



COMPREHENSIVE ECONOMIC AND TRADE AGREEMENT (CETA)

MEETING OF THE COMMITTEE ON GEOGRAPHICAL INDICATIONS, 26 NOVEMBER 2019 (BY VIDEOCONFERENCE)

REPORT

The second meeting of the Committee on Geographical Indications (GIs) established under CETA took place on 26 November 2019 by video conference. Canada and the EU constructively exchanged detailed information on issues related to the implementation of the CETA provisions on GI protection for agricultural products and foods, as well as in relation to other issues of interest.

At the EU's request, Canada confirmed that its GI regime as implemented under the Trademarks Act affords a high level of protection and applies to wines and spirits GIs, as well as agricultural product and food GIs. Canada also provided an overview of its regime for the protection of GIs, explained how the regime was consistent with the CETA GI obligations, and highlighted how EU GI stakeholders could make effective use of available Canadian measures.

Canada stressed its commitment to cooperating on GI related matters, including its willingness to continue to share information and provide any necessary clarifications to deepen EU partners' understanding of the distinct Canadian GI regime.

Canada shared best practices when requesting GI protection with the Canadian Intellectual Property Office (CIPO), and provided an update concerning a recent marginal increase in CIPO's fee schedule for requests to protect GIs under the open system in Canada.¹ Canada committed to share best practices that EU stakeholders should follow when providing relevant information to CIPO for distribution to EU stakeholders. Canada also suggested that the EU continue to encourage their GI stakeholders to request protection for their food GIs under Canada's open GI regime.

The EU raised concerns regarding the effective protection of certain EU GIs in Canada under the Canadian enforcement framework. Canada recognized the importance of these issues for the EU and indicated that the determination of infringement of GI rights is made under the Canadian judicial system, as GIs, like other intellectual property rights, are private rights in Canada. Canada further explained that there are steps within the context of the private right based intellectual property framework that GI right holders may take to address their concerns effectively.

¹ CIPO's fee schedule for requests to protect GIs under the open system in Canada has increased from \$450CAD to \$459.90CAD, an increase of approximately €6.83.

Canada further clarified that EU GI stakeholders can submit GI complaints to the Canadian Food Inspection Agency (CFIA), as it is responsible for assessing and taking appropriate action in cases where food products do not comply with the relevant Canadian safety and labelling requirements. Canada reiterated that this pre-existing, separate legislative and regulatory framework protects consumers from false or misleading labelling representations and deceptive marketing practices. It is a complaint driven, arms-length process separate from intellectual property and GIs. As such, Canada noted that the complaints mechanism under the Canadian labelling framework is available to EU stakeholders and is complementary to the IP framework. Canada reassured the EU that the IP system is the most effective means for EU GI right holders to enforce their GI rights in Canada.

On enforcement generally, Canada noted that the EU and Canadian GI regimes are distinct, and emphasized its commitment to transparency and a willingness to provide information to collaborate with the EU to assist their GI stakeholders to better understand and avail themselves of the enforcement mechanisms available under the Canadian GI regime.

The EU raised its longstanding request and insisted, as a means of effective enforcement, that Canada create a list of grandfathered users of certain names protected under CETA in the Canadian marketplace. Canada underscored that there is no obligation in CETA to develop a list of grandfathered prior users.

The EU raised the situation regarding corrigenda in respect of certain EU GIs listed in Annex 20-A of CETA that were subject to amendments in the EU (e.g. "Prosciutto di S. Daniele", "Jabugo", etc), and explained that these were merely clerical errors that must be reflected under the Canadian GI regime. While Canada acknowledged that these amendments might be of a clerical nature in the EU, Canada explained that this was a very complicated situation given the structure of Canada's legislative process, and committed to provide a response in the near future regarding the request.

Canada reiterated its longstanding request for the EU to provide the single appropriate entity (e.g. "Responsible Authorities" under Canadian law) for each EU GI listed in CETA to update CIPO's List of Protected Geographical Indications. The EU indicated that this information is not publicly available, but that it is working on developing an online database that will include such information for all EU GIs.

Certain GI related issues were also discussed, that were not directly related to the obligations of CETA:

- At Canada's request, the EU provided detailed information on the process for third country applications for agricultural products and food GIs in the EU. The EU confirmed they would provide guidance material on this process for distribution to Canadian stakeholders;
- The EU provided an update on recent developments to their legislation which will extend recent changes to the treatment of wines and spirit GIs to agricultural products and food GIs;
- The Parties discussed the issue of reservation of Internet domain names in Canada related to GIs;
- Canada requested an overview of the recently announced EU-China 100-for-100 GI Agreement;
- At Canada's request, the EU provided information on the infringement proceedings process in the EU, as well as updates to on-going infringement proceedings related to Denmark and Bulgaria;
- Canada also inquired about the procedure and rationale for the reclassification of GI territories and product specifications that form part of existing GIs in the EU; and

- In an effort to exchange information and learn from one another's experiences, Canada requested an update on the ongoing evaluation of the EU Quality Schemes, as well as information related to the development and administration of the EU PDO, PGI, and TSG logos.

Canada and the EU concluded that these issues may merit further updates and discussions at a later stage and reiterated their shared commitment to continue to cooperate and work together on issues.