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Extending Protection at the WTO to Products Other Than Wines and Spirits: Who Will Benefit?*

Michel Vincent

Research Fellow, Groupe d'Economie Mondiale of Sciences Po, Paris, France

The issue of extending geographic indicator protection to products other than wines and spirits has created wide divergences between *demandeurs* and opponent countries at the WTO. This article examines the economic impacts of the proposals submitted at the WTO by these two groups of countries, focusing mainly on market access, generic names and impacts for the consumer in North America. Results from our survey show that reducing tariff and non-tariff barriers in North America would be more important in improving market access for EU geographical indications (GIs) than would GI extension. In addition, it would appear that North American consumers may not benefit from extension of protection to products other than wines and spirits.

Keywords: generic names, geographical indications, market access, WTO

Introduction

The issue of extension of the protection of geographical indications (GIs) for wines and spirits to geographical indications for other products (commonly described as “GI extension”) has generated strong debate among WTO countries. Positions are very far apart between the group of countries led by the European Union (EU) and the group of countries led by the United States.¹

Although the issue of GI extension has been analyzed primarily as a legal question, economic research has been done on this issue in the last few years by the following authors: Lucatelli (2000), Rangnekar (2003), Sylvander (2004), Benavente (2004), Josling (2005a and 2005b) and Kerr (2006). However, there is a need for further research regarding the question of extending protection for GIs, especially research on the economic impacts for both *demandeurs* and opponents. The objective of this article is to evaluate the impacts of the proposals submitted at the WTO on the issue of GI extension by the two groups of countries, focusing on the economic importance of production and exportation of GI products in France and in Italy, the issue of market access for GI products, the economic impact of generic names and, finally, the potential benefits of GI extension for the consumer. Opinions about the issue of GI extension were obtained through a survey of European and North American industry representatives involved in the production and/or trade of GI products.

Background

EU and U.S. Proposals

As mentioned in the introduction, positions on the issue of GI extension are polarized between two groups of countries. On one side, the group of countries led by the EU believes that GI extension would bring a significant improvement in market access for GI products and would also facilitate their identification by consumers. In addition, GI extension would have little impact on production and exportation of products whose names are protected in the country of origin, but which are also manufactured in third countries, because transition periods and exceptions would be in place (WTO, 2002b). The EU also submitted at the WTO, in the agriculture negotiations, a claw-back list that includes names of wines and spirits and names of agri-food products such as Roquefort cheese and Parma ham (WTO, 2003).² According to the EU, these names are usurped worldwide. This claw-back list means that it would not be possible for WTO members to exempt the listed GI names from protection (i.e., treat them as exceptions) if GI extension were to be in place.

On the other side, the group of countries led by the United States does not believe that market access will be improved with GI extension. Moreover, the group believes GI extension would cause significant losses for food processors forced to abandon the use of terms that are considered generic outside the EU. This group of countries also believes consumers would be penalized by GI extension. Products would be more expensive for consumers due to the costs of renaming and re-labeling. Further, there would be confusion and increased search costs for the consumer caused by the disappearance of terms customarily used to identify products (WTO, 2002a).

French and Italian Production of GI Products

There are currently 631 GIs registered in the EU.³ France and Italy account for more than 45 percent of the total number of GIs registered in the EU (EC, 2006). In terms of production and trade, cheeses are the most important GIs in France, while cheeses and cured hams are the most important in Italy. Production of cheeses with geographic indications in France increased from 170.6 thousand tonnes in 1995 to 193.9 thousand tonnes in 2004 (+14 percent, table 1). It should be noted that production of cheeses with GIs in France has been relatively stable over the last few years, including 2005. The value of this production (table 1) accounts for only approximately 1 percent of the total value of food products and beverages in France, which is estimated to be approximately 140 billion euros.⁴

Table 1 Production and Exports of French and Italian GI Products (Cheeses and Cured Hams) 1995-2004

