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More Dialogue Needed on Safeguarding Common Food Names in Geographical Indications (GI) Policies

CCFN Speaks at Major WIPO GI Symposium in China

(Washington D.C., July 3, 2017) Current geographical indications (GI) policies are often woefully lacking in safeguards for common food and beverage names, creating an increasingly disruptive situation in global trade that unfairly favors some producers over others; but an equitable approach is wholly achievable and should be pursued immediately. That was the message of Ambassador Allen Johnson, President of Allen F. Johnson & Associates, representing the Consortium for Common Food Names (CCFN) last week in Yangzhou, China, at the Worldwide Symposium on Geographical Indications. Johnson called on the meeting organizer, the World Intellectual Property Organization (WIPO), which is the lead organization examining global GI policies, to foster a broader dialogue on ways GI guidelines must respect the inherent rights of food producers to use generic names and comply with other international commitments. Johnson served as Ambassador and Chief Agriculture Negotiator at the Office of the U.S. Trade Representative from 2001 to 2005.

“We can find common ground and work together to build world markets rather than erecting barriers to trade, but we need to escalate that discussion as soon as possible,” Johnson said. “It’s completely possible to grant legitimate GI applicants the protections they deserve without violating WTO commitments and unduly affecting economic interests of producers and consumers, as well as others throughout the supply chain, in countries around the world.”

Johnson stressed the negative commercial impacts on companies in a variety of countries when they are unable to use common names and their market access rights are unfairly restricted. He cited many examples of companies that use generic terms that European countries are currently seeking to monopolize, such as a Thai company that makes feta cheese and a Colombian company

that makes gruyere. He laid out two general steps that would significantly help to reduce trade disputes over GIs:

1. All GIs should be required to go through a transparent application process in each country, identifying restriction requests up-front for compound terms and translations.
2. To uphold both IP safeguards and their trade commitments, nations should refuse to register as GIs any names that have become part of the public domain. Rather they should encourage compound term GIs as a default while clearly preserving use of the common element (such as by protecting “Greek Feta” rather than “feta” or “Parmigiano Reggiano” but not “parmesan”).

Johnson cited problems that have arisen from bilateral trade agreements between the EU and various countries, including Canada, where this process has not been followed, resulting in unfair limits on the use of generic terms and confusion over whether other generic names will be targeted. However, trade agreements can still accommodate GI discussions using a more transparent system.

For example, in the current EU-China “100 for 100” GI agreement, China has demonstrated a commitment to transparently conduct a review and opposition process, and CCFN is hopeful that genuine due process evaluations will prevail. Another example of a successful approach is Japan’s GI system, which generally follows a compound GI model with a regional name plus the product, such as protecting the name “Japanese Sake”, not “sake”. To date this approach has worked well to safeguard unique Japanese specialties and not impact common names, which is why adhering to it in the ongoing EU-Japan FTA talks is particularly important.

“Continuing and expanding the dialogue is critical to developing an approach that is fair and that all parties can prosper in,” said CCFN Executive Director Jaime Castaneda. “We urge WIPO to play a constructive role in this process by emphasizing the need for balance between the interests of applicants and those relying on common names. We welcome this opportunity and hope that we can expand the conversation to allow for diverse opinions and solutions.”

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The Consortium for Common Food Names (CCFN) is an independent, international non-profit alliance whose goal is to work with leaders in agriculture, trade and intellectual property rights to foster the adoption of high standards and model geographical indication guidelines throughout the world. Those interested in joining can find information at www.CommonFoodNames.com.