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# Geographical Indications: from tradition to business

The case of Japan and  
the gradual loss of  
*terroir's* fundamental

**Supervisor**

Ph.D. Marcella MARIOTTI

**Assistant supervisor**

Professor Junko KIMURA

**Graduand**

Silvia Galeazzi

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## 要旨

地理的表示とは、原産地の特徴と結びついた特有の品質や社会的評価を備えている製品の原産地を特定する表示です。また、単に産地を表示する名称ではなく、長年の努力により積み上げられた品質などの特徴に対する信頼の基礎になっているものと考えられます。そのため、地理的表示(GI)製品に関する品質の特徴が原産地の自然的条件（気候や土壌）及びその地域で生産者の特有の知識（伝統的製法）に基づいています。登録した製品は他の普通製品の区別、偽造物の製造を阻止させる立法と経済に効果があります。地理的表示の主な目的は、地域の生物多様性を保護すること、製品の価格を上げること、偽造物から防止されること、消費者の信頼を確保することです。世界における歴史的で社会的条件の違いにより、各国は自分の地理的表示(GI)保護制度が導入されています。

1935年、需要と供給のバランスを取ることと地域製の産品を振興するために、フランスで地理的表示が生まれました。第二次世界大戦の後、ヨーロッパの市場が米国の大量生産に脅され、地域産品が外国製の産品に代替されました。その上、ヨーロッパ人の米国への移動の理由でも、「フェタ」と「パルメザン」というチーズのような、多くのヨーロッパ産品が大量に模造されました。したがって、フランスと同じように、例えばイタリアやスペインのような他のヨーロッパ加盟国が地理的表示保護制度を導入することを決定しました。その地理的表示保護制度の主な目的は、農業経済の進行に向け、原産地を証明する優れた食料品を守ることです。1992年にヨーロッパは、欧州諸国全体から約束された食品の地理的表示保護制度を取り入れました。ヨーロッパと対照的に、米国やオーストラリアやカナダなど別の国がそのGI保護制度を導入することに反対し、地域団体商標の基礎を置く保護制度を取り入れました。米国が特に移民の目的地なので、歴史的で文化的な視点から新たな国です。また、米国の街の名称がヨーロッパに先在都市の名をとって呼ばれています。その理由で、米国のために地理的表示保護制度を導入されることが全く必要ではありません。したがって、世の中には主としてヨーロッパの典型的な独自の制度とアメリカの商標による制度の二つの種類の制度が存在します。

日本では2015年に地理的表示制度が初めて導入されました。日本は「神戸牛」や「夕張メロン」のような伝統的な食品と古い料理文化があるにも関わらず、上記の欧州諸国に対して、日本での導入は比較的最近のことです。日本の制度はヨーロッパのモデルに類し、登録前に厳しい管理の下で生産された農林水産物に保護の高いレベルを規定しています。その制度の目的は主に行政機関は偽造品の厳格な監督を行うこと、地域ブランド製品を守ること、消費者が品質管理製品を入手可能にすることです。しかし、日本・ヨーロッパ・米国との間で最近行われた貿易協定がその制度の導入の目的に関して疑問を引き起こします。

その後、生産者と消費者の関心も高まり、次第に地理的表示がマレーシアやシンガポールやペルーなどの発展途上国と超大国の間の自由貿易協定（FTA）の題目になっています。地理的表示はFTA協定で重要な点です。なぜなら、FTA協定を締結した国の商品に適用関税率が異なることに基づいているからです。つまり、自由貿易協定における域内産品のうち、特惠関税が適用されるのはFTA原産地規則を満たす産品に限定されます。この規則を満たさない産品は域外国産品と同様、通常関税率に従います。更に、類似のGI保護制度がある相手方とFTA協定を締結することは経済的利益を得ることを可能にします。例えば、関税障壁を取り抜くことや、国の公債を減らすことや、産品の輸出を伸ばすことなどです。ある輸出の増加は世界的に自分の産品を広く知らせることだけではなく、国の経済成長を図ることもできます。1994年に世界貿易機関（WTO）は知的財産として地理的表示を保護する条約である「知的所有権の貿易関連の側面に関する協定」（通称TRIPs協定）を設立しました。TRIPs協定が世界的に知的財産に関する定義付けを初めてするので、協定規定の内容は不明になります。なぜなら、世の中に多様な各国の保護制度があり、逆の観念形態による主な二つの超大国の間で論争を生んだからです。すなわち、定められた定義がどのように実現されるべきかを説明しないで、TRIPs協定が単に規定の粗筋を挙げ、規定の内容を加盟国の国内法制に任せています。例えば、TRIPs協定は、地理的表示の定義の場合には品質の特徴が地理的原産地に帰せられると言われるが、原産地とどのような関係があるべきかに関してあまり明示されていません。または、社会的評価に基づいて保護のレベルが拡大され、社会的に認識された農産物だけではない産品も登録する

ことができるようになりました。このように、多くの発展途上国は陶器製品や磁器製品などのようにすでに世界的な名声を得た産品を登録したり、産品の価格及び輸出額の増加に繋げることができました。

近年、日本は経済外交の柱として推進されている自由貿易協定（FTA）に加入しました。まず、米国と環太平洋パートナーシップ協定（TPP）を約束しましたが、アメリカ合衆国大統領としてドナルド・トランプが選出された後、米国がTPPから離脱しました。次に、2017年の終わりにヨーロッパと経済連携協定（EPA）を約束しました。酪農製品と鋼鉄に関する関税を引き上げ、保護貿易政策を推し進めている米国がTPPの交渉を再開すると予想されないため、日本は新たな貿易関係のパートナーを探しているようです。または、日本GI保護制度がヨーロッパの制度に似ているので、主に現在の世界的な経済状況に基づいてこの特定の制度を導入した可能性があります。最後に、EPA協定が日本領土でヨーロッパ原産の多くのGI酪農製品の保護を促進します。日本には酪農製品の生産が非常に少なく、最近、ヨーロッパ製の産品の需要が増加しています。このように、GI酪農製品がEPA協定通り保護されることや、非常に低い関税で輸入することが可能になります。

世界競争が非常に激しい今日のようなシナリオでは、強い経済条約を結ぶこと及び輸出を増やすために、日本をはじめ多くの国がGI保護制度を採用しました。このように、原産地及び優れた品質の特徴の保護という地理的表示が生まれた目的が失われ、消費者にも悪影響を与える恐れがあります。

本稿には、まず、論文及びエッセイの参考を伴って、それぞれの商業協定の規定及びデータの分析を通じて、主な保護制度及び貿易協定の内容を明確にしたいと思います。その後、GI保護制度の起こりうる結果を詳細に分析するために、消費者に対してのアンケート及びインタビューを行います。要するに、日本のケースとEPA貿易協定に焦点を当てて、本稿には、最近の地理的表示保護制度が商業目的にしか導入されなかったことを検討し、異なるアプローチを提供することを試し、消費者への影響を分析する目的があります。

第1章では、歴史的イベント、主な理由、そして地理的表示保護制度の導入からもたらした結果に焦点を当て、地理的表示に関する現在の状況を切り出したいと思います。また、ヨーロッパモデルとアメリカモデルの食品保護制度の2つの主要モデルも紹介したいと思います。第2章では、発端、原因、そして採用の影響に焦点を当て、日本の地理的表示保護制度について説明したいと思います。さらに、登録食品のいくつかを描写し、日本のGI保護制度の主な特徴を明記し、この制度に関する個人的意見を述べたいと思います。最後に、ワイン保護制度の機能の違い点について一般的なアイデアを出すために、アルコール製品の保護に関する日本の制度を概説したいと思います。第3章では、FTA（自由貿易協定）やTPP（環太平洋パートナーシップ協定）やTRIPs（知的所有権の貿易関連の側面に関する協定）などのように、GI保護制度の管理の主な通商協定に関して検討したいと思います。参考資料の分析を通じて、20世紀末から21世紀にかけて生まれた新たな保護制度の特徴及び超大国と発展途上国の間で国際関係を調べ、最初の研究問題を明らかにしようと思います。それに続いて、その採用の可能な理由を深めるために、日本による採用された最近の制度と、日本及びアメリカ合衆国そして欧州連合を主役とする現在の国際経済情勢を検討したいと思います。第4章では、これらの新たなGI保護制度の採用に生じた影響の分析に焦点を当てます。新たなGI保護制度の基礎である「中立品質」という概念と、この分野の学者たちとの議論の説明した後、私は消費者の中に与えた影響を分析しようと思います。この分析には、イタリアの消費者のように地理的表示保護制度をよく知っている消費者と日本の消費者のようにあまり知らない消費者を比較したいと思います。方法論は、以前に日本の消費者が提出された調査、グーグルトレンドというプラットフォームを通じて行われた消費者の傾向と関心の分析、イタリアの消費者に提出された調査の作成です。また、消費者の関心と消費習慣に関する具体的なイメージを提供するために、「ワライ・スシ」というオリジナル・ジャパン会社が開始したプロジェクトの販売を分析したいと思います。最後に、私の論文で検討した地理的表示保護制度と通商協定を深めるために、事例研究としてオリジナル・ジャパン会社の社長である秋葉氏にインタビューをしたいと思います。

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## Summary

The purpose of this thesis is to answer the following researching question: provide a broader and more detailed picture of the current scenario regarding 'Geographical Indication' protection system and analyse the main reasons that lead developing countries to the adoption of such system, focusing on Japan; understand if the new GI protection system has brought positive consequences on quality and safety perceived by consumers, analysing in detail the consequences of the adoption of GI system.

The designations of protected origin are a real protection system able to protect the originality of a food product and guarantee consumers' quality and safety. They certify not only the territorial origin of a product — an essential element to differentiate original foods from imitations — but also safeguard specific knowledge (also known as know-how) and techniques (environmental factors, quality control, etc.) that give the food some unique and inimitable characteristics. For this reason, the logos of geographical name are attributed only to food products that satisfy the aforementioned particularities and maintain the specific uniqueness of the territory in which they are produced. Each nation has its own protection system, with its own rules and focal points dictated by different historical and social needs.

The territorial designations date back to the first half of the twentieth century in Europe, in France. In 1935 the approval of the French law for the safeguard of protected designations of origin was the first time the economic and social importance of a system of food protection was understood. In France they were implemented to re-establish the right balance between supply and demand and to enhance local products, without being forced to import substitute products from other countries (嵯原, 2015, pp. 187–189). Given the positive consequences on the domestic market, as the protection of the territorial biodiversity and an increase of the economic value of the food itself, other countries, like Spain and Italy, have started to adopt similar protection systems; in 1992 Europe introduced a protection plan concerning the origin of food products, valid for each member country of the European Union. On the contrary, some non-European countries decided not to adopt any system of territorial protection, relying mainly on a correlated system of brands, as the United States of America, Canada and Australia.



Japan introduced the designation of protected origin for the first time in 2015, relatively late compared to the above-mentioned EU countries. Because of this, the position taken by Japan, a territory of great alimentary uniqueness with a long culinary tradition, as Kobe Beef, Green Tea of Yame and Shimonoseki's Puffer Fish, was immediately clear: it decided to adopt a system very similar to the European one, in some aspect even stricter.

The main positive consequences of adopting a food protection system are: an increase in value for the product in question; greater control of quality and safety that can increase consumer interest; the decrease in the production of imitative products that unjustly proclaim the same characteristics of uniqueness (山本, 山本, & 氏家, 2015). Over the years the interest from both consumers and producers has increased and geographical indications have become the subject of debate in international trade relations between the two major economic powers, European Union and United State of America, and developing countries, as Peru, Malesia and China. A bilateral trade agreement between two countries that provides for a protection system of this kind generates considerable economic benefits, breaking down customs barriers and maintaining the same degree of guarantee in the "host" nation. All this would lead to a reduction in public debt and an increase in exports.

In today's scenario it would seem that many of the developing countries want to insert a protection policy on geographical designation mainly to be able to establish trade agreements with more economically powerful countries, as E.U. and U.S. In a critical essay of Naitō Yoshihisa (2015), it is clear how a country, for example Korea, between two commercial treaties, one with Europe and the second with America, can adopt two different strategies to receive the same benefits, varying some items of its territorial protection system.

Between August and September of the 2018, a trade agreement was signed between Europe and Japan (EPA), based on the mutual protection of its food products registered as protected by the country of origin and on the reduction of customs duties, to create one of the largest alliances based on the free trade market. Moreover, with the election of Donald Trump, current president of the United States of America, the U.S. decided to withdraw from some commercial agreements, such as the TPP (Trans Pacific Partnership), negatively affecting the international and domestic markets of some countries, like Japan. For example, the withdrawal of the United States of America from the TPP caused the loss of

about 6 trillion yen in the Japanese market and made Japan lose its favourable commercial position with America<sup>1</sup>.

Since the United State of America does not currently seem interested in re-establishing the TPP negotiations, it is possible that Japan is looking for a new commercial partner to increase its profits and exports. Not surprisingly, Japan decided to adopt a very strict system of geographical names and with many points in common with the system adopted by Europe. A trade agreement between two very similar systems, EU's and Japan's, greatly reduces the negotiations and expedients needed to find a common point, increasing exports in great numbers, guaranteeing the uniqueness of the product. Given this motivation, Japan could have adopted a very specific protection system, carefully considering the current economic situation. In a similar scenario, the main reasons why the geographical names of protected origin were born start to fade: the increase in the esteem and recognition by consumers of so-called 'high quality products' and the safeguard of the territory.

Analysing the current situation in Japan, it follows that, despite the system adopted, consumers of imported products are not always certain of the product origin; moreover, Japanese consumers seem to prefer local products with a strong reputation and, although they pay attention to the origin of the product at the time of purchase, they are not willing to spend more for buying a product with geographical indication, even if it guarantees an high level of quality and safety (西島, 2017).

Through the analysis of data and reports made public by the Ministry of Agriculture, Forestry and Fisheries and the Ministry of Foreign Affairs, accompanied by the consultation of texts, documents and essays, in this thesis I will try to clarify the similarities and differences between the various systems of territorial protection and examine the main international trade agreements, to provide a broader and more detailed picture of the current scenario and analyse the main reason that lead developing countries to the adoption of such systems, focusing on Japan. Secondly, thanks to my personal experience in a company selling and importing food products of Japanese origin, interviews will be conducted and a qualitative questionnaire will be submitted to consumers to try to analyse in detail the consequences of the adoption of 'Geographical Indications' protection

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<sup>1</sup> Nikkei staff writers, "Revised TPP faces obstacles on road to ratification", Nikkei Asian Review, February 2018: <https://asia.nikkei.com/Politics-Economy/International-Relations/Revised-TPP-faces-obstacles-on-road-to-ratification?page=1>

systems. The interviews will bring out the evaluation by consumers on a product of protected origin, trying to understand if the new food protection system has brought positive consequences on quality and safety perceived by consumers themselves. By focusing the study on products of Japanese origin imported and resold in Italy, I will be able to examine the current international situation following the economic agreements between Japan and the European Union. We can expect our findings will support those reported by Nishijima Taichi (2017), making the policy on protected geographical designation a useful tool for profitable bilateral agreements. But, since one of the main and most important objectives for which GI policies have been adopted is the creation in consumers of greater awareness about controlled origin, superior quality and territorial richness as added value of a country (Calboli, 2014), our questionnaires to consumers, importers and exporters, even if in a very small scale, will surely work at matching such objective and increasing awareness.

In the first chapter, I will present the current situation regarding geographical indications, focusing on historical events, main motivations and consequences deriving from the introduction of these systems. I will also introduce the two main models of food protection, the European and the American models.

The second chapter will be dedicated to the Japanese GI protection system, also in this case focusing on birth, motivations and consequences of this adoption. Furthermore, I will specify the main characteristics of the Japanese GI protection model, describing some of the main registered products, and I will give my personal idea on this model. In closing, I will outline the Japanese model relating to the protection of alcoholic products, in order to provide a general idea of its different functioning.

The third chapter will examine the main commercial agreements concerning the administration of GI protection systems, including FTA (Free Trade Agreement), TPP (Trans-Pacific Partnership) and TRIPs (Agreement on Trade-Related Aspects of Intellectual Property Rights). Through the analysis of the reference materials, I will try to clarify the first of the researching questions, examining the international relations between the main superpowers and developing countries and the characteristics of these new protection systems, born between the end of the twentieth century and the beginning of the new millennium. Subsequently, I will study the recent adoption of such systems by Japan and the international economic situation that sees Japan, United States of America and

European Union as main characters, in order to try to deepen the possible reasons for this adoption.

In the fourth chapter, instead, I will focus on the analysis of the consequences arising from the adoption of these new GI protection systems. Following the introduction of the "quality neutral" concept - fundamental of new protectionist food systems - and the debate between some of the leading scholars in the field (such as Gangjee Dev S. and Handler Michael), I will try to analyse the consequences of such systems can cause among consumers, comparing consumers close with these systems - as Italian consumers - with consumers less familiar - as Japanese consumers. The analysis will be conducted through the study of surveys previously submitted to consumers; analysis of trends and interests conducted through the online Google Trends platform; the creation of a personal qualitative questionnaire submitted to Italian consumers and the study of sales of Warai Sushi (a project initiated by the Italian-Japanese company Original Japan, in which I had the honour of doing an internship), in order to provide a specific picture on the interests of consumers and their consumption habits. In the end, I will take as an example of a case study the interview I submitted to the CEO of Original Japan, Mr Akiba Yoshikazu, in order to try to deepen the theme and the consequences studied in my thesis.

# Chapter 1

## Geographical indications of protected origins

### *1.1 - Definition and history*

Protected designations of origin and geographical indications are real property rights, protecting against any unlawful and undisclosed use that could mislead consumers. They are regulated by national standards, protected at European level, to ensure the required quality and safety level of food products and guarantee protection through the implementation of individual and/or collective logos. Despite the fact that protected designation of origin and geographical indications are recognised at national level, they are still a matter of discussion among international agreements: the significant differences in the legal systems present in the various countries do not allow a satisfactory protection. Designations and indications of origin are geographical signs that express a direct link with the territory the food products come from. To certify the origin of a certain food product, it must have some unique characteristics that can not be found in other similar products, due to the particular climatic and environmental conditions of its territory of origin. Secondly, protected designation of origin and geographical indications also protect specific knowledge and the work of those who try to maintain these territorial features intact: i.e. producers. The specific know-how includes the production methods, the improvements to the territory, the breeding methods and other technical knowledge obtained over the years by local producers, which help to give originality to the finished product. As Takahashi Teiji claims in his work, when the first systems on the control of the territorial origin were formed, the work of human beings was not given importance, since it was believed that the capacity of improvement of the human race could not change the surrounding territory (高橋, 2015, p. 15). Over time, it was understood that the environment of a particular area is not only given by the climate and the subsoil, but also by the human work that, thanks to the cultural baggage and technical knowledge, give added value and preserve the originality and the particularities of the territory itself. This phenomenon took the name of "*terroir*", in Japanese language "*terowāru*" (テロワール), a French word that indicates a limited geographical area in which the natural, physical, chemical and human conditions give

unique characteristics to the territory. The concept of “*terroir*” was defined by the INAO<sup>2</sup> (French National Institute of Origin and Quality) at the time of the adoption of the French Wine “Appellation d’Origine Contrôlée<sup>3</sup>” (AOC) System in 1935.

The protected denominations of origin and geographical indications also guarantee the safety of registered products: a totally natural production that exploits the power of nature to its fullest extent, without using additives, flavourings or added substances, a very important element for the consumer, more and more attentive to the quality and genuineness of the products on the market. For an enduring guarantee, the registered products are repeatedly submitted to quality control and control on production methods, that must not damage the territory. Designations systems are designed to counter intensive breeding and cultivation with the aim of maintaining all the naturalness of the food product (高橋, 2015, pp. 17–18).

Protected designations of origin and geographical indications demonstrate the particularity of the place and guarantee consumers high levels of quality, healthy products that are periodically checked. The opportunity to use the indications is denied to those products that can mislead the consumer or are produced outside the protected area or do not maintain the level of quality established. An exception is Japan, in which, according to the 1994 TRIPs Agreement<sup>4</sup>, names that include a word that specifies the non-originality of the territory are accepted. For example, as regards *Prosciutto di Parma* (PDO: Protected Designation of Origin), if produced in Hokkaidō and the origin is specified in the label, it is not judged as a deviant product for the consumer. The label must include terms such as: “*san*” (産, literally “production”) preceded by the name of the place, to indicate the area of production; “*yōshiki*” (様式) or “*fū*” (風), which means “style, mode”, to indicate a product with similar characteristics to the original one. On the contrary, regarding the protected indications of wine products, even if a specific word is added, the registration of the designation is denied (山本 et al., 2015, p. 11).

The origin of protected designations of origin and geographical indications is still completely unknown. It is thought that as early as 1624, in England, the term “designation of origin” was recognised as a patent. In 1857, in France, a law on trade and production

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<sup>2</sup> In French Language: “Institut National de l’Origine et de la Qualité”

<sup>3</sup> Literally: “Designation of Protected Origin”

<sup>4</sup> International Agreement on Intellectual Property Rights promoted by the World Trade Organization (WTO). In the following agreement, geographical indications were recognized as intellectual property, like copyright.

titles linked to a brand was established. In 1883, with the Paris agreement on industrial property rights, the production of forgery food products was banned (高橋, 2015, p. 37).

What is certain is the birth in the early 1900s of a movement that advocated for laws on quality certification and production levels appropriate to the territory, in which a specific food is produced. In France, between the nineteenth and twentieth centuries, the wine market began to weaken; due to the American widespread of substitute products, French wine market lost about a third of wine production. The high rate of imported products led to the easy creation of substitute products and the consequent decrease in product quality. To face the situation created in the wine market, France at the beginning of the nineteenth century decided to introduce some restrictive policies. First, the original wines were distinguished from imitations and all the wine products to which chemicals were added were prohibited (高橋, 2015, p. 38). In 1905 a law on the prevention of illicit products was promulgated and a criminal clause was introduced for fraudulent geographical indications. However, to be able to bring back French wine products to the previous high-quality level, this was not enough. In 1919 the law on the protection of denominations of controlled origin was enacted and was extended not only to wine products but also to all other food products, such as cheese, vegetables, fruit, oil, etc. It was the first time that a definition of "protected designation of origin" was given, even if slightly vague. Moreover, in the case of violation of property rights regarding the protected designations of origin, it was possible resort to a judicial case (高橋, 2015, pp. 39–40).

Nevertheless, a fundamental problem remained undisputed, namely how to determine the required quality level. In addition, the vague definition of designation of origin could cause misunderstandings and disputes between those who did not yet fully agree with the new system. The need to provide an objective and precise definition arose, not subject to further interpretations. In 1935, in France, the law for the control and regulation of designations of origin was approved: the AOC, "*Appellation d'Origine Contrôlée*". It provided for the decisions of certain production standards, for example the minimum acceptable level of alcohol content in wines, and some necessary characteristics, such as the place of origin and the variety of the product. A national committee on geographical designations (INAO) was also set up, which verifies that the whole procedure works (高橋, 2015, p. 41).

The AOC system was born to restore the balance between supply and demand that was lost due to a policy of reducing cultivated areas and lowering the value of wine products, which led France to start importing substitute products from Italy. In 1889 a law

was promoted on French wine products that aimed at the protection of consumers and honest producers, who guaranteed the correct production, distinguishing original wines from knock-offs. France, thanks to the type of territory, enjoys many varieties of vines and, consequently, a large number of different wine varieties. Producing imitations of the original products became easier and easier, and in order to face it, France needed for stricter rules. Moreover, some of the products, despite their illegality, were recognised and esteemed by consumers and, for this reason, the prevention of possible imitations became more complicated (蛭原, 2015, pp. 188–189). The AOC system focused on three main factors: places of origin are legally protected and the wine products that followed the required levels could be registered; production must take place in a defined geographical area (by grape type, 1 *ha*<sup>5</sup> of production) and the product must demonstrate the required levels (for example, the minimum acceptable alcohol limit in wine); the regulation was not completely decided by the government but was proposed at the request of the producers and a national organ responsible for monitoring and protecting the designations (INAO) was established. The AOC system was born mainly to protect wine products; later it was expanded to many other agri-food products and became the basis for the realisation of the European model (蛭原, 2015, p. 190).

Following the Second World War, many of the countries with Latin origins similar to France, like Italy and Spain, decided in turn to adopt new policies on food control. Italy in 1963 introduced the model on designations of origin; Spain in 1970 reformed the law on the protection of wine products and introduced an administration committee similar to INAO. In 1958 the Lisbon Agreement was concluded, according to which the denominations of controlled origin indicate the place of origin and the products connected to it, which certify certain unique characteristics of quality, their natural origin from the place of origin and the human work necessary to maintain high levels of safety and to preserve traditional production methods (高橋, 2015, p. 43-44). Only the countries of Latin origin mentioned above participated in the following agreement; it was not extended internationally due to the opposition of the United States of America. Despite the still embryonic status, the definition given in the Lisbon Agreement on protected designations of origin became the fundamental principle of subsequent reforms. Between 1960 and 1970, the European Commission decided to create a common market within the member states,

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<sup>5</sup> Japanese unit of measure: 1 "*ha*" corresponds to 1 hectare.



that would make it possible to standardise the control criteria and protect geographical designations. Within the aforementioned market, French wine products registered as AOC were evaluated as high-quality products. Due to the increase in competitiveness in the world market, in 1992 the European Commission decided to include a model of free movement of goods within the European Community and, consequently, a system of certification of the quality of food products was regulated, useful to remove internal trade barriers (高橋, 2015, p. 45). The same law on protected designations of origin present in France, Italy and Spain was also introduced in Germany and in the countries of Northern Europe, becoming a single model for all members of the European Union: "the European model of denominations of protected origin". It was the first time that two categories of denominations were distinguished: "denomination of protected origin", very linked to the production area, and "geographical indication", less tied to the territory but which pays much attention to quality and social recognition of the product. The following Japanese terms correspond to "*gensanchi koshō*" (原産地呼称) and "*chiriteki hyōji*" (地理的表示) respectively<sup>6</sup>. Some of the main objectives that were added to the fundamental criteria of the food protectionist system were the maintenance of a biodiversity that responds to the needs of the consumer and the development of the territorial economy (高橋, 2015, pp. 45–46).

Faced with the European scenario, there were also those who opposed the introduction of a food control and protection system, such as the United States of America and Australia, because it was more efficient for them to use a brand-based system, not having a culinary tradition similar to European countries. In this way two different protectionist models were created, which increased international competitiveness. Thanks also to the introduction of protected designations of origin, Europe became a major exporter of typical high value products and began to hinder American business objectives. In 1994, the TRIPs Agreement (Agreement on Trade Related Aspects of Intellectual Property Rights) was signed in Marrakech, dealing with the commercial relations of intellectual property rights. The agreement was formalised by the WTO (World Trade Organisation) and all member countries had to accept the food protection system signed in the aforementioned agreement, which established the requirements to be met for the protection of the intellectual property of geographical indications. The main objective was

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<sup>6</sup> See paragraph 1.3.

to bridge the differences on the protection of intellectual rights in the world, trying to introduce common international rules (高橋, 2015, p. 48-50).

It was the first time that geographical indication was debated as an intellectual property on an international level and, from that moment on, many of the emerging countries also adopted new systems of protection for food products.

## *1.2 - Reasons and consequences of adopting a system based on protection on geographical designation*

The denominations of origin and geographical indications protect the food product and defend it against imitations. Not only do they guarantee consumers certified quality, but they also protect the territorial biodiversity and produce an increase in the value of the food itself. Through the adoption of food protection systems, the registered products are differentiated from the so-called "common" products thanks to their uniqueness; as a result, they get a net increase in their value. As Takahashi Teiji says, in 2010 in Europe, certified and registered products increased their value by about one and a half times compared to "common" products, and by more than double if they include wine products. Both the cheeses and the meat products increased their value by about double and the amount of production of the certified products reached 7,000 billion yen (about 54 billion euros). Taking into consideration the various categories of food products, according to a study of the MAFF (Japanese Ministry of Agriculture, Forestry and Fisheries) conducted in the same year, in Europe fruit and vegetables increased their value by 1.29 *bai*<sup>7</sup>, meat of 1.16, products based on meat of 1.8, oil of 1.79, cheeses of 1.59, wine products of 2.75 and alcoholic beverages of 2.57 (高橋, 2015, p. 29).

Also, according to an examination developed in 2008 by the London Economics on three European products with geographical indication, such as the "Chicken of Bresse" (PDO), the extra virgin olive oil "Toscano" (PGI) and the "Apples of the Val di Non" (PDO), the retail sale of the aforesaid products increased between 6% and 12% (London Economics, 2008, p. 210).

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<sup>7</sup> The following data is measured in *bai* (倍), a Japanese unit of measurement. Two *bai* correspond to twice the previous value.

PDO/PGI products	Farmer	Process dealer	Distribution	Price
Chicken of Bresse (common product)	35% (28%)	40% (46%)	25% (26%)	12€/kg (3.25 €/kg)
Extra virgin olive oil Toscano (common product)	46-53% (37-47%)		47-54% (53-63%)	9.6 €/750cl (6.05 €/750cl)
Apple of the Val di Non (common product)	50% (38%)	10% (12%)	40% (50%)	1.75 €/kg (1.35 €/kg)

Table 1: London Economics, 2008. The study reports in percentage the difference in values in the different phases of the supply-chain between a certified product and a common product of the same type (London Economics, 2008, p. 210).

Protected designations of origin and geographical indications also have good consequences in maintaining production in unfavourable geographical areas. For example, in France, "メーヌ・アンジュー" Beef (*mēnu anjū*, in French "*Maine Anjou*"), originating from a low-fertile grazing land due to an arid climate and a soil lacking in water, is one of the products certificates recognised at national level. Similarly, in the province of Tottori, in the central area of Japan, a type of shallot is produced, known as "*sakyū rakkyō*", which exploits the low fertile land of the area. It is produced in a sandy soil where the grains of sand are extremely small so that they allow the formation of a shallot with a white colour, thin fibres and a crunchy consistency. *Sakyū rakkyō* is a food of the Japanese culinary tradition and is still recognised nationally as a product of protected origin, safeguarding its quality and territory (高橋, 2015, p. 30). The certification of the products has been possible because, according to the respective protectionist models on food products, a product must mainly express the particularities coming from the territory itself and make the most of the surrounding nature. If both factors are also drawn from unfavourable geographical areas, the product does not encounter any obstacle to being registered. The increase in the value of products has an impact on the value of the country itself, which increases the maintenance of the geographical area of origin: an objective sought especially by more unfavourable agricultural areas (高橋, 2015, pp. 31–32).

According to the rules of the protected designations of origin and geographical indications, to maintain a high level of quality, intensive production is not necessary: a large-scale production at a fast pace would produce a loss of product quality, since it does not take

advantage of most of the potential offered by nature. In this way the biodiversity of the territory is preserved and biological production is promoted. The increase in the value of the products causes an increase in the value of the countries themselves, able to create new activities and guarantee continuous checks on the quality of the product. The protection of the territory and the enhancement of rural areas are added values for a country and would also have positive effects on the tertiary sector, attracting the attention of a greater number of tourists interested in going to place of origin to taste the local delicacies and visit the beauties that the area offers (高橋, 2015, pp. 32–33).

A second positive effect of adopting a system of designations is the increase of consumer interest. A brand of controlled origin is a symbol of quality and safety and allows the customer to immediately distinguish the product registered by others on the market and, consequently, creates in the consumer a kind of trust in the product. The registered products are subjected to sudden checks and all the news relating to them are made public; for example, in Japan, the Ministry of Agriculture, Forestry and Fisheries (MAFF) publishes every single change and news about GI protection system and a report on registered trademark products, reporting the increase in value, the checks performed and the results obtained, the commercial agreements relating to geographical indications, the list of registered products, and so on<sup>8</sup>. Transparency increases consumer interest and differentiates the registered product more. To ensure greater security, tax authorities and law enforcement agencies have adopted much more stringent control systems, focusing on legitimate circulation of goods by prohibiting imitations. For example, in the case of commercial transactions of wine products, often subject to counterfeiting, the obligation to register the entry and exit of protected brand products was included. In addition, some protectionist systems, such as the Japanese one, envisage not only the abolition and withdrawal of the illegitimate product from the market, but also include some sanctions based on the seriousness of the situation. The quality control exams are normally performed by the producers themselves and by third parties, in order to guarantee objective and safe control; further element that allows the creation of trust in the consumer (高橋, 2015, p. 25).

In the 20th century, the United States of America promoted fast-food and, soon, low-cost and low-quality products filled the European market. However, in recent years, due to the

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<sup>8</sup> See the official website of MAFF (Japanese version) under the “information” section – published document <http://www.maff.go.jp/j/press/index.html>

globalisation process, consumers began to pay more attention to the quality of products and to look for a healthier lifestyle, buying products that respect the environment and biodiversity, maintain their nutritional qualities unaltered and do not promote intensive farming. Certainly, being able to identify the aforementioned characteristics in an autonomous manner was very difficult; therefore, the introduction of a protectionist system concerning foodstuffs that certify quality and safety and provide an objective way of measuring them was of great importance to respond to the increasingly pressing demand from consumers (高橋, 2015, pp. 21–22).

In conclusion, protected designation of origin and geographical indications have excellent consequences even when we are talking about international relations. According to the GATT (General Agreement on Tariffs and Trade) and the WTO (World Trade Organisation), trade agreements must increase the wealth of both parties, so that both can benefit at best. From the frenetic globalisation, many countries began to import foreign products that soon became substitutes for local products. The same thing happened also in food products: in a scenario of strong competition, the continuous research for effectiveness and efficiency (agriculture and intensive breeding, low costs, mass production, etc.) undermined the local agri-food tradition, whose value began to decline. Food products lost value in the market and consumers began to lose interest in protecting environmental biodiversity, leading to the risk of fewer controls being carried out and that the product not being safe (高橋, 2015, pp. 35–36).

Recently, precisely because of the scenario arising from globalisation, many consumers began to demand again a certain level of food safety and quality. Once again we began to understand the importance of protecting the environment in which we live, trying to make the best use of the resources we possess: and so, the introduction of new protectionist systems acquired great importance, both to regain value in the international market, and to respond to consumer demand (高橋, 2015, pp. 21–22). Faced with a similar scenario, in most of the international agreements, the denominations of controlled origin and geographical indications began to be debated, stipulating agreements that would place the protection of the territory as a focal point and guarantee consumers a high level of quality, even on imported products. In this way, both parties would be able to value their products, differentiating them from common products, and benefiting from considerable economic compensation. Products of controlled origin have an economic value higher than "common" products which would increase the value of the exported product accordingly.

For example, according to the European Commission, between 2005 and 2007, registered brand products increased their export volumes by about 9% and the value of the product rose by 17%<sup>9</sup>.

At the end, the agreements would allow the elimination of customs barriers in view of free trade, useful to promote food products: the absence of customs duties makes it possible to increase exports at lower prices, even for products certified with a greater economic value. It also proves to be an excellent solution for developing countries which, thanks to international trade agreements, are able to export larger quantities of agri-food products and increase their value. Most of the developing countries have a long culinary tradition and have a rich production of typical foods of the area. Following the international TRIPs agreement, many developing countries began to be interested in geographical indications. Moreover, many of the products of the developing countries imported into other countries became common names and, therefore, the acquisition of a system of protection of geographical indications would be useful to recover the right to use the term of protected origin (高橋, 2015, pp. 81–82).

The protection systems of geographical indications also have some imperfections. From a certain point of view, they prevent the evolution of the agri-food economy: the characteristics required for quality and tradition prevent the entry of new products with controlled brands. Secondly, the clear distinction between certified products and "common" products prevents free competition: the registered name can not be used freely; only those certifying an appropriate production method, an excellent quality level and the derivation from the place of origin can use trademarks of protected origin. This also causes an unjust distinction between nations that have a more favourable condition to accommodate a larger number of certified branded products and those that do not have similar conditions.

In conclusion, the high production and management costs required for the certification of a product of controlled origin cause an increase in the price of the product itself (高橋, 2015, p. 34). Despite an increase in added value, in a period of crisis similar to today's, not all consumers are favourable to a price increase and prefer to save even buying products with a low-intermediate level of quality.

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<sup>9</sup> European Commission online Newsletter, available at [https://ec.europa.eu/agriculture/quality/schemes/newsletter-2010\\_en.pdf](https://ec.europa.eu/agriculture/quality/schemes/newsletter-2010_en.pdf)

### 1.3 - The differences between “designation of origin” and “geographical indication”

“*Gensanchi koshō*” (原産地呼称) and “*chiriteki hyōji*” (地理的表示) in Japanese language mean respectively "denomination of origin" and "geographical indication". The “*gensanchi koshō*” is a type of “*chiriteki hyōji*”. However, often the terms are used with slight nuances of meaning, which could lead to easy misunderstandings.

The first term, as explained above, arose from the adoption by France of the first food protection system, the AOC; the second term, on the contrary, was born much later, with the international TRIPs Agreement, signed by well over 130 countries. However, due to the presence of a great variety of different gastronomic traditions in the world, the method of protection and the process of certification of the products were entrusted to the internal administration of the country and different types of food protection systems were created according to the specific nation, merging with the existing systems (高橋, 2015, p. 11-13).

Since the 1990s, the historical term “*gensanchi koshō*” was replaced internationally by the most recent “*chiriteki hyōji*”, which included a broader concept and recognised the intellectual properties of the product. To give an example, the European Union initially distinguishes products with geographical indication (“*chiriteki hyōji*”) from those that do not report it. Subsequently, if the product is recognised, it is divided into other categories: PDO, Protected Designation of Origin (“*gensanchi koshō*” or “*hogo gensanchi koshō*”<sup>10</sup>); PGI, Protected Geographical Indication (“*chiriteki hyōji*” or “*hogo chiriteki hyōji*”<sup>11</sup>); TSG, Traditional Specialty Guarantee (蛭原, 2015, pp. 192–193). The TSG brand recognises the specific nature of the product which, due to its traditional characteristics, is different from other products. For the remaining two, both provide for the designation of the place of origin; however, the PDO designation provides a much stronger link with the place of production and certifies that the entire production process takes place in the same area (内藤, 2015b, p. 100). The geographical indication, instead, is used to indicate an agri-food product whose quality, social evaluation and other particularities are mainly attributed to the area of origin.

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<sup>10</sup> In Japanese language 保護原産地呼称, literally "Protected designation of origin".

<sup>11</sup> In Japanese language 保護地理的表示, literally "Protected indication of origin".

#### *1.4 - The two main food protection systems*

As explained in the previous paragraphs, globalisation brought for many European countries, and not only, the need to adopt food control systems to ensure the quality of local products and to allow the development of the countries. Given the wide variety of agri-food cultures and traditions, each country has developed its own food protection system. However, two main models are distinguished: the European model, from which most of the protectionist systems were born; and the American model, adopted by the countries that, due to a poor agri-food tradition, do not benefit from a similar protectionist system.

Both models recognise the importance of a system of protection: for Europe based on territory and quality; for the United States of America based on a system of brands used as certification of origin (高橋, 2015, p. 92).

The two different positions taken towards the development of geographical indications are also reflected in the international agreements, which see one of the two parties as the protagonist. For example, in the agreement between Europe and South Korea, which took place in 2011, it was decided to adopt a system for the protection of geographical indications with the same content approved during the TRIPs<sup>12</sup>, based on the European model. In this way, products registered in one of the two countries are subject to the same level of protection in the second country as well. The same situation occurred in 2013 with the international agreement between Europe and Canada, which recognises the protection of geographical indications and their degree of protection. In this way, thanks to international agreements, Europe promotes export and guarantees product protection also in export countries. On the other hand, the United States of America, opposed to a strengthening of the protection systems of geographical indications, in international treaties with other nations provides for the development of a procedure to oppose geographical indications, prohibiting them in the event that some certification brand is already registered (内藤, 2015b, pp. 107–108).

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<sup>12</sup> See chapter 3.



### 1.4.1 - The European Model

In 1992, with the birth of the European Union, the member states that decided to take part in it adopted a certification system on the quality of agricultural products as a cornerstone of their geographical indications' systems. It provided for the removal of any commercial obstacle and the free movement of people, goods, capital and services within the territory. Also, with regards to diplomatic negotiations, member countries must follow the rules decided at Community level (高橋, 2015, p. 68).

The European Union decided to include a model of protection on geographical indications to improve consumer choice and rural areas activity. For consumers, clarity was central: the model provides for the publication of registered indications so that third-party companies or consumers can have all the necessary information. In 2015 the European Commission had 459 PDO indications and 1291 PGI indications. The country with the highest number of registered food products was Italy, with 129 PDOs and 474 PGIs. Following France (75 PDO and 376 PGI), Greece (116 PDO and 33 PGI) and Spain (44 PDO and 100 PGI) (蛭原, 2015, p. 194).

In 2017 the European Union has almost 3000 registered geographical indications, including 1757 PDOs (616 of food and 1141 of wine products), 1138 PGI (700 food and 438 wines) and 54 TSG. There are also around 1250 indications registered in Europe from third countries. Italy remains the European country with the highest number of registered products: over 800 products registered between PDO (571) PGI (243) and TSG (2), including 523 registered wine products. At the local level, northern Italy is the area that benefits from a higher number of registrations (first of all Emilia Romagna); while for the wine sector, Piedmont and Tuscany register the highest number of denominations<sup>13</sup>.

The European Union recognises three types of geographical indications. The PDO, "Protected Designation of Origin", similar to the pre-existing French protection system, certifies the territorial exclusivity from which the product originates. The quality and peculiar characteristics demonstrate the particularities of the area in which a good is produced, processed, and packaged. The PDO aims at the importance of the environment by

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<sup>13</sup> QUALIVITA, *I prodotti Food & Wine a Indicazione Geografica – il sistema europeo, il modello italiano e il caso dell'Aceto Balsamico di Modena IGP* (Geographical Indication Food & Wine products - the European system, the Italian model and the case of Balsamic Vinegar of Modena PGI), 2017: <https://www.qualivita.it/wp-content/uploads/2017/05/20170523-ITA-PAPER-IG-Qualivita.pdf>.

guaranteeing the qualities and typical characteristics that make the product unique, combined with the knowledge of expert farmers. Unlike other brands, the PDO also guarantees that the entire production process takes place in the same established geographical area. In this case the place of origin refers to an area, an established place or, more rarely, the name of the nation itself. The PGI, “Protected Geographical Indication”, certifies in the same way the place of origin and the peculiarities of the product, however it guarantees exclusivity on only one process among production, processing, and packaging. Besides quality and other peculiar characteristics, it guarantees a high social value and the recognition of the product among consumers. The place of origin may refer to an area, a place, or a nation. The TSG, “Traditional Specialties Guaranteed”, guarantees the originality of the manufacturing process of the product: raw materials, processing and production method must be conducted according to tradition, but it does not certify the link with a specific geographical area. For this reason, only the PDO and the PGI are recognised as "geographic indications". The brand can also be registered for those products which certify the use of raw materials according to the dictates of tradition (山本 et al., 2015).

An example of PDO is the "Parma Ham", an Italian product registered as a designation of protected origin. The area where the whole process is guaranteed is a precise area in the province of Parma, bounded by the Enza and Stirone river, about 5 kilometers away from the Via Emilia. The ham derives from the leg of the pigs raised in this area, to which only the salt is added. At the time of cutting Parma ham shows a pinkish colour tending to red, and the fat must be of an iridescent white. On the palate it is slightly salty with a slight sweet aftertaste; all accompanied by a very aromatic scent. Its unique salty taste derives from the wind coming from the Tosco-Emilian Apennines which dries the air and favours a better seasoning. The ham of geographical designation is recognised by the PDO trademark together with the trademark bearing the name of the province of Parma within a yellow crown<sup>14</sup>.

Products that use as a place of origin a common name, already existing brands and in case of increased competition between the already existing animal and vegetable products can not be registered. In addition, the registration of products that tend to deceive the consumer and certifies an illicit quality level is prohibited. Even if it is a trademark known and recognised before the adoption of protected designations of origin, if there are

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<sup>14</sup> Official website of Parma Consortium: [https://www.prosciuttodiparma.com/it\\_IT/prosciutto](https://www.prosciuttodiparma.com/it_IT/prosciutto)

uncertainties about the quality of the product and/or doubts about its origin, then the product can not be registered. If, in the opposite case, the product turns out to be suitable, the European model provides for coexistence with previously registered brands. In the case in which the coexistence between geographical indications and brand occurs, on one hand the existing brand continues to be recognised, on the other hand the registration of the indications is performed without consulting the brand owners, limiting their effective power. Registration is also denied to products that misuse the name of geographic area, including translation cases or in which terms such as "style", "type", "imitation" is added (内藤, 2017a, p. 7). In the case in which a product is discovered that violates the rules of geographical indications, the European Union provides for the payment of a penalty from whomever registered the indications and the immediate removal of the product from the market (内藤, 2013, p. 45).

Who can register a food product is exclusively a group or an association of producers or industrial businessman, without the necessary presence of a legal entity. An exception is the case in which there is, and can be proved the existence of, one and only person or legal entity (内藤, 2013, pp. 42–43). In the request the producer must write all the particularities of the product deriving from the place of origin and the production methods. The product will be subjected to checks and inspections, both by authorised private bodies and by internal administrative organisations in the country. Going into detail, at the time of the request the necessary documents are: data (name and address) of the applicant association; document which highlights the links with the territory and a descriptive document. In the descriptive document the following points must be specified: name of the applicant agricultural product; physical, scientific, microbiological, sensitive description of the applicant product; definition of the geographical area; demonstration of the provenance of the aforementioned area; production methods; characteristics and qualities intrinsic to the product (in the case of PDO, the quality and the entire production of specific derivation; in the case of PGI, the social value, the characteristics required and the quality of the product) and, at the end, the name and role of the body that has deemed the product to be adequate. Furthermore, maximum supply quantities and correspondence with other companies are established. Once the request has been sent, first checks are carried out and the document is examined at national level (内藤, 2013, p. 42).

In case the registration is recognised, the request is sent to the European Commission and checks on production methods and quality are carried out within a year. Subsequently, the

trademark is made public and, at this point, tests and checks can be carried out by third-party companies which, from publication, have six months to be able to appeal if they notice an incorrect correspondence with the indication, a possible obstacle for some products already on the market or the use of a common name. In the event that the product passes all controls and does not go against claims, the trademark is registered and made public by the European Commission (内藤, 2013, pp. 42–43).

Producers of a foreign country can register their products if they follow the levels established by the food protection system in the importing country. In 2014, 19 foreign products registered in the European Union were calculated, such as the "Café de Colombia" and the "Darjeeling", a variety of Indian teas. In the event that the request is submitted by a third country, the documents are also sent to the country to which it belongs and, subsequently, revised by the European Commission (高橋, 2015, p. 72).

The European Union provides also for a control system on wine products. To certify the high level of quality and to differentiate wines of protected origin, the old European legislation used the abbreviation QWPSR (Quality Wines Produced in Specified Regions). With the new European legislation of 2008, the abbreviations referring specifically to wine products were abolished and absorbed by the three main brands of origin. In the case of wine products, the restrictions are greater and the products are subject to stricter rules, to avoid creating confusion between wines of protected origin and wines of common use. For example, a PGI wine product in the French protectionist system must derive at least 85% from raw materials produced in the place of origin. In this way it is possible to protect the peculiarities of the place, the cultivation of vines and maintain economic development of agricultural areas. The rigidity of its laws is also denoted in the case where a foreign product requires the geographical name: in the above case, the product must undergo the same strict rules to which local products are subjected. In the event that the imported products do not meet the requirements, the product will not be protected by the protectionist system adopted by the country. An example is the Japanese wine products that are used in the European market as habitual consumption wines, to which the protection mark is not recognised, with the exception of the "Yamanashi" Japanese wine registered in 2013 (高橋, 2015, p. 73-74).

### 1.4.2 - The American Model

The American model, unlike the European model, guarantees the protection of geographical origin through a brand system, however it does not recognise the intellectual property of the denominations. The brands that can adopt a similar system are the "certification brands", i.e. those products or services that demonstrate the quality, production methods, raw materials and the origin of the area. However, these types of "certification brands" are not recognised in the same way as geographical indications and do not guarantee the same quality and safety that a geographical indication defends. The producers of the "certification brands" can not hold a property right on the use of it, but they have the right to put some controls on who is allowed to use the brand itself. In fact, when the request is submitted, the content is not given much importance and it is only checked that there is a sufficient control model. Since the American model does not provide for a law on the control of geographical indications, in the United State of America these "certification brands", which express in a certain way the place of origin, are recognised as geographical indications. In other words, the United States of America do not recognise a certification system dedicated to food products of controlled origin; however, they recognise a series of "certification brands", also referring to the place of origin and quality. Contrary to the European model, the characteristics and quality of the product may not be directly related to the geographical area, the controls are less stringent and their content is not made public (内藤, 2017a, pp. 7–8).

