

authority, in accordance with the legal system of a Party, of requiring the service provider to terminate or prevent an infringement.

*Article 20.12*

**Camcording**

Each Party may provide for criminal procedures and penalties to be applied in accordance with its laws and regulations against a person who, without authorisation of the theatre manager or the holder of the copyright in a cinematographic work, makes a copy of that work or any part thereof, from a performance of the work in a motion picture exhibition facility open to the public.

Sub-section B

**Trademarks**

*Article 20.13*

**International agreements**

Each Party shall make all reasonable efforts to comply with Articles 1 through 22 of the *Singapore Treaty on the Law of Trademarks*, done at Singapore on 27 March 2006, and to accede to the *Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks*, done at Madrid on 27 June 1989.

*Article 20.14*

**Registration procedure**

Each Party shall provide for a system for the registration of trademarks in which reasons for the refusal to register a trademark are communicated in writing to the applicant, who will have the opportunity to contest that refusal and to appeal a final refusal to a judicial authority. Each Party shall provide for the possibility of filing oppositions either against trademark applications or against trademark registrations. Each Party shall provide a publicly available electronic database of trademark applications and trademark registrations.

*Article 20.15*

**Exceptions to the rights conferred by a trademark**

Each Party shall provide for the fair use of descriptive terms, including terms descriptive of geographical origin, as a limited exception to the rights conferred by a trademark. In determining what constitutes fair use, account shall be taken of the legitimate interests of the owner of the trademark and of third parties. Each Party may provide other limited exceptions, provided that these exceptions take account of the legitimate interests of the owner of the trademark and of third parties.

Sub-section C

**Geographical Indications**

*Article 20.16*

**Definitions**

For the purposes of this Sub-section:

**geographical indication** means an indication which identifies an agricultural product or foodstuff as originating in the territory of a Party, or a region or locality in that territory, where a given quality, reputation or other characteristic of the product is essentially attributable to its geographical origin; and

**product class** means a product class listed in Annex 20-C.

*Article 20.17*

**Scope**

This Sub-section applies to geographical indications identifying products falling within one of the product classes listed in Annex 20-C.

*Article 20.18*

**Listed geographical indications**

For the purposes of this Sub-section:

- (a) the indications listed in Part A of Annex 20-A are geographical indications which identify a product as originating in the territory of the European Union or a region or locality in that territory; and
- (b) the indications listed in Part B of Annex 20-A are geographical indications which identify a product as originating in the territory of Canada or a region or locality in that territory.

*Article 20.19*

**Protection for geographical indications listed in Annex 20-A**

- 1 Having examined the geographical indications of the other Party, each Party shall protect them according to the level of protection set out in this Sub-section.
2. Each Party shall provide the legal means for interested parties to prevent:
  - (a) the use of a geographical indication of the other Party listed in Annex 20-A for a product that falls within the product class specified in Annex 20-A for that geographical indication and that either:
    - (i) does not originate in the place of origin specified in Annex 20-A for that geographical indication; or
    - (ii) does originate in the place of origin specified in Annex 20-A for that geographical indication but was not produced or manufactured in accordance with the laws and regulations of the other Party that would apply if the product were for consumption in the other Party;
  - (b) the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other

than the true place of origin in a manner which misleads the public as to the geographical origin of the good; and

- (c) any other use which constitutes an act of unfair competition within the meaning of Article 10bis of the *Paris Convention for the Protection of Industrial Property* (1967) done at Stockholm on 14 July 1967.
3. The protection referred to in sub-paragraph 2(a) shall be provided even where the true origin of the product is indicated or the geographical indication is used in translation or accompanied by expressions such as “kind”, “type”, “style”, “imitation” or the like.
  4. Each Party shall provide for enforcement by administrative action, to the extent provided for by its law, to prohibit a person from manufacturing, preparing, packaging, labelling, selling or importing or advertising a food commodity in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its origin.
  5. In accordance with paragraph 4, each Party will provide for administrative action in respect of complaints related to the labelling of products, including their presentation, in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding their origin.
  6. The registration of a trademark which contains or consists of a geographical indication of the other Party listed in Annex 20-A shall be refused or invalidated, *ex officio* if a Party's legislation so permits or at the request of an interested party, with respect to a product that falls within the product class specified in Annex 20-A for that geographical indication and that does not originate in the place of origin specified in Annex 20-A for that geographical indication.
  7. There shall be no obligation under this Sub-section to protect geographical indications which are not or cease to be protected in their place of origin, or which have fallen into disuse in that place. If a geographical indication of a Party listed in Annex 20-A ceases to be protected in its place of origin or falls into disuse in that place, that Party shall notify the other Party and request cancellation.

#### *Article 20.20*

#### **Homonymous geographical indications**

1. In the case of homonymous geographical indications of the Parties for products falling within the same product class, each Party shall determine the practical conditions under which the homonymous indications in question will be differentiated from each other, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled.
2. If a Party, in the context of negotiations with a third country, proposes to protect a geographical indication identifying a product originating in the third country, if that indication is homonymous with a geographical indication of the other Party listed in Annex 20-A and if that product falls within the product class specified in Annex 20-A for the homonymous geographical indication of the other Party, the other Party shall be informed and be given the opportunity to comment before the geographical indication becomes protected.

