



European Economic and Social Committee

INT/760
**EU geographical indication/
non-agricultural products**

Brussels, 18 February 2015

OPINION

of the
European Economic and Social Committee
on the

**Green Paper - Making the most out of Europe's traditional know-how: a possible extension of
geographical indication protection of the European Union to non-agricultural products**

COM(2014) 469 final

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Rapporteur: **Ms Walker Shaw**
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On 1 October 2014, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Green Paper - Making the most out of Europe's traditional know-how: a possible extension of geographical indication protection of the European Union to non-agricultural products
COM(2014) 469 final.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 2 February 2015.

At its 505th plenary session, held on 18 and 19 February 2015 (meeting of 18 February), the European Economic and Social Committee adopted the following opinion by 155 votes to three with one abstention.

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1. Conclusions and recommendations

- 1.1 The EESC supports the extension of Geographical Indication (GI) protection to non-agricultural products through a unitary EU regulation, which it considers will provide valuable and necessary protection to companies that have a proven record of stimulating economic growth and innovation, and providing high skilled and better paid jobs.
- 1.2 The EESC recommends that both the voluntary GI system and the mandatory origin marking on consumer products from the product safety package should be supported, taking into account results of the studies already undertaken, to provide greater traceability, transparency and information for consumers and to give recognition of provenance to producers across the EU.
- 1.3 As far as possible, this system should follow the existing framework for agri/food products to keep uniform systems for registration, protection, monitoring and enforcement, and to avoid confusion for administrations and consumers. It should also guarantee the same level of protection and safeguards under TRIPS enjoyed by agri/food products.
- 1.4 GI and other intellectual property intensive companies generally invest heavily in high level skills training and should be supported in protecting their products and know-how, allowing them to channel investment into positive skills training and developing social capital rather than into defensive legal action.

- 1.5 The EESC believes a formal registration process is needed. Registration should be valid for an unlimited period to avoid bureaucracy and cost, but subject to ongoing monitoring and enforcement to ensure that the products maintain the criteria of the status. A procedure for removal from the register where warranted should also be available.
- 1.6 The registration process should be transparent and independent, preferably publically funded and administered, and free of charge. If it is decided to introduce a fee, this should be kept very low to avoid being a deterrent to registration, or to risk costs being passed on to consumers. Registration should be completed within a set timeframe to avoid drawn out bureaucracy and uncertainty for companies and consumers alike – 18 months would seem reasonable. The EESC recommends that SMEs' suggestions for avoiding additional costs should help to shape the application of the system.
- 1.7 Protection of provenance and the association this carries with heritage, tradition, quality, product specification, craftsmanship and know-how is important. A strong link between the product and place of origin is required. The EESC believes that the combined approach adopted for agricultural products – protected designations of origin (PDO) and the more flexible protected geographical indications (PGI) – would ensure an inclusive coverage of products which need protecting.
- 1.8 The EESC believes that the relationship between the GI system for non-agricultural products and trade mark law should be defined in a similar way to that currently used for agricultural products, providing continuity across all products and avoiding confusion.

2. **Background and Introduction**

- 2.1 The Green Paper "Making the most out of Europe's traditional know-how: a possible extension of geographical indication protection of the European Union to non-agricultural products" follows up on the study published by the Commission in March 2013¹ which takes the view that existing legal instruments available for producers at national and European level are insufficient. The Commission organised a public hearing on 22 April 2013 to discuss the results of the study and provide a platform for a wide debate on the need for more efficient GI protection of non-agricultural products at EU level. In the light of the results of the study and the outcome of the public hearing, the Commission decided to pursue its analytical work through this consultation Green Paper.
- 2.2 In September 2013, the European Patent Office and the Office for Harmonisation in the Internal Market produced a joint study in cooperation with the Commission entitled "Intellectual property rights (IPR) intensive industries: contribution to economic performance and employment in the EU"².

¹ http://ec.europa.eu/internal_market/indprop/docs/geo-indications/130322_geo-indications-non-agri-study_en.pdf.

² http://ec.europa.eu/internal_market/intellectual-property/docs/joint-report-epo-ohim-final-version_en.pdf.

The study highlights the economic value of intellectual property intensive industries (including GI-intensive industries) in terms of output, employment, wages and trade, and the contribution they are making to the Europe 2020 objectives of employment and growth. The study shows that IP intensive industries generate over 26% of employment in the EU and 39% of EU economic activity. They also generally pay higher wages with a premium of over 40%.

