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THE FIFTY STATES OF SWAY & THE EUROPEAN CHEESE UNION

WHY THE UNITED STATES AND THE EUROPEAN UNION STRUGGLE WITH THE IMPLEMENTATION OF GEOGRAPHICAL INDICATIONS IN THEIR TTIP NEGOTIATIONS

LANDO M.C. HERMANN*

I. INTRODUCTION

What makes a Roquefort cheese a Roquefort cheese? Is there a difference between a Greek Feta cheese and a Feta cheese produced in the United States? Under EU law, only cheeses aged in the caves of Roquefort-sur-Soulzon in Southern France can bear the name Roquefort and only those cheeses from specific regions in Greece made entirely from sheep’s milk or from a mixture of sheep’s milk and up to 30% of goat’s milk of the same geographical area can bear the name Feta.¹

Although European cheese manufacturers are proud of their

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traditions and their heritage, some countries like the United States of America are producing similar cheese and labeling it as cheeses produced by their European counterparts. Is the Greek sheep farmer worried about the Wisconsin cheesehead? Probably not, but the European Union is, because it has implemented the world’s most sophisticated system for protecting cheeses and other foodstuff as Geographical Indications (“GIs”). As the negotiations on the largest free trade agreement in history are going on, cheese suddenly becomes an important economic factor.

II. BACKGROUND

The European Union (“EU”) and the United States of America are by far the world’s largest economies by Gross Domestic Product (GDP). In 2014, the EU’s GDP totaled more than $18,495,349 billion dollars, accounting for 23.93% of the world’s GDP. In the same year, the US economy had been equally successful with a GDP of $17,418,925, which corresponds to 22.53% of the world’s GDP.

The Transatlantic Trade and Investment Partnership (TTIP) is a

2. See infra Part II. B.
3. EU Geographical Indications worth about €54 billion worldwide, EUROPEAN COMMISSION (Apr. 3, 2014), http://ec.europa.eu/agriculture/newsroom/106_en.htm (stating that GIs represented 15% of the EU’s total food and drink exports, extra-EU exports represented some €11.5 billion and In average GI products were estimated to be sold 2.23 times as high as compared to non-GI products); See Italian bank’s piles of edible gold, CNN (Aug. 16, 2013), http://www.cnn.com/2013/08/15/business/parmesan-cheese-bank-mpe/ (mentioning that in 2013 a cheese bank stacked up 430,000 Parmesan wheels, worth around €190 million, and supporting the idea that in Italy Parmesan cheese is considered to be an investment).
6. WEOD, supra note 4.
controversial free-trade agreement between the European Union and the United States, which if enacted, would create the world’s largest free trade agreement, covering nearly half of the world’s economic power. Proponents argue that the agreement would bring significant boosts to both economies. Opponents, however, criticize its nontransparent process and fear it will garnish limited benefits for the general public in lieu of increased corporate power.

The TTIP negotiations were officially announced on June 17, 2013 by the former president of the European Commission, José Manuel Barroso, at a joint EU–US press conference at the margins of the thirty-ninth G8 summit. The proposed scope of TTIP is gigantic, covering: market access, several industry-specific regulations, and broader rules, principles and modes of cooperation, including Intellectual Property Rights and Geographical Indications.


8. See The Economic Analysis Explained, European Commission at 2 (Sept. 2013), http://trade.ec.europa.eu/doclib/docs/2013/september/tradoc_151787.pdf (stating in a study by the Center for Economic Policy Research (CEPR) that, predictably, an ambitious TTIP deal would increase the size of the EU economy around €120 billion (or 0.5% of the GDP) and the United States by €95 billion or 0.4% of the GDP); See also Ken Clarke, This EU-US trade deal is no ‘assault on democracy’, The Guardian (Nov. 11, 2013), http://www.theguardian.com/commentisfree/2013/nov/11/eu-us-trade-deal-transatlantic-trade-and-investment-partnership-democracy (stating that according to the best estimates available, the TTIP could economy grow the UK’s economy by an extra £10bn per annum).


