

Agreement establishing an Association between Central America, on the one hand, and the European Union and its Member States, on the other hand

**Subcommittee on Intellectual Property Rights
June 20, 2019**

Joint Minute

1. Review of the Agenda

The agenda was approved, with the clarification by the European Union (EU) that it also wanted to address the issue of technology transfer at this meeting and will, therefore, be addressed under miscellaneous topics.

2. Follow-up to the proposal by the European Union for the establishment of a “Simplified procedure for the incorporation of GI’s into Annex XVIII of the Association Agreement between Central America and the European Union”.

The Parties recognized the importance of reaching an agreement to clarify the internal procedures for the incorporation of Geographical Indications (GIs) in the respective Central American countries (CA) and in the European Union (EU). For the EU, facilitating the incorporation of new GIs is part of the objectives of the document. In this context, progress was made in revising the text, resulting in a cleaner draft that will continue to be discussed among the Parties to the Agreement.

CA clarified that in the case of its countries it is not possible to eliminate fees or the requirement to have a legal representative to carry out the procedure, as it is part of their domestic legislation.

3. Information on developments in legislation relating to geographical indications in the countries of Central America and the European Union.

Costa Rica reported that by Decree 41572-JP-COMEX some modifications were made to its procedure for the registration of IGs, including a section relating to the registration of foreign indications. In addition, the Decree clarified the concept of the generic component in a composed GI, both in the GIs title and in the databases. These rules apply for the registration of IGs from the date of entry into force of the Decree and not for IGs already registered. Costa Rica will forward the aforementioned Decree for EU reference.

The other Central American countries indicated that they had no recent changes in their legislation.

For its part, the EU made a presentation on its legislation and registration system. It also mentioned future changes in this area.

4. Status of the organization of the regional workshop on geographical indications in Central America, supported by IP Key.

On the regional workshop to be supported by the EU under the IP Key LA initiative, Costa Rica (which will be the host country), indicated the planned dates for the activity: 2, 3 and 4 December 2019. The EU mentioned

some topics that it is considering that could be included in the agenda which will be coordinated between the EU and CA.

In this regard, it was requested that invitations for this Workshop be sent no later than October 2019 in order to carry out the respective internal organisation in each country of the Region.

Information was also exchanged on the results of the TAIEX Programme in Costa Rica and the BTSF initiative for all CA countries.

5. Status of the geographical indications requested by the European Union that are registered and protected in Central America.

Costa Rica. Cases related to the EU Geographical Indication “Queso Manchego” — follow-up to the point addressed at the 2018 Sub-Committee meeting.

In the case of Costa Rica, there are only 3 cases of companies that have marketed the product since 1997, 2002 and 2012, Costa Rica will provide information regarding sanitary registers to finalize this issue. In addition, information was provided on the labels currently used by the three companies, in which the details of evocation to Spain or the region of Castilla La Mancha have been removed. There are no approved trademark applications cases.

Information was also provided, showing exports of one company to three countries in the region. In the case of one company, it is suggested to include the word “type”.

In general, it is suggested to the rest of the countries to be vigilant on these products, as they must comply with the agreement if they are found on the market.

El Salvador. Cases related to the EU Geographical Indication “Queso Manchego” — follow-up to the point addressed at the 2018 Sub-Committee meeting.

In the case of El Salvador, the concern of 2018 meeting related to Queso Manchego, where reiterated, the registration authorities did not accept any trademark application, so if there is any product under this GI, article 246 would apply, therefore any product under this GI would be covered by article 246.4, meaning that it could be marketed in good faith, for continuous use before entry into force of the Agreement

At the request of the EU, El Salvador confirmed that the only case is the one mentioned in the previous paragraph.

Guatemala. Update on the case of EU geographical indication “Parmigiano Reggiano.”

The case is still in the Constitutional Court. They are still waiting for the Court to decide on this matter, in order to determine whether or not the Register is appropriate. The EU is strongly opposed to what qualifies the term or its translations as generic. All the terms that are comprised in this GI are protected.

The Agreement refers to TRIPS, whose Article 24.6 defines what is required for a term to be considered generic. In terms of form, the EU asks Guatemala to provide information on how long the decision of the Constitutional Court could take.

