



GUIDE TO GEOGRAPHICAL INDICATIONS IN CANADA

A Practical Business Guide

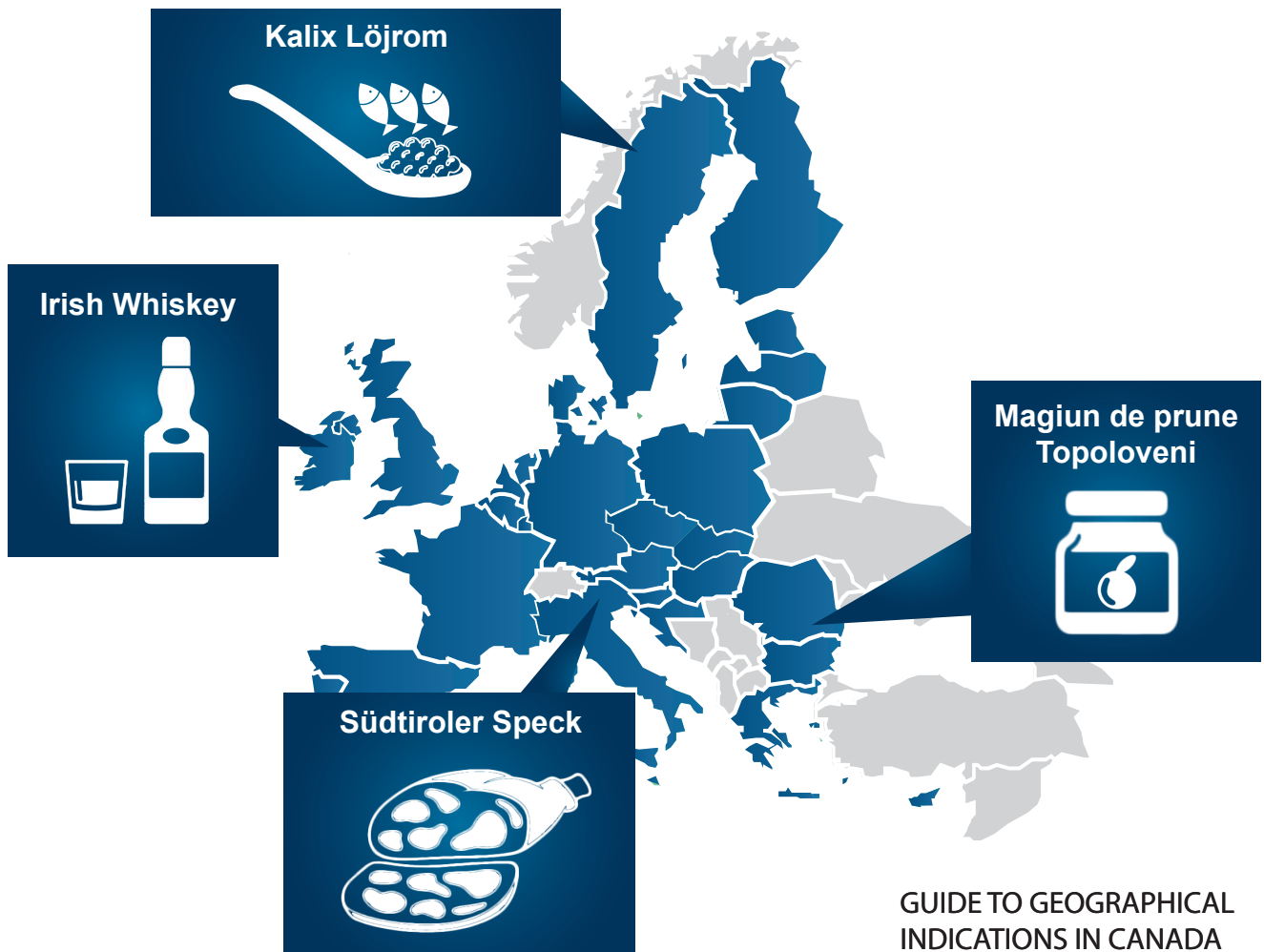
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EXAMPLES OF EU GEOGRAPHICAL INDICATIONS



WHAT IS A GEOGRAPHICAL INDICATION?

A geographical indication (GI) refers to a name, description or other signifier that is used to identify certain wines, spirits, agricultural products or food products as originating in the territory of a particular country, region or locality if a quality, reputation or other characteristic of the product is essentially linked to its geographical origin. Example of GIs include: Cognac, Scotch, Whisky, Sherry, Champagne, Parmigiano Reggiano, and Prosciutto di Parma.

