

## EUROCHAMBRES RESPONSE TO THE EUROPEAN COMMISSION'S CONSULTATION ON NON-AGRICULTURAL GEOGRAPHICAL INDICATIONS

### GENERAL QUESTIONS

*Question 1: How familiar are you with the rules for the protection of geographical indications?*

**X Somewhat familiar**

*Question 3: Which of the characteristics do you associate with non-agricultural products protected by a geographical indication?*

**X The raw materials for the product come from a specific region**

**X The product is based on the local knowledge/ skills**

### CHALLENGES RELATED TO FRAGMENTATION WITHIN THE SINGLE MARKET

*Question 8: To what extent do you agree with the following statements?*

*Please rate from 5 (strongly agree) to 1 (disagree).*

	5	4	3	2	1	No opinion
It is difficult for producers to protect their non-agricultural products nationally.			X			
It is difficult for producers to protect their non-agricultural products within the Single Market.		X				
At EU level, it is sufficient that producers can indicate the origin of their products using a collective or individual trade mark.				X		
It is not fair that non-agricultural GI products do not have similar level of protection as agricultural GI products.		X				

**Question 9: Which are the most important challenges resulting from the fragmentation of rules for the protection of the indication of the geographical origin for non- agricultural products in the EU?**

Please rate from 5 (most important) to 1 (least important).

	5	4	3	2	1	No opinion
Producers have fewer incentives to invest in geographically linked products and to cooperate to create niche markets.	X					
Producers have fewer incentives to retain unique skills that would otherwise disappear.		X				
The potential of the tourism sector in the regions where authentic products are manufactured remains untapped.	X					
The potential of developing the cultural heritage of these regions remains untapped.		X				
Sellers pass off their products (often made in third countries) as authentic, thereby threatening the value of the collective goodwill.	X					
Consumers have more difficulties to identify authentic products.	X					

*Other, specify:*

The disappearance of niche productions has negative repercussions on employment levels, on the conservation of regional traditions which represent fundamental elements of the European cultural heritage. The consumer should have guarantees on the specific characteristics of the product identified with the territory of origin. The manufacturer should be protected against unfair competition and counterfeiting.

## INTERNATIONAL AND TRADE-RELATED CHALLENGES

*Question 10: In your view, which are the most important challenges resulting from international developments?*

*Please rate from 5 (most important) to 1 (least important).*

	5	4	3	2	1	No opinion
Producers of EU GIs for non-agricultural products cannot benefit from the EU's accession to the Lisbon/Geneva Act to get protection in third countries using the Lisbon/Geneva route, as there is no EU registration to start with.	X					
Producers of non-agricultural GI products from third countries cannot get protection in the whole of the EU using the Lisbon/Geneva route, as such protection is not available at EU level.			X			
The EU cannot secure protection of non-agricultural GIs via bilateral trade agreements. This is because the EU cannot include non-agricultural GIs in the lists of GIs to be protected by such agreements, due to the lack of EU-wide protection for non-agricultural GIs.			X			

*Other, please specify:*

EUROCHAMBRES is in favour of a harmonisation of the scope of the various protection systems to counter the vast swath of non-uniform rules in terms of registration criteria and the possibilities to appeal against the decision of authorities in charge of assessing applications.

Producers need a more effective protection against counterfeit products and usurpation. This is needed for multiple reasons:

- Ensuring a healthy and fair competitive environment;
- Counteracting against any undue use of a registered name by producers commercialising similar products, but clearly inspired by the original, which are not subject to registration
- Avoid confusion for the consumer because of the use of descriptions like *“genre, type, method, manner, imitation, the like”*;
- Avoiding misinformation for consumers relating to the provenance, origin, nature or essential qualities of the products used on the wrapping or packaging, in advertising or on documents relating to the products concerned, as well as the use for packaging containers which may mislead about the origin of the product contained.

The introduction of an improved protection of producers would help operators diversify their offer better. This would also be a powerful driver to go against the standardisation of products; From a social point of view, a regulation would have the effect of promoting the marginal and peripheral areas of the European territory where typical and traditional activities are often the most present, as well as supporting a more equitable distribution of income and the possibility of maintaining economically the local populations concerned.

European producers would benefit from a full implementation of the Lisbon Agreements and TRIPs aimed at contrasting: the use, in the designation and presentation of a product, of any element that indicates or suggests that the product in question originates in a geographical area other than the real place of origin in such a way as to deceive the public about the origin of the product; any improper use that constitutes an act of unfair competition pursuant to art. 10 bis of the Paris Convention.

## NEED FOR EU ACTION

*Question 11: Do you believe there is a need for an EU-wide initiative to improve the protection of geographical names or indications for non-agricultural products?*

**X YES**

*Question 12: What could be the incentives to participate in an EU scheme for protection of geographical indications for non-agricultural products?*

- X Better enforcement, fight against misuse of protected denomination and fraud**
- X Strengthening the position of producer groups in the value chain.**
- X Useful marketing tools / better visibility for consumers**
- X Quality assurance sign for consumers**
- X Product differentiation of product**
- X Traceability tool**
- X Strengthening of the company's reputation**
- X Access to new markets within / beyond the EU internal market**
- X Increased product credibility**
- X Market share increase / guarantee**
- X Affinity with the region**
- X Protection of traditions / cultural heritage**
- X Regional development and tourism**

*Question 13: What could be the disincentives to participate in an EU scheme for protection of geographical indications for non-agricultural products?*

