

## Inception Impact Assessment on GI protection at the EU level for non-agricultural products

### oriGIn feedback

#### Introduction

Over the last years, the possibility to establish a harmonized system for the recognition and protection of non-agricultural Geographical Indications (GIs) has been extensively debated within the EU. More recently, on 10 November 2020, the Council of the EU adopted a set of conclusions on the future of the intellectual property policy, which includes the recognition of the need to strengthen GIs protection systems<sup>1</sup>. In that framework, the Council announced that it is ready to consider a *sui generis* system for non-agricultural GIs. Likewise, in the Intellectual Property action plan of 25 November 2020, the Commission announced its availability to consider the feasibility of an efficient and transparent EU GI protection system for non-agricultural products<sup>2</sup>.

In the context of the above-mentioned debate, oriGIn – the global alliance of GIs representing some 600 associations of producers from all sectors – has been consistently advocating in favor of the creation of such a system in the EU. We therefore welcome the opportunity to provide the Commission with our comments in the context of the Inception Impact Assessment (IIA) on GI protection at the EU level for non-agricultural products.

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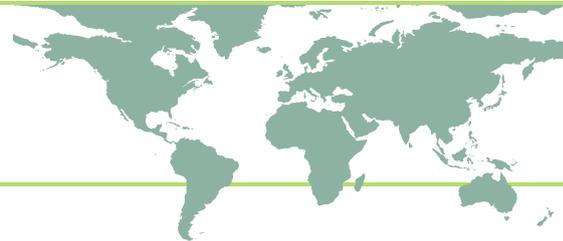
<sup>1</sup> [Future EU intellectual property policy: Council adopts conclusions - Consilium \(europa.eu\)](#)

<sup>2</sup> [Commission adopts Action Plan on Intellectual Property \(europa.eu\)](#)



## Our comments

- i. We agree with the IIA when it mentions that the current fragmented regulatory framework for the protection of GIs for non-agricultural products in the EU generates legal uncertainty for both producers – which have less incentives to invest in geographically linked products, with the risk of losing market opportunities, unique skills and cultural heritage – as well as for consumers, which encounter higher transaction costs in the market and risks of being misled;
- ii. We also share the view that a EU harmonized GI system for non-agricultural products will help maintain (as well as generate) long-lasting jobs in the EU, especially among SMEs in less-developed regions. It will also strengthen industrial ecosystems and clusters in non-agricultural sectors, as well as producing spill-over effects on other sectors, such as tourism, and overall on the economy of the territories where such GIs are produced;
- iii. We agree with the point that trade marks, including collective and certification marks, do not enable producers of non-agricultural products to fully protect the link between quality and its geographical origin. In this framework, it is worth mentioning that, under EU Regulation 2017/1001, issues arise with respect to the use of collective and certification marks to protect geographical names;
- iv. We believe that, compared to trade marks, a *sui generis* system to protect GIs provides for stronger protection in terms of depth as well as more efficient enforcement mechanisms. These characteristics are particularly adapted for small economic actors which characterize GI sectors, including non-agricultural ones;
- v. We agree with the IIA when it mentions that the lack of a uniform *sui generis* system of protection for non-agricultural GIs weakens the EU position at



international level. Both the WTO TRIPs and the WIPO Geneva Act of the Lisbon Agreement provide a wide GI definition, which includes non-agricultural products. In this respect, a EU harmonized GI system for non-agricultural products will allow the EU to fully benefit from the WIPO Geneva Act, offering non-EU members an incentive to join the system as well as increased legal certainty to producers of non-agricultural GIs. It will also strengthen the EU position in bilateral trade negotiations<sup>3</sup> and well as in the implementation of concluded agreements<sup>4</sup>.

- vi. We do not agree with the arguments mentioned in the IIA as to the fact that GIs for non-agricultural would reduce innovation and competition, and that the connection between quality and origin would be more difficult to justify.

## Our position

In light of the above, oriGIn believes that the Commission should pursue the policy option of creating a single protection system for non-agricultural products based on a *sui generis* Intellectual Property right at EU level. Such a system should have the following characteristics:

- It should provide simple and transparent procedures;
- It should assign “groups” responsibilities in terms of submitting applications, as well as GI protection and promotion;
- It should provide a solid level of GI protection and enforcement mechanisms;
- It should require the proof of a solid link between the products (whose names are the object of a request of protection) and their geographical area;
- It should provide credible and independent controls.

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<sup>3</sup> With countries such as India, which have a large number of non-agricultural GIs protected at the national level.

<sup>4</sup> In the concluded EU-China GIs agreement, a list of Chinese handicraft GIs (Annex VII) might be protected in the future depending on the legislative development of the Parties (see Art. 1.2, where the parties agreed to consider extending the Agreement scope of protection to non-agricultural GIs after its entry into force).