Honduras. List of alleged generic terms in relation to EU geographical indications.

Honduras had had problems of connection and was not able to refer to the matter.

However, the EU would like to point out that it is very dissatisfied with the list of generics affecting EU GI's and the lack of response to a note sent in 2016 and its subsequent requests. The EU GIs received no opposition at the time of their registration, such is the case of Grappa Padano. According to Article 250 of the AACUE, any complaint against the protection of a recognized GI must go through judicial bodies and in the case at hand there is an administrative decision. They invite Honduras to present the legal basis and recall the provisions of the AACUE in relation to article 24.6 of TRIPS, which establishes the manner in which a term will be considered as generic and the EU believes that this is not the case. The EU would also like to enquire, on the logic adopted by Honduras which is difficult to understand when in the case of Prosciutto Toscano the generic term is considered Prosciutto and in the case of Jambon de Bayonne the generic term is considered to be Jamón .

Nicaragua.

Nicaragua notes that the 114 Geographical Indications presented by the EU have been registered. It also states that there has been no registration application for the protection of a distinctive sign which violates the rights acquired by the EU under this Agreement.

Panama. Cases related to the EU Geographical Indication “Queso Manchego” — follow-up to the point addressed at the 2018 Sub-Committee meeting.

In the case of Panama, an application for registration of the trademark Queso Manchego was filled after the Association Agreement entered into force and it was rejected.

6. Geographical indications of Central America that would be opting for registration in the European Union.

CA countries referred to those GIs that they will submit for EU registration in the future:

Costa Rica:

- Tarrazú, for coffee

El Salvador:

- Café Bálsamo Quezaltepec
- Café Tecapa Chinameca ((Joint Statement)
- Café Chinchontepec
- Café Cacahuatique (Joint Statement)
- Café Alotepec (Joint Statement)

- Chaparro
- Rice Pupusas of Olocuilta

In addition to one for a variety of shrimp

Guatemala:

- Café de Acatenango

Panamá:

- Café de Boquete
- Café Renacimiento

7. Miscellaneous topics.

The EU recalled that the Agreement has an aim related to technology transfer. It indicated that a good level of protection is a stimulus for the exchange of technology between companies. The EU mentioned that it has developed activities to assist CA in this regard and will continue to do so through the IP Key project.

The EU also referred to training activities 2018 and 2019 on different intellectual property topics, such as trademarks and design reviews; guides on unconventional trademarks and trademarks; IT Tools; plant varieties; training on the Singapore Treaty; and 'enforcement'. The EU mentioned that a good level of protection and application of IP rules at national level is a good stimulus for the exchange of technology between companies.

Finally, the EU made itself available to CA countries if they wanted to get more information and possible activities in which they were interested.

AGENDA

SUBCOMMITTEE MEETING ON INTELLECTUAL PROPERTY RIGHTS Antigua Guatemala City, Guatemala, June 20, 2019

Meeting time: 9:00 to 12:30 and 14:00 to 17:00 hours.

- Welcome.
- Review of the agenda.
- Follow-up to Proposal by the European Union for the establishment of a “Simplified procedure for the incorporation of GI into Annex XVIII of the Association Agreement between Central America and the European Union”
- Information on developments in legislation relating to geographical indications in the countries of Central America and the European Union.
- Status of the organization of the regional workshop on geographical indications in Central America, supported by IP Key.
- Current status of geographical indications requested by the European Union to be registered and protected in Central America.
 - Costa Rica. Cases related to the EU Geographical Indication “Queso Manchego” - follow-up to the point addressed at the 2018 Sub-Committee Meeting
 - El Salvador. Cases related to the EU “Queso Manchego” — follow-up to the point addressed at the 2018 subcommittee meeting.
 - Guatemala. Update on the case of the EU geographical development “Pannigiano Reggiano
 - Honduras. List of alleged generic terms in relation to EU geographical indications
 - Nicaragua
 - Panama. Cases related to the EU Geographical Indication “Queso Manchego” — follow-up to the point addressed at the 2018 Sub-Committee meeting.
 - Geographical indications of Central America that would be opting for registration in the European Union
 - Procedural details.
 - Effect of registration on regional databases.
 - Miscellaneous topics.