Since in America for most of the certification brands the owner is a body linked to the provincial administration, it is evident that the main objective of their use is to promote food products of the province, placing less attention on the unique characteristics of the product. The United States of America, unlike Europe and Asia, is a land with a much more recent history: becoming the home of many European emigrants, it assimilated foreign cultures. As a result, there were many cases in which European foreign producers used the name of their European place of origin on the food they produced, and the name became the common denomination, such as "feta" and "mozzarella" (高橋, 2015, p. 76). Europe feared that the export of American products could hinder the economy and trade in real European products. As a result, Europe decided to strengthen its model of protection of geographical names and the system of prevention of foreign products. The American trade in food products was hampered by the actions of Europe and, from that moment, the

United States of America took a constant position of antagonism towards the denominations of controlled origin, not participating in the main international agreements that provided for similar protection, as Lisbon Agreement in the 1958 (高橋, 2015, p. 46).

A second problem that the acquisition of a food protection system was not possible in the United States of America was the proper names of the geographical areas. Being a place of migration and new discoveries, many of the proper names of American cities derive from names of pre-existing cities in other nations. For example, "New York" took its name from the English city "York", in honour of Duke James II. Over the years the number of homonymous cities increased and it became increasingly common to find two cities of the same name belonging to different states (生越, 2017). In this way competition would have intensified and confusion among consumers would have arisen.

Regarding wine products, the American model provides for a separate regulation, similar to the European model. The United States of America enjoys a great variety of wines and the place of origin is crucial. Furthermore, when a product was exported, the importing country required very strict levels of safety and control. So, the United States of America decided to adopt a system of protection for wine products, in which the designation of origin was recognised for products that highlighted certain characteristics. According to the Alcohol Administration Act of 1983, alcohol-based products are differentiated into categories, including wine, beer and spirits. The wine prescribes a geographical indication and the wines of certified origin are distinguished. Although in the case of wine products the United States of America has decided to adopt a model similar to the European one, the content of it is certainly different: for example, to obtain certification the minimum requirements of the production rate in the established area are lower than those defined by the European model (高橋, 2015, p. 47).

## Chapter 2

### Geographical indications of protected origin in Japan

#### *2.1 - Birth, motivations and consequences of the Japanese system of geographical indications*

Compared to the European protected designations of origin and geographical indications, the creation of a protection system for agri-food products in Japan is much more recent. Although Japan is a nation with a long culinary tradition like the European countries, only in 2014 did Japan decided to adopt a system that could protect food products that were able to maintain a certain level of quality, attributable to the production area. The system entered into force in 2015. However, as Naitō Yoshihisa said, it is still not entirely possible to talk about a complete protection system similar to the European model (内藤, 2015b, pp. 2–4).

In Japan, before the adoption of the food protection system, there was a protectionist model based on local brands, similar to the American one: the circulation of products that tended to deceive the consumer or tended to create an unjust competition was forbidden. In any case, products that use additional terms not considered as misleading terms, such as "*san*" (産, or “production”) and "*fū*" (風, or “style”) - placed between the name of the product and the place of origin - were accepted. For example, Prosciutto di Parma produced in Hokkaido could be accepted under the name "*Hokkaidō san Paruma Hamu*" (北海道産パルマハム, literally “Parma ham produced in Hokkaidō”) only if it certified to follow the appropriate methods for the production of Parma ham; on the contrary, a Parma ham produced in Hokkaido which did not guarantee the required quality levels could not be recognised (内藤, 2015b, p. 6). For alcoholic products, including wine, *sake*<sup>15</sup> and distillates, a more rigid regulation was established, in which registration was prohibited for products that did not certify a legitimate origin, including cases where they were labelled with additional terms. However, the previous model did not provide for specific controls on the quality of food products: it became very difficult to recognise cases

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<sup>15</sup> Japanese alcoholic beverage obtained from the fermentation of rice.

of illicit use of the brand and the owners were forced to solve any problems independently. To try to face a similar situation and to respond to the producers' demand, a more stringent protection system was needed, able to differentiate and protect agricultural products with intrinsic qualitative characteristics that are unique from common products (内藤, 2015b, p. 9).

The main objectives of the new protectionist system were the development of the countryside, the growth of agricultural industry and the protection of consumers (内藤, 2015b, pp. 9–10). Due to globalisation and American occupation following the Second World War, in Japan, between the 1950s and the 1960s, and subsequently in the 1980s, internal migratory flows occurred from rural areas to metropolitan areas. As a result, agricultural activity lost importance and Japan began importing products from foreign countries, especially from United State of America. With the importation of many foreign products, it was difficult to control and guarantee high levels of quality and consumers began to express uncertainty and dissatisfaction. Thanks to a policy promulgated by Prime Minister Shinzo Abe focused on the restoration of rural areas<sup>16</sup>, being able to regain consumer confidence and promote geographical areas became important one more time.

By adopting a protectionist system, agricultural products are subjected to continuous controls on the entire production process to guarantee the originality of the place of origin. The peculiar characteristics of the product, deriving from the particular surrounding territory and the technical know-how of the farmers handed down over the years, allow the qualitative differentiation of the products compared to other agricultural products of the same category, present on the market. As a consequence, the registered product acquires a higher social and monetary value, which has an impact on the profits of the rural areas causing an increase, in order to allow their effective development. The social value is a real added value, able to enrich and enhance the recognition of some agricultural products both nationally and internationally (内藤, 2015b, p. 10). The enhancement of food products also generates positive effects on the tertiary sector: a recovery and enrichment of traditional Japanese culinary culture attracts many tourists and allows the growth of secondary companies of goods and/or services in the neighbouring area.

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<sup>16</sup> One of the macroeconomic initiatives of Abenomics, a policy promulgated by Prime Minister Abe Shinzo. The initiative consisted mainly of three lines, known as "arrows": one addressed to monetary policy, the second to fiscal policy and the last to growth strategies.



The main effects of adopting an agri-food protectionist system are legal and economic. In other words, the sudden controls allow not only a differentiation in the reference market, but also a legal protection of the product. That is, in the event that there is a violation of the use of the designation or of the identification logo (GI mark), the government authorities are obliged to act, control and, in the eventuality, subject the owner to high penalties. Subsequently, registered products significantly increase their economic value, thanks to the high-quality certification. In the same way, even some brand products, if well known, are able to increase their value on the market. However, in the case of geographical indications, the GI identification logo plays a decisive role: it allows the immediate recognition of a high-quality product, certified, controlled and belonging to tradition. In addition, the GI brand is also recognised abroad, and this allows immediate recognition even in foreign consumers (藤村, 2017, pp. 68–69).

The Japanese protectionist system on geographical indications turns out to be an effective tool to promote the formation of local brands. They have a very important function as they enjoy considerable recognition among local consumers. However, it was difficult to recognise the degree of quality of local brands and, to be able to maintain a future development, it was necessary to define and mark some elements that could differentiate the product on the market. With the adoption of a protectionist system of geographical names it is possible to clarify the products related to the territory by differentiating them, protecting consumers and producers and carrying out effective controls.

Between 2006 and 2013, in Japan, gross agri-food production underwent a serious fluctuation: between 2008 and 2010 it decreased sharply, followed by a rapid increase in production. The main motivation was given by the increase in rice production, thanks to a political reform. The production of fruit and vegetables remained stable, with a slight increase in 2010. Concerning imports and exports, between 2010 and 2014 in Japan, imports increased slightly and on a regular basis, because imported products were often used instead of local raw materials, due to their low cost. Within 20 years, the national production of products destined for manufacturing decreased by a 20%. Exports, even if in small part, increased each year. In 2012, around 60% of fruit and 90% of vegetables were intended for export. In particular, the products were destined to Taiwan and Hong Kong, as they held a high recognition from local consumers that increased their economic value exponentially. However, there was a marked difference between exports and imports: although both had positive effects over the years, imports were far higher (山本 et al., 2015,

pp. 6–8). The adoption of a model of food protection in Europe contributed to increase exports and it could have been one of the reasons that also pushed Japan to move on this front.

Therefore, 2015 was a year of great change that saw the immediate registration of many agri-food products, thanks to the adoption of the system on geographical indications. Currently, 73 products have been registered, belonging to about 25 different prefectures and many others are waiting to be controlled and accepted<sup>17</sup>. In 2015 the denominations of seven alcoholic products were recognised, including wines, spirits and sake originating in the Land of the Rising Sun; in addition, some foreign wines and spirits registered and produced by the member countries of the WTO (World Trade Organisation) were also recognised (内藤, 2015b, pp. 6).

Below some of the best known agri-food products bearing the protected designation of origin are listed. Given the high number of registered products, I thought it appropriate to list some of the most characteristic, so as to highlight some sought-after qualitative characteristics, through concrete examples (the alcoholic products will be listed in the paragraph dedicated to them). The remaining products – of which characteristics are not specified – will simply be listed below.

### *2.1.1 - The registered food products*

Some of the registered agri-food products are<sup>18</sup>:

- Aomori Kashisu 青森かシス (Black Currant of Aomori), from the city of Aomori, in the homonymous province. Black currant with a particular fragrance and a light sour taste.
- Tajimagyū 但馬牛 (Tajima meat), from Hyōgo prefecture. Level A/B2 meat with a soft consistency, produced from calves grown in the north of the prefecture, Tajima. The production methods follow 1200 years-old tradition. Already since the Meiji period it was recognised as one of the finest meats.

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<sup>17</sup> Number and characteristic of registered products available on the official website of MAFF: [http://www.maff.go.jp/j/shokusan/gi\\_act/register/](http://www.maff.go.jp/j/shokusan/gi_act/register/)

<sup>18</sup> MAFF, *Chiriteki hyōji hogo seido katsuyō shien – chūō madoguchi* (Desk Support for GI protection system), *Chiriteki hyōji (GI) jireishū* (Geographical indications (GI) pamphlet), 2017: <http://www.fmric.or.jp/gidesk/pamphlet/Pamphlet2017.pdf>

- Kōbe Beef 神戸ビーフ (Beef of Kōbe), from the prefecture of Hyōgo. Level A/B4 meat with thick veins of fat. It follows the tradition of about 1200 years too.
- Yūbari Meron 夕張メロン (Melon of Yūbari), from Hokkaidō, from the city of Yūbari. Melon with orange pulp and the presence of few fibres that make it more tender and juicier. Aromatic perfume. The product comes from a geographical area where the diurnal and night temperature difference is very high with a high precipitation rate.
- Yame Dentōhon Gyokuro 八女伝統本玉露 (Traditional Green Tea of Yame), from Fukuoka Prefecture. It is a very precious green tea: before the leaves are collected, they are wrapped with natural materials (like straw deriving from the rice harvest) which give it a unique scent. Green tea with a very strong and full-bodied taste. The light morning mist, generated by the difference in temperature between day and night, and the natural straw-covering allow the creation of some unique characteristics in the product. Furthermore, the production method of tea leaves follows the tradition handed down for more than 110 years: the leaves are hand-picked, one by one.
- Edosaki Kabocha 江戸崎かぼちゃ (Edo Coast Pumpkin), from Ibaraki Prefecture, produced in the cities of Inashiki and Rashiku. Pumpkin with a sweet and dry taste. The peel, not completely smooth, has a dark green colour, while the pulp is a very bright orange. It originates from a clayey soil where there is good drainage, which, combined with moderate rainfall, allows the growth of this type of pumpkin. The production methods follow the tradition for more than 50 years and the product is subjected to very strict controls.
- Kagoshima no Tsubozukuri Kurozu 鹿児島島の壺造り黒酢 (Black Vinegar of Kagoshima), from the prefecture of Kagoshima. It is a black rice vinegar that follows a unique production method that involves outdoor fermentation in bowls or vases for about six months. Subsequently it is left to mature for another six months, thanks to which it acquires a unique fragrance. This black vinegar began during the early 1800s.
- Kumamoto-ken san Igusa くまもと県産い草 (Reed of Kumamoto), from the homonymous prefecture. It is a type of reed with a brilliant colour that follows a traditional production called "*dorosome*", i.e. "muddy colour". The types of reeds used are "*hinomidori*", "*yūnagi*", "*hiroharuka*".

- Kumamotoken san Igusa Tatamiomote くまもと県産い草畳表 (Tatami of Kumamoto Reed), also from the homonymous prefecture. Tatami of high quality that combines different shades of colour and the peculiarities of the raw material, the "Kumamotoken san Igusa". From cultivation to production of the finished product, the process has been following the tradition for about 50 years.
- Iyo Ito 伊予生糸 (Iyo Raw Silk), from Ehime Prefecture. Raw silk soft to the touch, with a bright colour and voluminous, in which the ripple of the silkworm fibres is maintained. The cocoon of the silkworm is kept refrigerated and follows a very slow producing, to maintain the naturalness of the process unaltered.
- Tottori Sakyū Rakkyō 鳥取砂丘らっきょう o Fukube Sakyū Rakkyō 福部砂丘らっきょう (Shallot of Tottori's Dune/ Fukube), from the prefecture of Tottori. This shallot is grown on hills of sand, from low fertility of the ground, affected by strong dry winter winds. Despite the fact that the soil has few nutrients and a low percentage of water, the shallot maintains some characteristics that make it unique such as the bright white colour, the crispness and the equal size of all the slices inside.
- Miwa Sōmen 三輪素麺 (Sōmen of the city of Miwa), from the prefecture of Nara. The *sōmen* are thin noodles of white flour, similar to Italian spaghetti. The Miwa Sōmen are a very old type of noodles, which originated during the Nara Period, around 1300 years ago. Every year during the month of February there is a celebratory festival at the Ōmiwa Shinto temple to celebrate the product. These *sōmen* are very thin and elastic, thanks to the use of *koshi*, a natural yeast produced by rice, in the moment of the mixture.
- Ichida Kaki 市田柿 (Persimmon of Ichida), from the prefecture of Nagano. These persimmons are dried, dehydrated, with a marked sweetness. The fruit has smooth skin, brown/amber colour and a soft and elastic consistency, characteristics deriving from the great difference in temperature during the day. The light haze that is formed during autumn allows the drying of the fruit. Thanks to the perfect balance between temperature and humidity, one of the most precious persimmons in the world is born.
- Yoshikawa Nasu 吉川ナス (Yoshikawa aubergine), from Fukui Prefecture. The aubergine is oval in shape, with a very dark purple colour, tending towards black. Its size does not exceed about 10 cm. It tastes very much and is rich in water.

- Yatabe Negi 谷田部ねぎ (Spring Onion of Yatabe), from Fukui Prefecture. It is a slightly sweet spring onion, with a soft consistency, of which the leaves are edible. The geographical area, with its sandy and water-lacking soil, favours the growth of this type of spring onion that follows the production methods handed down for generations: the product is transplanted twice in an oblique direction.
- Yamauchi Kabura 山内かぶら (Yamauchi radish), from Fukui Prefecture. Radish with a conical shape with a cavity in the upper part, from which many shoots are born. The hard and crunchy consistency is maintained even at high temperatures or in the case in which it is kept in brine.
- Kaga Maruimo 加賀丸いも (Kaga round potato), from Ishikawa Prefecture. It is characterised by a rounded shape of the size of a Softball ball. The flavour is reminiscent of yam and is widely used to produce derived products. The peculiarities of the territory, a mix of fluvial sandy soil and fertile ground for rice fields, allow the growth of a very viscous potato.
- Mishima Bareisho 三島馬鈴薯 (Mishima potato), from Shizuoka Prefecture. High quality May Queen type potato. It is harvested by hand and grows in a well-ventilated area facing south, with well-drained soil: an environment particularly suited for the natural development of the plant.
- Shimonoseki Fuku 下席ふく (Shimonoseki's Puffer Fish), from Yamaguchi Prefecture. This is the *torafuku*, a type of puffer fish. Carefully selected whose production methods follow the tradition and the knowledge of expert producers.
- Notoshika Korogaki 能登志賀ころ柿 (Dried persimmon of Notoshika), from Ishigawa Prefecture. A high-quality persimmon type is used, with an extremely sweet taste. It is left to dry for a long time and the result is a soft, sweet and bright brown/amber coloured persimmon.
- Tokachi Kawanishi Nagaimo 十勝川西長いも (Yam of Kawanishi, Hokkaidō), from Hokkaidō. Yam with a thin and elongated shape, with a light colour and small brown spots on the surface. Hard and viscous consistency, if grated becomes even more viscous. Recognised also abroad.
- Kunisaki Shichitōi Omote くにさき七島藪表 (Kunisaki reed Tatami), from Ōita Prefecture. It is a tatami produced by a specific type of reed, the Shichitōi, which is stronger,

compared to the other types of reeds. It has a particular reputation in the Kantō area. The weaving of the Shichitōi dates back to about 350 years ago and was promoted in some *han* (dominions/feuds), whose production ended in the second half of the 50s. Currently some local producers have resumed production, maintaining the original production methods.

- Jūsanko san Yamato Shijimi 十三湖産大和しじみ (Yamato Mussel of Jūsanko), from the prefecture of Aomori. It is a small type of mussel raised in Lake Jūsanko; particularly suitable for making broths, acquiring a unique delicacy. The tradition of Shijimi breeding was born during the Meiji period; the high level of quality is given in particular by the knowledge of the producers handed down for years.
- Tsurajima Gobō 連島ごぼう (Scorzonera of the Tsurajima area), from Okayama Prefecture. It is grown in a sandy soil near a river, an area rich in water that allows the formation of a thin and long salsify, with a soft and slightly sweet consistency and a low content of *ije*<sup>19</sup>. It presents a colour tending to orange, with a very bright pulp.
- Tokusan Matsusaka Ushi 特産松阪牛 (Matsusaka beef), currently produced in about 22 municipalities, including the city of Matsusaka, in Mie Prefecture. It is used the meat of a native breed of female bovine black coat, bred for more than 900 days. Very soft, high quality meat with fine veins of fat. It is widely recognised abroad.
- Yonezawa Gyū 米沢牛 (Yonezawa beef), from Yamagata Prefecture, Okitama area. Very refined and delicate meat. It is recognised nationally and internationally and, still today, many tourists go to that area to taste the product. Its commercial value is about twice that of all other varieties of beef.
- Nishio no Maccha 西尾の抹茶 (Nishio green powdered tea), from Aichi Prefecture. Green tea with a bright green colour and a delicate, round taste. Tea plantation is bounded by rivers; however, the soil has a low water level which allows the plant to take root easily to the ground. It is rich in theanine. The production was born during the Kamakura period and is consolidated from the Meiji period.
- Maesawa Gyū 前沢牛 (Maesawa beef), from Iwate Prefecture. High quality meat with fat ribs. It has a delicate flavour and seems to melt in the mouth, given its incredible

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<sup>19</sup> Alkaline solution generally containing sodium or potassium.

tenderness. The breeding of this type of beef began in the early 60s and the production methods are still controlled and handed down.

- Kurusaki Chamame くろさき茶豆 (Kurosaki Soy Beans), from the province of Niigata. Compared to common soy beans, the pods are numerous, slightly large and crushed. The pods are carefully selected and subjected to a long production process.
- Higashine Sakuranbo 東根さくらんぼ (Higashine Cherry), from Yamagata Prefecture. The environmental conditions and the type of soil of this geographical area allow the growth of a cherry with a large round shape and the right balance between acidity and sweetness. The product is credited with a high level of recognition among consumers and is one of the best-selling products within the nation.
- Miyagi Sāmon みやぎサーモン (Miyagi Salmon), from Miyagi Prefecture. It is a type of salmon, known as "*ginzake*", with delicate meat, easy to match for any type of dish. The quality and freshness of the product is maintained thanks to the *ikejime*, a technique of Japanese origin that included the insertion of a sting in the posterior cavity of the eye in order to cause immediate brain death. The waterways of these areas, from the second half of July, become the perfect environmental recess, thanks to a lowering of temperatures (below 20 ° C).
- Ōdate Tonburi 大館とんぶり (Donburi of Ōdate), from the prefecture of Akita. Donburi are the fruits of an annual type of grass, typical of Eurasia. They are very small fruits, with a diameter of about 1/2 millimetres, with a not very marked taste. The consistency particularly resembles the fish eggs: for this reason, it is also known as "the caviar of the vegetable garden". The particularity of the product derives from the type of territory: a gorge in the mountains where not much wind blows.
- Ōita Kabosu 大分かぼす (Kabosu of Ōita), from Ōita Prefecture. Kabosu is a type of Yuzu, a Japanese bergamot. It is picked up when its skin is bright green. It is particularly refreshing, with a citrus flavour and a high level of sourness. The cultivation of this particular bergamot derives from the Edo period: initially it was used with only a medicinal purpose; since the early 80s it began to be cultivated on a large scale and to be requested by many consumers, for culinary use.
- Sunki すんき, from Nagano Prefecture. The *sunki* is a food product, typical of the southwest area of Nagano, deriving from the fermentation of the red turnip. It is slightly acidic, due to the fermentation of lactic acid, and has an amber colour. It grows in a very

rigid environment, with low temperatures and strong winds. The production method, handed down for over 300 years, does not include the addition of salt, in order to maintain unaltered the flavour and taste of the red turnip.

- Nissato Negi 新里ねぎ (Spring Onion of Nissato), from Tochigi Prefecture. It is a very light and slightly curved spring onion. It has a very sweet taste and a tender consistency. He has a high social recognition so much to be given during the New Year as a sign of gratitude. The soil, rich in minerals, and the climate, many hours of light and low temperatures in winter, allow the cultivation of this sweet spring onion. The production methods follow the tradition, handed down for more than 100 years.

#### List of remaining Japanese products registered by 2018:

- Tago no Ura Shirasu 田子の浦しらす (Young Sardines of Tago Bay)
- Manganji Amatō 万願寺甘とう (Sweet Potato of Manganji)
- Inuma Makuri飯沼栗 (Chestnut of Inuma)
- Kishū Kinzanji Miso 紀州金山寺味噌 (Bewing licking Miso of Kishū Kinzanji)
- Mitō Gobō 美東ごぼう (Burdock of Mitō)
- Puroshutto Di Paruma プロシュット・デイ・パルマ (Parma Ham)
- Kitō Yuzu 木頭ゆず (Japanese Bergamot of Kitō)
- Kamishō Satoimo 上庄さといも (Taro of Kamishō district)
- Ryūkyū Moromi Su 琉球もろみ酢 (Mash Vinegar of Ryūkyū)
- Wakasao Bamako Daisa Sazuke 若狭小浜小鯛さき漬 (Wasaka Obama Shotai Sasa Pickles)
- Sakurajimako Mikan 桜島小みかん (Small Mandarin of Sakurajima)
- Iwate Noda Mura Araumi Hotate 岩手野田村荒海ホタテ (Rough Sea Scallops of Iwate Noda Village)
- Okuhidaya Manomura Kanboshi Daikon 奥飛騨山之村寒干し大根 (Cold Dried Radish of Noriyuki Okuhida Mountain)
- Hacchō Umiso 八丁味噌 (Miso of Hatcho)



- Dōjō Hachiya Gaki 堂上蜂屋柿 (Persimmon of Dōjō Hachiya)
- Hibarino Okura ひばり野オクラ (Hibarino Okra)
- Ogawarakosan Yamato Shijimi 小川原湖産大和しじみ (Yamato Clam of Lake Ogawara Production)
- Nyūzen Jyanbo Suika 入善ジャンボ西瓜 (Watermelon Nyūzen Jyanbo)
- Kagawaoba Rabeniwase Mikan 香川小原紅早生みかん (Oranges of Kanawa)
- Miyazaki Wagyū 宮崎牛 (Miyazaki Beef)
- Ōmigyū 近江牛 (Ōmi Beef)
- Hetsuka Daidai 辺塚だいたい (Orange of Hetsuka)
- Kagoshima Wagyū 鹿児島黒牛 (Beef of Kagoshima)
- Mito no Yawaraka Negi 水戸の柔甘ねぎ (Soft Sweet Leek of Mito)
- Matsudate Shibori Daikon 松館しぼり大根 (Squeezed Radish of Matsudate)
- Taishū Soba 対州そば (Soba of Taishū)
- Yamagata Serurī 山形セルリー (Celery of Yamagata)
- Nango Tomato 南郷トマト (Tomato of Nango)
- Yamadai Kansho ヤマダイかんしょ (Sweet Potato of Yamadai)
- Iwade Yamakoori Dōfu 岩出山凍り豆腐 (Iwadeyama Frozen Tofu)
- Iwate Mokudan 岩手木炭 (Charcoal of Iwate)
- Kumamoto Akaushi くまもとあか牛 (Red Cow of Kumamoto)
- Futago Satoimo 二子さといも (Taro of Futago)
- Echizen Gani 越前がに (Crab of Echizen)
- Daisen Burokkoŕī 大山ブロッコリー (Daisen Broccoli)
- Okukuji Shamo 奥久慈しゃも (Okukuji Shamo Chicken)
- Kooge Hanago Shogaki こおげ花御所柿 (Persimmon of Kooge Hanago)
- Jōbōji Urushi 浄法寺漆 (Jōbōji Lacquer)

## 2.2 - The Japanese model

The new system adopted by Japan is based on some fundamental points: the product must be connected to the geographical area of origin and must certify some quality characteristic unique of its kind; the use of the name is permitted to all producers who meet the established criteria; the whole geographical area is conceived as a common good; only the producers registered in an agricultural association can use the name and the association itself can decide the criteria to be followed; the Minister of Agriculture, Forestry and Fisheries, on the basis of quality and territorial rules, can admit registration and addition of the logo of identifications (内藤, 2015b, pp. 12–13).

Going more in detail, the foods that can get the geographical name must be specific agri-food products, including: edible agri-food products (fruit, vegetables, rice); food and drink (meat products, sweets, salt, *tōfu*<sup>20</sup>); some non-edible products (flowers, decorative food, pearls, ornamental plants); non-edible processed products using agri-food products (coal, oil, animal feed, lacquer) as raw materials. A separate protectionist system is used for alcohol products (内藤, 2015b, pp. 18–19).

Secondly, the product may have some quality characteristics linked with territory of origin, which may be a place, a geographical area or a region. The characteristics must derive from the climate, the subsoil and the specific knowledge of the producers. In the end, the name of the indications is to consider the place of origin, through the use of toponyms, so that consumers can more easily connect the product to the place of origin. The names of common use are forbidden, in which there is no connection with the geographical area of origin (内藤, 2015b, pp. 20–21). As reported in article 2, paragraph 2, of the Law of Japanese Protected Geographical Indications:

“この法律において、「特定農林水産物等」とは、次の各号のいずれにも該当する農林水産物等をいう。第一、特定の場所、地域又は国を生産地とするものであること。第二、品質、社会的評価その他の確立した特性が前号の生産地に主として帰せられるものであること。”<sup>21</sup>

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<sup>20</sup> Japanese bean soy curd.

<sup>21</sup> Literally: “In the following law, an agri-food product as such must meet the following characteristics: the first, it must come from a place of production that is a place, an area or a region; the second, the qualitative characteristics and the social value must lead back to the place of production” (内藤, 2015, pp.136).

In the Japanese model only producers registered to an association or to an agricultural/industrial cooperative can apply for registration, following which the associations will perform the activity to check the quality levels of the product. Furthermore, also the members of the aforementioned associations may use the geographical indications. The presence of a legal entity is not necessary within the association. In the event that it is not present, any decisions are entrusted to a sales representative. They can apply for both a group of producers and an individual producer, the important thing is that they are members of an association. Each producer can freely decide which association he wants to register with; in Japan, given the large number of agricultural cooperatives, research and enrolment in one of them is not difficult. For associations to which a geographical indication has been revoked, because of problems within the cooperative itself, or in which one of the members has violated the laws on geographical indications, the activity is suspended for two years, a period in which no registration is permitted by the aforementioned associations (内藤, 2015b, pp. 22–23).

As previously mentioned, the associations carry out the activity of controlling production processes, linked to products that require the geographical indications. The controls are performed on the area, on the quality of the product and on the production methods. The contents of the controls carried out on the product are inserted in an attached document, and in the case in which it does not correspond to the request document or in the case in which the rules are not followed, it is not possible to register the indication. With regard to the place of production, it must indicate the geographical area in which production actually takes place. It is not necessary that the whole process be carried out in that indicated area: it is important that the precise moment of production from which the peculiar characteristics of the product are derived is consistent. For example, if the qualitative characteristics of a product come specifically from cultivation, it will be specified and examined that the entire cultivation process meets the required levels. In this case, the place of provenance can indicate the place where the cultivation takes place (内藤, 2015b, p. 24).

The characteristics of an agri-food product must be very precise in order to create a clear differentiation with other products of the same type. One of these is the tradition of

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Transliteration: *kono hōritsu ni oite, “tokutei nōrinsuisan butsutō” to wa, tsugi no kakugō no izure ni mo gaitōsuru nōrinsuisan butsudō o iu. Daiichi, tokutei no basho, chiiki mata wa kuni o seisanchi to suru mono de aru koto. Daini, hinshitsu, shakaiteki hyōka sono hokano kakuritsu shita tokusei ga zengō no seisanchi ni shuto shite kaeserareru mono de aru koto.*

the product: it must certify not only that the production methods follow the tradition but that the production itself has been carried out for at least 25 years. The need to establish a precise period of time stems from the difficulty of establishing the concept of "tradition". Although it may seem a very short period of time, its main utility is to further differentiate agri-food products. In addition, the Japanese model specifies that the continuity of production is not necessary: in other words, if the activity has been stopped and then resumed later, it is important that the various moments of activity, even if added together, overall they arrive at least at 25 years (内藤, 2015b, pp. 26–27).

The peculiar characteristics of the product must derive from the production area: the climate, the subsoil and the typical temperatures of the place allow the creation of some uniqueness, impossible to find in the same product grown in different areas. Products that certify certain levels of production and quality not maintained in reality are not accepted, even if the production is enlarged to a larger area than the one specified.

The common names or the ancient names of the geographical areas are not accepted because they do not express any particularity of the product and tend to mislead the consumers (内藤, 2015b, pp. 28–29).

### *2.2.1 - The GI identification logo*

The identification logo (GI mark) is an additional symbol applied to the registered product, able to differentiate it visually from other substitute products on the market. It must be used only if it is a product registered with a certified indication. It can be omitted if you do not want to specify the designation of origin. In 2017, the GI mark is recognised as such in ten countries and territories in addition to Japan: Korea, Taiwan, Cambodia, Philippines, Malaysia, Laos, European Union, Australia and New Zealand; in this way, the products are more controlled also abroad and in case of violation the Ministry of Agriculture, Forestry and Fisheries can intervene directly (生越, 2017, p. 7).

The logo design has been decided by a ministerial decree and is available for download from the MAFF official website. According to the general legislation, the logo must be used in colour; however, the monochrome version in black and white is also accepted, exclusively in the case where it is applied on the packaging. Furthermore, the registration number must also be specified together with the reference logo. The logo

represents the very emblem of Japan: it depicts the surface of the water from which Mount Fuji stands, to which a large red sun is attached. The colours used are also symbols of the Japanese cultural tradition: red, gold and white. The logo is a standardised mark so that all Japanese consumers, from the island of Hokkaidō to the Kyūshū islands, can recognise it and associate a single meaning to it (内藤, 2015b, pp. 54–55).

Once the registration has been successful, only the agri-food products that satisfy this request are allowed to use the identification logo (GI) of the geographical indication. The use of the reference logo is very important and must be used concurrently with the product name; however, it is not necessary for the entire "set" to be applied exclusively by the manufacturer. For example, if the producer, to whom the registration request was accepted, does not apply any type of denomination, label or logo on his product with a protected designation of origin, the latter can be applied by the distributors (staff assigned to the grouping and the distribution of goods). In other words, it is not important at what point in the production the logo is applied; it is important that at the time of the retail sale the product reports both the certification of protected origin and the identification logo (内藤, 2015b, pp. 56–57).

As reported in Article 4 of the Japanese Geographical Indications Law:

“[...]登録に係る特定農林水産物等又はその包装等に地理的表示を付する場合には、当該特定農林水産物等又はその包装等に登録標章[...]を付さなければならぬ。 ”<sup>22</sup>

### *2.2.2 - The procedure to obtain the registration for a food product*

When somebody wants to submit a request, a certification is required for each product. As explained by Naitō Yoshihisa, the products are distinguished between raw materials and wrought products. For each type of product, a request must be submitted, even though the same food product is used for several final products. In other words, if

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<sup>22</sup> Literally: “[...] In the case of refer to a geographical indication on packaging and on a registered agricultural, forestry and fishery product, a registered mark [...] must be attached to the specified agricultural, forestry and fishery product or its packaging [...]” (内藤, 2015b, p. 138)

Transliteration: (...) *tōroku ni kakaru tokutei nōrinsuisan butsutō mata was ono hōsō tō ni chiriteki hyōji o fusuru baai ni wa, tōgai tokutei nōrinsuisan butsutō mata was ono hōsō tō ni tōroku hyōshō (...) o fusanakereba naranai.*

somebody wants to register a particular type of persimmon both in fresh (as it grows in nature) and dry (dehydrated) variants, the Japanese model requires the presentation of two different requests, one for the fresh product and the other for the dry product, although it is the same type of persimmon. The request must be submitted to the Ministry of Agriculture, Forestry and Fisheries (MAFF) and the applicant is free to decide whether to present it in person or send it by post: in both cases, a copy of the original document must be sent by e-mail to the office dedicated for registering new products. The layouts of the documents required for the request must follow the models pre-established by the MAFF, available to download from the official website. The Ministry also provides a document with all the guidelines to follow for the presentation of documents in the appropriate manner. With the request, some attachments must be presented, such as the descriptive document and a document showing the methods of controls carried out on the product (内藤, 2015b, pp. 34–35).

Going more in detail, the following items must be specified in the request: name and address of the applicant; type of product, in which both the category to which it belongs and the type of product must be specified (for example: "fruit" category, "apple" product); the indication chosen for the product; the place of provenance, in which the geographical area and, where possible, the administrative district must be specified; physical characteristics (size, weight, density), chemical (presence or absence of additives, pesticides, PH levels, sugar levels), micro organic (presence of yeasts or bacteria) and sensory (taste, perfume, colour) of the reference product; production methods, which must follow the natural process and the tradition handed down for generations; the reasons why the product is linked to the territory; the results obtained after the production; a document that certifies the presence or absence of a pre-existing brand; the address of the recipient of the documents and the list of documents attached to the request. Concerning the place of origin, it is important that it is as precise as possible, in order not to allow easy imitation of the product. As regards the intrinsic characteristics of the product, in the case in which it holds a high level of social value, it is necessary to insert a document that certifies this level in-depth (内藤, 2015b, p. 35-38).

The documents to be attached, as previously mentioned, are: a descriptive document and a document containing the regulation on the management and control methodologies of the indications. Depending on the type of product, the Ministry of Agriculture, Forestry and Fisheries provides for the addition of other specific documents, including: some multimedia

files that prove the characteristics of the product somebody wants to register; the financial activity and the social status of the reference association; a document that guarantees the possibility of registration in the event that it presents a similar brand already existing before the adoption of the protectionist system on geographical indications.

The aforementioned descriptive document is a paper in which all the characteristics of the product present in the request are established. Despite the fact that the layout and content of the descriptive document has not been established at the legislative level, the Ministry has decided to mention in the document the same items present in the request. The content of the document must follow the items of the request and deepen its further. However, it is possible that the content is slightly different in circumstances where the main points of the request are not violated: for example, if the rules made in the descriptive document are stricter than those specified in the request (i.e. raising the minimum level of the amount of sugar contained) or if a new condition not specified in the request is added. The document concerning the management and control of products specifies the rules on how to control the production process; in particular, it decides how to check the conformity of the product, the guidelines for the producers and how to use the geographical indications (内藤, 2015b, pp. 39–42).

Once the request has been sent, the Minister of the MAFF performs some checks on the documents received. Subsequently, if there are no uncertainties, the documents and the geographical name are published on the MAFF official website, for a period of two months. From the day of publication, the Ministry of Agriculture, Forestry and Fisheries provides three months for the receipt of any complaint regarding the registered product. In the event that a producer wants to appeal, the content and layout of the document to be submitted is established by the MAFF and can be downloaded from the official website. Once the available time has elapsed, any complaints received are examined and further checks are carried out by expert researchers, for a better and more in-depth control. Subsequently, the product is considered compliant or not: in the case of conformity, the geographical indication is definitively registered in the list of registered products. The registration request is completely free; once registered, the association must pay a fee of about 80 euros (about ninety thousand Japanese yen) within one month, to take advantage of the property rights, and it must send the payment receipt to the dedicated Ministry of Agriculture, Forestry and Fisheries. In the opposite case, a notification of inadequacy is sent to the association (内藤, 2015b, pp. 43–47).

In the event that some changes are made to the control parameters, if the descriptive document is changed or if an association decides to terminate its activity, the revised document or the withdrawal request must be sent to the specific office of the MAFF. However, in the case in which a member wants to change association, the producer must deliver some documents certifying the possible change, the control rules and the descriptive document. Furthermore, if the MAFF recognises the conforming change of association, all members of the new associations can use the geographical indication.

### *2.2.3 - Controls carried out on food products*

The checks carried out on the registered products can be carried out by any agri-food association, which, at least once a year, must send the results obtained to the specific office of the Ministry. The MAFF also regularly conducts some checks on registered products. The more controls are carried out, the more consumers' trust and the social value of the product increases. The checks are mainly carried out on the standards present in the descriptive document and are based on the appropriate use of the identification logo and the geographical indication, on the characteristics of the product and on the precautions in case of violation. The related documents are kept for 5 years. In the event that discrepancies are reported, a revision mode is performed on the entire production process and the MAFF is notified. Some third-party companies may also carry out checks, in order to provide a broad overview of the situation of the registered product (内藤, 2015b, pp. 58–60).

In addition, some examinations are carried out on the financial situation of the reference association, so that the association can continue to carry out checks on its products and maintain a certain level of quality. For this reason, it is important that the association establishes a system that tries to avoid falling into unpleasant situations, such as: keeping track of members' appointments and revocations; establishing an efficient and effective control system; implementing a report of the activities started, and so on. At least once a year associations are required to draw up a report containing the concrete results obtained from the controls; subsequently it must be sent also to the nearest agricultural legislative body of the area (for example in Hokkaidō it is possible to send it to the "*Hokkaidō nō seiji jimusho*", 北海道農政事務所, literally "Agricultural Administrative Office of Hokkaidō") (内藤, 2015b, pp. 65–67).



#### 2.2.4 - Non-compliance and exceptions of the registrations of food products

The use of the name and the identification logo is forbidden to all products of the same type and of the same category of belonging that do not meet the required characteristics. In the same way, certifications for derivative products that use raw materials - of the same type and category - that do not meet the required parameters are banned. The exclusive use of the designation of origin, without the identification logo, is allowed for derivative products that certify to use a product registered and certified by the Japanese protectionist model as a raw material. According to the law, in order to judge a derivative product as suitable, it must have a fixed quantity of certified raw material, which is able to reflect satisfactorily the unique quality characteristics of its kind. The above quantity can be calculated either on the basis of the whole weight of the derived product, or on the basis of the ratio between the various raw materials used and must cover at least half of the total quantity of raw materials (内藤, 2015b, p. 49).

Secondly, the registrations are denied to all those products that do not have a correct indication, using additional misleading terms (such as "san", "fū", "yōshiki"), or in case the indication is translated from the original name. For example, supposing the certified denomination °°ringo<sup>23</sup>, the following denominations are forbidden: "°°産ringo" (or "°°san ringo"), "°°風ringo" (or "°°fū ringo"), "°°Apple". However, some "misleading" names can be registered as appropriate in case the indication does not tend to deceive the consumer on the place of origin, despite using non-approved terms (内藤, 2015b, p. 50).

Registrations are accepted which see the substitutions of the original term, through which the product has been registered, with one of the remaining syllabic alphabets or characters of Chinese origin, the *kanji*. Taking the above case as an example again, the term "apple" in Japanese is *ringo* and can be transcribed both in *hiragana* (りんご), in *katakana* (リンゴ) or in *kanji* (林檎). Contrary to translations, in this case the term is not misleading because it refers to the same precise word, visually different writing. Instead, translations involve the use of a different word in a second language, the meaning of which may vary slightly (内藤, 2015b, pp. 51–52).

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<sup>23</sup> In the following example "°°°" indicate the place of origin, while the term "ringo" means "apple" in Japanese language.

One of the exceptions of a possible coexistence of two similar certified products, one as a brand and the second as a geographic indication, occurs if the brand's request was registered before the adoption of the Japanese protection system. Despite the fact that Japan has inserted a model for the protection of food products, at the same time it envisages a model of protection for brands previously registered with the new system adopted. This is one of the major differences with the European protectionist system and will be explained in more detail in the next paragraph.

A second exception can occur if a producer uses the same indication for a food product already used prior to adoption as a brand. In this case, it must be specified that the pre-existing brand name has not been used for illegal or dishonest purposes.

In the final analysis, there are some cases in which the use of indications of origin are allowed also for agri-food products that use a common name or a personal name as an indication: even in the aforesaid case, the owner of the denomination must certify a completely honest use, which does not have the objective of creating unfair competition with other products on the market (内藤, 2015b, pp. 52–53).

In the event that the Ministry of Agriculture, Forestry and Fisheries identifies an incorrect use of the names and/or a violation of the legislation, the MAFF provides for a penalty clause. The product in question undergoes a correction and is referred to as "inadequate" and, in the event that the manufacturer does not respond to the aforementioned correction, he is tried criminally. According to the legislation of geographical names, when the penal clause is reached, who is convicted can try to protect its own indication autonomously, without running into court trials. The cases are the following: use of a false or imitative name; incorrect use of the GI identification logo; use of the identification logo on an uncertified product. In the first case, an adjustment to eliminate the incorrect name follows. In the case of violation of the correction, a fine of up to 40 thousand euros and a maximum of 5 years limitation against the individual manufacturer is foreseen; while a fine of up to 2 million and 350 thousand euros is imposed on an association. In the second case the correct use of the GI logo is corrected and in the case of a penalty clause a penalty of a maximum of 25 thousand euros and a maximum of 3 years of limitations on their activities. For the individual producer is provided; while in the case of associations a fine of up to 790 thousand euros is provided. In the third case, the deletion of the GI logo is corrected and in the case of a penalty clause, a maximum of 3 years of limitations and a maximum penalty of 25 thousand euros are provided for the

individual producer; while for the associations, as in the previous case, around 790 thousand euros of fine (内藤, 2015b, pp. 72–75).

### *2.3 – Overview and comments on Japan GI protection system*

In the following paragraph some points will be emphasized on which I would like to draw attention. According to the GI protection system manual, there are three focal points on which the applicant for a GI registration must concentrate. Firstly, the manual encourages compliance with the minimum production limit of 25 years to ensure that the product is identified as "typical" or "traditional" (農林水産省食料産業局, 2018, p. 14). According to the Japanese model, if a requesting product meets this limit, the product can receive registration. What I would like to draw attention to is the temporal limit itself: according to this, it is possible that some product that is produced for only 25/30 years and not more, is recorded. Focusing on it, if the protectionist system was introduced in 2015, products whose production was born around the 1990 can be registered. The geographical indications are treated as typical products of a particular area because their production has been present for much more than 25 years, some of these even for millennia. For example, in the case of "Feta", a product registered as European PDO in the 2002, it is a type of cheese of Greek origin whose origin is believed to date back to the times of Homer. Moreover, in the case of the "Abbacchio Romano", a European PGI product, its production dates back more than a century ago. And again, also in the case of the "Mozzarella di Bufala Campana", an Italian PDO product, its origins date back to around 1400 and 1500. Compared to European certified products, the limit decided by the Japanese system would seem completely insufficient. Even if it refers to the specific activity of the company that produces this product, this minimum limit may not satisfy both the production itself, whose peculiarity is not easy to occur in just 25 years, and the producers who are required to acquire the appropriate technical knowledge, even these not easy to acquire in just 25 years.

Secondly, the manual focuses on the name of the indications. According to the Japanese system, it is important that there is a concordance of the place of production registered with the locality, and that the name specifies "approximately" the place.

Moreover, it is not necessary that the toponym (in Japanese “*chimei*”, or 地名) is present (農林水産省食料産業局, 2018, p. 14). The manual uses the word “*daitai*” (in Japanese 大体), which means "roughly", "broadly", "in the complex"; nevertheless it is strange that in the case of geographical indications we speak of the generality of the territory. In their being, geographical indications must specify a specific place of provenance and must specify in the name the specific area of production in order not to mislead consumers and ensure greater safety. In addition, indications that use the ancient name of the region or city and the names that use the name of the region are accepted. Moreover, on this last case, it is necessary to specify that the manual uses the term “*kuni*” (or 国) which in Japanese can indicate both a province and a nation. Even this case could be easy misunderstanding. Some names are also accepted that use terms that refer to the name of the most famous Japanese families who gave their name to the area in which they settled. All these cases are accepted if, at the mere sight of the name, consumers relate the product to the geographical area. So, as you can see, the recognition of consumers is very important. However, it is not certain that all Japanese consumers easily relate a product to its place of origin if, for example, they are many kilometres away from the area in question. In other words, a person coming from Hokkaidō, the Japanese region located further north, may not know the ancient name or the name of a famous family from the Kyūshū area, the Japanese islands located further south. Considering that even from a linguistic point of view, two people so distant may not fully understand each other<sup>24</sup>; it is not so obvious that it is easy to reconnect the name to a particular geographical area. Then, in the event that the products bearing the aforementioned denominations are exported, the possibility of misunderstanding could increase considerably. The manual also adds that the size of the area to be registered does not affect the recording itself, i.e. both larger and more limited zones are accepted. Analysing this, Japan is a land characterized by strong climatic differences even from areas not very far from each other. This could change, even if slightly, the quality and production of food grown in large geographical areas.

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<sup>24</sup> Japan is characterized by a wide presence of different dialects and often, because of our different origins, words that indicate the same object are different from one area to another. In other cases, however, in some areas words that are used with a certain meaning do not exist in other areas. An example is the onomatopoeias used to reproduce the sound of rain: depending on the type of rain that is present in that area, different onomatopoeias are used that can not be found in areas where, for example, they are not affected by rains.

Thirdly, the manual specifies that associations must establish an organizational office that implements controls. Although in a second time there are also checks by private/third parties/scholars, what is most important are the controls organized by the offices of the associations. However, this could result in less objectivity in controls, precisely because it is the same associations that require registration to specify the criteria to be checked by the offices they set up.

Moreover, the Japanese model does not set the achievement of high levels of quality as a prerogative; it also aims very much at social recognition. In the case in which we speak of social recognition, it must specify the link it has with the product itself, its history and it must specify its origin. Social recognition is the value that is given to a product by individuals who have a link with the market, i.e. consumers and producers. However, as will be further specified in the next chapter, it is not certain that social value means quality and provenance. The social value tends to emphasize other important elements for the product itself, such as fame (the same characteristic of which brands point), but it could cause over time a loss of the link with the territory itself, the most fundamental element for geographical indications.

Ultimately, even when Japanese GI protection system comes to accepting additional terms such as "style", "type", and so on, it can create new misunderstandings among consumers. Despite many scholars, such as Handler Michael whose idea will be explained in detail in the fourth chapter, approve this decision and believe that actually these terms can help consumers in recognizing a certified product, not necessarily it means that the denomination is completely clear. Since geographical indications are based on strict rules of origin and have the objective of preventing imitations, the inclusion of additional terms could increase and make the production of fakes easier and, for this reason, the real objective, for which the geographical indications were born, may be lost.