- 2.3 At the EU summit in March 2014, President Barroso presented the Communication "For a European industrial Renaissance"³, which reinforced the importance of IPR and GI intensive industries to sustainable economic growth in the EU, and the need for the EU to support such industries. It highlighted that many of these companies had seen better growth and performance than other industries over the crisis.
- 2.4 Currently, only agricultural products and foodstuffs (wines, spirits) enjoy unitary protection granted exclusively at EU level. Non-agricultural GIs are protected only at national/regional level, through various national legal frameworks. These have not been harmonised across Member States, and there are significant differences in definitions, procedures, levels of protection and enforcement, which is not helpful to either companies or consumers. Non-agricultural products are, however, covered by laws on unfair competition or consumer deception, but again with different scope and approaches.
- 2.5 Many companies producing non-agricultural products with high levels of geographically based traditional craft skills and know-how operate in an international environment, and are finding it increasingly difficult to protect the quality, authenticity and integrity of their products from bad faith labelling, fraud and counterfeit and trade mark abuse. With no unitary protection, companies and consumers have to rely on a confusing variety of approaches and levels of protection across the EU. Many companies find this costly and ineffective, and spend considerable sums of money defending themselves on a case by case basis. This is a burden both financially and in terms of human resources. Companies have been calling on the Commission to extend GI protection to non-agricultural products.
- 2.6 Whilst existing national GI instruments, together with laws on unfair competition and consumer deception which exist in all EU Member States, provide a certain level of protection for non-agricultural products, in practice these laws are limited and many companies complain that they fail to provide effective protection against the misuse of non-agricultural GI names.

3. **General comments**

- 3.1 Extending GI protection in the EU to non-agricultural products would benefit both producers and consumers. It is not a protectionist measure. Rather it would ensure fair competition for

³ [COM\(2014\) 14 final](#).

producers, to help protect the quality and integrity of their traditional products, crafts or processes (which are often highly skilled) and, at the same time, would provide the consumer with reliable information on the place and/or method of production and a guarantee of the authenticity and quality of the product.

- 3.2 The EESC believes that extending the GI system to non-agricultural products would bring clear economic benefits to the EU. It is an opportunity to promote and protect traditional products, know-how and high level skills, often developed through specialist vocational schools and colleges, that have a proven record of creating good and stable jobs. By providing guarantees of provenance and quality of products, this would increase their attractiveness, and help build their profile and boost sales. A more universally recognised status could also contribute to promoting tourism and other income related to the products, bringing further economic benefit. It would also offer more uniform and effective EU-wide protection against losses caused by counterfeiting and imitation.
- 3.3 There are many non-agricultural products with a strong GI recognition and reputation across the EU which are regularly subject to misuse and imitation. Though some of these companies have weathered the crisis better than others, the instance of abuse of trademarks and counterfeiting and imitation has increased with the pressure of the crisis. Unscrupulous companies have sought to make fast money on the back of the name and reputation of quality GI products, but without any connection to the origin, provenance, quality or craftsmanship/know-how associated with the product. This results in loss of revenue and market share for legitimate traders, as well as potential reputational damage and additional legal costs. Producers of products such as Bohemian Crystal, Savile Row Bespoke, Marmo di Carrara, Harris Tweed, Paška čipka (Pag lace), Schwarzwälder Kuckucksuhr, Ceramica Artistica e tradizionale di Vietri sul Mare, Stoke on Trent potteries, Brački kamen (Brač stone and sculpture), Deruta ceramics and Murano, face a constant challenge to protect themselves by launching campaigns, registering trademarks and taking legal action. Extending GIs to such products could help avoid this constant and costly defensive legal action.
- 3.4 Harmonised legislative protection matching the protection afforded to the agri/food sector and compatible with existing European and international legal frameworks will help to preserve traditional cultural and artistic heritage reflected in many eligible products and reduce misuse. By reducing the costs to SMEs of protecting the reputation of their products through litigation, they will be able to invest more in innovation, product development, and broadening their market, and avoid increasing prices of their products for consumers.
- 3.5 Many customers of GI products are discerning consumers making informed choices based on quality craftsmanship and authentic products. They have a right to expect protection of the integrity of the products for which they are often paying a premium. This does not restrict choice or competition, because GI protection can be granted to any company that meets the product specification, provenance, quality, characteristics, craftsmanship and know-how criteria defining the status.