10. G8 Summit, Lough Erne, June 17–18, 2013, Statement by President Barroso on the EU-US trade agreement with U.S. President Barack Obama, the President of the European Council Herman Van Rompuy and UK Prime Minister David Cameron (June 17, 2013) (announcing the launch of TTIP negotiations).

11. See EU negotiating texts in TTIP, European Commission (Feb. 10, 2015), http://trade.ec.europa.eu/doclib/press/index.cfm?id=1230 (showing regulatory coherence, technical barriers to trade, specific sectoral agreements about textiles, chemicals, pharmaceuticals, cosmetics, medical devices, vehicles, electronics, machinery, pesticides and sanitary measures as examples of topics to be discussed in the TTIP).
A. Geographical Indications

The term “Geographical Indications” is defined in Article 22 (1) of the Agreement on Trade Related Aspects of Intellectual Property Rights (“TRIPS Agreement”). Article 22 provides, “Geographical indications are, for the purposes of this Agreement, indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.” 12 Although Geographical Indications have a long history, the effort to include Geographical Indication in the TRIPS Agreement was advanced mainly by Europe, which aimed to shield its agricultural industry from price-based competition with other WTO member states.13

B. The European Approach

The EU bases the protection of GIs on the idea of terroir, the essential link between location of production and a specific quality or attribute of a product.14 This idea has scientific, as well as cultural, roots including

12. The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is an international agreement administered by the World Trade Organization (WTO) that sets minimum standards for various forms of intellectual property regulation as applied to nationals of other WTO Members. It was negotiated at the end of the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) in 1994 and became effective on January 1, 1996; See Agreement on Trade Related Aspects of Intellectual Property Rights, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex IC 108 Stat. 4809, 1869 U.N.T.S. 299.

13. See MEMO 03/160 Why do Geographical Indications matter to us?, EUROPEAN COMMISSION (Jul. 30, 2003), http://europa.eu/rapid/press-release_MEMO-03-160_en.pdf (stating “[t]he EU has entered, in good faith, in negotiations with its partners in the WTO with a view to further liberalising world trade in agricultural commodities. This will mean, in practice, less export subsidies to our farmers. This policy is embodied in the Commission’s proposed review of the Common Agricultural Policy: compete internationally on quality rather than quantity. Yet, efforts to compete on quality would be futile if the main vehicle of our quality products, GIs, are not adequately protected in international markets.”); see also Gail E. Evans and Michael Blakeney, The Protection of Geographical Indications After Doha: Quo Vadis?, 9 J. INT’L ECON. L. 575 (2006); Michael Blakeney, Stimulating Agricultural Innovation (2005); see generally Bernard O’Connor, THE LAW OF GEOGRAPHIC INDICATIONS (2004) (stating that the term Geographical Indications was first mentioned in international law in the 1883 Paris Convention on Industrial Property); see also Kal Raustiala & Stephen R. Munzer, The Global Struggle over Geographic Indications, 18 EUR. J. INT’L L. 337, 339 (2007) (discussing the fact that in national and regional practice it could date much further back, perhaps to the ancient Greeks and Romans).

climate, temperature, altitude, soil, vegetation, and other factors relevant to a specific geographical location.  

The EU recognized two different types of GIs: (1) Protected Designations of Origin (“PDO”), covering agricultural products and foodstuffs which are produced, processed, and prepared in a given geographical area using recognized know-how; and (2) Protected Geographical Indications (“PGI”) covering agricultural products and foodstuffs closely linked to the geographical area. At least one of the stages of production, processing or preparation has to take place in that area.  

The European Commission administers a comprehensive GI database. As of April 2015, the database contained 659 PDO and 739 PGI and includes cheese GIs like Feta, Asiago and Munster.

C. The US-American Approach

The United States integrated a TRIPS-compliant GI protection in their existing framework of trademarks, using trademarks, certification marks

15. John T Cross, Amy Landers, Michael Mireles, & Peter Yu, Global Issues in Intellectual Property Law 211, THOMSON REUTERS (2010) (discussing, in the example of Feta cheese, the fact that the specific vegetation had been a result of the specific climate which led to a special native breed of sheep whose milk – and therefore final cheese products – combine the very special taste and aroma. Additionally, the interplay between these natural factors and specific human factors like a traditional production method, leads to Feta’s final reputation) [hereinafter Cross].

