

USDA Foreign Agricultural Service

GAIN Report

Global Agricultural Information Network

THIS REPORT CONTAINS ASSESSMENTS OF COMMODITY AND TRADE ISSUES MADE BY
USDA STAFF AND NOT NECESSARILY STATEMENTS OF OFFICIAL U.S. GOVERNMENT
POLICY

Voluntary _ Public

Date: 12/20/2017

GAIN Report Number: JA7151

Japan

Post: Tokyo

MAFF Approves 70 EU-Proposed GIs for Agricultural Items

Report Categories:

Agricultural Situation

Approved By:

Christopher Riker

Prepared By:

Daisuke Sasatani

Report Highlights:

Japan's Ministry of Agriculture, Forestry and Fisheries approved 70 European Union (EU)-proposed geographical indications for agricultural items on December 15, 2017. NOTE: The EU had been seeking protections for 71 agricultural items, but a formal decision on "Comté" will come later -- after the extended public comment period closes on January 29, 2018. The 70 protections will become effective on the date the Japan-EU Economic Partnership Agreement enters into force (currently anticipated to occur in 2019).

Keywords: JA7151, cheese, labeling, certification

General Information:

Following the announcement of the Economic Partnership Agreement (EPA) between the European Union (EU) and Japan in early July, Japan's Ministry of Agriculture, Forestry and Fisheries (MAFF) published a list of 71 proposed geographical indications (GIs) for which the EU sought protections in Japan (see [JA7098](#), [JA7111](#), and [JA7119](#)).

After the conclusion of a three month public comment period, MAFF released its final decision on the EU's request on December 15, 2017¹ (see Attachment 1 below and MAFF's website at: http://www.maff.go.jp/j/shokusan/gi_act/attach/pdf/index-52.pdf). NOTE: The production process outlined in the GI application to protect "Comté" was subsequently modified. Accordingly, the deadline for public comments on the EU's request to protect "Comté" was extended until January 29, 2018.

The [70 GI protections designated for EU agricultural products](#) will become effective on the date the Japan-EU EPA enters into force (currently anticipated to occur in 2019). MAFF, however, has clarified certain elements of these GI protections for interested parties:

- Although compound terms requested by the EU will be protected, use of the underlined terms {see Attachment 1, Exhibit 2 below} alone (e.g., Romano, Pecorino, Grana, Padano, Nürnberger, Bratwürste, Rostbratwürste, Mortadella, and Bologna) will be permitted for use by non-EU producers so long as the products are not intended to imitate GI terms.
- Cutting and packing of some GI-protected cheese products on the list will be required to be performed in the concerned region. However, if consumed in Japan, it will be permitted to cut and pack the products identified below (i.e., shaded: see Exhibit 2 below) in Japan for a period of seven years. This policy will be reviewed 3 years after the EU-Japan EPA is effectuated.
- The term "Parmesan" can be used alone as a name for hard cheese if it does not cause consumers to have a misconception that the product is Parmigiano Reggiano.
- [Codex Alimentarius standard terms](#) (e.g., Mozzarella, Cheddar, Edam, Gouda, Emmental, Provolone, Camembert, Brie) will not be protected and will remain available for use by non-EU producers.
- Portions of fruit and vegetable names underlined below can be used as variety names if it does not cause consumers to have a misconception that the products in question are authentic products with the GI. For example:
 - Citricos Valencianos will be protected, but Valencianos will not be protected.
 - Elia Kalamatas will be protected, but Kalamatas will not be protected.
 - Pêra Rocha do Oeste will be protected, but Rocha will not be protected.

¹ The Ministry of Finance's National Tax Agency is currently evaluating public comments submitted on 139 EU-proposed GIs for wine, spirits, and other alcoholic beverages.

- Retailers that began to sell any GI-protected item(s) before the EU's GI requests were notified (known as prior users) AND that have continuously and uninterruptedly (at least once every year for the last three years) sold the item(s) in Japan can continue to sell product(s) using the name(s) of the product(s) for seven years after the EPA's effectuation. This allowance is extended to include the manufacturers of processed food using the product(s) as well.

If you believe you qualify as a prior user, you are encouraged to notify MAFF.

Attachment 1

Outline of the final accord on the EU-Japan EPA (GI field)

December 2017

Food Industry Affairs Bureau, Ministry of Agriculture, Forestry and Fisheries

In response to the framework agreement made in July this year, a public notice was issued on GI-protected products from the EU, for 3 months commencing on July 11. Based on the objections submitted during the period of the public notice, necessary coordination was made with the EU.

After that, on November 17 and 30, opinions of the committee consisting of persons of academic standing and experience were sought, and based on such opinions, the final coordination was made with the EU, and the following agreement was reached (See Exhibit 1).

1. Higher level of protection for geographical indications

The EU and Japan will mutually provide a higher level of protection for certain GI-protected products, which include 71 GI-protected products from the EU (See Exhibit 2) and 48 GI-protected products from Japan (See Exhibit 3).