	Production			Exports ^a			
	1995	2004		1995		2004	
		Quantity	Estimated value (billions of euros) ^b	Total ^c	Canada & U.S.	Total ^c	Canada & U.S.
GI cheeses France (thou. of tonnes)	170.6	193.9 +14%	1.2-1.6	6.5	0.3 ^d	10.0 +54%	0.4 ^d +33%
GI cheeses Italy (thou. of tonnes)	413.1 ^e	450.0 +9%	3.0	52.7	14.1	83.6 +59%	29.3 +108%
GI cured hams Italy (thou. of hams)^f	9,732.3	11,892.5 +22%	1.1	1,498.4	134.9 (1997)	2,062.9 +38%	360.0 +167%

^a For exports of Italian GI cheeses, only the main GI products are included. Exports of San Daniele ham to North America are estimated for 2004.

^b Based on wholesale prices.

^c Including intra-EU exports.

^d Exports of Roquefort cheese only.

^e 1999 data.

^f San Daniele and Parma ham.

Sources: INAO, Eurostat, ISMEA, Consortia data, Dolphins and Agreste Primeur.

In Italy, production of cheeses with geographic indications increased from 413.1 thousand tonnes in 1999 to 450 thousand tonnes in 2004 (+9 percent, table 1). For 2005, there was a slight increase of approximately 1 percent in the level of production compared with 2004. Production of cured hams with geographical indications (San Daniele and Parma ham) also increased significantly between 1995 and 2004, from 9.7 million hams to 11.9 million hams (+22 percent, table 1). For 2005, there was show an increase in the level of production of approximately 4 percent compared with 2004. Although the production of GI products is more important in Italy than in France, their value is nevertheless relatively low compared with the total value of food and beverage products in Italy. It is estimated that the value of production of Italian cheeses and cured hams with geographic indications (table 1) accounts for only about 4 percent of the total value of food and beverage products in Italy, which is estimated to be approximately 100 billion euros.⁴

The United States and Canada: Importers of EU GI Products

The United States and Canada are very important export markets for French and Italian GI products, mainly cheeses and cured hams. For example, these two countries represent about two-thirds, in volume, of exports of Roquefort cheese outside of the EU. The United States and Canada also represent between 50 percent and 95 percent, in volume, of exports outside of the EU of Italian cheeses with GIs (such as Parmigiano Reggiano, Grana Padano and Pecorino Romano) and Parma ham. Table 1 shows that exports to North America of Italian cheeses with GIs and cured hams (Parma ham and San Daniele ham) increased considerably between 1995 and 2004. For example, exports to North America of Italian cheeses with GIs increased from 14.1 thousand tonnes in 1995 to 29.3 thousand tonnes in 2004 (+108 percent). For 2005, there was another increase of about 5 percent compared with 2004. For Italian cured hams, the increase in exports to North America more than doubled from 1997 to 2004, from 134.9 thousand hams to 360 thousand hams (+167 percent). For 2005, there was another increase of about 18 percent compared with 2004. It is worth mentioning that exports of Italian Parma ham to Canada increased by 560 percent over the period 1997 to 2005, from 5,000 hams to 33,000 hams, despite the legal conflict between the Italian consortium of Parma ham producers and the owner of the trademark “Parma”, Maple Leaf, from Canada.

Given this growth, the following question arises: If there were to be an agreement on GI extension, what is the potential for the EU to improve market access for its GI products in North America? The export data show that the United States and Canada

are already significant importers of GI products from France and Italy, and exports to these markets have been steadily increasing since 1995, without GI extension being in place. However, it would be useful to know if trade barriers such as tariffs have more impact on market access than does the protection of GIs. This question was explored in a survey of European industry representatives involved in the production and trade of GI products, mostly cheeses and cured hams. The survey was also extended to importers of GI products located in North America. During the period 2003-2004, 30 individual structured interviews were conducted in France, Italy, Canada and the United States. The majority of the respondents (80 percent) were either export managers (in the EU) or import managers (in North America) working for firms involved in the production and/or trade of GI products. The remaining respondents were either representatives of producer groups involved in the production of GI products or representatives of exporter associations. The questionnaire of the survey was divided in two sections. A semantic differential scale was used in the first part of the questionnaire, while the second part included open-ended questions. The objective of the survey was to determine the perceptions of respondents regarding the issue of geographical indications. Three main topics were discussed in the survey: production of GI products in the EU, exportation of EU GI products (focusing on North America) and the issue of GI extension at the WTO. Some of the most relevant results are presented in the next sections.

