from Tuscany, Roquefort cheese, Champagne from the region of the same name in France, Irish Whiskey, Darjeeling tea, Florida oranges, Idaho potatoes, Vidalia onions, Washington State apples, and Napa Valley Wines.

The use of GIs has become a contentious international trade issue, particularly for U.S. wine, cheese, and sausage makers involved in trade between the United States and the European Union (EU). Accordingly, GIs are among the agricultural issues that have been raised in the ongoing Transatlantic Trade and Investment Partnership (T-TIP) negotiations, a potential reciprocal free trade agreement that the United States and the EU are negotiating. Many U.S. food manufacturers view the use of common or traditional names as generic terms and the EU's protection of its registered GIs as a way to monopolize the use of certain wine and food terms and as a form of trade protectionism. Specifically, several industry groups have expressed concern that the EU is using GIs to impose restrictions on the use of common names for some foods—such as parmesan, feta, and provolone cheeses and certain wines—and limit U.S. food companies from marketing these foods using these common names. Complicating this issue further are GI protections afforded to registered products in third country markets. This has become a concern for U.S. agricultural exporters following a series of recently concluded trade agreements between the EU and countries such as Canada, South Korea, South Africa, and other countries that are, in many cases, also major trading partners with the United States.

Laws and regulations governing GIs differ between the United States and EU, which further complicates this issue. In the United States, GIs are generally treated as brands and trademarks, whereas the EU protects GIs through a series of established quality schemes. These approaches differ with respect to the conditions for protection or the scope of protection, but both establish rights for collective use by those who comply with defined standards. In the United States, the U.S. Patent and Trademark Office (PTO) administers GI protections, along with labeling requirements for wine, malt beverages, beer, and distilled spirits under the jurisdiction of the Alcohol and Tobacco Tax and Trade Bureau. In the EU, a series of regulations governing GIs was initiated in the early 1990s covering agricultural and food products, wine, and spirits. Legislation adopted in 1992 covered agricultural products (not including wines and spirits), but it was changed in 2006 following a World Trade Organization (WTO) panel ruling that found some aspects of the EU's scheme inconsistent with WTO rules. The new rules came into force in January 2013. GIs are also protected by agreements of the WTO as part of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

Some Members of Congress have long expressed their concerns about EU protections for GIs, which they claim are being misused to create market and trade barriers. However, they are also concerned about the implementation of GI protections in other trade agreements that have been or are being negotiated by the EU with other countries.

Contents

GIs in Multilateral Trade 2
Protection of GIs in the EU 4
Food and Agriculture GI Registrations 7
Wine GI Registrations 7
Spirits GI Registrations 8
Protection of GIs in the United States 11
U.S. Patent and Trademark Office 11
Alcohol and Tobacco Tax and Trade Bureau (TTB) 14
Goals and Challenges within Ongoing Negotiations 15
EU Views and Objectives 15
U.S. Views and Objectives 15
Support in U.S. for EU GI Protections 18
Next Steps 19

Figures

Figure 1. Agriculture and Food PDO/PGI/TSG Registrations, by Sector 8
Figure 2. Agriculture and Food PDO/PGI/TSG Registrations, by Country 9
Figure 3. Wine EU PDO/PGI and Third Country Registrations 9
Figure 4. Wine EU PDO/PGI and Third Country Registrations, by Country 10
Figure 5. Spirits EU PDO/PGI and Third Country Registrations, by Type 10
Figure 6. Spirits EU PDO/PGI and Third Country Registrations, by Country 11

Tables

Table 1. Product Name Registrations Under EU's GI Programs 7

Contacts

Author Information 20

Geographical indications (GIs) are place names used to identify products that come from these places, and to protect the quality and reputation of a distinctive product originating in a certain region. The term is most often applied to wines, spirits, and agricultural products.[1] Examples of registered or established GIs include Parmigiano Reggiano cheese and Prosciutto di Parma ham from the Parma region of Italy, Toscano olive oil from Tuscany, Roquefort cheese, Champagne from the region of the same name in France, Irish Whiskey, Darjeeling tea, Florida oranges, Idaho potatoes, Vidalia onions, Washington State apples, and Napa Valley Wines.

Some food producers benefit from the use of GIs by giving certain foods recognition for their distinctiveness, differentiating certain foods from other foods in the marketplace. In this manner, GIs can be commercially valuable. GIs may also be eligible for relief from acts of infringement or unfair competition. GIs may also protect consumers from deceptive or misleading labels. GIs are an example of intellectual property rights (IPR), along with other types of intellectual property such as patents, copyrights, trademarks, and trade secrets.

The use of GIs, particularly for some wines and dairy products, has become a contentious international trade issue. Some consider GIs to be protected intellectual property, while others consider them to be generic or semi-generic terms. Many U.S. food manufacturers view the use of common or traditional names as generic terms and view the European Union's (EU's) protection of its registered GIs as a way to monopolize the use of certain wine and food terms and as a form of trade protectionism. Specifically, several industry groups have expressed concern that the EU is using GIs to impose restrictions on the use of common names for some foods—such as parmesan, feta, and provolone cheeses and certain wines—and limit U.S. food companies from marketing these foods using these common names. Laws and regulations governing GIs differ between the United States and EU, which further complicates this issue.

GIs are among the agricultural issues that have been raised in the Transatlantic Trade and Investment Partnership (T-TIP), a potential reciprocal free trade agreement (FTA) that the United States and the EU are negotiating. Formal negotiations commenced in July 2013. Through the negotiation, the United States and EU seek to enhance market access and trade disciplines by addressing remaining transatlantic barriers to trade and investment in goods, services, and agriculture by negotiating a "comprehensive and high-standard" T-TIP. The goals of the negotiation are to reduce and eliminate tariffs between the United States and EU; further open services and government procurement markets; enhance cooperation, convergence, and transparency in regulations and standards-setting processes; and strengthen and develop new rules in areas such as intellectual property rights (IPR), investment, digital trade, trade facilitation, labor and the environment, localization barriers, and state-owned enterprises. For more background information on the negotiation, see CRS Report R43387, *Transatlantic Trade and Investment Partnership (T-TIP) Negotiations*.

Treatment of GIs as part of any FTA may likely be addressed as part of either an IPR chapter or an agriculture chapter. The United States tends to address GIs in the IPR chapter of its FTAs. The EU's March 2016 draft chapter on agriculture includes its proposal regarding GIs.[2]

---

[1] Examples of non-agricultural GIs may include handicrafts or products using local natural resources or techniques "embedded in the traditions of local communities," such as Vetro di Murano glass, Scottish tartans, Marmo di Carrara marble, or Meissner Porzellan porcelain. See European Commission (EC), "Making the Most out of Europe's Traditional Know-How: A Possible Extension of Geographical Indication Protection of the European Union to Non-Agricultural Products," COM(2014) 469, July 15, 2014.

[2] EC, "TTIP—Draft Chapter on Agriculture," Article X.1, March 21, 2016, http://trade.ec.europa.eu/doclib/docs/2016/

GIs in Multilateral Trade

The United Nations distinguishes two main approaches for protecting GIs at the national level:[3]

1. The **public law approach** applies to cases whereby public authorities enact legislation dedicated to the specific protection of GIs (a *sui generis* system[4] such as a special regime of protection) and generally consists of an official recognition of GIs by granting the status of a public seal of quality—often through a common official logo—where governments can protect the use of the GI *ex officio* based on its official designation.
2. The **private law approach** is the use of laws against unfair competition and usurpation. It also involves trademark laws (such as using collective or certification marks), where the protection is primarily based on private actions.

These approaches differ with respect to the conditions for protection or the scope of protection, but they share some common features in that both establish rights for collective use by those who comply with defined standards. GI protections often differ by country and have been developed in accordance with different legal, historical, and economic traditions.[5] In the United States, GIs are generally treated as a subset of trademarks, whereas the EU protects GIs through a series of established "quality schemes." GIs are also protected by various multilateral trade agreements.

GIs are protected by the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), which sets binding minimum standards for IP protection that are enforceable by the WTO's dispute settlement procedure. Under TRIPS, WTO members have a mandatory responsibility to recognize and protect GIs as intellectual property. The United States and each of the EU countries are signatories of TRIPS and subject to its rights and obligations. Accordingly, under TRIPS, the United States has committed to providing a minimum standard of protection for GIs (i.e., protecting GI products to avoid misleading the public and prevent unfair competition) and an "enhanced level of protection" to wines and spirits that carry a geographical indication, subject to certain exceptions. (See **text box**.)