- X Higher production costs**
- X Stricter inspections**

## POLICY OPTIONS

*Question 14: Which is your preferred overall policy approach regarding the possible creation of an EU-wide protection mechanism of geographical indications for non- agricultural products?*

	5	4	3	2	1	No opinion
No action – The EU would not act. The current situation will remain.					X	
Voluntary measures - a recommendation at EU level proposing both to Member States and producers to agree on voluntary measures in order to certify the origin of industrial and handcraft products.			X			
Harmonisation - an EU directive setting out specific objectives for the protection of GIs for non-agricultural products, for example protection duration, scope, territorial link, but also procedural aspects such as application and registration, but leaving it to Member States how to reach these objectives.		X				
EU specific (or sui generis) system – a regulation establishing a specific GI protection system for industrial and handcraft products. An EU title would protect GIs.		X				
Merger - Under this option, a GI protection system for industrial and handcraft products would merge with the current GI protection system for agricultural products.				X		
Trade mark reform - This option would consist of a reform of the EU trade mark system. Producers of industrial and handcraft products would have the possibility to apply for the registration of a name guaranteeing a certain quality linked to a specific geographical region, e.g. based on certification trade marks.				X		

*Question 15: How do you assess the likely impact from the creation of EU-wide protection of geographical indications for non-agricultural products?*

*Scale from 5 (very positive) to 1 (very negative).*

Impact on :	5	4	3	2	1	No opinion
Capacity to export		X				
Competition		X				
Competitiveness		X				

Consumers		X				
Cultural heritage	X					
Employment		X				
Environment			X			
Innovation			X			
Producers		X				
Public authorities						X
Regions	X					
Tourism	X					

## SCOPE OF PROTECTION

*Question 16: In your opinion, an EU-wide protection mechanism of geographical indications for non-agricultural products should cover (provided they fulfil the requirements as to the link with a geographical place):*

**X Only a limited list of categories of non-agricultural goods**

*Question 17: How would you define the link that the non-agricultural goods originating in a specific place, region, or locality should have with their place of origin?*

**X Their quality or characteristics are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors; and all the production steps take place in the defined geographical area**

*Question 18: Do you think that an EU-wide protection mechanism of geographical indications for non-agricultural products should protect geographical indications or names already registered at national level?*

**X Yes**

## REGISTRATION PROCEDURE

*Question 19: How many steps should the registration of EU geographical indications for non-agricultural products involve (In any event, registration will be managed electronically) ?*

**X Two: first a national, then an EU registration phase (as already exists in the agricultural area)**

*Question 20 On the basis of which grounds should registration of an EU geographical indication for non-agricultural products be accepted (provided the products fulfil the requirements as to the link with a geographical place)?*

- X The GI-term should meet required conditions (for example, that it is not acustomary name like 'eau de Cologne')
- X The protection granted should not jeopardise pre-existing rights (e.g. homonymous GIs or trade marks likely to mislead the consumer as to the true origin of the product)

Other:

The term chosen should comprise the name of a region of a specific place as its fundamental element or, in exceptional cases, of a country which serves to identify a product, the extractive and manufacturing activities such as:

- originating in an X region in a specified Y place of an Z country; of which a certain quality, reputation or other characteristics, can be attributed to that geographical origin; whose making/crafting/producing or processing take place in the defined geographical area with methods consolidated by tradition respectful of the local cultural context.

Question 21: On behalf of the EU, who should manage a register for nonagricultural GIs?

- X The services of the European Commission (like for agricultural GIs)

## HOW TO ENSURE COMPLIANCE WITH PRODUCT CHARACTERISTICS?

Question 22: Do you think it is important that a specification for a geographical indication for non-agricultural products include the following elements?

	5	4	3	2	1	No opinion
The name to be protected, as it is used, whether in trade or in common language, and only in the languages which are or were historically used to describe the specific product in the defined geographical area	X					
A description of the product, including the raw materials, if appropriate, as well as the principal physical, chemical, microbiological or organoleptic characteristics of the product		X				
The definition of the geographical area delimited		X				
Evidence that the product originates in the defined geographical area		X				
Evidence that the product uses raw materials from the defined geographical area			X			
Evidence that the product has a reputation			X			
A description of the method of obtaining the product			X			
Information concerning packaging of the product					X	

The name and address of the authorities/bodies verifying compliance with the provisions of the product specification	X					
Any specific labelling rule for the product in question			X			

*Question 23: In an EU level system of protection for non-agricultural products, who should take care of verification, e. g. ensure that at the stage of production the product complies with technical specifications before it is placed on the market?*

**X Public authority and producers/producer associations**

*Specify:*

Self-administration could help reduce the bureaucratic burdens for companies. National producer associations could in this matter assist administrations. We hold the same views for questions 24 and 25.

*Question 24: In an EU level system of protection for non-agricultural products, who should bear the costs of verification?*

**X Public authority and producers/producer associations**

*Question 25: In an EU level system of protection for non-agricultural products, who should take care of monitoring, e.g. control the use of the name once the product has been placed on the market?*

**X Public authority and producers/producer associations**

*Question 26: In an EU level system of protection for non-agricultural products, who should bear the costs of monitoring?*

**X Public authority and producers/producer associations**



## ENFORCEMENT

*Question 27: A system of enforcement of rights in relation to non-agricultural products at EU level should provide for:*

- X      A general system based on intellectual property enforcement (e.g. general civil law, IPRED and customs enforcement)**

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EUROCHAMBRES – The Association of European Chambers of Commerce and Industry represents over 20 million enterprises in Europe – 98% of which are SMEs – through 45 members and a European network of 1700 regional and local Chambers.

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