

## CCFN ALERT – 1st Quarter 2019

(March 2019)

### Chairman's Column

#### **Proud of our Speed Bumps**

Last month CCFN held a very productive task force meeting to get member input on our direction and priorities moving forward. Many thanks to the members who were able to join us on that call – if you missed it but have thoughts you want to share, do not hesitate to reach out to me or the CCFN staff. While I won't go into details here, the gist of our conversation was that CCFN should continue to forcefully push back on the European Union's efforts to over-extend and abuse geographical indications. We are considering a variety of approaches to keep the heat on and protect common food names, while always advocating for rational policies for legitimate GIs.



One high point of the meeting was hearing from guest speaker Amy Cotton, Senior Counsel with the U.S. Patent and Trademark Office (USPTO). Cotton said that because of CCFN and its members, "It is like night and day where we are in this conversation, when you compare the awareness and dialogue now compared with 10 or 15 years ago." Cotton said that today the discussions regarding GIs and common names are "deep, wide and nuanced" concerning how systems are supposed to operate.

"Through this advocacy from CCFN, we have created a lot of speed bumps around the world in response to EU's push to get their names supported," she said. "It's much better than where we were even five years ago. Now there is awareness that the EU system is not the gold standard – it's actually pretty protectionist and pretty problematic in regards to trade. Country officials think twice now. ... We've made massive inroads, and the efforts need to continue."

There is much to do, and your guidance and support are making CCFN as effective as possible. I'm confident that in 2019 we'll be able to lay down a few more speed bumps, even as we pave the way for better GI policies – to ensure your ability to compete fairly worldwide using generic names.

*Errico Auricchio*  
Chairman

## **U.S. Dairy Industry Faces Billion-Dollar Losses If EU's GI Schemes Proliferate**

The U.S. dairy industry – and the U.S. economy – could be hit with \$9.5 billion to \$20 billion in revenue losses if the European Union (EU) is successful in expanding restrictions on the use of generic terms like parmesan, asiago, feta and others, according to a new study conducted by Informa Agribusiness Consulting, commissioned by CCFN and the U.S. Dairy Export Council. The study, which provides timely information in light of U.S.-EU trade negotiations, examines the potential impact the EU's aggressive geographical indications (GI) agenda would have if imposed on a broad variety of U.S. cheeses and markets.



Seizing the common names that U.S. marketers have used for generations would confuse and alienate both domestic and international consumers, leading to a dramatic drop in demand for U.S. cheese. Prices could fall 14%, and consumption of U.S.-produced cheeses could drop by 306 million to 814 million pounds in the first three years. At the same time, EU cheese exports could see a surge of 13%, thereby exacerbating the existing \$1.4 billion U.S.-EU dairy trade deficit. The impact of GI restrictions would also have grave effects on the broader dairy industry, through plummeting milk prices and shifting demand, as well as on the broader U.S. economy. Informa's study reveals that between 108,000 and 223,000 jobs could be at risk, while GDP could fall \$12 billion to \$25 billion over three years.

“The threat is serious and mounting; the EU is very clear in its intentions and the scope of its GI restrictions continues to expand,” said CCFN Executive Director Jaime Castaneda. “Already we have seen European groups attempt to seize usage of specific names in the U.S. market, including parmigiano, asiago, romano, and gruyere. And in key export markets around the world, the EU is abusing GI policies to dismantle competition and erect barriers to trade.”

In testimony this week to the Office of the U.S. Trade Representative, Castaneda urged the Administration to be as strong and persistent in protecting market access opportunities for U.S. agriculture on this issue as the EU has been in fighting to impose GI-related market restrictions. “This study sends a clear warning to U.S. negotiators to stand firm, and not to give into the EU's sweeping demands on GI protections that over-step the bounds of fair trade,” Castaneda said. “Only collaborative actions between the U.S. government and impacted industries will stop the EU's increasingly aggressive efforts and ensure that other countries hold the line against the EU.”

