

Position Paper

UEAPME¹ position on the Green Paper on a possible extension of geographical indication protection of the European Union to non-agricultural products (COM(2014) 469 final)

General Comments

UEAPME² warmly welcomes the initiative from the European Commission to launch a Green Paper consultation on a possible extension of geographical indication protection to non-agricultural products. UEAPME is strongly in favour of a possible extension of Geographical Indication (GI) to non-agricultural products as it would be an effective instrument to ensure fair competition for smaller producers and provide users with reliable information on the quality of products. Furthermore, GIs would preserve traditional and high-quality products, protect the know-how and support SMEs and crafts by improving their competitiveness in the market and giving an added value to their products.

Advantages for SMEs and users

While it is important to avoid rigidity in the markets, restriction of producers' freedom and additional costs for enterprises, an effective GI protection ensures fair competition, protects skills and know-how, helps the development of SMEs in the relevant region, might boost employment in the region by contributing to the development of local economies and can protect users against counterfeit products. The experience of geographical indication protection in the food sector also shows that GIs contribute to increasing producers' profits and visibility as well as being of major importance for the marketing of products.

Consumers nowadays are, in fact, searching for transparency and information on products, as can be observed through the new trends in consumption (responsible consumption, organic, ethical or sustainable products...) and new modes of distribution (e-commerce). By highlighting a place and a specific production region that determines the characteristic qualities of the product originating from that region, the creation of GIs for manufactured products enhance information available to consumers on the mode and the place of manufacture of the products and build their trust on products.

Even more important, a harmonised EU GI protection for non-agricultural products could help producers defend themselves against imitation and abuse, and it would also be less costly to take action. A harmonised EU GI protection for non-agricultural products would probably have positive economic effects on the internal market and we do not foresee adverse effects of such a protection. GI protection for non-agricultural products may favour SMEs in giving them higher visibility among consumers and eventually increase their customers. This would also protect those crafts that risk to disappear with the economic crises and generational change. GIs would also make regional and local

¹UEAPME subscribes to the European Commission's Register of Interest Representatives and to the related code of conduct as requested by the European Transparency Initiative. Our ID number is [55820581197-35](https://ec.europa.eu/transparency/regexp1/index.html).

² With the exception of the Federation of Finnish Enterprises (FFE). However, if GIs should be introduced it agrees with the requirements and comments set out in this position paper.

economies flourish, hence helping fight unemployment. There could also be an increase in tourism in those regions, due to the immediate identification of a product with a territory.

In addition to this, GIs protect the originality of products. The preservation of cultural heritage and know-how is an added value. Crafts and small enterprises represent a huge heritage for Europe, not only in economic terms but also at a cultural level. The productions that best embody the traditional craft products are the result of knowledge and history inextricably tied to production areas. Their characteristics are strongly influenced by the peculiarities of those territories. Without taking anything away from the legitimate choice to relocate production, made by many enterprises, it cannot be denied that companies that bravely decided to keep the production on the original territory can offer an added value to their product given by the link with the territory.

In terms of costs, it is important to ensure that an extension of GIs does not lead to higher costs for SMEs wanting to register their products or for consumers. An eventual European legislation should also take into account the legislations of those EU countries where GIs for non-agricultural products are already in use (e.g. France since March 2014), as the two should not be conflicting or add administrative burdens. The eventual new system should be harmonised with the ones already in place. Furthermore an impact assessment on SMEs should be made to avoid additional costs, loss of competitiveness and rigidity of markets. The scope of protection should not be too restrictive and GI protection should not limit other producers' freedom to develop or put their products in the market.

To what should GI protection be applied

"Quality, reputation and other characteristics" should be required in order to obtain GI protection to ensure that the system not become too restrictive and lead to unreasonably wide protection of many products. GIs should be a valuable reference, a distinctive sign of quality and reliability for transparency in the service and traceability of the products. A GI must attach a product to a place, a local know-how and superior quality. The reputation of the product is a factor which must be taken into account but not decisive.

UEAPME does not see the need to have further exceptions to GI protection other than those already provided in TRIPS. A difference between the regimes of protection on the basis of the categories of non-agricultural products concerned does not seem appropriate, each product should have the same protection. Nevertheless, taking into account the specificity of the products, a sectoral approach is necessary in the preparation of the specifications.

The attainment of a GI should not be too strict and therefore UEAPME suggests that products should be entitled to a GI even if they only have one of the stages of production, processing or elaboration carried out in the region indicated, while the raw materials may come from another area. In our opinion it could not be otherwise given that, though there is a strong link with the territory of production and the processes that give rise to a given product are typical if not unique of a specific territory, the raw materials used may in whole or in part come from another territory. There can be only rare cases where the entire production process will take place in the geographical area indicated and all raw materials come from the same area.

Concerning the protection of symbols, we believe that a similar protection for symbols, such as the contours of a geographical area, is unnecessary as this would restrict the producers' freedom. Symbols are often generic and therefore cannot be associated to some specific products only.

Registration of GIs

The system should envisage a voluntary registration process. However, the cost should be acceptable for SMEs without creating financial burden, or they could discourage them to use it. Individual producers together with their associations and other relevant bodies should be allowed to apply and register. The registration must be approved in order to permit verification of compliance to the specifications of the products and to avoid misuse of GI protection. For reason of transparency, an objection process should also be included.

A system to monitor and enforce non-agricultural GIs rights should be envisaged and effective controls on GIs must be ensured to avoid negative effects. An organism has to be set up to ensure the proper and credible functioning of the system and monitor the registrations.

GI protection should be unlimited in duration with possibility to cancel a GI after registration. Innovation must not be forgotten and therefore the management body should also take into account that production methods can also evolve in time and improve without jeopardising the quality of the products. The principle of “first in time, first in right” should be used to avoid conflicts between GIs and trademarks.

Brussels, 6th November 2014

For further information on this position paper, please contact:

Chiara Aprea
 Advisor
c.aprea@ueapme.com