16. Geographical Indications and Traditional Specialties, EUROPEAN COMMISSION, http://ec.europa.eu/agriculture/quality/index_en.htm (last visited Oct. 5, 2015). See Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs, EUROPEAN COMMISSION (Nov. 21, 2012), http://eur-lex.europa.eu/lex-content/EN/TXT/?uri=CELEX:32012R1151; Council Regulation 510/06, Art. 2(1)(a) (EC), WIPO, http://www.wipo.int/wipolex/en/details.jsp?id=1458 (last visited Nov. 6, 2015) (defining destination of origin as: The name of a region, a specific place or, in exceptional cases, a country, used to describe an agricultural product or a foodstuff: Originating in that region, specific place or country; The quality or characteristics of which are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors; and The production, processing and preparation of which take place in the defined geographical area); Council Regulation 510/06, Art. 2(1)(b) (EC), WIPO, http://www.wipo.int/wipolex/en/details.jsp?id=1458 (last visited Nov. 6, 2015) (defining geographical indication as: “The name of a region, a specific place or, in exceptional cases, a country, used to describe an agricultural product or a foodstuff: Originating in that region, specific place or country; and Which possesses a specific quality, reputation or other characteristics attributable to that geographical origin; and The production and/or processing and/or preparation of which take place in the defined geographical area.”).

and collective marks. Examples include “Florida oranges” or “Idaho potatoes.”

A certification mark can certify (1) a geographic origin; (2) the materials used, quality or method of manufacture; or (3) products made under the auspices of, or by members of a specific trade union or organization. Roquefort, for example, is used to indicate that the cheese has been manufactured from sheep’s milk and cured in the caves of Roquefort in accordance with their long established methods and processes. Certification marks differ from trademarks because certification marks do not indicate commercial source nor distinguish the goods or services of one person from another person. The purpose is to inform purchasers that the goods possess certain characteristics or meet certain qualifications or standards.

Collective marks indicate commercial origin of goods or services but indicate origin in members of a group rather than origin in any one member or party. Furthermore GIs can be protected as trademarks if they are not geographically descriptive or geographically misdescriptive for the specific goods.

III. ANALYSIS

Widespread adoption of “generic” products terms in the US is the main difficulty facing US adoption of EU GIs. In the US, some product terms, like Feta cheese, have been used so widely that consumers view them as representing a category of goods of the same type rather than a specific product. This may have arisen because European immigrants brought the names with many products to the US and used them to promote their own products in their new home. Regardless, of how, or why generic use of

18. Cross, supra note 16 at 214 (explaining that a party may obtain a trademark using a place name upon a showing of distinctiveness).
22. GIPUS, supra note 21.
23. Id.
24. See 15 USC § 1052(e)
25. Alan Matthews, Geographical Indications (GIs) in the US-EU TTIP negotiations, CAP REFORM.EU (June 19, 2014), http://capreform.eu/geographical-indications-gis-in-the-us-eu-ttip-negotiations/ (explaining that the use of the name Fontina as a certification mark indicating regional origin was refused as it was held to be a generic name of a type of cheese, in view of the fact that non-certified producers outside that region use the term to
specific indications became so commonplace in the United States, American jurisprudence has limited the staunch protections desired by the EC.

D. The Position of the European Commission on GIs and IPR in TTIP

This leads to the different views on the importance of Geographical Indications. One of the biggest criticisms of TTIP opponents has been the lack of transparency miring of the process. During the early stages of the TTIP negotiations, the content of the agreement remained nebulous to the public. In January 2015, however, the European Commission bowed to public pressure and published initial position papers, further textual proposals, and factsheets detailing negotiated topics. The EC’s publication included a short factsheet about Intellectual Property Rights, Geographical Indications, and a position paper on Intellectual Property.

