

# ALERT



3rd Quarter 2014

## Chairman's Message

### Voice Opposition Now To Revisions to GI System

There's renewed interest and energy behind an international system for geographical indications (GIs) called the **Lisbon Agreement**, and the system on the table could be very bad news indeed for the protection of common food names. **CCFN supporters should rally now to voice opposition to the flawed approach which is moving swiftly toward approval.**



The Lisbon Agreement was first activated in 1966, and is housed within the World Intellectual Property Organization (WIPO); 28 nations from Europe, Latin America and Africa in addition to a few others have signed on, and about 1,000 appellations of origin have been registered. Although these numbers may seem sizable, in reality the agreement has not dramatically impacted global trade to date due to its relatively limited membership and product scope.



The agreement is a voluntary system where nations that choose to join the Lisbon Agreement add names to the list that they would like protected, and other nations agree to protect those names. Sounds fine, except that now the program is being revised and expanded, and there are serious concerns with



## Support and Successes

### Common Names Prevail in El Salvador and

**Guatemala:** CCFN is pleased to report that El Salvador officials have confirmed as final that common cheese names like "parmesan" and



"provolone" are not restricted. And in Guatemala, the local Trademark Office has declared that "emmental", "provolone", "brie", "camembert" and "parmigiano" are generic terms, a positive ruling that remains subject to appeal. These successes come as officials in several Latin American nations continue to iron out details from free trade agreements with the EU. CCFN has worked with local industries to help beat back new regulations that could potentially ban local producers and importers from using common food names.

**Strong Language in Washington, D.C., Supporting CCFN Efforts:** There is

how those changes will impact the international use of common food names.

#### Here's the concept:

- Participating countries put any GIs they want on the Lisbon list. The other countries then have one year to register an objection to a name's protection (for example, saying the name is generic).
- If a country doesn't register an objection within one year, then that country is automatically committed to protecting the listed names.
- This arrangement greatly speeds up protections of many more GIs across many more countries.

#### Here are the major problems:

- **Lack of respect for common names:** The agreement permits the registration of names that may be generic in other countries. While the Lisbon Agreement provides a quick and streamlined process for protecting GIs, it lacks safeguards to ensure that common names are not put on the list.
- **Broad license for countries to "over-protect":** The proposal includes vague language about protecting the GI name and its translation, but doesn't clarify what the exact protected terms are. Haven't we already learned in trade agreements that it's not enough to say a term is protected without explicitly protecting generic terms? Just consider how the Costa Ricans went too far in protecting the word "parmesan" as a translation of "Parmigiano Reggiano" or the term "provolone" for being part of the GI "Provolone Valpadana".

continued strong language from leaders in Washington, D.C., in support of protecting common food names, particularly in the context of the EU-U.S. negotiations on the Transatlantic Trade and Investment Partnership (TTIP). CCFN has worked hard to make sure members' concerns continue to be heard!



Here are some examples:

- **As reported in the [Washington Post](#), U.S. Trade Representative Michael Punke** told congressional leaders that in TTIP negotiations, the U.S. is seeking not only to fend off EU demands that the U.S. afford greater GI protection, but also wants to secure new market access in the EU for U.S. products that are currently protected under European GIs in that market. The U.S. "will not be bringing the European system of geographic indications to the United States" through TTIP, he said.
- **House Ways and Means Trade Subcommittee Chairman Devin Nunes (R-CA) said in a [June hearing](#)** that "As traditional trade barriers are reduced, U.S. agriculture exports are facing more non-tariff barriers that are difficult to identify and address, ... [including] the improper restriction of the use of generic food names by designating them as 'geographical indications,' forcing U.S. agriculture exporters to either abandon markets or

- **Multiply all this by the nations signed on:** Because these vague protections automatically kick in after a year, we're looking at immediate, multiple problem areas popping up all over the world concerning the protection of common food names. In other words, if the Lisbon Agreement revisions are approved this fall, we may see new restrictions on sales of generically named products in dozens of countries around the world.

**It's time to object!** WIPO hopes to finalize the revisions to this agreement in September and October. U.S. officials have been voicing objections, but one nation alone can't tackle a problem of this magnitude. CCFN calls on members in other nations to reach out to your governments now, and urge them to get involved in fighting these very serious, imminent restrictions. **Thank you for your attention to this important issue!**

*Errico Auricchio*  
CCFN Chairman

## Current Threats and New Restrictions

**Movement on the Lisbon Agreement:** See the Chairman's Message, above, for suggested action.

**Canada-EU Restriction Details are Released:** As reported in earlier issues of ALERT, importers of asiago, gorgonzola, fontina, munster and feta cheeses will soon have to label their products as imitation if they want to sell them in Canada. The agreement protects the names for 173 European cheeses, meats, alcoholic beverages, fruits and vegetables. The agreement is currently being finalized and will likely be ratified within the next one to two years. "We are not against GIs," CCFN Executive Director Jaime Castaneda recently told [International Business Times](#) regarding the Canadian restrictions. "But we have a significant

product names they have used for years."