Protection of GIs is relevant both economically and culturally. As GIs function to indicate a desirable quality, reputation or characteristic for a product, they can be a key distinguishing factor affecting consumer behavior and loyalty. GIs may also create value for local communities in promoting their tradition, culture and geography. For more information on GIs, please visit the [European Commission's website](#) on geographical indications.





WHAT TYPE OF PRODUCTS CAN BE PROTECTED AS GEOGRAPHICAL INDICATIONS IN CANADA?

In Canada, GI protection is available to specific categories of products. For over twenty years, Canada has maintained a system to protect GIs for wines and spirits.

As a result of the EU-Canada Comprehensive Economic and Trade Agreement (“CETA”), Canada expanded its GI protection to the following 24 categories of food and agricultural products (in addition to wines and spirits) on 21 September 2017:

CATEGORIES OF FOOD AND AGRICULTURAL PRODUCTS NOW ABLE TO BE PROTECTED AS GIS



1	Fresh, frozen and processed meats	13	Ginseng
2	Dry-cured meats	14	Beverages from plant extracts
3	Fresh, frozen and processed fish products	15	Oils and animal fats
4	Butter	16	Confectionery and baked products
5	Cheeses	17	Sugars and syrups
6	Fresh and processed vegetable products	18	Pasta
7	Fresh and processed fruits and nuts	19	Table and processed olives
8	Spices	20	Mustard paste
9	Cereals	21	Beer
10	Products of the milling industry	22	Vinegar
11	Oilseeds	23	Essential Oils
12	Hops	24	Natural gums and resins – chewing gum

A number of exceptions may apply to the protection provided to GIs. The situations in which these exceptions arise can be complex, depending on the specific GI in question, the category of goods, and the reason why a non-GI owner is using the GI. For example, exceptions or limitations to GI protection are provided when:

- The GI is a person's name or the person's predecessor in title;
- The GI is a term customary in common language in Canada;
- The GI is used in comparative advertising (e.g., “Our product tastes better than...”);
- A business has previously acquired rights in Canada through use of a trademark, filing a trademark application or registering a trademark before a new GI is protected in Canada;
- A qualifying term is used in combination with certain GIs (i.e., Asiago, Feta, Φέτα, Fontina, Gorgonzola, and Munster); e.g., “Asiago” is a protected GI, but a non-GI owner may use the qualifying term “Asiago-style” cheese for products made in Canada under a specific scenario outlined in Annex A;
- An indication is commonly used in Canada to describe a specific product or category of products as listed in Canada's Trade-marks Act (i.e., a “common name”); e.g., “Parmigiano Reggiano” is a protected GI, but use of the word “parmesan” for cheese is permitted.

A list of exceptions to GI protection can be found in Annex A of this guide. If a potential violation is suspected, GI owners are recommended to consider whether any of the exceptions may apply. If you have any questions, the Delegation of the European Union to Canada may be able to assist or direct you to an expert (see https://eeas.europa.eu/delegations/canada_en or email Delegation-Canada@eeas.europa.eu).

Furthermore, please note that one condition to be eligible for GI protection is that the name in question must be protected as a GI in the EU.





WHERE CAN I FIND THE LIST OF PROTECTED GEOGRAPHICAL INDICATIONS IN CANADA?

Over 170 new agricultural GIs were entered on the list of protected GIs on 21 September 2017 as a direct consequence of CETA. The Canadian Intellectual Property Office (“CIPO”) maintains a list of protected GIs. A list of protected GIs in Canada as of November 20, 2018 is provided in Annex B by clicking [here](#).

List of Geographical Indications

[View alphabetically](#)

[View by region](#)

[View All](#)

[A](#) | [B](#) | [C](#) | [D](#) | [E](#) | [F](#) | [G](#) | [H](#) | [I](#) | [J](#) | [K](#) | [L](#) | [M](#) | [N](#) | [O](#) | [P](#) | [Q](#) | [R](#) | [S](#) | [T](#) | [U](#) | [V](#) | [W](#) | [X](#) | [Y](#) | [Z](#)