Results and Discussions

Barriers to Trade

According to the results of the survey, non-tariff barriers and tariffs (including tariff-rate quotas, or TRQs) have more impact on market access in North America than usurpation of names and utilization of generic names. It appears that, although the usurpation of GIs is an important issue, particularly in the Canadian market, it is not a main barrier to trade of GI products between the EU and North America. In terms of tariff barriers, respondents complained about high over-quota tariffs on imports of cheeses to North America (e.g., 245 percent in Canada) and the small volume of tariff-rate quotas on cheese compared with the demand for imported cheese. The respondents also complained about the administration of the cheese TRQ in Canada, which creates rents to importers estimated at about C\$4/kg and increases the price of imported cheeses with GIs for Canadian consumers. It should be mentioned that the problem of tariff barriers is less relevant for cured hams, because they can be imported duty free into Canada and at a very low tariff into the United States.

In terms of non-tariff barriers, the respondents identified many measures as obstacles to trade; these included technical measures in Canada (e.g., aging for a minimum of 60 days for cheeses made from raw milk) and anti-bioterrorism measures applied to imports of food products to the United States.

Generic Names and Usurpation of Terms

According to some respondents to the survey, the utilization of names in North America such as “parmesan” for extra hard cheese made in North America and “prosciutto” for cured hams also made in North America is a source of concern for EU producers and exporters of GI products. They consider that these terms should be allowed only for products coming from the country of origin. Some respondents also mentioned the issue of Parma ham made and sold in Canada, where the trademark “Parma” is used to designate not only cured hams made locally, but also many other meat products made of pork. However, some respondents believe that the production of copies or the usurpation of names for agri-food products in North America or in other third countries is not a main concern for them. They consider that buyers of these copies are usually not willing to pay high prices for cured hams or cheeses and thus are not target customers for their GI products. According to these respondents, the usurpation of names or production of copies in third countries has no significant impact on their market share of GI products sold abroad.

It should be mentioned that many Italian consortiums and French producer groups have registered certification marks for their GIs in the United States and in Canada, such as Parmigiano Reggiano, Grana Padano, Roquefort and so on (Strategis, 2005; USPTO, 2005). According to the survey respondents, the registration of certification marks for GIs limits the possibility that names will be usurped in these countries. It appears that producers of well known GIs such as Parmigiano Reggiano, Grana Padano and Roquefort would not benefit from GI extension, because they have registered certification marks in North America and in other main import markets. The possible gains from GI extension may be more significant for new import markets or for small GI producer groups who do not have the financial resources to register certification marks for their GIs in each of the import markets.

Many respondents, mostly from Canada and the United States, believe that if there were to be an agreement on GI extension, it would be very difficult to protect certain names in the United States and in Canada, for example “parmesan” or “feta”, because of the generic character of these products. They are produced in large quantities in North America and elsewhere in the world and it is probably too late to protect them. Other cheeses are also included in this category, for example Gorgonzola, Asiago and Fontina. Certain respondents believe that producers of Parmigiano Reggiano in Italy

would not benefit if the name “parmesan” were to be no longer authorized in North America (unless the product comes from Italy), because the price of this product would probably be higher due to short supply, and thus less accessible for the consumer.⁵ Some European respondents believe that, at least, a transition period should be implemented before the terms “parmesan” or “feta” are reserved exclusively for Italian and Greek producers. It is worth mentioning that there is large-scale and widespread production of feta and parmesan in North America. The total value of production for both cheeses is estimated at near C\$1 billion at the wholesale level.⁶