In 2016, an amendment was made to the GI protection system, in which specific rules are added in the case of certified products are objects of international trade (農林水産省食料産業局, 2018, p. 18). The amendment provides for the insertion of three fundamental points: the first premise that international relations must be concluded with those who have a similar food protection system. The second specifies that, even if a registration to be accepted internationally must follow the same procedure as registration in Japanese territory, the registration of foreign products, as it has not been requested by any association, it is not necessary that such an arrangement be specified. The third

provides for the creation of a descriptive document about the policy of the State with which the commercial relations will be linked; however, the aforementioned document will not affect the registration itself. In the case of imported products in Japan territory, the protection is based on prevention of possible misunderstanding and imitated products; in the case of exported products from Japan territory, the protection is based on a reduction in the responsibility of the GI administration by Japanese manufacturers. Moreover, the protection of exported Japanese GI products is aimed at branding of Japanese foodstuff in the foreign country. The addition, after a short time, of this review addressed mainly to the products marketed could be another point that confirms the real aim of the adoption of this system in Japan. Despite the fact that they are products imported and therefore not belonging to the Japanese GI protection system, not making further controls even within the Japanese territory could cause the production of many fakes and, consequently, a lower safeguard against the choices of consumers. In the case of Japanese GI products exported, however, some of the most important factors characterizing the Japanese system are lost, such as "associations" (whose specification is not necessary) and "controls" (left to the host country). If the main aim was to protect the origin of the products and avoid the production of imitations, perhaps a more severe level of protection would have been inserted to ensure quality and safety of origin abroad.

#### *2.4 - Analogies and differences with the European model*

The Japanese model follows in several points the fundamental principles undersigned in the European protectionist system of protected designations of origin. Both models protect food products that show some unique quality characteristics, deriving from the particular place of origin. Both models forbid the registration of imitations and products that do not meet the required quality and control levels, including cases where there is an additional term, such as "*san*" ("production") or "*fū*" ("style"), or cases where the name is in part or totally translated. Also, regarding the quality of the product and the production processes, both provide for the decision of some well-defined standards and their publication. The products are also subjected to sudden controls to maintain a constant level of quality and to protect registered products. In the European case, however, controls are performed especially by third-party companies, to ensure a certain objectivity in the

controls. In the Japanese model, more attention is given to the controls carried out by the associations themselves. Both models provide for the imposition of a sanction against incorrect use of the name; in particular, the Japanese model initially grants a recall and, if it is in vain, subsequently requires payment of a fine. In the Japanese model the owner of the registration is a producer belonging to an association, whose property is also granted to members of the same association; in the European model anyone certifying a product that follows the required levels can use the name, without being required registration with an association. In both cases, however, the ownership of the name does not belong to the individual but is recognised as a common property. Ultimately, both models provide for the insertion of an identification logo, able to differentiate the registered products: PDO and PGI for the European model; GI for the Japanese model (内藤, 2015b, pp. 104–106).

Despite the numerous similarities between the two models in question, there are some important differences. A first difference is the differentiation between different types of certifications. Europe has three distinct indications, based on the type of product that you want to certify. In the Japanese case, on the other hand, there is no difference between "denomination of origin", "geographical indication" and "traditional specialty guaranteed". Japanese products are indistinctly registered under the name *chiriteki hyōji*, "geographical indication". As a consequence, in the Japanese model, the intensity of the link with the territory is not given great importance; what is necessary is that there is a link with it, certified, and that there is a high level of quality linked to the type of territory of origin (蛭原, 2015, p. 193).

A second difference is the behaviour of geographical indications in the case in which there is a brand registered prior to adoption. The aforementioned difference is explained in detail in the next paragraph.

#### *2.4.1 - The system of local brands and the registration of geographical indications in the case of a pre-existing brand*

Before adopting a GI protection system, in 2006 Japan set up a system to protect regional brand, which is called *chiiki dantai shōhyō seido* (地域団体商標制度, literally “system of brand of local association”), with the aim of protecting some brand, that enjoyed a notoriety among consumers, from the increasingly phenomenon of globalization and

contributing to the development of the “brandisation” activities of rural areas. Before the aforementioned system, brands that were linked to a geographical area – i.e. brands that specified in the “indication” the name of the product itself and the name of the geographical area of production – could not be registered, because they used “common name”; so, since 2006 in Japan, registering the brand became possible. The necessary requirements to register brand are: the brand must present in the ‘indication’ the name of the place of production and the name of product itself; who can register the product are industrial or agricultural cooperatives, non-profit legal bodies and trade associations; the brand must be widely recognised by consumers as a product linked to the business of an association/cooperative or to one of its members. Moreover, who registers is the only one who can use the brand. According to the system, the use of a brand that resembles a brand already registered or the use of a brand that provides for the registration for a product/service similar to another product/service already registered are seen as violations. Not only that, but for those who violate the regulation decided in the following model, the payment of a pledge is provided on the basis of the violations committed. For example, the person who violates the ownership of the brand can receive a fine of up to 80 thousand euros and a restriction on their activities of up to 10 years (内藤, 2015b, pp. 76–77).

Despite the above system may resemble the most recent GI protection system, the two system are completely different. The GI protection system protect the territorial origin and the qualitative characteristics of the agri-food product, insofar as they are intrinsic and peculiar to the particular geographical area. Moreover, it provides for the use of a recognisable logo (GI mark), able to differentiate the product from imitations. On the contrary, brands extend their registration to all products and services that are produced in a specific area. Brands registered under ‘system of brand of local association’ do not guarantee any level of quality and they can not use an identification logo. The products with geographical indications are subjected to sudden controls both by the associations and by the Ministry of Agriculture, Forestry and Fisheries. Among the peculiarities of the product are the technical knowledge of the producers who, according to tradition, maintain the environmental biodiversity unchanged. Only the associations of producers and industrial entrepreneurs can register a geographical indication without the need for a legal entity. On the contrary, the brands do not provide any kind of control by third parties and the owners have free choice of controls to carry out. The presence of a traditional production is not necessary, the brand must obtain a certain notoriety among the



consumers. Geographical indications are not a private property but are recognised as local common property: if the product meets all the required criteria, any manufacturer within the area can use the name. In the case in which an illegal use of the denomination is involved, the country manages and regulates the situation, responding to the various types of violation. Moreover, in the case of international trade agreements, between countries that adopt a protectionist system, the geographical indications are protected mutually. In the case of brands, however, the one who registers the brand obtains ownership of the use of the name; as a consequence, in case of illegitimate use of the brand, the owner is directly responsible. In the case of international agreements, the mutual protection of products is not recognised. In the final analysis, geographical names have no maximum use limit; on the contrary, the brands, from the moment of registration, are valid for 10 years, after which it is necessary to present a renewal of the request (内藤, 2015b, pp. 78–79).

With the adoption of the GI protection system, in Japan the brands that had previously been registered under the “system of brand of local associations” continued to use the property right and the benefit obtained from registration. For this reason, the GI protection system provides some rules in case someone wants to register a geographical indication similar to a pre-existing brand. Going more in detail, when there is already a previously registered brand, the registration of a geographical indication that could imitate the product is not accepted. However, only if the applicant has a document certifying the consent of the brand owner or the owner of the brand wants to apply for registration of geographical indication, the registration can be accepted. In the case in which it is possible to register a pre-existing brand as geographical indication, the brand owners can use the identification logo, continuing to follow the rules of the protectionist model of the brands, and he could enjoy the control by the public administration in case of use illicit name. Moreover, the geographical indications provide for an accurate quality control system of the product. For this reason, since there may be other people (except the association’s members and the brand’s owner) who use the same name, in the event that a brands promotion council that include the interested parties is formed, the aforementioned council can acquire the function of the association, accepted by GI protection system, and it can conduct quality controls in a unified way. In this way, the product could obtain an increase in consumers evaluation. It is important to pay attention to the fact that once the brand is registered as a geographical indication, it can also be used by other people, because geographical indications are collective and not individual properties. In other words, it is

not possible to use the geographical indication as an exclusive monopoly (内藤, 2015b, pp. 81–82).

It is important to pay attention to this model of brand protection that differs from the American model. Although they may seem similar, they have some substantial differences. First, concerning the quality characteristic linked with the geographical area, in the American model, the content is not judged officially, even if there is a link with the geographical area; in the Japanese 'system of brand of local associations' the registration is provided for brand that present in the brand's name a place name, that it must indicate the place of production. Second, concerning who can use the brand, in the American model the property of the registered brand can be obtained from who presents the application satisfying the requested criteria; in the Japanese brand model, only who registered the brand can use it. Third, concerning the methods for the protection of quality (i.e. controls on quality levels), the American model controls is left to the applicant; in the Japanese brands model, the setting of the quality standards are not necessary conditions to obtain the protection (内藤, 2013, pp. 56–57).

## Chapter 3

### Geographical indications of protected origin and commercial agreements

#### *3.1 - Geographical indications in the main commercial agreements*

In the first chapters the main protection systems on indications of certified origin were presented, highlighting the similarities, differences and benefits generated in the country of origin. The geographical indications undoubtedly allow greater development of rural areas and maintenance of natural biodiversity; however, they also guarantee a clear differentiation with other products and, in this way, an increase in profits and exports. A certified product with a higher value, if exported can acquire even more value able to generate profit even more, guaranteeing the development not only of rural areas, but also of the international trade. And so, many nations begun to focus on food protection models, which became the subject of multilateral agreements, with the aim of administering and controlling the trade in certified products.

As already highlighted, the territorial and cultural differences between the different nations led to the formation of different protectionist systems. Although it has been specified that two broad types can be differentiated, even among the countries adopting one of the two models there may be slight variations in content or different parameters required. We can therefore identify four main fronts: there are some countries that provide for a legislative protection system dedicated only to geographical indications; other countries provide a sort of protection about indications within the laws required for the protection of intellectual property; still others provide for a double protection system both dedicated to brands and dedicated to geographical indications; in the end, there are other countries that have a protectionist system dedicated exclusively to brands (高橋, 2015, p. 50). The great variety of models could provoke some antagonism and misunderstanding at international level, especially within agreements that include many countries, even in very distant areas. To try to face the situation and ensure better control, some international agreements were concluded; however, some questions remained that led the individual countries to favour some forms of partnership that were more suited to their goals.

In 1883 the "Convention for the Protection of Industrial Property" was signed in Paris, which provides for the protection of patents, utility models, trademarks and industrial designs as intellectual and industrial property. It was the first time that the concept of "industrial property" was extended: it protects the law on industrial areas, protects geographic indications from imitations and bans all forms of unfair competition. Furthermore, the same rights are recognised among all citizens of the signatory countries. The Paris Convention is still in force, with some changes made over the years, and it is administered by WIPO, the World Intellectual Property Organisation (内藤, 2013, p. 58). Initially it was signed by only 11 countries (including Italy, France, Spain and Brazil), while today 177 countries have signed the agreement<sup>25</sup>.

In 1891, the "Madrid Agreement on the Repression of the False or Misleading Indications of Provenance" was signed by some countries adhering to the Paris Convention to introduce the international registration of trademarks and to prevent any form of false indication. It also provided for some sanctions against imitations (内藤, 2013, p. 58). As reported in Art. 1, "All goods bearing a false or deceptive indication by which one of the countries to which this Agreement applies, [...] is directly or indirectly indicated as being the country or place of origin shall be seized on importation into any of the said countries". And it follows: "Seizure shall also be effected in the country where the false or deceptive indications of source has been applied, or into which the goods bearing the false or deceptive indication have been imported [...]". Moreover, in the event that the legislation of a country does not allow the seizure, "such seizure shall be placed by prohibition of importation" and, if the latter is not admitted, "until such time as the laws are modified accordingly, those measures shall be replaced by the actions and remedies available in such cases to nationals under the laws of such country"<sup>26</sup>.

Despite this, the previous agreements did not provide a clear definition of "denomination of controlled origin" or "geographical indication" and this could create some misunderstandings on what is really protected. The Madrid Agreement was revised in 1958 in Lisbon, with the aim of guaranteeing legal protection for products with geographical indications to defend their reputation and safeguard them from imitations. The "Lisbon Agreement for the Protection of Appellations of Origin and their International Registration"

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<sup>25</sup> Official website of WIPO: <https://www.wipo.int/treaties/en/ip/paris/>

<sup>26</sup> Official website of WIPO, *Madrid Agreement for the repression of false or deceptive indications of source on good*: [https://www.wipo.int/treaties/en/text.jsp?file\\_id=286779#P24\\_540](https://www.wipo.int/treaties/en/text.jsp?file_id=286779#P24_540)

was the first agreement in which a definition of "appellation of origin" and "country of origin" was drafted. The Art. 2 mentions: "In this Agreement, 'appellation of origin' means the geographical denomination of a country, region, or locality, which serves to designate a product originating therein, the quality or characteristics of which are two exclusively or essentially to the geographical environment, including natural and human factors". It follows: "the country of origin is the country whose name, [...], constitutes the appellation of origin which has given the product its reputation". In addition, the contents of the protections are also specified; Art. 3 states "Protection shall be ensured against any usurpation or imitation, even if the true origin of the product is indicated or if the appellation is used in translated form or accompanied by terms such as "kind", "type", "make", "Imitation", or the like"<sup>27</sup>. The Lisbon Agreement was a real turning point in the protection of geographical indications; however, it was underwritten by just under 30 countries and this did not allow for widespread use. Only in 1994 the World Trade Organization (WTO) promoted an agreement on the commercial aspects of intellectual property rights: the TRIPs Agreement, explained in the paragraph 3.2.

### *3.1.1 - The main areas of debate between the European Union and the United States of America*

Despite the great diversity between the various food protectionist models, the main ideologies that clashed were the European one and the American one. In particular, there were two main areas of debate between them: dairy products and wine products. The dispute over dairy products aimed at recognising or not products as generic names or geographical indications. In some parts of the United States of America, some terms such as "feta" and "camembert" spread like common terms; in others, on the contrary, the same names led back and implied a certain provenance. Moreover, in the United States a massive production of particularly dairy products was developed, with not entirely appropriate geographical terms (such as "parmezan") and many companies managed to register them as brands. In response, the European Union promoted some agreements within the WTO that provided for an extension of the additional protection (recognised for wine products) also to food products, including cheese. The main objective of these

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<sup>27</sup> WIPO, *Lisbon Agreement for the protection of appellations of origin and their international registration*: [https://www.wipo.int/lisbon/en/legal\\_texts/lisbon\\_agreement.html](https://www.wipo.int/lisbon/en/legal_texts/lisbon_agreement.html)

agreements was the prevention of some American names that included additional terms, such as "Gorgonzola Style" instead of "Gorgonzola" (高橋, 2015, p. 99). In the same way, the United States of America promoted a list of generic names widely recognised by all the countries signatories of the Trans Pacific Partnership (or TPP). The following list specifies how to use generic names recognised as indications if preceded by the place of production (or region); in other words, the generic names specified by the zone in which they are recognised as such were recognised as indications, creating compound names such as "California Roquefort". The United States of America, in 2012, founded the "Association for common food names", which provided for the protection of derivative terms (such as "parmezan") and simple terms (such as "feta"). The following names can be recognised and protected as they become part of American culture and many famous companies have used it for many years. Only names composed of the common name and the production area, such as "California Roquefort", can be registered as a brand. The main objective of the aforementioned regulation was to allow consumers to have a wide range of choices at the time of purchase, while maintaining a middle-lower price level. America could not allow just the sale of European products with a protected indication because they could greatly increase the price of products on the market, damaging consumers. The American idea saw the European commercial strategy as short-sighted (高橋, 2015, p. 100). However, the European Union on this front was not very much in agreement because the compound names, despite specifying the area of origin, were recognised as indications and could undermine the sales of the original European products. The same scenario spread not only in the United States of America but also in Japan: The Land of the Rising Sun does not hold a large production of dairy products and, for this reason, sells many cheeses of European origin, marketed as common names. According to a research conducted by the Japan Dairy Council (in Japanese language "*Chūou rakunō kaigi*", or 中央酪農会議), in 2005, the majority of Japanese firms sold dairy products, reporting on their packaging the place of European origin: among the total ninety-one Japanese companies that produced cheese, about twenty firms sold "camembert"; twelve "mozzarella"; eleven Dutch cheese "Gouda" and five "feta" (高橋, 2015, p. 101). Initially, the aforementioned situation was not a real problem to face for the European Union, but it could have become if Japan had wanted to increase its exports and develop its businesses.

A second area of dispute between the European Union and the United States of America was the wine products. As already specified in the initial chapters, many European

denominations were in common use and were registered as brands in American territory. Furthermore, both countries focused a lot on the production of wine products, which covered the majority of exports, and intensified their competition. Thus in 2006 the European Union and the United States of America signed a bilateral agreement on wine products, not directly linked to the TRIPs Agreement. It guarantees many benefits to European producers and more over it consolidates the already strong position of the American products on wine market (in 2006, 41,7% of the total European beverage exports are destined to the United States of America, including wine<sup>28</sup>). The objectives of the agreement were to facilitate trade in wine between the two parties and to improve cooperation for the development of this trade. It was also specified what is meant by "wine": a beverage deriving exclusively from the total or partial alcoholic fermentation of fresh grapes or grape must; the actual alcohol strength by volume must be between 7 and 22 degrees and which must not contain artificial colourings, flavourings or more water than necessary for production. The main elements of the agreement were: some European wine names are considered "semi-generic" (like Champagne and Porto) and their use will be limited in the United States of America and some oenological practices are accepted, already existent in the United States and not accepted by European derogations; however, the United States will be able to export wines obtained from such practices only after modifying the legal status of semi-generic names (the aforementioned practices will be evaluated and accepted by the European Union)<sup>29</sup>. Going more in detail, as regards the use of some terms on the labels of American wines, Article 6 states that "the United States shall seek to change the legal status of the terms in Annex II to restrict the use of the terms on wine labels solely to wine originating in the Community". Continuing, Article 7 specifies on the names of origin that "the United States provides that certain names may be used as origin names for wines only to designate wines of the origin indicated by such names and shall include, among such names, those listed in Annex IV [...] ". And again, Article 8 states that "each party shall provide that the labels of wine sold in its territory shall not contain

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<sup>28</sup> EUROSTAT, European Business – Facts and figures – 2007 edition – Chapter 2: Food, beverages and tobacco, Statistical book/Pocketbooks, 07/02/2018:  
<https://ec.europa.eu/eurostat/documents/3217494/5691340/KS-BW-07-001-02-EN.PDF/a1359fd1-5903-403d-9a8f-5e178cc35d92?version=1.0>

<sup>29</sup> Official Journal of the European Union, *Council decision of 20 December 2005 on the conclusion of the Agreement between the European Community and the United States of America on trade in wine*, OJ L 87, 24.3.2006, p. 1–1:  
[https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:JOL\\_2006\\_087\\_R\\_0001\\_01&from=IT](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:JOL_2006_087_R_0001_01&from=IT)

false or misleading information in particular as to character, composition or origin. [...] Neither Party shall require that processes, treatments or techniques used in wine making be identified on the label”<sup>30</sup>.

### 3.2 - The “TRIPs”, the first real multilateral agreement on geographical indications

The "Agreement on Trade Related Aspects of Intellectual Property Rights", better known as TRIPs, was born in 1994 following a meeting in Marrakech, at the end of the negotiation known as the Uruguay Round. The agreement includes some international rules that approve the protection of the place of origin and geographical indications, recognised as intellectual property. Unlike the Agreement of Lisbon, the TRIPs provided for a broader definition of denominations of origin and less linked to the territory. This does not mean that it did not give importance to the place of origin: it certified the link with the territory, however it could be not only by some qualitative characteristics, but also by social recognition. On the contrary, the Agreement of Lisbon reported the definition of geographic indications provided for in the French AOC system, in 1935, in which a first definition of "*gensanchi koshō*" was given. The agreement provided for the protection of products that respected the environment and certified their provenance and some qualitative characteristics linked to the territory. The necessity of a production method that was executed entirely in the specified geographical area and that followed the dictates of tradition was highlighted, thanks to the technical know-how of the producers. However, recognition and social esteem, an element developed more in the TRIPs, was not yet recognised (内藤, 2017a, pp. 4).

Although the TRIPs provided a first complete definition of "geographical indication", it is necessary to specify that, a few years earlier, the European Union had already publicly defined for its member countries the definitions for the two types of indication, "designation of origin protected" and "protected geographical indication". Although there are some basic differences between the European model and the TRIPs, the TRIPs may have been

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<sup>30</sup> Official Journal of the European Union, *Council decision of 20 December 2005 on the conclusion of the Agreement between the European Community and the United States of America on trade in wine*, OJ L 87, 24.3.2006, p. 1–1:  
[https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:L\\_2006\\_087\\_R\\_0001\\_01&from=IT](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:L_2006_087_R_0001_01&from=IT)



influenced by the definitions given by the European model (高橋, 2015, p. 54). Concerning the differences, the fundamental rules developed and argued within the TRIPs are slightly different from the European model, although they take the same direction. First of all, there is a different level of protection between the two: the European model has much more specific rules, in particular dedicated to the quality control of food; moreover, it provides for an extension of the additional value recognised for the alcoholic products also for the food products. The TRIPs agreement, on the contrary, provides for two different levels of protection for the two types of product, food and alcohol. Secondly, they have a different attitude towards pre-existing brands: the European model specifically indicates the possibility of coexistence in the case in which the name certifies the correct use of its identity; on the contrary, the agreement does not specify in any way how to behave in the case of the pre-existence of a brand. In the end, even in the case of the use of common names, although they both prohibit their use as a geographical indication, the agreement leaves the definition of the term "common" very vague or, better, it does not specify which terms can be considered as common, due to the great cultural difference between the signatory countries (内藤, 2015a, pp. 266–268). As we can see in the following paragraphs through the analysis developed by some scholars, the main problem linked to the TRIPs Agreement lies in the general characteristic of its law. Enter vague definitions, without specifying possible exceptions present and without specifying how the geographical indications should be behaved, is a double-edged sword: it is useful from a certain point of view, as each nation can grant its own GI protection system with that one envisaged by the TRIPs; from a different point of view, however, this allows the creation of “*sui generis* model” between two possible business partners. The vaguer the rules are, the easier it is for these “*sui generis* models” to change, according to commercial needs or different aims, which push two countries to enter into favourable agreements. The more these “*sui generis* models” are created to meet commercial needs, the more the geographical indications lose their nature, i.e. the protection of the provenance and quality of the product. In today's scenario where there is a strong competition among the great world powers, countries tend to give greater importance to their commercial objectives in order to try to excel at world level, even if it means abandoning the real nature of what is marketed.

The objectives of the agreement were: to allow the development of rural areas, thanks to the differentiation and added value to the agricultural products; to maintain the culinary tradition and biodiversity; to allow the development of the economy of rural areas

and to invest in information to consumers (高橋, 2015, p. 56). With the TRIPs the first definition of "*chiriteki hyōji*" was given:

“ この協定の適用上、「地理的表示」とは、ある産品に関し、その確立した品質、社会的評価又はその他の特性が当該産品の地理的原産地に主として帰せられる場合において当該産品が加盟国の領域又はその領域内の地域若しくは地方を原産地とするものであることを特定する表示をいう。”<sup>31</sup>

As mentioned in the aforementioned paragraph, "*chiriteki hyōji*" is a certification concerning agri-food products in the event that it has a predefined quality level and other intrinsic characteristics, including social recognition, which refer to the geographical area of origin. The following agreement concerning the geographical indication specifies that: the registered product must certify a precise place and some intrinsic characteristics that refer to the production territory. It also provided for social recognition.

The Agreement provided for two distinct protection systems for agri-food products and for alcoholic products, mainly wine. For food products, indications that do not certify the actual production in the specified geographical area are prohibited. The name is accepted only if it certifies appropriate use, with benign and not deceptive intent. The use of additional terms is accepted in some cases (内藤, 2015b, p. 95). In contrast, for alcohol products, the agreement provided for a more restrictive level of production: registrations are refused regarding products that not only do not certify an adequate level of quality and correct provenance, but also that use additional terms, such as "type", "style", etc. The level of protection granted for alcoholic products was called "*tsuikateki hogo*" (追加的保護), literally "additional protection", and it has long been the subject of debate within the WTO on the possibility of extending it to food products. However, even the United States of America, which strongly opposed it because of their different model of protection, far from

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<sup>31</sup> Translated in English language: "For the purposes of this Agreement, "geographical indication" means an indication that identify the place of origin as an area or region (within an area of member nation) in the event that an established quality, social evaluation or other characteristic of an item is largely attributable to the geographical origin of the product." (高橋, 2015, p. 53)

Transliteration: *kono kyōtei no tekiyōjō, "chiriteki hyōji" to wa, aru sanhin ni kan shite, sono kakuritsu shita hinshitsu, shakaiteki hyōka mata wa sono hokano tokusei ga tōgai sanhin no chiriteki gansanchi ni shuto shite kaeserareru baai ni oite tōgai sanhin ga kameikoku no ryōiki mata wa sono ryōikinai no chiiki moshiku wa chihō o gansanchi to suru mono de aru koto o tokutei suru hyōji o iu.*

the required European criteria, participates in the WTO. Precisely because the “additional protection” is still the subject of strong debates among the world superpowers, mainly EU and US, in TRIPs it was decided to maintain two different types of protection, in order to not oblige those who do not promote the ‘additional protection’ to adopt a system that does not reflect its own.

The agreement regarding the use of common names includes:

“ 普通名称として日常の言語の中で自国の領域において通例として用いられている用語と同一であるものについて、この節の規定の適用を要求するものではない。 ”<sup>32</sup>

According to the TRIPs, the names that refer to a common-used term within the reference area are not accepted. The common names were used by many people for long generations and often they did not clarify a place of origin, but they were used as a symbol and/or meaning of the product. An example is the term "*eau de colonie*", a French term for "cologne": it used to indicate the scented water that was produced in Cologne, a city in Germany; currently it indicates a type of scented water and it has become in common use (高橋, 2015, p. 61). In addition, some words became in common use due to the strong waves of migration: many Europeans had to emigrate to America and there they began to produce some typical products of their area of origin. The products were named by their common name to create a clearer idea in the foreign consumer and soon became everyday use. Initially it was not a major problem, but with the growth of American power and the increase in exports it became a problem and the European countries had to fight with many imitations on the market (高橋, 2015, p. 62).

Regarding the relations with the brands, the TRIPs includes:

“ 真の産地名としていない商標で公衆を誤認させるような場合は、利害関係者の申し立てにより、その商標登録を拒否したり、無効とする。なお、ワインと

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<sup>32</sup> Translated in English language: “Regarding common names, they do not require the application of the provisions of this section as they are terms used usually in everyday language of that area” (高橋, 2015, p. 61).

Transliteration: *futsū meishō to shite nichijō no gengo no naka de jikoku no ryōiki ni oite tsūrei to shite mochiirareteiru yōgo to dōitsu de aru mono ni tsuite, kono setsu no kitei no tekiyō o yōkyū suru mono dewa nai.*

蒸留酒については、公衆を誤認させない場合においても要請よって、拒絶又は無効とする。”<sup>33</sup>

In the event that the brand does not certify an adequate use of the name and place of origin, it can not be registered. Likewise, the agreement provided for regulation in favour of alcoholic products. In the case of a pre-existing brand, the agreement specifies that the owner of the brand is not prevented from continuing to exercise his ownership of the brand. However, it is not in any way clarified how a denomination behaves in this case, leaving this control widely to the individual nations.

The TRIPs Agreement, as previously mentioned, is the result of much longer multilateral trade negotiations, known as the Uruguay Round. The Uruguay Round (1986-1994) saw the participation of 123 countries and was chaired by the GATT (General Agreement on Tariffs and Trade), a legal agreement based on the international promotion of trades in the face of a reduction in customs barriers. With the end of the Uruguay Round, the GATT was replaced by the WTO (World Trade Organization), a real institutional organ, which expanded its objectives including services and intellectual property. The WTO was created with the aim of organising and resolving some major differences between the two large macro-areas of commerce: the European Union and the United States of America. However, it can be noted that many of the misunderstandings have remained unresolved and as for the TRIPs agreement, in reality, leaves many decisions to individual states (高橋, 2015, pp. 63–64).

### *3.2.1 - Consequences of the TRIPs: a truly successful agreement?*

The TRIPs Agreement, despite being a real turning point in the commercial sphere, remained somewhat vague and imprecise: in other words, the agreement decides the basic rules for the coordination of geographical indications; however, it does not specify how they are best achieved. Analysing the same regulation of the TRIPs, the agreement states that the geographical indications are certifications connected to a product that certify the

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<sup>33</sup> Translated in English language: “In the case of misidentifying the customers with a trademark which is not regarded as a true production place name, the trademark registration is refused and it is invalidated by a stakeholder's petition. Regarding wine and spirits, even if in case of not-misunderstand the customers, the registration will refuse or invalidate by a request” (高橋, 2015, p. 63).

Transliteration: *shin no sanchimei to shite inai shōhyō de kōshū o gonin saseru yōna baai wa, rigai kankeisha no mōshitate ni yori, sono shōhyō tōroku o kyōhi shitari, mukō to suru. Nao, wain to jōryūshu ni tsuite wa, kōshū o gonin sasenai baai ni oite mo, yōsei yotte, kyozeitsu mata wa mukō to suru.*

place of origin, some qualitative characteristics and a certain level of social recognition, all linked to a specific geographic area. However, it does not specify what kind of link there should be, thus leaving free rein to individual nations. Secondly, the agreement declares as "violation" the registrations that do not certify the actual origin of the product and some required quality levels, to solve the false competition and to guarantee greater safety for the consumers. However, even in this case, it is not specified how to behave if a similar violation is present and at what level it can be considered as a violation. And yet, the agreement focuses on the use of common names, seeing them as non-compliant: despite this, which names are intended as "common" is not specified, due to the great cultural and linguistic diversity of each individual country. Also, with regard to the behaviour of names in the case of pre-existing brands, the regulation is very vague: it only specifies that, in the case of seniority, the owner of the brand in question, registered before the adoption of a system of protection on geographical names, continues to exercise ownership over the use of the brand. However, even in this case, nothing else is added, leaving to the internal legislation of individual countries how to behave towards geographical indications, whether to register them or not (高橋, 2015, pp. 50–66). As we have just seen, although it was necessary to provide some rules for the international recognition of geographical indications as intellectual property, only a basic skeleton was built, without defining any behaviour to be implemented in some specific cases.

In 2001 in Qatar, the WTO opened the Doha Development Round (or the Doha Development Agenda), a series of commercial negotiations aimed at reducing trade barriers in the world, with the aim of facilitating world trade. It focused primarily on the needs of the least developed countries, including trade facilitation, a settlement system on the origin and resolution of disputes. The aforementioned round of negotiations ended in 2008 and, despite the desire to repeat some attempts, it was unsuccessful. The main disagreements arose from significant differences between European Union, United States of America, Canada and Japan and some major developing countries such as China, India and Brazil. The failure of multilateral negotiations led to an increase in bilateral negotiations, which were easier to manage. The Doha Development Round left two main issues outstanding, due to the controversies between the European Union and the United States of America. The first concerns the registration and reporting system of alcoholic products: although both parties expected greater safety for the aforementioned products, the European Union supported the obligation of a complex registration including some attached documents for

better protection against imitations; while the United States of America promoted a simpler registration, as the only information on the product (高橋, 2015, p. 91). The second issue concerns the extension of the higher level of protection dedicated to alcohol products to food products, which saw as a supporter the European Union and as an opponent the United States of America. An article in *The Balance*<sup>34</sup>, an editorial site for political, financial and economic information, writes that the Doha Round, if successful, would have improved the economy and businesses of developing countries; however, the controversies between the European Union and the United States of America did not allow a satisfactory success, also due to some completely opposed basic positions taken by the two parties on the criteria of safety and protection of food products. For example, the European Union has for many years banned genetically modified crops, the use of hormones in meat products and the processing of poultry meat with chlorine. In contrast, the United States of America relies heavily on intensive production supported by the use of hormones and chemicals on agricultural products.

It was precisely for this reason that a certain generality was decided to maintain in the regulation of geographical indications provided for by the TRIPs. The strong debates between the two main world superpowers did not lead to a common agreement and it was decided for a solution acceptable to both parties. In this point of view, the decision does not seem to be unjustified, because both world superpowers are part of the WTO and among them there are substantial differences from the food culture point of view (UE and US have two completely opposite types of approaches about foodstuff cultivation and production in which it is impossible to find a common point). However, we have to pay attention when a country decides to follow the definition of the model provided for by the TRIPs, without using this model as a basis for developing its “personal” model. The generality of the TRIPs’ definitions, if taken as they are, cause the birth of many general models in which no type of appropriate behaviour is specified (in cases where there are common names or pre-existing brand) and, in particular, the type of the link that must exist with the territory is not specified, the most characteristic element of the geographical indications. However, many of the developing countries, as Japan, Singapore and Malaysia,

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<sup>34</sup> AMADEO Kimberly, *Doha Round of Trade Task: The Real Reason Why It Failed*, *The Balance*, November 2018: <https://www.thebalance.com/what-is-the-doha-round-of-trade-talks-3306365>

succeeded in adopting such systems thanks to their generality; in this way, they were able to register also non-food products, increasing their value.

In 2003, among the main signatory states of the WTO, some problems arose: the United States of America judged as a violation to part of the trade agreements some European rules on protected designations of origin. The main points of complaint were: the TRIPs Agreement did not allow the exclusive use of the right to ownership of the brand name and the problems regarding the registration of geographical indications in the case of pre-existing brands (Europe provided some exceptions in which possible coexistence of both, brand and geographic indications). The disputes that were created led to the birth of a WTO Dispute Settlement Panel. The United States of America maintains that the European Union did not protect American geographical indications (certification brands) in the same way as European products; this was seen by the United States as a violation of one of the basic principles of the WTO, the "national treatment"<sup>35</sup>. Initially the WTO did not give much weight to the issue and decided to rectify the American objection. However, the 2003 revision of European legislation and support from Australia led the United States to renew its complaints. In 2003 a commission was requested from the United States and a few years later, the WTO committee responded by finding a fair solution for both: the European Union was not recognised as incompatible with the WTO regulations but the violation of some articles of the WTO in the way they have been put into practice was recognised. As a result, the European Union decided to simplify the requests for registration of a foreign geographical indication (Josling, 2006). In this way, the WTO neither totally supported nor opposed one of the two models: it defined the independence of geographical indications in relation to the right of ownership of the brand more; however, as in the TRIPs Agreement, it was left to individual countries how to behave in the event of coexistence between the two brands. Although there was no complete solution to the divergences between the two main models, it was the first time that the effectiveness of the names of protected origin in the field of international trade agreements based on free trade was questioned.

Although several agreements on the use of geographical names and their protection had been stipulated and signed, the content of the aforementioned agreements remained very vague, so as to allow each individual state to respond individually and personally to

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<sup>35</sup> One of the fundamental principles foresaw that both foreign and local products were judged under the same rules.

specific cases that may arise in each state itself. In this way, however, the ineffectiveness of the treaties and the continued opposition between the two parties, led the various states to take different methods to trade with foreign countries, such as cooperation between several countries belonging to the same geographical area (for example, a cooperation between several Asian countries) or, more frequently, agreements stipulated exclusively between two states. In particular, for both parties, the European Union and the United States of America, agreements between only two states proved to be the best means of promoting their own model of protection of origin brands.

At world level, given the great cultural and gastronomic difference, many versions of the protection system were created on the certified brands. In the event that two nations were interested in entering into a commercial agreement, it was easier to conclude it with a second party that had a similar protectionist system on food products. In case there were some substantial differences in the production levels of control, a "*sui generis*" model was created, so that both parties would benefit economically. The interesting thing that happened within these trade agreements was the different attitudes taken by a nation towards two different agreements entered into with the main antagonist territories, the European Union and the United States of America. In other words, it can be seen that some stratagems are implemented as long as both agreements interposed with the two different parts can coexist. A striking example is the two trade agreements on free trade (FTA) concluded one between the European Union and South Korea and the other between the United States of America and South Korea.

### *3.3 - FTA, the free trade agreement as a reflection of the two main ideologies*

Both the European Union and the United States of America began to conclude bilateral free trade agreements (FTAs) in order to further promote their protectionist model, due to the ongoing divergences between international multilateral agreements. In this way, often, some nations, participating simultaneously to the two different treaties with the two parties, are forced to find some expedients to ensure that both agreements can coexist, expedients that often tend to move away from the fundamental principles present in the protectionist model of the country of reference. And so, the FTA became a symbol of this dual approach undertaken by the two main antagonistic parties, following the inactivity of



multilateral agreements. As already mentioned, the agreements between the European Union, the United States of America and South Korea are one of the best examples. Subsequently, a second example of a free trade agreement between two countries with two different protectionist models will be described.

### 3.3.1 – FTA between the European Union and South Korea

The free trade agreement concluded between the European Union and South Korea was signed in 2011 and provides for the recognition of geographical indications as intellectual property and a system for their protection. The agreement is presented as a "*sui generis*" model that accepts the extension of the protection, provided only for alcohol products, to food products (one of the issues that have remained unresolved between the United States of America and the European Union); Korea also added a regulation based on quality control, taking the European model as an example. The agreement, in addition, provides some exceptions for which it is possible to register an indication in the case of a pre-existing brand, over which the brand-owner can continue to exercise its right of ownership. In case someone wants to register a brand and the geographic indication is already present, this registration for the brand can not take place. The agreement provides for the mutual protection of agri-food products: in Europe, around 60 Korean food products and one alcoholic product were recognised; in South Korea sixty food products and about eighty European alcohol products were recognised (高橋, 2015, pp. 95–96). The agreement is based on some fundamental points: the creation of a list of registered products; the inclusion of a verification model submitted by the public administration; the presentation of a descriptive document certifying the qualitative characteristics of the agri-food product and the exclusivity of the use of the indication permitted only to those presenting the descriptive document. Going more in detail, the free trade agreement specifically clarified two main points: as already specified, with regards to the content, the agreement provided for the extension of the "additional" protection also to agri-food products; as regards the relationship between brand and geographical indications, the agreement recognises the possible coexistence of the two. In the same way as TRIPs, the continuation of the use of the brand by its owner is permitted but it is not specified how to behave in the various cases; it is only specified that coexistence is possible (内藤, 2015a, p. 269).

Looking at the individual protective models of the two nations, in Europe registrations were made for products that misused the indication and/or produced imitations. Also in South Korea, the registration of common products and imitations was forbidden. For this reason, it was easy to find a common point, regarding the content of the protective system: both already provided for a higher level of protection also with respect to agri-food products. In the case of the relationship with the pre-existing brands, the European Union already envisaged a possible coexistence and specified the attitude to have towards the geographical names (they are registered only in the case in which they certify proper use and the non-competition between pre-existing brands). On the contrary, South Korea did not foresee a possible coexistence between brands and geographical indications: in the event that a brand was already existing, it is not possible to record the geographical indication. As we can see, despite the Korean model not providing for any coexistence between the two, in the agreement it is stipulated that, on the contrary, in the case of seniority it is possible to register the geographical indication. This is a clear example in which the second nation of the agreement is brought to "amalgamate" with the regulation of the counterpart, while modifying the fundamental bases of its model (内藤, 2015a, p. 270).

### *3.3.2 - FTA between the United States of America and South Korea*

The following agreement provides for the certification and recognition of some certifications as a brand and, if one wants to register an indication after the registration of the brand, it can not be accepted. In this case we can see how the main points on which the agreement is based are very similar to the American model, especially with respect to pre-existing brands which maintain the exclusivity of ownership and have greater importance than geographical indication. In addition, there is a procedure for "objections" in case someone wants to make a complaint: the agreement allows the possible cancellation or suspension of certification following registration.

Going more in detail, regarding the protection system, the American model provides for the recognition of some certification brands; the Korean model envisaged two different regulations for geographical indications and brands. According to the FTA agreement, it is stipulated that geographical indications can be protected as a brand. Regarding the relationship with pre-existing brands, the American model promotes the "principle of

precedence in assigning the patent to the first applicant" (i.e. no type of denomination can be registered in the case of a previous brand). It happens in the same way in the Korean model and, for this reason, the FTA agreement promotes the same regulation. In the final analysis, in the case of a possible appeal procedure, the American model provides both an actual procedure to recall some brands, and a procedure for the possible elimination following the registration. Also in this case, the Korean model faithfully follows the American model and, consequently, the free trade agreement is based on the same preconceptions (内藤, 2015a, pp. 272–273).

As we have seen, although both treaties have been signed with South Korea, the two FTAs have quite different contents, reflecting the counterpart's ideology. The first one protects the geographical indications in a reciprocal way; the second one focuses on a brand-based protection system. The Korean model provides a double protection system based mainly on geographical indications, to which is added a control-protection system for some brands that have become known over generations, making it easier to stipulate both agreements. Moreover, since the FTA between the United States of America and South Korea does not prohibit the establishment of a second model that goes beyond the content on the protection of the brand (内藤, 2015a), the two agreements on free trade do not cancel each other out. On the contrary, with regards to the relationship between brand and geographical indications, the two agreements contradict each other, since the former envisages a potential coexistence between the two (similar to the European model), while the latter does not accept coexistence in any way (principle of precedence in the assignment of the patent to the first applicant). In the final analysis, a second non-common point can be found in the addition to the American FTA of a post-registration control system, which provides for the possible cancellation or modification of the registered brand. The latter, on the contrary, in the European FTA is in no way mentioned and this could create some problems between the functioning of both trade agreements.

As is clear from the above examples, Korea takes on two completely different positions towards the two free trade treaties: in some cases, slightly modifying the content of its protectionist model, in others going right against it (as in the case of the agreement with Europe, South Korea allows the coexistence between brands and denominations, while in its protectionist model it forbade this possibility). Therefore, Korea seems to adapt its model to the type of treaty stipulated also in the face of using stratagems that go beyond

its protectionist system, since the main objective for which the protectionist system itself was born was lost. In addition, the FTA treaty between Korea and the United States of America was signed the year after the FTA treaty concluded with Europe. One of the main causes was America itself, worried about the consequences that could be triggered after the treaty with European countries: if the treaty with Europe had been stipulated, some American brands of European derivation, such as the "parmezan", could not have been recognised in Korea, following the registration of the indication "Parmigiano Reggiano" (高橋, 2015, p. 96). We can therefore conclude and note that many of the free trade agreements have been signed only to try to respond to commercial need, such as trying to establish their monopoly in a foreign country, or hinder possible threats of trade, as in the case of the FTA between US and South Korea. Objectives that can undermine the geographical indications itself and consumers.

### *3.3.3 - CETA: FTA between the European Union and Canada*

On 21 September 2017, the European Union and Canada signed a free trade agreement, known under the acronym "CETA" (Comprehensive Economic and Trade Agreement). CETA is a commercial agreement that allows European companies to participate in Canadian public procurement and to sell products and services within Canada. The aim of the agreement is to reduce the duties for both parties almost entirely, to promote trade and investment, to foster business growth and to create new jobs. The treaty also aims to protect European food specialties, prohibiting the sale of imitations for about 150 products and ensuring the defence of European standards. It stands as a global model for future trade agreements as it does not take into account only the elimination of customs barriers but focuses on individuals and environmental protection. In this way, CETA will favour the competition of European companies in Canada: by eliminating customs duties, the price to be paid for European goods will be reduced; in addition, European companies will be able to benefit from some services and production factors from Canada, necessary to manufacture some of their products<sup>36</sup>.

One of the key points is the creation of the opportunity to export food products, including some geographical indications, such as the Dutch Gouda Cheese and the Italian

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<sup>36</sup> Website of European Commission, Comprehensive economic and trade agreement, 07/11/2018: [http://ec.europa.eu/trade/policy/in-focus/ceta/index\\_it.html](http://ec.europa.eu/trade/policy/in-focus/ceta/index_it.html)

Balsamic Vinegar of Modena. Canada guarantees and protects the European geographic names from imitations; in the same way it happens in European countries. Going more in detail of the regulation stipulated on geographical indications, the products that used, as a indication, a widely recognised common name were denied, with the exception of some previously registered product (for example the "*Jambon de Bayonne*", only if produced for more than ten years, and the "*Nürnberger Bratwürst*", if produced for more than five years<sup>37</sup>). Protection as designations of origin is allowed only for five products bearing a generic name, as they are now part of Canadian culture. The products are: feta, gorgonzola, asiago, fontina and muenster. Unlike the European model, if a similar product with a common denomination is to be registered, versions with additional terms such as "style", "type", "imitation" are accepted (高橋, 2015, p. 97). Some pre-established translations are also accepted, so as not to allow registration for those products that, on the contrary, carry a false and misleading translation. In the case in which there is a pre-existing brand, the coexistence between the two is allowed; however, the behaviour to be used in the above case is not specified, leaving the decision on the basis of individual cases. In this way many products that initially could not be exported from the European Union were introduced, being able to cohabit with some pre-existing brands (内藤, 2015a, pp. 281–282).

Although the trade agreement should reflect a genuine model of trade agreement, there are still some factors that make us doubt whether this agreement works properly. One of the main provisions of the agreement was the establishment of a dispute management mechanism between governments and investors, the ICS. It was inserted to provide transparency on CETA disputes and this represents a real improvement over the previous dispute resolution system. However, while Canada has already fulfilled the necessary legal measures, the European Union has not, as ICS is not yet approved by all members of the Union. Furthermore, there are some conflicting ideas on the effective acceptance of the ICS by the European Union: the ICS could ease the autonomy of the EU legal order and threaten the Union's commitment to Canada<sup>38</sup>.

Despite the various debates on the effective functioning of the aforementioned agreement, the interesting factor is the meeting between two substantially opposite models

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<sup>37</sup> Respectively in English language "Bayonne Ham" and "Nuremberg Bratwurst Sausage" (内藤, 2015a, p. 281).

<sup>38</sup> MIGLIORINI Sara, *The uncertain future of the Canadian-European trade deal*, July 2018: <https://theconversation.com/the-uncertain-future-of-the-canadian-european-trade-deal-100228>

and the search for a model that satisfies both parties. The Canadian model on geographical indications is based on the American model, given the large amount of imitations of European products that have become part of the culinary culture of the nation, like in the United States of America. We can therefore note that, even in the following case, when Europe and Canada wanted to expand their exports and eliminate customs duties, a "sui generis" model for the protection of agri-food products was added, similar to the model European, far from the Canadian model itself. Also in this case, we can see how agreements based on the mutual protection of geographical indications were born not to protect registered products and try to create greater clarity between imitations present abroad, but rather for commercial reasons. It should not be forgotten that in recent years Canada, like Mexico, has also been subject to high duties imposed by the US, especially on dairy products, wine and mechanical products. The search for a different commercial partner that can contrast in economic terms the United States of America could mean a lot in these years of great global competition.

### *3.4 - TPP, the Trans Pacific Partnership*

The TPP, or rather the Trans Pacific Partnership, is a multilateral regulatory and regional investment treaty between twelve Pacific and Asian countries: Australia, United States, Brunei, Canada, Chile, Malaysia, Mexico, Vietnam, New Zealand, Peru, Singapore and Japan. Negotiations began in 2005 and the participating countries aimed to develop international trade to promote innovation and economic growth. The treaty was due to enter into force in 2012, however, due to some disputes in particular in the field of agriculture, negotiations ended three years later. The aforementioned agreement was much criticised because the signatory countries decided to keep most of the content of the negotiations secret; in 2013, Wikileaks published some treaty documents, which raised doubts about the real functionality of the agreements. In 2016, the treaty was signed in New Zealand; however, in the following year American president Donald Trump decided to sign an executive order to officially withdraw the United States of America from the agreement. One of the main causes that led the US president to withdraw from the TPP was the desire to link a series of bilateral agreements with each country. For this reason, the TPP did not

complete the approval process and never entered into force. In 2018, the remaining eleven countries signed a new treaty, reaching a common understanding: the TPP-11, a modified version of the original TPP, a free trade treaty covering one of the largest areas between Asia and the Pacific. Some countries benefited greatly from the aforementioned treaty; however, for other countries the growth that could be obtained from the treaty is not in any case comparable to what they could have received from the initial TPP, thanks to the presence of the United States of America (whose share was about 60%)<sup>39</sup>. One of these countries is Japan: the Nikkei Shinbun has estimated a loss of 6 trillion yen<sup>40</sup>.