Geographical Indications	File Number	Date Entered
Aachener Printen	1858540	2017-09-21
Abanilla	1278279	2008-09-18
Abondance	1858621	2017-09-21
Aceite de Terra Alta	1858578	2017-09-21
Aceite del Baix Ebre-Montsia	1858569	2017-09-21
Aceite del Bajo Aragón	1858571	2017-09-21
Aceto balsamico Tradizionale di Modena	1858636	2017-09-21
Aceto balsamico di Modena	1858637	2017-09-21
Affile	1283750	2010-12-06
Aglianico del Taburno	1283789	2010-12-06
Aglianico del Vulture	1283790	2007-04-03
Albana di Romagna	1283760	2008-09-18
Albugnano	1283791	2007-04-03
Alcamo	1283793	2007-02-16
Aleatico di Gradoli	1283794	2007-02-16
Aleatico di Puglia	1283769	2007-04-03

WHAT DOES A PROTECTED GI PROVIDE?

A protected GI provides the owner with the right to prevent another person or business from adopting or using the GI in Canada to describe goods that do not originate from the designated territory or goods that are not manufactured or produced in accordance with the law of the designated territory. It is important to note that this right is limited to goods in the same category. Adoption of a GI includes using it to sell and advertise goods in Canada, to import goods into Canada, and to export goods from Canada to other countries.

Are Translations Protected?

For wines and spirits, translations are protected as unauthorized use of the translation of a protected GI is prohibited.

For food and agricultural products, the situation will depend on how the GI protection was obtained:

GIs protected through CETA – Translations are protected;

GIs protected through applications in Canada – Translations for agricultural products or food products can be included in the same initial request to protect a GI. A separate request to protect translations can be made if the desired translation was not included in the original application.



HOW CAN YOU OBTAIN GEOGRAPHICAL INDICATION PROTECTION IN CANADA?

A request to have a GI listed in Canada must be submitted by or on behalf of a “responsible authority”, which is defined as an entity that is, “by reason of state or commercial interest, sufficiently connected with and knowledgeable” of the category of the product. The “state or commercial interest” of the responsible authority may include: national government; regional government; regulatory authority in the region concerned; association of producers in the region concerned; producer in the region concerned; etc.

Applications for new GIs are to be filed with the Canadian Intellectual Property Office. CIPO’s website contains a detailed guide on how to apply for protection of a new GI. A copy of this guide as of November 20, 2018 is provided in **Annex C** by clicking [here](#). Requests for new GI applications in Canada can be sent to the following address:

Canadian Intellectual Property Office
Attn: Trademarks Branch
50 Victoria Street
Place du Portage, Phase I
Gatineau, Quebec, Canada
K1A 0C9

Please note that in the case of wines and spirits, it is not sufficient for a name to be listed in the 2003 Agreement between Canada and the EU to be protected in Canada. In the case of wines and spirits, a stand-alone application must always be submitted to Canadian authorities in each case. Indeed, the EU GIs included in the Agreement are eligible for protection in Canada but they are entered in the list of protected GIs only after an application has been submitted to CIPO and gone through the application process in Canada.



STEPS TO TAKE TO APPLY FOR GEOGRAPHICAL INDICATION PROTECTION IN CANADA



1) SUBMISSION OF A REQUEST

- CIPO's website contains sample forms for wines and spirits and agricultural and food products, but the use of these forms is not required. A request may be submitted in the form of a written letter from a "responsible authority". Copies of these sample forms as of November 20, 2018 can be found in Annex D – for wines and spirits please click [here](#) and for agricultural and food products please click [here](#).
- A request must be accompanied by a CAD \$450 government fee.



2) REVIEW BY CIPO

- In the process of reviewing a request, a CIPO examiner may seek additional information regarding the quality or reputation of the geographical indication from Agriculture and Agri-food Canada.



3) PUBLICATION

- When a CIPO Examiner concludes that a request meets all requirements, CIPO will publish details of the proposed GI on its website.
- Any interested person will have two months from the publication date to file a Statement of Objection.



4) OBJECTION PROCEEDING (IF ANY)

- Objection proceedings are similar to trademark opposition proceedings in nature. After an objector files a Statement of Objection, the responsible authority will be required to file a Counter Statement. Both the responsible authority and the objector will then have an opportunity to file evidence, provide written submissions and attend an oral hearing. There is a CAD \$1,000 government fee to file a Statement of Objection to initiate the objection proceeding.



5) ENTRY ON THE LIST

- If no statement of objection has been filed, or if the objection proceeding has been withdrawn or rejected, the requested GI will be entered on the list maintained by CIPO and available online at www.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/wr04244.html.

