The enforcement of Geographical Indications
Where we stand and where we can go

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www.ipkey.eu
THE EU RULES OF ENFORCEMENT OF GIs

GI control system: a common framework for Member States

- **Controllers:** the designated Competent Authorities and authorised Control Bodies

- **Scope of protection:**
  - Before the market – On the market
  - Compliance with the technical specifications – Protection against any unlawful use of the registered name

- **Ex officio protection:** independently of prior claim - beyond the official plan of controls - for all GIs all across the EU
THE EU ENFORCEMENT OF GIs IN PRACTICE

A good enforcement largely depends on an equivalent level of protection ensured across the EU

- The level of effectiveness in the Member States is diverse
- Different approaches in MSs to high quality food products for historical and traditional reasons
- Different economic weight of GI in MSs

Need to monitor...
2017 – THE EUIPO STUDY ON EU NATIONAL CONTROL SYSTEMS

The scope:
- 4 product categories
- IP: strictly GI in the TRIPP definition
- infringements

The structure:
- Inventory of organisations and procedures
- Practical Guide: contact data for networking and information on legal redresses

The methodology:
- data collection from Member States
- open sources and field research

Respondents:
- 23/28
2017 – THE EUIPO STUDY ON EU NATIONAL CONTROL SYSTEMS

The picture is in black and white:

- Uneven response: lack of interest in the survey or lack of engagement?
- Procedures and resources not always specifically for GI - general food controls apply
- **Ex officio protection** would need more...:
  - Italy, France, Germany, Spain, Latvia, Croatia, Poland, Romania, Hungary
  - Italy best practices:
    - central c.a. ICQRF legally designated for ex officio measures
    - MoUs with e-commerce platforms eBay, Alibaba and Amazon

- What is the real involvement of law enforcement authorities (Police and Customs) on GIs?
ENFORCEMENT OF GI IN INTERNATIONAL TRADE

Fake food products in international trade is a reality

Source: DG TAXUD Report on EU customs enforcement of IPR – results at the EU border 2017
26 January 2017: The Italian Prosecutor Office of Reggio Calabria (Anti-Mafia District Directorate) announces an operation (including collaboration of Italian Customs) against Organized Criminal Group with basis in Italy and connections with the USA.

Money laundering
Drug trafficking
Agri-food counterfeiting
ENFORCEMENT OF GI IN INTERNATIONAL TRADE

Illegal import-export operations of olive oil and agricultural products (and much more)

33 people arrested and € 40 millions seized
THE ROLE OF CUSTOMS IN ENFORCEMENT OF GI

Regulation (EU) No 608/2013 on Customs enforcement of IPR

- IPR holders proactive role: an «application for action» needed (AFA)
- IP rights in % of articles seized in 2017: **0.04% of GI**

Source: DG TAXUD Report on EU customs enforcement of IPR – results at the EU border 2017
THE ENFORCEMENT DATABASE AND GIs

Free of charge, secure platform enabling real-time exchange of information between right holders and enforcement authorities

BUILT UPON TMview AND DesignView

The EDB is a legal tool: its use by law enforcement authorities is founded on article 2(1) of Regulation EU 386/2012 establishing the mandate of the EU Observatory
THE ENFORCEMENT DATABASE AND GIs

Product Information

Identifier: shaver007
Category: shaver

Always Include:
- Letter of guarantee

CN Tariff:
- [01012100] Pure-bred breeding animals

Declared value on the border:
- Declared value on the border (euros)

Average Market Value:
- 0

Minimum quantity:
- Minimum required quantity for action

Barcode:

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THE ENFORCEMENT DATABASE AND GIs

Company Information

- Product Portfolio
- Company Details
- Contact Points
- IPR Portfolio
- Additional Webpages
- Selling Strategy
- Document Portfolio
THE ENFORCEMENT DATABASE AND GIs

Electronic Application for action

**Application for Action**

Protect your rights on the border providing the custom authorities with the necessary information about your rights, contacts and products. The Application for Action allows the applicant to request the customs authorities to take action with respect to goods suspected of infringing an Intellectual property right. Further details can be found in the Manual for Application for Action provided by DG TAXUD.

1. Select countries and languages
2. Select your IP Rights
3. Select your product
4. Review and send preAFA to COPIS

**2. Please select the IP Rights**

If you have selected several countries (Union AFA), you can only include IPRs based on Union law applicable throughout the EU. The following table includes only the IPRs that are associated to your products in the Product Portfolio. If there are no IPRs in the table, please relate your products to your IPRs.

<table>
<thead>
<tr>
<th>IPR NAME</th>
<th>STATUS</th>
<th>TYPE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plant test</td>
<td>Registered</td>
<td>Plant Variety</td>
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</table>

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Bajo la dirección de la Comisión Europea, IP Key es un programa gestionado por la Oficina de Propiedad Intelectual de la Unión Europea.

Sob a direção da Comissão Europeia, IP Key é um programa gerido pelo Instituto da Propriedade Intelectual da União Europeia.
EDB must be opened more for GI, but identifying “users” for credentials poses an issue

- For EDB: security policies require a link to the TM owner registered in TMViews
- How to adapt to the GI owners? Current databases? New ones?
- The starting point: linking access to EDB with legal entitlement to submit the AFA: 
  - the groups of producers
  - the control authorities and bodies
  - the operators
A possible way forward would require collaboration between EUIPO/Observatory and the National Authority of the Member State governing the GIs system

- The Ministry to provide EUIPO with a list of “certified” entities (groups of producers) and contact persons details for the purposes of enforcement
- The Ministry to ensure completeness and update of the list
- EUIPO to provide an account in EDB upon application by any listed group of producers
- Joint training on enforcement of GI and use of the EDB plus awareness campaigns
THANK YOU

@IPKey_EU