(1) Higher level of protection for geographical indications

Regardless of whether a geographical indication is used as an indication on a product, or is used as a name for a certain service through advertising, the Internet, etc., if the use of a geographical indication falls under one of the categories below, such use is deemed to be GI infringement, and the use of the geographical indication is prohibited.

- (i) Use of a name that could cause consumers to have a misconception that the products in question are authentic products with the geographical indication.
- (ii) Products that do not conform to the detailed statement (meaning a document indicating the place of origin, quality standards, production methods, etc.) will be considered to be products that infringe on GI, even if:
 - A) The place of origin indicated on the products is the true place of origin.
 - B) A translation or transliteration is used.
 - C) An expression such as "-kind," "-type," "-style," etc., is used.

(2) Restriction on prior use

When a name that is the same as or similar to a geographical indication has been used since before the initiation of the protection of geographical indications (prior use), such use of the geographical indication will be prohibited after the lapse of a transitional period of 7 years after the implementation of the EU-Japan EPA.

Based on this agreement, the protection of geographical indications will be further strengthened in Japan, including the protection of Japanese products with registered GI, and discussions over the revisions of the Act on the Geographical Indications will be further progressed covering the following points, as the relevant domestic law of the EU-Japan EPA.

- (i) The subjects of the protection of geographical indications will be expanded, and in addition to indications directly made on products, service-related uses through advertising, etc., will also be covered.
- (ii) The period of the prior use transitional period will be limited to 7 years.

2. Geographical indications to be protected

Based on the actual status of distribution in the Japanese market and the content of the written opinions, the following policies will apply pursuant to the current Act on the Geographical Indications.

(1) When a portion of a compound-term GI is recognized as a commonly used term, the protection of geographical indications will not apply to such portion.

Examples: Camembert, Brie, Emmental, Mozzarella, Provolone, Cheddar, Edam, and Gouda

(2) It is confirmed that a certain term comprising a portion of a compound term is not a name similar to a geographical indication and is not protected as a geographical indication.

Examples: Grana Padano, Pecorino Romano, Nürnberger Bratwurst/Rostbratwurst, and Mortadella Bologna

(3) Based on the actual status of distribution in Japan, "Parmesan," hard cheese is excluded from the protection of geographical indications, considering that "Parmesan" is substantially recognized as a different type of cheese.

(4) When the same name as a geographical indication is used as a name of variety of certain products, such use of the name of variety will be excluded from the protection of geographical indications.

Examples: Valencia Orange, Kalamáta, and Rocha

Outline of the provisions of the EU-Japan EPA (GI field) (Reference)

1. Mutual protection of GI

The partner countries' GI-protected products, which are shown in the attached list (Exhibit 2), will be protected as domestic GI-protected products, from the day of the implementation of the agreement, after taking public notice and screening procedures.

2. Protection level

If the use of a geographical indication falls under one of the categories below, such use is deemed to be GI infringement, and all the use of the geographical indication is prohibited.

I. Use of a name that could cause consumers to have a misconception that the products in question are authentic products with the geographical indication.

II. Products that do not conform to the detailed statement (meaning a document indicating the place of origin, quality standards, production methods, etc.) will be considered to be products that infringe on GI, even if:

- 1) The place of origin indicated on the products is the true place of origin.
- 2) A translation or transliteration is used.
- 3) An expression such as "-kind," "-type," "-style," etc., is used.

3. Reasons for refusal of GI protection

At least the names falling under one of the items below will not be required to be protected as GI.

- (1) Names of botanical varieties and animal breeds
- (2) Common names

4. Relationship with trademarks

If a trademark application is made for a name that is identical to or similar to a protected geographical indication after the implementation of the agreement, the trademark application will be refused if such a trademark could cause a misconception on the quality of products with GI.

5. Exceptions

I. Prior use as agricultural products

In the case of geographical indications of GI-protected agricultural products, the geographical indications may be used for similar products either in the field of products or services, for 7 years after the implementation of the protection under the agreement.

(The exception under I above will not apply to products produced in the partner countries, if the use of geographical indications is contrary to the GI laws and regulations in the partner countries.)

II. Handling of GI-protected cheese products produced in the EU

In the case of cheese products that are required to be processed within the production area in the EU, the rules defined in the EU's detailed statement will not apply, for 7 years, to cases such as where the cheese products are cut into pieces in Japan. (Reviews will be conducted within 3 years after the implementation of the agreement, and a solution will be found by the expiration of the coordination period of 7 years.)

6. Addition of GI-protected products

When the partner countries make a request for an addition of GI-protected products, such products will be protected as domestic GI-protected products, after taking public notice and screening procedures, in the same manner as describe in 1 above. When making an addition, etc., the revision of the list will be made by exchanging an official document, and no Diet approval will be required.

