



## **Traditional Terms and Appellation wines: debates insight of TTIP negotiation**

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## Abstract

The game of chess between EU and US (TTIP) for the wine sector revolves around two main issues on which the negotiating partners are divided. The first regards the recognition of EU wines with PDO and PGI and protection of “semi-generic names”. The second considers the protection of “traditional terms” (TTs) used as description of product characteristics or production systems and represents the highest expression of excellence as synonymous with quality recognized. Towards an overview of the claims, different requests and debates on the ongoing TTIP, the aim of this paper is to demonstrate how international trade finds itself increasingly threatened and facing a series of obstacles along with showing the disparities between EU and US. Beyond the official position, the real game is played between selfish interests: those who defend collective brand reputation and those who support the private brand interest.

**Keywords:** *wine, traditional terms, Appellation of Origin*

**JEL codes:** Q17, Q18

## 1. INTRODUCTION

In recent years the EU has held several bilateral negotiations for free trade agreements with third countries. From the fifteen markets recognized as a priority for the wine sector.

The EU-US trade agreement, still in progress, is entitled the Transatlantic Trade and Investment Partnership (TTIP) and it aims to remove trade barriers (tariffs, unnecessary regulation, restrictions on investment, etc.) to a wide range of economic sectors, including agriculture, in order to make it easier to buy and sell goods and services between the two partners.

The game of chess between the EU and the US started in July 2013, but the end date is as yet unknown and the game could last not only months, but even years. If, as we hope, an agreement can be reached, it will then have to be approved by Parliament and EU Member States on the European side, as well as by Congress in the US. The end date for these negotiations could move even further out of sight and results can certainly not be expected in the short term.

The decision to start these negotiations was in large part due to the continuing economic crisis and the stalling of the multilateral trade negotiations at the WTO (Doha Development Agenda signed in Bali in December 2013). In addition, the debate on the new Common Agricultural Policy (CAP) Reform (2014-2020) and extreme volatility in the prices of agricultural raw materials have also been behind reopening the debate, discussing agriculture products and markets and the possibility of expanding non-EU markets. The T-TIP is intended to be: a) “*a comprehensive agreement that addresses a broad range of bilateral trade and investment issues, including regulatory issues, and contributes to the development of global rules*”; b) this would include “*substantially eliminating existing barriers to trade and investment*”; c) It would achieve “*ambitious outcomes in market access; regulatory costs and non-tariff barriers; and rules, principles, and new modes of cooperation to address shared global trade challenges and opportunities*” (Josling and Crombez, 2013).

A topic of particular interest to the wine sector within the negotiations for the EU-US trade agreement revolves around the recognition of wines with PDO and PGI protection and “semi-generic names”; an issue on which the negotiating partners are divided.

The game of chess between EU and US (TTIP) for the wine sector revolves around two main issues on which the negotiating partners are divided. The first regards the recognition of EU wines with *Protected Denomination of Origin* (PDO) and *Protected Geographical Indication* (PGI) and protection of “semi-generic names”. The second considers

the protection of “traditional terms” (TTs) used as description of product characteristics or production systems and represents the highest expression of excellence as synonymous with quality recognized. Towards an overview of the claims, different requests and debates on the ongoing TTIP, the aim of this paper is to show how international trade finds itself increasingly threatened and facing a series of obstacles along with showing the disparities between EU and US. Beyond the official position, the real game is played between selfish interests: those who defend collective brand reputation and those who support the private brand interest.

The political economy mechanism that created the existing set of European quality wine regulations is shown by Meloni and Swinnen, 2013; Gaeta and Corsinovi, 2014; while other authors develop a political economy model of the size of Geographical Indications (Moschini et al., 2008; Deconinck and Swinnen, 2014). However, most of the studies and researches applied to the Appellation of Origin (AO)<sup>1</sup>, follow marketing theories and focus on the consumers’ and retailers’ behaviour, their willingness to pay for origin labeled or analyzes the factors affecting the positioning of wine based on the value added by the DO or GIs as collective brands. A substantial body of the literature on place of origin showed that Country of Origin affects consumer perceptions (Reiersen 1966; Dornoff et al. 1974; Clarke, Ownens and Ford 2000; Felzensztein, et al. 2008; etc.). According to Atkin 2010, the origin information helps wine consumers to reduce perceived risk and more often perceived as an indicator of quality when purchasing wine. Orth and Kraska (2002) found that “*buyers rank country and region at the top of wine attributes, while price, type, and producer name ranked lower*” (p.391). However, Akerlof (1970) and Nelson (1970), pioneering researchers in this field, shows that information asymmetries pertaining to the quality of a product are factors which negatively influence consumer demand.