- [CCFN staff testified in July before the Senate Finance Committee's trade subcommittee](#), saying, "In a nutshell, the EU has been leaning on countries around the world to block imports of products by confiscating common food names and reserving them exclusively for cheese producers in their member countries."

**Media Update:** CCFN continues to promote dialogue in the media about the threat to common food names. Recent coverage was sparked by the timing of the current U.S.-EU trade talks on the TTIP. These clips continue to bolster the CCFN position on common names, and highlight some of the hypocrisy and problematic positioning of the EU.



- **Column by Allen F. Johnson, former Ambassador at the Office of the U.S. Trade Representative (USTR):** [EU's trade strategy on food favours the few at the expense of the many, 7/17/14](#). Ambassador Johnson joined the many voices who have rejected the European aggressive actions on GIs. He points out to Europeans that the EU's trade strategy is helping only a few member states, and is drawing the EU negotiators' focus away from an agenda beneficial for all EU states. (EurActiv is an online publication widely read in

problem when a country wants to tackle the right to a name that has been used in some cases for centuries."

### "Asiago" is Generic in the U.S. but Letters

**Threaten Action:** In July the U.S.

Patent & Trademark Office (USPTO) rejected a certification mark for "asiago" that Italian asiago GI holders had filed in order to seek exclusive use of that term in the U.S. market.



Nevertheless, some CCFN members and other U.S. companies reportedly received threatening letters from the Italian GI holders' organization suggesting that U.S. producers of "asiago" are at risk of being sued. CCFN encourages any U.S. companies receiving such letters to have their legal experts review the situation, since it appears that this threat has no merit. The EU GI interests appear to be using legal threats to try to convince generic users of various common names to voluntarily abandon use of the term "asiago". This is a tactic that has been seen in the U.S. for other common names, as well, in the past year.

### South Africa Concedes to EU Demands on GIs:

South Africa appears to be bypassing intellectual property evaluation to allow a substantial list of GIs protection within South Africa as part of the nation's economic partnership agreement with the EU, concluded July 22. The list includes such common names as "feta", "asiago", "fontina" and "gorgonzola". CCFN in August sent a [letter](#) to South African Ambassador Rasool expressing concern about the agreement's disregard for common names. Some names on the list, such as "feta", were already generically used in South Africa, as is evidenced by the agreement's grandfathering provisions. Other products were not yet produced



Brussels and by those interested in EU affairs.)

- **Cheese Market News, [Ideal cheese names convey flavors, places, experiences, 8/15/14.](#)** Read testimonies on the damage that can occur when common names become restricted. An Emmi Roth USA representative notes that he has seen supermarket chains struggling with sales of the company's award-winning Grand Cru signature cheese since the Swiss government and Swiss Gruyere association pressured the company to drop "gruyere" from the name in 2012. "That is quite a challenge for us because for the consumer, 'Grand Cru' doesn't mean anything. The fact that we had to take 'gruyere' out definitely made it more difficult for consumers to understand the product, especially in supermarkets where no one is there to tell you."
- **Washington Post, [In E.U. claims about cheese names, a whiff of hypocrisy?, 7/17/14:](#)** In response to a question raised by Rep. Ron Kind (D-WI) during a trade hearing, U.S. Ambassador Michael Punke noted: "I've discovered the phenomenon of something called German feta cheese. And I've also discovered the phenomenon of something called French Gruyere...I do know that Gruyere is not in France. [It's in Switzerland, by the way.] And so

substantially in South Africa although they are widely produced in other countries around the world. Their inclusion on this list -- if implemented as reported -- would now effectively shut out local and foreign producers (except for designated EU producers) from marketing products in South Africa using these generic names. The controversial list of 112 names covers fruits, vegetables, cheeses, meats, olive oils, beers and other products, and includes familiar compound GI names such as Gouda Holland, Parmigiano Reggiano, Prosciutto di Parma and Mortadella Bologna.

