

## PUBLIC HEARING ON THE PROTECTION OF GEOGRAPHICAL INDICATIONS FOR NON-AGRICULTURAL PRODUCTS

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### INTRODUCTION TO GIS

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- What are GIs  
First definition in a multilateral treaty -> TRIPS -> Good originating in a territory, where a given quality, reputation or other characteristic is essentially attributable to its geographical origin.
- Why GIs  
GIs are right for collective use and embedded in a territory. They allow differentiation and reduction of information asymmetries, emotional content. Foster participation of stakeholders in a region-> local development. Contribute to preserve a traditional know-how and cultural expressions.
- What products are GIs for?  
No restriction re the type of product according to the Paris convention. GI for the protection of services in Brazil (IT services).
- Statistics  
In the Lisbon Agreement ->12% non-food products (yet some agricultural prods, ex. cigars in Cuba). In India 75% of GI are for non-agri products. Colombia: 41% of registered GIs are for non agri products.

### STUDY ON GI PROTECTION FOR NON AGRICULTURAL PRODUCTS IN THE INTERNAL MARKET

David Thual

1. Identification of existing and potential non-agricultural GI products
2. Selection of 129 non-agricultural GI products.
3. Options available

Legal means of protection available:

- Protection against unfair competition and consumers' deception law.
- Trademark laws / community trademark -> not easy to protect the name as such + cost of registration/enforcement
- Sui generis legal framework: no harmonization in terms of definition, procedures effect and costs
- International legal frameworks: WTO TRIPS, WIPO administered Lisbon Agreement on Appellations of Origin, WIPO Madrid treaty on trademarks.
  
- 75% of the products reported infringement of intellectual property rights. For 57% it is a major problem.
- 119 products have a defined geographical area
- 81 use local raw material
- SMEs
- Turnover stable over the last 10 years
- (mostly) no collective labeling scheme.

Main conclusions:

- Public bodies satisfied with national system – neutral concerning EU level protection
- Producers are not satisfied with the existing means of protection
- Producers and non-producers would welcome a uniform legal protection at the EU level
- ⇒ There is a case for the introduction of a EU sui generis GI protection system
- ⇒ Protection should cover traditional names and denominations
- ⇒ Specifications and mandatory independent public or private control system
- ⇒ Register
- ⇒ System should be managed by an office of the EU

Questions:

- Why one single definition? (PDO/PGI) -> TRIPS concern GIs (not Appellations of Origin) -> same level of protection.

## PROTECTION OF NON-AGRICULTURAL GIS AT A NATIONAL LEVEL

### HUNGARY:

Sui generis national protection possible for non-agri products. In that case special industrial property protection for geographic names which can be perceived as guarantees for quality. Pb of names becoming generic. Collective IP rights. Official controls. Exclusive rights.

In HU:

- Established by the trademark and GI act of 1997.
- Coverage of the sui generis national system: non-agri, spirit drinks, appellation protected under the Lisbon Agreement, bilateral agreements, transitional national protection.
- High level of protection (= art 23 TRIPS)
- No product specification required, but a list of products is required.
- No specific logo
- Enforcement: mainly civil court action for infringement; counterfeiting punished by the criminal code

### PORTUGAL:

- Industrial property code: name of the region or the country that is designates or identifies a product.
- Producer must comply with the specifications.
- 17 non-agricultural products applications / 10 granted.
- Some GIs are protected as a collective trade mark.

## THE USERS PERSPECTIVE ON NON-AGRI GIS

### ASSOCIATION PIERRE DE BOURGOGNE:

The term « pierre de Bourgogne » is a generic term. We don't have the adequate tools to protect it. It is used for products which are not made of stone and/or do not originate from Bourgogne. Its notoriety is being usurped.

QT from Belgium : directive sur les indications commerciales trompeuses. Il existe d'autres outils efficaces.

CCL :

Study is the beginning of an open process.

Ok to send contributions to the EU by the end of May to the EC.

Building information for political leaders to make a decision on whether to make a legislative proposal. Not before the end of the year.