Although the information contained in these publications is not particularly detailed, it provides a foundation for understanding the European Commission’s position, including the EC general policy reasons for negotiating Intellectual Property Rights (IPR): the belief that innovation

identify non-certified cheeses).


and creativity drive economic growth in both the US and the EU. IPR, including patent, trademarks, designs, copyright and Geographical Indications, reward individuals and firms who innovate or put their creativity to work. This protection allows firms or individuals who invent, improve, brand or create new products or services to stop their unauthorized use and make money from their effort and investment. According to a recent study, the contribution of IPR-intensive firms estimates nearly 40 percent of the EU economy and 35 percent of the EU’s workforce. 

Furthermore, the European Commission argues that it has developed modern rules to protect IPR, which help generate growth and jobs and ensure the right balance between the interests of (1) those who hold the rights to intellectual property and (2) those who use that property. Despite the fact that the EU and the US are already exporting and importing a lot of goods and services which depend heavily on intellectual property, the European Commission sees “room for improvement” on the US approach to the following topics in TTIP.

The outcome of the negotiations should “raise awareness of the role of IPR in encouraging innovation and creativity; protect the people and firms that come up with new ideas and use them to make high quality products by enforcing IPR rules in a balanced way; encourage investment in research and development that produces new ideas, and branding of products and services”.

Moreover, the European Commission defines four main goals for the TTIP agreement with the US: (1) a list of international IPR agreements which both the EU and US have signed, (2) shared principles that are based on existing rules and practice in the EU and US and stress the importance of IPR in generating innovation, growth and jobs, (3) binding commitments on issue like Geographical Indications or specific aspects of copyright that are protected in the EU like resale rights for visual artists, and public performance, and broadcasting rights, (4) getting governments and stakeholders to work together on areas where they share interests.

The European Commission wishes to commit the US on the issue of Geographical Indications. Although, GIs seems to be one small part of the

29. See IPR/GI, supra note 28.
30. Id.
31. Id.
32. See id. at 1 (“[W]hich is worth about €4.7 trillion each year.”).
33. Id.
34. Id.
35. Id.
36. Id.
IPR protection envisioned by the EC. The EC factsheet includes a sensitive or controversial issues demonstrates that the EU considers GIs as to be a very important factor in their TTIP negotiations.  

The European Commission outlines that many food and drink products originating in the EU are produced, processed or prepared in specific regions and bear names of origin linked to where they originate. Alas, names of origin are protected differently in the EU and the US, creating tension between the each party’s economic and intellectual property interests. While EU law protects them as GIs, US law allows producers to protect these names as trademarks. The current US trademark system allows products to use names of origin from a particular region in the EU, including Feta, or Roquefort, even though those products were not actually produced in that geographical area. The EU argues that the U.S. trademark system leads to consumer confusion in the US, and squeezes out European producers. Accordingly, the EU aims to improve the US system by protecting a specific list of EU Geographical Indications, and establishing enforceable rules to prevent producers from misusing those indications.

In its newest position paper, the European Commission mentions that “the EU has an extensive acquis that includes EU-wide sui generis systems of protection of agricultural products and foodstuffs, wines and spirits,” and sets a list of six more specific goals to be sought regarding the implementation of GIs in TTIP: (1) “Rules guaranteeing an appropriate level of protection for EU GIs,” (2) “Administrative enforcement against the misuse of EU GIs,” (3) the “[e]stablishment of list(s) of GI names, to be protected directly through the agreement.” This list explicitly could include not only European but also US-American GI names, (4) “Specific arrangements for certain specific GI names,” (5) “Exclusive protection for the seventeen EU wine names” included in Annex II of the EU and the U.S. agreement concluded in 2006 on trade in wine,” and (6) “Protection for additional EU GI spirits names.”