According to some survey respondents, there would be no need to protect GIs for which production is limited and which are not exported. If we look at the claw-back list submitted by the EU at the WTO, this would imply it is difficult to justify inclusion of several GI products on the list. For example, production of both Fontina cheese and Toscano ham is very small; therefore, these two products should not be included on the list. Other food products have more significant levels of production but their exports are very low. Cheeses such as Reblochon, Asiago and Mozzarella di Bufala Campana, and even Gorgonzola,⁷ are in this category and should not be included in the claw-back list. There are other products whose production and exports are significant but some factors need to be taken into account before they are included on the list. For example, the term “Parmigiano Reggiano” may be justifiably be protected, but maybe not the translation “parmesan”, as it is considered generic in many countries. The issue of the term “parmesan” has been discussed at length at the Codex Alimentarius of the United Nations and no agreement has been reached thus far as to whether the term is generic or not (Codex, 2006). There is also a problem with the inclusion of Parma ham on this list. As mentioned before, there is a trademark “Parma” in Canada, which has been registered since 1971. The conflict between the Italian consortium of Parma ham producers and Maple Leaf should be resolved before inclusion of Parma ham on the claw-back list, a decision that would need to be accepted by all WTO members, including Canada.

The strategy the EU has followed, submitting a claw-back list while no other countries did, has not been successful thus far at the WTO. Some of the survey respondents consider this list an ineffective strategy in the context of the WTO negotiations. According to them, the list could be used instead in the context of bilateral negotiations. There is a possibility that the EU may remove the list from its proposal on GI extension (*Inside U.S. Trade*, 2006), although there has been no official announcement thus far by the EU on this subject.

Impact of GI Extension on Consumers

The issue of consumer protection is very relevant to the debate on GI extension at the WTO. According to Josling (2005a and 2005b), if the problem is one of consumer information, there is no need to protect GIs “where there is no evidence of consumer deception or lack of information.” Josling wonders if it is in the interest of the trade system to give protection to agri-food GIs where no consumer deception is at stake. According to this author, such an additional protection “would as likely hamper trade as encourage it.” According to the European Commission and some EU GI-product producer groups, consumers are misled when they purchase certain GI products in North America. Results from our survey do not allow us to clearly evaluate the impact of GI extension for North American consumers, although it does not appear from our observations that the consumer is misled in these countries. In the United States and in Canada, the country of origin is always mentioned on the label of imported food products. Also, the European logo or the French logo for GI products is sometimes included on the label, such as “Protected Designation of Origin” (PDO) and *Appellation d’origine contrôlée* (AOC). Including these designations on the label helps limit any confusion for the North American consumer purchasing GI products.

Our observations on the structure of GI-product retail prices in the United States and Canada for products imported from France and Italy show that there are wide gaps between retail prices in North America and retail prices for the same products in the EU. Our observations also show that there are wide gaps between export prices and retail prices in North America for many GI products. These gaps are only partly explained by transportation costs between the EU and North America and tariff and non-tariff barriers. For example, while the retail price of Roquefort cheese in 2004 ranged from C\$24/kg to C\$32/kg in France, the retail price for the same product ranged from C\$36/kg to C\$70/kg in Canada, while the export price was around C\$22/kg. The same pattern applies to Parmigiano Reggiano cheese, for which the average retail price in Italy was C\$24/kg in 2004, while in Canada the retail price for the same product ranged from C\$24/kg to C\$53/kg and the wholesale price in Italy was C15\$/kg.⁸ Similar examples can be given for other types of cheeses such as Grana Padano or cured hams such as Parma ham. The only factor that can explain these gaps (taking into account transportation costs, tariff and non-tariff barriers and differences in quality and aging) is the very high margins that are taken by middlemen in the United States and Canada (more than 100 percent in certain cases), most likely retailers. It should be mentioned that the value of the rent for imported cheeses in Canada, due to the TRQ, with GIs, as noted previously.