In addition to assessing the impact of banning the use of terms currently under attack by the EU, the study also looked at the impact if subsequent GI status is approved for popular cheeses like provolone and mozzarella. The EU has not provided clear assurances that use of these additional terms will not be restricted in future, and EU GIs continue to proliferate. The study found that damage would continue to mount in this scenario, reaching a cumulative \$71.8 billion in lost farm revenue over 10 years.

The full study can be found [here](#), on the CCFN website. CCFN’s written and oral testimony to the U.S. Trade Representative can be found on the CCFN website [Newsroom](#) page.

### **Common Names and Non-EU Producers Once Again Shine in World Cheese Awards**

Once again cheese producers from around the world – many of whom use common names on their cheeses – demonstrated the quality of their products at the [World Cheese Awards](#), one of the most prestigious annual food competitions, which featured 3,500 cheeses from six continents, and was held in November in Bergen, Norway.



The top trophy winners included the “best vintage cheddar” which went to a Wisconsin company, Deer Creek Cheese. Another top winner was a mascarpone from Lancewood Cheese Holdings in South Africa. Other winners included a raclette from Norway, a ricotta from California, and a brie from South Africa. The U.S. Dairy Export Council noted that U.S. cheesemakers won 89 medals at the event – eight super gold, 25 gold, 24 silver and 32 bronze. In fact, U.S. cheeses now rank third overall in total medal counts since 2011, only behind Spain and UK and ahead of better-known cheese-making countries like France and Italy.

### **Engaging with Trade and IP Groups Worldwide**

CCFN Executive Director Jaime Castaneda travelled to Geneva in December to meet with representatives of several groups influential in global policies on trade and intellectual property issues, including the World Intellectual Property Organization (WIPO), and European representatives for the U.S. Trade Representative and U.S. Department of Agriculture and the U.S. Patent and Trademark Office.

CCFN continually follows up with these organizations to reinforce the need to include common names in discussions and conferences involving geographical indications.



CCFN emphasized the points made with WIPO in a letter to Director General Francis Gurry, who responded that CCFN’s views were duly noted and would be taken into account in WIPO’s ongoing efforts to ensure that “...activities pertaining to geographical indications and other distinctive signs continue to fully reflect the point of view of all relevant stakeholders. We, in the International Bureau, are committed to observing a balanced approach to this issue, and indeed to all areas of intellectual property policy, while leaving to Member States their own sovereign decisions.”

In addition, CCFN participated in the 12th Annual IP Attaché Roundtable in the United States in December 2018. The program provided an opportunity to engage with the assembled U.S.

intellectual property (IP) attachés to discuss recent trends and challenges in IP protection and enforcement in regions around the world.

## Setting the Proper GI Stage for Possible US-EU Trade Negotiations

As the U.S. considers its negotiating objectives for a possible U.S.-EU trade agreement, CCFN filed comments to the Office of the U.S. Trade Representative (USTR) in December to caution the Administration on the EU's problematic geographical indications (GI) agenda.



Among other factors, CCFN highlighted the EU's illegitimate registration of “danbo” as a GI despite the fact that “danbo”, “havarti” and other terms have been designated as generic within the international Codex Alimentarius standards. The comments also urged USTR to preserve strong language from its Special 301 trade report from 2018 and to act to address those concerns: “The EU pressures trading partners to prevent all producers other than those EU producers in certain EU regions from using certain product names, such as fontina, gorgonzola, asiago, or feta, even though they are the common names for products, and the products are produced in countries around the world. In the EU and other markets that have adopted the EU GI system, American producers and traders either are effectively blocked from those markets or are otherwise restricted.”

CCFN cautioned USTR to reject any attempts by the EU to employ an approach to GIs that runs counter to the Administration's goals to remove unfair impediments to U.S. manufacturing. In fact, it would be best to hold separate discussions specific to the topic of GIs and common names to tackle “this complex and deeply fraught issue”, CCFN wrote; separate talks could then address the myriad problems that EU GI policy has created both in the EU market and in U.S. export markets around the world.

