
GIs in for EU FTAs: deal maker or deal breaker?

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Résumé

The EU promotes geographical indications (GIs) as a type of intellectual property so that producers from the designated place can exclude producers outside of the place from using the same name for their products. In New World countries European immigrants brought European names, as part of their culture, to new places they live, (e.g. the US, Australia, New Zealand and Canada). These names have become generic product names and in New World countries everyone can freely use them. The GI conflict is severe where similar products bearing the same name but from different places compete in a globalised market. To prevent "free-riding" and also to support local farmers in a smart way, GIs become a "must have" in recent EU trade agreements. So far, the EU has concluded free trade agreements with countries including South Korea, Japan, China, Vietnam, Singapore, and Canada. The EU is also negotiating FTAs with Australia and New Zealand and in these GIs are one of the most contentious issues.

With the examples of GI provisions and GI lists in EU FTAs, my paper argues that GIs are an issue of dealmaker in EU FTAs with East Asian countries while dealbreaker with immigrant countries with a European origin, such as Canada and Australia. This difference is caused by the fact that EU GIs and East Asian GIs are different names attached to different products, while EU GIs and Canadian and Australian GIs are the same names for similar products. Therefore, when the EU and East Asian countries negotiate GIs, they are extending domestic/internal protection to completely exotic products with no competition with each other's domestic products. When the EU is negotiation GIs with Canada and Australia, it is a different scenario. The EU wants to make a rule that the EU products with GI names will exclude similar domestic products from Canada or Australia. In other words, while the EU and East Asian countries GI provisions are more or less reciprocal – although not "mutually beneficial", (2) GIs in CETA and EU-Australia FTA are an issue about the extent to which Australia can accept EU standards to the detriment of its own agricultural industry.

This article contributes to the discussion about the "Old World" and the "New World" divide (3) with respect to GIs which by and large takes a West centric perspective and ignores East Asian countries and ignores the market competition and economic interests embedded in GI as an intellectual property right.

(1) Engelhardt, Tim. "Geographical Indications under Recent EU Trade Agreements." *IIC-International Review of Intellectual Property and Competition Law* 46, no. 7 (2015): 781-818.

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(2) Hu, Weinian. "Reciprocity and Mutual Benefits: EU-China Cooperation on and Protection of Geographical Indications. CEPS Research Reports No. 2018/04, June 2018."

(3) Cortès Martin, José Manuel. "The WTO TRIPS Agreement: The Battle between the Old and the New World over the Protection of Geographical Indications." *The Journal of World Intellectual Property* 7, no. 3 (2004): 287-326

Mots-Clés: GIs, trade treaties, East Asian countries, TRIPS