37. Id. at 1 (showing the percentage of TTIP negotiations dedicated to GIs).
38. Id. at 3 (listing: “Tiroler Speck, a special kind of ham from Austria; Grappa, a spirit from Italy; and Beaufort, a cheese from France.”).
39. See infra Part III. C for detailed differentiation.
40. IPR/GI, supra note 29.
41. Id.
42. Id.
43. EU-US Trade Deal, supra note 29.
44. Id. (listing Burgundy, Chablis, Champagne, Chianti, Claret, Haut Sauterne, Hock, Madeira, Malaga, Marsala, Moselle, Port, Retsina, Rhine, Sauterne, Sherry and Tokay).
E. The Position of the United States on GIs and IPR in TTIP

The official negotiation position of the United States is more difficult to determine because very few official position papers, factsheets, or drafts have been released. The only publicly available official position from the Office of the United States Trade Representative on the protection of Intellectual Property Rights states that they “seek to obtain appropriate commitments that reflect the shared U.S.-EU objective of high-level IPR protection and enforcement, and to sustain and enhance joint leadership on IPR issues;” as well as “new opportunities to advance and defend the interests of U.S. creators, innovators, businesses, farmers, and workers with respect to strong protection and effective enforcement of intellectual property rights, including their ability to compete in foreign markets.”

To get a better idea what the US position about Geographical Indications in TTIP might be, a look at a business interest group representation might be useful, in this case, the American Chamber of Commerce to the European Union (AmCham EU). The AmCham EU released a comprehensive position paper that largely agrees with both the EU and US general policy statements aimed to strengthen IPR protection and enforcement. The position paper also mentions combating counterfeit goods, preventing attempts by third countries to weaken IP protection, addressing increased requests for compulsory technology transfers licensing and/or disclosure of trade secrets, preventing theft of valuable knowledge and information and adapting the discrepancies of the patentability provisions in the EU and US that induce significant financial costs, addressing inefficiencies in the EU patent system.

Finally, as one of many recommendations, Geographical Indications are mentioned. The AmCham EU explicitly recognizes that the US and the EU take different approaches in the protection of GIs, but takes the view that the primary internationally traded spirits of greatest economic interest to


47. AmCham EU’s position on the Transatlantic Trade and Investment Partnership (TTIP), AmCham AU, 1, (March 14, 2014), http://www.amchameu.eu/TTIP/tabid/400/Default.aspx#usefullinksTTIP.

48. Id. at 35.
the EU and US are already mutually protected, but recommends expanding the geographical indications list to include products that are of significant value or that are commonly exported. 49

In the following sections it will be assumed that this position is relatively close to the actual US position, as it is derived from one of the most influential US lobby groups. 50 The EU’s and US’s differing approaches to Geographical Indications, creates a tension between whether and how to protect this IPR during TTIP negotiations. Although the EU has explicitly addressed the importance of GIs, the US has remained more tepid on the topic, prioritizing other aspects of the agreement. According to the US Dairy Export Counsel, the majority of GIs would probably not cause many conflicts, but cheeses like Feta, Asiago, and Gruyere are now generic, posing a problem in the US. 51 A European attempt to claw back those cheese names would have a significant impact on the internal market and the industry. 52

F. Approach of the Comprehensive Economic and Trade Agreement

The Comprehensive Economic and Trade Agreement (CETA) is a free trade agreement between the European Union and Canada. Although negotiations, have concluded in an agreement, the text still needs approval from the Council of the European Union, the European Parliament, the Parliament of Canada, and the Canadian Provinces. 53 Generally considered a blueprint for the TTIP negotiations, its economic value and impact is

49. E.g., id. at 37 (regarding Scotch Whisky, Irish Whiskey, and Cognac).


52. See e.g., CORPORATE EUROPE OBSERVATORY, supra note 50 (noting the aggressiveness of lobbying efforts).

53. See CETA, Towards a Comprehensive Economic and Trade Agreement (CETA), CANADIAN CHAMBER OF COMMERCE (Sept. 22, 2015), http://eeas.europa.eu/delegations/canada/eu_canada/trade_relations/ceta/index_en.htm (stating at the EU-Canada Summit in Prague on 6 May 2009, the launch of negotiations was announced and CETA negotiations started in October 2009, Delegation of the European Union to Canada) [hereinafter Towards CETA]; e.g., Émilie Potvin, CETA is the Beginning of a New Era in Ca–sh Union-Relations, CANADIAN CHAMBER OF COMMERCE (Oct. 18, 2013), http://www.chamber.ca/media/news-releases/131018-CETA-is-the-beginning-of-a-new-era-in-Cdn-EU-relations/ (regarding another recently negotiated free trade agreement including Geographical Indications is the ‘European Union – South Korea Free Trade Agreement’).
expected to surpass the North American Free Trade Agreement (NAFTA).54

After the final draft of the CETA treaty leaked to the public in August 2014,55 the European Commission published the consolidated text in September 2014.56 Accordingly, how tension regarding Geographical Indications has been resolved can be investigated in some detail. CETA Article 7, of the chapter on Intellectual Property Rights, regulates the treatment of GIs. It can be summarized as follows: Canada granted protection to a list of 145 European GIs, reserving the partial exception of twenty-one names; which conflicted with names already in use in Canada.57 In such cases, individual treatments were created.

