

*This **outline of text** was tabled by the European Union for discussion with the US and then made public on 21 March 2016. The actual text in the final agreement will be a result of negotiations between the EU and US.*

THE EUROPEAN COMMISSION

OUTLINE OF TEXT ON GEOGRAPHICAL INDICATIONS

1. Definitions (product classes and Harmonized system)
 - geographical indications are defined as in TRIPS art. 22.1
 - product classes are defined according to the International Convention on the Harmonised Commodity Description and Coding System.
2. Scope
 - it covers agricultural products intended for human consumption listed in Annex I to the EU Treaty and other agricultural products and foodstuffs, with a reference to product classes as per Harmonized system and listed in an Annex (III).
3. Lists of GIs
 - reference to lists of GIs originating and protected in the territories of the Parties, to be protected via the agreement in the other Party's territory.
4. Examination and opposition
 - examination of GIs of the other Party, on the basis of transparent administrative processes
 - opposition procedure on the basis of an established set of grounds for opposition, to be assessed by each Party in relation to its territory, and namely conflicts with:
 - names of plant varieties and animal breeds
 - wholly or partially homonymous names
 - well-known trademarks
 - commercial names that have been legally on the market for at least [X] years and
 - generic names
5. Protection for GIs listed in Annex I
 - reference to legal means/administrative actions to prevent non authorized use, in relation to products not originating in the place of origin or not in line with the technical specifications
 - parties commit to provide to the GIs of the other Party a level of protection as set as in art. 23.1 of TRIPS.
6. Relations between trademarks (TMs) and GIs
 - parties ensure ex-officio refusal of subsequent TMs
 - parties provide coexistence between subsequent GIs and prior TMs. Prior TMs can continue to be used and renewed

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- well known TMs during a significant period of time constitute a ground for rejecting GIs, if the GI protection is liable to mislead the consumer on the true identity of the product.

7. General rules

- criteria for establishing genericness, based on the principle of territoriality [existing situation in areas of consumption and relevant legal acts]
- prohibition of subsequent genericness in the non-originating country
- cancellation of GIs is possible in the originating territory if compliance with specification not ensured or if no product is placed on the market for at least X years
- obligations for the parties to communicate GIs that ceased to be protected in its place of origin or fall into disuse in the place of origin
- principles for the use of wholly or partially homonymous GIs in the territories of the parties. Each Party determines practical conditions as to differentiate homonymous indications, ensuring equitable treatment and that consumers are not misled
- right of use: any operator complying with the technical specifications is entitled to use the GI.

8. Exceptions to the level of protection set under 5

- prior-use: transitional period up to [X] years for products legally marketed in continuous manner for at least [Y] year
- treatment of compound names and translations in relation to genericness: in the case of a translation of a GI identical with or containing within it a common name for a given product, or a GI not identical with but containing within it such a term, the GI protection does not prejudice the right of any person to use that term in association with that product
- coexistence between GIs and plant varieties / animal breeds' names
- *ad hoc* solutions for other possible conflicts

9. New GIs

- parties may decide by consensus in the context of a specific Committee under the Agreement to amend GI lists by adding new GIs or by removing GIs which have ceased to be protected in the place of origin
- criteria and procedure: same criteria and same procedure as per GI in the initial list.

10. Other protection

- provisions of the Agreement are without prejudice to the right of the Parties to seek protection of GIs under relevant domestic laws/regulations.
- Annex I: lists of GIs protected at entry into force of the Agreement
- Annex II: list of terms representing exceptions to the level of protection set under 5
- Annex III: list of product classes