## **2. Institutional framework**

### **2.1 The European wine policies**

The EU legislation for quality wine consists of two types of classification: (1) Protected Denomination of Origin (PDO) regarding “*quality wines produced in a specified region*” and (2) Protected Geographical Indication (PGI) regarding “*quality wines with geographical indication*”. PDO and PGI refer to the geographical names and qualifiers corresponding to the regions of production, used to designate the wines referred to in regulations, whose characteristics depend on the natural conditions, correlated to its viticulture characteristics (Gaeta and Corsinovi, 2014). Therefore, for wines without a PDO/PGI (to distinguish between those which fall under the category of wines and varietal wines) we need specific provisions for the use of optional rules, applicable to both PDO/PGI wines and other non-PDO/PGI wines. According to the EU law, the terms are applied to others agricultural quality products. Examples of GIs include Parmesan cheese, Parma ham or Tuscan olive oil.

The first EU regulation for quality wines was created in 1970 (Regulation 817/1970). Up until this point, quality wine was only regulated at member state level and no EU rules existed. Between the end of the 1800s and the mid-twentieth century, the French government introduced a series of domestic laws aiming to manage supply and guarantee production quality: the first decrees were to be adopted by the France government in 1935 (Meloni and Swinnen, 2013). The system of Appellation d’Origine Contrôlée (AOC) system come into force: however, the decrees not only limited the surface area of origin, but also called for a list

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<sup>1</sup> Appellation of origin is “*the name of the country, region or the place used in the designation of a product originating from this country, region, place or area as defined to this end, under this name and recognized by the competent authorities of the country concerned*” (OIV, 2012).

of accepted techniques, grape varieties for each region and label required. For the EU policymaker, the basic idea was that wines with a DO would be autonomous within the wine Common Market Organisation of wine sector (CMO) and those two markets would exist; one for ordinary wine and one for quality wine (until 1999 with the Reg. 1493/99)<sup>3</sup>. Only in 1963, Italy followed France and introduced the Denominazione di Origine Controllata (DOC). Portugal introduced its Denominação de Origem Controlada (DOC) in 1986 and Spain followed in 1996 with Denominación de Origin (DO).

The protection model for DO and AOC is based on a pyramid-structured project that arranges the diverse objects of protection, or different types of wine, according to various levels, becoming more restrictive as they gradually move up the pyramid from the base to the peak. The bottom section contains undifferentiated products (Table wine [TW], *Vino da Tavola* [Italy], *Vin de Mesa* [in Spain], or *Vin de Table* [in France]), which have no link to their place of origin and are therefore subject to significant legislative deregulation. Instead, they fall under generic legislation defining what the term “wine” means and how it should be marketed. The next tier in the pyramid shows the category “Indicazione Geografica Tipica” (typical geographical indication [IGT]). It is here that a link with the place of production starts to have an effect, but the size of the area of origin means that should be only minimal interaction between vine variety and territory (Gaeta and Corsinovi, 2014).

PDO wines can include on the label the vine varieties or their synonyms, specific mentions, references to particular vinification techniques, and specific qualifications of the product. PGI wines may also include on their labels an indication of the vine variety (or a synonym) as well as the color of the wine as long as such indications are foreseen in the production protocol. Article 52(1) and (2) of Regulation 607/2009 states that products whose label or presentation does not conform to the corresponding conditions as laid down in this regulation cannot be marketed in the Community or exported.

