March 11, 2025

Ambassador Jamieson Greer
U.S. Trade Representative
Office of the U.S. Trade Representative
600 17th Street, NW
Washington D.C. 20508

USTR-2025-0001

PUBLIC DOCUMENT

Re: Comments of the National Milk Producers Federation on the EU's Unfair Trade Practices

Dear Ambassador Greer:

On behalf of the National Milk Producers Federation ("NMPF"), U.S. Dairy Export Council ("USDEC") and Consortium for Common Food Names ("CCFN"), we provide these comments to the Office of the United States Trade Representative ("USTR") to assist USTR in identifying unfair trade practices. These comments are submitted in response to the *Request for Comments to Assist in Reviewing and Identifying Unfair Trade Practices and Initiating All Necessary Actions to Investigate Harm From Non-Reciprocal Trade Arrangements*, 90 Fed. Reg. 10677, (Feb. 25, 2025).

U.S. cheese producers currently face significant trade barriers that restrict market access for U.S. dairy products in foreign markets. In particular, the European Union has weaponized trade rules for geographical indications ("GIs") around the world to promote European agricultural products and foodstuffs, at the expense of U.S. and non-EU competitors. GIs describe specialized products made in a specific region in a specific manner to protect that product's unique nature. The EU has established a distinct regime for the protection of GIs which covers three EU-wide quality labeling schemes:[1]

1. Protected Designations of Origin ("PDO") covers agricultural products and foodstuffs whose quality or characteristic is essentially or exclusively due to a particular geographic environment and is produced, processed, or prepared in a given geographical area using recognized know-how.

2. Protected Geographical Indication ("PGI") covers agricultural products and foodstuffs whose quality, reputation, or other characteristics closely linked to a geographical area, and where at least one of the stages of production, processing, or preparation takes place in the area.

3. Traditional Specialties Guaranteed ("TSG") covers foodstuffs highlighting a traditional feature, such as the means of production or its composition. Unlike PDO and PGI marks, the geographical origin of a TSG registered product is irrelevant.[2]

EU Member States are responsible for the enforcement of GIs, including controlling the proper use of registered terms and preventing fraudulent production, sale, and use of GIs. The European Commission is responsible for the registration, amendments, and cancellation of GIs.[3] The EU protects more than 3,400 product names – including many names that are demonstrably generic – for agricultural goods, including fishery and aquaculture products, wines, spirits, and other products.[4] GI protections can confer an unfair competitive advantage to those with the right to use the indication within the EU and can provide those GI holders with unfair advantages in exporting their products to foreign markets. Conversely, GIs have also been used by EU rights

---

[1] *See* Regulation (EU) No 1151/2012. GIs for wine and spirits are governed by separate regimes. *See* Regulation (EU) No 1308/2013 and Regulation (EU) No 2019/787.

[2] *Geographical indications and quality schemes explained*, EUROPEAN COMMISSION, available at: https://agriculture.ec.europa.eu/farming/geographical-indications-and-quality-schemes/geographical-indications-and-quality-schemes-explained_en.

[3] *Commission welcomes political agreement to strengthen protection of high quality food and drink products*, EUROPEAN COMMISSION (Oct. 24, 2023), available at: https://ec.europa.eu/commission/presscorner/detail/en/ip_23_5242

[4] *GI issues in the future of the CAP*, USDA – FAS, GAIN Report (Mar. 18, 2022), available at https://apps.fas.usda.gov/newgainapi/api/Report/DownloadReportByFileName?fileName=GI%20issues%20in%20the%20future%20of%20the%20CAP_Brussels%20USEU_European%20Union_E42022-0016.pdf.

holders as a tool to eliminate competition from U.S. and other suppliers within the EU and to prevent competitors from taking advantage of growing foreign markets by impeding their ability to export their products to non-EU markets as well. Thus, when unfairly applied in a discriminatory manner against producers from particular countries, GIs can be weaponized as an anti-competitive tool to promote the industry of the origin country at the expense of their competitors, including in third countries. This is precisely how the EU has used its GI regime – to eliminate from the global marketplace products that successfully compete against EU-origin products. Given the size and strength of U.S. cheese production and the growth of U.S. cheese exports over the past decade – which is poised to continue if a fair commercial playing field is available – the EU's abuses fall most heavily on U.S. cheese manufacturers.