TRIPS defines GIs as "indications 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" (Article 22(1)). Accordingly, a product's quality, reputation, or other characteristics can be determined by where it comes from, and GIs are place names (or in some countries words associated with a place) used to identify products that come from these places and have these characteristics.

Previously, the United States challenged the EU's GI laws under WTO Dispute Settlement in 1999, alleging discrimination against U.S. GIs and failure to protect U.S. trademarks.[6] A WTO

---

march/tradoc_154371.pdf.

[3] United Nations, "Legal Protection of Geographical Indications," http://www.fao.org/fileadmin/user_upload/foodquality/fichefiles/en/c6.1.pdf. WIPO identifies another form of protection based on business practices, including administrative product approval schemes.

[4] According to the UN: "*Sui generis*, from the Latin meaning 'of its own kind', is a term used to identify a legal classification that exists independently of other categorizations because of its uniqueness or as a result of the specific creation of an entitlement or obligation."

[5] See, for example, World Intellectual Property Organization (WIPO), "FAQs: Geographical Indications," http://www.wipo.int/geo_indications/en/faq_geographicalindications.html.

[6] See WTO, "Dispute DS174, European Communities—Protection of Trademarks and Geographical Indications for Agricultural Products and Foodstuffs," https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds174_e.htm. See also

panel ruled that aspects of the EU's GI laws were inconsistent with TRIPS, resulting in changes to the EU program.

TRIPS builds on treaties administered by the World Intellectual Property Organization (WIPO). WIPO is a specialized agency in the U.N. system with the mission to "lead the development of a balanced and effective international intellectual property (IP) system."[7] WIPO has 188 member states, including the United States and each of the EU countries. WIPO defines GIs as "a sign used on products that have a specific geographical origin and possess qualities or a reputation that are due to that origin."[8] To function as a GI, "a sign must identify a product as originating in a given place," "the qualities, characteristics or reputation of the product should be essentially due to the place of origin," and there must be "a clear link between the product and its original place of production."[9]

Geographical Indications and the TRIPS Agreement

General standards of protection for all GIs can be found in two articles of the agreement:

- **Article 22** defines a standard level of protection that covers all products. GIs are to be protected in order to avoid misleading the public and prevent unfair competition.
- **Article 23** provides a higher or enhanced level of protection for geographical indications for wines and spirits: Subject to a number of exceptions, they have to be protected even if misuse would not cause the public to be misled.

Exceptions are provided for in Article 24. In some cases, GIs do not have to be protected or the protection can be limited—for example, when a name has become the common (or "generic") term (e.g., "cheddar" now refers to a particular type of cheese not necessarily made in Cheddar in the United Kingdom) or when a term has already been registered as a trademark. Other exceptions include terms that have been used for at least 10 years prior to April 15, 1994 (or in good faith if prior to that date), are subject to good faith trademark rights, have significance as personal names, and have become identified with the common name for a good or service.

No exception is granted for wines and spirits, even if the true origin of the goods is indicated or the GI is used in translation or is accompanied by expressions such as "kind," "type," "style," or "imitation." Registration of a misleading trademark for wines/spirits must be refused or invalidated. Discussions are ongoing in the WTO to potentially create a multilateral register to notify and register GIs for wines and spirits.

WIPO also oversees the "International Register of Appellations of Origin" established in the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration ("Lisbon Agreement"). The Lisbon Agreement is among the major IP conferences and ensures for its members the protection against any "usurpation or imitation, even when used in translation or accompanied by words such as 'kind', 'type' or the like."[10] The agreement was adopted in 1958 (later revised in 1967) and entered into force in 1966.[11] The United States is not a party to the agreement. Several EU countries are members, including Bulgaria, Czech Republic, France, Greece, Hungary, Italy, Portugal, Romania, Slovakia, and Spain.[12]

summary decision: EC—Trademarks and Geographical Indications (DS174, 290).

[7] See WIPO's website, http://www.wipo.int/about-wipo/en/.

[8] WIPO, "Geographical Indications," http://www.wipo.int/geo_indications/en/.

[9] Ibid.

[10] Article 3. See WIPO's website at http://www.wipo.int/treaties/en/registration/lisbon/summary_lisbon.html.

[11] For more information, see WIPO's website at http://www.wipo.int/lisbon/en/general/.

[12] The 28 members ("contracting parties") of the Lisbon Agreement are listed at: http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=10.

The agreement's multilateral register ("Lisbon Register") covers food products and beverages and related products, as well as non-food products (including Cuban cigars).[13] The register covers appellations of origin (AO) only, which comprise a category of GIs. AOs refer to "geographical denomination of a country, region or locality which serves to designate a product originating therein, the quality or characteristics of which are due exclusively or essentially to the geographical environment, including natural and human factors."[14] Both AOs and GIs require a qualitative link between the product and its place of origin, but AO designations generally result "exclusively or essentially to the geographical environment," while for GIs a single criterion attributable to geographic origin may be sufficient to qualify. As of May 2016 the registry contained more than 1,000 products.

More recent developments have raised U.S. concerns about the possible expansion of GI restrictions promoted by the EU. Specifically, the so-called Geneva Act under the Lisbon Agreement would allow for the international registration of GIs[15] and could allow the EU (as well as other countries in Africa and the Americas) to place further limits on the use of GIs and product names linked to geographic regions.[16] The United States opposes expansion of the agreement given ongoing opposition to the GI registration of cheese names that the United States argues to be generic or common names. Congressional trade and judiciary committee leaders expressed disappointment that all WIPO members were not allowed "meaningful participation" in the negotiation process and that the Geneva Act was adopted despite the "objection of multiple WIPO members."[17] Some private stakeholders also expressed concerns about the process.[18] U.S. interests may now be focused on ensuring that any expansion of the Lisbon Agreement does not allow the agreement's members to place further limits on the ability of trademark owners and others to use, in foreign markets, names linked to geographic regions that the United States argues are generic.[19] The Geneva Act will enter into force three months after five eligible parties have ratified or acceded to it. To date, no party has done so.[20]

Protection of GIs in the EU

In the EU, a series of regulations governing GIs was initiated in the early 1990s covering agricultural and food products, wine, and spirits. Legislation adopted in 1992 covered agricultural products (not including wines and spirits),[21] but it was replaced by changes enacted in 2006

[13] The registry database is searchable at http://www.wipo.int/ipdl/en/search/lisbon/search-struct.jsp.

[14] Article 2. See also WIPO, The Lisbon System: International Protection for Identifiers of Typical Products from a Defined Geographical Area, http://www.wipo.int/edocs/pubdocs/en/geographical/942/wipo_pub_942.pdf.

[15] Text of the Geneva Act and regulations under the act (adopted on May 20, 2015) is available at http://www.wipo.int/treaties/en/text.jsp?file_id=370297 and http://www.wipo.int/treaties/en/text.jsp?file_id=370335.

[16] See, for example, *Inside U.S. Trade*, "U.S. Criticizes Decision by 28 WIPO Members to Move Forward with GI Protection," November 3, 2014.

[17] Letter from chairman and ranking member of each of Senate Committees on Finance and Judiciary and House Committees on Ways and Means and Judiciary to Director General Francis Gurry, WIPO, July 15, 2015.

[18] For example, see Consortium for Common Food Names (CCFN), "Lack of Transparency in WIPO Intellectual Property Discussions Sets Harmful Precedent," press release, October 20, 2014.

[19] CCFN, "CCFN Voices Opposition to New Lisbon Agreement Approach to GIs," press release, October 1, 2014; and CCFN letter to Ambassador Rachad Bouhlal, Embassy of Morocco, April 7, 2015.

[20] For more direct assistance, contact Shayerah Ilias Akhtar.

