

SPS Measures VS GI Protection in Trade Agreements: Concerns of Cheese, Certification, and Compliance

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This paper examines Geographical Indications (GI) as collective Intellectual Property instruments that link regional heritage with trade performance and inclusive growth. It emphasises the role of PGI and PDO frameworks in safeguarding origin-based quality, strengthening consumer confidence, and ensuring fair producer recognition, particularly in India's context of intensifying competition and educated unemployment.

This paper analyses the position of Geographical Indications (GI) and their relationship with Intellectual Property Law, the SPS Regulation, international trade obligations (TRIPS Agreement), and their role in the Indian market. It distinguishes between GIs and GI labels and assesses the effects of GI protections on market access, consumer perceptions, and domestic producers. The paper also evaluates the challenges of foreign GI registrations (i.e., European cheese products) in the Indian market. It asserts that, although GI can strengthen regional branding and increase exports, it requires effective enforcement, SPS compliance, and balanced trade policies to protect domestic economic interests and promote rural development.

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Abstract

This paper examines the evolving framework of Geographical Indications (GIs) in India and its intersection with intellectual property protection, sanitary and phytosanitary (SPS) regulation, and international trade obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). This study analyses the Geographical Indications of Goods (Registration and Protection) Act, 1999, as India's sui generis tool for safeguarding the attributes and prestige of goods whose inherent features relate to their place of origin. It also examines how the competent authorities, including the FSSAI and APEDA, oversee the implementation of sanitary and phytosanitary (SPS) regulations that have a major effect on the commercial viability and export competitiveness of GI-labelled products. While SPS requirements provide the necessary credibility and traceability for GI products to compete in the global marketplace, they also create significant financial hurdles for smaller-scale and medium-sized businesses. A comparative examination of the differences between GI tags and GI labels is included, along with an explanation of their respective legal and commercial roles in consumer protection and market management systems. In addition, the study evaluates the uneven distribution of global GI protection systems and the tension developing between GI-based systems and trademark-centric jurisdictions, specifically regarding the treatment of products identified as generic by the U.S. System. The issue of foreign GI-protected cheese products entering the Indian market, and how this access impacts dairy farmers and rural communities in India, is examined in depth.

This paper analyses the position of Geographical Indications (GIs), their relationship with Intellectual Property Law, the SPS Regulation, and international trade obligations (TRIPS Agreement), as well as their role in the Indian market. It distinguishes between GIs and GI labels and assesses the effects of GI protections on market access, consumer perceptions, and domestic producers. The paper also evaluates the challenges of foreign GI registrations (i.e. European cheese products) in the Indian market. It asserts that although GIs can strengthen regional branding and increase exports, they require effective enforcement, SPS compliance, and balanced trade policies to protect domestic economic interests and promote rural development.

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SPS Measures VS GI Protection in Trade Agreements: Concerns of Cheese, Certification, and Compliance

1. Introduction

Geographical indications (GIs) are governed in India by a legal regime designed to provide a balanced solution that aligns the protection of intellectual property at the domestic level with India's obligations under international trade law, and to protect traditional knowledge and goods manufactured on the basis of that knowledge. The main law that sets out India's obligations under the TRIPS Agreement regarding the minimum level of protection is the Geographical Indications of Goods (Registration and Protection) Act, 1999 (hereinafter, 'the GI Act'). India's TRIPS obligations regarding GIs are set out in Articles 22-24 of the TRIPS Agreement. The GI Act provides for a sui generis method of registering goods with attributes primarily attributable to their geographical origin, including quality and reputation. The GI Act also establishes a Geographical Indications Registry, provides for opposition and correction procedures, grants exclusive rights to registered users, and prohibits the unauthorised commercial use (without consent) of registered goods. Further to this, the GI Act protects GIs against direct misuse and unfair competition, passing off (trademark infringement), and misleading indications of origin (false representation of origin), thereby protecting the integrity of regional products in both domestic and international markets. ²

In India, how Geographical Indications are protected depends largely on the effectiveness of the country's regulatory compliance mechanisms, particularly in their intersection with sanitary and phytosanitary (SPS) compliance. As an active member of the World Trade Organisation (WTO), India must comply with the SPS Agreement, which allows WTO members to implement measures they deem necessary to conserve and protect human life, animals, or plants, provided that such measures are scientifically supported and do not discriminate against others. In connection with this, regulatory authorities such as the Food Safety and Standards Authority of India (FSSAI) and the Agricultural and Processed Food Products Export Development Authority (APEDA) support the effective implementation of GI protection in the Indian market by ensuring that GI-tagged products comply with India's domestic safety requirements and that they comply with their trading

² Geographical Indications of Goods (Registration and Protection) Act, 1999, sec 11–25; TRIPS Agreement, Arts. 22–24.