One of the most egregious examples of this is the EU's treatment of U.S. parmesan, which the EU identifies as an "evocation" of the PDO "Parmigiano Reggiano." That is, the EU considers that "parmesan" is not a generic name and that it has a geographical connotation linking products labelled as such to Italy despite the fact that "parmesan" has been produced in many countries for decades and as such has long since come to indicate a style of cheese, not an origin of production.

The EU's application of its GI regime with respect to parmesan has impeded market access in the EU for U.S. dairy products, and is indicative of the EU's discriminatory and burdensome approach to GIs. Moreover, the EU has been working relentlessly to extend these restrictions on competition to third-country markets as well, which would dramatically amplify the impacts on U.S. cheese manufacturers.

Consistent with the WTO TRIPS Agreement, the United States does not protect geographic terms or signs that are generic. A term or sign is considered "generic" when it is "so widely used that that consumers view it as designating a category of all of the goods or services of the same type, rather than as a geographic origin."[5] The United States does not have a list of indications that are considered "generic"; however, the courts typically make this determination based on a fact-specific analysis.[6] Once a GI is determined to be "generic," any producer may use the designation for its goods or services.[7] However, the EU's approach to GIs differs from the U.S. approach in important ways. While the EU asserts that it does not protect "generic terms" as GIs, in practice, the EU has *never* denied a GI application from an EU applicant on the grounds that it covers a generic term. Moreover, it is not possible under the EU GI regime for a protected term (*i.e.*, a term that the EU has designated as a GI) to become generic. Thus, the EU's approach unjustifiably protects terms (and blocks market access for non-EU products using those terms) covering products that are considered generic – in perpetuity – as a competitive tool rather than for any principled stance.

The EU also has carried out its strategy through the exporting of its over-expansive approach on GIs to third country markets where U.S. producers have interests. The EU has negotiated provisions in several of its free trade agreements addressing the treatment of GIs, such that those countries are obligated to protect GIs for products of EU interest, at the expense of U.S. market access in those third countries. These negotiated provisions limit, or outright block, the sale of products marketed using terms that the EU consider to be covered by GIs. The EU has coerced these third countries into adopting such provisions by conditioning preferential

---

[5] *Geographical Indication Protection in the United States*, U.S. PATENT AND TRADEMARK OFFICE, available at: https://www.uspto.gov/sites/default/files/web/offices/dcom/olia/globalip/pdf/gi_system.pdf.

[6] David Morfesi, "Geographical Indications," U.S. PATENT AND TRADEMARK OFFICE, GLOBAL INTELLECTUAL PROPERTY ACADEMY, available at: https://www.uspto.gov/video/cbt/GIPA-English/GI/index.htm.

[7] *Geographical Indication Protection in the United States*, U.S. PATENT AND TRADEMARK OFFICE, available at: https://www.uspto.gov/sites/default/files/web/offices/dcom/olia/globalip/pdf/gi_system.pdf.

agricultural market access to the EU on third countries' adoption of the EU's preferred GIs and GI regulations.

The U.S. government continues to have strong concerns about the EU's overbroad protection of GIs, which has featured prominently in the most recent annual National Trade Estimate. In that report, the United States correctly notes that the EU's GI policy adversely impacts both protection of U.S. trademarks and market access for U.S. products in the EU and third country markets. As USTR acknowledges in its Federal Register Notice requesting these comments, the United States has a significant trade in goods deficit with the EU. In fact, U.S. goods exports to the EU were $370.2 billion in 2024 compared to $605.8 billion in goods imports from the EU in that year. For dairy products alone the EU exported $3 billion to the U.S. last year while benefiting from quite minimalist U.S. import requirements, while U.S. exports to the EU were a scant $167 million due to tariff and regulatory imbalances including the EU's GI regime. Thus, the EU's overbroad protection of GIs greatly exacerbates the trade deficit with EU and should be addressed to help close the gap and establish a more reciprocal trading arrangement. Moreover, it is critical that the United States address these challenges effectively to support U.S. dairy farmers and processors.

*   *   *

If you have any questions regarding this submission, please contact us. Points of Contact: Jaime Castaneda (jcastaneda@nmpf.org) and Shawna Morris (smorris@usdec.org).