[21] Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs.

following a WTO panel ruling that found some aspects of the EU's scheme inconsistent with WTO rules.[22] The new rules came into force in January 2013.[23]

The EU laws and regulations cover three EU-wide quality labeling schemes:[24]

1. **Protected Designation of Origin (PDO)** covers agricultural products and foodstuffs whose quality or characteristic is essentially or exclusively due to a particular geographic environment and is produced, processed, and prepared in a given geographical area using recognized know-how.
2. **Protected Geographical Indication (PGI)** covers agricultural products and foodstuffs whose quality, reputation, or other characteristic is closely linked to the geographical area and where at least one of the stages of production, processing, or preparation takes place in the area.
3. **Traditional Specialties Guaranteed (TSG)** covers foodstuffs highlighting a traditional character, either in the composition or means of production (e.g., resulting from a traditional production or processing method or composed of raw materials or ingredients used in traditional recipes). Unlike PDO and PGI marks, the geographical origin of a TSG registered product is irrelevant.

Product registration markers for these three quality schemes, along with the relevant regulations, are shown in the **text box** below.

The EU regulations establish provisions regarding products from a defined geographical area given linkages between the characteristics of products and their geographical origin. The EU defines a GI as "a distinctive sign 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."[25] According to the EU, GIs matter "economically and culturally" and "can create value for local communities through products that are deeply rooted in tradition, culture and geography" and "support rural development and promote new job opportunities in production, processing and other related services."[26]

Because of their commercial value, the protection of GIs is a major priority for the EU. A 2012 study estimates that GI product sales were valued at €54.3 billion (roughly $72.0 billion given 2010 exchange rates).[27] More than one-half of this estimated value is for wines. Leading EU member states, by value of GI sales, include France, Italy, Germany, the United Kingdom, Spain, Greece, and Portugal.

[22] Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs.

[23] Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs. For more information, see A. Matthews, "What Outcome to Expect on Geographical Indications in the TTIP Free Trade Agreement Negotiations with the United States," prepared paper for the European Association of Agricultural Economists (EAAE) seminar, April 2015.

[24] EC, "Geographical Indications and Traditional Specialities," http://ec.europa.eu/agriculture/quality/schemes/index_en.htm.

[25] EC, "Geographical-Indications," http://ec.europa.eu/trade/policy/accessing-markets/intellectual-property/geographical-indications/.

[26] Ibid.

[27] T. Chever et al., "Value of Production of Agricultural Products and Foodstuffs, Wines, Aromatised Wines and Spirits Protected by a Geographical Indication (GI)," AGRI–2011–EVAL–042012, October 2012. Report for the EC prepared by AND International available at http://ec.europa.eu/agriculture/external-studies/value-gi_en.htm.

"Quality Schemes" Protecting GIs in the EU

- **Regulation (EU) No 1151/2012** of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs.
- **Regulation (EU) No 251/2014** of the European Parliament and of the Council of 26 February 2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and repealing Council Regulation (EEC) No 1601/91.
- **Regulation (EU) No 1308/2013** of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007.
- **Regulation (EC) No 110/2008** of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89.

Below are product registration markers for three quality schemes—PGIs (Protected Geographical Indication), PDOs (Protected Designation of Origin), and TSG (Traditional Specialties Guaranteed).

Source: EUR-Lex: Access to European Union Law, http://eur-lex.europa.eu/homepage.html?locale=en; Database of Origin and Registration, http://ec.europa.eu/agriculture/quality/door/list.html; and EC, "Quality Policy in the EU."

EU trade policy actively supports stronger protection of GIs internationally, including as part of its multilateral and bilateral negotiations, given concerns about GI "violations throughout the world" from misuse and imitation.[28] Regarding protection of GIs, the EU is seeking certain "TRIPS-Plus" provisions that would establish a list of EU names to be protected "directly and indefinitely" in countries outside the EU, allow coexistence with prior trademarks (if they are "registered in good faith"), phase out other uses of EU names, ensure a right to use (as opposed to trademark license system), guarantee administrative protections, and create a cooperation mechanism and dialogue.[29]

As of May 2016, more than 4,500 product names are registered and protected in the EU for foods, wine, and spirits originating in both EU member states and other countries (**Table 1**). Nearly two-

[28] See EC website at http://ec.europa.eu/trade/policy/accessing-markets/intellectual-property/geographical-indications/.

[29] A. Matthews, "What Outcome to Expect on Geographical Indications in the TTIP Free Trade Agreement Negotiations with the United States," prepared paper for the European Association of Agricultural Economists (EAAE) seminar, April 2015. Citing a DG AGRI document ("Working Document on International Protection of EU Geographical Indications: Objectives, Outcome and Challenges," Advisory Group International Aspect of Agriculture, June 25, 2012.

thirds are wine registrations. Overall, about one-fourth of all registrations are for non-EU ("third country") registrations, and these are also overwhelmingly wine registrations.

Table 1. Product Name Registrations Under EU's GI Programs

Product Category	Total Registrations	EU Registrations	Non-EU Registrations
Food and Agriculture	**1,341**	1,320	21
Wine	**2,885**	1,750	1,135[a]
Spirits	**336**	334	2
Total	**4,562**	**3,404**	**1,158**

Source: CRS data compilation from Database of Origin and Registration (agricultural products and foodstuffs), "E-Bacchus" database (wine), and "E-Spirit-Drinks" database (spirits), available at http://ec.europa.eu/agriculture/. Data are as of May 2016.

a. Of these, 697 wine ("Name of Origin") registrations are held by the United States.

Food and Agriculture GI Registrations

As of May 2016, there were 1,341 product names registered as PDO, PGI, or TSG products for agriculture and food products, based on information in the EU's Database of Origin and Registration.[30] Compared to two years ago, the number of product registrations has increased about 10%.[31] **Figure 1** illustrates the breakdown of product registrations. **Figure 2** highlights that about one-half of all food and agriculture registrations originate in Italy, France, and Spain. Countries outside the EU have also registered product names under the EU's quality scheme, including Asian and Eastern European countries, among others.

Wine GI Registrations

As of May 2016, there were 2,885 registered wine names, based on information in the EU's "E-Bacchus" database.[32] Wines may be registered as PDOs regarding "quality wines produced in a specified region" and PGIs regarding "table wines with geographical indication."[33] Both systems establish geographical names for certain products that originate in the region whose names they bear. Both require a registration process, and both establish certain controls and intellectual property protections for GI products.[34] Differences between the two types pertain to particular product attributions, such as a product's reputation, its linkages to the geographical environment, number of production steps, and origin of raw materials used in production, among others.

Figure 3 shows that of all registrations, 1,750 (about 60%) are EU wine PDO/PGIs, and the remaining 1,135 (40%) are "third country" GIs originating in other non-EU countries. The majority of EU wine PDO/PGI registrations (about 75%) originate in Italy and France.[35]

[30] The EU's Database of Origin and Registration is at http://ec.europa.eu/agriculture/quality/door/list.html. More information is at EC, Agriculture and Rural Development, http://ec.europa.eu/agriculture/quality/index_en.htm.

[31] This compares to 1,216 product names registered in March 2014, when CRS previously examined these data.

[32] The E-Bacchus website is at http://ec.europa.eu/agriculture/markets/wine/e-bacchus/index.cfm?language=EN. More information is at EC, Agriculture and Rural Development, http://ec.europa.eu/agriculture/quality/index_en.htm.

[33] L. Berlottier and L. Mercier, "Protected Designations of Origin and Protected Geographical Indications," EC, Agriculture and Rural Development presentation, November 16, 2010.

[34] EC, "EU System for Geographical Indications for Agricultural Products and Foodstuffs."