partners' specific import requirements. For example, both Darjeeling Tea and Alphonso Mango must meet strict maximum residue limits (MRLs) for chemical residues, complete traceability processes for imported goods, and certification standards for products exported to European Union countries. Although linking GI protection to SPS compliance improves product credibility, it also increases transaction costs for small- and medium-sized producers who lack the resources to meet complex regulatory requirements.³

2. Comparative Framework of GI Tags and GI Labels

In terms of trade and market access, India's GI regulatory framework has had a multifaceted impact. On one hand, GI recognition has enabled a differentiated product offering in the competitive global marketplace, allowing Indian producers to achieve premium pricing through brand values built on authenticity and origin. Increasingly, GI-tagged products form part of India's export promotion strategies and are often key issues in bilateral and regional trade negotiations. On the other hand, the global geography of GI protection is fragmented, which contributes to the lack of legal and commercial clarity and certainty between nations. In particular, there is considerable conflict between GI regimes and trademark-based systems in certain jurisdictions, especially the United States, where certain product names, particularly in dairy, are treated generically rather than as identifying origin. This difference presents considerable challenges for Indian exporters, who must navigate differing standards of protection, labelling requirements, and SPS barriers across jurisdictions. Therefore, while the existence of GI Protection may enhance market access in jurisdictions with robust GI regimes, there may also be restrictions on market access in jurisdictions where the names are considered generic and/or face competing intellectual property rights.⁴

The GI regime in India is a key intersection of intellectual property (IP) law, food safety regulation, and trade policy. The GI regime has been instrumental in cementing the international status of Indian agricultural, manufactured and artisanal goods. Still, its efficacy will ultimately depend on the compatibility of domestic enforcement systems with international standards for sanitary and phytosanitary measures (SPS) and on addressing the legal asymmetries created by countries' different approaches to enforcing GIs. The

³ WTO Agreement on the Application of Sanitary and Phytosanitary Measures, 1994; FSSAI Regulations; APEDA Export Guidelines.

⁴ Dev Gangjee, *Relocating the Law of Geographical Indications* (Cambridge University Press, 2012); WTO Disputes DS174/DS290 (EC–GIs).

evolution of the GI regime will also remain a major factor in determining how well India can capitalise on its wealth of geographically determined products in an increasingly regulated and competitive world market.⁵

The problem of accessing the cheese market in India needs to be viewed in the larger context, including Geographical Indications (GI), access to our domestic markets, and the registration of foreign GIs. The research shows that, through GI protection, global trade flows can be affected, consumers' perceptions of certain products can change, and the welfare of domestic producers can be altered by the introduction of foreign GIs into their countries. Therefore, appropriate policy consideration should be given before allowing these foreign products to enter India, since they compete with our domestic Products and are substitutes in the market.

Geographical Indications are defined as signs or names used on products that identify a specific geographical origin and indicate that the product possesses qualities, reputation, or characteristics attributable to that origin. These protections are recognised under the TRIPS Agreement as a form of intellectual property that links products to regional heritage and production practices. The GI system is particularly significant for products in which traditional knowledge, natural conditions, and local expertise shape the final product's quality. In the case of European cheeses such as Parmigiano Reggiano or Roquefort, GI protection is linked to strict regional production requirements and traditional practices that ensure authenticity and premium pricing.⁶

However, the introduction of foreign GI-protected cheese products into the Indian market raises concerns regarding market access and domestic competition. The paper explains that India's GI system distinguishes between domestic GIs and imported GIs registered for market access. Domestic GIs originate in Indian regions and are primarily intended to support domestic production and promote exports. In contrast, foreign GIs are registered mainly to secure market exclusivity in India. This distinction becomes important when analysing sectors such as dairy products and cheese, where imported GI goods may compete directly with domestic alternatives.

⁵ N. S. Gopalakrishnan & T. G. Agitha, *Principles of Intellectual Property* (Eastern Book Company, 2014).

⁶ Murali Kallummal, Sushmitra Dahal & Anna Anu Priya, *Socioeconomic, Trade and Developmental Linkages: Providing the Trade (HS) Link to Indian GIs*, CRIT/CWS Working Paper Series No. 94 (2025), p.1,7,9,10,34,37.

The research paper by Author Kallummal and others shows that India has 405 domestic GIs and 31 foreign GIs, registered primarily for market access. This distribution illustrates that the Indian GI framework is largely oriented toward protecting domestic cultural and economic interests. However, registering foreign GIs introduces complex legal and trade issues. When foreign products receive GI recognition in India, they gain exclusive rights to use particular names and branding, which can influence consumer preferences and market dynamics. The concept of domestic market access is also critical in this discussion. Domestic GI products are intended to strengthen rural economies, promote regional branding, and ensure that economic benefits remain within local communities. If large volumes of imported GI products, such as European cheeses, enter the Indian market, domestic producers may struggle to compete with established international brands that already enjoy strong reputational advantages. This could lead to market displacement and reduce incentives to develop local dairy-based GI products.

