EU – JAPAN EPA

GEOGRAPHICAL INDICATIONS

This presentation has been prepared with the sole purpose of simplifying the understanding of some parts of the EU-Japan EPA and bears no legal standing.
EPA Process

INCREASE MARKET SHARE EU PRODUCTS

PROMOTION & INFORMATION

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Signature

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Under the supervision of European Commission
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IN A NUTSHELL …

Full protection for 210 EU GIs (wines, spirits and food-stuffs):

- Direct protection of GIs under the EPA.

- Relation between GIs and Trade Marks (TMs):
  - no registration in Japan of subsequent TMs
  - coexistence with pre-existing TMs is addressed

- Listed prior uses to expire within 5 or 7 years

- Possibility to add new GIs in the future.
A geographical indication (GI) is a distinctive sign used to identify a product whose quality, reputation or other characteristic is linked to its geographical origin.

- In the EU a GI can be protected as:
  - Protected Designation of Origin (PDO)
  - Protected Geographical Indication (PGI)
WHAT IS A GI?

- **PDO products:**
  - Quality and characteristics are due to a particular geographical environment;
  - All production steps must take place in the defined geographical area.
  - All raw materials must come from that geographical area.

- **PGI products:**
  - Quality and characteristics are essentially attributable to its geographical origin.
  - At least one stage in the production takes place in that area.

In the EPA no distinction is made between PDG and PGI.
TRIPS vs. EPA

TRIPS

- Art. 22: standard protection if evidence that consumers are misled.
- Art. 23: provides a high level of protection against:
  - Direct or indirect GI use on a non-originating product;
  - Misuse even if true origin is indicated, name is used in translation, or in combination with ‘style’, ‘kind’ or ‘like’.
- No evidence needed that consumers are misled.
- Limited to Wines and Spirits

EPA

- Full TRIPS Art. 23 protection for all listed EU GIs, i.e. not limited to wines & spirits.
Japan to take appropriate measures to protect GIs:
- by means of an “ex officio” enforcement, OR
- On request of the EU

Japan must take necessary measures on its own initiative to stop infringements of EU GIs on its territory, without the introduction of any prior claim or request.
HOMONYMOUS GIs

What provides the EPA?

- Parties may decide the practical conditions on differentiation between such GIs.
- Consumers may not be misled, and equitable treatment of procedures must be taken into account.

What if Japan receives a request to protect a 3rd country GI?

- If homonymous with a EU GI protected under the EPA, the EU to be informed not later than the publication date of the opposition procedure.
- Requests can be refused if the use would mislead consumers on the true origin of the good.
TM vs. GIs

- Japan to refuse the registration of a TM if:
  - misleading of consumers;
  - the TM application is submitted after the applicable date for the protection of the GI concerned in Japan.

GI-TM parallel use:
- The TM has been applied for/registered in Japan in good faith, and
- before the EU GI has been protected under the EPA.

This date shall be:
- For GI already listed: the EIF of the Agreement
- For GIs added after the EIF of the Agreement: the date on which the amendment of the GI list EIF.
PRIOR USE

The use in the territory of one Party of a GI of the other Party identifying an agricultural product for a like good.

Japan has to prevent Prior Use of an EU GI listed in the EPA after a transitional period of:

- **7 years** from the date of protection of EU GIs identifying agricultural products other than wines and spirits;

- **5 years** for GIs identifying wines and spirits.
GI LIST AMENDMENT

- Possibility to add new GI to the EPA lists
  - via the EPA Committee on Intellectual Property,
  - after opposition procedure and examination procedure in Japan.

Opposition when:
- the name conflicts with a plant variety or a breed
- the name is the term customary in common language as the common name of the good concerned.
INFORMATION SOURCES

- How to apply for a GI in the EU:

- GiView: provides a single entry point for data on GIs registered in the EU. It also contains information on non-EU GIs protected at EU level through bilateral and multilateral agreements, and on EU GIs protected in non-EU countries.

- EU legislation related to GIs:
  - Agricultural products and foodstuffs: Regulation (EU) No 1151/2012
  - Wines: Regulation (EU) No 1308/2013
  - Spirits: Regulation (EC) No 787/2019
  - Aromatised wines: Regulation (EU) No 251/2014
INFORMATION SOURCES

- EPA text and Annexes:

  Of which:
  - Annex 2-E: Facilitation of wine export;
  - Annex 14-B: GI lists

- Fiches per sectors and webinars on EPA outcome on Helpdesk website: https://www.eu-japan.eu/epa-helpdesk
INFORMATION SOURCES

- Overall import conditions in Japan:
  - European Commission DG TRADE “Access2Markets Database”:
    https://trade.ec.europa.eu/access-to-markets/en/content/welcome-access2markets-market-access-database-users
  - Japan’s Customs:
    http://www.customs.go.jp/english/c-answer_e/imtsukan/1524_e.htm
INFORMATION SOURCES

▶ European Commission (DG TAXUD) – Rules of Origin:

▶ European Commission: Geographical Indications
INFORMATION SOURCES

EU GI Database:

eAmbrosia

https://ec.europa.eu/geographical-indications-register
Thank you for your attention

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QUESTIONS ?