TIMELINE ON OBTAINING GI PROTECTION IN CANADA THROUGH DIRECT APPLICATION

CIPO will issue receipt of request within 20 business days upon receipt of a paper request including the fee under normal circumstances.

This process can be delayed for a number of reasons, such as if CIPO requires additional information to complete its review.

HOW CAN YOU ENFORCE A PROTECTED GI IN CANADA?

Enforcement of protected GIs is possible through different mechanisms: (i) under the *Trade-marks Act* through the Canada Border Services Agency (“CBSA”) (ii) the Federal Courts, and (iii) the *Food and Drugs Act*, which may also present a potential avenue for enforcement, as it contains provisions prohibiting misleading labelling.





1. CBSA's Request for Assistance Programme



What is the Request for Assistance Programme?

The CBSA has established a process called the "Request for Assistance" ("RFA") programme that allows intellectual property rights holders to file a written request for the CBSA to temporarily detain suspected counterfeit and pirated goods encountered at the border. The RFA programme is a useful tool to fight against importation of counterfeit products entering into Canada.

The RFA programme helps the CBSA to identify and detain commercial shipments of goods suspected of violating IP rights. If goods suspected of violating IP rights are discovered during a commercial examination, the CBSA can use the information in the RFA application to contact the appropriate IP owners.

As a result of Canada's CETA obligations, the RFA programme has been expanded to owners of protected GIs, in addition to owners of registered trademarks and copyrights. For example, the RFA programme can help to stop improperly labelled Champagne or Asiago cheese from entering into Canada.



How do you Enroll in the Programme?

Note that the RFA programme is available to owners of GIs that have been officially entered on the list of protected GIs in Canada. An application is not sufficient to provide eligibility for the RFA programme. Therefore, if possible, it is advisable for owners to seek GI protection in Canada in advance of any suspected unauthorized use.

Information on how to apply for the RFA programme can be found online at the CBSA's website, www.cbsa-asfc.gc.ca/security-securite/ipr-dpi/app-dem-eng.html. No application fees are required. However, if suspected goods are detained, the GI owner is responsible for the costs associated with the storage, handling and destruction of detained goods beginning on the day after the notice of detention is issued. While there is no cost to participate in the programme, owners who choose to pursue civil remedies through the RFA programme should be prepared to react quickly to avoid excess costs in storage of detained goods.



How long is the Application Valid for?

Each RFA application remains valid for two years. Enrollment in the RFA programme can be renewed. CBSA will not issue reminders, and it is the owner's responsibility to ensure that the renewal request is submitted on a timely basis to ensure continued participation in the RFA programme.

2. Court Proceedings

A GI owner (e.g., a responsible authority) may initiate a court proceeding in Canada to prevent the use and adoption of a GI by another party. As conducting litigation can be quite complicated, owners are encouraged to seek legal advice from a Canadian lawyer to obtain more information.

3. Food and Drugs Act

One potential avenue to enforce GIs is to use the provisions that prohibit misleading labelling in the *Food and Drugs Act*. Enforcement of food safety and labelling concerns are typically handled by the Canadian Food Inspection Agency (“CFIA”). The CFIA website provides an online form to report a food safety and labelling concern, which is available at www.inspection.gc.ca/food/information-for-consumers/report-a-concern/contact-us/eng/1390269985112/1390346078752 . Anyone can file the complaint. Upon receiving such a complaint, the CFIA may conduct inspections and investigations and take administrative actions.

Contact Us - Reporting a Food Safety or Labelling Concern

If you have difficulty with the form, you can use any of our [other service channels](#) to contact us. Please read the following Personal Information Collection Statement before completing this form.

! You should see a doctor as soon as possible if you think you have a foodborne illness.

[▶ Personal Information Collection Statement](#)

Sender Information

* First Name (required)

* Last Name (required)

* Daytime phone number (required)

* Email address (required)

* Confirm email address (required)

* How would you describe yourself? (required)

* Location (required)