As far as geographical indications are concerned, the TPP recognises the indications as intellectual property, however it leaves the content and regulation of a process of protection of the agri-food products to the national rules of each individual signatory country. This includes cases where a term is considered generic or common and the cases in which a process of elimination and/or revision of the denomination was promoted. Taking a look at the countries that participated in the treaty, some of them provide a system for the protection of agri-food products, such as Peru, Malaysia and Vietnam; others do not include any system relating to geographical indications for agricultural products, such as the United States of America and Australia; others have recently established it, like Japan. For example, Peru promoted food product protection in a similar way to the one established in the Lisbon Treaty (a model that recognised the current PDOs as geographical indications); in addition, it provided for a certain level of social esteem by consumers and producers, which was also required in the TRIPs. Registrations are denied to products that cause doubts and misunderstandings on originality and provenance, including cases where additional terms are present. In the event that a brand is present, registration is denied only if it creates a possible confusion with the pre-existing brand. Malaysia has established a protectionist model that recognises geographical indications in the same way they are implemented in the TRIPs Agreement. Geographical indications are recognised as intellectual property, but there is no actual procedure for registering them. Even in the case of relations with pre-existing brands, the Malaysian model provides for the continuation of

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<sup>39</sup> AMADEO Kimberly, *Transatlantic Trade and Investment Partnership (TTIP) – Advantages, Disadvantages, Opportunities, Obstacles and Next Steps*, The Balance, November 2018: <https://www.thebalance.com/free-trade-agreement-types-and-examples-3305897>

<sup>40</sup> Nikkei Staff Writers, *Revised TPP faces obstacles on road to ratification*, Nikkei Asian Review, February 2018: <https://asia.nikkei.com/Politics-Economy/International-Relations/Revised-TPP-faces-obstacles-on-road-to-ratification?page=1>

the use of the brand, which is not extended to the denominations. However, as happens in the TRIPs, no behaviour is specified to be held in the case of pre-existing brands and where there is the possibility of registering the indication. Mexico, too, has established a protectionist model similar to Peru: it also recognises as geographical indications the products that guarantee some qualitative characteristics linked to the territory and others derived from the technical knowledge of man. Registration is denied to all products that do not use the denomination correctly, including the presence of additional terms. However, it does not clarify the behaviour to have for the registration of a denomination if a similar brand is already present. The presence of many different models among the participating countries created some misunderstandings and led the signatories to identify only a definition of geographical indication without regulating its protection and leaving it to internal laws (内藤, 2015a, pp. 275–277).

The TPP foresees a possible recognition of geographical indications only in the future but only following a national verification procedure in which third parties, too, have the possibility to oppose. In the case of the European Union this type of approach can cause some problems: for example in the case of countries, such as Canada or Vietnam, in which a food protectionist model was already recognised, Europe will be able to see all geographical indications automatically recognised; however, in the case of countries where a similar model was not yet recognised, such as Japan, third parties could more easily oppose the alleged generic nature of the name or trademarks previously registered<sup>41</sup>.

Some of the signatory countries of the TPP also stipulated some treaties with the European Union, promoting bilateral free trade agreements. At the time when these FTAs were linked, in general the agreements follow the regulation described in the TRIPs, providing in some cases also the coexistence between denomination of origin and pre-recorded brands (FTA between the European Union and Peru). In other cases, as in the bilateral agreement between Europe and Singapore, the possibility of coexistence between brands and geographical indications was provided for only if the owner presented a document certifying their consent (内藤, 2015a, p. 280). A third example is the bilateral FTA concluded between Europe and Canada, already explained above, which also provides for possible coexistence when the consent of the brand owner is presented. In this case,

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<sup>41</sup> Videoclip by L'informatore Agrario, Massimo Vittori, *the Geographical Indication food (GIs) in the TPP and TTIP*, February 2016. <https://www.youtube.com/watch?v=c5v2aHECEjs>



however, there were some exceptions that departed from the European model, such as the possible registration of denomination having additional terms ("style", "type", etc ...) and recognition of other products despite bearing a common name.

When, on the contrary, the counterpart of the bilateral agreements is not the European Union but the United States of America, the protection systems that are envisaged protect the geographical indications as a brand, guarantee the possibility of presenting complaints by third parties and do not allow registration of the name if it creates unfair competition.

In conclusion, as already mentioned in the previous paragraphs, among the international trade agreements the countries concerned admit some stratagems according to the type of agreement linked and with which counterpart the agreement is signed. Many models, as we have seen for the Korean one, provide for a double system, one dedicated to geographical indications and the other to brands; a similar model allows a good outcome in both the two "types" of FTA.

### *3.5 - Japan and commercial agreements on geographical indications and brands: EPA and TPP*

Japan signed the TPP in 2015 in order to open up trade with the United States of America and increase exports. In the following agreement, Japan protected a model similar to the American one, which provided for the registration of certification brands thanks to a particular legislative system. The agreement also highlights the importance of establishing a cancellation procedure in case of objection by third parties (内藤, 2017a).

In the same year in Japan the protectionist system on geographical indications came into force and, a few years later, in 2017 Japan signed a strategic partnership agreement (SPA), based on dialogue and political cooperation to improve some international challenges such as environment, climate and security, and a commercial agreement (EPA) with the European Union, based on free trade. The EPA was born as a symbol of example of free trade cooperation covering one of the largest areas of the world and proposes a model of economic order based on the rules of freedom and equality. The new commercial and economic area that was created covers about 40% of world trade and 30% of the

world's GDP<sup>42</sup>. The agreement was chaired by Japanese Prime Minister Abe Shinzo, European Commission President Jean-Claude Juncker and European Council President Donald Tusk. The representatives of the two countries were all very positive about the EPA agreement, identifying it as an example of free trade between two countries that are very geographically distant but economically and politically close.

With regard to Japan, the agreement was fundamental in order to develop some economic and political strategies envisaged by the Abenomics, showing to the world its position as a standard-bearer in free trade. The economic effects desired in Japan foresee an increase of 1% (about 5 thousand billion yen) for GDP in real terms and a 0.5% increase in recruitment (about 290 thousand new jobs). The Japanese GDP covers about 6.1% of global GDP, while the European GDP is around 22%; together they would create a GDP equal to about 28%, more than that covered by the United States of America (24.3%) and China (15%). Also regarding the percentage of population and recruitment, Japan covers 1.7% and Europe covers 6.8%. Together they hold 8.5%, even in this case more than the American share (4.3%). However, it still does not exceed the Chinese percentage which holds a good 18.4%. Even in the case of trade (import/export), Europe holds 33.1% and Japan only 3.9%. In this case too, they exceeded the American quota, with about 37% of global operations<sup>43</sup>.

Going into the details of the trade agreement, Europe allows the entry of Japanese products into the European market with the abolition of about 99% of the European duties. With regard to factory products, customs barriers for car taxes are completely abolished. For food products, duties are abolished for products considered essential for trade (such as tea, meat and meat-derivatives, etc...); the import rules on Japanese wine are abolished in favour of an importation of products that certify the adequate production process and the protection of products of protected origin, both food and alcohol. The model envisages an increase in exports of Japanese products to the European market, which is also useful for small and medium-sized companies that depend on other producers and for the promotion of the new GI-certified brand.

In the case of the Japanese market, factory products are expected to abolish 100% of customs duties, immediately for textiles and chemicals, in the future for leather goods and

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<sup>42</sup> MOFA (Ministry of Foreign Affairs of Japan), *Chomei sumi EPA ni tsuite* (Concerning the famous EPA), 2018: <https://www.mofa.go.jp/mofaj/files/000383771.pdf>

<sup>43</sup> MOFA (Ministry of Foreign Affairs of Japan), *Chomei sumi EPA ni tsuite* (Concerning the famous EPA), 2018: <https://www.mofa.go.jp/mofaj/files/000383771.pdf>

footwear. For food products, 82% of the customs barriers are expected to be abolished, with the exception of rice. A different system of duties is foreseen for products derived from meat or milk and raw materials such as flour<sup>44</sup>. As far as geographical indications are concerned, in Japanese territory the protection of European indications and the protection of them from imitated products or that can create misunderstandings are established; in the European territory GI-branded products are protected. The mutually protected products are 71 from the European side, including 27 dairy products, and 48 from the Japanese side. Registration is denied to products that: do not follow the levels required in the descriptive document granted by the two parties; do not use the original name of the product unequivocally<sup>45</sup>; use additional terms or translations in the name<sup>46</sup>; can create unfair competition with products already on the market and do not properly clarify the name of the place of origin. In the last case, denominations that specify a place of origin different from the one established in the registration are not accepted (for example: “...*san no gorugonzōra*”, ～産のゴルゴンゾーラ – translated in English language: "Gorgonzola produced in the province of ...")<sup>47</sup>. The denomination is envisaged for derivative products that use a protected denomination product as raw material; in this case, the quantity of the raw material and the characteristics that reflect its particular characteristics must be certified. Some products using as a raw material a certified European derived product can be accepted on the market. For example, if a cheese powder containing more than 60% of certified gorgonzola is produced in Denmark, the denomination must be: “*Denmāku san gorugonzōra chiizu paudā*”, デンマーク産ゴルゴンゾーラチーズルパウダー, literally "Gorgonzola Cheese powder from Denmark ". In case you want to make some gorgonzola-flavoured fries and this imported and certified product is used, the name “*Gorugonzōra chippusu*”, ゴルゴンゾーラチップス can be used, literally "Gorgonzola chips", and the quantity of raw material must be specified on the packaging. For the European Union the following trade agreement would help increase European exports and reduce taxes on imported products. Japan had a *sui generis* system for imports of European products:

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<sup>44</sup> MOFA (Ministry of Foreign Affairs of Japan), *Chomei sumi EPA ni tsuite* (Concerning the famous EPA), 2018: <https://www.mofa.go.jp/mofaj/files/000383771.pdf>

<sup>45</sup> For example Gouda Holland, a type of Dutch cheese, translated as “Gōda Chiizu”, ゴーダ・チーズ (translated in English: “Gouda Cheese”).

<sup>46</sup> For example “Tosukano Hamu”, トスカノハム (translated in English: "Tuscan Ham").

<sup>47</sup> MAFF (Ministry of Agricultural, Forestry and Fisheries of Japan), *Ni EU-EPA ni okeru chiriteki hyōji (GI) no toriatsukai ni tsuite* (Concerning the Geographical Indications' (GI) treat of EPA Agreement between JP and EU), 2018: [http://www.maff.go.jp/j/shokusan/gi\\_act/designation2/attach/pdf/index-17.pdf](http://www.maff.go.jp/j/shokusan/gi_act/designation2/attach/pdf/index-17.pdf)

between 30% and 40% of sales tax was required on dairy products; about 38.5% on meat-derived products, 15% on wine products; on pasta it could reach a maximum of 24% and on chocolate up to about 30%. In addition, Japan foresaw some additional costs on compliance with the rules and regulations and this caused an increase in the cost of exports between 10% and 30%. Thanks to the new bilateral agreement, tariffs on wine products could be eliminated, prices on products derived from pigs and cattle could be lowered, trade in dairy products could be opened and additional tariffs on imports could be abolished. In addition, it is thought that the EPA can increase exports by 13%, especially of agri-food and textile products<sup>48</sup>.

In the same way as Korea, even Japan, as we have seen, has linked bilateral trade agreements with both parties. However, we could assume that the recently concluded commercial contract with Europe could be a consequence of the treaties with the United States of America. With the election of President Donald Trump, the United States of America refused to sign and continue the treaties relating to the TPP, initiated by former President Barack Obama. Japan consequently became spokesman of the second treaty carried out by the remaining eleven countries, the TPP-11. However, as stated in a Nikkei article<sup>49</sup>, a Japanese newspaper specialised in economic news, Japan would prefer a return of the United States in the treaties of the Trans Pacific Ocean: thanks to the TPP-11 treaties, the Japanese GDP would increase by about 8 trillion yen yearly; while in the TPP treaties in which the United States of America would be included, Japanese GDP would increase by almost double (14 trillion yen per year). In addition, in the case of TPP, Japan would acquire a better commercial position with the United States of America, unlike the one it manages to obtain in bilateral agreements.

The United States of America does not currently seem interested in re-establishing the TPP negotiations but seems more focused on inciting a real trade war based on protectionism, maintaining high customs barriers. The European Union is also seeking new partnerships to strengthen its international business in the event of a failed agreement with

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<sup>48</sup> MAFF (Ministry of Agricultural, Forestry and Fisheries of Japan), *Ni EU-EPA ni okeru chiriteki hyōji (GI) no toriatsukai ni tsuite* (Concerning the Geographical Indications' (GI) treat of EPA Agreement between JP and EU), 2018: [http://www.maff.go.jp/j/shokusan/gi\\_act/designation2/attach/pdf/index-17.pdf](http://www.maff.go.jp/j/shokusan/gi_act/designation2/attach/pdf/index-17.pdf)

<sup>49</sup> Nikkei Staff Writers, *Revised TPP faces obstacles on road to ratification*, Nikkei Asian Review, February 2018: <https://asia.nikkei.com/Politics-Economy/International-Relations/Revised-TPP-faces-obstacles-on-road-to-ratification?page=1>

the United States of America. The European Union tightened bilateral agreements with Mexico, Singapore, Vietnam and China to promote free trade and face the uncertainty of the American political position, since United State of America alone covers about a quarter of world trade<sup>50</sup>. In addition to the strict agreement on wine products in 2006, the European Union and the United States of America met again to sign a bilateral trade agreement. The aforementioned agreement, known as TTIP, would have had excellent consequences on the creation of new jobs and on certain sectors, such as the pharmaceutical, automotive and food sectors. The agreement had the main objective of being one of the largest trade agreements and would have been able to counter rising political powers such as China and India. The United States of America and the European Union together produce about a third of the worldwide turnover and the agreement, as specified by "The Balance"<sup>51</sup>, could have quadrupled the amount generated by the trades of both parties that would produce an increase in domestic GDP of about 5% for the United States of America and 3.4% for the European Union. In 2013, President Barack Obama had given his consent for the start of negotiations; however, in 2017 the current president Donald Trump decided to suspend the treaties. The main reasons were the occurrence in 2016 of the phenomena known as "Brexit", which led to uncertainty in the success of the treaties and reinforced the ideas of anti-globalisation. A second obstacle was the protective status of agri-food products: Europe continued to promote a very strict protection system on foods that prohibited the use of hormones and other substances deemed harmful for cultivation or breeding; the United States of America continues, on the contrary, to promote a less careful system from the point of view of safety and quality. In addition, Greece specifically requested that all products that called for the name "feta" should be produced from goats and/or sheep, since in American territory it was produced mainly from cattle.

The TTIP, despite the new approach, has overlooked some fundamental problems: first, no level of protection was specified to be given to US geographical indications in European territory and European ones in US territory. Secondly, the question based on certain European names protected as a designation of controlled origin, which are used and considered as common names in American territory, remained incomplete. The following

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<sup>50</sup> EWING Jack, *E.U. Courts New Partners With Japan Trade Deal*, The New York Times, July 2018: <https://www.nytimes.com/2018/07/17/business/trade-europe-japan-china.html>

<sup>51</sup> AMADEO Kimberly, *Transatlantic Trade and Investment Partnership (TTIP) – Advantages, Disadvantages, Opportunities, Obstacles and Next Steps*, The Balance, November 2018: <https://www.thebalance.com/free-trade-agreement-types-and-examples-3305897>

"common names" used in the United States of America not only use a common name (such as "feta", "parmesan", etc ...), but use identifying elements that refer to the true country of origin (such as relatively Greece and Italy). In the end, a third problem is the unsolved issue concerning the 2006 agreement between the United States of America and Europe on the trade in wine products: TTIP could find a solution for removing the category of "semi-generic" names to 16 European wines with a protected name, considered ambiguous<sup>52</sup>.

Although the European Union and the United States of America have two opposing models for the protection of intellectual property, both have a more restrictive model of protection for wine products. Also the US, as we have seen in the first chapter, includes a separate regulation for wine products similar to the European model. However, the TTIP has left behind some fundamental problems that make us reflect, especially with regard to the first two problems mentioned above. In TTIP protection level and the relationship between some European denominations recognized as common names in American territory have not been specified. Both are the elements on which geographical indications are based; if they are left incomplete, the same protective model has no grounds for being established. Even more in the case that, TTIP is aimed at protecting the wine products for which both counterparties provide similar protection, despite not providing the GI protection system itself. In this case, therefore, it would have been easier to find common points; on the contrary, some of the most important points have been left inconclusive, as evidence of the fact that, in the case of commercial negotiations, the real nature for which the geographical indications were born is left aside.

In 2018 the U.S. Department of Commerce Secretary Wilbur Ross has notified that the administration is interested in resuming the agreements left pending with the European Union; in this regard, 'The Balance' defines the resumption of negotiations in a probable "commercial war" situation as doubtful<sup>53</sup>.

The 'The Balance' has not exaggerated to define the position of the United States of America as "doubtful"; President Donald Trump from the first day of his assignment approved political movements that embrace protectionist ideology, such as increasing taxes on aluminium and steel, a hostile policy towards Mexico and Canada and an increase

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<sup>52</sup> Videoclip by L'informatore Agrario, Massimo Vittori, *the Geographical Indication food (GIs) in the TPP and TTIP*, February 2016. <https://www.youtube.com/watch?v=c5v2aHECEjs>

<sup>53</sup> AMADEO Kimberly, *Transatlantic Trade and Investment Partnership (TTIP) – Advantages, Disadvantages, Opportunities, Obstacles and Next Steps*, The Balance, November 2018: <https://www.thebalance.com/free-trade-agreement-types-and-examples-3305897>

in duties on imports of Chinese product and service. Faced with a similar scenario in which President Donald Trump is trying to create a strong nation, free from any trade agreement and based on protectionism, I agree with those who say they are sceptical and doubtful about the possible resumption of negotiations by the Member States United of America.

### *3.6 - Geographical indications today: the "Geneva Act" and the progressive loss of the concept of "terroir"*

As we have noted in the previous paragraphs, geographical indications have become one of the most discussed issues at the international level, which also led to the creation of a world organisation (WTO) for their regulation and management. Although the WTO continues to focus much of its agreements on the aforementioned topic, member countries have failed to reach an accommodating agreement for all. One of the main reasons is given, as stated multiple times, by the great cultural difference between the member countries and the continuous dispute between the two main antagonists that pull the strings of international trade. Despite the lack of consensus among the international agreements, countries decided to establish new protective policies on geographical indications, partly driven by the free trade agreements with the European counterpart and by the adoption in May 2015 of the "Geneva Act", a revision of the 1958 Lisbon Agreement.

The Geneva Act reformulated the definition of protected designation of origin supported by the Lisbon Agreement, leading back to a broader definition already dealt with in the TRIPs. In other words, while in the Lisbon Agreement the definition of designation of origin is attributable to the term "*terroir*", which provided for a strong link with the territory of origin where the entire production process had to be developed; on the contrary, the Geneva Act proposes a more flexible approach to this point of view, inserting the "geographical indications" as a new object of protection, taking up the definition already provided by the TRIPs. Likewise, the Geneva Act provides protection for those agri-food products which contain the name of the geographical area in which "a given quality, reputation or other characteristic of the good is attributable to its geographical origin". In this way the Geneva Act provides two types of registration possible (as required by the 1992 European legislative reform, which provided for the differentiation between PDO and PGI) and allows counterparts to freely choose which type of certification to use for the

applicant product. Also at the level of protection issues, the Geneva Act essentially modifies the definition supported by the Lisbon Agreement: member countries can provide for legal solutions to prevent any illicit use in cases where: the product is of the same nature/origin (including cases where additional terms or translations are present); products or services not of the same nature but which may confuse and/or undermine the reputation of the original product and in the event that any procedure can imitate and/or mislead the place of origin (Gervais, 2017). In this case, the Geneva Act overcomes the protection provided by the TRIPs, since it takes up the level of protection provided exclusively for alcoholic products also for agri-food products (remember that the TRIPs provided for two different levels of protection for agricultural and alcoholic products). As Dervais Daniel specifies, the Geneva Act is a "de facto expansion by (and for) Lisbon members of GI protection to products other than wines and spirits - especially in the developing world" (Gervais, 2017, p. 128).

The Lisbon Agreement provided for a multilateral register for names of geographical origin; the Geneva Act made some administrative improvements to the registry, modernising the registration system and clarifying the role of the national offices. Applicants must pay a per-country fee and a fee for the use of the claim, while in the Lisbon Agreement they had to pay a single fee to WIPO. In addition, a clear system of refusal was introduced against a new name in the event that a non-compliance with international rules is to be notified - an element not mentioned in the Lisbon Agreement. The Geneva Act resumes in the same way of the Lisbon Agreement the non-flexibility on the "generic terms": despite changing the language used, it essentially maintains the original version in which the registration of a generic term was not allowed (Gervais, 2017).

With the Geneva Act, the Lisbon Agreement was expanded, revisiting some definitions already reviewed in the TRIPs and becoming more internationally enforceable. One of the main points was the expansion of the protection to products that, despite not being entirely (every phase of the production process) linked to the territory of origin, report some qualitative characteristics or a particular reputation that can be traced back to a geographical area. The Lisbon Agreement was the only agreement that had maintained over time the original purpose for which the protection systems of designations of origin were born, namely the protection of the territory and the activity of the countryside. With the Geneva Act and the extension of protection to "geographical indications", a tendency is born to lose the true link between the product and the territory of origin.



The debate on geographical indications has acquired international value and countries are starting to introduce measures and protection systems for geographical indications. Especially the emerging countries of the Pacific area were very interested in adopting this system because it went far beyond simple agricultural products; the definition of geographical indication expanded, thanks to the TRIPs and the Geneva Act, including other processed products. Many Asian countries are known exporters of handicrafts, which could triple their value if recognised as denomination and combat imitations if protected in the country of origin and abroad; in this way they could more easily protect their international interests. In addition, some of the nations that initially opposed the use of protection systems, are recently re-evaluating whether to adopt a similar strategy, such as Australia, which is considering expanding the exclusive protection of wine products to agricultural products; or enter into bilateral free trade agreements with geographical pro-indication nations, such as the FTA between Canada and the European Union (Calboli, 2017).

The geographical indications, as we have seen in the first chapter, have excellent consequences on the development of the territory and on the maintenance of biodiversity, elements that could favour more growth in the developing countries. However, it has not been made possible in all countries: in order to maintain the development of the territory, an efficient quality management and control system is required; however, as Calboli Irene claims, in developing countries there are often no suitable infrastructures to guarantee constant quality and, as a consequence, the administration is left to foreign companies that tend to make their interests prevail. An example is the case of the "*Phu Quoc*", a fish sauce registered as a geographical indication in Vietnam in 2001 (Calboli, 2017, p. 22). Following registration, domestic and international producers began to produce them excessively without a sufficient quality control system, which led to a deterioration of the local environment and the creation of imitations.

Consequently, we can deduce that many of the developing countries adopted systems of protection not so much to guarantee their consumers high levels of quality, but mainly to try to expand their businesses and grow economically at the international level (Vietnam has recently established a bilateral free trade agreement with the European Union).

Quoting Calboli Irene: "In essence, [...], granting exclusive right when GIs do not identify fully locally made products risks to transform GIs into a marketing tool rather than signs of the accurate geographical origin of the product at issue." (Calboli, 2017, p. 23)

Recent developments at the international level have partially delocalised the main purposes for which designations of origin were born. By observing the definitions given by the Lisbon Agreement of 1958 and, subsequently, by the TRIPs and the Geneva Act, it is clear that the Lisbon Agreement recognises the denominations of origin as geographical names referring to a geographical area that bear qualitative characteristics "exclusively" or "essentially" linked to the place of origin. With the TRIPs, the concept of terroir is traced back to the concept of "reputation", recognising as geographical indication a product originated in a precise area from which quality, reputation or other characteristics are attributable "essentially" to the territory. As we can see, in this case importance is given to the concept of "reputation" and "essentially", recognising in particular as geographical indications the products that do not necessarily have to be exclusively linked to the territory. As Gangjee Dev S. says "ironically, reputation is the least talked about form of linkage between product and place" (Gangjee, 2017a, p. 37).

The desire to leave a vague definition came from strong debates between the two main models, which could not find compromises, and the desire to enrich multilateral strategies; nevertheless, many countries enjoyed it because they managed to record products of a certain notoriety as a geographical indication, without being really linked to the territory of origin. For example, a processed product can easily be registered that, despite using ingredients not coming from the area of origin, has a certain reputation and its name is commonly connected to that specific area. The link that is established between product and territory is gradually being lost to make room for a broader concept of social recognition, which, despite ensuring greater economic development, does not guarantee the same level of initial certified quality. It was not by chance that many of the nations decided to adopt protection systems following the conclusion of the TRIPs contract and that currently the number of registered PGI far exceeds the number of PDOs (only about 671 PGIs and 604 PDOs were registered in the European Union alone) (Gangjee, 2017a).

The loss of the necessary strong link with the territory merged optimally with the improvements in international trade: the elimination of customs barriers and commercial facilities allowed the producers to gain a competitive advantage even on products that guarantee only a local reputation. This could have negative consequences for consumers who believe they know the origin of some food products, without realising that in reality many products certify a different link with the territory.

As Irene Calboli said "This status quo, however, runs directly against the rationale for GI protection - providing accurate information to consumers about the geographical origin of the products." (Calboli, 2014, pp. 67)

### *3.6.1 - The case of Japan and the real objective of EPA: food protection or commercial development?*

Many of the countries that adopted a protection system were driven by the search for re-obtaining of the monopoly on the sales of some products, which have now become commonplace in other countries. An example is the "Budweiser Beer" alcohol product: in 1876 Adolphus Busch emigrated to the United States of America and chose a German-sounding name for his beer, to try and differentiate itself from other producers on the market. The name was actually taken from the German translation of the city Budjovice, in the Czech Republic. At the time the Czech Republic emerged internationally, it claimed the geographical indication status of the word "Budweiser" and the respective translation into Czech language. The European Union promised such protection only if the Czech Republic had joined the EU: thus, the Czech Republic joined in 2004 and the European Union was able to register the product as a geographical indication (the coexistence of the indication and pre-existing brand) (高橋, 2015, p. 65).

The Czech Republic was not the only country to claim its agricultural products; Japan also faced a similar scenario against some products related to Japanese culture, such as the Wagyu Beef phenomenon. "Wagyu" literally means "Japanese (*wa*) bovine (*gyū*)" and it is a term referring to different Japanese cattle breeds, known for the intense marbling of the meat which makes it tastier and more tender. One of the most famous breeds of *wagyu* is the "Tajima", from which comes the famous "Kobe Beef". Currently, Kobe Beef is a registered trademark, however, in the past few years it has been subject to several violations of appropriate use of the name. According to a study carried out by MAFF in 2015, the "Wagyu" brand is known as a Japanese original product only in Asian countries: in Singapore and Hong Kong about 70% know in detail the qualities and provenance of the product. In Thailand and Taiwan only 30% know the product in depth; however, more than 40% recognise that it is a product of Japanese origin (about 40% for Thailand and about 60% in Taiwan). In contrast, in the United States of America and in England the majority of consumers do not know the true origin of the product (more than

60% in America and 70% in England). This result was caused by western producers who imported the Japanese bovine gene into their territory, where they raised and sold it as "real Japanese beef" (山本 et al., 2015). Consumers were not informed about the true origin of the product which did not guarantee the same level of quality as the original, coming from a territory with a different environmental climate. The American products invaded international trade and caused the creation of many imitations, making the true Japanese products lose its value, bred and process in Japan. The situation did not only undermine the Japanese domestic economy, but also the trade relations with other neighbouring countries, such as China. In China there was the "principle of precedence in the assignment of the patent to the first applicant": if the United States of America were able to register their product derived from *wagyū* as a brand, Japan could encounter many obstacles in China to the recognition of its product, despite being the original. For this reason, one of the consequences that allowed Japan to regain the monopoly on the Japanese beef market was the adoption of a food protection system (山本 et al., 2015, pp. 9–10).

In 2015, Japan decided to adopt a new system for the protection of food products, created with the aim of rehabilitating the agricultural economy and protecting agri-food products from imitations. However, it was not by coincidence that Japan decided in 2015 to adopt a similar system; if it were moved solely by the aforementioned objective, probably the new system would have already been adopted long since within the Japanese territory, given its ancient gastronomic culture. It is possible that, in reality, Japan has been driven mainly by commercial interests and recent developments in international agreements.

First of all, I would pay attention on doubtful results obtained from a survey conducted in 2016 by scholars associated with PRIMAFF. In 2016 a survey was conducted on 376 products of regional brands, in order to study the consequences of the GI protection systems and analyse the relationships between the increase of products' economic value (price) and its qualitative characteristics, focusing mainly on quality and production method controls. The study confirmed that products acquire a higher economic value than the common products (51%, i.e. 189 products, got an increase between 10% and double of starting value), as we have already proved in the second chapter. Furthermore, 79% of products (297 articles) adopted some criteria on the production process and/or product quality, of which 43% provided them on both cases; 19% only on the production process and the 17% only on product quality (内藤, 大橋, 八木, & 菊島, 2017b, pp. 22–23). However, I would like to pay attention to the type of control that has been made: the study verified

that 75% of the products (281 articles) adopted a specific control management system, of which 51% (190 products) were checked at the time of shipment, 37% (138 products) was subject to periodic checks, 31% (118 products) were checked and the results were displayed on a report, and only 16% (62 products) were checked in case of violation the required criteria. The survey continued and verified that the products subjected to checks obtained a greater increase of economic value, especially between 10% and 20% (35%, 105 products, on the total amount of 297 products), comparing to products that did not include these criteria (内藤 et al., 2017b, p. 23). As the survey pointed out, it is possible to notice a strong tendency towards the formation of an economic value difference, if qualitative parameters were set. This price difference highlights the importance of protecting the supremacy of GI products and creating added value that increases consumer confidence. However, particular attention must be paid to these values because, although added value could attract consumers' attention, many of these products are not check periodically. As we have seen previously, only 37% of the products were subjected to periodic checks and 16% to checks in case of violation. On the contrary, most of the products were checked at the end of the production process (at the time of delivery), highlighting a less specific type of control that did not guarantee a high level of safety. This factor could cause misinformation among consumers and, consequently, negative effects at the time of purchase of these products. In addition, the survey verified that there was not any particular difference between products that had only some criteria to follow and those that also adopted a system of monitoring and control of these criteria: in both cases, 58% of the products obtained an increase in value between 10% and the double of initial value. In this case too, great care must be taken as, logically, the products submitted to a quality control system should obtain a greater price variation in relation to products that do not carry out such controls. This factor is also to be taken into consideration as it underlines again a possible misinformation among consumers who would not be able to distinguish which products are mainly controlled by others. Subsequently, the survey highlighted other factors on which I would like to draw attention and from which we could understand one of the reasons why Japan decided to adopt GI protection systems only in 2015. When the survey studied the relationship between the possible increase in economic value and the type of brand, it appeared that products that had obtained the registration as brand acquired a greater increase in economic value: on a total amount of 190 products registered as a regional brand, 53% of them (101 products) increased their value between 10% and

the double of initial value; on a total amount of 60 products registered as other brand (i.e. expect the regional brand), 65% of them (39 products) got the same increase (内藤 et al., 2017b, p. 27). Therefore, regardless of the type of brand registered, products registered as brands had an increase in the economic value greater than those that were not registered. The survey continued studying the consequences of the GI protection system and highlighted that many of the GI products that had been registered (or were awaiting registration) came from already pre-existing regional brands: on a total amount of 376 products, 174 of them (47%) were geographical indication products, of which 88 products (46%) came from pre-existing brands. It is no coincidence that almost the majority of GI products are pre-existing brands. The survey verified that, compared to the total of the products examined and geographical indications, the GIs products of pre-existing brands were able to obtain more efficient results in two main cases: protection against imitations and promotion of exports (see table 2 below).

	Total		Registered GI products / awaiting registration		Products acquired regional brand	
			Quantity	Percentage	Quantity	Percentage
	Quantity	Percentage	Quantity	Percentage	Quantity	Percentage
Increase on price thanks to differentiation	141	38%	105	60%	49	56%
Increase on sales thanks to differentiation	98	26%	75	43%	36	41%
Increase on producers' opportunity who decided to register a product	140	37%	108	62%	50	57%
<b>Government controls on imitation</b>	105	28%	76	<b>44%</b>	42	<b>48%</b>
Use of GI logo	72	19%	61	35%	29	33%
<b>Promotion of export</b>	62	16%	44	<b>25%</b>	30	<b>34%</b>
Other	14	4%	9	5%	6	7%
No answered	138	37%	8	5%	2	2%
Total	376		174		88	

Table 2: Table taken from the survey's study and translated in English language. In the case of other factors, such as "increase in price" or "increase in sales", the ratio of 1:2 was calculated between GI products and those of pre-existing brand. Only in the two case "government controls on imitation" and "promotion of export" higher percentages were obtained (内藤, 大橋, 八木, & 菊島, 2017b, p. 30).

Given the above results, we can hypothesize that there was a tendency in registering GI products from pre-existing brands to continue promoting the regional branding phenomenon, to succeed in increasing exports and, consequently, to stipulate trade

agreements with other nations in order to protect these exports. In addition, from the survey we can understand that among the GI products registered (or being registered) those that came from regional brands also allowed a significant improvement in the producers' opportunity of registering GI product. In this way the producers could get greater benefits and an increase in profits by registering brands as geographical indication. However, even in this case, we can see how one of the main objectives of geographical indications has been left behind: the increase in consumer confidence. We can therefore conclude that, a new attitude is emerging for which to adopt such systems, oriented on export and on the possibility of stipulating favourable commercial agreements, rather than protecting a product as quality excellence and educating customers.

Subsequently, the United States of America, led by President Trump, decided not to continue the international trade agreements signed in the TPP and significantly increased the duties on imported products, starting a real commercial war. Japan saw its favourable commercial position with the United States undermined and needed a new and stronger partnership to increase its profits and exports: the European Union. It was not by coincidence that Japan introduced a protectionist system very similar to the European model. It should not be forgotten that a year after the adoption of this system, Japan introduced some additional rules aimed at geographical indications that would have been traded and this regulation stated that international relations of GI products' mutual protection should have been concluded with a country that has a similar system. In addition, with the introduction of the TRIPs agreement the recognition of geographical indication was also extended to products that held a certain reputation within an area; this allowed many countries to also record handicrafts - such as ceramics, wood carvings, and *tatami*<sup>54</sup> - known for their high-quality features. In fact, the Japanese model incorporates the definition introduced with the recent reforms and does not provide a distinction between PDO (protected designation of origin) and PGI (geographical indication). The greater the registrations made, the greater the ones recognised abroad, the greater the social and economic value acquired. It was not by coincidence that, following the adoption of a Japanese food protection system, Japan and the European Union decided to enter into a free trade agreement that promotes the mutual protection of geographical indications and

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<sup>54</sup> A Japanese traditional type of mat used as a flooring material.

the reduction of customs barriers, as an example of partnerships against protectionism or, better, American business decisions.

Both the European Union and Japan with regard to the American position have some doubts about the effective continuation of negotiations and both need new business partnerships. Not by coincidence, between 2017 and 2018 they signed the EPA, the trade agreement based on free trade, and the SPA, the strategic partnership agreement. The European Union and Japan have the same ideologies based on anti-terrorism, environmental protection and security and they had already cooperated in multilateral treaties, such as the G7<sup>55</sup>. The EPA agreement is one of the biggest negotiations, creating a commercial zone covering more than 600 million people and about a third of the world's GDP; it is a real example of an anti-protectionism model. As the European Commission press release of 2018 reports, President Jean-Claude Juncker said that "We are showing stronger and better when we are working together, and we are leading by example showing that trade is about more than tariffs and barriers. It is about values, principles and finding win-win solutions for all. As far as we are concerned, there is no protection in protectionism - and there can not be unity when there is unilateralism"<sup>56</sup>.

The European Union and Japan have a lot in common on some ideological positions: both prevent any kind of genetically modified crop and prohibit the use of hormones on products for slaughter. Japanese and European products must follow and be judged according to the criteria of the state of importation and both parties have established a very precise and strict food protectionist model. From some points of view the Japanese model appears to be even stricter than the European one, and thanks to this, European products can be protected in an entirely adequate manner<sup>57</sup>.

Europe could focus on trade with China, much more extensive and more powerful than Japan. However, although the treaties have been initiated, China seems to be much slower to open up and there are doubts about the consequences that the treaty might have, due also to the different protectionist system adopted. Japan has always had a good

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<sup>55</sup> Ministers' summit between the seven largest advanced economies in the world: Canada, France, Germany, Italy, Japan and United Kingdom.

<sup>56</sup> European Commission, *EU-Japan Summit: a landmark for trade and cooperation*, Brussels, 17 July 2018: [http://europa.eu/rapid/press-release\\_IP-18-4504\\_en.htm](http://europa.eu/rapid/press-release_IP-18-4504_en.htm)

<sup>57</sup> European Commission, *An introduction to the EU-Japan Economic Partnership Agreement*, subsection "Agriculture", Brussel 6 July 2017 [http://trade.ec.europa.eu/doclib/docs/2017/july/tradoc\\_155715.pdf](http://trade.ec.europa.eu/doclib/docs/2017/july/tradoc_155715.pdf)



relationship with the European Union and it has always been proposed for an opening of the commercial outlets.

In the final analysis, many of the European products recognised and protected in the Japanese market are dairy products, foods usually imported (given the low production) and subject to high customs tariffs (for example, before the EPA Agreement Japan imposed between the 30% and 40% of import tariff on dairy product<sup>58</sup>). Also with regard to the European Union, the commercial agreement was useful to apply more control to the production of dairy products sold in the Japanese territory, which often used common names and could deceive in their territory of origin. According to the European Commission's Report on "Agri-food trade in 2017", "the top six product categories exported to Japan, [...], feature some of the EU agri-food export flagship product: pork, wine, cheese and olive oil. [...] Above the already high overall export increase (+11,2%), cheese export increased by a significant 36%"<sup>59</sup>. Moreover, as specifies Fournel William "Dairy product are not part of the traditional Japanese diet, so there is no 'cheese education' in EU countries" (Fournel, 2017, p. 60). Japan produces a ridiculous amount compared to the demand and actual consumption: in 2016, Japan produced less than 50 thousand tonnes of cheese, while the consumption was about 2.25 per capita kilos (about 350 thousand tonnes). To cover the high rate of demand compared to the low value of the offer, many dairy products are imported. Between 2009 and 2016, the demand for cheese increased considerably, thus also increasing imports. Among the dairy products, cheese is the most imported of all: in 2016 the importation of butter was close to 13 thousand tonnes and the importation of milk powder and whey reached 98 thousand tonnes, while cheese touched 258 thousand tonnes. In 2016, Japan imported 97 thousand tonnes from the European Union and only 53 thousand tonnes from the United States of America. The year in which there was a clear difference between EU and US imports was 2014: in 2014, US imports overpowered those of the EU; however, from 2014 European imports increased sharply while the American ones drastically reduced. Given the aforementioned data, it is clear that European dairy products in Japan are the most appreciated. As a matter of fact, as specified by the OEC, in 2016 Japan imported 13% of dairy products from the United

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<sup>58</sup> European Commission, *An introduction to the EU-Japan Economic Partnership Agreement*, subsection "Agriculture", Brussel 6 July 2017 [http://trade.ec.europa.eu/doclib/docs/2017/july/tradoc\\_155715.pdf](http://trade.ec.europa.eu/doclib/docs/2017/july/tradoc_155715.pdf)

<sup>59</sup> European Commission, *Agri-food trade in 2017: another record year for EU agri-food trade*, 2018, pp.18: [https://ec.europa.eu/agriculture/trade-analysis/map\\_en](https://ec.europa.eu/agriculture/trade-analysis/map_en)

States of America and 34% from the European Union (especially from Italy: 7.5%) (Fournel, 2017, p. 61).

Precisely with regard to dairy products there are some points that I would like to highlight. President Donald Trump, from the time of his appointment, decided to embark on a protectionist political line, increasing tariffs for many of its importing and exporting countries and withdrawing from many of the international trade agreements. The "victim" products of this commercial restriction are mainly aluminium, steel and cheese. It is no coincidence that Trump decided to focus on dairy products: The United States of America is one of the leading dairy product exporters and, in recent years, the dairy and car industry are in a state of globally disadvantage, undermined by the growth of the same industries in neighbouring countries. It is not by coincidence that President Trump decided to impose very high tariffs, especially towards Canada and Mexico: for example, in the case of Mexico, duties reached between 15% and 20% on dairy products<sup>60</sup>. In addition, dairy products, as previously specified, are the subject of international debate and they are one of the most commercialized and imitated products nowadays.

Focusing now on the trade between the European Union and Japan (EPA), some fundamental points are noticeable. The European products guaranteed and protected by the agreement as a geographical indication by the aforementioned agreement are only 71. The right term is "only", because the European Union holds more than 600 products marked DOP and more than 700 PGI. The products guaranteed by the agreement are just under 6% of those that Europe itself guarantees: a percentage that is nothing short of ridiculous. Moreover, not by chance, of these 71 products, 27 (about half) are dairy products (Fournel, 2017, p. 61). It is therefore clear that one of the reasons why the European Union decided to start the EPA trade agreements was precisely to protect the most traded European products in the world.

But what makes the situation about EPA even more enigmatic is the type of protection that is granted by the European Union for its products. According to the agreement, only the complete product names are protected: for example, "*mozzarella di bufala campana*"; "*grana padano*" and "*parmiggiano reggiano*". However, the protection of individual terms such as "*grana*" and "*padano*", "*mozzarella*" and "*parmiggiano*" is not

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<sup>60</sup> IDFA (International Dairy Food Association), US Dairy's Top Three Export Markets Increase Tariffs, 11/07/18: <https://www.idfa.org/news-views/headline-news/article/2018/07/11/us-dairy-s-top-three-export-markets-increase-tariffs>

specified. In this way it is easy to allow the creation of imitations and fakes made in Japan of the same products guaranteed by the agreement. Not surprisingly, with regard to the aforementioned EPA trade agreement, Coldiretti<sup>61</sup> denounces, at the time of “*XV Rapporto Ismea*” Presentation (Qualivita 2017), the turnover of counterfeit Italian food products has reached 60 billion euros and European Union, through these economic treaties, is promoting counterfeiting rather than promoting its typical foods<sup>62</sup>. In this way many of the products of European origin will be able to be imitated and the consumer, at the time of purchase, will have even more confusion in choosing one of the products having similar indication and he will tend to choose the less expensive ones, that often it will correspond to the imitations. From this point of view, we can say that those who take a loss are the small and medium producers of certified dairy products, which could suffer a major loss due to the increase in imitations, and consumers, who could confuse the true certified products with their mere imitations. If the main objective for which the agreement was born was really to protect the nature of the products and ensure greater safety to consumers, probably the EU would have been more interested in ensuring protection for many more products, including the protection of individual terms. We can see how, on the contrary, the agreement was moved by a commercial and interest, to be able to increase its profits and exports for dairy products and face the common enemy, the United States of America, which is withdrawing from any multilateral agreement. It is not by coincidence that in recent years the European Union signed also similar trade agreements with the EPA with other strategic countries such as Mexico, South Korea, Vietnam and Canada, all countries that trade with the United States of America. Moreover, the object of these recent treaties, just like that of the EPA, is the reduction or elimination of duties and the protection of wine products and, especially, dairy products.

Looking at the trade situation between EU and Japan, according to the statistics of the Eurostat<sup>63</sup>, between 2008 and 2016 the exports have remained more or less stable, between 53.3 billion euros and 55 billion euros, followed by a recent increase: specifically, in 2014, exports reached 56.5 billion euros; in 2015 to 58 billion euros and in 2016 to 60.5

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<sup>61</sup> Organization of agricultural entrepreneurs at national and European level

<sup>62</sup> News Coldiretti, *Made in Italy: Coldiretti, UE legalizza tarocchi “doc” per 60 mld*, 23/01/2018 [http://www.firenze-prato.coldiretti.it/made-in-italy-coldiretti-ue-legalizza-tarocchi-doc-per-60-mld.aspx?KeyPub=GP\\_CD\\_FIRENZEPRATO\\_HOME%7CCD\\_FIRENZEPRATO\\_HOME&Cod\\_Oggetto=114304103&subskintype=Detail](http://www.firenze-prato.coldiretti.it/made-in-italy-coldiretti-ue-legalizza-tarocchi-doc-per-60-mld.aspx?KeyPub=GP_CD_FIRENZEPRATO_HOME%7CCD_FIRENZEPRATO_HOME&Cod_Oggetto=114304103&subskintype=Detail)

<sup>63</sup> Data available at: [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Japan-EU\\_-\\_international\\_trade\\_in\\_goods\\_statistics#EU\\_and\\_Japan\\_in\\_world\\_trade\\_in\\_goods](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Japan-EU_-_international_trade_in_goods_statistics#EU_and_Japan_in_world_trade_in_goods) (January 2019)

billion euros. On the contrary, between 2011 and 2014, imports declined, and then increased between 2015 and 2016 (respectively, 66.6 billion euros and 68.6 billion euros, compared to values between 56 and 59 billion euros in previous years). Consequently, the trade balance especially in the last years between 2014 and 2016 is negative, given a higher value of imports than exports. Analysing the single performances of the European Union and Japan, the EU exports between 2011 and 2013 gradually increased, in 2014 they had a sharp decline, and in the following years between 2015 and 2016 they increased and again declined, highlighting a trend fluctuating. Japanese exports, on the other hand, grew between 2014 and 2016, while imports dropped. As a result, Japan's cover ratio reaches 106% in 2016; instead, EU reached 103% in 2013, thanks to a strong increase in exports subsequently decreased, and in 2016 the cover ratio dropped to 102%<sup>64</sup>. The decline of European exports in the Japan market in recent years may have prompted the EU to want to enter into trade agreements with Japan just to rehabilitate the recent negative trade balance and succeed in increasing exports again and, consequently, its economic value. Furthermore, by guaranteeing the protection of products with geographical indication, the economic and commercial value of the EU would be able to increase more in the same period of time compared to products not of protected origin, for the reasons explained in the previous chapters. Therefore, it is possible to confirm that in reality the main motivation that pushed both parties to open new commercial treaties is exclusively to restore their trade balance, and not to promote certified products and protect consumers from imitations.

As claimed by Calboli Irene, the new systems adopted would seem to have been born with a more commercial purpose, leaving out the real objective for which the geographical indications were born in France. A deduction that could be further supported by the analysis of the FTA agreements performed in the previous paragraphs: the tricks taken by counterparts even at the cost of moving away from the fundamental points of its protectionist model could confirm the main objective on which the new protection systems of food products are moving. Moreover, in the case of Japan, we can deduce that it was encouraged to adopt in 2015, a few years before the EPA trade agreement, to face the economic situation of strong global competition and to improve its trade balance with the

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<sup>64</sup> Data available at: [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Japan-EU - international trade in goods statistics#EU and Japan in world trade in goods](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Japan-EU_-_international_trade_in_goods_statistics#EU_and_Japan_in_world_trade_in_goods) (January 2019)

European Union. From the analysis carried out in this paragraph on the behaviour of countries in the case of bilateral agreements and on the recent increase in the adoption of “GI protection systems”, especially by emerging nations (as Peru, Singapore and so on), I think that the new systems based on TRIPs Agreements were born primarily for commercial purposes, rather than territorial protection. Despite the excellent consequences on markets and exports, the adoption of these types of system - conducive to commercial development - could undermine the choices of consumers who think they know the true origin of certified products. To try to respond in this regard, the fourth chapter will deal with an analysis of the real recognition of consumers on products of certified origin.

## Chapter 4

### Consequences of new GI Protection System on consumers

#### *4.1 - The "quality neutral": the expansion of protection to non-agricultural products and the gradual loss of information on the specific geographical area of production*

The previous chapter highlighted the fact that due to the new international multilateral agreements, geographical indications have lost their "natural connotation" over time. In other words, the new systems adopted on the protection of geographical indications were born primarily for commercial purposes, leaving aside what they were born for in France in 1935. The new systems, which incorporate the definitions provided for by the TRIPs agreement, reduce their own limits and allow the registration as a geographical indication also to non-food products which only guarantee a certain social value without specifying any production in a specific geographical area.