4. **Specific comments**

- 4.1 The EESC believes that a unitary EU Regulation is required for harmonisation of non-agricultural GI products. Existing current alternatives are too fragmented, confusing, costly and ineffective for many valuable businesses to survive as they lack the resources to deal with such diverse structures and laws operating at regional or national level across the EU. Greater consistency will help companies survive and grow, and ensure their products are less vulnerable to abuse.
- 4.2 The EESC encourages the Commission to simplify the process of this extension by keeping close to the existing harmonised legislative framework applied to agricultural/food products where relevant, applying best practice, and learning from the experiences of introducing protection for this sector to inform the system to be applied to non-agricultural products. Whilst accepting that some sectoral specificities may require a different approach, as was applied with wines and spirits, continuity of application and an inclusive approach to products to be covered across the sectors should be the general rule. Non-agricultural products should enjoy the same safeguards and protections provided to agricultural GIs in relation to the TRIPS agreement. The EESC would, however, urge the Commission to assess the scope for improving on these protections in the light of experience of the application of TRIPS to date, particularly in relation to clear, consistent and structured notification and registration systems, and consistency in treatment.
- 4.3 Whilst the EESC understands that the GI system is a voluntary provision distinct from current proposals for mandatory origin marking on consumer products manufactured or imported into the EU contained in the product safety package, it recommends that both of these proposals are adopted to provide greater traceability, transparency and information for consumers and to give recognition of provenance to producers across the EU.
- 4.4 The EESC anticipates that harmonisation of GI protection of non-agricultural products will also provide benefits in EU trade relations with third countries as it will simplify procedures and give clarity for products which receive automatic protection. It will provide a more focussed approach to trade negotiations and help to protect valuable EU products, which often have a high export value. This enhanced protection will also act as a "chill factor" to those considering counterfeit or misuse of the status.
- 4.5 Many GI products require extremely high skill levels in their production. Companies have invested heavily in skills and know-how training over generations. Many have well established and successful apprenticeship and continuous training schemes, developing highly qualified people with very marketable skills. The EESC believes such companies should be supported in developing this valuable social capital by helping them to protect their products and know-how, and allowing them to channel investment into positive skills training rather than defensive legal action. GI companies provide valuable jobs and learning opportunities to

people, who have found their talent nurtured in craft training. The EESC also recognises the mutual dependence of many specialist vocational training colleges and GI producers in certain countries and regions, for example the vocational college training stone cutters in Brački kamen. Some of those companies are located in remote and high unemployment areas, which makes their role in the labour market even more important.

- 4.6 In determining the association with a given place, the key focus has to be providing protection of provenance and the association this carries with heritage, tradition, quality, product specification, craftsmanship and know-how. A strong link between the product and place of origin is required. The EESC believes that the two types of link approach adopted for agricultural products – protected designations of origin (PDO) and the more flexible protected geographical indications (PGI) – would ensure an inclusive coverage of products which need protecting. Any symbols accepted under the scheme would have to stand up to unambiguous association and recognition and meet the criteria of the GI and be uniform throughout Europe to avoid confusion for consumers and to help establish recognition.
- 4.7 Whilst the EESC acknowledges that quality and origin are not necessarily synonymous, it recognises GI products have a reputation built on a value to customers, and that quality characteristics are often in the DNA of GI products and can be important in defining and protecting the quality craftsmanship and know-how, and in monitoring and enforcing standards across companies. Many producers or associations of GI products already have their own benchmarks defined, and actively "self-police" these standards to protect the integrity of their products. However, the EESC recognises that these voluntary monitoring schemes and codes of conduct do not work in all Member States and need to be accompanied by formal mechanisms for monitoring and enforcement at national and EU level. The EESC notes that, due to the crisis and austerity measures, many monitoring and enforcement agencies have been subject to cuts, and that measures to ensure effective monitoring and enforcement need to be considered.
- 4.8 As with agricultural products, the EESC believes a formal registration process is needed. It should be valid for an unlimited period to avoid bureaucracy and cost, but subject to ongoing monitoring and enforcement to ensure that the products maintain the criteria of the status. The registration procedure should also include provisions for removal from the register where products no longer comply with the standards or are no longer produced. There should also be an objection process, including a right of appeal to avoid vexatious cases of objection.
- 4.9 A two phase system of national authority involvement combined with EU level legislative protection and oversight would be a sensible approach. The registration process should be transparent and independent, and preferably publically funded and administered. The EESC notes that there is currently no registration fee for agri/food product registration and therefore the same principle should be applied to non-agricultural products. If it is decided to introduce a fee, this should be kept very low to avoid being a deterrent to registration, or to risk costs being passed on to consumers. Registration should be completed within a set timeframe to

avoid drawn out bureaucracy and uncertainty for companies and consumers alike – 18 months would seem reasonable.

- 4.10 The EESC believes that the relationship between a GI system for non-agricultural products and trade mark law should be defined in a similar way to that currently used for agricultural products, providing continuity across all products and avoiding confusion, whilst learning from experience in its application in this sector to refine the process and minimise potential for dispute. The EESC notes that any business operating in a given region should be allowed to apply for a protected designation of origin in that region.

Brussels, 18 February 2015.

The President
of the
European Economic and Social Committee

Henri Malosse