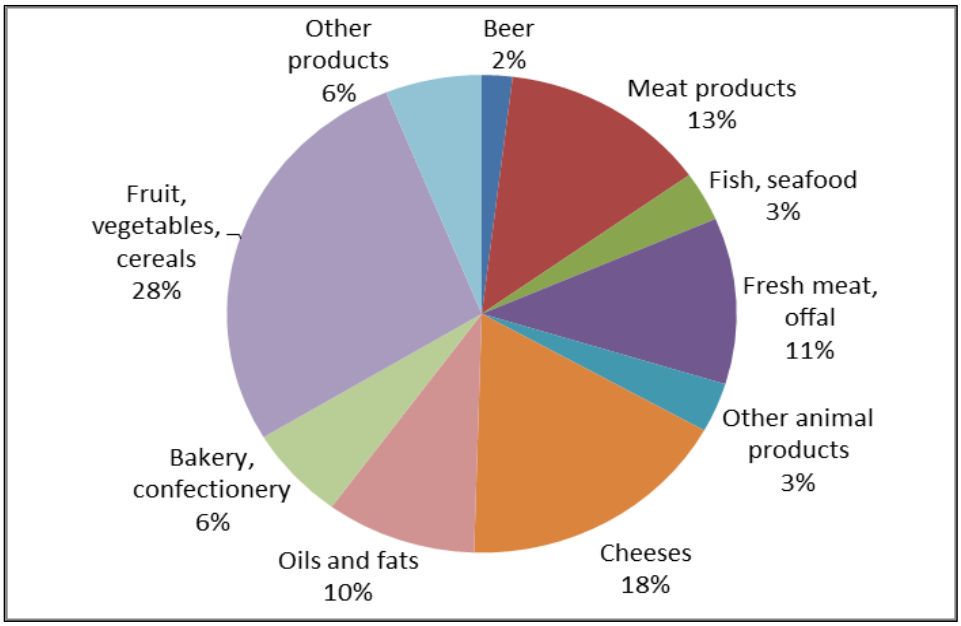
[35] EC presentation, "EU System for Geographical Indications for Agricultural Products and Foodstuffs."

Examples of French and Italian wines with PGIs include Alpes-de-Haute-Provence and Pompeiano. Wines with PDOs include Montagne-Saint-Emilion and Terre di Pisa. Examples of wines from third countries, such as the United States, include wines protected as PGIs, such as Napa Valley, and wines with a name of origin, including Calaveras County and Humboldt County. Among EU countries, **Figure 4** highlights that most registrations originate in Italy, France, Greece, and Spain. However, countries outside the EU ("third countries") hold a large number of registered wine names, including South Africa, Australia, and Chile (**Figure 3**). Nearly 700 "Names of Origin" registrations are held by the United States, in accordance with a 2006 agreement between the United States and EU, obliging each party to recognize certain wine names of origin in each other's markets.[36]

Spirits GI Registrations

As of May 2016, there were 332 existing spirit name registrations, based on information in the EU's "E-Spirit-Drinks" database.[37] Spirits may be registered as PDOs or PGIs. **Figure 5** shows that fruit spirits comprise 22% of all registrations. Most registrations are from France (about 23%), along with Italy, Germany, Spain, and Portugal (**Figure 6**). Other registered product names include other European and Eastern European countries.

Figure 1. Agriculture and Food PDO/PGI/TSG Registrations, by Sector

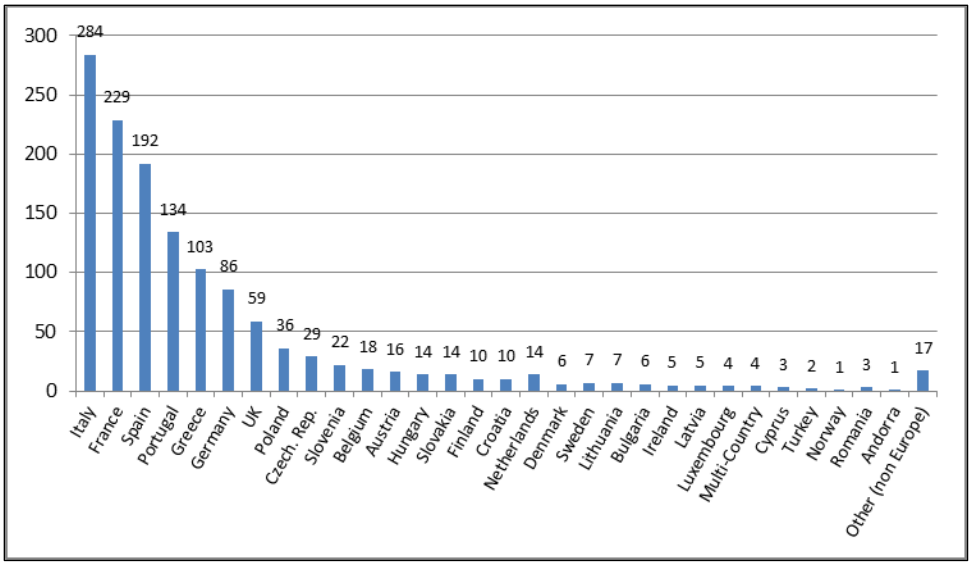


Source: CRS data compilation from EU's Database of Origin and Registration, http://ec.europa.eu/agriculture/quality/door/list.html, accessed May 2016 (1,341 registrations).

[36] Annex IV and V of the 2006 U.S.-EU Agreement on Trade in Wine. O'Connor and Company, "Geographical Indications and TRIPs: 10 Years Later: A Roadmap for EU GI Holders to Get Protection in Other WTO Members," June 2007, http://trade.ec.europa.eu/doclib/docs/2007/june/tradoc_135088.pdf.

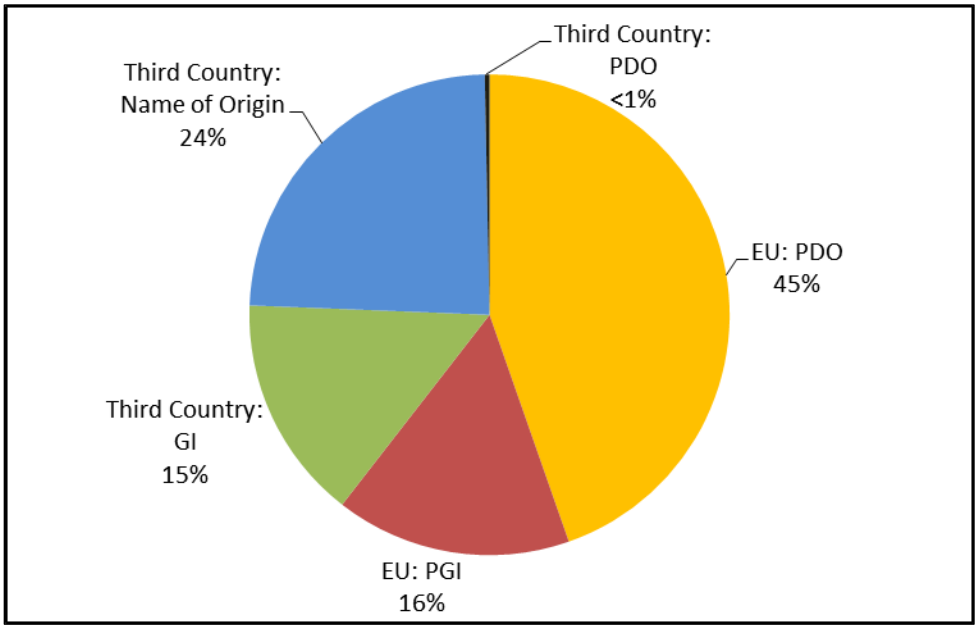
[37] EU's E-Spirits database is at http://ec.europa.eu/agriculture/spirits/index.cfm?event=searchIndication. More information is at EC, Agriculture and Rural Development, http://ec.europa.eu/agriculture/markets/wine/index_en.htm.

Figure 2. Agriculture and Food PDO/PGI/TSG Registrations, by Country



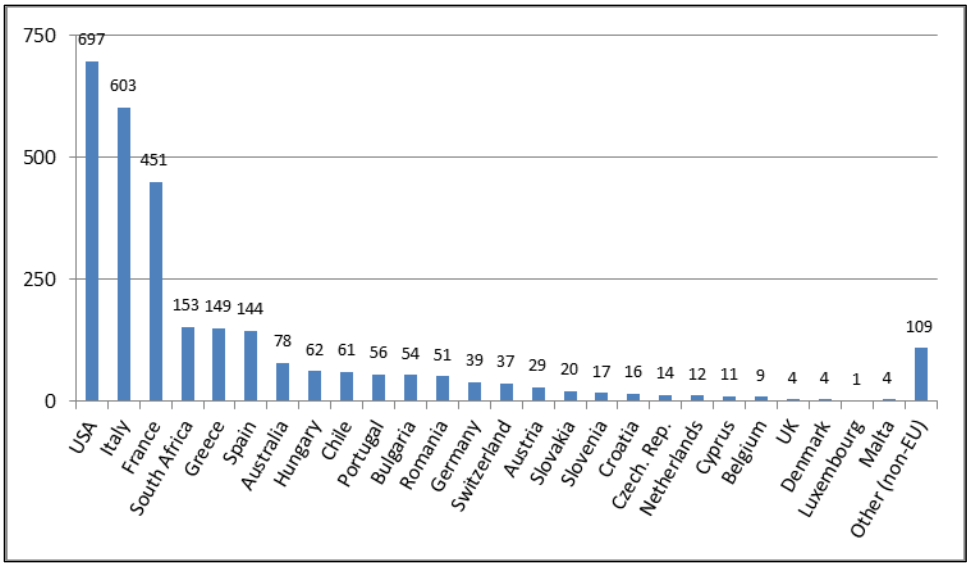
Source: CRS data compilation from EU's Database of Origin and Registration, http://ec.europa.eu/agriculture/quality/door/list.html, accessed May 2016 (1,341 registrations).