The social value is the recognition that is attributed to a given product on the basis of the entrepreneurial attitudes of the company and its social responsibility, the history of the product itself, the recognition of consumers over time and the monetary value, i.e. the cost. One of the concepts related to social value is "quality neutral". In the first commercial treaties, such as the Lisbon Agreement, the geographical indications were a symbol of excellent quality and guaranteed a specific origin: the products that were registered ensured a close link with the territory of origin. On the contrary, the TRIPs placed greater emphasis on other characteristics intrinsic to the history of the product, even if they did not certify the specific place of origin. Registration was allowed for products that expressed only a social value as a guarantee of provenance and quality. This type of reasoning was called "quality neutral", to indicate a phenomenon of neutralism of the qualitative characteristics of the product. As we have seen in the TRIPs, the quality, that was required, had to "refer" to the place of origin; however, the type of link (more or less strong) between territory and quality was not specified, for the reasons we have already specified in the previous paragraph. Due to the lack of clarity of the rules set by the TRIPs, it has been possible to expand the registration to more products, not just foodstuffs; in this way, the new emerging countries could promote as geographical indications some products already

widely requested in foreign markets (such as porcelains, textiles, etc.), which do not sufficiently certify places of controlled origin, increasing their economic value, exports and profits derived from their sales. In conclusion, “quality neutral”, despite being born with the inclusion of the social value as a quality and origin characteristic, may not guarantee sufficient safety and quality level to consumers, given the weak link with the geographical origin (荒木, 2018).

With the extension of the definition of "geographical indication" in the new multilateral economic treaties, some items that were intended as the foundation of food protection systems were modified. In 2012 the European Union promulgated the Regulation No 1151/2012 (Official Journal of the European Union, 2012) on quality schemes for agricultural products and foodstuffs. As specified at the beginning of the regulation: "Citizens and consumers in the Union increasingly demand quality as well as traditional products. They are also concerned to maintain the diversity of agricultural production in the Union. This generates a demand for agricultural products or foodstuffs with identifiable specific characteristics, in particular those linked to their geographical origin". For this reason, "The Communication from the Commission to the European Parliament, [...] identified the achievement of a global coherence and consistency of agricultural product quality policy as a priority". The aforementioned regulation, as specified in point No 21 (Official Journal of the European Union, 2012, p. 3), arises because "in the light of the experience derived from the implementation of Council Regulation (EC) No 2018/92 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs [...], there is a need to address certain issues, to clarify and simplify some rules and to streamline the procedure of this scheme". It continues: "[...] the two different instruments<sup>65</sup> identifying the link between the product and its geographical origin, [...], should be further defined and maintained. Without changing the concept of those instruments, some changes to the definition of an organisation that is laid down in the Agreement on Trade-related Aspects of Intellectual Property Rights and to make them simpler and clearer for operators to understand".

Some concepts that were specified in the aforementioned regulation were the acceptance of the name of the country as a geographical certification, taken from the TRIPs Agreement, and the extension of protection to non-agricultural products. Going specifically,

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<sup>65</sup> I.e. PDO and PGI certifications.

the concept of “*kokumei*” (国名, or “the name of the country”) was initially not accepted as a sufficient word to indicate the geographical origin, because, given a country’s vastness, it can not be characterized by a certain typology of environment, climate and tradition. In the TRIPs agreement, on the contrary, the possibility of using “*kokumei*” as a characterizing element is inserted for the first time: according to the agreement, there is no real reason why the name of the country can not be registered as a geographical indication (荒木, 2018). Products that guaranteed only a social value could be registered, thanks to the use of “*kokumei*”, as a link with the territory. In Art.5 of Regulation No.1151/12 (Official Journal of the European Union, 2012, p. 8), it is specified that: “the ‘designation of origin’ is a name which identifies a product: a) originating in a specific place, region or, in exceptional cases, a country; [...]”. It continues: “[...] ‘geographical indications’ is a name which identifies a product: a) originating in a specific place, region or country; [...]”. It is possible to notice that the registration of the name of the country is accepted, in particular in the case of PGI, in which no exception is specified as it is otherwise provided for PDOs (see: “in exceptional cases”; emphasis added).

As regards the expansion of registration for non-agricultural products, Article 2 specifies: “This Regulation covers agricultural product intended for human consumption listed in Annex I [...]” and goes on “This regulation shall not apply to spirit drinks, aromatised wines or grapevine products”. By consulting Annex I, it is possible to note that non-food products are also included in the list such as: natural gums and resins; essential oils; cork; flowers and ornamental plants; cotton; wool; feather and so on (Official Journal of the European Union, 2012, p. 7). This was made possible thanks to the concept of “quality neutral”. In 2014 the European Union published the “Green Paper”, in which it made clear its position of support on the neutralism of the quality of food products, allowing the expansion of the protection also to products that expressed only a social value; in this way the European Union allowed the expansion of protection also to non-food products. This was one of the reasons why many of the emerging countries, especially in the area of East Asia, decided to adopt a protectionist system, in order to increase exports on products in which they excelled, such as handicrafts and textiles, ceramics, pottery, etc (荒木, 2018).

According to Calboli (2014) and Gangjee (2017a), the fact that a strong link with the territory is gradually being lost and that new registration marks are being promoted based exclusively on social value was clear; what we must pay more attention to is the meaning



of social value and consequently of "reputation", and to ask whether it can actually be used as a designation of controlled origin. Can a certain level of reputation guarantee the same qualitative characteristics foreseen for a product that, on the contrary, is produced entirely in the reference area?

Dev S. Gangjee, in his "From Geography to History: Geographical Indications and the Reputation Link" (Gangjee, 2017a), specified that the "reputation" is given by the perception of contemporary consumers on the basis of some objective and subjective characteristics related to the product. The reputation can be "essentially attributable" to a geographical indication in the case where there are three main factors: contemporary reputation; historical reputation and the history of the product (specific production techniques). The three points are based on the continuity of the social value, thanks to a contemporary reputation created on the basis of a reputation over time, given by some specific characteristics of the product mainly attributable to the work and techniques operated by the producers, but less from the link to the same territory in which it is produced. The above characteristics are the same, or almost the same, that are required by other types of regulation based mainly on free competition of brands: a brand, to be recognized as such, must have obtained a certain reputation and a certain respect among consumers, without focusing on the specification of a geographical origin. This could create misunderstandings among consumers in distinguishing a geographical indication from a brand. Moreover, as already specified, thanks to the introduction of the definition of "quality neutral", the protection could be expanded also to non-food products and services, for example in the hospitality, banking, financial or health sectors. However, as Gangjee points out, how can a service be attributed to a geographical origin? The link would seem difficult to find. According to the author, reputation is a necessary element for the recognition of the social value of a product, but should be considered as an additional value, and not as a fundamental element for the registration of a geographical indication, given the insufficient connection with the territory of production (Gangjee, 2017a, pp. 59–60).

Despite the fact that "quality neutral" is an excellent way to allow more countries to adopt a system on geographical indications that helps to establish trade agreements and increase exports, the new systems adopted could undermine the knowledge, habits and choices of consumers; in other words, they could undermine the same social value that the new protection models are promoting.

#### 4.2 – The “additional protection”: a solution to guarantee quality and safety to consumers?

One of the most felt debates among scholars on improving consumer choice is the extension to food products of "additional protection" (in Japanese language: *tsuikateki hogo*, 追加的保護), now provided solely for alcohol products. There are scholars<sup>66</sup> who see the expansion of “additional protection” as an excellent solution to guarantee greater quality and safety to consumers, to avoid the creation of fakes and indications with allusive terms that can confuse consumers, and to promote a return to stricter regulation based exclusively on the concept of *terroir*. On the contrary, there are scholars<sup>67</sup> who argue that the expansion of additional protection can increase consumers' searching-costs, i.e. the time available to them to be able to choose the product to be purchased among all products on the market. An increase in the searching-cost could become an obstacle to the protection of geographical indications as it presupposes a loss of the immediate recognition of the product of controlled origin. According to those who see the possibility of an expansion of "additional protection" as a major obstacle, it could not only entail a possible increase in consumers' searching-costs, but also means an increase in costs for producers. In other words, producers will have to bear higher costs to be able to educate and inform consumers about the product they want to buy: for example, in the case of a foreign feta producer, he must not only certify the provenance and ingredients used but must also inform the consumer that the product actually comes from Greece and comes exclusively from sheep. Below, I will explain the opinion of the scholar Handler, in order to provide a more complete picture by analysing different ideas.

In the essay "Rethinking GI extension", Handler Michael analyses the debate between the European Union and the United States of America on the expansion of additional protection, adding that expansion can not only undermine consumers and producers, but that it is a mere instrument with which the European Union can impose its monopoly in a world economic scenario led by the United States of America (Handler, 2016). Although Europe has promoted a position to guarantee greater protection, quality and safety even for non-alcoholic products, according to Handler, the main motivation that pushed Europe to support this position could be a greater economic benefit that it will derive from their own businesses, continually threatened by strong American mass-

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<sup>66</sup> For example Calboli Irene (2014).

<sup>67</sup> For example Handler Michael (2016).

production. The European Union argued that the expansion of "additional protection" could: prevent the formation of fakes and imitations, which used additional or misleading terms or other terms that in the territory of the Community were considered geographical indications and in other countries as names of daily use; ensure greater development of rural areas and the protection of territorial biodiversity also for food products; a faster growth of developing countries.

The European Union wanted to try to eliminate the use of misleading terms, such as "style", "type", "imitation", in order to stop the production of fake products that do not certify the true origin: however, according to Handler, the use of particular additional terms can only specify the characteristics of the product, without tending to deceive the consumer, precisely because the different origin of the product is specified in the name itself. In this way, the consumer at the time of purchase connects the product to the original European and, at the same time, he is informed of the real origin (Handler, 2016, pp. 161–162).

Regarding the prevention of imitations and fakes that used to become indications of everyday use in other countries, Handler believes that they are not theft of property. As many American products of European origin, Handler emphasizes that many of them have been imported by European producers with the desire to make known and export their typical products (as feta and parmesan); however, the fame obtained from these products can not be attributed exclusively to European producers. The production was not carried out exclusively by European producers, but was in many cases continued by American producers: in this way Handler does not evaluate this phenomenon as a theft of the original characteristics of the product, but rather a continuation of the work of the past (Handler, 2016, pp. 169–170).

Also, regarding the sustainability of natural biodiversity and the development of rural areas, Handler argues that initially the first protection systems were adopted to support the territory and oppose mass-production that did not guarantee a natural use of resources, favouring small and medium-sized businesses. However, as it was possible to see, with TRIPs a less direct link with the place of production was accepted, thus guaranteeing less control of the geographical areas of belonging and of the entire production process. In addition, small and medium-sized industries that were initially promoted became real "global agri-businesses", more likely to expand their production and their businesses, favouring in some cases intensive production (Handler, 2016, p. 173).

Ultimately, as far as developing countries are concerned, Handler maintains that nowadays, in order to create a certain reputation, it takes time and money, elements that a developing country is not able to support (excluding those that, despite being developing countries, are already sufficiently famous for the production of some of the most popular products in world trade, such as coffee and tea). To be able to maintain high levels of quality and safety and extend this protection to food products (additional protection), higher production costs must be sustained, even more difficult to sustain for developing countries (Handler, 2016, pp. 175–177).

The dubious position of the European Union, according to Handler, is also highlighted by the fact that the European Union itself has recently signed bilateral trade agreements with Canada, Australia and the United States of America to promote only wine products, without providing for any extension to food products. In this way, Handler argues that it is possible that the choice of the European Union was mainly driven to try to hinder other possible commercial agreements of the United States of America, which had the objective of promoting and protecting American brands, and not to promote a stronger ideology based on geographical origin (Handler, 2016, pp. 181–182).

In any case, according to the author, one of the problems for which the debate between the two super powers was born, and for which a solution was not found, was the attitude with which the European Union moved towards its extension, presenting it as a clause to be accepted by all the countries participating in the agreement, without considering possible compromises among the other nations. It is not obvious that in some countries the adoption of a protectionist system can change the choices of consumers, producers and the bases on which that market has developed, especially if very different from what was there before. I partially agree with Handler: I think that the aforementioned attitude of European Union is wrong since it would create a sort of world standard in which to easily promote own model, without considering the cultural and historical differences of the other countries. However, I believe that the main problem derives from a gradual removal from the initial measures that characterized geographical indications. If we do not begin to promote a protectionist system that has a greater link with the territory and guarantees a certain level of objective security, in a few years trust labels and have the certainty about the true provenance of registered products will probably become difficult. Greater regulation restrictions are necessary to ensure high levels of safety for both producers and consumers.

Even Japan has recently decided to extend the protection of agri-food products. In 2018, Japan reviewed its GI protection system, which provides for a higher level of protection. This revision was prompted by the signing of the commercial agreement between the European Union and Japan (EPA), as the European Union, as previously explained, supported "additional protection" also for food products and, in order to maintain the same level of protection expected in its territory, the Japanese system needed an improvement. For this reason, Japan added three fundamental points to its system: first of all, it introduced a limit of use towards the products that have been registered/recognized before the adoption of this system. In other words, in the case in which there is a pre-existing recognized "denomination" (or brand) similar to a registered GI product, this "denomination" can be used for the following 7 years. At the end of this time limit, if the "denomination" can be confused with the geographical indication, the 'denomination' can not be used; in the opposite case, if they do not present doubts or do not tend to deceive the consumer, the "denomination" can be used even after 7 years. Secondly, an extension of the use of the Japanese GI logo is provided: while before the revision there was an obligation to apply this logo to the registered products in order to differentiate them from the common ones, now the logo application is a free choice. Furthermore, the logo must not be exclusively applied to the product itself or its packaging (as previously requested), but it must be present among some public services, such as in restaurant menus, on internet information pages or on supermarket flyers, if they are inherent to this product. For example, in the case where a restaurant uses a certified product, the correct indication must be specified in the menu and the identification logo must also be added. In conclusion, the revision provides for the non-acceptance of all those indications that used misleading terms such as "style" and "type" and that brought on the label images that recall the place of origin (such as the Italian flag on an imitation of "*Prosciutto Crudo di Parma*")<sup>68</sup>. Despite this revision allows for greater protection of registered foods and better protection against imitations, it is easy to see the clear resemblance to some of the points awarded in the EPA. For example, the additional protection granted in the EPA by both parties provides for a limit of 7 years for the use of pre-existing names similar to geographical indications recorded subsequently; identification logos are also provided on a regular basis in the sphere of public services and all those indications that provide for additional and

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<sup>68</sup> Explanatory slides available in the official website of MAFF at: [https://www.kantei.go.jp/jp/singi/titeki2/tyousakai/kensho\\_hyoka\\_kikaku/2019/sangyou/dai2/siryous3-3.pdf](https://www.kantei.go.jp/jp/singi/titeki2/tyousakai/kensho_hyoka_kikaku/2019/sangyou/dai2/siryous3-3.pdf)

misunderstood terms are regulated. The negotiations of the EPA were concluded in December 2017 and the European Parliament gave its final consent on December 12, 2018; the review of the Japanese system was approved on November 30th. Analysing the timing of approval, it is easy to see that this review was approved a few days before the approval of the EPA, in order to ensure an adequate level of protection for European products that will be recognized also in Japanese territory. If this revision had not been applied, the European Union would probably have implemented different policies, perhaps not giving its approval for this trade agreement. The choice of Japan may have been driven by the European Union itself and by the desire to succeed in trading with it, opening its own markets and increasing exports. Despite this choice has been promoted by justified and understandable reasons and the revision provides a higher level of protection, we can see how, even in this case, geographical indications are victims of changes and stratagems useful to be able to promote probable trade agreements. The example of Japan confirms in some way what had said Handler: the European Union would seem to promote the "additional protection" to succeed in establishing its own model as "the" model par excellence. What we need to pay attention to is not the concept of "additional protection" itself. As we have previously observed, a better guarantee and control of registered products is absolutely necessary; nevertheless, if the motivations that push to insert this protection are mainly directed to an economic-commercial development or to the creation of world leadership, the real meaning and importance of "additional protection" is lost.

In conclusion, we can summarize that the new systems on geographical indications, which follow the new attitude promoted by the TRIPs based on the "quality neutral", have ignited a strong debate on the real motivations of the adoption of such systems and on the consequences that they can bring, especially towards consumers (荒木, 2018). Today it is not easy to obtain satisfactory results on consequences for consumers, as these protection systems are relatively recent and do not guarantee long-term results.

In the following paragraphs, through the analysis of surveys submitted to consumers and analyses conducted through Google Trends, I will try to give my personal opinion on the attitudes of consumers towards products with controlled certification, to study their consumption habits. In addition, consumers' opinions on imported branded products will be assessed to examine the possible consequences of the increase of imported GI products promoted by commercial agreements. Thanks to my personal experience of an internship at the Original Japan S.r.l. company, a retail company of fresh and dried food

products of Japanese origin, I was able to observe Italian consumers' purchasing choices of Japanese food products. Consumer analysis will focus mainly on Italian consumers and on the level of knowledge of geographical indications; particular attention will be given to the attitude of consumers at the time of purchase of both local and imported products bearing geographical indications, to analyse the possible reactions of consumers in the face of greater imports of foreign products with protected origin, promoted by the recent commercial agreement took effect on 1<sup>st</sup> February 2019 between the European Union and Japan (EPA).

#### *4.3 – The study about the effects of GI protection system on consumers*

##### *4.3.1 – The case of Japan*

As already highlighted in the third chapter, the TRIPs agreement has had a particular influence on the recent adoption of new protection systems based on a broader concept of "geographical indications", less connected to a precise geographical area of origin and more oriented to expand international businesses, which could cause signs of uncertainty and misinformation among consumers. Taking into consideration Japan, for the reasons widely described in the third chapter, it is not easy to find reliable data on the consequences of this adoption on consumers, given the recent adoption of the system.

In 2016 the Japanese Consumer Agency (in Japanese language *shōhisha chō* or 消費者庁) submitted a questionnaire to consumers with the aim of examining the motivations that push consumers to pay attention to geographical indications (西島, 2017). According to the questionnaire, it appears that 38.2% of Japanese consumers controlled the place of origin of the ingredients every time they buy a food product and 38.6% controlled it sometimes. In other words, it turns out that about 77% of the population tended to control the origin of the products, while the remaining about 23% almost never or never controlled the origin. Among the reasons for which consumers check the geographical origin on the packaging, 65.4% confirm that they checked the origin to make sure that they buy local products; 39% of consumers said they look for the origin of the ingredients in order to choose, or not, the products of a specific geographical area.

When asked whether consumers would be more likely to consult the origin of the products purchased in the future following an increase in imports of foreign products thanks to the TPP, 38.5% of consumers said they are not influenced and continue with the same attitude as before; 37.5%, on the other hand, admitted that they could put more attention and control more labels. Only 16.6% said that they could completely change their consumption habits by starting to check the origin of products more closely. 7.4% admitted that they will not do it in any way (西島, 2017, p. 21).

From the above questionnaire, it is easy to understand that Japanese consumers are particularly interested in the origin of the ingredients to favour the acquisition of national products. It is interesting to note that none of the interviewed consumers declared that they check the indications of origin to buy safe and controlled products. Given the aforementioned data, we can hypothesize that Japanese consumers probably do not know in-depth the intrinsic characteristic of geographical indications and their regulations. Probably in Japan there is still a low level of knowledge among consumers because the introduction of GI protection system is very recent and it has not yet allowed a sufficient dissemination of information. What draws attention are the results related to the possible changes in consumption habits: among Japanese consumers there is an equality between those who will be willing to change their habits by getting more informed, and among those who, on the contrary, will continue to behave as before. These results highlight an uncertainty of the possible consequences on consumers in case they can increase imported products thanks to the stipulation of commercial agreements (in this case the TPP). The same attitude found in this questionnaire could occur again in the event that the commercial agreement signed with European Union (EPA) is taken into consideration.

According to surveys conducted in 2010 by the Saitama Prefecture and in 2014 by the National Consumer Association (西島, 2017, page 22), in the event that consumers were asked to specify which elements most influence the purchase of food products, in 2010, around 82% of consumers specified the monetary cost of the product as the most significant element. 75.5% of consumers specified the freshness and expiry date of a product as the second most influential element; in third place we find the place of origin, with 70.4%. In the subsequent survey carried out in 2014, only 46.7% of consumers specified "geographical origin" as a significant element, preceded by "freshness", "safety" and "economic value". Even if consumers are asked to identify which of the items on food labels is more important, only slightly more than half of the consumers interviewed (52.3%)



focused on "geographical origin"; 90.5% checked the "deadline" and 53.9% the "economic value".

As Nishijima specifies, it is possible to say that in general most Japanese consumers prefer products from local brands with a specific reputation, trying to avoid food products that have an unsafe geographical origin (西島, 2017, p. 23); moreover, currently the interest among consumers on obtaining more information on the origin of the ingredients has increased compared to the surveys carried out in previous years (2010 and 2014): more than 90% checked the geographical indication present on the product. However, for the majority of consumers, geographical indication is not one of the elements that can influence the purchase of certain food products over others. As matter of fact, as the data have shown to us, many consumers are more influenced by the cost of the product itself and by the expiration date. According to the author, one of the reasons for the emergence of any misunderstanding between consumers is the way in which a label is presented.

Currently in Japan there is a law, *shokuhin hyōji hō* (or 食品表示法, "Food Indication Law"), which regulates the fundamental criteria regarding what to show on the label of a food product (西島, 2017, page 23-25). The law, signed in 2015, provides a series of qualitative criteria, the specification of nutritional values and the possible presence of harmful substances, or that may cause particular allergies. The aforementioned law was enacted with the aim of unifying the pre-existing regulations on the control of health and food safety, so as to insert a single and pre-established model for all products, fresh and processed, and provide consumers with better clarity. The 2015 law for manufactured products specifies other items that must be present on the label, such as the percentage of the main ingredients (to be inserted in descending order) and their geographical origin, and, in the event that it is a processed product in more than two countries, the clarification of all the countries in which it was transformed. With the increase of imported foreign products - thanks to the close bilateral agreements with the United States of America (TPP) - and the request by consumers for greater clarity on the origin of products, the criteria required for the protection of geographical indications became more rigid. Greater rigidity in the specification of the origin of products causes an increase in production costs which have an impact on the value of the purchase and sale of the food product. An increase in prices, despite being a symbol of excellent quality, may not be appreciated by consumers themselves. Moreover, it can be a major obstacle for producers who can not sustain a price

increase and they are forced to shift the processing of their products in countries where production costs are lower; in this way, however, it could also increase the creation of fakes and imitations. As far as consumers are concerned, in the 2016 survey by the Consumer Agency, when asked how they would react to a possible price increase, more than 60% of them declared they want to avoid a price increase; only about 35% were favourable. In addition, among those in favour, 75% of consumers would have preferred an increase that does not exceed 5% and around 20% would also accept an increase of between 5% and 10% (西島, 2017, pp. 36–37). Also in this case, it is clear that Japanese consumers are still very influenced by the price, although on the other hand they are interested in having better information on the geographical origin of food products. The increase in prices of foodstuff as a protected geographical indication is natural because they certify an appropriate production process and a higher level of quality; if consumers are not in favour of this increase, they would probably continue to buy the products they bought up to now and the geographical indications would not find a sure circumstance in which to grow.

Ultimately, since the majority of consumers still attach great importance to the cost of the food product and less to its certification of controlled origin, Nishijima believes that the first step towards greater attention by consumers is to make the information on product labels more comprehensible, to prevent misinformation among consumers and to avoid creating ambiguity on the characteristics of a particular product (西島, 2017, page 37-38). I agree with the thought of the author, but there is a clarification to make. In 2016 survey, consumers answered also on how they acquire information about the place of production of the food product they buy. Although about 93% of consumers admit checking the indications specified on the product, only 18% of them admit consulting the respective product's internet page (西島, 2017, p. 23). Since the label can not include all the information given its small size, incorporating the information present in the internet is very important, because they can allow much more and better information. It is right to make food labels more comprehensible with all the necessary information; however, a greater interest in seeking more detailed information should be even from the consumers side. Consumers are increasingly demanding better information, but if they are the first to not want to inform, this could be difficult.

Although it is not yet possible to understand the real impact on consumers of the adoption of the system of protection of geographical indications in Japan, it is nevertheless possible to hypothesize that, on the one hand, the introduction of stricter rules and a

geographical indication mark on labels can guarantee greater safety for consumers and possibly reduce the searching-cost; on the other hand, the position taken with the protection system adopted in Japan, based mainly on the TRIPs regulation (i.e. "quality neutral"), could on the contrary cause negative effects on consumers and on the quality of information they can receive. It should not be forgotten that, according to the Consumer Agency 2016 survey, it appears that many of the Japanese consumers are still not favourable to price increases and are more interested in buying local products. In conclusion, it is possible to summarize that for Japanese consumers the geographical denomination is an important factor to be known, but not fundamental for the purpose of the purchase. Furthermore, it appears that, despite the inclusion of a new protection system that better protects the quality of products, consumers are not inclined towards a future change in their consumption habits. Without doubt, it takes time to ascertain a real change in consumption habits; however, so far it would seem that the new system has not brought benefits to consumers, perhaps also due to its recent adoption and the still limited dissemination of information related to the subject. In the final analysis, we can hypothesize that the main reasons for which Japan decided to adopt this system are oriented to economic and commercial development and less directed to the protection and improvement of information to consumers, given the "negative" results obtained from the aforementioned surveys.

To provide a broader picture on Japanese consumers, a search through Google Trends was conducted on the interests and associated research on 14th January 2019. The following data express a general analysis about Japanese citizens and their internet research towards geographical indications, relations with the European Union and with the recent commercial agreement (Google trend applies its studies on the basis of research carried out on Google).

First, an analysis was carried out on Japanese people regarding the "geographical indication" topic in the last 5 years (**figure 1**). According to Google Trends, between 2014 and 2018 with regard to geographical indications, the interest over time of Japanese people showed very low values. The highest research frequency was between May and June 2015 (value 100<sup>69</sup>); a second peak of interest is measured in December 2015 (value 71). On the

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<sup>69</sup> Values are represented in relation to the highest point of the graph. The value 100 indicates the highest research frequency of the term, based on the geographical area and the period indicated (in this case in Japan in the last 5 years). The value 50 indicates half of the researches performed, the value 25 indicates a quarter and so on.

contrary, during the entire period between February 2014 and December 2018, the interest values do not exceed half of the maximum value (i.e. below the value of 40). The above data offer us a clear image regarding the level of interest of Japanese consumers: the only two peaks in which the maximum, or almost, interest was found, coincide with the year in which the GI protection system was established. For this reason, we can confirm that Japanese consumers have researched this topic more on the Internet when Japan has adopted this system, probably to look for more information on the news; however, they are not very interested in the topic since the values are very low before and after adoption.

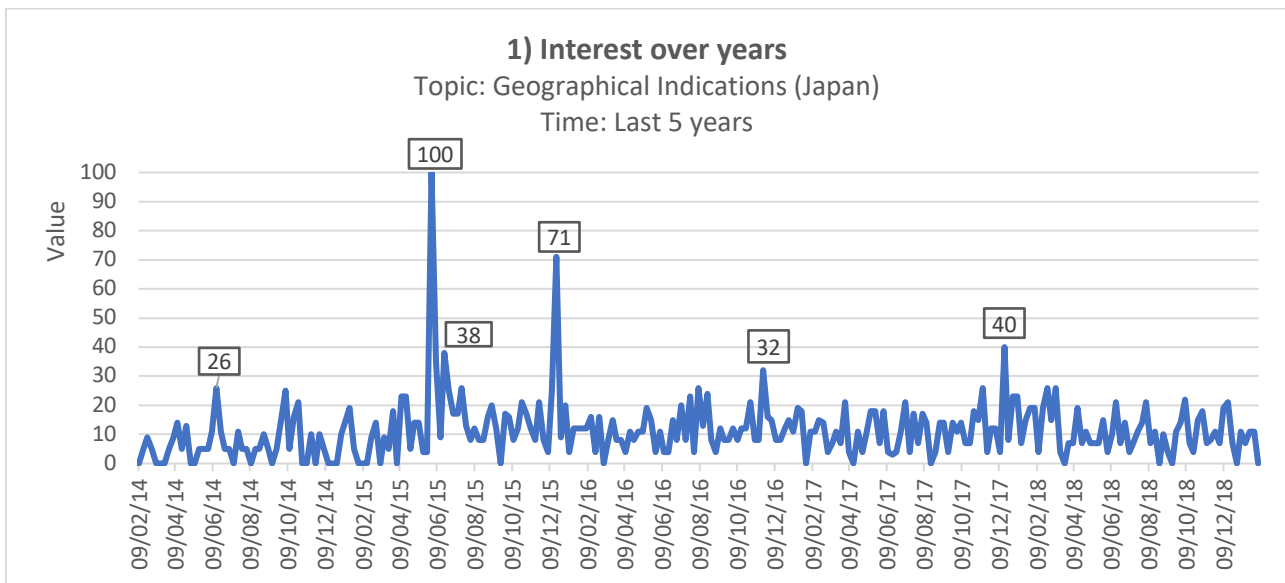


Figure 1: Graph reproduced based on data obtained by Google Trends on 14/01/19

Regarding the interest by region (**figure 2**), Google Trends founded that the Japanese prefecture in which there is the highest interest rate is the Ōita prefecture (value 100), followed by the prefecture of Niigata (value 98) and Miyagi (value 88<sup>70</sup>). As we can note from the image downloaded by Google Trends, many of the prefectures of Japan (prefectures not coloured) did not get sufficient data. These data show us that the interest of Japanese consumers is concentrated in some areas, the same areas in which most GI products were born. Analysing the associated queries among the “most researched” (**figure 3**), were: the research about the definition (value 100) and about the protection system (value 32 and 30); however, the level of interest in the case of the protectionist system measured a significantly lower value than the research about the definition, less than one third of the total. Among the associated queries we can see how research with

<sup>70</sup> Also in this case the values are calculated between 0 and 100, where 100 indicates the location with the highest research frequency in proportion to the total of researches and the value 50 indicates a location with half of the researches

regard to the recent commercial agreements was not carried out, to indicate again a particularly low level of interest.

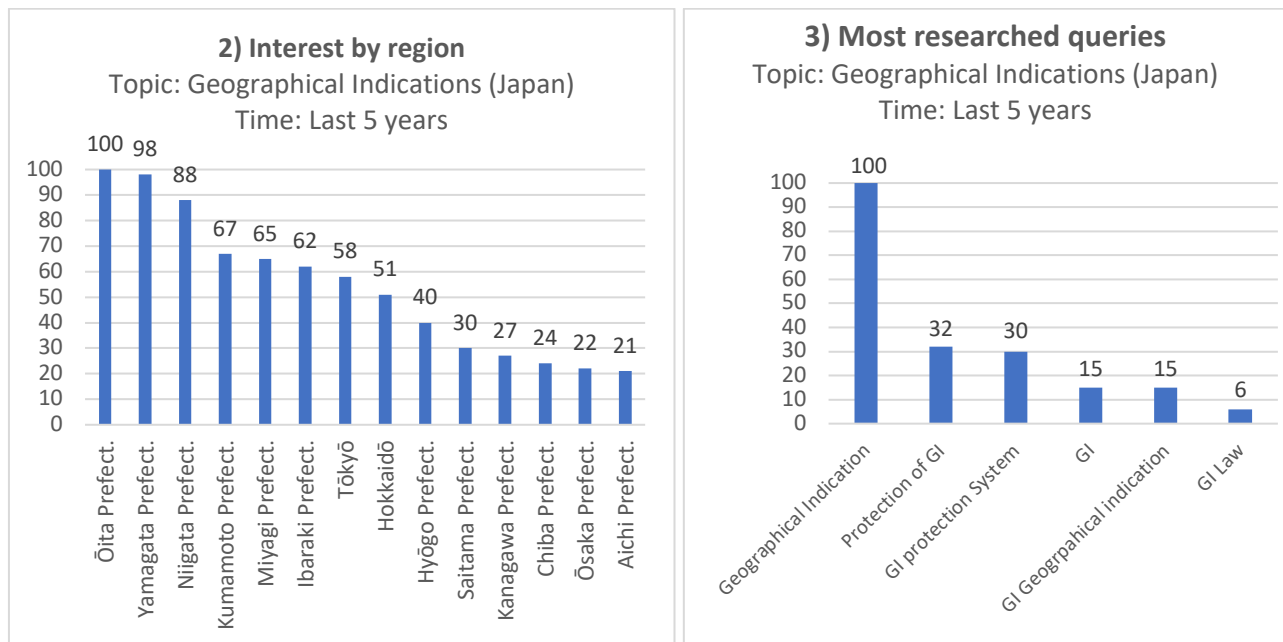


Figure 2 and Figure 3: Graph reproduced based on data obtained by Google Trends on 14/01/19

Secondly, the topic "European Union" was analysed to verify the interest of the Japanese people in the last 5 years (**figure 4**). With regard to interest over time, Google Trends report even lower values than the analysis conducted on “geographical indications” topic. The peak of interest is measured during June 2016; excluding this peak, both before and after the aforementioned date, the values recorded low levels of interest, between values 1 and 4. Notwithstanding the relatively low values, in proportion between the Japanese regions (**figure 5**) the Tōkyō Prefecture recorded the value of major interest (100), followed by the Kyōto Prefecture (99) and Kanagawa prefecture (82). Compared to data of “geographical indications” topic, we can see that the European Union topic is a kind of national interest’s matter. In other words, we can see how, despite the lower levels of interest, all the prefectures of Japan tend to inform themselves, even in small part. Proceeding with the analysis, in the case of associated queries among the “most researched” (**figure 6**), the topics that had soared in the last few years were always linked to Brexit and to the possible consequences it could bring in both European Union and Japan. As we can see from these data, the Japanese would seem more interested in the consequences that the Brexit phenomenon could cause. It is no coincidence that the referendums about Brexit were held in 2016, the year in which Google Trends measured the highest level of interest in the last 5 years.

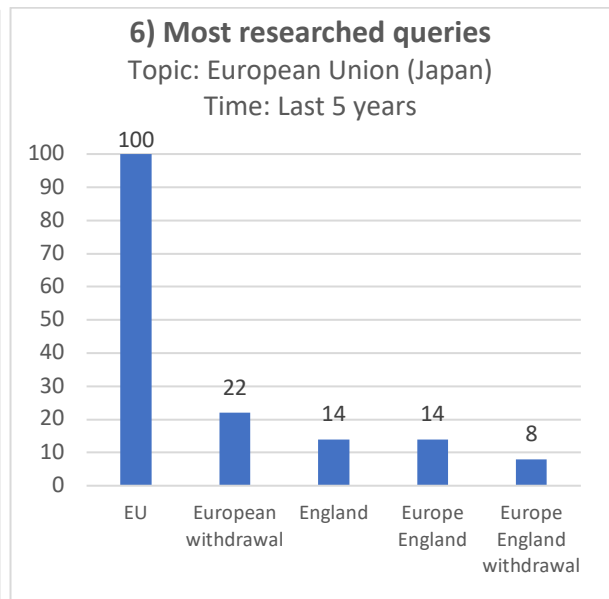
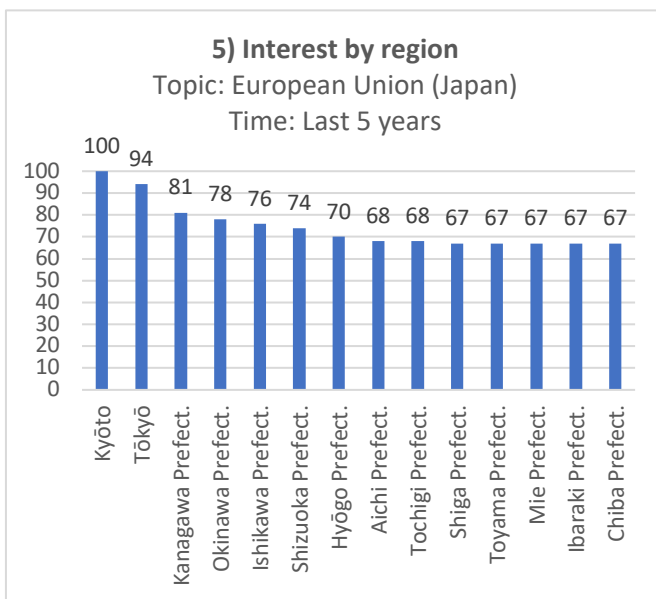
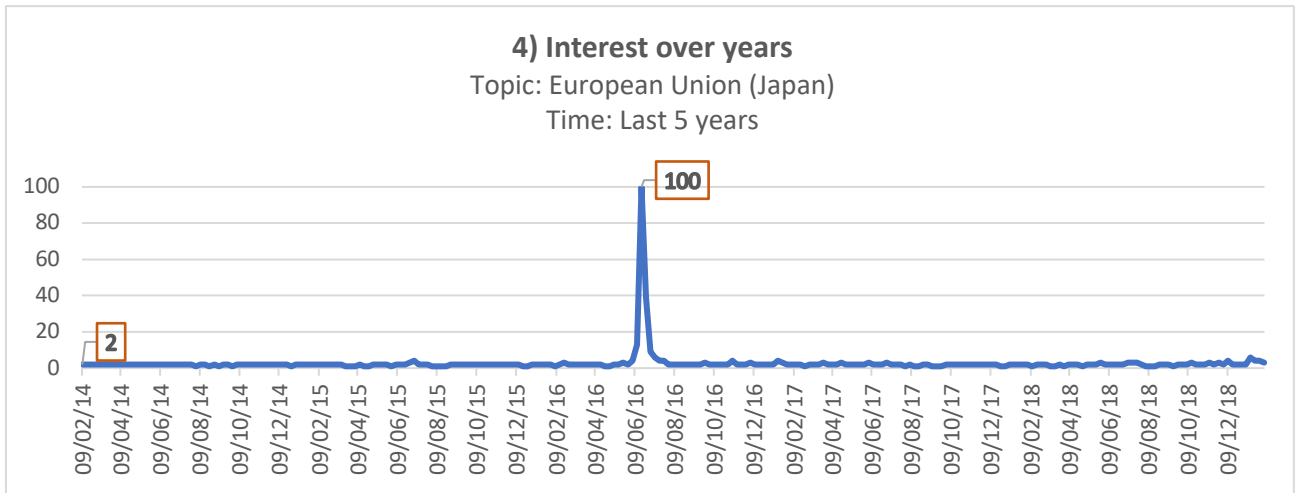


Figure 4, 5 and 6: Graph reproduced based on data obtained by Google Trends on 14/01/19

Ultimately, since the EPA commercial agreement has been approved recently, the level of interest in Japan on this topic has been investigated in the last 12 months (**figure 7**). Moreover, this topic was studied in relation to the “European Union” topic (also this estimated in the last 12 months), to check the recent trend of both topics and their relationship. Regarding EU topic, the peaks of interest was recorded in January 2019 (value 100); on the contrary, regarding EPA topic, the peaks of interest was recorded in December 2018 (value 48) when this agreement was approved. These data show again how the interest was mainly conveyed by the periods in which the agreement was stipulated, showing a lower level of interest in the remaining periods. As regards the study of associated queries, in the case of the "European Union" topic among the “most researched” (**figure 9**) queries, the Brexit phenomenon was again of particular interest. In the case of the “EPA” topic among the “most researched” queries (**figure 8**), the "Doha Round" (both

the first and second place) was of particular interest. Following, we found the arguments regarding the supplement (value 44) and the consequences of this commercial agreement (value 36).

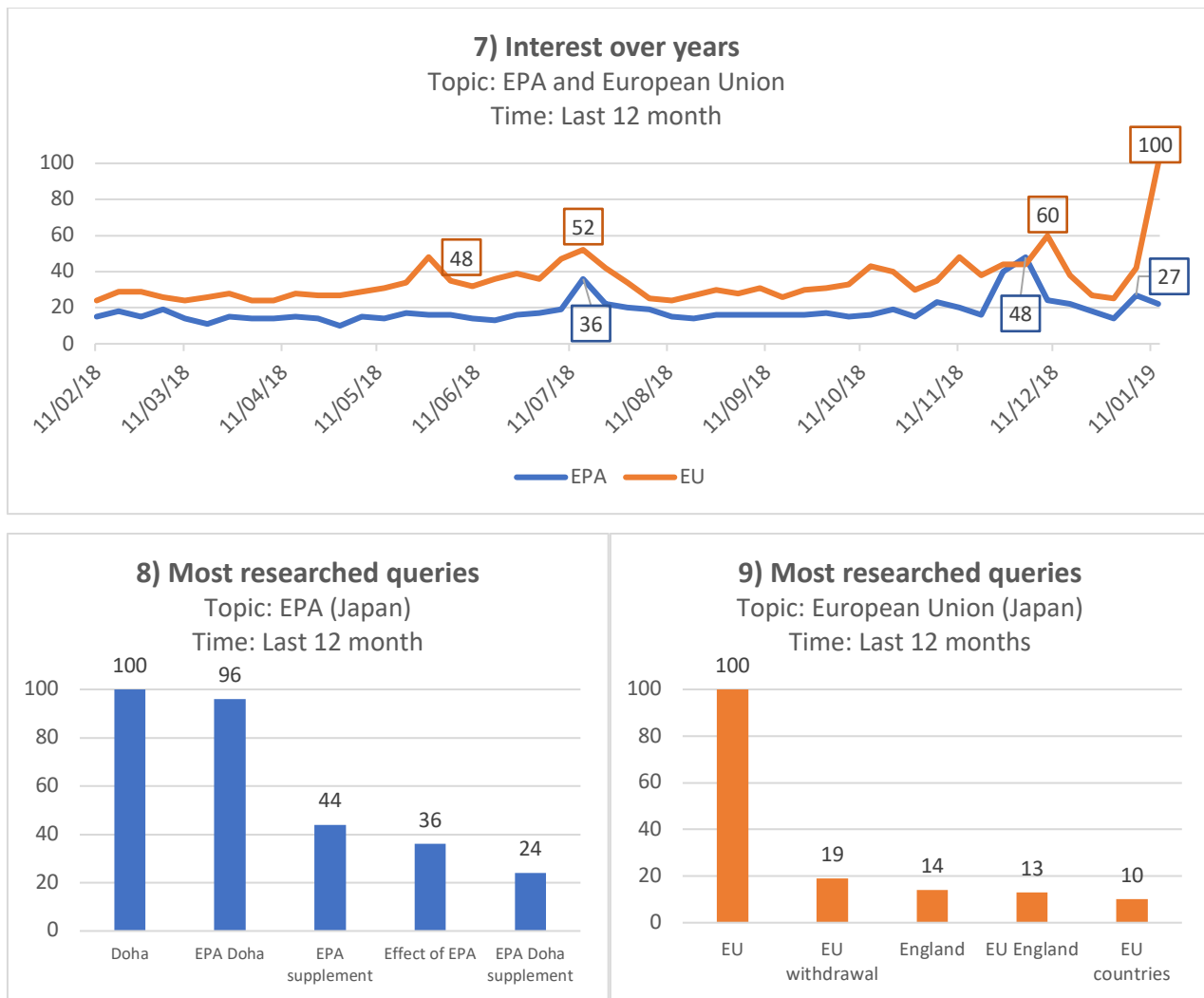


Figure 7,8 and 9: Graph reproduced based on data obtained by Google Trends on 14/01/19

In conclusion, we can state that the Japanese do not seem to be very interested in geographical indications in the last 5 years. However, we can state that recently the interest in new commercial agreement is increasing, especially as it detracts from the consequences of these treaties. Moreover, the moments of greatest interest are conveyed by the dates in which these changes took place and therefore, generally, it should be easier to acquire information, as a news of the moment. Despite this, it is not possible to offer a complete long-term analysis because the subject in question and the adoption of the GI protection system is relatively recent and, as was easily seen, Japanese citizens are starting to get interested in the subject from little time to this part.

#### *4.3.2 – The study on Italian consumers: qualitative questionnaire*

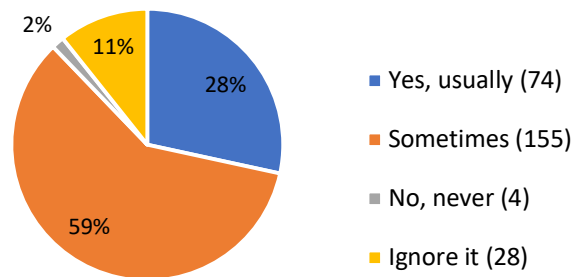
Although it is difficult to obtain information on the effects on Japanese consumers following the adoption of the system of protection of geographical indications, it is easier to obtain more detailed answers regarding consumer choices from a country where geographical indications have been recognized for a long time like Italy, a member of the European Union. A qualitative questionnaire was submitted to Italian consumers, to try to determine the effects on consumers and the possible changes in consumption habits following the adoption of such systems. The questionnaire was designed to identify the knowledge and consumption habits of Italians regarding local and imported products and the elements that influence their choices at the time of purchase. In addition, some specific questions were asked about recent commercial developments between the European Union and Japan to try to examine the reaction that an Italian consumer might have when he finds a Japanese registration mark on food products of Japanese origin. The questionnaire was carried out without any statistical purpose; however, following the qualitative study of the results obtained from the questionnaire, some statistical studies based exclusively on contingency tables and Chi-Square test were added.

The questionnaire was carried out through the internet in order to gather more specific information and cover a greater number of consumers. It consists of nineteen questions divided in three parts: the first one focusing on local products, the second one on imported products and the third one on products of Japanese origin. The questionnaire received 261 replies. The following data are calculated on a total of 261 consumers who answered to this questionnaire and in each individual graph the exact number of answers obtained is specified between parentheses. The qualitative questionnaire' model is available in the appendix at point 1.

Proceeding with the analysis of the answers obtained, generally more than 80% of consumers bought certified brand products, as PDO and PGI (**Q1**): 28.4% (74 people) said they buy them regularly, while 59.4% of consumers (155 people) said they buy them sometimes. Just under 15% declared, on the contrary, not to pay much attention to products of protected origin (10.7%, 28 people) or not to buy them at all (1.5%, 4 people).

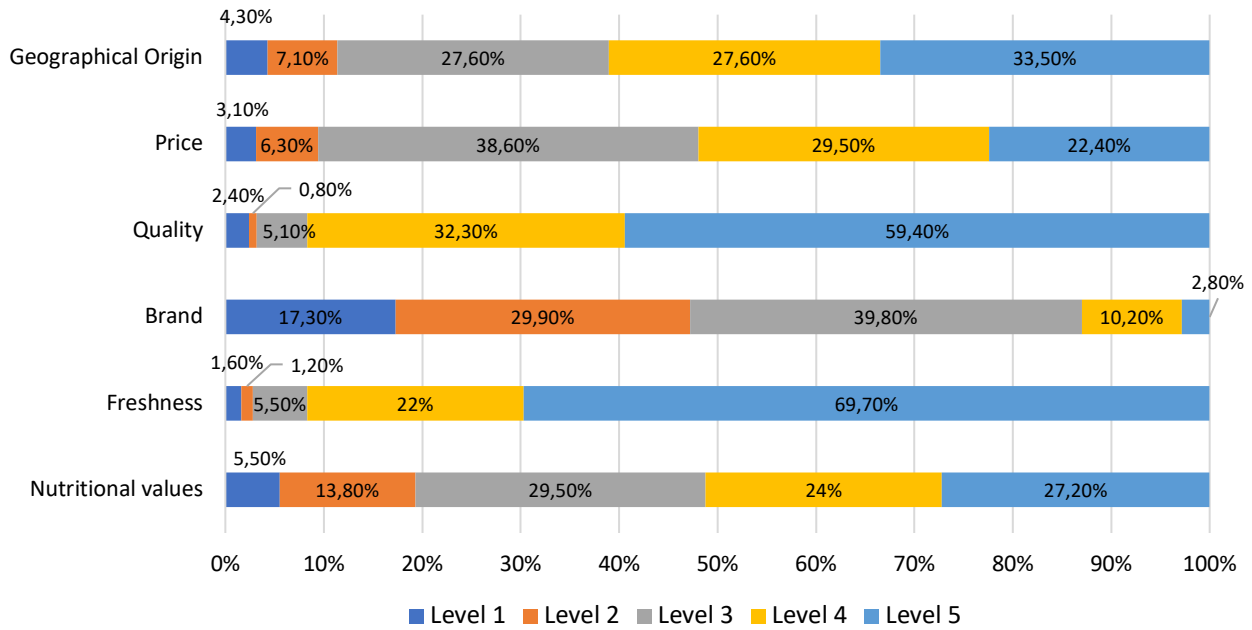


**Q1) Do you buy certified food products?**



Regarding the elements that can influence decisions at the time of purchase (**Q2**), 69.7% of consumers agreed that "freshness" is one of the decisive factors. Considering the individual factors: with regard to "geographical origin", 33.5% (85 people) of consumers recognized the highest level of importance; however, 27.6% (70 people), a little less than the majority, recognized the geographical origin as an important but not necessary factor (level 3 and 4). As for the price, 38.6% (98 people) of consumers recognized it as an incident factor, but not determining at the time of purchase. However, there is a considerable percentage of consumers that gave greater importance to the economic value of the product (about 30% - 75 people - of consumers attributed it a value of 4, while 22.4% - 57 people - give it the highest level of importance); we can therefore say that the majority of consumers still pays close attention to the cost of products. In the case of quality, around 60% (151 people) of consumers attributed the highest level of importance to it, followed by 32.3% (82 people) which gave it a slightly lower level. On the contrary, consumers agreed to attribute less value to the brand: for example, around 40% (101 people) found it "important" and about 30% (76 people) "less important". In conclusion, consumers agreed to give a good level of importance to nutritional values: 29.5% (75 people) give it a level 3, 24% (61 people) a level 4 and 27.2% (69 people) the highest level. In conclusion, we can state that among the highest values, the element that most influences the moment of purchase is freshness, followed by quality and geographical origin.

