

Comments by the U.S. Consortium for Common Food Names (CCFN) and the US Dairy Export Council (USDEC) on the European Commission's roadmap on the evaluation of EU Quality schemes

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 in order to preserve the ability of producers and consumers worldwide to use common names, to protect the value of internationally recognized brands, and to prevent new barriers to commerce. The U.S. Dairy Export Council (USDEC) a founding member of CCFN, is the membership organisation representing the global trade interests of U.S. dairy producers, proprietary processors and cooperatives, ingredient suppliers and export traders.

CCFN and USDEC take note of the Commission's evaluation of existing legislation on EU quality schemes. This comes at a time when the EU continues to relentlessly pursue its anti-competitive and anti-trade GI agenda by confiscating an increasing number of common food names through its domestic legislation and bilateral trade agreements.

Timing of Evaluation

CCFN and USDEC question the timing of such evaluation, given that the Commission has already proposed substantial and far reaching amendments to GI legislation in the context of the reform of the Common Agricultural Policy (CAP), which, regrettably, were not preceded by a public consultation or accompanied by a dedicated impact assessment.

In light of that, we are concerned that such evaluation may result in a mere bureaucratic task rather than a much-needed opportunity to critically reflect on how to design a fairer GI system that adequately protects legitimate GI producers as well as safeguarding the rights of users of common food names.

Lack of clarity on generic names

The absence of a list of names that the EU considers to be generic and of objective criteria to determine what constitutes a generic name has long been a source of confusion which has negatively impacted the trade rights of international partners. The EU and its Member states have in fact systematically refused to indicate which names are considered generic, despite this was already provided for in the original EU legislation on the protection of geographical indications and designations of origin for agricultural products and foodstuffs.

This situation of uncertainty has led to EU producers establishing exclusive usage of food names as "parmesan", "gruyere", "grana", and "feta" (just to name a few in the dairy sector), in a clear move to obtain an unfair commercial advantage against their competitors, both European and non-European, from outside the PDO/PGI region.

The most recent registrations of danbo and havarti, for which Codex Alimentarius production standards exist since 1966, represent the most egregious examples of how the EU can completely disregard international standards for the sake of providing an unfair advantage to a handful of European producers at the expense of international competitors. Moreover, these decisions set alarming precedents for other international standardised generic names which are also at risk of confiscation.

CCFN and USDEC therefore call on the European Commission to finally draw up a non exhaustive list of generic names for which exclusive usage cannot be claimed. In this context, it is important to

highlight the ongoing constructive collaboration between EU and US industries to reach common ground to protect legitimate GIs while respecting the rights of common food names, as evidenced by the Memorandum of Understanding (MoU) between USDEC/CCFN and the Consorzio Tutela Mozzarella di Bufala Campana. The MoU provides greater support for robust protection in the United States and around the world for the Mozzarella di Bufala Campana Protected Designation of Origin (PDO), while unequivocally establishing the free use of the generic term “mozzarella” to indicate a type of cheese. We therefore call on the European Commission to honour this MoU and other similar agreements that can bring resolution to long-standing problems at the satisfaction of producers and consumers across the globe.

Moreover, as provided by recitals 53 and 63 of the EU Regulation on quality schemes for agricultural products and foodstuffs, it is essential that the Commission publishes guidance based on objective criteria to determine what constitutes a generic name in order to guide decisions to grant or reject an application.

Lack of clarity on scope of protection both in the EU and in third countries:

When a product is granted GI status, the scope of protection afforded is often unclear, thus magnifying the likelihood of commerce challenges across the EU’s common market as well as with trading partners. Applications and registration decisions should therefore be required to specify the scope of protection requested and/or granted to GIs (i.e. whether protection extends to all components of the multi-term GI and to their translations or transliterations).

Similarly, in the context of international trade negotiations, the EU must provide clear and up-front assurances that generic portions of a compound name (such as “provolone” in the case of “Provolone Valpadana”) remain for general use by all in the trading partner’s market.

Lack of transparent processes for GI applications and oppositions.

CCFN and USDEC strongly believe that a fairer and more thorough assessment than the one currently carried out by the European Commission must be ensured. Regrettably, today both the scrutiny of applications and the management of oppositions are currently characterised by a severe lack of transparency and strongly biased towards the applicant.

In recent years, the European Commission has in fact registered as GIs a number of food products whose link with the designated geographical region is at best questionable. Moreover, it is important to note that Protected Designation of Origin (PDOs) and most Protected Geographical Indications (PGIs) and Traditional Specialty Guaranteed (TSGs) are allowed to source inputs beyond the specific geographical region and that EU quality schemes as a whole are exonerated from forthcoming origin labelling rules. We therefore believe that stricter criteria for the eligibility of GI protection should be provided for in order not to mislead consumers and avoid unwarranted anti-competitive effects.

Furthermore, as evidence that EU system is designed to heavily favour the applicant, no opposition on generic grounds has ever been successful to date. The abovementioned recent registrations of Danbo and Havarti, despite the strong evidence that the names are generic provided by the oppositions of several EU and non-EU opponents (including both governments and industry associations), are prime examples of this biased approach that undermines the credibility of EU quality schemes as a whole.

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