

Alert

INTELLECTUAL PROPERTY

EU's Request for Geographical Indications Protection may Affect your Products or Trade Marks

By Sandy Donaldson & Amy Bishop

If your business produces or deals in food or beverages, then the European Union's (EU) requests regarding Geographical Indications (GIs) as part of Australia's free-trade negotiations with the EU could have an impact. A GI is a name that indicates that a product has a specific geographical origin or connection.

Australia is currently in negotiations with the EU over the treatment of EU GIs. As one of its key objectives, the EU have listed 172 agricultural/foodstuff names and 236 spirit names for which they are seeking protection as GIs in Australia. The requested EU GI list is at <https://dfat.gov.au/trade/agreements/negotiations/aeufta/public-objections-gis/Pages/list-of-european-union-geographic-indications-gis.aspx>. Some notable (and obvious) examples are:

Food

- **Brie** de Meaux
- **Camembert** de Normandie
- Roquefort
- Καλαμάτα (Kalamata) (in relation to Olive Oil)
- Φέτα (Feta)
- Gorgonzola
- Mortadella Bologna

- Parmigiano Reggiano
- Taleggio
- **Edam** Holland
- **Gouda** Holland
- Scotch **Beef**
- Scotch **Lamb**
- White Stilton Cheese
- Blue Stilton Cheese

Spirits

- Calvados
- Cognac
- Irish Cream
- Irish Whiskey
- Grappa
- Scotch Whisky

Many of the GIs are not likely to be used, but we recommend that you check the full list.

The EU has said that protection is not sought for those of the above names which are underlined when used by themselves. Thus, use of these names is permitted, as long as they are not used in a way that may deceive or mislead consumers as to the true origin or quality of the product.

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The protections the EU is seeking is that the GIs not be used commercially on comparable products or, in some cases, as an ingredient. Specific provisions are proposed to prevent circumvention of the rules by using wording such as “imitation”, “flavour”, “like” and similar phrases with the GI, such as “produced like Edam Holland”. The EU also seeks to restrict packaging and advertising and other practices that are false or may mislead a consumer as to the true origin of a product or ingredient. It does not appear that any similar requests for protection of any Australian GIs in relation to food have been made by Australia.

The Australian Government, through the Department of Foreign Affairs and Trade (DFAT), is seeking input from traders who might be using any of the proposed protected GIs whether they be retailers, restaurants, bakers, caterers or food manufacturers. If you think protection of any of the EU GIs on the list will adversely affect your interests you can lodge an objection using the template provided by DFAT. The objection needs to meet specified grounds and supporting evidence such as packaging and menus will be required. There is a deadline for submitting an objection of 13 November 2019. The link to the DFAT webpage for objections procedure and the template document is <https://dfat.gov.au/trade/agreements/negotiations/aeufta/public-objections-gis/Pages/default.aspx>.

If you think this might affect you and wish to make an objection we will be happy to assist.



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