The research paper of Author Kallummal and others also highlights another significant difference between a GI label and a GI tag. A GI tag is an official government designation identifying a product that originated from a given geographical area. As such, it establishes an owner's rights to their goods and prevents other parties from using the name to sell counterfeit goods or to associate themselves with a legitimate producer. A GI label, on the other hand, is the actual physical or visual representation of a product's GI status for consumers. The label serves as both an advertisement and an informational tool, helping consumers identify whether a product is authentic and where it was produced. The transition from a GI tag to a GI label, particularly within the framework of Voluntary Sustainability Standards (VSS), may be viewed as a critical stage in developing policies that enable consumers to associate legal rights with symbols that influence purchasing behaviour.⁷

2.1 GI Tags vs. GI Labels

A GI Tag is a legal recognition indicating that a product from a specific geographic region has unique qualities, traits, or reputation associated with that geographic origin. A GI label is the physical mark on a product that indicates it has GI status and identifies

⁷ Murali Kallummal, Sushmitra Dahal & Anna Anu Priya, *Socioeconomic, Trade and Developmental Linkages: Providing the Trade (HS) Link to Indian GIs*, CRIT/CWS Working Paper Series No. 94 (2025), p.1,7,9,10,34,37.

products that do; therefore, GI labels are primarily used for marketing and logistical purposes.

GI Tags also serve a functional and governance role by granting registered products legal and intellectual property rights and protection. GI Tags in India are granted and managed by the GI Registry, as prescribed by the Geographical Indications of Goods (Registration and Protection) Act of 1999, while GI labels communicate the authenticity and geographic origin of goods to consumers. GI labels are generally created and managed by producer groups or certifying bodies; they are part of the broader framework of voluntary sustainability standards.

The GI Tag grants the right to use the product's name in its area. The use of GI Tags affects the types of products you can use and where you can sell them. A GI Label does not have independent legal status; it must be associated with a valid registration. GI Labels will then be used by producers who can prove they are authorised to use the GI label on their products. An example would be that a GI Tag for Darjeeling tea would mean it is manufactured in Darjeeling. Still, GI Labels will be on individual packages of tea, which will note “**Certified GI-Darjeeling Tea**”, thus confirming the authenticity of the tea you are purchasing.

2.2 Bifurcation of generic cheese names and GI tag, in the following:

- Category 1: Generic / Widely used names. India can accept the common names.
- Category 2: Names linked to protected EU GIs (or strongly origin-linked).

2.3 Protected Designation of Origin (PDO) and Protected Geographical Indication (PGI)

Within the European Union's quality policy framework for agricultural products and foodstuffs, Protected Designation of Origin (PDO) and Protected Geographical Indication (PGI) are two forms of geographical indication protection that safeguard product names linked to specific regions. A Protected Designation of Origin (PDO) refers to products that are produced, processed, and prepared entirely within a defined geographical area, where the quality or characteristics of the product are essentially or exclusively attributable to the particular geographical environment, including natural and human factors. This represents the highest level of geographical protection, as every stage of production must take place within the designated region. Examples include cheeses such

as *Camembert de Normandie* and *Pecorino Romano*, where the production process and product reputation are closely tied to the place of origin. ⁸In contrast, a Protected Geographical Indication (PGI) provides a slightly broader form of protection. Under the PGI scheme, a product must originate from a specific geographical area and possess a particular quality, reputation, or other characteristic attributable to that area; however, only one stage of production, processing, or preparation must take place within the defined region. Consequently, PGI protection recognises a product's geographical reputation while allowing greater flexibility in production. Examples include products such as *Gouda Holland* and *Burrata di Andria*, where the product's reputation is linked to a geographical location, but not all stages of production must necessarily occur there.

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The EU Regulation 1151/2012 on quality schemes for agricultural products and foodstuffs governs both PDO and PGI. It establishes the legal framework for the registration and protection of geographical indications within the European Union. These schemes aim to protect traditional product names, prevent misuse or imitation, and promote rural development by recognising the value of regional agricultural products.⁹ While these designations are legally binding within the European Union, their protection in third countries such as India generally arises through domestic GI registration systems or bilateral trade agreements, including negotiations on geographical indication protection in free trade agreements.¹⁰

Table 1: Generic Cheese Names (India Can Potentially Accept), which are generally considered Generic Internationally.¹¹

Sl. No	Cheese Name	GI Status in the EU	GI Status in India	Status in the US / Other Jurisdictions	Explanation /Why Treated as Generic
1	American	No GI	No GI	Generic in the US and globally	Processed cheese category, not linked to geography

⁸ European Commission, 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, OJ L 343, 14.12.2012, Art. 5(1).

⁹ European Commission, *Quality Schemes Explained*, available at: <https://agriculture.ec.europa.eu> (last accessed April 2026)

¹⁰ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), Arts. 22–24; Geographical Indications of Goods (Registration and Protection) Act, 1999 (India).

