



Consorzio per la tutela del Formaggio Grana Padano



Desenzano del Garda, 31 July 2019

Australia-European Union Free Trade Agreement
Office of Trade Negotiations
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Sent by email: a-eufta@dfat.gov.au

Object: **EU – Australia FTA**

The Grana Padano cheese Protection Consortium (Consorzio Tutela Grana Padano) is the no-profit organisation which, since 1954, has dealt with the protection and promotion of GRANA PADANO cheese with a protected designation of origin. Doing this, it not only protects the legitimate interests of producers, maturers, packagers and sellers of Grana Padano Cheese, but ensures that when consumers around the world see the Protected Designation of Origin (PDO) and the Grana Padano logo, they know they are buying only genuine Grana Padano cheese.

As the world's best-selling Protected Designation of Origin (PDO) cheese, Grana Padano prides itself on its quality, authenticity, and traceability. Its PDO status means that it is essentially and exclusively linked to the particular area in Northern Italy where it is produced (and has been for almost a thousand years), inseparable from the raw material, climate, culture, and people that create it. The Italian State and European Union are fiercely protective of this cheese and are committed to maintaining its quality and authenticity.

With reference to the agreement **EU – Australia FTA**, we have seen on the website at the link:

<https://dfat.gov.au/trade/agreements/negotiations/aeufta/submissions/Pages/aeufta-submissions.aspx> that several critical position have been raised regarding GIs and their impact on such FTA by some Australian and extra European bodies/entities/firms alike.

With specific reference to Grana Padano Protected Designation of Origin (PDO) cheese, we would like to point out that the term “GRANA” cannot be considered a common cheese term, as it is an integral and characterising part of the Protected Designation of Origin “GRANA PADANO”, as also recognised by the COURT OF FIRST INSTANCE OF THE EU Court of Justice (Fourth Section), in the judgement of 12 September 2007 in Case T 291/03 (*«Community trade mark - Invalidity procedure - Registered Community trade mark GRANA BIRAGHI - Protection of the designation of origin "Grana Padano" - Article 142 of Regulation (EC) No 40/94 - Regulation (EEC) No 2081/92»*).



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The fact that there is a production of “Grana” cheese being done in the USA, in no way can be considered relevant in the context of the EU – Australia FTA. Each and every Agreement between the EU and other countries has to be considered as a single one and be negotiated bearing in mind the specific and particular market and juridical system of the counterpart country concerned. So, the situation ongoing in other countries has to be deemed as irrelevant in context of the EU – Australia FTA.

Therefore, we do believe that the principle of having protection equivalent to the one granted by the European legal framework and the recognition of all GIs is essential, in this case as in any other ongoing FTA the EU is negotiating. We therefore expect that any possible claim regarding a presumed generic nature of the term "GRANA" be denied and rejected and we will insist with the EU Commission, with the utmost firmness, to ensure full and effective protection of the term "GRANA" in the context of the EU – Australia FTA.

In any case, we do believe that any possible claim regarding a presumed generic nature of the term "GRANA", first of all has to be proven, with specific reference to the Australia’s market and jurisdiction.

Moreover, if in fact will be adequately proven that the term “GRANA” has been used before by some Australian firms, we do expect to be provided with the list of such “prior users”, with all the details and references of these firms, in order to verify that the use of the term “GRANA” by those firms is in fact ongoing at the moment and said use dates back before the EU – Australia FTA negotiations began.

In such case, any restriction to the full protection of the term “GRANA”, either for a phasing out period or definitive, can be considered only for those firms, while it is totally unacceptable not to grant the protection without those limits to any use of the term, especially if not historically proven as to be in place before the EU – Australia FTA negotiations began.

We thank you for the opportunity to point out all the points above and ask you kindly to inform us immediately regarding the development of the negotiations, especially with reference to this specific issue.

CONSORZIO PER LA TUTELA
DEL FORMAGGIO GRANA PADANO
IL DIRETTORE GENERALE
(*Dott. Stefano Berni*)

CONSORZIO TUTELA GRANA PADANO