#### **U.S. Yogurt Company Loses Appeal to Market**

**"Greek" Yogurt in UK:** The UK Supreme Court has rejected an appeal by a U.S.-based yogurt company on an earlier ruling that barred it from labeling its product "Greek yogurt". The dispute began when a Greek company sued after the U.S. company introduced a competing yogurt brand into the U.K. market in September 2012. The term "Greek yogurt" does not appear on the EU's list of GIs. "This ruling seeks to further broaden the already far-too-expansive scope of what European courts and officials are declaring to be off-limits for all but a select group of producers in one region of the world," said Jaime Castaneda, CCFN executive director after the initial lower-court ruling. "This restriction, on a term that is not even a registered GI, indicates the continual creep of limitations on common food names and the upheaval this can cause in international trade." [Read more](#)

#### **Italy Pursues "Italian Sounding" Campaign:**



As yet another example of how far some European interests will go to claim common names as their own, Italian politicians, officials, [food associations](#) and the media have been decrying the "piracy" of the Italian heritage in food products

that carry images, names, colors and geographical references that are "Italian sounding". Of course,

that's the type of anomaly that we're pointing out to our European colleagues..."

- **The Economist, [Stressed are the Cheesemakers; Europeans want their food names back.](#)** [Americans are peeved, 7/18/14:](#) CCFN member Ron Buholzer of Klondike Cheese spoke with the Economist and helped illustrate that high-quality feta has been made for generations in the U.S. state of Wisconsin.
- **AgriLand (European trade media) referenced CCFN efforts: [US rejects EU's attempt to claim geographical food names, 7/16/14:](#)** "What we strongly oppose is the EU's overreaching approach to restrict in the EU and in third countries via FTAs, the use of common, generic names, claiming that these products can only come from specific regions in Europe. This results in the elimination of competition and provides commercial advantages to certain EU manufacturers," said a representative of the U.S. Dairy Export Council.

#### **Uncommon Hero**

***Pedro Garcia, Tregar - García Hnos. Agroindustrial S.R.L.***

*Our profile of one of the heroes who protect and promote common food names.*

the vast majority of the products decried as "fake Italian" employ legal names, terms, colors and images that are in common usage, and that celebrate the Italian heritage that has naturally spread throughout the world as Italians immigrated to other countries. The most common "fake" products cited by the Italians are cheeses, boxed and fresh pasta, pasta sauces, canned tomatoes and preserved tomatoes, olive oil, vinegars, meats and cold cuts, as well as polenta or chianti wine not produced in Italy, to name just a few. To address their concerns, some [Italian officials](#) are calling for actions that include stronger international GI protections, as well as legal remedies through use of trademark and unfair competition laws, which could potentially be wielded against products that don't even possess GIs. What next? An end to pizza deliveries?

## About CCFN

The Consortium for Common Food Names (CCFN) is an independent, international non-profit alliance that represents the interests of consumers, farmers, food producers and retailers. We are working to protect worldwide the right to use common food names.

For more information:

[www.CommonFoodNames.com](http://www.CommonFoodNames.com)

### ***Pass It Along!***

*Help spread the word by passing this newsletter onto other companies affected by the attack on common food names!*

[Join Our Mailing List](#)



*Pedro Garcia of Tregar*

**Argentina is the seventh largest cheese producer** in the world, and cheese companies like Tregar, based in the northeast province of Santa Fe, help fulfil the nation's love for a wide variety of cheeses.

Pedro Garcia, owner, and his brothers Vicente and Florencio, have helped grow Tregar's dairy interests from its humble beginnings when their parents, Spanish immigrants, started the business in the 1930s. The company currently produces a wide variety of soft, semi-hard and hard cheeses, such as gouda, edam, fontina, gruyere, mozzarella, sardo, reggianito, and many others. It also produces yogurt and dry milk products.

"Over many years we have built a brand that carries a high-quality reputation across all our products, especially our cheeses," Garcia said.

With the Mercosur-EU trade talks reportedly back on track, Garcia is keeping a close eye on EU stipulations regarding geographical indications. Tregar sells primarily to the domestic market, with increasing interest in exports to other destinations in the Americas, Asia,



Africa and Europe (Russian Federation).

"When food producers in countries trading with the EU aren't paying attention, they may wake up to find they suddenly have serious restrictions to deal with coming out of trade agreements," Garcia said. "We are doing what we can now to make sure we will still be free to use generic names like 'gouda', 'edam', 'fontina', 'gruyere' and 'provolone', both here in Argentina and in trade with other nations around the world."

Tregar supports CCFN and is a vocal ally for protecting the rights to use common food names in Argentina and around the globe. <http://www.tregar.com.ar/>

To hear from other CCFN "UnCommon Heroes", click [here](#).