¹¹ United States Trade Representative (USTR), *Report on the Protection of Common Food Names*, which identifies several cheese names such as Cheddar, Colby, Monterey Jack, Ricotta, and Cream Cheese as widely used generic food names in international trade.

Sl. No	Cheese Name	GI Status in the EU	GI Status in India	Status in the US / Other Jurisdictions	Explanation /Why Treated as Generic
2	Blue / Blue Vein	No GI	No GI	Generic globally	Describes production method (blue mould) rather than origin
3	Cheddar	Partial GI – only West Country Farmhouse Cheddar (PDO)	No GI registered	Treated as generic in the US, Canada, and Australia	The base term “Cheddar” is widely used worldwide
4	Chevre	No GI	No GI	Generic	French word meaning “goat cheese”, descriptive term ¹²
5	Colby	No GI	No GI	Generic	Named after a US town but not protected as GI
6	Cottage Cheese	No GI	No GI	Generic	Product category
7	Cream Cheese	No GI	No GI	Generic	Industrial dairy product
8	Coulommiers	No PDO/PGI	No GI	Often treated as generic outside the EU	Not registered in the EU GI database
9	Limburger	No GI currently	No GI	Generic in the US markets	Historical origin Belgium/Germany, but no GI protection
10	Mascarpone	No GI	No GI	Generic	Italian origin, but not GI-protected
11	Monterey / Monterey Jack	No GI	No GI	Generic in the US and globally	Origin California, but not a protected GI
12	Pepper Jack	No GI	No GI	Generic	Flavour variant of Monterey Jack
13	Ricotta	Partial GI – Ricotta Romana (PDO)	No GI	Generic in the US, Canada	Base term widely used internationally
14	Samso	No GI	No GI	Generic	Danish cheese style
15	Danbo	No GI	No GI	Generic internationally	Danish-style cheese

Source: European Commission, eAmbrosia – The EU Geographical Indications Register, available at: <https://agriculture.ec.europa.eu/eambrosia> (last accessed 2026).

Table 2: Cheese Names with PDO / PGI Protection

Sl no.	Cheese Name	PDO/PGI Status	Jurisdiction Protecting It	Protection Example
1	Brie	PDO variants	EU (France)	Brie de Meaux PDO
2	Burrata	PGI	EU (Italy)	Burrata di Andria PGI
3	Camembert	PDO	EU (France)	Camembert de Normandie

¹² European Commission, eAmbrosia – The EU Geographical Indications Register, available at: <https://agriculture.ec.europa.eu/eambrosia> (last accessed April 2026)

Sl no.	Cheese Name	PDO/PGI Status	Jurisdiction Protecting It	Protection Example
4	Edam	PDO	EU (Netherlands)	Edam Holland
5	Emmental / Emmentaler	PGI / AOP	EU / Switzerland	Emmental de Savoie
6	Gouda	PGI	EU (Netherlands)	Gouda Holland
7	Mozzarella	PDO	EU (Italy)	Mozzarella di bufala campana
8	Pecorino	PDO	EU (Italy)	Pecorino Romano
9	Provolone	PDO	EU (Italy)	Provolone Valpadana
10	Saint-Paulin	Historically protected	France	Regional designation
11	Tilsiter	Protected	Switzerland / EU	Swiss Tilsiter
12	Tomme	PGI	France	Tomme de Savoie

Source: The classification table data is extracted from official GI registries and international sources, mainly: EU GI Register (eAmbrosia): European Commission, WIPO GI resources, TRIPS Agreement Art. 22–24 principles on generic names, existing EU protected designations (PDO/PGI)

These are protected in the EU GI register (eAmbrosia) and are often demanded in EU trade agreements. India should avoid accepting these cheese names as generic, as many are protected as geographical indications (PDO/PGI) in the European Union's official GI register (eAmbrosia), and the EU routinely seeks recognition and protection of such names in its trade agreements with partner countries. Accepting these terms as generic or permitting unrestricted trademark use in India could undermine India's negotiating position in the India–EU future negotiations on a dedicated Geographical Indications Agreement. It may also create potential disputes or conflicting obligations between India and the EU, particularly if the EU later seeks protection for the same names as GIs in India. Moreover, under India's Geographical Indications of Goods (Registration and Protection) Act, 1999, GI protection generally takes precedence over trademarks, and premature recognition of these names as common terms may complicate future GI registrations and negotiations.¹³ⁱ

2.4 Explanation of the GI Status of Selected Cheese

Several food product names, such as Feta, Gouda, Camembert, Mortadella, and Prosciutto, are considered geographical indications within the European Union because they are registered under the EU's quality schemes for agricultural products and foodstuffs. These protections exist as Protected Designation of Origin (PDO) or Protected

¹³ Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs, OJ L 343, 14 December 2012.