Figure 3. Wine EU PDO/PGI and Third Country Registrations



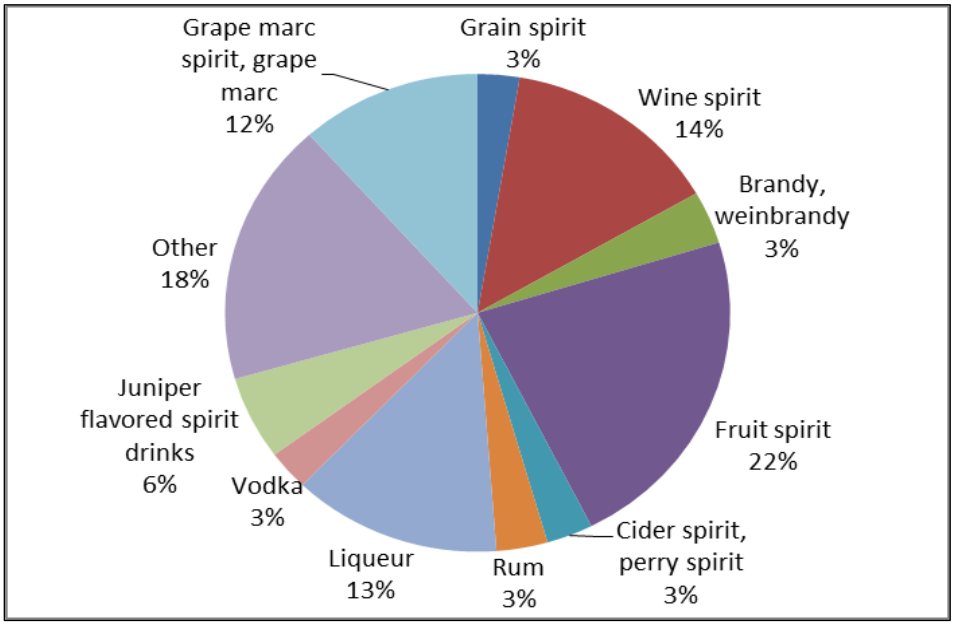
Source: CRS data compilation from EU's E-Bacchus database, http://ec.europa.eu/agriculture/markets/wine/e-bacchus/index.cfm?event=pwelcome&language=EN, accessed May 2016 (2,885 registrations).

Figure 4. Wine EU PDO/PGI and Third Country Registrations, by Country



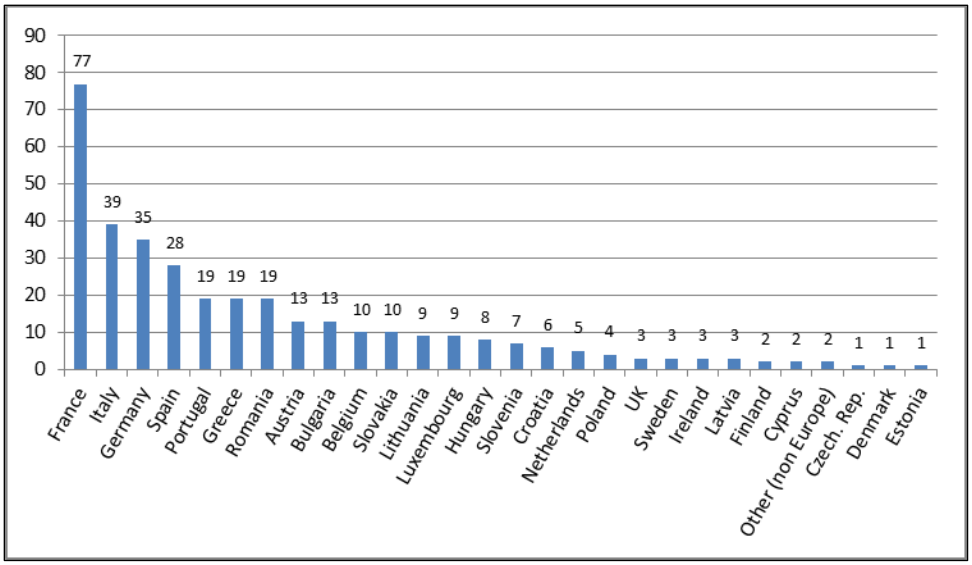
Source: CRS data compilation from EU's E-Bacchus database, http://ec.europa.eu/agriculture/markets/wine/e-bacchus/index.cfm?event=pwelcome&language=EN, accessed May 2016 (2,885 registrations).

Figure 5. Spirits EU PDO/PGI and Third Country Registrations, by Type



Source: CRS data compilation from EU's E-Spirits database, http://ec.europa.eu/agriculture/spirits/index.cfm?event=searchIndication, accessed May 2016 (336 registrations).

Figure 6. Spirits EU PDO/PGI and Third Country Registrations, by Country



Source: CRS data compilation from EU's E-Spirits database, http://ec.europa.eu/agriculture/spirits/index.cfm?event=searchIndication, accessed May 2016 (336 registrations).

Notes: By country, the database lists 351 registrations, which indicates either multi-country registrations shared by multiple countries or an error in the database.

Protection of GIs in the United States

In the United States, GIs are treated as brands and trademarks and administered by the U.S. Patent and Trademark Office (PTO). In addition, labeling requirements for wine, malt beverages, beer, and distilled spirits are under the jurisdiction of the Alcohol and Tobacco Tax and Trade Bureau (TTB). As discussed later, U.S. trade policy is actively engaged in addressing concerns in the United States regarding the EU's GI protections to ensure that they "do not undercut U.S. industries' market access" and to defend the use of certain "common food names."[38] In general, the United States is seeking protection for current U.S. owners of trademarks that overlap with EU-protected GIs, the ability to use U.S. trademarked names in third countries, and the ability to use U.S. trademarked names in the EU.[39]

U.S. Patent and Trademark Office

In the United States, GIs generally fall under the common law right of possession or "first in time, first in right" as trademarks, collective, or certification marks under the purview of the existing trademark regime administered by PTO and protected under the U.S. Trademark Act.[40]

[38] USTR, *2016 Special 301 Report*, April 2016, https://ustr.gov/sites/default/files/USTR-2016-Special-301-Report.pdf. Pursuant to the Trade Act of 1974 as amended, the report identifies countries with inadequate IPR regimes on various categories of concern.

[39] B. Babcock, "Common Names or Protected Property? A U.S. Perspective on Strengthening GI Protection," presentation at EAAE seminar, April 2015.

[40] 15 U.S.C. §1051 *et seq*. Section 4 provides for the registration of "certification marks including indications of regional origin." For more information, see PTO's website at: http://www.uspto.gov/ip/global/geographical/.

Accordingly:

- **Trademarks** "protect words, names, symbols, sounds, or colors that distinguish goods and services from those manufactured or sold by others and to indicate the source of the goods. Trademarks, unlike patents, can be renewed forever as long as they are being used in commerce."[41] Trademarks registrations are renewable for 10-year terms. Trademarks are distinctive signs that are used by a company to identify itself and its products or services to consumers and can take the form of a name, word, phrase, logo, symbol, design or image, or a combination of these elements. Trademarks do not refer to generic terms, nor do they refer exclusively to geographical terms.[42] Trademarks may refer to a geographical name to indicate the specific qualities of goods as either certification marks or collective marks.
- **Certification marks** refer to "any word, name, symbol, device, or any combination, used, or intended to be used, in commerce by someone other than its owner, to certify regional or other origin, material, mode of manufacture, quality, accuracy, or other characteristics of such person's goods or services, or that the work or labor on the goods or services was performed by members of a union or other organization."[43]
- **Collective marks** refer to "a trademark or service mark used, or intended to be used, in commerce, by the members of a cooperative, an association, or other collective group or organization, including a mark that indicates membership in a union, an association, or other organization"[44] and "may include a mark which indicates membership in a union, and association, or other organization."[45]

PTO defines GIs, consistent with TRIPS, as "indications that 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 geographic origin."[46] According to PTO, a GI can take many forms, including a geographic place name (such as "Napa Valley"), a symbol (such as a picture of the Eiffel Tower, the Statue of Liberty, or an orange tree), the outline of a geographic area (e.g., the outline of the state of Florida or a map of the Dominican Republic), a color, or "anything else capable of identifying the source of a good or service."[47] GIs are protected under U.S. trademark laws against unfair competition and trademark infringement regardless of whether they are registered with PTO.