Under CETA, five European GIs, which conflict with existing Canadian trademarks would coexist with existing trademarks.58 This solution establishes for the first time in a common law country, like Canada and the US, a deviation from the first in time, first in right principle.59 In fact, prior to the new solution, use of the original EU GIs was lawful, since the GI conflicts with the Canadian trademark.60 Now, eight names will be protected as GIs, and the use of English or French translations of these terms61 will be allowed, provided the use does not mislead the consumer about the true origin of the product.62

54. Markus Beckedahl, EU-Handelskommissar de Gucht bestätig: CETA ist die Blaupause für TTIP, NETZPOLITIK.ORG (Sept. 25, 2014), https://netzpolitik.org/2014/eu-handelskommissar-de-gucht-bestaetigt-ceta-ist-die-blaupause-fuer-ttip/ (stating if CETA will come into effect, there will be less chances to stop the equally nontransparently negotiated TTIP); See Towards CETA, supra note 53.
57. CETA, Summary of the Final Negotiating Results, 14, EUROPEAN COMMISSION (2014) (stating both parties agree to protect both EU and Canadian GIs, while the list of Canadian GIs in the Annex is still empty in the consolidated draft) [hereinafter CETA Summary].
59. CETA Summary, supra note 57, at 14.
60. Id. at 15.
61. Id. (listing Black Forest Ham/Jambon Forêt noire, Tiroler Bacon, Parmesan, Bavarian Beer/Bière Bavaroise, Munich Beer/Bière Munich, St. George, Valencia orange, Comté /County in association with Canadian names of counties).
62. Id.
For another three European GIs the solution involves *grandfathering* the use of these names by certain pre-existing Canadian producers, together with a “phase-out period” for others. 63 Producers who already produced goods using these names for a minimum number of years, and began producing before a specified cut-off-date, may remain on the market. GIs brought to market in a shorter period prior to the cut-off date are given a “transitional period” to “phase out” production. 64

Interestingly Canada agreed to protect the name of five cheeses (Asiago, Gorgonzola, Fontina, Munster and – Feta) of particular importance, even though the names are considered *generic* and therefore not deserving any protection in Canada. Under CETA, the use of these cheese GIs would be protected in Canada with an exception for continued use of grandfathered products. On the other hand, new entrants to the Canadian market could either label their cheeses with new creative or generic names like *salty white cheese* or *creamy stinky cheese*. Or new entrants could sell their products under the five GI names if they are accompanied by additional indications such as “style”, “type”, “kind”, or “imitation.” 65 This will clearly distinguish between the genuine Greek Feta and a Feta-style cheese produced outside of Greece.

Finally, under CETA, the use of flags with symbols evoking the GI or the product’s county or origin is prohibited as it is considered misleading. 66 Applied to Feta sold in Canada, packaging for Feta-style cheese could not use letters of the Greek alphabet, depictions of ancient ruins, or a blue and white color scheme resembling the Greek flag. Additionally, all products must bear an “accurate and visible indication of their true origin.” 67

### IV. RECOMMENDATIONS AND ADDITIONAL OBSTACLES

The CETA agreement between Canada and the EU demonstrates the economic importance of protecting GIs to the EU. The European Union would probably be pleased by a similar outcome in TTIP. However, there are additional obstacles getting in the way. Above all, in terms of economic performance, the US is – contrary to Canada – an equal partner to the EU and therefore has significantly more negotiating leverage. 68