Geographical Indication (PGI) and are recorded in the EU's official GI database, known as eAmbrosia. These designations recognise that the quality, characteristics, or reputation of a product are closely linked to a particular geographical region and its traditional production methods.¹⁴

Feta is registered as a Protected Designation of Origin (PDO) in the European Union GI Register (eAmbrosia). The registration restricts the use of the name "Feta" to cheese produced in designated regions of Greece, made with traditional methods and milk primarily from sheep or a mixture of sheep and goat milk.²

Gouda is protected in the EU under the name "Gouda Holland", which is registered as a Protected Geographical Indication (PGI) in the EU GI Register (eAmbrosia). This designation protects cheese originating in the Netherlands, ensuring that at least one stage of production takes place in the country and that the product meets specific quality specifications for Dutch cheese.³

Camembert is protected through the designation "Camembert de Normandie", which is registered as a Protected Designation of Origin (PDO) in the EU GI Register (eAmbrosia). This GI applies to cheese produced in the Normandy region of France, using traditional methods, including raw cow's milk and specific maturation techniques.⁴

Similarly, **Mortadella Bologna** is registered as a Protected Geographical Indication (PGI) in the European Union GI Register (eAmbrosia). The PGI protects the traditional Italian **sausage** produced in certain regions of Italy, particularly around Bologna, and requires compliance with defined production standards and specifications.⁵

Likewise, **Prosciutto di Parma** is registered as a Protected Designation of Origin (PDO) in the EU GI Register (eAmbrosia). This designation restricts the use of the name to cured ham produced in the Parma region of Italy, following traditional curing methods and strict production specifications recognised by the EU GI system.⁶

¹⁴ Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs, OJ L 343, 14 December 2012.

2.5 Cheese Nomenclature: TMs and GI's for Agricultural Products and Processed Food

Trademarks (TMs) and Geographical Indications (GIs) often collide in law because trademarks protect exclusive brand identity while GIs safeguard collective heritage tied to origin.

The main legal concerns are conflicts over priority rights, consumer confusion, enforcement gaps, and the need to balance TRIPS obligations with national laws. The interaction between Trademarks (TMs) and Geographical Indications (GIs) constitutes a significant issue in international intellectual property law because both systems protect commercial reputation. Yet, they do so through different legal foundations and objectives. Trademarks primarily protect the exclusive commercial identity of an individual trader or enterprise, whereas geographical indications safeguard the collective reputation and qualities of goods linked to a particular geographical origin. This overlap frequently results in legal conflicts concerning ownership, priority, consumer deception, and market access.

The four principal legal issues stem from competing rights of priority, consumer confusion, lack of enforcement, and balancing TRIPs obligations with national law(s). The interaction between Trademarks (TMs) and Geographical Indications (GIs) presents a major issue in international intellectual property, as both provide protection for commercial reputation but in different ways, based on distinct legal bases and purposes. Trademarks protect the exclusive commercial identity of an individual trader or business, while GIs protect the collective reputation and characteristics of goods originating from a specific geographic location. This can cause significant conflicts over ownership and priority, consumer confusion, and market access.

Articles 15-21 of the Agreement on Trade-Related Aspects of Intellectual Property (TRIPs) protect trademarks while Articles 22-24 protect geographic indications (GIs). Article 15 defines a trademark as any sign that can distinguish a good or service of one merchant from those of another. A geographical indication is defined by Article 22(1) as any mark that identifies where a product was made, and what its quality will be based on that location. In India, the Trade Marks Act (1999) regulates trademarks. The Geographical Indications of Goods (Registration and Protection) Act regulates GIs (1999). Section 2(zb) of the Trade Marks Act defines a trademark; Section 2(1)(e) of the GI Act defines a geographical indication. Because both acts may create trademarks for similar words, symbols, or product names associated with the reputation of products, potential litigation may result from this conflict. One of the most important issues is the conflict of priority rights. Section 25 of the GI Act protects registered GIs. Still, Section 26 recognises exceptions for prior trademark rights acquired in good faith before GI protection or before

the implementation of TRIPS obligations in India. Similarly, Article 24(5) of TRIPS protects trademarks that were applied for or registered in good faith before the grant of GI protection. Thus, trademark owners often argue that their earlier commercial use should prevail over later GI claims.

Consumer confusion about the geographical source of products is a major concern. Section 9(2)(a) of the Trade Marks Act prohibits the registration of a trademark if it is likely to mislead or confuse consumers as to the geographical origin of the goods. Article 22(2) of the World Trade Organisation's Agreement on Trade-Related Aspects of Intellectual Property Rights requires member countries to prevent the use of geographical indications that mislead the public as to the true geographical origin of goods. For example, tea that is not produced correctly under the term "Darjeeling" or sparkling wine that is not produced correctly under the term "Champagne" will mislead consumers and damage the reputations of genuine producers of Darjeeling tea and Champagne, respectively.

The complexity of these issues increases because GIs are often collective rights, whereas Trademarks are individual proprietary rights. GIs are classified as collective rights under Section 21 of the GI Act, which specifies that only registered proprietors or approved users may use the GI, ensuring that all producers in the region benefit collectively. Conversely, Trademarks provide individual enterprise exclusive monopolistic privileges under Sections 28 and 29 of the Trade Marks Act. Consequently, the legal framework surrounding GIs must balance individual business interests with collective economic and cultural rights.