- Canada
- United States
- Other



Annex A

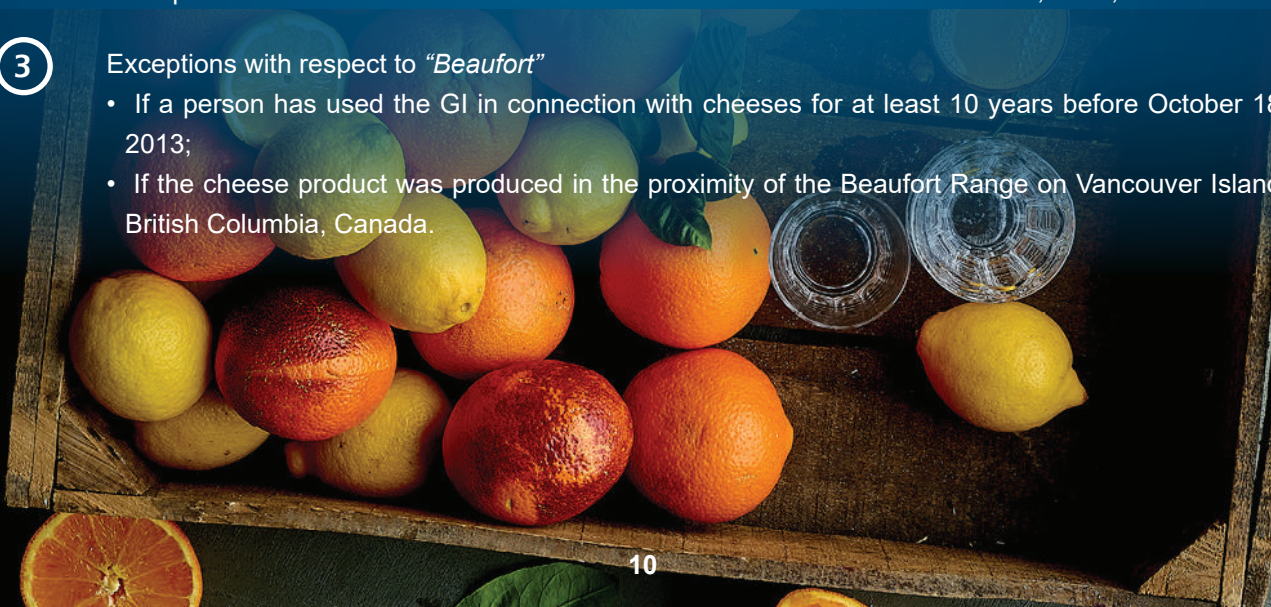
EXCEPTIONS TO GI PROTECTION

General Exceptions

- ① The GI owner provided consent.
- ② The GI is a person's name or the person's predecessor in title;
- ③ The GI is used in comparative advertising (e.g., "Our product tastes better than...").
- ④ The GI is no longer protected by the law of the territory or has fallen into disuse.
- ⑤ The GI is a term customary in common language in Canada as
 - the common name for the wine, spirit, agricultural product or food;
 - a customary name of a grape variety existing in Canada on or before January 1, 1998;
 - a customary name of a plant variety or an animal breed existing in Canada on or before the day the GI is entered as a protected GI in Canada.
- ⑥ Before the GI is entered as a protected GI in Canada, if
 - a business has acquired rights in Canada through use of the trademark; or
 - a business has filed a trademark application or secured a trademark registration.*These rights must have been acquired in "good faith".*

Exceptions for Specific GIs or Categories of Goods

- ① Exception with respect to wines and spirits
 - if a Canadian has used the GI in a continuous manner (i) before April 15, 1984 or (ii) in good faith before April 15, 1994.
- ② Exceptions with respect to "Asiago", "Feta", "Φέτα" (Feta), "Fontina", "Gorgonzola" or "Munster"
 - use of these GIs with a qualifying term such as "kind", "type", "style" or "imitation" is permitted;
 - use of these GIs is permitted if the geographical origin of the cheese is clearly displayed on the cheese or packaging.
 - If a person has used the GI in connection with cheeses for before October 18, 2013;
- ③ Exceptions with respect to "Beaufort"
 - If a person has used the GI in connection with cheeses for at least 10 years before October 18, 2013;
 - If the cheese product was produced in the proximity of the Beaufort Range on Vancouver Island, British Columbia, Canada.