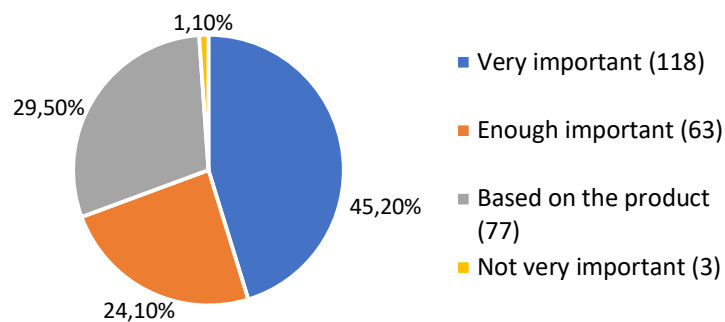
**Q2) When buying food products, how important are the following aspects?**



\*Levels mean respectively in ascending order: "unimportant"; "less important"; "important"; "enough important" and "very important".

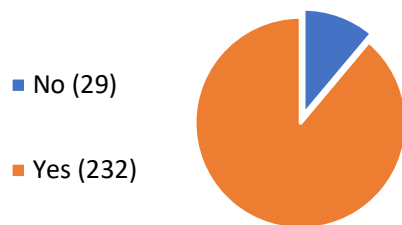
Consumers, therefore, attached great importance to the origin of food products, but they do not consider it the most influential factor at the time of purchase, as occurred in the questionnaire carried out by the Japanese Consumer Agency. Although at the time of purchase for consumers, the geographical origin represents a less important element than freshness and quality, to the question how important it was to know the origin of food products (Q3), 45% (118 people) said it is "very important"; about 30% (77 people) instead claimed it to have a certain relevance based on the product to be purchased. It is therefore possible to conclude that even if geographical indication does not appear to be one of the main influences on the choice of a product, knowing the origin of the ingredients of a food product is fundamental for the majority of consumers.

**Q3) How important is it for you to know the origin of food products?**

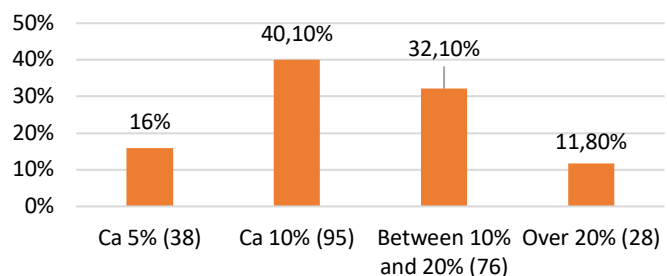


Proceeding with the analysis of the questionnaire, to the question whether consumers would be willing to spend more to buy products of protected origin (Q4), almost all (88.9%, 232 people) claimed to be in favour of a possible increase in prices. Among the consumers who gave their approval (Q5), 40% of them (95 people) said they are willing to spend about 10% more for a product of controlled origin; in addition, 32% (76 people) said they are willing to spend even between 10% and 20% more for a certified product. Compared to the survey on Japanese consumers, Italians are much more favourable to a possible increase in price in exchange for a greater guarantee on the quality and safety of food products.

**Q4) Would you be willing to spend more to buy products of protected origin?**



**Q5) If you answered "Yes", in what percentage?**

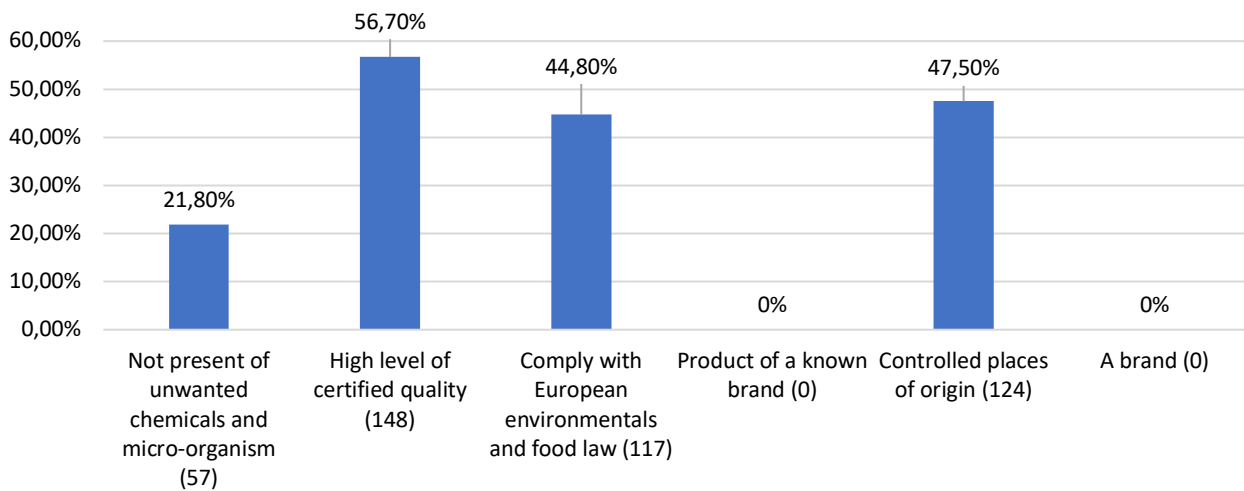


This result is certainly due to the fact that Italian consumers, compared to the Japanese ones, have been in contact with geographical indications for much longer and, consequently, are accustomed to a possible increase in prices in favour of a higher quality. Japanese consumers, on the other hand, prefer to try to avoid an increase in value, not having sufficient awareness of this yet.

Italian consumers denote a certain knowledge of the characteristics of products of protected origin, certainly due to the longer period of time in which Italian consumers have been exposed to the introduction and changes in the protection system of geographical indications (Q6). 56.7% (148 people) of consumers claimed that a high level of certified quality is one of the intrinsic characteristics of geographical indications; 47.5% (124 people) recognized that a second characteristic is "controlled places of origin"; 44.8% (117 people) converged that a product as a geographical indication must comply with European environmental and food laws; in the end, 21.8% (57 people) said that a product to be such does not have to present unwanted chemicals and micro-organisms. Among the consumers interviewed, no one brought up the item of "product of a known brand" and of "a brand" as characteristics of a food product of protected origin: this specifies a high level of knowledge of the characteristics of geographical indications by Italian consumers.

### Q6) What are, in your opinion, the characteristics of a geographical indication?

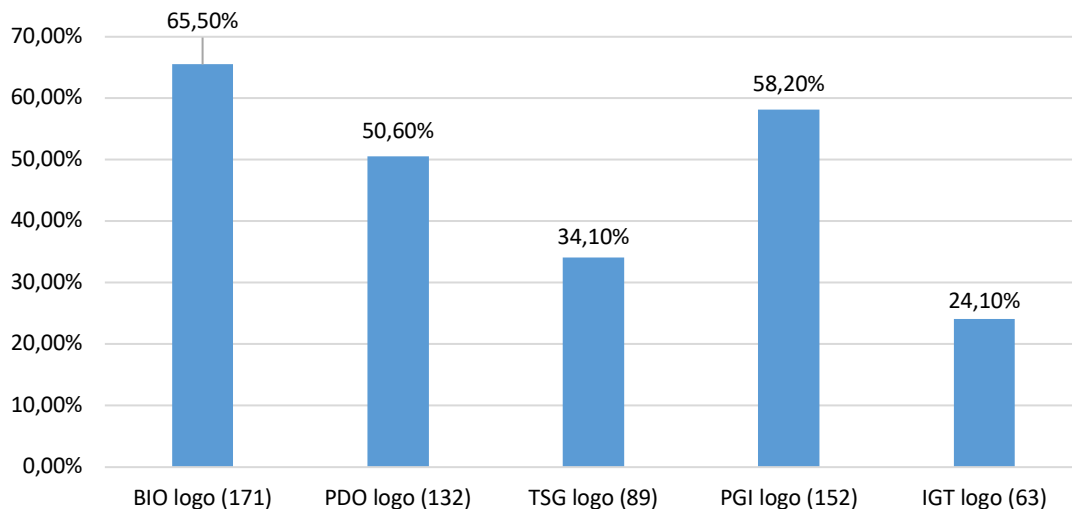
\*Multiple choice question



Despite the high level of recognition, when consumers were asked to recognize some of the logos present (Q7), 65.5% (171 people) recognized the BIO logo; 58.2% (152 people) the PGI logo and 50.6% (132 people) the PDO logo. The IGT logo (“Indicazione Geografica Tipica”, literally “typical geographical indication”, a trademark linked to the wine products included in the year 2010 with the wording PGI) and the TSG logo were recognised respectively by 24.1% (63 people) and by 34.1% (89 people). The interesting question concerns the BIO brand: although it is the most recognized one, it is not a mark of protected origin. It implies a type of agriculture that considers the entire agricultural ecosystem, protecting biodiversity and respecting biological cycles. Although it is a mark regulated at Community level, it does not specify a direct link with the territory of origin and can not be considered as other geographical identification marks. In other words, although many consumers have recognized the main characteristics of products of controlled origin, many of them do not recognize the main brands: only about half of the consumers interviewed recognized the PDO, one of the first brands born in the European Union and little more than half recognized the PGI. A second point of interest is the difference between the PDO and PGI brands: although the PDO is one of the first regulated brands at EU level, a greater number of consumers recognized the PGI. This is not an ambiguous factor if we consider that the registration of PGI brand products has recently increased, thanks to the 1992 revision of the European geographical indications’ regulation and the 1994 TRIPs trade agreement; in this way, consumers can more easily find on supermarket shelves products of controlled origin with PGI label. Since the “protected geographical indications” are based on the previously expressed “quality neutral” concept, it is clear that consumers

more fully recognize a product with a less direct link with the territory; this could be the proof that many of the consumers do not know the difference between the two main brands and that the introduction of a brand based mainly on features far from the original concept of "geographic denomination", such as social value, can "deceive" customers.

**Q7) Which of the following logos do you recognize?**



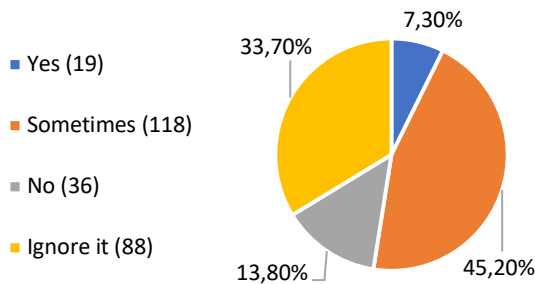
Similar results had already been achieved in 2008: according to a consumer survey by London Economics, it turned out that "just 8% of main shoppers recognised any of the PDO or PGI symbols" (London Economics, 2008). Greece and Italy are the only two Member States of the European Union in which there is a high level of recognition by consumers of both certification brands (relatively about 54% and 16%), while in the remaining 25 EU countries, on average only 5% recognised the above-mentioned symbols. In general, therefore, it is possible to confirm a "low level of consumers recognition of symbols and labels on product" (London Economics, 2008, page 154-155). Continuing, the London Economics specifies that, while the general recognition of certification marks can increase over time, consumers still have the problem of interpreting their specific meaning. Among the consumers who recognised the PDO/PGI symbols, 51% "correctly identified that means the product is produced in one specific area"; 42%, on the other hand, correctly recognised that the certification symbols guarantee controlled and regulated products by a controlling body. About a third were able to recognise that the brands are "identified products being produced according to an existing specification". A quarter (27%), on the contrary, wrongly believed that "the PDO or PGI symbol refers to a product being produced in an environmentally friendly way [...] or using a traditional recipe and distinguishing features [...]" (London Economics, 2008, page 161-162). Ultimately, London Economics

concludes that with regard to the perception of geographical origin in food products, the non-specification of the origin of raw materials in PGI-branded products can be source of confusion for consumers and "to avoid any potential consumers, there was greater clarity about the origin of the raw materials used in the PGI product" (London Economics, 2008, page 91).

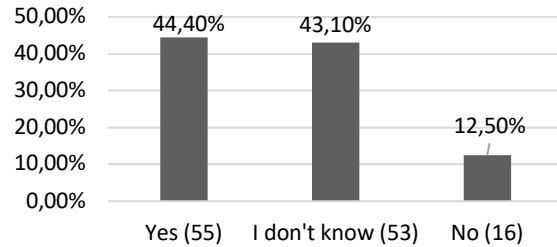
Compared to the results obtained by the London Economics survey (2008), as regards Italian consumers, the recognition percentage has increased (about half of the interviewees recognised at least one of the two registration symbols); moreover, even with regard to the meaning implied by the same brands, it would seem that there is a greater awareness of the real meaning of PDO/PGI symbols (in the case of Italy, London Economics has measured about 15%) (London Economics, 2008, page 162, figure 15). In conclusion, we can state that over time the levels of recognition of certification marks have increased; however, careful attention must be paid because, if individual answers are considered, many consumers who purchase products of protected origin had partial or sufficient knowledge of the characteristics that specify these products. Moreover, as we have found in the questionnaire, more than half of the consumers (about 58%) recognise more other types of brands that do not guarantee controlled production in a specific geographical area (as for BIO logo).

In the second part of the questionnaire, some questions focused on imported products and their preservation were asked to consumers. When asked if they buy imported products with a geographical indication (**Q8**), 45.2% (118 people) said they buy them "sometimes", while 33.7% (88 people) said they ignore their geographical origin. Only 7.3% (19 people) said they buy (usually) imported products of protected origin and 13.8% (36 people) admitted that they do not buy them at all. Among the consumers who said they did not buy certified imported products (or ignore it) (**Q9**), 44.4% (55 people) of them said they would be willing to buy them in the future if the geographic indication is present; however, 43% (53 people) were not sure that the indication can lead them to evaluate and buy a possible imported product.

**Q8) Do you buy IMPORTED products with a geographical indication?**

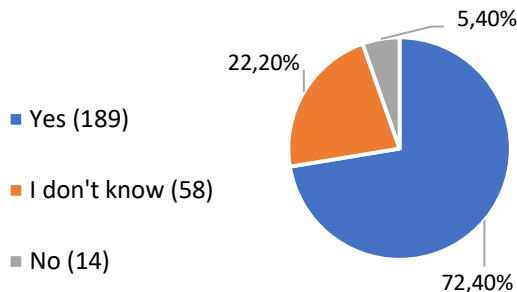


**Q9) If you answered "No" or "Ignore it", would you be willing to buy an imported food product with geographical indication?**

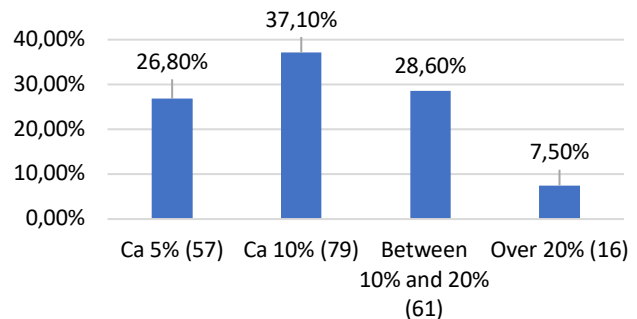


Subsequently (**Q10**), 72.4% of consumers (189 people) were in favour of a possible increase in prices and willing to spend more if the imported product certifies a high level of quality and comes from a controlled area. Among the favourable (**Q11**), 37.1% of consumers (79 people) said they were willing to accept an increase of 10% and 28.6% (61 people) an increase of between 10% and 20%, as in the case of local products.

**Q10) Would you be willing to spend more to buy IMPORTED products of protected origin?**



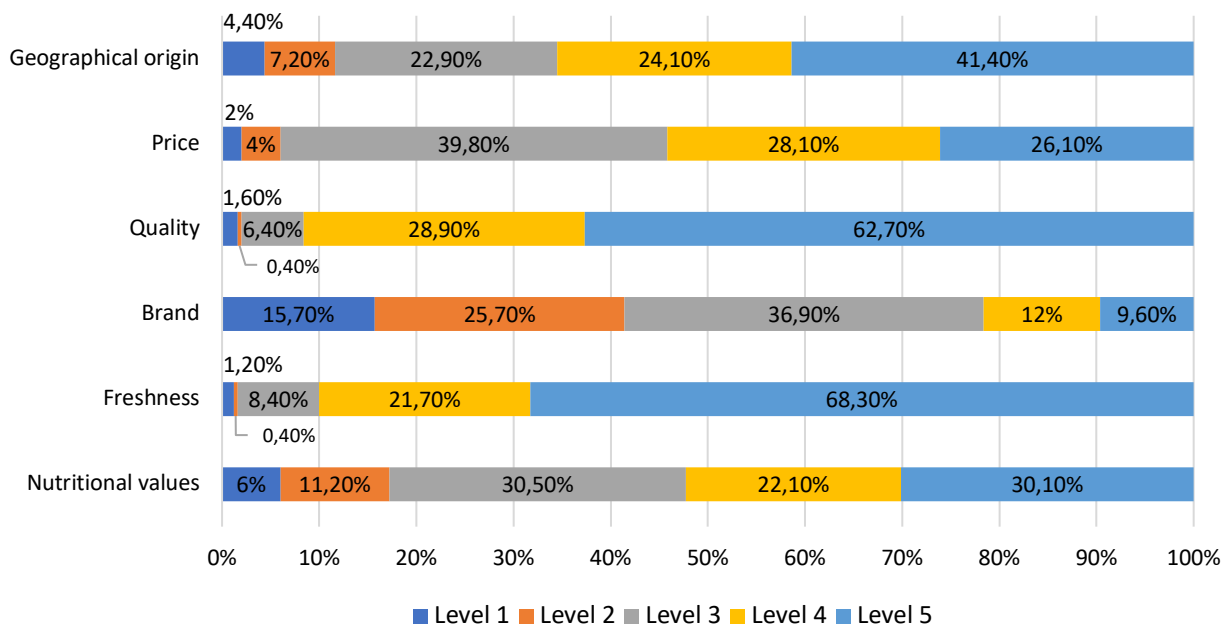
**Q11) If you answered "Yes", in what percentage?**



Regarding the fundamental aspects that can influence the purchase of an imported product (**Q12**), 68.3% of consumers (170 people) agreed that freshness is one of the most important elements. Following with 62.7% (156 people) the quality and with 41.4% (103 people) the geographical origin. Analysing every element, the majority of consumers recognized geographic origin as one of the most important items, while 24% (60 people) recognized that it is quite important and about 23% (57 people) stated that it is sufficiently important. As for the price, as seen for local products, the majority recognized that it is a sufficiently important item (intermediate level). In the case of quality, more than half (62.7%, 156 people) of consumers recognized it as a very important element and around 30% (72

people) recognized it as "quite important" (level 4). The same thing happens with regards to freshness: more than half of consumers (170 people) recognized it as one of the most important and influential items at the time of purchase and almost all gave it a medium-high value (lower values do not touch 10%, even if added together). The majority of consumers tended to give little importance to brands and known brands: about 36.9% (92 people) gave it an intermediate level; 25.7% (64 people) a medium-low value and 15.7% (39 people) a very low value. In the case of nutritional values, consumers are divided mainly among those who gave sufficient importance to the aforementioned item (30.5%, 76 people) and those who on the contrary gave it the highest level (30.1%, 75 people).

**Q12) When buying imported food products, how important are the following aspects?**

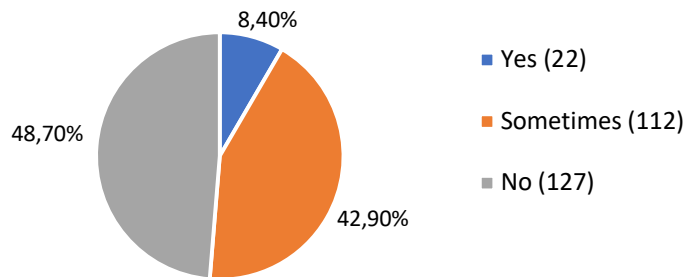


\*Levels mean respectively in ascending order: "unimportant"; "less important"; "important"; "enough important" and "very important".

The answers examined so far highlight a scenario in which consumers check the indication of origin on the purchased products, both local and imported, and are willing to spend more on a product of controlled origin. Despite this, the majority of consumers admitted that they do not know at all about the products of protected origin present and certified by the European Union (48.7%, 127 people) (Q13). 42.9% of consumers (112 people), on the other hand, claimed to be informed only a few times; while there were very few consumers who regularly inform themselves about legislative changes and certified products (8.4%, 22 people).

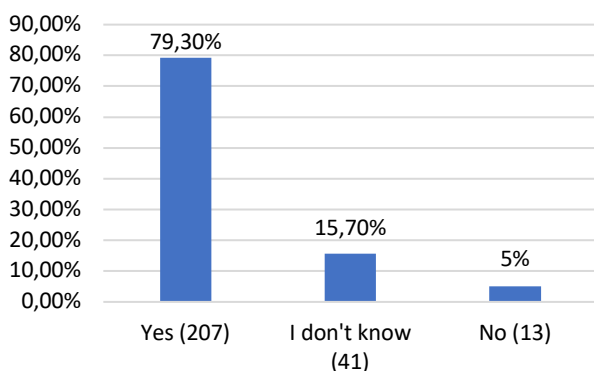


**Q13) Do you seek information about international products of protected origin present and certified by the European Union?**

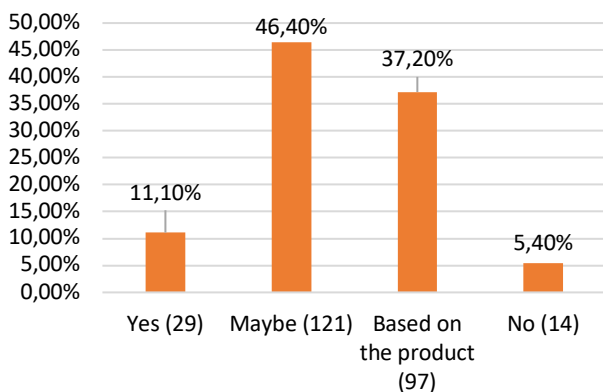


However, although many did not stay informed about products of certified origin and there were many consumers who admitted they are not sure of being willing to buy an imported product bearing a geographical indication in the future, around 80% of consumers (207 people) reported being in favour of a greater sale of international products that guarantee a better quality and safety, thanks to the indications of origin (Q14). In other words, Italian consumers would seem to support a greater sale of international products of protected origin, but they are not sure they would buy them. In fact (Q15), 46.4% of consumers (121 people) stated that the increase in the sale of certified branded international products could change their consumption habits, while the 37.2% (97 people) specified that they could change only depending on the type of product in question. However, few consumers were convinced that an increase in imports of certified foreign products can change their consumption habits (just over 10%, 29 people), thus confirming the high percentage of uncertain consumers about the possible purchase of an imported product of certified origin.

**Q14) Would you like if international products of protected origin will be sold more?**

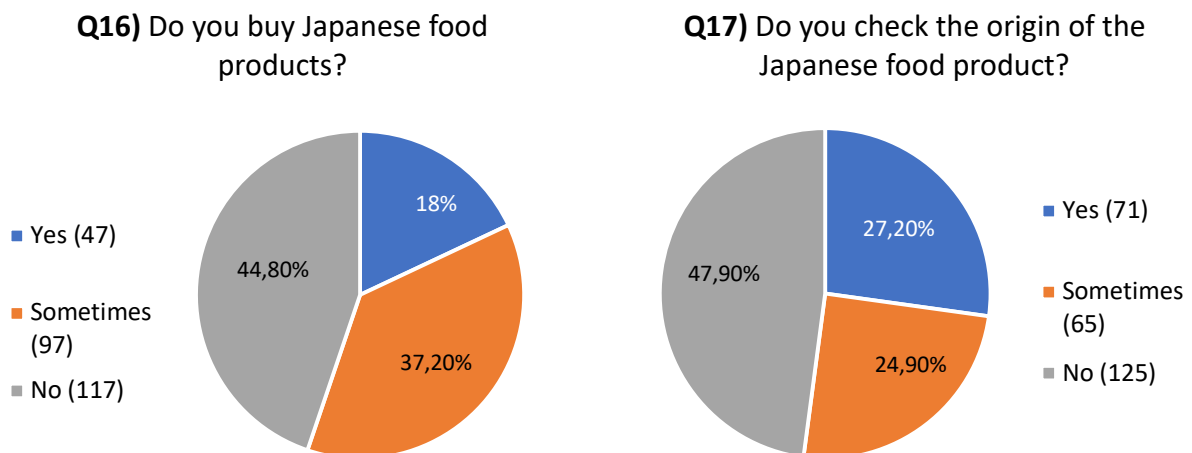


**Q15) Could it change your consumption habits?**



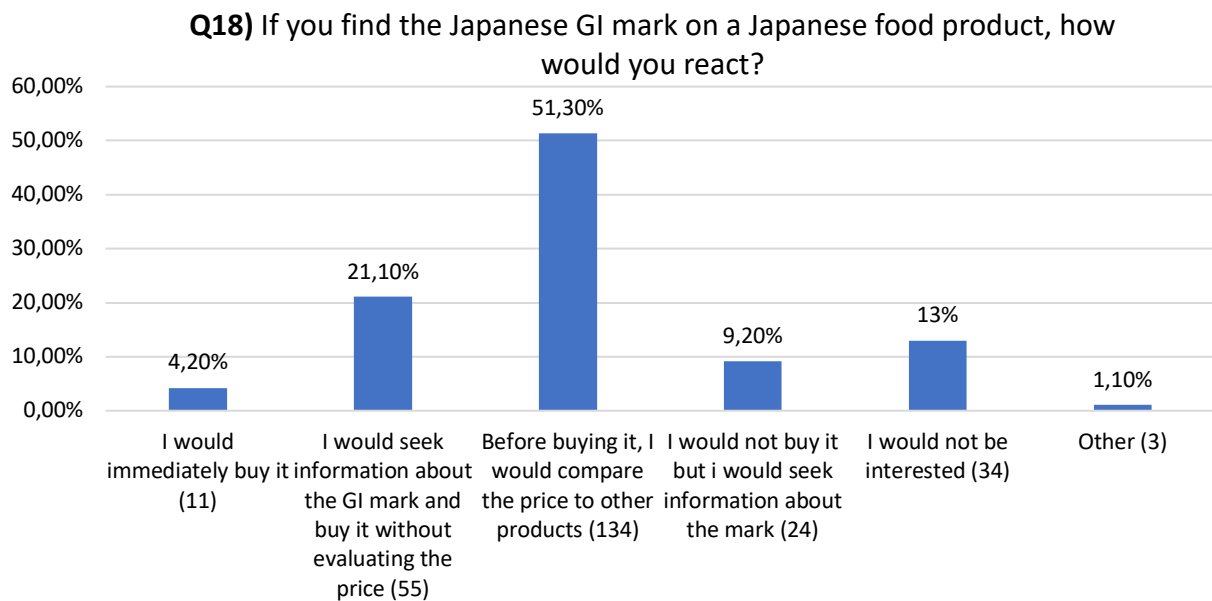
In the third and final part of the questionnaire, the questions submitted to consumers are mainly about imported products of Japanese origin, in order to examine consumers' habits regarding Japanese products, increasingly present on the shelves of Italian supermarkets, and examine the knowledge and reaction of consumers in the face of any Japanese certification marks.

Although in Italy recently Japanese culinary culture has been spreading, 44.8% of consumers (117 people) admitted that they do not buy any food products of Japanese origin (**Q16**). On the other hand, 37.2% (97 people) declared to purchase them a few times, while only 18% (47 people) often bought Japanese products. Consumers who had admitted not to buy Japanese products (**Q17**) did not therefore check the provenance of the product. Analysing the single answers to the questionnaire, among consumers who always, or almost always, buy Japanese food products, 27.2% (71 people) declared to check the origin of the product; 24.9% (65 people), on the other hand, admitted that they do not check it every time they buy products from Japan.

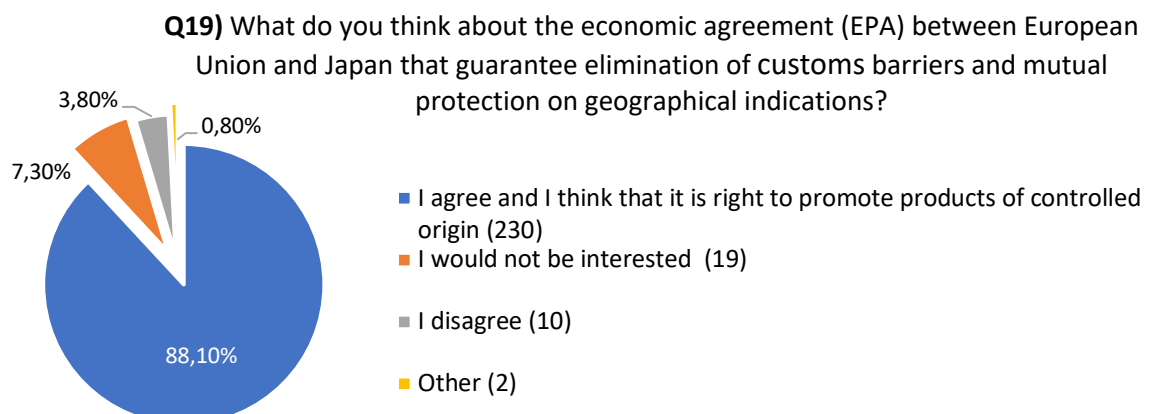


Examining the reaction of Italian consumers in the face of a certification mark of Japanese protected origin (GI mark) (**Q18**), 51.3% of consumers (134 people) stated that they would initially compare the price to other products, before buying it definitively; 21.1% (55 people) would seek information about the brand and buy it without evaluating the price and 13% (34 people) would not be interested. Only 4.2% (11 people), a rather insignificant percentage, would immediately buy the product at the mere sight of the certification mark on the label. In addition, among consumers who have expressed their personal thinking ("other" item), there are those who admitted being more incentivized to buy it if there was

a geographical identification mark and there are those who buy it as long as the price is not excessive.



Given the aforementioned results, it is interesting to note that, despite the fact that many consumers are interested in better information and the greater sale of imported products with a certified mark, when they are in front of the certification mark applied on the Japanese product label, many of them prefer to first evaluate the cost and secondly decide whether to buy it or not: the "cost" element, therefore, would still seem one of the most influential factors when buying a food product, in particularly if it is an imported product. Ultimately, although many consumers prefer to initially control the price and then evaluate a possible purchase, to the specific question on the EPA agreement between the European Union and Japan (**Q19**), 88% of consumers (230 people) said they agree with the main objectives of the agreement and that it is right to promote products of controlled origin, so as to ensure a high level of quality and safety even on products that do not come from Italian rural areas.



Italian consumers confirm a different attitude from Japanese consumers: they frequently buy registered brand products and know very well the characteristics that distinguish them. Moreover, Italian consumers are very favourable of a possible increase in prices for these products, admitting also an increase between 10% and 20%. This attitude, as already mentioned above, is given by a greater contact with certified products: the European Union approved the GI protection system about two decades earlier, without forgetting that in some countries, such as France, this system was already present from the first half of the 1900. In Italy, a system on food protection was approved in 1963 and it was updated in 1992 thanks to the revision of the European system. For this reason, Italian consumers have been in contact with these products for many years and, with the passing of time, they created a sufficient level of knowledge. However, as we have seen from the results obtained from the questionnaire, Italian consumers more recognize some logos that are not part of those recognized in the European context and admit that they are not sufficiently informed about the changes and the regulation of these systems. In addition, as has been verified for Japanese consumers, Italians at the time of purchase do not share a product based only on the geographical origin, but they tend to give more importance to the quality and freshness of the product.

Even concerning the imported product with a controlled origin, the majority of Italian consumers admit to buying them a few times; however, they state that he does not pay attention to the origin of these products, even though they buy them. In addition, among those who do not buy such products, many of them are not convinced to buy products of certified origin in the future. An interesting factor is that both in the case of local products and imported products, Italian consumers at the time of purchase are more influenced by two other factors before the geographical origin (also in this case quality and freshness cover the largest percentage). These results indicate that consumers do not have different attitudes depending on the type of product to be purchased. However, despite being in favour of greater expansion of the sale of imported and certified products, the majority of consumers are not sure about changing their consumption habits. This attitude does not favour the new commercial treaties that provide for the importation of certified foreign products: if Italian consumers are not convinced of changing their habits, perhaps many imported products will remain unsold.

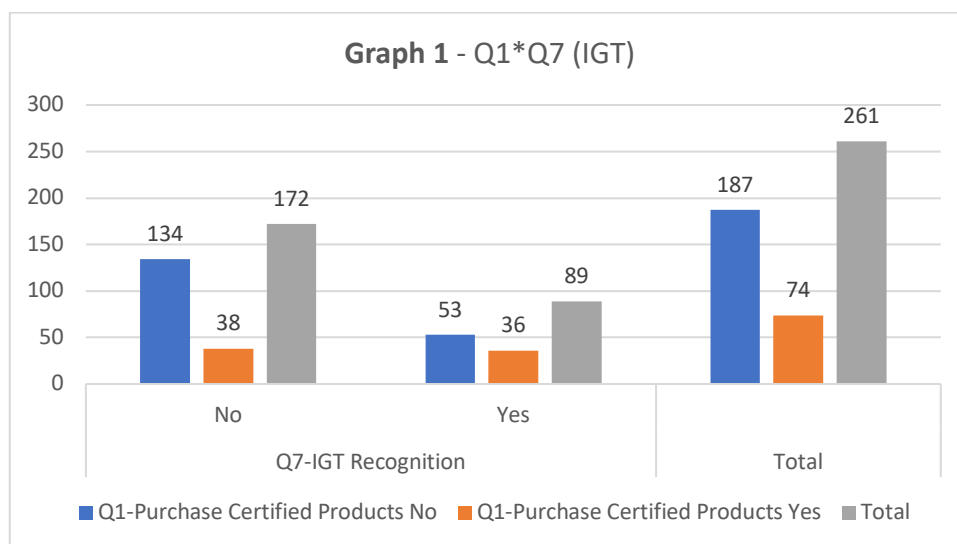
Focusing on the sale of products of Japanese origin, the results obtained from this questionnaire are slightly unexpected. Almost half of Italian consumers do not buy products

of Japanese origin and a good percentage of consumers admitted to buying them a few times, despite the Japanese cuisine is getting very successful in Europe and especially in Italy. In addition, more than half of the consumers, they have admitted that, if they are faced with a Japanese product with the applied certification mark, they would initially evaluate the price comparing it with other products, and then decide to buy it. In this case we see how many consumers are hindered by the cost of the imported product. The certification mark in this case would not seem to be helping to attract consumers' attention and, consequently, could cause negative effects on the Japanese products, promoted by commercial agreement.

In this paragraph, a correlation analysis of the cross data of the results obtained from the questionnaire submitted to Italian consumers was added. The aforementioned questionnaire was carried out as qualitative analysis and not for statistical purposes. However, thanks to the supervision of Professor Cicero Lucia, some statistical studies have been added only based on contingency tables (cross-tabs) and Chi-Square test, a test that evaluates the correlation of the variables. Being a qualitative questionnaire, it was not possible to perform this statistical analysis for all the variables in the questionnaire; the statistical analyses were developed exclusively for those variables that were valid for the test. For this reason, I decided to consider only those questions that in addition to being valid, are also significant for my study. The frequency tables have been codified into two variables: yes and no (including occasional purchase). In the case of the questions in which it was requested to specify a certain level of importance, the tables were recoded into two variables in which the values 4 and 5 (important and very important) are grouped as "yes", and the remaining values 1, 2 and 3 as "no". For the statistical analyses, the IBM "SPSS" program was used. The contingency table and the Chi-Square test of the following studied cross-tabs are available in the appendix at point 2.

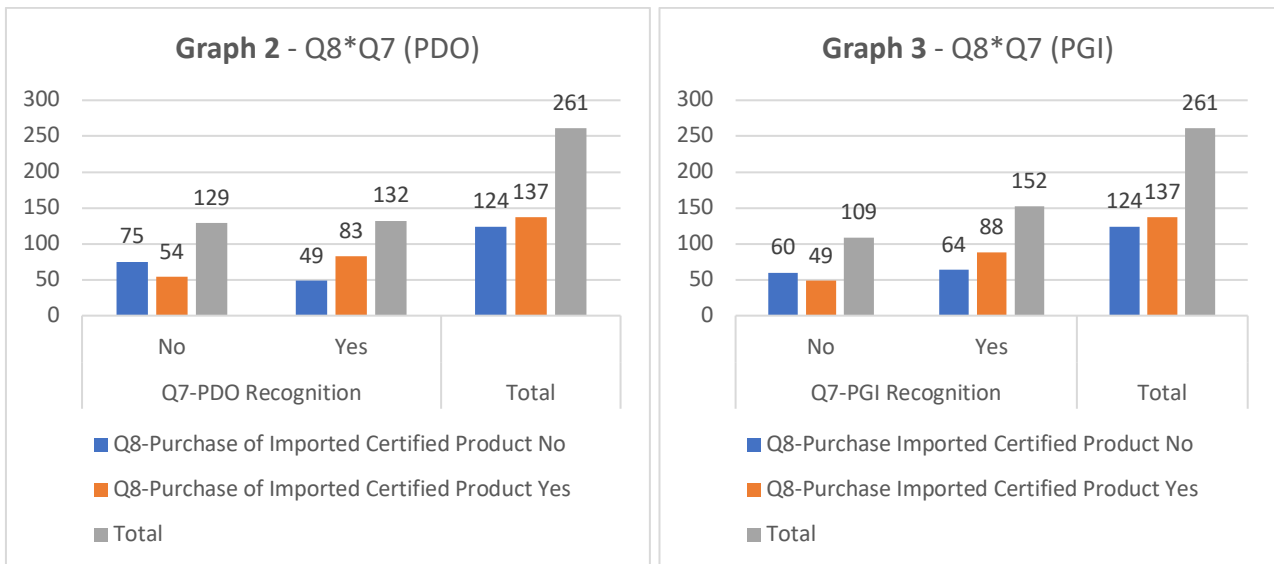
The results obtained from the statistical analysis, based on the contingency tables that gave a valid and significant result, confirmed the conclusions drawn from the qualitative questionnaire. In other words, from the analysis shown below, it is possible to notice that there is a tendency towards a misunderstanding and inaccurate identification of geographical indication marks. In the contingency table between Q1 and Q7 concerning IGT recognition, it appears that those who purchase products of certified origin, more fully recognize the IGT logo. As we can see from the graph below (**graph 1**), even if among those

who buy certified products consumers who do not recognize this logo were more (38 people of the total of 74 people, i.e. 51.4%), there was a significant percentage regarding the recognition of the IGT logo (36 people of the total of 74 people, i.e. 48.6%) in proportion between those who buy GI products and those who do not buy them. The observation I would like to make is similar to that expressed in the qualitative questionnaire regarding the BIO logo: also in this case, the Italian consumers interviewed tended to recognize more logos that are not the main geographical identification marks. The IGT brand is, unlike the BIO logo, a geographical identification mark, but it is a very specific logo attributed exclusively to Italian wines. Even if this result may have been given by the origin of the consumers interviewed, also in this case, it is possible to notice that among those who buy certified products, other types of logos different from the main brands recognized at European level were recognized.



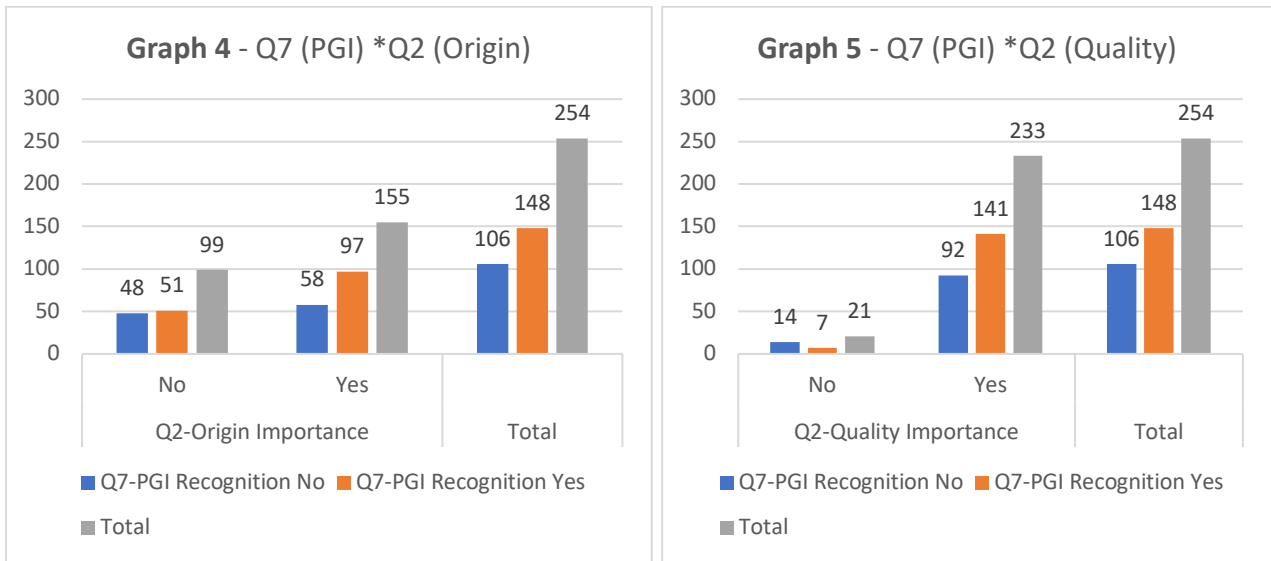
Subsequently, from the contingency table between Q9 and Q7, it appeared that those who buy imported products of protected origin recognized more PDO and PGI products. If we compare both the contingency tables, one referring to the recognition of the PDO (**graph 2**) and one related to the recognition of the PDI (**graph 3**), we can see that there were more consumers who recognized PGI brand products (88 people of the total of 137 people, i.e. 64.2%) than to those recognized PDO (83 people of the total of 137 people, i.e. 60.5%). We can also note that even in the case of those who do not buy certified imported products, there were more consumers who recognized PGI (49 people of the total of 124 people, i.e. 39.5%) branded products than PDO (64 people of the total of 124 people, i.e. 51.6%). For this reason, we can see that among interviewed consumers, most consumers recognize the PGI logo more than the PDO logo, as it was already possible to

determine from the qualitative analysis of the questionnaire. This recognition could imply an erroneous identification of products of certified origin: although PGI is a certification logo recognized at European and national level, consumers could attribute to the product bearing this logo characteristics not really implied by the logo itself (for example the whole production process carried out in the given area and/or a stronger link with the reference territory).

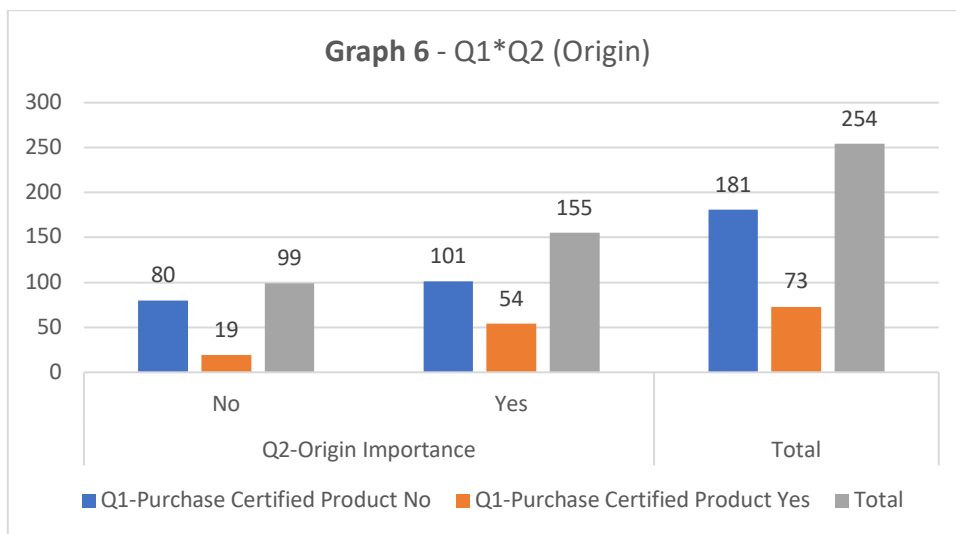


As a second proof of this hypothesis, two other contingency tables underline this possible trend. In the case of the contingency table between Q3, in which the "origin" factor is taken into consideration, and Q7 concerning PGI recognition, it appears that those who consider the origin of the product as important, recognized more the PGI brand. As shown in the graph below (**graph 4**), among those who give importance to the origin, 97 people (of the total of 155, i.e. 62.5%) recognized the PGI brand more. Also in proportion between those who recognize the PGI brand (total of 148 people), the majority (97 people, i.e. 65.5%) gave more importance to the origin of the product. Secondly, in the case of the contingency table between Q3, in which the "quality" factor is taken into consideration, and Q7 concerning recognition of PGI, who gave greater importance to the quality recognized more the PGI brand. As shown in the graph (**graph 5**), among 148 people who recognized the PGI brand 141 people (95.2%) gave great importance to the quality factor. As it turns out from the previous analyses, most of the consumers interviewed, when they look for the quality and originality of a product, "mislead" the PGI logo. What I would like to pay attention to is not that PGI products do not guarantee quality and originality of origin, but is the anomalous connection with PGI logo, instead of the PDO. This is because, in the case in which quality and origin are sought, a consumer should first connect the PDO mark

to these characteristics as a symbol of a more intrinsic link with the territory and, consequently, a symbol of greater quality controls and a secure geographical origin.



Ultimately, I would like to draw attention to a contingency table between Q3 and Q1. From the above table, among consumers interviewed who buy products of certified origin, 54 people (of the total of 73 people, i.e. 74%) gave importance to the origin of the product. This result does not underline any particular observations. However, as can be seen from the graph below (**graph 6**), among those who gave importance to the origin of the product there is a significant percentage (101 people of the total of 155 people, i.e. 65.2%) who did not buy products of certified origin. This table gives us an ambiguous result on the attitude of the consumers interviewed in the questionnaire: although there may be other factors that can hold back the purchase of certified products, tendentially those who seek high-quality values in the products do not buy products of certified origin.





#### *4.3.3 – The study on Italian consumers: interest over years and consumption habits*

The results obtained from the qualitative questionnaire about the purchase of Japanese products are quite unexpected because, as already anticipated, nowadays Japanese cuisine in Italy is receiving a high level of approval. In almost every city of Italy there are Japanese restaurants and finding products of Japanese origin is quite easy, also in supermarkets and not only in specialized store. Recently, the buying and selling of both fresh and dried products in specialized corners inside the supermarkets is becoming more usual. Not only the ability to incorporate products of Japanese origin, but also the opportunity to taste the dishes of Japanese cuisine is becoming increasingly easier. The Japanese cuisine is mainly based on raw fish, an element that greatly increases the value of the product, as it must be subjected to continuous checks and it must follow strict rules of conservation. Recently, with the creation of 'all-you-can-eat' restaurants, everyone can enjoy Japanese cuisine at significantly lower prices. The birth of these types of restaurants was caused by the great wave of migration of Chinese traders who knew how to make by their own the secrets of Japanese cuisine and sell it to the public. These types of Chinese restaurants have focused on one of the typical products of Japanese culinary culture, combining it with the tastes of Italian consumers, in order to easily increase their profit: sushi. As matter of fact, among the menus of the various "all you can eat", you can find sushi based on "Venere Rice", a type of rice of Chinese origin very common also in Italian cuisine for about three decades or based on soft cheeses well known as "Philadelphia": ingredients that are hard to find in the original Japanese sushi.