International disputes, such as France's protection of "Champagne," illustrate the economic and diplomatic significance of GI-TM interaction. As courts and policymakers have focused on developing tools that enable coexistence, foster honest concurrent use of trademarks, and establish strong consumer protection standards, they have also established something more. The interaction between trademarks and geographical indications provides evidence of a broader challenge: reconciling international trade commitments, intellectual property laws, consumer interests, and the protection of culture through both national and global legal systems.

The multinational Agreement on TRIPS (Trade-Related Aspects of Intellectual Property Rights), especially articles 22-24 which provide the basis for global legal regulation, establishes multilaterally, minimum levels of protection for Geographical Indications (GIs) as well as because the GI protection is part of intellectual property, there is some flexibility allowed by each country on how to protect GIs, they can use trademark law, certification marks, collective marks, and/or sui generis systems. Article 22 prohibits the misleading use of GIs, and Article 23 gives GIs a greater degree of protection specifically for wines

and spirits. Article 24 allows countries to create exceptions for previously registered trademarks and trademarks used in good faith. Ultimately, this means that GIs and TMs can coexist under the multilateral agreement, depending on their domestic laws and court interpretations.

Under bilateral and regional trade agreements, however, GI protection is usually stronger and more detailed through “TRIPS-plus” obligations. Agreements involving the European Union frequently require broader recognition and enforcement of GIs beyond the minimum TRIPS standards. In contrast to TRIPS, which primarily protects wines and spirits, most agreements do provide broader protection for GIs, including, but not limited to, agricultural products, cheeses, meats, teas, coffees, and handicrafts. The core legal principles remain relatively similar, but bilateral and regional agreements legally reallocate the balance of trademark rights and GI protection in favour of increased GI exclusivity and enforcement than is provided under the TRIPS and WTO legal systems.

2.5.1 United States v. European Communities: WTO Dispute DS174

The conflict arose from the European Communities' system of regulating, protecting, and registering geographical indications (GIs) of agricultural products and foodstuffs under Council Regulation (EEC) No 2081/92. This system allowed for the registration of product names linked to specific regions, as either Protected Designation of Origin (PDO) or Protected Geographical Indication (PGI). The United States called for WTO consultations in June 1999, arguing that the GIs of the European Communities imposed discriminatory requirements on imported products and that GIs restricted the use of product names recognised throughout the world as part of the product's identity. In addition, the United States claimed that many terms, particularly those relating to cheese, were now generic in the international market but were still protected as GIs in the European Communities.

The WTO tribunal's primary concern was whether the European Community GI system complied with its obligations under the TRIPS Agreement (the Agreement on Trade-Related Aspects of Intellectual Property Rights) and the GATT 1994 (General Agreement on Tariffs and Trade). Specifically, the United States contended that this regulation required reciprocity from countries outside the EU for their GIs, failed to provide national treatment to applicants from abroad, and interfered with already established trademark rights.

The World Trade Organisation (WTO) released a report on 15 March 2005 that found several components of the European Communities' Geographical Indication (GI) regime to be incompatible with E.U.-WTO commitments. The panel held that a requirement that

foreign governments provide their domestic producers with reciprocal protection to obtain GI registration within the E.C. violated the national treatment obligation under Article. 3 of the TRIPS Agreement and, thus, recommended that the E.C. amend its measures so that they are consistent with E.U. obligations under the WTO. In response to this determination, the European Communities amended its GI regulation in 2006 to eliminate the discriminatory provisions identified by the WTO.¹⁵

2.5.2 Australia v. European Communities: WTO Dispute DS290

Australia filed a separate complaint with the WTO regarding the EU's regulation protecting geographical indications for agricultural products, based on Council Regulation (EEC) No. 2081/92. Australia asserted that this system previously granted European producers exclusive use of certain food names. In contrast, foreign producers must meet many additional rules regarding both the process and the actual requirements necessary for obtaining the same or similar protection. Australia also asserted that many agricultural and processed foods, including cheese, are now widely traded internationally and should not be available exclusively to producers in those regions.

The principal issue before the panel was whether the European Communities' GI regulation was consistent with its obligations under the TRIPS Agreement, particularly regarding national treatment and the protection of existing trademarks. Australia maintained that the regulatory framework imposed discriminatory conditions on non-EU applicants, imposed onerous registration procedures on foreign producers, and failed to safeguard trademark rights already established in other jurisdictions adequately.