GIs are perceived to offer a wide range of opportunities that go beyond the economic and beyond the interests of their producers at origin. Like trade standards, GIs provide certain information and offer a guarantee. From a consumer’s point of view, GIs signal important characteristics that may not be obvious or evident by simply inspecting the product<sup>2</sup>.

## **2.2 The wine bargaining between Europe and US**

The 2006 agreement between the EU and the US on the marketing of wine, which was approved with Council Decision 2006/232/EC, did not resolve the issue and did not venture into who, prior to it being stipulated, had the possibility of using names, which at that point were considered to be “semi-generic” and were then promoted to “generic”. As a consequence of this, American producers who in the past had marketed their wine under the names in question (such as Californian Chianti) could continue to do so. Looking back at where this all started, two important points arise.

The first is linked to the American classification system. The second is linked to the incomplete nature of the TRIPS agreement (Trade Related Aspects of Intellectual Property Rights) signed in Marrakesh in 1994 during the Uruguay Round of the GATT (General

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<sup>2</sup> In US, “American wine” is an American appellation of origin: (i) The United States; (ii) a State; (iii) two no more than three States which are all contiguous; (iv) a county (which must be identified with the word “county”, in the same size of type, and in letters as conspicuous as the name of the county); (v) two or no more than three counties in the same States; or (vi) a viticultural area. It is also entailed to an appellation of origin if at least 75% of the wine is derived from grape grown in the appellation area indicated. An “Approved Viticultural Areas”, AVAs (like Napa Valley or Sonoma Valley, Lodi, etc) is delimited grape-growing region where 85% of the grapes used must come from the defined area; when an individual vineyard is named, 95% of the grapes must have been grown there

Agreement on Tariffs and Trade). In relation to the first of these points, the US Department of the Treasury which is responsible for the Alcohol, Tobacco, Tax and Trade Bureau (TTB) under the section of the Code of Federal Regulations (CFR) on labeling and promotion of wine products, created a classification system for geographically relevant symbols. These symbols were then subdivided them into “generic”, “semi-generic” and “non-generic” and those corresponding to Geographical Designations. The problem here lies in which category the symbol belongs to, as the level of protection available for the relevant DO in the US varies depending on the category. This means that if a name is classified as generic (Vermouth of example<sup>3</sup>) then it is not awarded any protection in the US. The semi-generic category contains names with a geographical significance and which also specify a category of product, such as *Burgundy, Champagne, Chianti, Malaga, Marsala, Madeira, Porto, Sauternes, Sherry*. According to US law, semi-generic names may be used as long as the true American origin of the wine is clearly declared to the consumer and the wine is in line with the quality standards laid down by the CFR. The Internal Revenue Code defines each semi-generic name:

*“as a name of geographic significance that is also a designation of class and type for wine. The IRC further states that a semi-generic name may be used to designate wine of an origin other than that indicated by its name only if there appears, in direct conjunction with the designation, an appropriate appellation of origin disclosing the true place of origin and the wine so designated conforms to the standard of identity”.*

This makes it possible to designate geographical names, such as Californian Chianti or New York Champagne, as the semi-generic name is accompanied by another designation of provenance (California, Napa Valley, New York, etc.) corresponding to the effective place of production. The US justifies this by stating that this combination enables the American consumer to recognize where the wine comes from and how it is different to French Champagne or Chianti produced in Tuscany. However, names with a geographical significance belong to the non-generic category.

The prerequisite of recognition is paradoxically linked to the consumer. In fact, US legislation recognizes the protection of a generic name if it is decided that at the point of purchase the consumer is capable of associating the wine with the geographical territory referred to in the name<sup>4</sup>. This means that names such as Bordeaux and Mèdoc are considered to be non-generic as the origin on the product is clearly identified by the US consumer. It is easy to understand how the interaction between vine variety, territory and production method, which is so important to European wine production, is not interpreted in the same way in the US, where the reputation of a wine is mainly determined by the private brand (Appiano, 2009). It is therefore of little surprise that the majority of European DOs register their own brand as well as the designation (collective brand). Another issue is the legal costs involved in maintaining this protection. Although, this is closely linked to the legislative gap which exists due to the incomplete nature (or perhaps carelessness) of the WTO TRIPS agreement, which introduced the issues relating to intellectual property rights (including geographical indications) and which was also accepted by the US.