According to a research on Google Trends conducted on 14th January 2019, in Italy in the last 5 years the interest in Japan has remained constant and it has peaked between June and July 2018 (**figure 10**). What attracts attention are the queries associated with this research (**figure 11 and 12**): filtering the results for "food and beverages" among the "most researched" queries, at the first place with the highest interest rate in absolute we found the "sushi" (100); to follow the "Japanese tuna" (20), "Japanese food" (14) and the "Japanese Kōbe" (14), a product well known worldwide. We can obtain the same results if instead of the term "Japan" we insert "Japanese cuisine": also in this case, among the associated "most researched" queries we find sushi first.

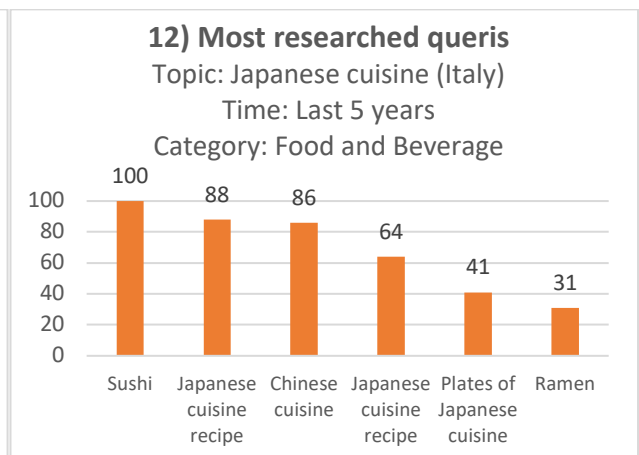
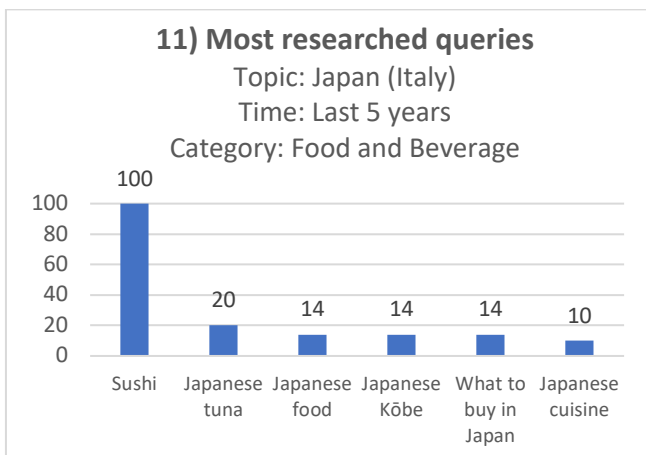
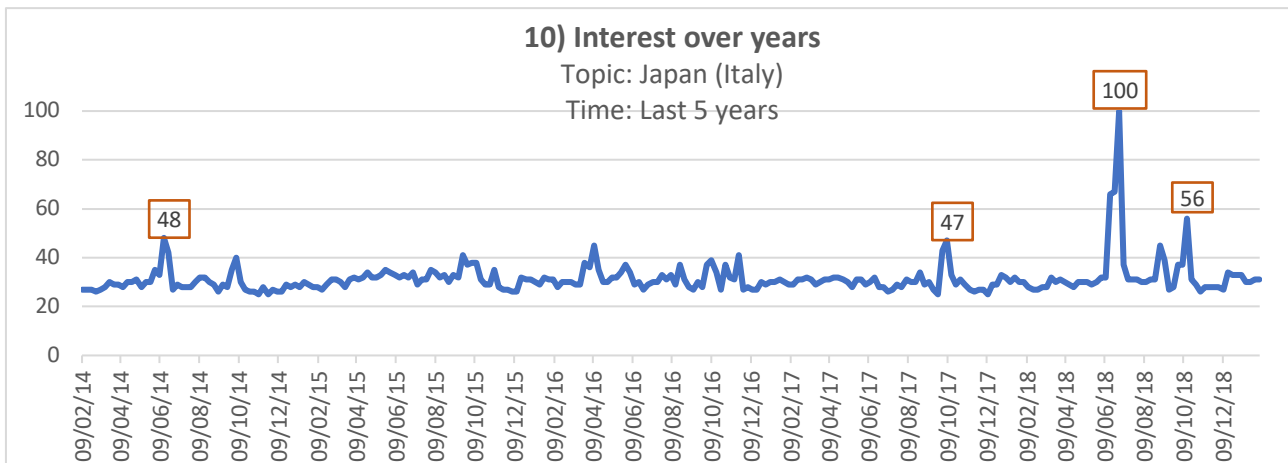


Figure 10, 11 and 12: Graph reproduced based on data obtained by Google Trends on 14/01/19

If we analyse the topic "Sushi" (**figure 13**), we can see how in Italy in the last five years, consumer interest had measured a growing trend, quadrupling the values from 2014 to today (on February 2014 value was about 25 and on December 2018 the value was about 100). Also among the most associated queries of the topic "Sushi" (**figure 14**), in third place we find "all you can eat sushi" (74), proving that nowadays all-you-can-eat restaurants are having a remarkable success. If we search for a comparison between the terms "Japan", "Japanese cuisine" and "Sushi" (**figure 15**), we can see how in the last five years the interest in sushi has increased to exceed the research for the term "Japan" from 2017 until to date. In the case in which we perform a more specific search and focused exclusively on "food and beverages" (**figure 16**), we can see how the interest in sushi is clearly superior to "Japan" and "Japanese cuisine" topics.

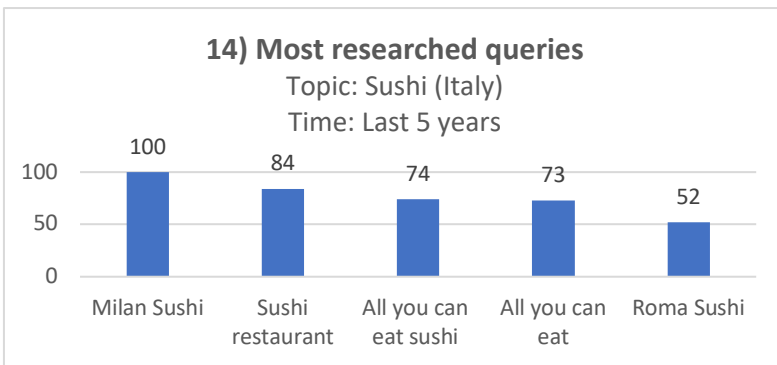
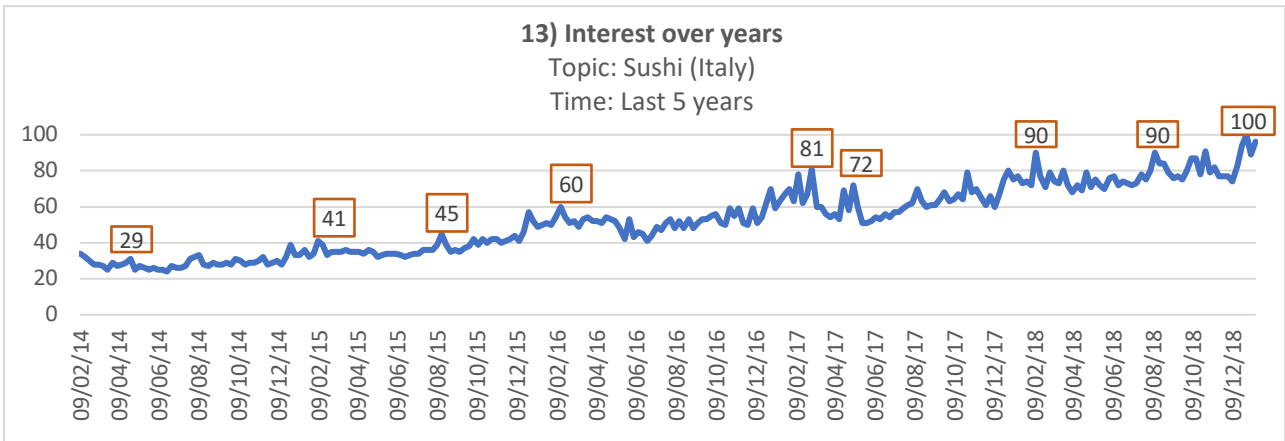


Figure 13 and 14: Graph reproduced based on data obtained by Google Trends on 14/01/19

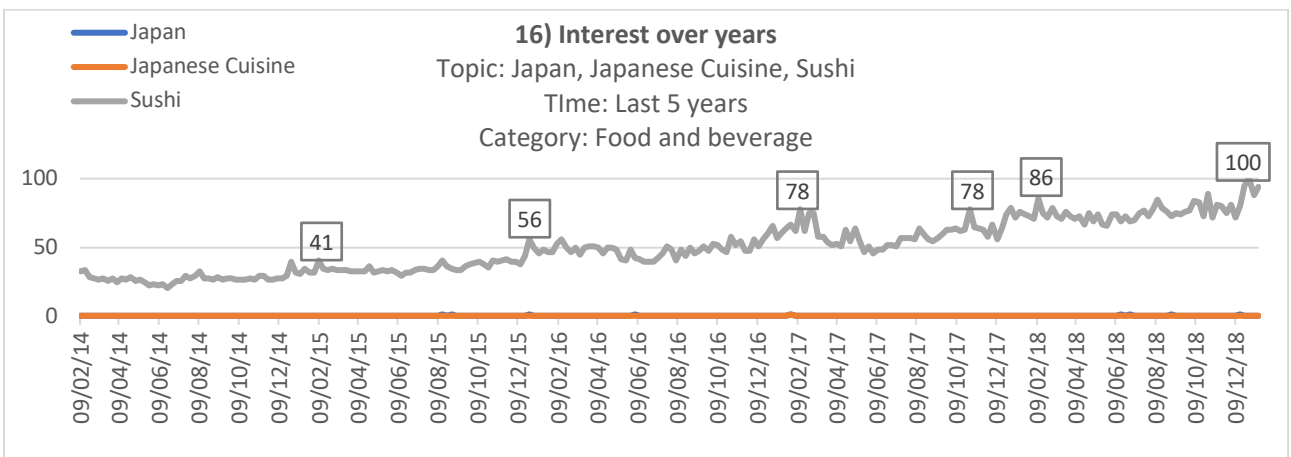
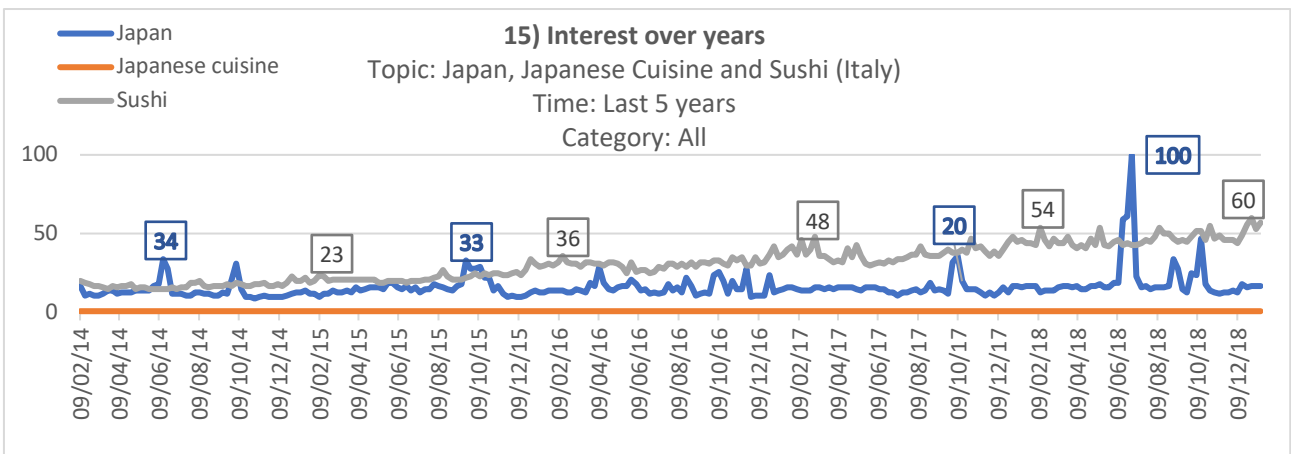


Figure 15 and 16: Graph reproduced based on data obtained by Google Trends on 14/01/19

This little study conducted through Google Trends shows that Italian consumers are more interested in the consumption of sushi. As we could see among the associated “most researched” queries both in the “Japan” topic and in the “Japanese cuisine” topic, the main argument researched are sushi. The only other food product mentioned in queries is “Kōbe beef” and we could say not by chance. Indeed, Kōbe meat is one of the most prestigious Japanese meat known worldwide. Moreover, the Kōbe beef is one of the most famous type of Japanese bovine meat known in the world as “Wagyū”, subject to a several violations of appropriate use of the name.

This lack of knowledge of the original Japanese products could influence the purchasing methods of Italian consumers who prefer to buy a ready-made sushi pack instead of a particular type of spring onion or potato. The data relating to the questionnaire on Italian consumers regarding the purchase of products of Japanese origin are mainly negative. Despite the demand for Japanese products is increasing over the years, the most bought and/or consumed product is sushi. However, sushi is a product not easy to prepare and consumers are more inclined to consume it ready-made in restaurants and sometime to buy it in sushi corners. For this reason, sushi is probably implicitly excluded from purchases concerning Japanese products. In other words, sushi is a difficult product to prepare if you do not have the appropriate knowledge and in Italy it was introduced mainly as a dish to be tasted in specific restaurants. Only recently the sale of sushi within supermarkets has increased. For this reason, probably many consumers prefer to consume it directly in restaurants and, since it is the most requested product, many of them do not take into consideration that there are other food products of Japanese origin. So, consumers exclude the possibility of buying Japanese food products in supermarkets.

To try to give an accurate idea of the consumption of Japanese products by Italian consumers, an analysis out on the economic performance of a company that imports and sells Japanese food products was carried, analysing the total sales from the opening of the first store to date and differentiating sales by type of product, in order to study which type of product of Japanese origin is most requested by consumers.

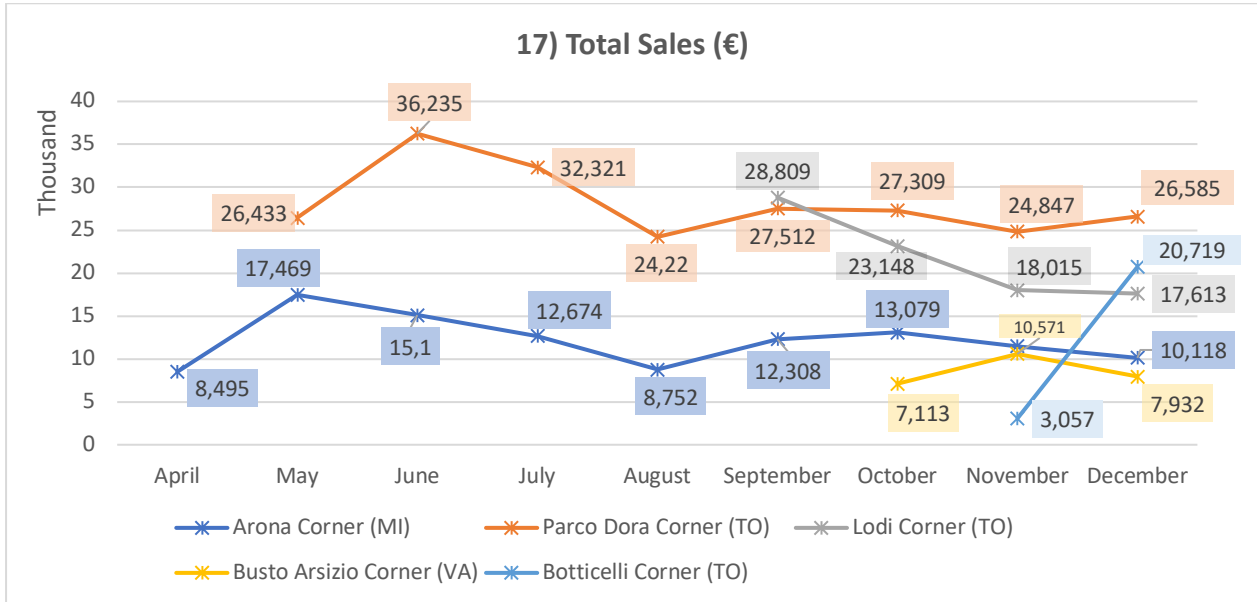
In Italy, Japanese culture and, in particular, the culinary tradition is achieving considerable success. One of the main reasons is the affinity between the two culinary cultures: both traditions are based on some common characteristics, such as the research for freshness, the seasonality of the ingredients and a great variety of foods present in

nature. These features allowed easier the introduction of Japanese cuisine; however, among all the culinary tradition the food that is most requested and consumed is sushi, as we have seen previously. We have a second confirmation of this assertion from the data relating to sales of Original Japan, a company in which I had the honour of doing an internship. Original Japan is an import company of Japanese foodstuff of high quality and, in 2018, it started the Warai project, a series of "sushi-corners" present in super and hypermarkets, where it is possible to buy both dry products and fresh products prepared on the spot. Warai aims to emancipate Japanese cuisine and distinguish it from the stereotypical Japanese food offer, trying not to offer only sushi but also many other traditional Japanese dishes, including snacks and side dishes. In addition, Warai offers the opportunity to purchase a series of dry products, such as alcoholic and non-alcoholic beverages, spirits, pasta, and many other products. Despite the main goal is to educate the consumer and to let the real Japanese cuisine be known which deviates from simple sushi, the company has received the maximum profit from the sushi's sales, as evidence of the fact that nowadays Italian consumers prefer that type of product. The company was founded at the beginning of 2018 and the first corner was inaugurated in April 2018. At present, Warai has five corners in the area between Lombardy (mainly Milan) and Piedmont (Turin).

The data obtained include the entire period of Warai's commercial activity, between April and December 2018. The data refer to the value of sales: firstly, they will be studied on the basis of total sales; secondly, they will be analysed according to the type of product. For each graph showing the sales data on the basis of the currency (€), there is a second graph that shows the sales data on the basis of the quantities sold (pc). Despite the data obtained to date cover less than a year of activity, we can clearly see how the company has obtained excellent results in most corners, especially in the corner of the hypermarket Parco Dora, in Turin, which between May and December 2018 sold Japanese food products for a total of 225,373 €.

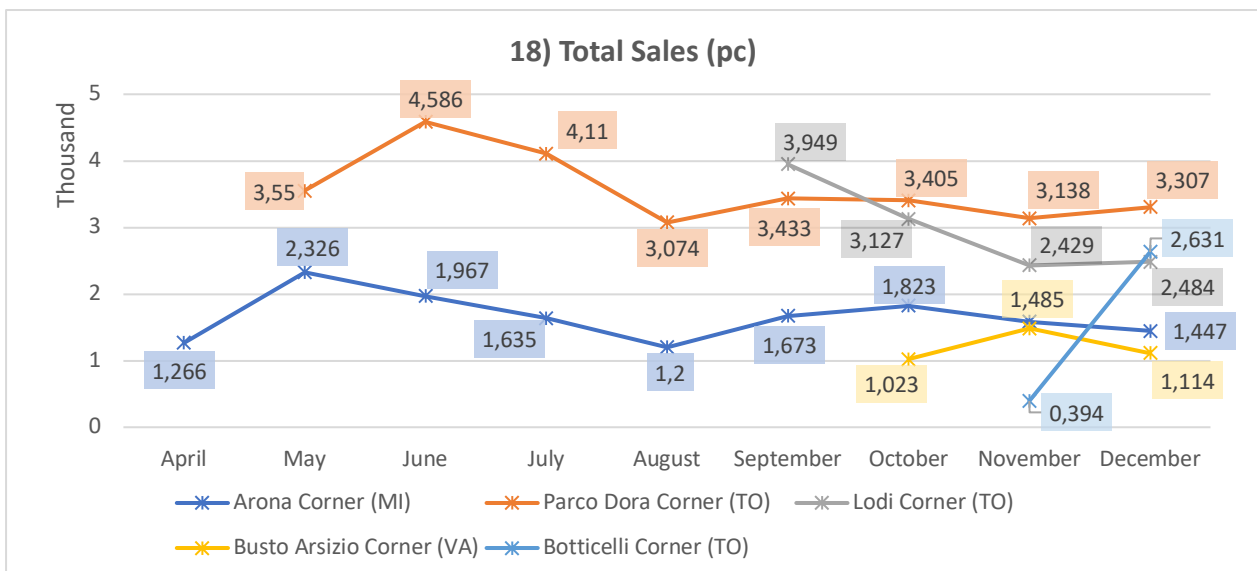
It should also be remembered that both in Piedmont and, especially, in Lombardy, the competition regarding the sale of products of Japanese origin is very strong as there are already well-known companies in the field of sushi-corners, like Sushi Daily and Sushi Take, and many Japanese restaurants. For example, Tripadvisor, a web portal that collects reviews from consumers about hotels, restaurants, apartments and so on, counts about 327 restaurants that offer only sushi and 405 restaurants that offer Japanese cuisine only

in Milan (January 2019). For a new company located in a city where Japan culture is already deeply settled down, reaching fame is very difficult. However, as it can be seen from the data on total sales, Warai has already obtained sufficient notoriety, as evidence of the fact that nowadays Japanese culinary culture is very successful.



**Figure 17** Total sales concerning each corner are:

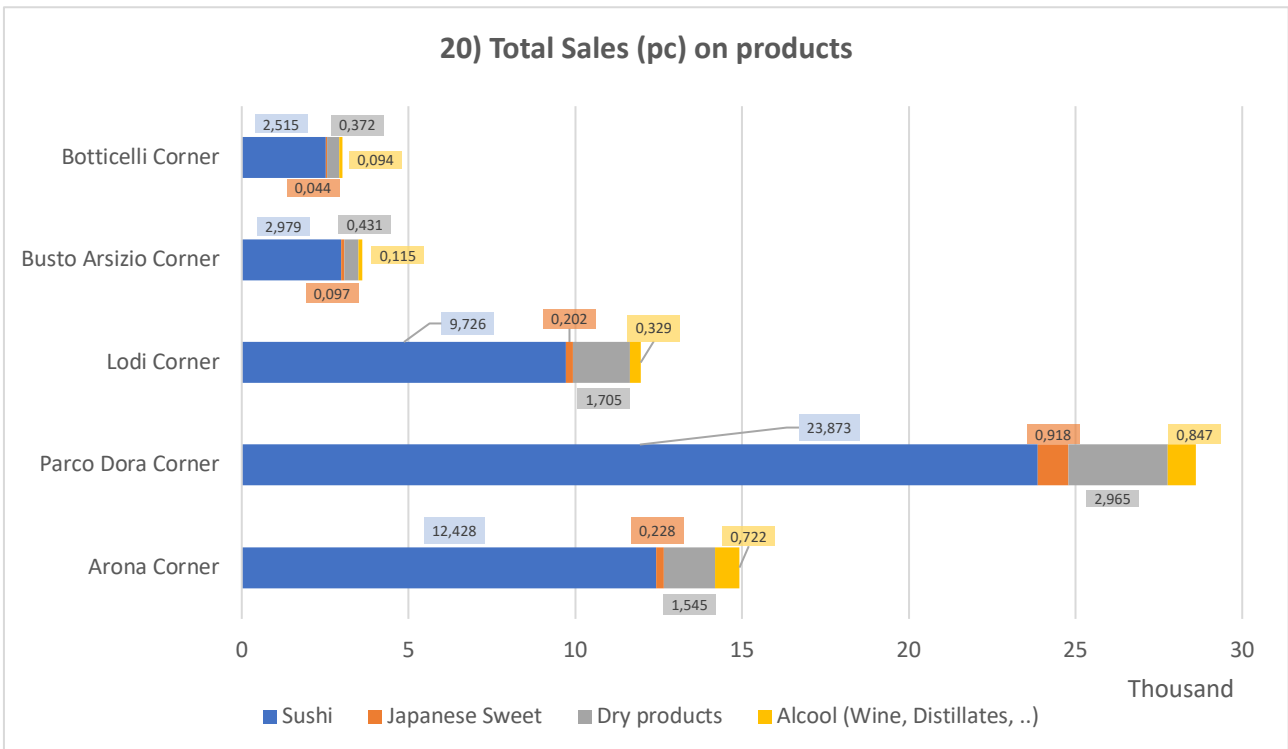
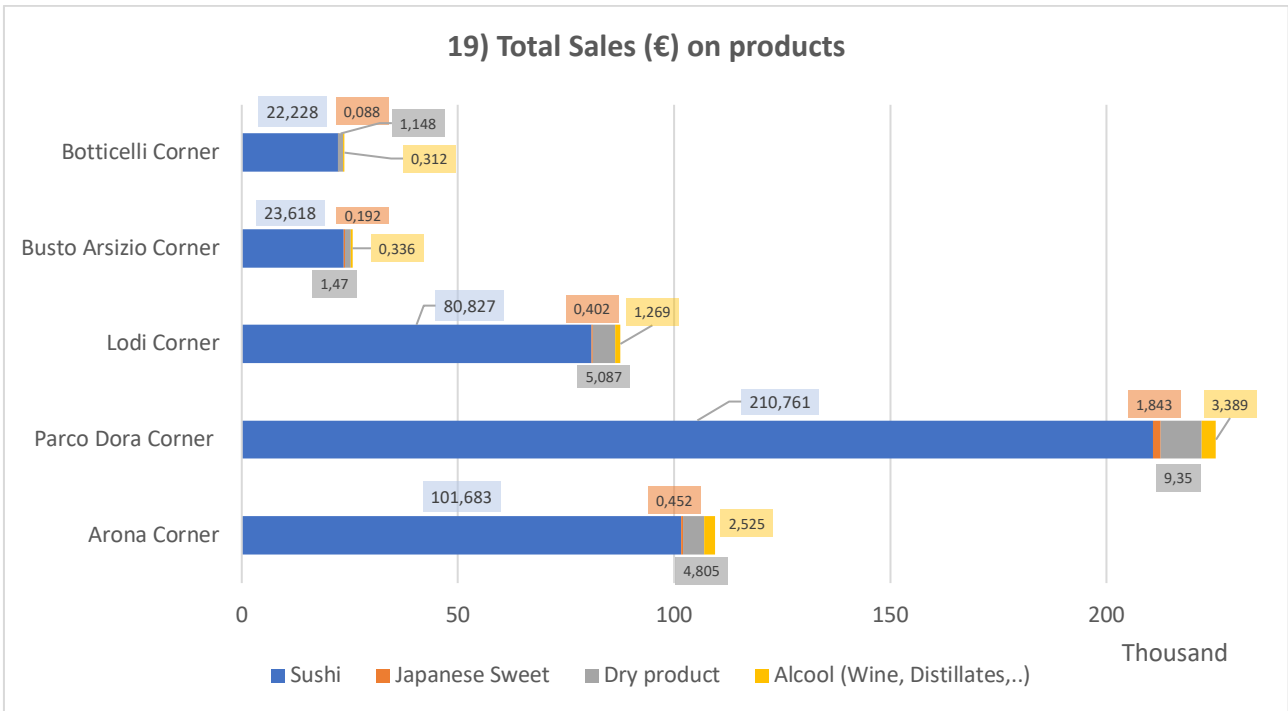
Arona Corner = 109.466 €  
 Parco Dora Corner = 225.373 €  
 Lodi Corner = 87.585 €  
 Busto Arsizio Corner = 25.619 €  
 Botticelli Corner = 23.236 €



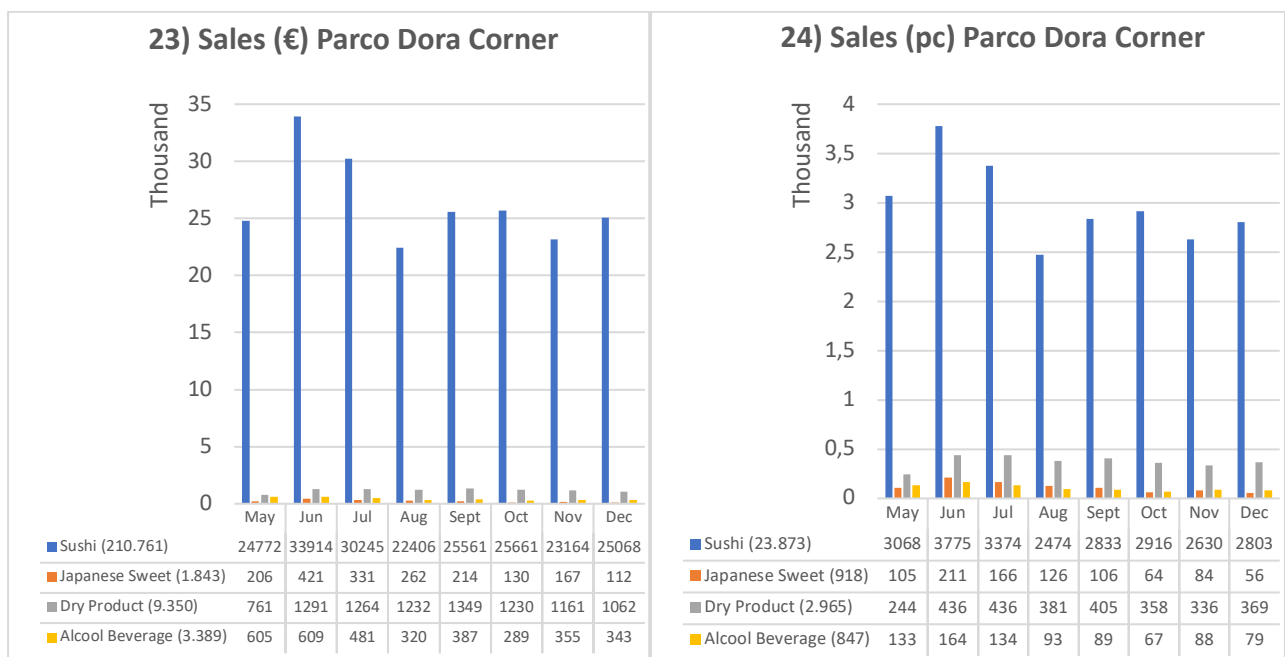
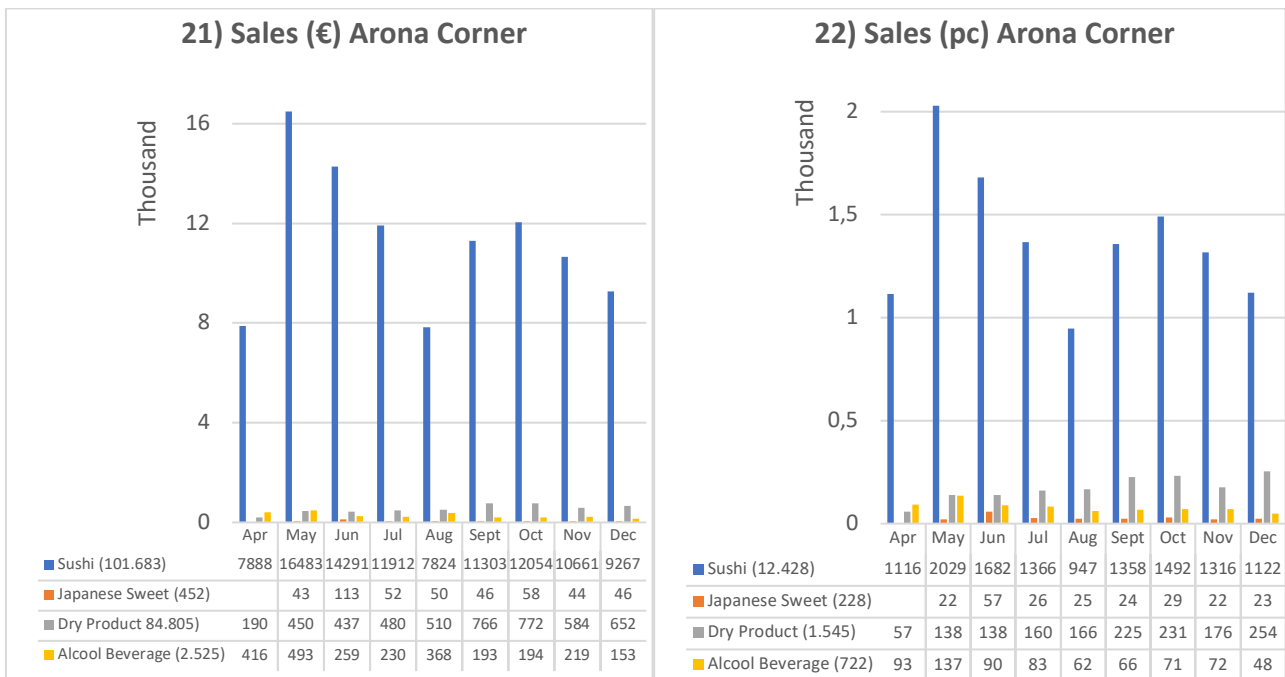
**Figure 18** Total quantity sold concerning each corner are:

Arona Corner = 14.923 pc  
 Parco Dora Corner = 28.603 pc  
 Lodi Corner = 11.989 pc  
 Busto Arsizio Corner = 3.622 pc  
 Botticelli Corner = 3.025 pc

Analysing the total sales according to the type of product, "sushi" is the most requested product ever. As we can see, both the data related to each corner and the data on total sales differentiated by type of product, "sushi" covers almost all sales, regardless of the location where the corner is located or the opening period and duration of the economic activity of the same corner.

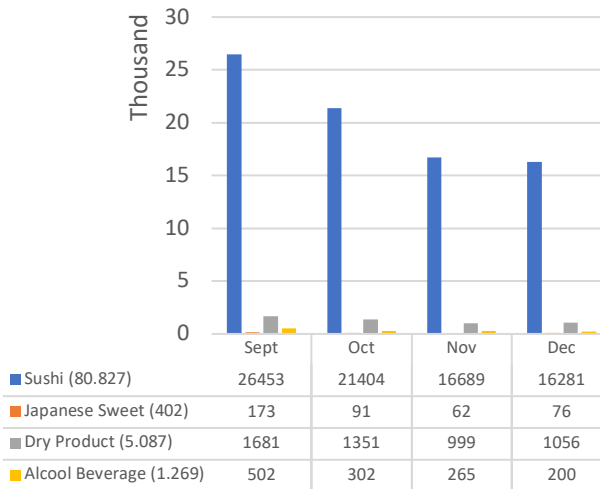


For example, concerning the sales of Arona corner, on the total amount of sales equal to 14.923 units sold (pc), 12.428 pieces were sushi that it is almost all. The same thing happened in the other corner: Parco Dora corner sold 23.873 units of sushi on the total amount of 28.603 pieces sold; Lodi corner sold 9.726 units of sushi on 11.989; Busto Arsizio corner sold 2.979 units of sushi on 3.622 total amount and Botticelli corner sold 2.515 pieces of sushi on total amount of 3.025 pieces. In the following graph the total amount about each product is written between parentheses.

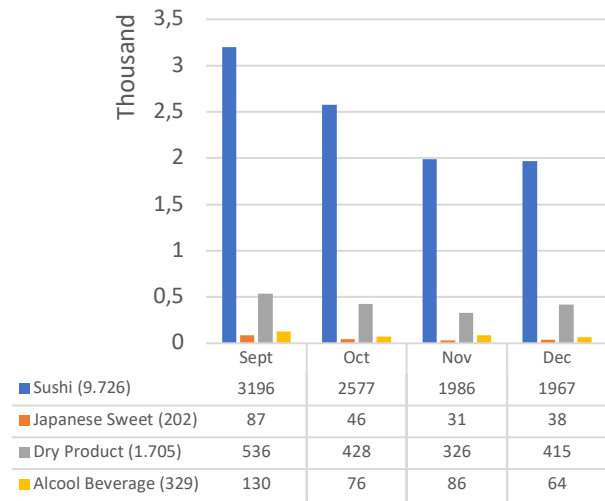




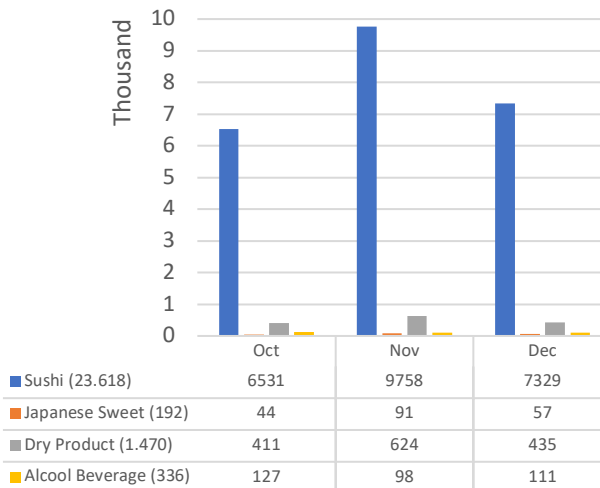
**25) Sales (€) Lodi Corner**



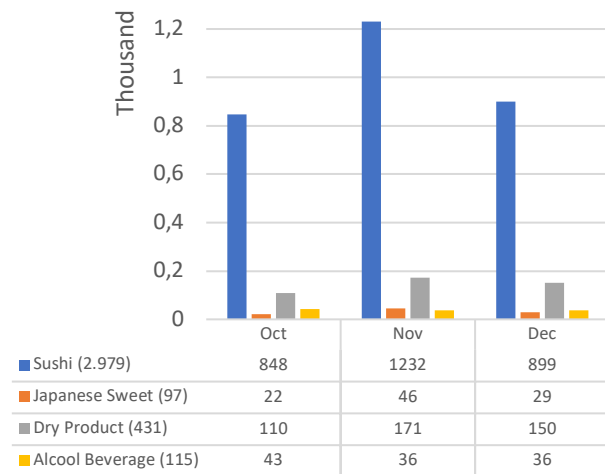
**26) Sales (pc) Lodi Corner**



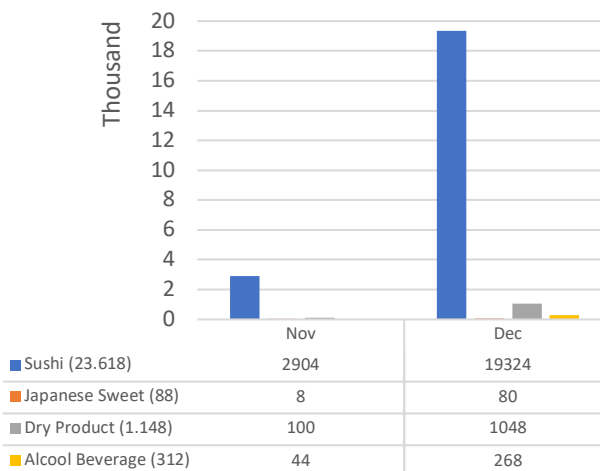
**27) Sales (€) Busto Arsizio Corner**



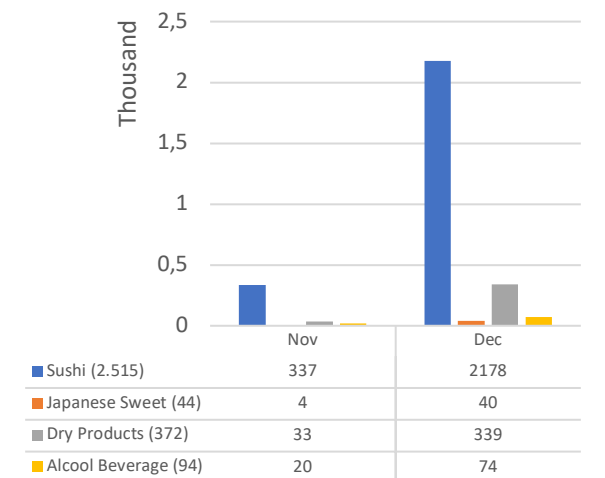
**28) Sales (pc) Busto Arsizio Corner**



**29) Sales (€) Botticelli Corner**



**30) Sales (pc) Botticelli Corner**



In conclusion, we can therefore say that sushi is the most requested product and there seems to be no desire among consumers to change consumer habits, since the sale of other types of products like sweets, dry products and alcoholic beverages have remained unchanged, in some cases even decreased, even after almost one year. For this reason, we can connect it with the results of the questionnaire. Most of the consumers before buying a Japanese product of controlled origin would evaluate the price comparing it to the others present on the market. This attitude could be dictated by consumers' habit: they prefer the direct consumption of ready-made products, such as sushi, and they are not very open to buy Japanese food products in supermarkets. In the end, the increase of imported products thanks to the recent commercial agreements, as EPA, could have not very positive consequences on consumers and probably it not allow a change in consumers' habits, at any rate in the short terms.

#### *4.3.4 – Case study: the interview to the CEO of Original Japan company*

In this paragraph, I will analyse the interview submitted to Mr Akiba Yoshikazu as a cumulative case study, in order to compare the information collected and deepen the Japanese GI protection system and the recent commercial agreement stipulated between the European Union and Japan (EPA). The interview was developed via video call on 26th January 2019 and it was conducted in the Japanese language. Mr Akiba Yoshikazu is the CEO of the Original Japan company, an import and retail company of Japanese food products based in Milan, which gave birth to the "Warai Sushi" project with the intent to import and start educating Italia consumers on the real Japanese cuisine, not composed only by sushi. Thanks to my personal internship experience at Original Japan company, I had the honour to meet Mr Akiba and I chose to interview him since he is a perfect example of a Japanese trader who is mainly interested in trading abroad, especially in Italy. For this reason, I thought that his personal experience as a trader could help me to understand more and discover some points of EPA which remain unknown to consumers (for example, parts of the agreement that refer specifically to producers and/or traders). Mr Akiba initially worked for one of the top five Japanese companies in the import of Italian products, oriented mainly on dairy products. Starting to deal personally with the cheese and wine trade, he visited Italy many times and fell in love with it, so much so that he decided to start his own project in Italy. The interview focused mainly on Mr's Akiba opinions on the EPA,

presumable motivations of Japanese GI protection system adoption, and possible consequences among consumers and traders. Being a case study, obtained solutions are not to be interpreted as general responses to researching question, but they are to be interpreted as a specific and singular example instead. The interview with Mr Akiba and the translation in English language are available in the appendix at point 3.

Proceeding with the interview, firstly Mr Akiba was asked what he thought of the food protectionist system and if he agreed with this adoption: he said he was more than in understanding as the system protects the original products Japanese, increasingly imitated by foreign producers who violate the use of the "Made in Japan" label. One of the outstanding examples is exactly "Wagyū", the phenomenon of Japanese beef previously analysed. As Mr Akiba said, Australia is the first producer of Wagyu meat, despite the used type of meat comes from Australian bovine. Australian Wagyu meat uses the "Made in Australia Wagyu" label; however, despite the label exhibits "Made in Australia" and it specifies the real origin, the term "wagyū" (literally "Japanese meat") is used incorrectly, because indicates a variety of meat that comes exclusively from Japanese bovine. Subsequently, deepening the motivations of the adoption of the Japanese GI protection system, according to Mr Akiba, Japan probably decided to adopt this system later than the other countries since it was pushed by the increasingly competitive world economy. In Japan there was a decline in the production of rice and dairy products which led to an increase in imports; imported products cost more than local products and it became necessary to protect the original products to prevent the collapse of Japanese agricultural production. So in 2015, Japan "had no choice", as specified by Mr Akiba in Japanese language, *shikata ga nai* (仕方がない), and it was 'forced' to adopt this system to be able to face strong competition.

Moving on the EPA's question, Mr Akiba declared to be in full accordance with the stipulation of the commercial agreement as foodstuffs are protected even abroad and they are safeguarded by the production of imitations. Moreover, reasonably, the agreement allows exports to increase and therefore a more favourable situation for Japanese retailers who see the resetting of duties on most imported and exported products. However, according to Mr Akiba, there are also some points to pay attention to: for example, taxes on dairy products. According to the EPA, the duties on imported food products from Europe, such as pasta and tomatoes, would be immediately removed, while the duties on dairy products would suffer a gradual contraction over time. Currently, in Japan the duties

on imported dairy products amount to 29.8% but, thanks to the EPA Agreement, the following taxes would be reset within 15 years (every year by 2%). Nevertheless, for some Japanese companies, the possibility of immediately cutting taxes becomes possible through a 'lottery' in which more than 400 dairy companies have participated and from which 20 are extracted. Many of the most important Japanese dairy companies do not approve of this decision as many non-dairy companies or companies whose main import/export activity was beyond this interest had participated in the lottery. The problem arises in the case in which these companies were extracted: they could decide to start a business in this field and damage the already present dairy companies or sell the opportunity obtained to other companies as if it is a license. This lottery was introduced to try to protect the Japanese dairy economy because if all of them were able to import and/or export dairy products at lower taxes, the dairy industry would risk failing; however, it could cause an unfair situation among the various companies, favouring some of them compared to others. In addition, in order to participate in the lottery, many requirements are necessary, the explanation of which is particularly confusing. Mr Akiba himself admits that it took about two and a half hours to fully understand it. I fully agree with Mr Akiba because the agreement should provide clear information, especially if it is addressed to producers and retailers, so as to facilitate them as much as possible without creating confusion. Subsequently, continuing to deepen the subject EPA, Mr Akiba was asked for his opinion on the lack of protection of specific terms of the denominations of dairy products of European origin (for example the protection of individual terms in the full name "Grana Padano") and about problems that could occur. Mr Akiba specifies that this decision was taken by the European Union counterpart and as a result the Japanese people have adapted to this decision, not knowing in detail the specific differences between the various denominations. However, he recognizes that, if this difference is not specified well or is not given special attention, it could become a problem for European producers who would see their flagship products undermined.

Subsequently, Mr Akiba was asked for an opinion on the possible consequences that could occur to consumers and their level of interest in geographical indications, and more specifically concerning EPA. According to Mr Akiba, consumers understand the general lines of the protectionist system, that is to say, they have understood that this system has been inserted to "protect places of origin", "safeguard agricultural activity" and "abolish imitations". However, since there is no clear information on this subject, it is

possible that consumers do not reserve a particular interest because they do not fully understand the protection system. The same thing is happening also for the EPA agreement which is currently only of interest to producers and traders (or importers). According to Mr Akiba, it is natural that there is not yet a high level of interest among consumers, since the system is particularly recent. He believes that time is only needed and that information on the GI protection system and EPA will gradually spread among Japanese consumers and, at that time, even consumers themselves will start to be more interested. However, he specifies that if there is a better level of information and clarity, consumers may start to get interested more quickly agree 100% with it, in addition to understanding the regulation more fully.

In the end, Mr Akiba was asked some questions about the recent activity started: Original Japan and the Warai Sushi project. Among the products of Japanese origin in the corners of Warai Sushi, there are no products of controlled origin. Mr Akiba specifies that, unfortunately, until now the company has relied on an external import/export company that did not trade products of controlled origin. However, currently, the Original Japan company is starting the procedures to import Japanese products, without relying on external companies, and it is considering the possibility of exporting typical products on which the place of origin is expressly reported. Mr Akiba founded this company with the aim of educating consumers on the real Japanese culinary culture, made not only of sushi but also of many other specialities. For this reason, he declares that he is particularly interested in integrating his range of products with the sale of GI products, also thanks to the opportunities guaranteed by the EPA. In addition, Mr Akiba was asked how, in his opinion, Italian consumers could react to this decision. Mr Akiba has specified that Italian consumers may be interested in an increase in Japanese products of certified origin; he also added that he is already thinking of an expedient in order to meet consumers and provide sufficient information on new products through the use of videos or information sheets. In this way, the consumers are aware of the provenance of the product and of the qualitative characteristics that can help them make a free and personal choice among the products displayed in the corners.

Mr Akiba during the interview put a lot of emphasis on the problem of little and ambiguous information regarding the GI protection system and the EPA trade agreement. I particularly agree with this point because good information can not only help consumers when buying, but it can also improve the business choices made by producers and traders.