In its March 2005 report, the WTO panel reached conclusions broadly aligned with those in the parallel dispute initiated by the United States. It found that certain features of the European Communities' GI regime were inconsistent with the national treatment obligation under TRIPS, as foreign applicants were subject to additional requirements that did not apply to EU producers. Although the panel did not question the legitimacy of maintaining a system of geographical indications, it held that the European Communities were required to amend their regulatory framework to eliminate

¹⁵ https://www.wto.org/english/news_e/news05_e/panelreport_174_290_e.htm?utm Panel Report, European Communities, Protection of Trademarks and Geographical Indications for Agricultural Products and Foodstuffs, DS174, circulated 15 March 2005. (please have a look at this footnote as it lacks clarity).

discriminatory elements and ensure equal treatment for foreign producers and trademark holders.

2.5.3 Court of Justice of the European Union

Federal Republic of Germany (C-465/02) and Kingdom of Denmark (C-466/02) v Commission of the European Communities: Feta Case¹⁶

The Regulation numbered 1829/2002 was adopted by the European Commission for the term 'Feta', which it registered as a Protected Designation of Origin for feta cheese produced in specific geographical areas in Greece, granting Greek producers the exclusive right to produce feta in accordance with the definitions of geographical area and production method. Germany and Denmark subsequently brought an action before the CJEU challenging the Regulation's validity. The Applicant States contended that 'Feta' had become a generic term among consumers in the EU due to the production, marketing and consumption of similar white-brined cheeses called 'FETA' by businesses in several other Member States (Denmark and Germany). They claimed that the large-scale commercial use of 'FETA' cheese outside of Greece demonstrated that it did not identify a cheese product made in a specific geographical area of Greece.

The principal question facing the Court was: has the name "Feta" lost its geographical specificity and changed into a common term to classify a group or kind of cheese (i.e., that there are non-Greek types of Feta available) across the European Union cheese marketplace or has the name continued to maintain a strong and identifiable association with its Greek origins? Specifically, the Court had to determine if the name Feta still evokes to consumers a relationship between cheese produced in Greece (i.e., feta cheese) using traditional methods and qualifies for protection through the protection of names of origin (PDO) scheme established by European Union law. Therefore, to make this determination, the Court must have evaluated several factors, including consumer perceptions of Feta, the historical methods of its production, how Feta is used in the marketplace, and how much Feta is imitated/different kinds of Feta found in the European Union.

On 25 October 2005, the Court delivered its ruling on Germany's and Denmark's claims and found that they had failed to show that the Commission's regulation was invalid under European law. The Court held that "Feta" has not become a generic term in the

European Union; it remains primarily associated with the cheese of Greek origin made in accordance with traditional methods. The Court also held that, although similar products are available in other Member States, their use does not remove the historical or cultural association of "Feta" with Greece. As a result, the Court held that the name is eligible for PDO registration and may be used only for cheese produced in the designated geographical areas of Greece, in accordance with the previously established specifications.¹⁷

2.5.4 Protection of "Parmigiano Reggiano" and the use of the name "Parmesan"

Case: Commission of the European Communities v Federal Republic of Germany, Court of Justice of the European Union (CJEU), 26 February 2008

The legal protection available for the geographical indication "**Parmigiano Reggiano**", a well-known Italian hard cheese produced only in specific Italian regions (specifically, Parma, Reggio Emilia, Modena, some parts of Bologna, and Mantova), was at the heart of the dispute. Parmigiano Reggiano is protected in the EU under the EU Regulation on Protected Designations of Origin (PDOs) for agricultural products and foodstuffs. As a result, the European Commission started infringement proceedings against Germany for its failure to adequately or effectively prevent the sale and distribution of grated cheese labelled "Parmesan," as such cheese does not conform to the PDO requirements of Parmigiano Reggiano, and therefore damages the integrity of the PDO and misleads consumers about the real origin and authenticity of the product.

The CJEU had to decide whether "Parmesan" was an appropriate legal term for identifying the cheese type, meaning that if there was a link, using "Parmesan" for all other types of cheese could violate EU Law. The CJEU also had to decide whether Germany had complied with its EU law duties by failing to enforce the same rules to protect "Parmigiano Reggiano" from misuse in Germany or in any other EU country that failed to enforce the required protection properly. Therefore, it also needed to determine how far states would need to go to ensure their compliance with the rules on protecting Geographic Indicators (GI) and to prevent deceptive or misleading commercial conduct.

The court ruled on February 26, 2008, that "**Parmesan**" constitutes an "evocation" of the protected designation "**Parmigiano Reggiano**", as its phonetic and conceptual similarity is

¹⁷ Court of Justice of the European Union, Joined Cases C-465/02 and C-466/02, *Germany and Denmark v Commission*, Judgment of 25 October 2005.

sufficient to create associations in consumers' minds with products bearing that designation. In this context, the court noted that EU law protects against both the direct misuse of a registered geographical indication and the indirect imitation or evocation that may mislead consumers as to the product's origin. However, although the Court confirmed that the designation remained an object of protection, it found that the European Commission had failed to provide sufficient evidence of a breach of duty by the German authorities in enforcing EU law. Thus, Germany was dismissed from the infringement proceedings. The ruling upheld the principle that the term "Parmesan" may not be used legally on cheese that does not meet the PDO requirements for Parmigiano Reggiano, thereby further promoting the protection of geographical indications in the EU.¹⁸

2.5.5 Protection of Italian cheese geographical indications

2.5.5.1 Protection of Provolone Valpadana and Pecorino Romano

The European Union has an extensive and evolving set of rules governing the protection of geographical indications (GIs) and designations of origin for agricultural products and food products. The regulation of these products started in 1992 with Council Regulation (EEC) No. 2081/92, which has since been modified through Council Regulation (EC) No. 510/2006 and is now under Regulation (EU) No. 1151/2012 on quality assurance for agricultural products and foodstuffs that brings together all of these regulations into one comprehensive framework.