The bone of contention here is not at a theoretical level so much as it is at a practical level. The key points can be found in section 3 of Geographical Indications and, more specifically, in article 22 on protection of geographical indications, article 23 on additional protection of geographical indications for wine and alcoholic drinks, and article 24 on

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<sup>3</sup> *Vermouth* is a type of aperitif wine compounded from grape wine, having the taste, aroma, and characteristics generally attributed to vermouth, and shall be so designated.

<sup>4</sup>It should be specified that when the first European pioneer from the “Old country” made wine in California from *Vitis Vinifera* grapes that looked, smelled and tasted like what the knew at home, they called it by Old Country names. By the early 1880s, names like Champagne, Burgundy (etc.) were commonly used to described wine similar to those grown in France (Muscatine et.al, 1984).

international negotiations. The agreement in fact recognizes the link between product and territory in an indication or origin, but the human factor and the link with the place of origin is not included. Moreover, article 23 bans the registration of a brand representing wines with a GI when the origin stated is not the true origin of the product. In the case of homonymous geographical indications for wines, protection is accorded to each indication (article 23(3)). Article 23(4) states that: “*In order to facilitate the protection of geographical indications for wines, negotiations shall be undertaken in the Council for TRIPS concerning the establishment of a multilateral system of notification and registration of geographical indications for wines eligible for protection in those Members participating in the system*”.

However, this system has never been launched, as the interpretation of the standards is done on the basis of national decisions and this has been the outcome.

On the one hand, Europe is calling for more protection for wines and on the other, the US is using strong arm tactics. It is precisely the protection of traditional terms another important issue being discussed in Brussels’ European quarter regards and US wine departments. They are well and truly a characteristic specific to the wine sector. They provide (or perhaps we should say “should provide”) protection to certain designations traditionally associated with specific wines bearing a designation or indication of origin. These terms are particularly complex as they face many problems and are of interest to a broad range of political actors (Member States and EU and non-EU wine organizations).

At EU level, two different types of traditional terms are included in the Single CMO. The first type is used for products with a PDO or PGI under Community or Member State law (Table 1). The second type is used for production or ageing methods, quality, color, type of place, or for a particular event linked to the history of the product with a PDO or PGI (Table 2). In addition to this, all terms and all new information connected to the protection of traditional terms is entered and updated in the EU’s E-Bacchus database<sup>5</sup>.

Table 1 shows the PDOs and PGIs Traditional Terms (in place of PDO and PGI) in the main wine producing countries such as France, Italy, Spain and Portugal.

Traditional terms do not however constitute intellectual and industrial property rights like PDO and PGI, but instead refer to production, processing or ageing details or to the quality, color and type of place included and recognized on the label. In order to avoid discrimination between wines originating in the Union and those imported from third countries terms traditionally used in third countries may obtain recognition and protection as traditional terms in the Union also where they are in conjunction with GIs and DOs regulated by those third countries.

In order to be able to use EU traditional terms on the Community market (bearing in mind that these terms include *Riserva, Brunello, Amarone, Vin Santo, Château, Torcolato and Governo all’uso toscano*), third countries must demonstrate: that the traditional terms in question are regulated by applicable standards, including those laid down by representative professional organizations from the third country; that the terms enjoy a good reputation within the third country; that the terms have been used traditionally for at least ten years in the third country; and that the third country’s regulations are clear enough so as not to mislead the consumer about the term in question. Many of these terms relate to famous wine countries or place or particular expressions. Table 2 tried to divide the main traditional terms according to their main characteristics like: place of origin; production method and ageing method; quality characteristics; historical wine typology and color. However many of them identify both the quality characteristics that historical typology.

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<sup>5</sup> The E-Bacchus database is the register of EU PDOs and PGIs protected under the Single CMO Regulation 1234/2007 and translated to Regulation 1308/2013. This includes the list of GIs and DOs for third countries protected in the EU following the implementation of bilateral agreements on trade in wine and signed between the EU and the third countries concerned. E-Bacchus also includes the list of traditional terms protected in the EU under the Single CMO Regulation.