According to PTO, GIs "serve the same functions as trademarks, because like trademarks they are: source-identifiers, guarantees of quality, and valuable business interests." Establishing a product based on its geography can be complicated, involving establishing a trademark or a brand

[41] PTO, http://www.uspto.gov/main/glossary/.

[42] United Nations, "Legal Protection of Geographical Indications," http://www.fao.org/fileadmin/user_upload/foodquality/fichefiles/en/c6.1.pdf. WIPO identifies another form of protection based on business practices, including administrative product approval schemes.

[43] See PTO, "Certification Mark Form, Principal Register," http://teas.uspto.gov/forms/ctm.

[44] See PTO, "Collective Membership Mark Form, Principal Register," http://teas.uspto.gov/forms/cmm.

[45] Comments by presenters at the "American Origin Products and Current Trade Treaties: What Are the Stakes?," webinar, March 5, 2016.

[46] PTO, http://www.uspto.gov/sites/default/files/web/offices/dcom/olia/globalip/pdf/gi_system.pdf.

[47] PTO, "Geographical Indications FAQs," http://www.uspto.gov/learning-and-resources/ip-policy/geographical-indications/geographical-indications-faqs#486.

name through an extensive advertising campaign. Limited information specific to food and agricultural products regarding the application process on certification or collective marks is available from PTO.[48] PTO does not protect geographic terms that are considered "generic" or "so widely used that consumers view it as designating a category of all of the goods/services of the same type, rather than as a geographic origin." PTO does not provide oversight of any applicable standards or standards established by private industry (such as American National Standards Institute and Underwriters Laboratories).

PTO does not have a special register for GIs in the United States. PTO's trademark register, the U.S. Trademark Electronic Search System (TESS), contains GIs registered as trademarks, certification marks, and collective marks.[49] Statements by USTR claim that EU farm products hold nearly 12,000 trademarks in the United States.[50] These register entries are not designated with any special field (such as "geographical indications") and cannot be readily compiled into a complete list of registered GIs. Thus, there does not appear to be specific data available about GIs registered in the United States in the way that there are for the EU (see above sections). Some GI names protected under U.S. trademark laws include Idaho Potatoes, Florida Oranges, Vidalia Onions, Napa Valley Wines, and Washington State Apples. Examples of foreign GI certification marks protected in the United States include Brunello Di Montalcino (Italy), Cognac (France), Liebfraumilch (Germany), Mosel (Germany), Vino Nobile Di Montepulciano (Italy), Darjeeling (India), and Jamaica Blue Mountain Coffee (Jamaica).[51]

U.S. law provides that the trademark owner has the exclusive right to prevent confusing uses of the mark by unauthorized third parties.[52] Although registration is not necessary to establish rights, PTO promotes owning a federal trademark registration to provide for the following advantages:[53]

- Constructive notice to the public of the registrant's claim of ownership of the mark,
- A legal presumption of the registrant's ownership of the mark and the registrant's exclusive right to use the mark nationwide on or in connection with the goods/services listed in the registration,
- The ability to bring an action concerning the mark in federal court,
- The use of the U.S registration as a basis to obtain registration in foreign countries, and
- The ability to file the U.S. registration with the U.S. Customs Service to prevent importation of infringing foreign goods.

For more general information on the PTO, see CRS Report RL34292, *Intellectual Property Rights and International Trade*.

[48] An example of a certification mark for a farm product is available at http://www.brentwoodgrown.com/assets/documents/CertificationMarkLicenseAgreement.pdf.

[49] The database is accessible at http://www.uspto.gov/ebc/tess/index.html.

[50] *Inside U.S. Trade*, "Froman Denies Need for GI Protection in TTIP, Criticizes EU Food Safety Rules," June 15, 2016.

[51] PTO, "Geographical Indications FAQs."

[52] 15 U.S.C. §1114 and §1125.

[53] PTO, "Geographical Indications FAQs."

Alcohol and Tobacco Tax and Trade Bureau (TTB)

TTB[54] is the regulatory agency that oversees the labeling resources and guidance for wine, malt beverages, beer, and distilled spirits.[55] For grape wine, regulations govern "generic, semi-generic, and non-generic designations of geographic significance."[56] These rules state that "examples of generic names, originally having geographic significance, which are designations for a class or type of wine are: Vermouth, Sake," whereas "examples of nongeneric names which are also distinctive designations of specific grape wines are: Bordeaux Blanc, Bordeaux Rouge, Graves, Medoc, Saint-Julien, Chateau Yquem, Chateau Margaux, Chateau Lafite, Pommard, Chambertin, Montrachet, Rhone, Liebfraumilch, Rudesheimer, Forster, Deidesheimer, Schloss Johannisberger, Lagrima, and Lacryma Christi." TTB regulations also list "approved names by country" for grape wines from Germany, France, Italy, Portugal, and Spain.[57] Other rules also apply.[58]

TTB also oversees designations and reviews petitions to establish new or expand existing American Viticultural Areas (AVAs) in the United States: "A viticultural area for American wine is a delimited grape-growing region having distinguishing features ... and a name and delineated boundary."[59] AVA designations "allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin."[60] TTB's list of current and pending AVAs in the United States is available from TTB's website.[61] The oversight authority also rests with the U.S. Treasury Department.

Mandatory labeling requirements apply for distilled spirits and malt beverages.[62] Regulations specify certain "standards of identity" for the several classes and types of distilled spirits, such as vodka and grain spirits, whiskeys, gin, brandy, applejack, rum, tequila, cordials and liqueurs, flavored spirits, and imitations.[63] These same regulations also specify standards of identity for "Class 11; geographical designations" and "Class 12; products without geographical designations but distinctive of a particular place." Class 11 GIs are geographical names for distinctive types of distilled spirits that have not become generic, such as Eau de Vie de Dantzig (Danziger Goldwasser), Ojen, or Swedish punch. Class 12—products without geographical designations but distinctive of a particular place—include, for example, whiskies produced in a foreign country. The oversight authority also rests with the U.S. Treasury Department.

Issues involving generic and nongeneric grape wine names were formally addressed through bilateral negotiations in 2006 as part of the U.S.-EU Agreement on Trade in Wine. This agreement addressed a range of issues regarding wine production, labeling, and import requirements and was intended to establish predictable conditions for bilateral wine trade (as discussed later).

---

[54] Formerly part of the predecessor of the Bureau of Alcohol, Tobacco, Firearms and Explosives, TTB is part of the U.S. Treasury.

[55] TTB, https://www.ttb.gov/labeling/labeling-resources.shtml#general.

[56] 27 C.F.R. part 4.24.

[57] 27 C.F.R. part 12.31.

[58] See also TTB's brochure on grape wine labels, https://www.ttb.gov/pdf/brochures/p51901.pdf.

[59] 27 C.F.R. part 9.

[60] See TTB's website, https://ttb.gov/wine/ava.shtml. Information on submitting and preparing a petition to establish a new AVA is at http://www.ttb.gov/wine/ava.shtml and https://www.ttb.gov/wine/p51204_ava_manual.pdf.

[61] A listing of current AVAs is at https://ttb.gov/appellation/us_by_ava.pdf.

[62] TTB, https://www.ttb.gov/labeling/labeling-resources.shtml#mandatory.

[63] 27 C.F.R. part 5.22 and 7 C.F.R. part 5.35.