From our observations, the following comments are particularly relevant to the debate on GI extension at the WTO. First, the fact that retail prices of GI products are very high in Canada and the United States does not mean French and Italian producers and processors of these products benefit. In general, wholesale prices of GI products in the EU are comparable to export prices to the North American market. We can thus assume there are no significant benefits to exporting these products to North America compared to selling them in the EU market. In fact, high retail prices of GI products in North America may penalize European producers and processors, because they may contribute to reduced purchases of these products on a regular basis by the consumer, price being an important factor in the North American market. Second, high retail prices of GI products may reduce the potential for the consumer to be misled about the origins of GI products sold in North America, in particular for products such as Roquefort cheese, Parmigiano Reggiano and Parma ham. The consumer may associate the high retail prices of GI products with their French or Italian origins, making it less likely that he or she will be misled about the difference between these GI products and similar products (i.e., copies) coming from the domestic market or imported from other countries.

Conclusion

The observations and survey results presented in this article do not support the position of the group of countries led by the EU on GI extension. To the contrary, these elements support to the position of the group of countries led by the United States. On the issue of market access, there are no indications that lack of protection for GIs at the WTO limits access of EU GI products to the North American import market. This market has been expanding in the last 10 years and the expansion is expected to continue. According to the results of the survey, tariff and non-tariff barriers have a greater impact on market access in North America than do usurpation of GIs and the use of generic names. More research needs to be undertaken regarding this issue for other importing and exporting countries of GI products. This issue may be particularly relevant for developing countries.

The United States and Canada have serious reasons to be concerned about GI extension, especially the claw-back list submitted by the EU. These concerns relate to the importance of generic names such as parmesan and feta and also the registration of the trademark “Parma” in Canada. A solution needs to be found for these products. Elements of the solution could include exceptions, very long transition periods and the possibility of co-existence of both trademarks and GIs in cases such as Parma ham in Canada. In addition, the results of the survey and the other evidence presented suggest

that consumer gains from GI extension would be minimal, although more research needs to be done on this issue.

WTO members, in particular the EU and the other countries supporting GI extension, should take advantage of the current slowdown in the WTO negotiations to reevaluate their proposals. Is the economic value of GI products in the EU sufficiently high to justify concessions that the EU would need to make in agriculture or in other sectors in order to obtain GI extension? The EU would need to take certain facts into consideration: GI products represent a small percentage of total food production in the EU; exports of some GI products to North America are important and growing; and premiums on prices in export markets due to GIs do not necessarily bring benefits to local EU producers, but more likely bring benefits to middlemen in North America. The other element that needs to be considered is the justification for a claw-back list. Should certain names be deleted from the list? Should the entire list be put aside for now? In answering these questions, EU negotiators need to take into account that there has been no significant progress in the discussions on GI extension at the WTO since the 2001 Doha Ministerial Meeting.

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Endnotes

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1. The group of countries led by the EU includes, among others, Switzerland, India and Thailand. The group of countries led by the United States includes, among others, Canada, Australia, New Zealand and Argentina (WTO, 2002a and 2002b).
 2. The following GI products from Italy and France are included in the claw-back list: Italy (cheeses): Asiago, Fontina, Gorgonzola, Grana Padano, Mozzarella di Bufala Campana, Parmigiano Reggiano (and parmesan) and Pecorino Romano. Italy (meat products): Prosciutto di Parma, Prosciutto di San Daniele, Prosciutto Toscano and Mortadella Bologna. France (cheeses): Comté, Reblochon and Roquefort.
 3. Statistics reported in this paragraph exclude wines and spirits.
 4. Based on 2003 data, wholesale value (Confederation of the Food and Drink Industry of the EU-CIAA).
 5. In her analysis, Benavente (2004) also assumes that GI prices would increase in the import markets if GI extension were in place (under oligopoly equilibrium). For more details, see section 3 of her paper.
 6. This estimate is based on annual production of 60,000 tonnes of parmesan and 45,000 tonnes of feta in the United States, and 5,000 tonnes of parmesan and 4,000 tonnes of feta in Canada, for a total exceeding 100,000 tonnes of parmesan and feta in North America (USDA, 2005; AAFC, 2005; respondent estimates).
 7. Exports of Gorgonzola within the EU are significant, but they are very low outside the EU.
 8. The individual export price is not available for this product, because under EU export statistics exports of Parmigiano Reggiano and Grana Padano cheese are reported under the same tariff line.

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