**Tab. 1 Protected Denomination of Origin and Geographical Indication**

<b>States</b>	<b>PDO</b>	<b>PGI</b>
<b>France</b>	Appellation d'origine contrôlée (AOC) Appellation [...] contrôlée Appellation d'origine vin délimité de qualité Supérieure Vin doux naturel	Vin de Pays
<b>Italy</b>	Denominazione di origine controllata (DOC) Denominazione di origine controllata e garantita (DOCG) Vino dolce naturale	Indicazione Geografica Tipica (IGT)
<b>Portugal</b>	Denominação de origem (DO) Denominação de origem controlada (DOC.) Indicação de proveniência regulamentada (I.P.R.) Vinho doce natural Vinho generoso	Vinho Regional
<b>Spain</b>	Denominación de origen (DO) Denominación de origen calificada (DOCa) Vino de calidad con indicación geográfica Vino de pago Vino de pago calificado Vino Generoso Vino dulce natural	Vin de la Tierra

Source: Author's creation from E-Bacchus database, 2015

For example, in France the traditional terms “Château” is refers to the historical expression related to a type of area and to a type of wine and reserved to wines coming from an estate which really exists or which is called exactly by this word. Cru Artisan and bourgeois expression related to the quality of a wine, to its history as well as to a type of area evoking a hierarchy of merit between wines coming from a specific estate. (PDO “Médoc”, “Haut-Médoc”, “Margaux”, “Moulis”, “Listrac”, “Saint-Julien”, “Pauillac”, “Saint-Estèphe”). TTs like Premier and Grand Cru are expression related to the quality of a wine, but also are historical terms, reserved to wines with protected designations of origin defined by Decree and when a collective use is made of this expression by incorporation to a designation of origin. Other examples, in Italy “Recioto” TT, means the historical-traditional term closely connected to the name of three wines with designation of origin, produced in Veneto: PDO “Valpolicella”, “Gambellara” and “Recioto di Soave”, designations belonging thus to production areas very near among them and having similar traditions, especially in the provinces of Verona and Vicenza. The origin of the name date from the fifth century., at that time the bucolic writers defined as particularly valuable and renowned this wine whose production was limited to the province of Verona and whose name was originated from “Retia”, the mountain-hilly region that in ancient times extended across the veronese-trentino area until the comasco-valtellinese borders. Such term has been thus

The right to use traditional terms is accorded to third countries subject to an evaluation carried out by the Commission and Member States of the requests submitted in this regard and only if all conditions have been met. The final condition for non-EU wines using terms recognized in Europe for European wines is that the product's importation to the EU must be preceded by a request from the non-EU country including the reason for the request and the information to justify the recognition of the terms (Appiano, 2009). Using a language other

than the language spoken in the exporting country is permitted only if the use of such a language is provided for under national legislation and if the same language has been consistently used for the term in question for at least 25 years.

### 3. Discussion

The origin of the issue surrounding this lobbying case is twofold. Firstly, the EU has 359 traditional terms, 100 of which are synonyms of PDOs or PGIs (like “Vino de la Tierra” in Spain, “Appellation d’Origine Contrôlée” in France and DOC or DOCG in Italy), and 259 of which are traditional terms that describe the quality of wine or particular production process. In Italy, for example, less than 58 traditional terms have been identified, but the term “Reserve” is present in 212 Italian PDOs and the term “Novello” is in 187. In addition to these, there are also the terms “Sweet Wine,” “Sweet Wine Fortified— Liqueur,” “Ripasso,” and “Recioto.” Second, the Commission is evaluating making changes to the standards for traditional terms with the aim of reducing their number in order to assure their protection at international level. Therefore, it intends to create two additional criteria to increase their validity. The first of these criteria relates to the distinctive characteristic of the traditional terms according to which general and nonspecific terms could not be protected. The second criteria states that if a term is homonymous with a PDO/PGI or with a variety then the Commission can automatically refuse it protection. But what is the crux of the issue? For years, many agricultural organizations (COPA-COGECA, CEEV, and EFOW) have been fighting to obtain clear rules on the protection of traditional terms, particularly bearing in mind the already discussed incomplete nature of the previous EU–US agreement. But what is the crux of the issue? For years, many European agricultural organizations (COPA-COGECA, CEEV, and EFOW European Federation of Wine) have been fighting to obtain clear rules on the protection of traditional terms, particularly bearing in mind the already discussed incomplete nature of the previous EU–US agreement.