This regulatory framework provides a systematic method for registering, recognizing and legally protecting geographical indication names throughout the EU, ensuring that all registered geographical indications receive substantial protections from any wrongful use in the marketplace; i.e., not only from direct commercial misuse, but also any indirect usage including exploitation of the registered name or any imitation of or evocation of the registered name, even if the true place of origin of the product is accurately conveyed. Additionally, the regulatory framework prohibits any false, misleading, or deceptive information regarding the origin, nature, or essential characteristics of any product, to

¹⁸ Case C-132/05, Summary of judgement, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:62005CJ0132_SUM.las. (last accessed April 2026)

protect consumers from confusion and the authenticity and reputation of goods with a geographic origin.

International disputes over cheese names typically revolve around two principal legal questions:

- a) Whether the contested term functions as a protected geographical indication or as a generic name describing a type of cheese.
- b) Whether the use of a similar or translated name constitutes an “evocation” of the protected geographical indication that may mislead consumers about the product’s origin.

As stated in its ruling, the Court determined that the Protected Designation of Origin 'Parmigiano Reggiano' applies to all aspects of law governing Geographical Indications within the European Union, and that the use of the term “Parmesan” will be regarded as an evocation of the protected designation on account of the phonetic and conceptual similarity between ‘Parmesan’ and ‘Parmigiano’. Furthermore, the Court noted that the EU prohibits both the explicit use of the protected name and indirect means of imitation or evocation that create an erroneous association with the product in consumers' minds. The Court then determined that, although the scope of the protection afforded by the “Parmigiano Reggiano” designation has been recognised, the European Commission has not sufficiently demonstrated that the Federal Republic of Germany has fulfilled its obligations under EU law as a jurisdiction for the enforcement of the regulations set forth therein. Thus, the infringement action against Germany was dismissed; however, the Court reiterated that only products meeting the specifications of “Parmigiano Reggiano” are to be referred to as such, and that the protections afforded by the Protected Designation of Origin extend beyond the protection of the designation itself to include any name deemed to mislead or cause confusion as to 'Geographical Indication'.

Accordingly, the Court dismissed the infringement action against Germany, concluding that the Commission had not established that the German legal system failed to provide adequate protection for the PDO “**Parmigiano Reggiano.**”

This judgment nevertheless reaffirmed that only cheeses complying with the PDO specification may legitimately bear the protected designation “Parmigiano Reggiano,” and the protection extends to names that evoke the protected GI.

3. Conclusion

Because these names are formally registered under the EU's Geographical Indications system, the EU, from a commercial and legal standpoint, is continually seeking to have them recognised and protected in any bilateral free trade agreement. Doing so creates legal and commercial sensitivities where these names are widely used in the international market, with little regard for location-based recognition. Therefore, regarding regulatory issues, India should proceed with caution when considering accepting these types of cheese names in any bilateral free trade agreement, as it may conflict with its existing international legal obligations and any new obligations arising from future negotiations. It should also insist on the registration and recognition of such products within the Indian market under the Geographical Indications of Goods (Registration and Protection) Act, 1999, to ensure reciprocity, safeguard domestic producers, and preserve India's regulatory and commercial interests.

If India accepts contested or regionally associated cheese names without a clear legal basis, it may be exposed to disputes with other countries over the generic versus protected status of such names. In addition, incorporating contested cheese names into any bilateral agreements may undermine the coherence of India's intellectual property system under the TRIPS agreement and dilute India's negotiating position in agreements that provide for strong GI protection. For these reasons, India mustn't make premature commitments to GI-protected cheese names to preserve its regulatory flexibility, comply with international norms, and prevent future disputes with its trading partner.

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India's Foreign Trade Policy (FTP) Statement 2015-20 suggested the need to create a global institution that can provide a counter-narrative on key trade and investment issues from the perspective of developing countries, such as India. To fill this vacuum, a new institute, the Centre for Research on International Trade (CRIT), was established in 2016. The vision and objective of the CRIT were to significantly deepen existing research capabilities and broaden them to encompass new and specialised areas amid the growing complexity of globalisation and its spillover effects in domestic policymaking. Secondly, enhancing the capacity of government officers and other stakeholders in India and other developing countries to deepen their understanding of trade and investment agreements.

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