Goals and Challenges within Ongoing Negotiations

EU Views and Objectives

EU officials publicly declared their intentions to maintain GI protections as part of the T-TIP negotiations,[64] but the EU's tabled March 2016 proposals included annex lists with roughly 200 protected food and agricultural products, including meats and cheese, fruits and vegetables, and wines and spirits.[65] EU member state Greece has also threatened to veto T-TIP unless GIs are protected,[66] including feta cheese—a name claimed by the Greeks under the EU's GI regime. According to dairy industry representatives, cheese names on the EU's GI list represent about "14% of U.S. cheese production, valued at approximately $4.2 billion per year."[67] More recent reports suggest that the EU might consider prioritizing this list to roughly 50 GIs.[68]

The EU's March 2016 proposal further notes the need to include specific GI provisions in T-TIP given perceived shortcomings in the U.S. system relating to GIs.[69] The EU cites concerns regarding registration and judicial costs, ineffective protection against fraud and infringements, and misleading indications of origin, among other concerns.[70] USTR claims that the U.S. trademark system provides adequate protection for European products in the United States.[71]

The EU's March 2016 proposal on wines and spirits includes provisions that would go beyond the 2006 U.S.-EU Agreement on Trade in Wine as part of the overall stated objectives to "improve cooperation" and "enhance the transparency of regulations" between the United States and EU.[72] Previously, some in the U.S. wine industry had expressed concerns given public comments by European trade groups indicating their desire to renegotiate some provisions in the 2006 agreement. Recently concluded trade agreements between the EU and other third countries have raised concerns among U.S. winemakers and could restrict U.S. exports to these countries of wines that use certain "semi-generic" or "traditional" terms. The EU's T-TIP proposal would restrict the use of semi-generic wine terms and also extend the agreement to spirits.

U.S. Views and Objectives

Many U.S. food manufacturers view the use of common or traditional names as generic terms and the EU's protection of its registered GIs as a way to monopolize the use of certain food and wine terms and as a form of trade protectionism. Specifically, several industry groups have expressed concern that the EU is using GIs to impose restrictions on the use of common names for some

[64] See, for example, Reuters, "EU Says German Sausages Not at Risk in U.S. Trade Deal," January 6, 2015.

[65] EC, "Agriculture and Geographical Indications (GIs) in TTIP: A Guide to the EU's Proposal," March 21, 2016. Text and Annex lists for protected products are available at http://trade.ec.europa.eu/doclib/press/index.cfm?id=1477.

[66] *EurActiv*, "Greece to Block TTIP Unless Geographical Indications Are Protected," May 17, 2016.

[67] C. Hough, "The EU Is Trying to Grab All the Cheese," *Politico*, June 8, 2016.

[68] *World Trade Online*, "U.S., EU to Increase Tariffs Subject to Immediate Elimination, but Clash on Eliminating All," April 29, 2016.

[69] EC, "The European Commission Paper on Geographical Indications (GIs) in the EU-U.S. Transatlantic Trade and Investment Partnership," March 21, 2016, http://trade.ec.europa.eu/doclib/press/index.cfm?id=1477.

[70] Ibid. See also presentation by Anna Beatrice Ciorba, General Directorate for Hygiene, Food Safety and Nutrition, EU Ministry of Health, April 28, 2016.

[71] I. Kullgren, "GIs or Bust in TTIP Talks," *Politico Pro Agriculture*, June 16, 2016.

[72] EC, "Draft Chapter on Trade in Wine and Spirit Drinks," March 21, 2016, http://trade.ec.europa.eu/doclib/press/index.cfm?id=1477. The EU's proposal jointly addresses both wine and spirits.

foods—such as parmesan, feta, and provolone cheeses and certain wines—and limit U.S. food companies from marketing these foods using these common names. The United States does not protect a geographic term that is considered "generic"—that is, being "so widely used that consumers view it as designating a category of all of the goods/services of the same type, rather than as a geographic origin."[73]

Bilateral trade concerns arise when a product name recognized as a protected GI in Europe is considered a generic name in the United States. For example, in the United States, "feta" is considered the generic name for a type of cheese. However, it is protected as a GI in Europe. As such, feta cheese produced in the United States may not be exported for sale in the EU, since only feta produced in countries or regions currently holding GI registrations may be sold commercially. According to USTR, "The United States continues to have serious concerns with the EU's system for the protection of GIs, including with respect to its negative impact on the protection of trademark and market access for U.S. products that use generic names."[74]

Complicating this issue further are GI protections afforded to registered products in third country markets. This has become a concern for U.S. agricultural exporters following a series of recently concluded trade agreements between the EU and countries such as Canada, South Korea, South Africa, and other countries that are, in many cases, also major trading partners with the United States. Specifically, provisions in these agreements may provide full protection of GIs and not defer to a country's independent assessment of generic status for key product names. For example, separate recent agreements negotiated by the EU with Canada and South Africa could reportedly recognize up to 200 EU GIs for milk and dairy products, and could affect U.S. trade with Canada and South Africa.[75] The **text box** below lists some of the cheese names where use is now restricted or at risk of being restricted in certain markets because of the EU's GI protections. Similar types of GI protections are reportedly also in other trade agreements between the EU and other countries, affecting a range of food products and wine. In addition to facing trade restrictions for U.S. products in the EU market, these protections may limit the future sale of U.S. exported products bearing such names to these third countries, regardless of whether the United States may have been exporting such products carrying a generic name for years.

USTR's *2016 Special 301 Report* on the status of global IPR protection and enforcement outlines U.S. concerns related to the treatment of GIs in the U.S.-EU trade negotiations and other initiatives with Canada, China, Costa Rica, El Salvador, Japan, Jordan, Morocco, the Philippines, South Africa, Vietnam, and others. According to this report, among the stated U.S. goals are

- ensuring that the grant of GI protection does not violate prior rights (e.g., in cases in which a U.S. company has a trademark that includes a place name);
- ensuring that the grant of GI protection does not deprive interested parties of the ability to use common names, such as parmesan or feta;
- ensuring that interested persons have notice of, and opportunity to oppose or to seek cancellation of, any GI protection that is sought or granted;
- ensuring that notices issued when granting a GI consisting of compound terms identify its common name components; and

[73] PTO, "Geographical Indication Protection in the United States," http://www.uspto.gov/web/offices/dcom/olia/globalip/pdf/gi_system.pdf.

[74] USTR, *2014 National Trade Estimate Report on Foreign Trade Barriers,* p. 111.

[75] See, for example, USDA, "South Africa: Proposed Protection of Geographical Indications in South Africa," *GAIN Report,* August 29, 2014; and National Milk Producers Federation, "U.S. Dairy Industry Decries Market Barriers Raised in EU-Canada Trade Deal," September 29, 2014.

- opposing efforts to extend the protection given to GIs for wines and spirits to other products.

Use of Names Restricted in Certain Markets

Asiago	Fontina	Mozzarella	Parmesan/Parmesano/Parmesão
Danbo	Gorgonzola	Munster/Muenster	
Feta/Fetta	Gruyere/Gruyerito		

Use of Names Could Be at Risk in Certain Markets

Bologna	Chorizo	Havarti	Ricotta
Brie	Edam	Pecorino	Romano
Camembert	Emmental/Emmenthal	Prosciutto	Salami
Canestrato	Gouda	Provolone	Tilster/Tilsit
Cheddar	Grana		

Source: Consortium of Common Food Names, http://www.commonfoodnames.com/the-issue/names-at-risk/.

Some Members of Congress have long expressed their concerns about EU protections for GIs, which they claim are being misused to create market and trade barriers.[76] They are also concerned about the implementation of GI protections in other trade agreements that have been or are being negotiated by the EU with other countries. USDA Secretary Tom Vilsack has also expressed concerns that the EU's system of protections for GIs "doesn't fit well into our trademark system because U.S. law seeks to protect the end agricultural product, not the process through which it is made."[77] Previously, Secretary Vilsack indicated that the United States would not agree to EU demands to reserve certain food names for EU producers.[78] Others note that the GI debate in the T-TIP threatens U.S. commercial interests by blocking current and future U.S. exports of agricultural products (particularly cheese exports), discriminating against U.S. branded products that have greatly expanded the visibility and demand for certain GI products, and creating inconsistency in EU lists of generic terms—for example, through the inclusion of new and expanded protected names, such as feta.[79]

Many U.S. food producers are also members of the Consortium for Common Food Names (CCFN), along with producers in other countries including Canada, Mexico, Argentina, Chile, and Costa Rica. This group aims to protect the right to use common food names and protect

[76] See, for example, comments during a House Committee on Ways and Means, "U.S. Trade Policy Agenda," January 27, 2015, and also during a Senate Finance Committee hearing on "President Obama's 2015 Trade Policy Agenda," January 27, 2015. See also numerous letters from Congress to the Administration, including a letter from Senate leadership to Ambassador Froman, USTR, April 22, 2016; a letter from several Members of Congress to USTR and USDA, May 9, 2014; a letter from Senate Finance Committee chairman and ranking member to USTR, February 12, 2013; and a letter from several Members of Congress to USTR, September 27, 2010. See also letter referenced in Senator Pat Roberts, "Sens. Roberts and Baldwin Fight to Protect U.S. Producers against Ridiculous EU Trade Demands on Names of Meat Products," press release, April 4, 2014.