## Article 20.21

### Exceptions

1. Notwithstanding Articles 20.19.2 and 20.19.3, Canada shall not be required to provide the legal means for interested parties to prevent the use of the terms listed in Part A of Annex 20-A and identified by one asterisk<sup>26</sup> when the use of such terms is accompanied by expressions such as “kind”, “type”, “style”, “imitation” or the like and is in combination with a legible and visible indication of the geographical origin of the product concerned.
2. Notwithstanding Articles 20.19.2 and 20.19.3, the protection of the geographical indications listed in Part A of Annex 20-A and identified by one asterisk<sup>27</sup> shall not prevent the use in the territory of Canada of any of these indications by any persons, including their successors and assignees, who made commercial use of those indications with regard to products in the class of “cheeses” preceding the date of 18 October 2013.
3. Notwithstanding Articles 20.19.2 and 20.19.3, the protection of the geographical indication listed in Part A of Annex 20-A and identified by two asterisks shall not prevent the use of this indication by any persons, including their successors and assignees, who made commercial use of this indication with regard to products in the class of “fresh, frozen and processed meats” for at least five years preceding the date of 18 October 2013. A transitional period of five years from the entry into force of this Article, during which the use of the above indication shall not be prevented, shall apply to any other persons, including their successors and assignees, who made commercial use of those indications with regard to products in the class of “fresh, frozen and processed meats”, for less than five years preceding the date of 18 October 2013.
4. Notwithstanding Articles 20.19.2 and 20.19.3, the protection of the geographical indications listed in Part A of Annex 20-A and identified by three asterisks shall not prevent the use of those indications by any persons, including their successors and assignees, who made commercial use of those indications with regard to products in the classes of “dry-cured meats” and “cheeses”, respectively, for at least ten years preceding the date of 18 October 2013. A transitional period of five years from the entry into force of this Article, during which the use of the above indications shall not be prevented, shall apply to any other persons, including their successors and assignees, who made commercial use of those indications with regard to products in the class of “dry-cured meats” and “cheeses”, respectively, for less than ten years preceding the date of 18 October 2013.
5. If a trademark has been applied for or registered in good faith, or if rights to a trademark have been acquired through use in good faith, in a Party before the applicable date set out in paragraph 6, measures adopted to implement this Sub-section in that Party shall not prejudice the eligibility for or the validity of the registration of the trademark, or the right to use the trademark, on the basis that the trademark is identical with, or similar to, a geographical indication.
6. For the purposes of paragraph 5 the applicable date is:

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<sup>26</sup> For greater certainty, this paragraph applies equally to the term “Feta”.

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- (a) in respect of a geographical indication listed in Annex 20-A on the date of signing of this Agreement, the date of coming into force of this Sub-section; or
  - (b) in respect of a geographical indication added to Annex 20-A after the date of signing of this Agreement pursuant to Article 20.22, the date on which the geographical indication is added.
7. If a translation of a geographical indication is identical with or contains within it a term customary in common language as the common name for a product in the territory of a Party, or if a geographical indication is not identical with but contains within it such a term, the provisions of this Sub-section shall not prejudice the right of any person to use that term in association with that product in the territory of that Party.
  8. Nothing shall prevent the use in the territory of a Party, with respect to any product, of a customary name of a plant variety or an animal breed, existing in the territory of that Party as of the date of entry into force of this Sub-section.
  9. A Party may provide that any request made under this Sub-section in connection with the use or registration of a trademark must be presented within five years after the adverse use of the protected indication has become generally known in that Party or after the date of registration of the trademark in that Party provided that the trademark has been published by that date, if such date is earlier than the date on which the adverse use became generally known in that Party, provided that the geographical indication is not used or registered in bad faith.
  10. The provisions of this Sub-section shall not prejudice the right of any person to use, in the course of trade, that person's name or the name of that person's predecessor in business, except where such name is used in such a manner as to mislead the public.
  11.
    - (a) The provisions of this Sub-section shall not prejudice the right of any person to use, or to register in Canada a trademark containing or consisting of, any of the terms listed in Part A of Annex 20-B; and
    - (b) Sub-paragraph (a) does not apply to the terms listed in Part A of Annex 20-B in respect of any use that would mislead the public as to the geographical origin of the goods.
  12. The use in Canada of the terms listed in Part B of Annex 20-B shall not be subject to the provisions of this Sub-section.
  13. An assignment as referred to in paragraphs 2 through 4 does not include the transfer of the right to use a geographical indication on its own.

*Article 20.22*

**Amendments to Annex 20-A**

1. The CETA Joint Committee, established under Article 26.1 (The CETA Joint Committee), acting by consensus and on a recommendation by the CETA Committee on Geographical Indications, may decide to amend Annex 20-A by adding geographical indications or by removing geographical indications which have ceased to be protected or have fallen into disuse in their place of origin.

2. A geographical indication shall not in principle be added to Part A of Annex 20-A, if it is a name that on the date of the signing of this Agreement is listed in the relevant Register of the European Union with a status of “Registered”, in respect of a Member State of the European Union.
3. A geographical indication identifying a product originating in a particular Party shall not be added to Annex 20-A:
  - (a) if it is identical to a trademark that has been registered in the other Party in respect of the same or similar products, or to a trademark in respect of which in the other Party rights have been acquired through use in good faith and an application has been filed in respect of the same or similar products;
  - (b) if it is identical to the customary name of a plant variety or an animal breed existing in the other Party; or
  - (c) if it is identical with the term customary in common language as the common name for such product in the other Party.

*Article 20.23*

**Other protection**

The provisions of this Sub-section are without prejudice to the right to seek recognition and protection of a geographical indication under the relevant law of a Party.

Sub-section D

**Designs**

*Article 20.24*

**International agreements**

Each Party shall make all reasonable efforts to accede to the *Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs*, done at Geneva on 2 July 1999.

*Article 20.25*

**Relationship to copyright**

The subject matter of a design right may be protected under copyright law if the conditions for this protection are met. The extent to which, and the conditions under which, such a protection is conferred, including the level of originality required, shall be determined by each Party.

Sub-section E

**Patents**

*Article 20.26*

**International agreements**