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63.  *E.g.*, id. (listing Nürnberger Bratwürste, Jambon de Bayonne, and Beaufort).
64.  *Id.*
65.  *CETA Summary*, supra note 57 at 15.
66.  *Id.*
67.  *See also id.* (stating regional food names must identify a product based off the territory, region, or reputation of the geographical origin).
68.  *WEOD*, supra note 6, at 54.
Furthermore, several US politicians and industry representatives made clear that the solutions presented in the CETA would not be acceptable to the US.\textsuperscript{69} The CETA would impact around 21 billion dollars of cheeses.\textsuperscript{70} Both politicians and industry representatives prefer a ‘compound system’ with a specific name combined with a geographical designation.\textsuperscript{71} Under this approach, “Greek Feta” could be protected but “Feta” would remain generic. Countries like Italy or Greece insist on the protection of Gorgonzola and Feta because their economic interest is tied to protection of the GIs.\textsuperscript{72} There are, however, dairy representatives in small European countries that are backing down, realizing that protecting their interests in the EU greatly outstrip similar protections in US markets.\textsuperscript{73}

Even if the EU and the US come to a mutually acceptable solution, the treaty needs ratification from all of the 28 EU member states to come into effect. As of April 2015, the vast majority of EU governments support TTIP,\textsuperscript{74} but the sheer number of political fractions in Europe could frustrate the ratification process. Several influential political parties or recently elected governments like Greece – notwithstanding their economic interest in Feta cheese – have expressed significant concerns about ratifying TTIP.\textsuperscript{75} Although the negotiation during the eighth negotiations round on

\textsuperscript{69}. See Mark Astley, Canada-Style EU GI Cheese Compromise ‘Entirely Unacceptable’: USDEC, THE DAIRY REPORTER (July 24, 2014, 17:49 GMT), http://www.dairyreporter.com/Markets/Canada-style-EU-GI-cheese-compromise-entirely-unacceptable-USDEC (‘[CETA] was entirely focused on GI protections while ignoring the elephant in the room – the EU’s creeping restrictions on common food names in its own market and in other markets around the world. Perhaps this is not a concern for Canada, but it is a major problem for the US.’).

\textsuperscript{70}. See also Mark Astley, USDEC, CCFN ‘Absolutely Reject’ Canadian GI Compromise as ‘Model for TTIP,’ THE DAIRY REPORTER (Feb. 5, 2015), http://www.dairyreporter.com/content/view/print/1047577 [hereinafter Reject GI].

\textsuperscript{71}. Astley, Reject GI, supra note 70.

\textsuperscript{72}. See id.

\textsuperscript{73}. See id. (stating as a small country, economic impact would not be high in the US but high in the European Union).


\textsuperscript{75}. See Sarantis Michalopoulous, Syriza-led Greek Parliament ‘Will Never Ratify TTIP’, EURACTIV.COM (Feb. 2, 2015, 8:52), http://www.euractiv.com/sections/trade-society/syriza-led-greek-parliament-will-never-ratify-ttip-311719 (‘I can ensure you that a Parliament where Syriza holds the majority will never ratify [TTIP]. And this will be a big gift not only to the Greek people but to all the European people.’); see also Greece crisis: PM Alexis Tsipras Quits and Calls Early Polls, BBC (Aug. 20, 2015), http://www.bbc.com/news/world-europe-34007859 (stating Greek Prime Minister Alexis
TTIP, which took place in February 2015 in Brussels, included IPR and GIs, at the time of this paper’s drafting, no official documents have been released by either the Office of the United States Trade Representative, or the European Commission.

V. CONCLUSION

Geographical Indications in TTIP are still a controversial topic, but finding a balanced outcome should not be beyond the ingenuity of the negotiators. While both parties’ economic and cultural interests are understandable, CETA goes to show that the EU is willing concede significant exceptions from its desired level of protection in order to come to a mutually beneficial consensus.\(^76\)

Altogether, like TRIPS itself, the conclusion of GIs requires a compromise between the European concerns to protect domestic industries and “new world interests.”\(^77\) EU success establishing a CETA-like arrangement concerning Geographical Indications in TTIP will mainly depend on what other areas of interest within TTIP, the EU is willing to compromise for GIs.

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