I also fully agree that the system and trade agreements are very recent and that more time is needed to allow these concepts becoming part of the "daily life" of Japanese consumers. We can certainly say that traders are becoming more and more interested in opening new trades with the European Union, thanks to the recent commercial agreement (EPA). However, some problems in the implementation of the EPA, such as the introduction of a lottery, the difficult and numerous requirements to be certified and the lack of protection of individual terms of European indications, could cause misunderstanding between consumers and traders. For this reason, it is advisable to create better information service, such as internet platforms or additional services that can help the consumer and the merchants to obtain more information in a simple and clear way. As Mr Akiba suggests, the addition of explanatory panels, as in the case of Warai Sushi televisions, could help consumers make a conscious choice and decide what most satisfies them between more products. Surely, better information must also come from the government: the producers and the retailers can not support the entire expenses for a better information. In my personal opinion, the government must inform and involve its citizens about the choices made, especially if the protection of the gastronomic heritage, that created part of the culture and history of that civilization, is the point. Furthermore, it is advisable for the consumers themselves pay more attention to the labels or, in case they are not sure of the purchase, try to inform as well as possible. In today's scenario where a greater interest in health and wellbeing is developing, consumers look for such characteristics especially in food, trying to buy controlled and safe products. In order to facilitate and promote this new tendency, government authorities and food related companies should start supporting new type of production based on geographical indications. The intensive and uncontrolled production of the past has damage not only small and medium-sized companies, but especially the nature that surrounds us. We have started an era in which we must think about the environment before thinking of ourselves, to allow a better level of life that is acceptable also for the future generations.

## Conclusion

The geographical indications were born in order to safeguard the natural biodiversity that distinguishes particular geographical areas and to protect the typical food products that grow in those specific geographical areas, subject to imitations and false creations. The need to protect these products appeared in the first half of 1900. At the end of the first and second world war, the United States of America became the destination for several migratory waves, mainly coming from European countries such as Italy and France. European migrants brought their traditions and their gastronomic culture, exporting typical products of which they were producers in their birth place. The United States of America has a recent history compared to European ones, which they were born millennia of years ago following the early Mediterranean civilizations, or the equally ancient Asian cultures. This feature did not allow the creation of a strong culinary culture of its own; on the contrary, the culture of migratory populations became part of the American tradition. For this reason, in America many typical products of European origin were reproduced and easily they became objects of imitations. Thanks to the economic boom following the Second World War, the American economy grew and the United States of America became promoters of intensive production based on consumerism. American consumerism promoted a culinary culture based mainly on quantity, and speed of production (fast-food). The economic boom brought the phenomenon of fast-food overseas and quickly some brands became more famous than local products, as "Coca-Cola" brand. In the same way, even food products which in turn were imported in American territory by European migrants, such as cheese and wine, were widely exported. European markets were assailed by American products which re-proposed the same typical European products and they used the same original names, since they became part of the common American language, like the terms "parmezan" and "feta". European countries began to endure a severe decrease in sales and they were afraid that consumption and exports of their products could be hold back by the strong American expansion. In order to protect the originality and prevent the formation of imitations, European countries began to have a feeling of insecurity that led to the implementation of some measures that could prevent the misuse of geographical indications: France was the first nation who decided to establish a food protection system that certifies the provenance and methods of production, that followed the tradition and the human being knowledge refined over time. In 1935 was born the AOC, or "Appellation

d'origine contrôlée", a certification granted to certain French products registered as "protected designation of origin", which allowed the immediate recognition by consumers of a certified product of a particular geographical area. This system was not created only to protect products from imitations, but also to guarantee consumers quality, safety and the certainty of a controlled local product. Due to strong markets competition, presence of many foreign products and development of intensive cultivation – that promoted the use of chemical products able to accelerate processing times –, consumers began to demand better control on traceability and a greater level of safety about ingredients: requests that could be fulfilled thanks to the adoption of GI protection systems. The adoption of these systems restrained the American advancement and US' trade relations, so much that they decided to take a contrary position that would promote a system based on competition between brands. In this way two main models of protection were formed: the European model, that promoted geographical indications, and the American one, which promoted brand development.

The European model was born with the AOC system: it provided for a strong link with the territory of origin in which a product should be produced and packaged, since only if it is produced in that particular area it would acquire unique quality characteristics that would not have appeared if the product was produced in a different area. Geographical origin was not enough; the product had to follow the original production methods, obtained from the technical knowledge of the producers learned over the years, that made it one of a kind. Following the example of France, many other European countries of Latin origin decided to adopt similar systems and in 1958 they decided to sign the Lisbon Agreement, which provided for a common definition of denomination of controlled origin, that became the basis from which the future systems belonging to the single nations took inspiration. Following the footsteps of the Lisbon Agreement, in 1992 the European Union introduced for the first time a GI protection system recognized by all the countries participating in the union. The Lisbon Agreement followed the rules adopted by the French system, promoting a strong link with the territory. However, over time the nature for which GI protection systems were born changed. One of the benefits of GI protection systems is the increase of the economic value, i.e. the price, of certified products. This increase can increase more when the product is exported; increasing exports also increases the economic value and profits of the nation itself. This led the countries to have an increasing interest in the adoption of such systems with the aim of entering into commercial agreements that would



succeed in increasing profits and breaking down customs barriers. Furthermore, for both parties, the United States of America and the European Union, bilateral agreements were the best way to promote their protection model and create new business partners. As of matter of fact, as we have seen in the course of this thesis, many nations often participate simultaneously in two different agreements with US and UE, in order to benefit from both parties when they make commercial agreements with them. An example is Free Trade Agreement (FTA) that South Korea has stipulated one with the US and one with the EU: the different attitude taken by South Korea towards the two different agreements underlines a willingness to adapt its model based on the type of economic treaty stipulated, moving away from the main objective, i.e. the protection of geographical indications as such.

Geographical indications became the main topic of commercial agreements, including the TRIPs (1994), the first agreement, promoted by the World Trade Organization (WTO), that recognized geographical indications as intellectual property, like copyright. The TRIPs followed the footsteps of the European Community system but, due to strong debates between the two major superpowers (EU and US), its content remained very vague, in order to provide a general frame from which every single nation could adapt its own protectionist system or base commercial agreements. Although finding a common regulation for all the signatories of the agreement (more than 120 countries) would not have been possible, this 'imprecision' caused a leaving from what was foreseen by the first GI protection systems. A second element provided by the TRIPs that caused this removal was the introduction of a second denomination of origin, the "protected geographical indication" (PGI), already anticipated in the European Community system of 1992. The PGI expanded the registration to non-food products, whose qualitative characteristics were dictated not exclusively by their connection with the territory, but especially by a certain level of social recognition. Furthermore, it did not provide that the entire production process is carried out in the established geographical area. The characteristics of the new geographical indication did not guarantee a strong link with the territory of origin and this could become a problem for consumers who tend to connect this product to the geographical area indicated without really knowing what kind of link there is with it. The expansion to non-food products was a real turning point: many developing countries, especially the eastern countries, such as China and Singapore, and South America countries, like Chile, were known worldwide for their craft products (vases in ceramics, porcelain objects, etc..) and, thanks to this expansion, they could adopt protection systems

succeeding to protect and control their flagship products. The registered products increase their value, favouring a greater export and consequently a considerable internal growth: it was not a coincidence that following the TRIPs many nations decided to adopt GI protection system, in order to counter the recently strong world competition: for example, Mexico introduced GI protection system in 1994; Singapore in 2014; Thailand in 2003; Malaysia in 2000; Japan in 2015.

Japan has been one of the last countries to adopt this system, despite having a great variety of food products and a very ancient culinary culture comparable to some European countries, such as Italy. A question arises: why adopt a food protection system so late? This decision would seem to have been taken for a very different purpose. The current world economic situation is characterized by fierce competition: with the election of the 45th President of the United States of America Donald Trump, US inaugurated a new era based on protectionism. As soon as he was appointed, Donald Trump decided to withdraw from many international trade agreements, such as TPP (Trans Pacific Partnership), and increase the tariffs for the main exported and imported products, weighing on some of the main countries with which he had commercial agreements, such as Mexico, Canada and Japan. Japan felt threatened by the American attitude and it saw its position as a favourite nation undermined, losing almost half the benefits it could have obtained from the original agreement thanks to the participation of the United States of America. Without the support of the US, Japan was forced to look for a new commercial partner and, not surprisingly, between 2017 and 2018 the European Union and Japan stipulated an economic-commercial agreement (EPA) that provided for the mutual protection of geographical indications and the elimination of customs duties, promoting a free trade system that opposed American protectionism.

A second factor that leads us to think that Japan has decided to adopt the GI protection system mainly to establish trade agreements and increase export, is the revision implemented to the Japanese GI protection system the year after its adoption. This revision provides for a specific regulation concerning imported geographical indications, in which it is stated that any commercial agreements based on GI protection products must be stipulated with a counterparty having the same type of protective system. It is no coincidence that in 2015 Japan set up a protection system very similar to the European one. In addition, the EPA raises some doubts: the registered products of European origin, provided by the agreement, are much lower than the totality of GI products registered in

the European community; moreover, most European products are cheeses, one of the most imported foods in Japan, since Japanese production does not achieve the high demand. By signing the EPA, Japan would be able to import foreign products without customs tariffs being imposed. Recently, the 'EPA' topic has been disapproved by many food consortia and organisation, including Coldiretti (the European Confederation of Direct Cultivators). Criticism revolves around how to protect the most famous European products such as "Mozzarella di Bufala Campana" and "Grana Padano": according to the EPA, they are recognized and protected as geographical indications only if the full name is present. In other words, the individual terms of the denomination are not registered and protected as in the case of the term "mozzarella" and "grana". For this reason, the risk of imitations of imported products increases, undermining the same European geographical indications.

In the end, given the recent economic and political developments, we can find that the nature for which the protection systems on geographical indications were originally born is gradually losing importance in favour of a greater need to forge strong commercial agreements. The same Lisbon Agreement also changed over time: in 2015 the "Geneva Act" was promoted: it is a revision of the Lisbon Agreement, which envisaged a reformulation of the originally planned definition and proposed a more flexible approach, extending the protection also to "protected geographical indications" (PGI). This revision is another example of the gradual loss of the original concept for which GI system protection was born: the only agreement that still represented the very emblem of geographical indications, ensuring a strong link with the territory of origin and control over the whole production process, it was lost in 2015, leaving room for new types of indications.

These new systems that were created between the end of the 1900s and the beginning of the second millennium, despite they are the result of unstoppable social, political and commercial changes, could have negative consequences for consumers, causing malformation. That is, at the time of purchase of a certified product with the PGI logo the consumer could automatically associate it to the different PDO logo, believing that both certify the same level of safety and control of the product's origin. From the analyses carried out towards consumers, it appears that there is indeed a principle of misleading information. Concerning the analysis on Italian consumers, it resulted that 65,5% of them, despite knowing the characteristic elements of geographical indications, recognize more logos that paradoxically are not part of the geographical indications' logos. In Italy, according to the community rules, three main identifying logos are recognized: the PDO,

the PGI and the TSG. On the contrary, Italian consumers recognize more the BIO logo which, although it is a logo registered at Community level, is used to simply specify a type of production that follows the natural process of food growth, favouring the abolition of use of chemical and micro-organic substances that can damage the product. Moreover, between the two main identifying logos (PDO and PGI), Italian consumers recognize more the PGI logo, highlighting a probable misinformation regarding the characteristics of the two different logos. If the consumer knew that the PGI mark does not guarantee a high level of control over the entire production process and is made to products which could come from different areas, or in some cases even abroad, would they be willing to buy it anyway? Given the increasingly demand for high levels of quality, probably not. The majority of consumers interviewed admit they were not interested and did not inform themselves about international products of protected origin certified by the European Union. The attitude of Italian consumers seems to be unclear: on the one hand, they agreed on a possible increase in prices, declaring that they are willing to spend more money to buy products of certified origin; however, at the time of purchase, they give more importance to other aspects of the product, such as freshness and quality. The same attitude is also found in the case of imported products: although they were largely favourable to the introduction of more international products of protected origin, they were not entirely convinced that this introduction could change their consumption habits. And again, even concerning the Japanese food products, Italian consumers approving the promotion of a commercial agreement that provides for the protection of geographical indications but, when they find a foreign certification logo, before buying it they would evaluate the price comparing it with the other products, without giving importance to the presence of an identifying logo. This attitude could undermine the decisive success of the EPA and underlines an effective misleading information.

On the contrary, concerning Japanese consumers, it was not possible to obtain sufficient information about the reaction to the Japanese GI protection system, since its recent adoption. However, thanks to some questionnaires carried out by the Japanese consumer office in 2016, it resulted that, although Japanese consumers try to control the place of production on the food products, the main reason for which they choose certified products was dictated by the desire to purchase local products, instead of looking for high level of quality and a controlled production process. Moreover, unlike Italian consumers, the Japanese are less favourable to a possible increase in prices, even for a higher quality.

This attitude confirmed a greater attention by Japanese consumers to the economic value of the product rather than other factors. Analysing the situation among Japanese consumers, some studies have been carried out through the online service of Google Trends: it shows that in the last five years (2014-2018 included) the interest of Japanese consumers in relation to geographical indications has been manifested only in the year in which this system was adopted, measuring very low values of interest for both the periods before and after 2015. Moreover, the highest interest values derive mainly from the regions that produce GI products compared to the more urbanized and populated prefectures, like Tōkyō, Kyōto and Ōsaka. Also, regarding the interest of Japanese consumers about the EPA, it resulted that the highest interest value was recorded during the period of the negotiations of the treaty. Summing up the data obtained to the results of the surveys of the Japanese consumer office, it results that, given the consumers' unwillingness to inform themselves on the argument, the GI protection system may not have had good influences on them for the time being.

Recently, Japanese culinary culture is enjoying considerable success abroad, especially in the European Union: in the last 10 years, a notable increase in Japanese restaurants has been, including "all-you-can-eat", restaurants that allow customers to, literally, "eat whatever you want" at a fixed and affordable price. In this way, Japanese cuisine entered more easily in the everyday life of foreign consumers. In the same way as the protectionist systems have been introduced in European countries, when a nation's flagship products acquire a particular success, the same nation adopts such systems fearing that these products will be imitated. We could find an analogy between the attitude of European countries and Japan. Recently, some typical products of the Japanese territory, like the "Wagyū" meat, are getting notable fame and at the same time they risk being imitated. In 2015 (山本 et al., 2015, pp. 9–10) in the United Kingdom and the United States of America, most consumers did not know the true origin of "Wagyū" meat and this 'ignorance' simplify the production of imitations without consumers being aware of it. Japan may have adopted the GI system protection to prevent the formation of imitations of its flagship products; it is not by chance that among the registered products we find all the "Wagyū" breeds produced in Japanese territory.

In conclusion, we can say that the most recent models of GI protection system would seem to have been born primarily for commercial reasons, moving away from what they were initially born to. This removal, as well as having negative consequences on products

and on the territory itself, can cause negative consequences for consumers and their education. Calboli Irene, in his essay "In Veritas territory? Bringing geographical coherence into the ambiguous definition of geographical indications of origin", found as a solution to this disparity that "GI protection should be limited to those that accurately identify geographical origin" (Calboli, 2014, p. 67). It continues: "It remains crucial to repeat that 'geographical origin', intended as genuine derivation from the land, should be the only reasons for protecting GIs ad intellectual property rights". The appropriate solution according to Calboli Irene is the return to the origins of these systems: geographical indications should be recognized exclusively for products that guarantee a close link with the territory and a high level of control of the entire production process, the same level of protection envisaged by Lisbon Agreement and, even earlier, by the French AOC system. I agree with Professor Calboli's opinion because the geographical indications must represent THE link with the territory. However, there are some considerations that can not be omitted: today the commercial competition has become much more concentrated and intense than during the first half of 1900. In a way, the temporal distance, and the changes that it brings with it, justify the removal from the original systems. The strong competition pushes the countries to try to survive and not to lose the profits from their businesses, even if this attitude means having to devalue the excellence of their nation, including food products. Nowadays it would be impossible to be able to go back to the origins and re-establish protection systems that only allow registration of products that certify a real link with the territory: many of the products already registered should be withdrawn from the market or subjected to greater controls, weighing on exports and on the progress of the market itself. However, if it is not possible to re-establish the regulations laid down by the first systems, a solution could be providing more information for consumers. A clearer and more truthful information about the specification in detail of GI products' characteristics, the difference between the various identification logos, and all that needs to be known could help consumers make a conscious choice at the moment purchase of these products. Furthermore, countries should not only promote international trade agreements, but should also support the promotion of GI products at national level, by further publicizing changes in the legislation of GI products and by creating an internet page, easy to access and understand, in which all local products registered and those promoted by foreign countries are presented. Focusing on information is very important since it allows a conscious choice by the consumer and a more reasonable way to promote GI protection system. Better

information is not only important for consumers, but also for producers and traders who are often faced with very complex and difficult to understand regulations that may not encourage the development of certified products. As we have seen in the case study analysis, Mr Akiba has admitted that it took more than two hours to understand some of the regulations laid down by the EPA, even though they were reported in his mother tongue. As Mr Akiba himself advised, better information would need to be able not only to attract consumers but also to allow producers and traders to incentivize the production of certified products. Although the interview submitted to Mr Akiba is a simple example and it can not be used to obtain more general responses, it has also raised some doubts about the current position of the Japanese State. It would not seem to encourage fair and equitable distribution of the benefits, that companies could acquire from the adoption of the GI protection system. As we comment together with Mr Akiba, the Japanese state has started a sort of lottery whereby only some of the drawn firms would have immediately obtained the cancellation of the taxes on dairy products, programmed after five years in the EPA Agreement. Although the lottery was set up to protect the dairy industry from failure, many of the participating firms were not dairy companies. In this way it could actually provoke more competition, giving benefits to companies that have not made dairy production their advantage. I believe that the State should be the first authority able to promote fair competition and clear information that can promote a protectionist system that guarantees safe controls and an objective connection with the territory, as close as possible to the old concept of *terroir*.

## Appendix

**1)** Qualitative questionnaire' model submitted to Italian consumers. The questionnaire was submitted in Italian language: here it was reported in original language version and it was translated in English language between parentheses.

**Q1:** Acquista prodotti alimentari a marchio certificato DOP/IGP/..?

(Do you buy certified food product?)

- Si, spesso (Yes, usually)
- A volte (Sometimes)
- No, quasi mai (No, never)
- Non ci faccio caso (I ignore it)

**Q2:** Quando acquisti prodotti alimentari, quanto sono importanti i seguenti aspetti?

(When buying food products, how important are the following aspects?)

	1 (unimportant)	2 (less important)	3 (important)	4 (enough important)	5 (very important)
Origine geografica (geographical origin)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Prezzo (price)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Qualità (quality)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Marca/Brand (brand)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Freschezza (freshness)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Valori nutrizionali (nutritional values)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**Q3:** Quanto è importante per lei conoscere l'origine dei prodotti alimentari?

(How important is it for you to know the origin of food products?)

- Molto (very important)
- Abbastanza (enough important)
- Dipende dal prodotto (based on product)
- Non molto (not very important)

**Q4:** Sarebbe disposto/a a spendere di più per acquistare prodotti di origine protetta?

(Would you be willing to spend more to buy product of protected origin)

- Sì (yes)
- No (no)

**Q5:** Se hai risposto "sì" alla precedente domanda, in che percentuale?



(If you answered “yes” to the previous question, in what percentage?)

- Circa 5% (ca 5%)
- Circa 10% (ca 10%)
- Tra 10% e 20% (between 10% and 20%)
- Più del 20% (over 20%)

**Q6:** Quali sono, secondo lei, le caratteristiche di un prodotto di origine protetta?

(What are, in your opinion, the characteristic of a geographical indication product?)

- Assenza di sostanze chimiche e microorganismi indesiderati (Not present of unwanted chemicals and microorganism)
- Alto livello di qualità certificata (high level of certified quality)
- Rispetto delle leggi europee in ambito ambientale ed alimentare (comply with European environmental and food laws)
- Prodotto di una marca nota (product of a known brand)
- Luoghi di origine controllati (controlled places of origin)
- Un brand (a brand)

**Q7:** Quali dei seguenti loghi riconosce?

(Which of the following logos do you recognize?)

- 
- 
- 
- 
- 

**Q8:** Compra prodotti importati a marchio certificato DOP/PGI/..?

(Do you buy imported product with a geographical indication?)

- Sì (yes)
- A volte (sometimes)
- No (no)
- Non ci faccio caso (I ignore it)

**Q9:** Se ha risposto “no” o “non ci faccio caso” alla domanda precedente, sarebbe disposto/a a comprare un prodotto alimentare importato con la denominazione di origine certificata?

(If you answered “no” or “I ignore it”, would you be willing to buy an imported food product with a geographical indication?)

- Sì (yes)
- Non saprei (I don't know)
- No (no)

**Q10:** Sarebbe disposto/a a spendere di più per acquistare un prodotto che, nonostante sia importato, certifichi un alto livello di qualità e provenga da una zona controllata?

(Would you be willing to spend more to buy imported product of protected origin)

- Sì (yes)

- Non saprei (I don't know)
- No (no)

**Q11:** Se ha risposto “si” alla domanda precedente, in che percentuale?  
(If you answered “yes” to previous question, in what percentage?)

- Circa 5% (ca 5%)
- Circa 10% (ca 10%)
- Tra 10% e 20% (between 10% and 20%)
- Più del 20% (over 20%)

**Q12:** Quando acquista generi alimentari importati, quanto sono importanti i seguenti aspetti?

(When buying imported food products, how important are the following aspects?)

	1 (unimportant)	2 (less important)	3 (important)	4 (enough important)	5 (very important)
Origine geografica (geographical origin)	○	○	○	○	○
Prezzo (price)	○	○	○	○	○
Qualità (quality)	○	○	○	○	○
Marca/Brand (brand)	○	○	○	○	○
Freschezza (freshness)	○	○	○	○	○
Valori nutrizionali (nutritional values)	○	○	○	○	○

**Q13:** Si informa sui prodotti internazionali di origine protetta e certificate dall'Unione Europea?

(Do you seek information about international product of protected origin present and certified by European Union?)

- Si (yes)
- A volte (sometimes)
- No (no)

**Q14:** Le farebbe piacere se si iniziasse a vendere di più prodotti internazionali di origine protetta, in grado di garantire una maggiore sicurezza?

(Would you like if international products of protected origin will be sold more?)

- Si (yes)
- Non saprei (I don't know)
- No (no)

**Q15:** Ciò potrebbe cambiare le due abitudini di consumo?  
(Could it change your consumption habits?)

- Si (yes)
- Potrebbe (maybe)
- Dipende dal prodotto (based on the product)
- No (no)

**Q16:** Acquista prodotti di origine giapponese?

(Do you buy Japanese food products?)

- Si (yes)
- A volte (sometimes)
- No (no)

**Q17:** Cerca di controllare la provenienza del prodotto giapponese?

(Do you check the origin of Japanese food products)

- Si (yes)
- A volte (sometimes)
- No (no)

**Q18:** Il logo sottostante è il marchio giapponese di origine protetta. Se dovesse trovare questo marchio su un prodotto alimentare giapponese, come reagirebbe?

(If you find the following Japanese GI mark on a Japanese food product, how would you react?)



- Lo comprerei subito (I would buy it immediately)
- Mi informerei sul marchio e lo comprerei, senza valutarne il prezzo (I would seek information about GI mark and buy it, without evaluating the price)
- Prima di comprarlo, valuterei il prezzo rispetto agli altri prodotti (before buying it, I would compare the price to other products)
- Non lo comprerei ma mi informerei sul prezzo (I would not buy it but I would seek information about the mark)
- Non sarei interessato (I would not be interested)
- Altro (other): \_\_\_\_\_

**Q19:** Di recente, l'Unione Europea e il Giappone hanno firmato un accordo commerciale per promuovere prodotti alimentari di origine controllata. L'accordo prevede l'abbattimento delle barriere doganali e la mutua protezione dei prodotti certificati, in modo da garantire un alto livello di qualità e sicurezza. Cosa ne pensa a riguardo?

(What do you think about the economic agreement, between European Union and Japan, that guarantee elimination of customs barrier and mutual protection on geographical indications?)

- Sono d'accordo e credo sia giusto promuovere prodotti di origine controllata (I agree and I think that it is right to promote products of controlled origin)
- Non mi interessa (I would not be interested)
- Non sono d'accordo (I disagree)
- Altro (other): \_\_\_\_\_

## 2) Contingency table and "Chi-Square" test

Graph 1 – Q1 (TGI) \*Q7

		Q7-IGT Recognition		Total
		No	Yes	
Q1-Purchase Certified Products	No	134	53	187
	Yes	38	36	74
Total		172	89	261

	Value	df	Asymptotic Significance (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square	9,729 <sup>a</sup>	1	,002		
Continuity Correction <sup>b</sup>	8,846	1	,003		
Likelihood Ratio	9,470	1	,002		
Fisher Exact Test				,002	,002
N of Valid Cases	261				

a. 0 cells (0,0%) have expected count less than 5. The minimum expected count is 25,23.

b. Computed only for a 2x2 table.

Graph 2 – Q8\*Q7 (PDO)

		Q7-PDO Recognition		Total
		No	Yes	
Q8-Purchase of Imported Certified Product	No	75	49	124
	Yes	54	83	137
Total		129	132	261

	Value	df	Asymptotic Significance (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square	11,557 <sup>a</sup>	1	,001		
Continuity Correction <sup>b</sup>	10,730	1	,001		
Likelihood Ratio	11,643	1	,001		

Fisher Exact Test				,001	,001
N of Valid Cases		261			

a. 0 cells (0,0%) have expected count less than 5. The minimum expected count is 61,29.

b. Computed only for a 2x2 table

### Graph 3 – Q8\*Q7 (PGI)

		Q7-PGI Recognition		Total
		No	Yes	
Q8-Purchase Imported	No	60	64	124
Certified Product	Yes	49	88	137
Total		109	152	261

	Value	df	Asymptotic Significance (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square	4,263 <sup>a</sup>	1	,039		
Continuity Correction <sup>b</sup>	3,760	1	,053		
Likelihood Ratio	4,270	1	,039		
Fisher Exact Test				,045	,026
N of Valid Cases	261				

a. 0 cells (0,0%) have expected count less than 5. The minimum expected count is 51,79.

b. Computed only for 2x2 table

### Graph 4 – Q7 (PGI) \*Q2 (Origin)

		Q7-PGI Recognition		Total
		No	Yes	
Q2-Origin Importance	No	48	51	99
	Yes	58	97	155
Total		106	148	254

	Value	df	Asymptotic Significance (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square	3,042 <sup>a</sup>	1	,081		
Continuity Correction <sup>b</sup>	2,604	1	,107		
Likelihood Ratio	3,033	1	,082		
Fisher Exact Test				,091	,053
N of Valid Cases	254				

a. 0 cells (0,0%) have expected count less than 5. The minimum expected count is 41,31.

b. Computed only for a 2x2 table.

Graph 5 – Q7 (PGI) \*Q2 (Quality)

		Q7-PGI Recognition		Total
		No	Yes	
Q2-Quality Importance	No	14	7	21
	Yes	92	141	233
Total		106	148	254

	Value	df	Asymptotic Significance (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square	5,853 <sup>a</sup>	1	,016		
Continuity Correction <sup>b</sup>	4,789	1	,029		
Likelihood Ratio	5,784	1	,016		
Fisher Exact Test				,020	,015
N of Valid Cases	254				

a. 0 cells (0,0%) have expected count less than 5. The minimum expected count is 8,76.

b. Computed only for a 2x2 table

Graph 6 – Q1\*Q2 (Origin)

		Q1-Purchase Certified Product		Total
		No	Yes	
Q2-Origin Importance	No	80	19	99
	Yes	101	54	155
Total		181	73	254

	Value	df	Asymptotic Significance (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square	7,222 <sup>a</sup>	1	,007		
Continuity Correction <sup>b</sup>	6,478	1	,011		
Likelihood Ratio	7,485	1	,006		
Fisher Exact Test				,007	,005
Linear-by-Linear Association	7,193	1	,007		
N of Valid Cases	254				

a. 0 cells (0,0%) have expected count less than 5. The minimum expected count is 28,45.

b. Computed only for a 2x2 table

3) The interview with Mr Akiba Yoshikazu in Japanese language is following.

私 今日は。お元気ですか。

秋葉氏 今日は。はい、元気です。

私 では、インタビューを始めましょうか。

秋葉氏 はい、始めましょう。

私 日本の地理的表示保護制度と EPA 協定についてインタビューをしたいと思います。まず、その地理的表示保護制度に関してどう思いますか。賛成ですか。反対ですか。

秋葉氏 これは、絶対に賛成ね。

私 そうですね。なぜですか。

秋葉氏 これは、本物を守ることになるから。例えば、イタリアのパスタといっても本当は登録から来ている。後、ギリシアから来ている。それをただパックをイタリアでしたら「メイド・イン・イタリ」になるね、今は。これは間違っています。後、日本でもそうね。「メイド・イン・ジャパン」といっても、中国から日本の食品をパックを日本でしたら「メイド・イン・ジャパン」。これはおかしいね。

私 わかりました。「和牛」という食品にも同じことを起こりますか。

秋葉氏 和牛にもそう。ぜひ本当に同じことね。和牛では今一番世界で一番和牛は作られているのは多いのはオーストラリア。オーストラリアは日本の和牛の名前を使っているけど、実はオーストラリアね

私 あっ、そうですか。私がアメリカを思いました。

秋葉氏 いいえ、違う、違う。「メイド・イン・オーストラリア・ワギュー」多い、これが。

私 わかりました。EPA 協定に関してどう思いますか。あまりはっきりしない点や曖昧な点などの欠点がありますか。

秋葉氏 あるよ！日本では、チーズのような酪農製品の関税が現在 29.8%。EPA で、パスタとトマトの関税はゼロになってるけど、酪農製品では 15 年間、毎年 2%減る。つまり、15 年後にはゼロになる。でも、宝くじのおかげで、すぐに税をキャンセルした可能性がある会社があります。400 以上の企業がこの宝くじに参加し、20 の企業しか抽選されなかった。20 の企業がすぐ関税を取り消すに対し、他の企業が 15 年後酪農製品の関税をゼロになる。この宝くじではね、歴史的に酪農製品を輸入する企業だけでなく、輸入することに興味がない企業も参加してきたため、多くの輸入車が反対するよ。減税は EPA 内で決めたけど、日本は酪農産業を保護

するためにこの宝くじを作成した。すべての酪農産物が関税なしに酪農製品を輸入できれば、日本の酪農産業は失敗してしまうからだ。

私　　そうですか。わかりました。

秋葉氏　だから EPA は全てオープンではなくて、おかしいところもあるね。日本でも。多分、イタリア人、これを知っているほとんどいないじゃないかなあ。面白いと思う。

私　　はい、何も知らないと思います。インターネットでも何も書いてありません。

秋葉氏　すごく難しい説明が書いてあって、このロツタリに参加するためには、いろんな条件があるね。全部日本語書かれているのに、日本人、僕でも、理解するのに二時間かかったから。

私　　そうですか。

秋葉氏　はい、本当に難しい。トマトとワインは 2 月からインポート・デューティーはゼロになる。すごく売りやすくなるね。今、日本の中で一番売れているワインはどこのワインだと思う？

私　　もしかしたら、アメリカからですか。

秋葉氏　違う。チリ。なぜかと言うと、日本の政府とチリが特別な契約をしてインポート・デューティーがちょっと低い。その結果、値段は安い。でも、今回、EPA でイタリアのワインがインポート・デューティーゼロになるね。そしたら、イタリアのワインの方がチリのワインよりも安くなる。なので、これから 2 月より後は日本の中ではチリのワインよりイタリアのワインの方が売れるようになる。だから、僕はイタリアからワインを輸入するのはすごくチャンス、今。

私　　そうですね、わかりました。EPA 協定の目的は、秋葉さんの意見では、なんですか。

秋葉氏　目的はね、すごく簡単で、やっぱり偽物が多い。例えば、あの「パルミジャーノ・レッジャーノ」、本当は作って地域がすごく小さい地域ね。でも、みんな「パルミジャーノ・レッジャーノ」と言うって違うところで作っても「パルミジャーノ・レッジャーノ」と言うってる。こう言う偽物をやめさせるために EPA がある。イタリアだけできめてダメで、日本もそう言う色々食品を作る、野菜を作る国だから日本もね。フィロソフィーが似ている、イタリアと。なので、嘘と言うって食品を全部やめさせるために、この EPA があるね。本物の商品だけをちゃんと守りましょう。そうじゃないと、真面目にやっている人がバカみたいね。例えば、いろんな条件があるね。決まった方法をやれないといけないのに、



そうじゃない、安く作れるところが真似をして「パルミジャーノ・レッジャーノ」に似ている。これはおかしいです。だから、僕は正しいと思います、EPA は。例えば、日本に入ってきているイタリア産のオリーブオイル、70%は偽物だからだ。全部ギリシアから来ている。でも、EPA をできたとは全部オリーブオイルは本当のイタリアで作ったものしかイタリア産と言えない。だから、すごくいいことと思う。僕の会社はACトレーディングは本当のイタリア100%しかやっていないので、僕の会社はすごくラッキー、今は。

私 なるほどです。わかりました。EPA 協定は、例えば「パルミジャーノ・レッジャーノ」の場合には全体の名称を守ることにします。しかし、例えば「パルミジャーノ」と「レッジャーノ」の一つずつの名称を守らないことにします。多くのイタリア酪農会社はあまり賛成ではありません。一つずつの名称を守らないと、非常に偽物を作ることが容易になるからです。

秋葉氏 なるほど。でも、これは決めただけですか？イタリアの人たちがみんなの話をしてイタリア人が決めたんだよ。だから、日本人ただイタリアの政府が言うっていてから、「わかりました」と言うってだけ。文句だったら、イタリアの多くの会社がイタリアの政府とミーティングをしないといけない。日本の方は「わかりました」と言うって言うことも聞いてくれると思う。EPA の決めるときは決め方がイタリアで問題があったかもしれない。

私 日本が 2015 年はこの保護制度しか導入されませんでした。他の国により、最近起こった制度です。秋葉さんの意見では、なぜですか。主な目的がどれですか。

秋葉氏 日本の政府が日本のミルクを作っている。牧場と言うけどね。あるいは日本語で酪農家という。酪農家は守らないといけない。もし、安いミルクプロダクトは日本に入ってきたらこの人たちからだれも買ってくれないね。日本にはミルクは高い、すごい高い。なので、日本人が作ったミルクはすごい高い。もし、イタリアまたドイツから安いミルクが入ってきたら、その人たちは倒産してしまいます。なので、その人たちを守るために。もう一つ、日本のコメ。米を食っている人はむかし多かった。でも、最近少なくなってきた。みんな年をとってきて。この EPA をやると、いろんな国からもしかしたらコメは輸入されてしまうかもしれない。日本のコメの農家はビジネスできなくなってしまう。だから、日本のこういう生産の決め方全てプロテクト、プロテクト、今まで考えて。

でも、やっぱりワールドワイドの考えをしなければなりません。だから、2015年仕方がないんです。ワールドワイドに変わらしましょう、日本も。EPAの話も『あっ、じゃあ、やりましょう』となった。それだけ、他に理由何もない。

私 そのEPA協定について日本人の消費者が、秋葉さんの意見では、どう思いますか。

秋葉氏 知らないまだみんな。ほとんど知らない。なんとなく『あっ、聞いた』ことがあります。今、興味がある日本の政府の僕達みたいな輸入者です。

私 グーグルトレンドの調査によれば、一般的に日本の消費者が地理的表示についてあまり関心がありません。なぜですか。

秋葉氏 本当の意味したら、例えば「農家を守るためです」、「産地を守るためです」、そして、「本物を安く取引することによって偽物をなくすことです」という意味がみんな分かってても、そのことをみんな理解していない。説明がないから。日本では政府のそういうことを諸費者に説明していない。もし、説明したら、消費者が100%賛成すると思う。なので、今はね、準備をしているところかなあということ。あと、一年後、2年後、日本でもすごく有名になって、みんなからすごくアクセプトされると思う。

私 わかりました。

秋葉氏 だから、時間がかかる。日本政府で何かやると必ず時間がかかるね。決まったことは最後までやるから、真面目。日本人のフィロソフィーだ。

私 そうですね、私もそう思います。

秋葉氏 EPAについても同じこと、だんだんと日本人に広がっていくと思う。だから、2年後に例えば、あなたが『EPAを知っていますか』日本人に聞いたら、100%知っていると思う。今、まだそこまできていない。

私 秋葉さん、なぜイタリアと日本製の食品に関するビジネスを展開しました。

秋葉氏 僕は日本でトップ5に入る会社に勤めた時、イタリアのチーズを日本に輸入する係員だった僕はね。その時に、イタリア食品は「いいなあ」、あとは、僕はイタリアのファッションが好きだからね。僕はやめたあと、イタリア食品をやりたいです。そして、チーズとワインと始めた。あとね、イタリアのチーズ、本物のチーズだ僕はと思う。でも、日本の大きい会社では毎年担当者は三年後変わって、例えば今はチーズ、三年後には肉の担当、三年後にはパスタの担当ね。だから、みんなノーハウ

が少ない大きい会社でしょう。でも、僕は自分で、やめて、今チーズを20年後もやるね。僕がノーハウがすごくある。大きい会社よりも僕の会社が小さいけれども、すごくノーハウがある。だから、小さい会社なのに、「イゴール」と「グラナロロ」というブランドを全部僕が売っている。だから、本物を伝えることができる。イタリアの大きい会社は僕の会社がすごく感謝している。だから、『ビジネスのチャンスがあるなあ』と思って、始めた。

私 わかりました。「ワライスシ」の產品の中であまり地理的表示產品がありません。なぜですか。

秋葉氏 準備しているよ。今、輸入始めてまた、今までは「フォーデックス」というイタリアにある会社から買っていた。今は僕のオリジナル・ジャパン自分で輸入を始めた。それで、例えば今度「熊本」というところも醤油を始めたね。これは熊本の醤油と東京の溝ですとか、これからは「ワライスシ」はそうやって、地域の名前を出してきます。

私 そうですか。良かったと思います。

秋葉氏 そうそう。そして、面白いことを考えていて、2ヶ月あるいは3ヶ月の一度日本の人たちがみんな「ワライスシ」にきます。ジャパンフェアがあります。三月には熊本フェアをやります。熊本の政府の人と熊本のメーカーがみんな来て、自分で宣伝します。そして、次は山口県のフェアがあります。その場所には「ワライスシ」がプラットフォームにやります。だから、寿司を売れるだけじゃなくて、日本の良いもののちゃんと産地の名前保護しながら、そして、イタリアに紹介しに来ます。これをやると、中国の会社に違うと言える。最後に、消費者が来て、自分の商品を宣伝できる。その場所がイタリアにはないから。だから、それをやっていく。すごく良いことだと思います。

私 そうですね、私もそう思います。今、イタリアには、非常に寿司を作っている中国のレストランがあると思います。日本の本物を売れることが必要だと思います。その上、そのようなことをすると、秋葉さんの意見では、イタリア消費者にはどのように影響を与えますか。

秋葉氏 実は、わからないかもしれない。例えば、「ワライスシ」のコーナーにはテレビがあるでしょう。そこで例えば、『熊本がこういう場所でしょう』と書いてある、熊本の食品を説明して、そういうアクティビティはすると、みんな安心して、買うと思う。イタリア消費者にとって、選ぶ理由ができるから良いかもしれない。

私 そうですね。わかりました。イタリア人は地理的表示に興味があるため、私もそう思います。本当に良い選択だと思います。では、終わりました。本当にありがとうございました。よろしくお願いいいたします。

秋葉氏 はい、よろしく。

The interview with Mr Akiba Yoshikazu in English language is following.

Silvia Good morning, how are you, Mr Akiba?

Mr Akiba Good morning, I'm fine.

Silvia So, shall we start with the interview?

Mr Akiba Yes of course.

Silvia I would like to interview about EPA agreement and Japanese GI protection system. First of all, what do you think about GI protection system? Do you agree with it or not?

Mr Akiba I absolutely agree.

Silvia Why?

Mr Akiba Because it will protect authentic products. For example, pasta comes from Italy. Afterwards, it comes from Greece, too. If I just pack it in Italy, "Made in Italy" label will be shown. But this is wrong. Later the same thing occurred in Japan, too. Even if label show "Made in Japan", Japan packs Japanese food from China shown this label. This is strange.

Silvia I understood. Does the same thing happen to "Wagyū" meat?

Mr Akiba Yes, it is also happening for Japanese beef cattle, too. It is really the same thing. The country that produces more Wagyu meta in the world is Australia. Australia uses "Wagyu" name, but the meat come from Australian cattle.

Silvia Really? I thought it is America.

Mr Akiba No, it is different. Now, there are many "Made in Australia Wagyu" products.

Silvia I understand. What do you think about the EPA Agreement? The agreement shows some disadvantages such as obscure or ambiguous points?

Mr Akiba There are! Now in Japan, the import duty on dairy products like cheese is 29.8%. Thanks to EPA, the import duty of pasta and tomato become zero, but in dairy products it is reduced by 2% every year for 15 years. In other words, it will be zero after 15 years. However, some companies have the possibility of removing the tax immediately, thanks to a lottery. Over 400 companies participated in this lottery and only 20 companies were drawn. While 20 companies immediately remove import duties, other companies will obtain the same effect only after 15 years. Many of Japanese companies do not agree with it, because in this lottery not only

companies that historically import dairy products, but also companies that are not interested in importing have participated. The decision of reducing taxes was taken within the EPA, but Japan created this lottery to protect own dairy industry. If all Japanese dairy industry can import dairy products without tariffs, Japanese dairy industry will fail.

Silvia That's right. I understood.

Mr Akiba So, EPA is not really very open, there are unusual point too. Perhaps, I think many Italians do not know this thing. I think it is interesting.

Silvia Yes, I think that Italians do not know anything. There is nothing written on the internet, too.

Mr Akiba A very difficult explanation is written and there are a lot of conditions to participate in this lottery. Even though information is written in Japanese language, Japanese people, even me, took two hours to understand all the rules.

Silvia Really?

Mr Akiba Yes, it is really difficult. The import duty will be zero from February for tomatoes and wine. They will be very easy to sell. What kind of wine do you think is the bestselling wine in Japan now?

Silvia Probably, the United State one?

Mr Akiba No, it is come from Chile. The Japanese government had made special contracts with Cile and the import duty became a bit lower. As a result, the price become cheaper. But this time, thanks to EPA, the Italian wine will be import without duties. Then Italian wine will be cheaper than Chilean wine. So, in Japan after February Italian wine will sell more than Chilean wine. For this reason, I have a big chance to import wines from Italy, right now.

Silvia Yes, I understand. What is the purpose of the EPA Agreement in Akiba's opinion?

Mr Akiba The purpose is very simple. There are many counterfeiters after all. For example, "Parmiggiano reggiano" actually is produced in a very small area. But even if this product is made in a different place and label display "Parmiggiano reggiano", everyone recognize it as "Parmiggiano reggiano". EPA had to stop the imitation like this. This phenomenon does not happen exclusively in Italy, but in Japan too. Japan is also a country that produce vegetables and a lot of food products. Philosophies are similar. So, EPA was stipulated in order to stop imitating authentic foods. Let's protect only the genuine goods properly. If it is not as this, people who produce them seriously seems to be stupid. For example, there are various conditions for the right production of "Parmiggiano Reggiano". Although the required production methods must be followed, if this is not done, the imitation of the "Parmiggiano Reggiano" can be cheaply produced. This is wrong. So, I agree with the EPA. For example, 70% of Italian olive oil entering in Japanese market is a fake product and it came

from Greece. However, thanks to EPA all Italian olive oil will be recognized as such if it produced exclusively in Italy. That's why I think it's really good. As my AC Trading Company is only trading with Italy, now is very lucky moment.

Silvia Of course! I understood. However, the EPA Agreement, for example in the case of "Parmiggiano reggiano", will protect the entire denomination. It will not protect the single names, such as "Parmiggiano" and "Reggiano". Many Italian dairy companies do not agree with this decision. It is because it makes it very easy to produce imitations.

Mr Akiba Yes. But who decided this? Italians decided it. That's why Japanese people only say "I understand" since the Italian government decided it. In complaints, I think that many Italian companies have to meet with the Italian government. I think people in Japan will also hear what they say "I understand". However, this could be a problem for Italian companies.

Silvia Japan introduced GI protection system only in 2015. It is a very recent system, compared to other countries. In your opinion, Mr Akiba, why? Which is the main purpose?

Mr Akiba Japan have a lower production of dairy products and it must protect them and dairy farmer. If cheap dairy products come into Japan, consumers will not buy anyone from these farmers. Milk in Japan is expensive, it is very expensive. If cheap dairy products come in from Italy or Germany, Japanese dairy production will go bankrupt. So, system is important to protect those people. Another reason concern rice. There were a lot of people producing rice. But recently they decreased, because everyone getting old. Thanks to EPA, rice could be imported from different countries and Japanese rice farmers will not be able to continue doing business. For these reasons, become important protecting these food products. But, we have to think in a worldwide way. So in 2015 there was no alternative. And so, Japan started to think about EPA, too. That's it, there's nothing else reason.

Silvia What do Japanese consumers think about the EPA agreement in your opinion?

Mr Akiba I do not know yet everyone; I know little. Somehow, I heard "I heard it" among consumers. However, people who are really interested now are the traders, like me.

Silvia According to the Google Trends survey, Japanese consumers are generally less interested about geographical indications. Why?

Mr Akiba Even if everyone understands the meaning "to protect farmers", "to protect production areas", and "abolish fake products", everyone does not really understand it, because there is no explanation. In Japan, the government do not explain so much to consumers. If rules were well explained, I think consumers will totally agree. Currently, the system in

still evolving. Probably, after one or two year, it will acquire fame in Japan and I think that everyone will accept it.

Silvia Yes, I understood.

Mr Akiba It only need time. When Japanese government decided to do something, it does so very seriously but it takes time. This is the Japanese philosophy.

Silvia Yes, I think so too.

Mr Akiba I think the same thing about EPA: it will gradually spread to Japanese people. After two years, I think that if you try asking Japanese people "Do you know EPA?", 100% of them will know it. Now, it is not over yet so far.

Silvia Akiba, why did you decided to develop Japanese food products business with Italy?

Mr Akiba When I worked for one of a Japanese top-five company, I was an attendant who imported Italian cheese to Japan. At that time, I thought that Italian food is good. Moreover, I like Italian fashion, too. After I quit, I would like to do business on Italian food, and I started with cheese and wine. In Japan, in a big company every three years the person in charge has changed their business, for example who starts doing business among cheese products after three years he will change and do business among meat products and after three more years among pasta. So, in a big company everyone has a very low level of knowledge. But I decided to do business on my own, and I trade in dairy products for over 20 years. I obtained a great know how, even if my company is smaller than others. So even though it's a small company, in Japan I managed to sell all the products of 'Igor' and 'Granarolo' brands. Italian big companies is very grateful to my company. So, I started thinking that there is a chance of business.

Silvia I understood. There are not much geographical indication products among the products of Warai Sushi. Why?

Mr Akiba I'm working on it. Until now, I bought Japanese products from Foodex company. Now I started importing by myself, using Original Japan brand. For example, the place called "Kumamoto" also started to produce soy sauce. From now on, Warai Sushi will import it and display the name of the area on label.

Silvia That's right. I think that it was a very good idea.

Mr Akiba Oh yes! And I am thinking about interesting things, all Japanese people will come to Warai Sushi once in 2 months or 3 months. There is Japan fair. I will participate in the Kumamoto Fair in March. All of the Kumamoto Government people and Kumamoto makers come promoting themselves. And next there is the fair in Yamaguchi Prefecture. In that places Warai Sushi will organize a stand. So, I want not just selling sushi, but I want to introduce other authentic Japanese products to Italy, while

properly protecting the name of the place of origin. I want to differentiate from Chinese companies. Finally, consumers can come and advertise their products. There are not place like this in Italy. So, I will do it. I think that it is a very good thing.

Silvia Yes, I think so too. In Italy there is a lot of Chinese restaurant that makes sushi. I think it is a very good idea to sell real Japanese food products. Moreover, how do you influence Italian consumers, doing this kind of things?

Mr Akiba Actually, I don't know. For example, there is a television in the corner of Warai Sushi. For example, in these screens I would like to project some explanatory videos in order to reassure consumers. It may be good for Italian consumers, because there is a valid reason to choose and buy a product.

Silvia Yes of course. I think it is a great idea because Italians are interested in geographical indications. Well, the interview is over. I'm really thankful to you. Thank you for your time.

Mr Akiba Thank to you too. Bye.

Silvia Goodbye.



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