[77] A. Marshall, "Vilsack: Biotech, Geographical indications, Cloning Discussed at 'Historic' TTIP Meeting," *Agri-Pulse*, June 17, 2014.

[78] *World Trade Online*, "Vilsack Shoots Down EU GI Demands in Meeting with Agriculture Ministers," June 16, 2014.

[79] B. Babcock, "Common Names or Protected Property? A U.S. Perspective on Stregthening GI Protection," presentation at EAAE seminar, April 2015.

legitimate food-related GIs.[80] Among the U.S. agricultural groups that are supporting these efforts are the Wine Institute, the American Farm Bureau Federation, Agri-Mark, the International Dairy Foods Association, the American Cheese Society, the American Meat Institute, the Northwest Horticultural Council, and the Wine Institute, as well as some food groups in Central and Latin America.[81]

Support in U.S. for EU GI Protections

Some U.S. agricultural industry groups, however, are trying to create a system similar to the EU GI system for U.S. agricultural producers. Specifically, the American Origin Products Association (AOPA) is seeking to protect American Origin Products (AOPs) in the marketplace from fraud and deceptive labeling, increase the value-added for all AOPs as a distinct food category, and create a national system to recognize AOPs through certification, among other goals.[82] This group contends that "GIs respond to new trends in consumer demand, including the growth in a 'foodie' culture; a consumer-driven interest in wine education; the creation of new specialty meats and cheeses; the search for food with a story and a greater demand for regional products."[83] Members include Napa Valley Vintners, California Dried Plum Board, Cuatro Puertas/New Mexico Native Chile Peppers, the Ginseng Board of Wisconsin, the Idaho Potato Commission, the International Maple Syrup Institute, the Kona Coffee Farmers Association, the Maine Lobstermen's Association, Missouri Northern Pecan Growers, and Vermont Maple Sugar Makers.[84]

This divide is particularly evident in the U.S. wine industry,[85] which had largely considered some of its concerns regarding the use of traditional and semi-generic names, among other related bilateral trade concerns, to have been partly addressed following bilateral negotiations and the existing agreement on wine in the 2006 agreement. The 2006 agreement addressed a range of issues regarding wine production, labeling, and import requirements and was intended to establish predictable conditions for bilateral wine trade. Among the key provisions in the 2006 agreement were measures regarding the U.S. industry's use of 16 "semi-generic" names of wine that originate in the EU (including Sherry, Chablis, and Chianti) as well as the use of certain traditional labeling terms (such as Chateau and Vintage). (See the following **text box** for a full listing of these terms.) The EU also agreed to accept all current U.S. winemaking practices and to establish a process to approve new practices. Despite this agreement, ongoing trade concerns include GIs and "semi-generic" terms, market access issues regarding "traditional" terms, new winemaking practices and related technical issues, and issues related to "regulatory coherence" (especially testing and certification).

The Wine Institute and other U.S. agriculture groups have long asserted that the current EU GI registration process lacks transparency, often results in substantial bureaucratic delays, and is perceived as discriminating against non-EU products. However, other members of the U.S. wine industry, such as Napa Valley Vintners, have asserted that the real problem for wine GIs at the international level is the absence of a multilateral register for wines and spirits.[86] In June 2016,

[80] CCFN, "Our Mission," http://www.commonfoodnames.com/the-issue/our-mission/.

[81] CCFN, "Supporters," http://www.commonfoodnames.com/about-us/supporters/.

[82] AOPA, "What We Stand For," http://www.aop-us.org/what-we-stand-for.html.

[83] N. Potenza Denis, "Industry Speaks Up as GI Talks Continue in DC," *Specialty Food News*, June 5, 2014.

[84] AOPA, Current Members, http://www.aop-us.org/current-members.html.

[85] See, for example, A. Alvarez, "U.S. Vintners Fracture over TTIP Wine Debate," June 13, 2016; and *Inside U.S. Trade*, "TTIP Debate over Semi-Generics Highlights Rift Among U.S. Winemakers," August 14, 2014.

[86] Ibid. For more detailed information on the April 2009 proposal to create a multilateral system of notification and

Napa Valley wine growers expressed their support to EU officials for expanding and protecting the use of GIs in the United States, and many U.S. growing regions have joined a group called Wine Origins, which calls for strict identification of wine by growing region.[87] There is also a divergence of opinion in the U.S. wine industry regarding GIs and "semi-generic" terms and their implications for the domestic wine industry. For more information on the 2006 agreement and the differing positions within the industry, see CRS Report R43658, *The U.S. Wine Industry and Selected Trade Issues with the European Union*.

Semi-Generic Names

Burgundy (France)	Chablis (France)	Champagne (France)	Chianti (Italy)
Claret (France)	Haut Sauterne (France)	Hock (Germany)	Madeira (Portugal)
Malaga (Spain)	Marsala (Italy)	Moselle (France)	Port (Portugal)
Rhine (Germany)	Sauterne (France)	Sherry (Spain)	Tokay (Hungary)

"Traditional Expressions" Labeling Terms

Chateau	cream	fine	sur lie
classic	crusted/crusting	noble	superior
clos	late bottled vintage	ruby	tawny
vintage/vintage character			

Source: TTB, Industry Circular#2006-1, March 10, 2006; and TTB, "US/EC Wine Agreement Q&A's," http://www.ttb.gov/wine/itd_qas.shtml.

Next Steps

Many in the U.S. agricultural sectors are looking to the proposed Trans-Pacific Partnership (TPP) agreement for indications on how certain proposals in T-TIP could be negotiated, particularly on issues such as regulatory coherence and GI names. For example, regarding GIs, the TPP agreement obligates member countries that recognize GI names to make this process available and transparent to all interested parties within the agreement while also providing a process allowing countries to cancel GI protection. Member countries that recognize GIs are also to adopt a procedure by which interested parties may object to the provision of a GI. Among the reasons the agreement lists for why a country may oppose a GI may include concerns that such protections may cause confusion with a trademark that is recognized within the country. Other provisions apply regarding wine and spirits.[88] As the United States and EU continue to negotiate T-TIP, they are likely considering how GIs have been addressed in the TPP agreement as well as in other negotiated agreements.

Stakeholders in the United States are also tracking GI issues in other ongoing negotiations between the EU and other third countries, including Canada and Japan. They also worry about the

registration of GIs for wines and spirits under TRIPS.

[87] J. Hagstrom, "French Minister Meets with Napa Valley Winemakers on GIs," *Hagstrom Report*, June 17, 2016; and "French Food in the U.S.—'Napa Valley Winemakers Support Geographic Indications," *French Food in the U.S.*, June 16, 2016. Information on Wine Origins is at http://origins.wine/.

[88] For information on how GIs have been negotiated in the proposed TPP agreement, see CRS Report R44337, *American Agriculture and the Trans-Pacific Partnership (TPP) Agreement*; and CRS In Focus IF10412, *TPP: Taking the Measure of the Agreement for U.S. Agriculture*.

potential implications for global agricultural trade under these preferential agreements between the EU and its trading partners, as well as establishing precedent on certain issues. However, given concerns voiced primarily by the U.S. dairy industry and the seeming reluctance of either party to compromise on GIs, some have speculated whether this issue would need to be addressed at a higher political level than the negotiators within T-TIP.[89]

Author Information

Renée Johnson
Specialist in Agricultural Policy

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.

[89] *World Trade Online*, "TTIP Round Produces Signs of New Flexibilities on GIs, Services Exceptions," April 29, 2015.