Also...

### Pushing Back on Threats to Common Names

- **Argentina** – CCFN filed an opposition to a local company's trademark application containing the generic name “edam”.
- **China:** CCFN filed counter arguments in cancellation actions against two existing asiago trademark registrations, as well as oppositions to a local company's trademark containing “cheddar” and two emmentaler trademarks from the Swiss Consortium.
- **Colombia:** Chorizo remains a common term Colombia, thanks to an opposition filed by CCFN against four chorizo trademark applications. The trademark office in Colombia confirmed that the term chorizo is common and free for all to use.



- **India:** Feta remains generic in India, thanks to CCFN’s trademark opposition; the trademark office declared abandoned the trademark application that included the name “feta”, after the applicant failed to file timely response to CCFN’s opposition.
- **United Arab Emirates:** CCFN filed an opposition to a trademark application containing the generic term “mozzarella”.

### **CCFN Comments on Brazilian and Russian GI Policies**

As nations worldwide set their own policies on geographical indications (GI), CCFN takes the opportunity of comment periods on these new regulations to clarify that generic terms must be preserved in tandem with GIs protections. CCFN recently submitted comments to the Brazilian government on its GI registration regulations, the rules that will establish the conditions for the registration of GIs in Brazil. CCFN also recently prepared comments on a proposed Russian GI bill. In both cases CCFN stressed the need to build into regulations the opportunity for public comment and opposition on proposed terms, and the importance of safeguarding generic terms.



### UnCommon Hero

**Darmanto Setyawan, Head of Dairy Manufacturing, South East Asia, Greenfields Indonesia**

Founded in 1997, Greenfields Indonesia responded to a growing demand in Southeast Asia for fresh dairy products that could be produced locally. The heart of the company is a 10,000-head Holstein and Jersey dairy cow operation in East Java. The company’s milk plant processes pasteurized milk, UHT milk, UHT whipping cream and fresh cheese (mozzarella, ricotta and camembert). In early 2017 Greenfields opened a second dairy plant and launched stirred yogurt to the Indonesian market.



“Within seven months we became the market leader for yogurt. We carefully track consumer preferences and develop good quality yogurts that meet that demand,” said Darmanto Setyawan. “The factory was designed by our team to be efficient and environmentally friendly.”

Darmanto, who has been with the company for more than 15 years, is proud of the high-quality products that Greenfields is able to deliver. He oversees the Greenfields manufacturing team, with a strong focus on developing skilled workers to leverage the latest manufacturing technology.

“We have successfully become the market leader in pasteurized milk in Indonesia because of our consistent quality and delivery of product to the retail and foodservice sectors,” he said. “The good quality of our milk gives us the potential to produce other fresh dairy products that previously were only available through imports at high prices, or made from recombined milk.”

In addition to supplying the domestic market, Greenfields exports a significant portion of its finished products for sale in Singapore, Brunei, Malaysia, Hong Kong and Philippines.

The Greenfields product line includes several fresh cheeses bearing generic names, including mozzarella, camembert, and ricotta. For Darmanto, the threat that the European Union might seize control of common names like these represents unfair competition that could set back some of the tremendous progress the young company has made.

“We rely on the common dairy names for products that have become familiar to our customers and consumers in Southeast Asia,” he said. “It would be very difficult and costly to communicate to the consumer about our products if we didn’t use common food names.

“We are already facing the possibility that the free trade agreement between Indonesia and Australia/EU will remove or reduce import barriers – including tariffs – which will bring more competition to us,” he added. “That’s why it’s so important for us to always focus on consistent quality in a market where we provide fresh dairy – and distance and time to market won’t affect the quality and cost of delivery.”

Competing on quality is something Darmanto understands is part of fair trade. Having the generic terms you use on your labels swept out from under you, after building the markets for those products with millions of new consumers, is another thing altogether.

“This would bring additional costs and unfair competition. Everyone should be able to use these common names,” he said.

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