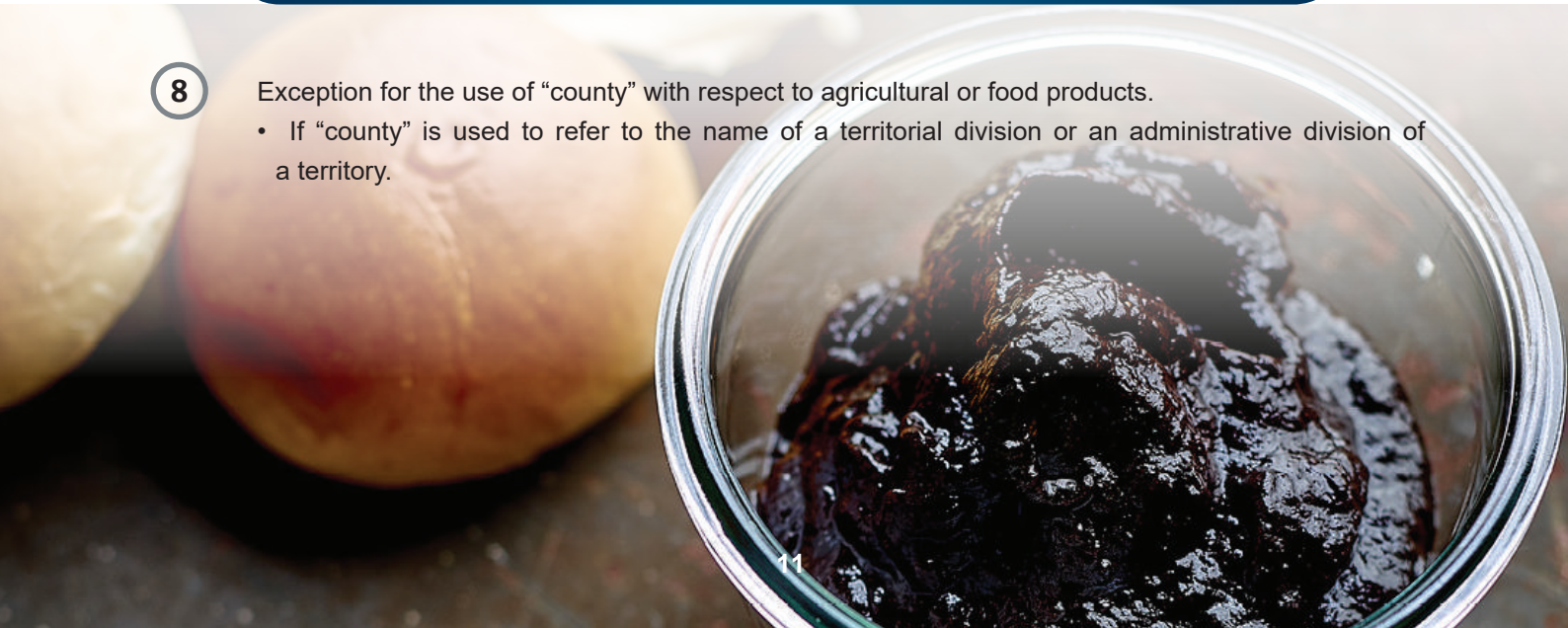
- 4 Exception with respect to “*Nürnberger Bratwürste*”
- If a person has used the GI in connection with fresh, frozen and processed meats for at least 5 years before October 18, 2013.
- 5 Exception with respect to “*Jambon de Bayonne*”
- If a person has used the GI in connection with dry-cured meats for at least 10 years before October 18, 2013.
- 6 Exceptions with respect to specific common names for spirits
- Use of the following terms are permitted:

- | | |
|-----------------|-----------------|
| a. Marc | h. Malt Whiskey |
| b. Sambuca | i. Eau-de-vie |
| c. Geneva Gin | j. Bitters |
| d. Genièvre | k. Anisette |
| e. Hollands Gin | l. Curacao |
| f. London Gin | m. Curaçao |
| g. Schnapps | |

- 7 Exceptions with respect to specific common names for Agricultural products or food
- Use of the following terms are permitted:

- | | |
|-----------------------|-----------------------|
| a. Valencia Orange | g. Bacon Tiroler |
| b. Orange Valencia | h. Parmasan |
| c. Valencia | i. St. George Cheese |
| d. Black Forest Ham | j. Fromage St-George |
| e. Jambon Forêt Noire | k. Fromage St-Georges |
| f. Tiroler Bacon | |

- 8 Exception for the use of “county” with respect to agricultural or food products.
- If “county” is used to refer to the name of a territorial division or an administrative division of a territory.





The European Union · www.europa.eu

The European Commission · www.ec.europa.eu

Delegation of the European Union to Canada · www.eeas.europa.eu/delegations/canada

CETA Market Access Programme for EU Business · www.euccan.com/about-the-ceta-market-access-program/



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