What is the crux of the issue? For years, many agricultural organizations (COPA-COGECA, CEEV *Comité Européen des Entreprises Vins*, and EFOW *European Federation of Wine*) have been fighting to obtain clear rules on the protection of traditional terms, particularly bearing in mind the already discussed incomplete nature of the previous EU–US agreement. However, this is a difficult battle with uncertain results particularly when the institution you’re fighting does not seem to want to listen. And it was made all the more difficult when the United States Trade Representative (USTR), the US government agency for development and control of trade policy, in the EU section of its 2013 Report on Technical Barriers to Trade strongly criticized the limits placed on the use of certain traditional terms on product labels. The USTR stated that EU regulations on the use of terms such as Riserva, Rubino, Chateau and Tawny restricts the ability of non-EU wine producers’ to use these terms on their wines sold in Europe; terms which the USTR considers to be common, descriptive and commercially valuable. At the request of Member States, Brussels has always defended itself by stating that the conditions imposed on third countries for the use of traditional terms are a guarantee against possible abuse. The approach being taken here is very clear. A little while ago now (June 2012), the EU approved a request from two American professional organizations which submitted to the Commission a request for protection for the traditional term “Classic” in relation to wine products from the “Wine” category included in Reg. 1308/2013 bearing a name of origin included in Annex V of the EC-US agreement on trade in wine, approved in 2006. Therefore, the term “Classic” was duly entered into the enormous hotchpotch that is the E-Bacchus database. At this point in the discussion on international wine policy we must ask ourselves why the EU continues to be so self-destructive.



**Tab. 2 The main traditional terms as referred to Regulation (EC) N. 607/2009**

<b>States</b>	<b>Place of Origin</b>	<b>Production and Ageing Method</b>	<b>Quality Characteristics</b>	<b>Historical – Wine Typology</b>	<b>Color</b>
<b>Italy</b>	Classico	Cannellino; Fine; Governo all’uso toscano; Occhio di Pernice; Passito or Vino passito; Liquoroso Rebola; Scelto, Stravecchio; Superiore Oldo Marsala; Torchiato; Vecchio; Verdolino; Vergine; Vino Fiore; Vino Novello or Novello, Vivace	Riserva; Superiore; Vendemmia Tardiva; Vermiglio	Amarone; Cerasuolo; Garibaldi Dolce ( <i>or</i> GD); Recioto; Sangue di Giuda; Sciacchetra; Soleras, Torcolato; Vin Santo or Vino Santo	Ambra; Ambrato; Claret; Chiaretto; Fiori d’Arancio; Rubino, Oro
<b>France</b>	Château, Clos	Vin jaune; Hors d’âge; Rancio; Sélection de grains nobles; Sur lie; Vendanges tardives; Vin de paille	Cru artisan Cru bourgeois Cru classé, <i>whether or not supplemented by</i> Grand, Premier Grand, Deuxième, Troisième, Quatrième, Cinquième; Grand cru; Villages	Ambré; Clairet; Caret;	
<b>Spain</b>		Añejo; Chacolí-Txakolina; Clásico; Criaderas y Solera; Crianza; Fondillón; Pajarete; Pálido; Solera; Sobremadre; Gran Reserve; Lágrima; Noble; Oloroso; Vino Maestro; Vendimia Inicial; Vino de Tea	Amontillado; Fino; Superior;	Dorado	
<b>Portugal</b>		Canteiro; Frasqueira; Garrafeira; Nobre; Solera; Leve; Làgrima	Fino; Superior; Super Reserva; Reserva velha (ou grande reserva); Vintage	Escuro; Ruby	

Source: Author’s creation from E-Bacchus database, 2015

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