The list of 71 items from EU region under the GI agreement

Category	GI item	Note
Dairy (27)	Belgium-Beurre d'Ardenne Denmark-Danablu France- <u>Camembert</u> de Normandie France- <u>Comte</u> France- <u>Brie</u> de Meaux France-Roquefort France- <u>Emmental</u> de Savoie France-Reblochon / Reblochon de Savoie Greece-Φέτα(Feta) Italy-Parmigiano Reggiano* Italy-Gorgonzola Italy-Asiago Italy-Fontina Italy- <u>Mozzarella</u> di Bufala Campana Italy- <u>Grana Padano</u> Italy-Pecorino Romano Italy-Pecorino Toscano Italy- <u>Provolone</u> Valpadana Italy-Taleggio The Netherlands- <u>Gouda</u> Holland The Netherlands- <u>Edam</u> Holland Portugal-Queijo S. Jorge Spain-Idiazabal Spain-Mahón-Menorca Spain-Queso Manchego The United Kingdom-West Country farmhouse <u>Cheddar</u> cheese The United Kingdom-White Stilton cheese / Blue Stilton cheese	<p>- The portion of names <u>underlined</u> can be used alone if it could not cause consumers to have a misconception that the products in question are authentic products with the geographical indication</p> <p>- The shaded cheeses can be cut into pieces in Japan if the purpose is to consume within Japan for 7 years after the implementation of the agreement.</p> <p>(Reviews will be conducted within 3 years after the implementation of the agreement, and a solution will be found by the expiration of the coordination period of 7 years.)</p> <p>* The term "Parmesan" can be used alone as a name of hard cheese if it could not cause consumers to have a misconception that the product is Parmigiano Reggiano.</p>
Meat (14)	Austria-Tiroler Speck Belgium-Jambon d'Ardenne France-Canard à foie gras du Sud-Ouest (Chalosse, Gascogne, Gers, Landes, Périgord, Quercy)	<p>- The portion of names underlined can be used alone if it could not cause consumers to have a misconception that the products in question are authentic products with the geographical indication</p>

	<p>France-Jambon de Bayonne</p> <p>Germany-<u>Nürnberger Bratwürste</u> / <u>Nürnberger Rostbratwürste</u></p> <p>Hungary-Szegedi szalámi / Szegedi téliszalámi</p> <p>Italy-<u>Mortadella Bologna</u></p> <p>Italy-Prosciutto di San Daniele</p> <p>Italy-Prosciutto Toscano</p> <p>Italy-Zampone Modena</p> <p>Italy-Bresaola della Valtellina</p> <p>Spain-Jabugo</p> <p>Spain-Jamón de Teruel / Paleta de Teruel</p> <p>Spain-Guajuelo</p>	
Vegetable/Fruit (6)	<p>Austria-Steirischer Kren</p> <p>France-Pruneaux d'Agen / Pruneaux d'Agen mi-cuits</p> <p>Greece-Ελιά Καλαμάτας (Elia <u>Kalamatas</u>)</p> <p>Italy-Mela Alto Adige / Südtiroler Apfel</p> <p>Portugal-Pêra <u>Rocha</u> do Oeste</p> <p>Spain-Cítricos <u>Valencianos</u> / Cítricos Valencians</p>	- The portion of names underlined can be used as variety names if it could not cause consumers to have a misconception that the products in question are authentic products with the geographical indication
Seafood (2)	<p>France-Huîtres Marennes Oléron</p> <p>The United Kingdom-Scottish Farmed Salmon</p>	
Edible oil and fats (10)	<p>Austria-Steirisches Kürbiskernöl</p> <p>Greece-Σητεία Λασιθίου Κρήτης (Sitia Lasithiou Kritis)</p> <p>Spain-Aceite del Bajo Aragón</p> <p>Spain-Antequera</p> <p>Spain-Baena</p> <p>Spain-Priego de Córdoba</p> <p>Spain-Sierra de Cazorla</p> <p>Spain-Sierra de Segura</p> <p>Spain-Sierra Mágina</p> <p>Spain-Siurana</p>	
Fruit vinegar (2)	<p>Italy-Aceto Balsamico di Modena</p> <p>Italy-Aceto balsamico tradizionale di Modena</p>	
Confectionary (5)	<p>Cyprus-Λουκούμι Γεροσκήπου (Loukoumi Geroskipou)</p> <p>Germany-Lübecker Marzipan</p> <p>Germany-Nürnberger Lebkuchen</p>	

	Spain-Jijona Spain-Turrón de Alicante	
Other (5)	Czech Republic-Žatecký chmel France-Huile essentielle de lavande de Haute- Provence / Essence de lavande de Haute- Provence Germany-Hopfen aus der Hallertau Greece-Μαστίχα Χίου (Masticha Chiou) Spain-Azafrán de la Mancha	

Information on GIs subject to be designated

(http://www.maff.go.jp/e/policies/intel/gi_act/designation2.html)