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Public Consultation on proposal for a Regulation of the European Parliament and of the Council on geographical indication protection for craft and industrial products and amending Regulations (EU) 2017/1001 and (EU) 2019/1753 of the European Parliament and of the Council and Council Decision (EU) 2019/1754

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A. Overview

1. Subject of the Public Consultation

The Department of Enterprise, Trade and Employment is seeking the views of stakeholders on the proposal for a Regulation on geographical indication protection for craft and industrial products, proposed by the European Commission on the 13th of April 2022.

Stakeholders and interested parties are asked to submit written contributions on the proposal by **5pm on 5th August 2022**. The Department will represent Ireland at negotiations on the Commission's proposals over the coming months and responses to the consultation will help inform the work to be undertaken by the Department in relation to the Regulation.

2. Background

Geographical indications (GIs) establish intellectual property rights for products whose qualities are specifically linked to the area of production. They identify goods as originating in a country, region or locality where a particular quality, reputation or other characteristic of the product is essentially attributable to its geographical origin, such as natural stone, jewellery, textiles, lace, cutlery, glass and porcelain. These indications, supported by labelling and specific logos, help consumers identify authentic, original products of a particular quality.

At present, the EU has specific GI protection for agricultural GIs, i.e., wines, spirit drinks certain foods. Champagne or Prosciutto di Parma ham are well-known examples of agricultural GIs. However, there is currently no EU wide GI protection for craft and industrial (CI) products at EU level. Sixteen EU Member States have national regimes, but these regimes vary in terms of the level of protection, administration and fees, and do not offer protection beyond the national territory. Producers of craft and industrial products can only seek protection for their products separately in each Member State resulting in increased cost and legal uncertainty for producers.

The EU acceded to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications ('Geneva Act') in 2019, a treaty administered by the World Intellectual Property Organization (WIPO), that offers a means to obtaining GI protection for CI products in 38 countries that are contracting parties to the Geneva Act. The EU is obliged to fulfil its international obligations under the Geneva Act by establishing a system at EU level that provides EU wide protection for CI GIs of third country members

of the Geneva Act and the protection of EU GI GIs of the Lisbon system's contracting states.

To comply with this obligation, the European Commission adopted a proposal for a regulation on Geographical Indication for craft and industrial products on the 13th April 2022.

The purpose of the proposed regulation is to:

- establish an EU-wide protection for geographical indications of craft and industrial products allowing producers to protect the intellectual property rights of their products across the EU and act against fake products, including online,
- allow full compatibility with international GI protection by enabling producers of registered craft and industrial GIs to protect their products in all countries that are signatories of the Geneva Act on Appellations of Origin and Geographical Indications under the World Intellectual Property Organisation (WIPO), while enabling GIs from non-EU countries to access GI protection within the EU,
- make it easier for consumers to recognise the quality of such products and make more informed choices,
- support the development of Europe's rural and other regions by providing incentives for producers, especially micro, small and medium-sized enterprises (MSMEs), to invest in new authentic products and regions, especially rural and less developed ones, to retain unique skills and benefit from the reputation of GIs including by attracting tourists.

Further information on the European Commission's proposal is available on the Commission's website [here](#).

3. Structure of the Regulation

The proposed regulation contains 8 titles:

Title 1: General provisions – Articles 1 - 5

General provisions define the objectives and the scope of the proposal. It also contains a list of definitions; provides for rules governing the protection of personal data processed in the course of the procedures for the Regulation; the requirements for a geographical indication to qualify for protection.

Title 2: Registration of geographical indications – Articles 6 - 34

The chapter on registration provides for the uniform rules for registration, both at national and Union's level including the opposition procedure; defines the applicant and lists requirements for the applicant. Articles 7, 8 and 9 specifies the content of application documents, i.e. product specification, single document and the documentation to accompany the application for registration. Title 2 lays down the rules for the national stage of the registration procedure, the Union stage of the registration, including the transitional protection and transitional measures. The title also provides for the role of the European Union Intellectual Property Office (EUIPO) and the possibility to consult the Advisory Board, which is composed of experts appointed by Member States and the Commission. Title 2 also includes provisions on the amendments to the product specification and on the cancellation of the registered GIs as well as on the appeals procedure. It also establishes a domain name information and alert system and contains provisions on administrative fees.

The proposal establishes an exceptional scheme for direct procedures before the Office for applicants from a Member State that meets certain conditions on the date of adoption of this Regulation, and do not therefore designate a national authority for the management of the procedures for registration, amendments to the product specification and cancellation of the registration in respect of GIs. Member States that opt for this exceptional registration scheme must designate a contact point for the registration procedure under EUIPO, and a competent authority for the controls and enforcement and to take the necessary actions to enforce the rights in this Regulation.

Member States may charge a fee to cover their costs of managing the GI system for CI products. However, the Office will not charge a fee, except for the direct application procedure set out in Article 15. EU fees must be set out in an implementing act (Article 291 of the TFEU) in line with Regulation (EU) No 182/2011 of the European Parliament and of the Council within six months after the entry into force of this Regulation.

This Title also establishes a prerogative for the Commission to take over the decision-making power from the Office that may affect the Union's trade and external affairs policy, or the public interest. This prerogative was designed to be used only when policy considerations may override technical aspects of intellectual property, also considering that geographical indications play an important role in the Union's trade and external policy and are collective rights performing also public functions.

Title 3: Protection of geographical indications – Articles 35 - 44

The title provides for the level of protection of craft and industrial product GIs; sets out the rules for GIs when used as parts or components in manufactured products; clarifies generic terms and registration of homonymous GIs, as well as the relationship with trade marks. It provides rules for producer groups. The relationship with the use of protected terms in internet domain names is defined. This title includes the rules for the use of

Union symbols, indications and abbreviations on the labelling and advertising material of the product concerned.

Title 4: Controls and enforcement – Articles 45 - 58

This title sets out the rules on the controls and enforcement measures, including both verification that a product designated by a GI has been produced in conformity with the corresponding product specification, and monitoring of the use of GIs in the marketplace. While Member States are required to designate the competent authority responsible for the official controls to verify compliance with this Regulation, they are free to introduce a third-party certification procedure operated by competent authorities or delegated product certification bodies, or a procedure based on the producer's self-declaration. This title also sets out rules for Member States on how to prevent or stop any other misuse of GIs in their territory, including on online platforms.

Title 5: Geographical indications entered in the International Register and amendments to other acts – Articles 59 - 61

Title 5 provides for the necessary amendments to Council Decision (EU) 2019/1754 and Regulation (EU) 2019/1753 of the European Parliament and of the Council, the EU legislation adopted following the EU's accession to the Geneva Act on 26 November 2019.

The amendments are needed to adjust existing rules to the changed reality of a new EU CI GI scheme emerging after such rules were created. For example, there is currently no provision to clarify that unlike in the case of agricultural GIs, it is the EUIPO to play the role of competent authority under the Lisbon system. Similarly, provisions are needed to ensure that international applications relating to CI products can be filed and processed by the EU's competent authority.

Further amendments are introduced on the Trade Mark Regulation (EU) 2017/1001 to add in the catalogue of the Office's tasks contained in Article 151, the tasks conferred to the Office for the administration and promotion of CI geographical indications. In addition, there is another amendment to the Trade Mark Regulation (EU) 2017/1001 to establish a domain name information and alert system for EU trade marks replicating the alert system established under this Regulation.

Title 6: Technical assistance – Article 62

Title 6 sets out the Commission's empowerment to adopt delegated acts entrusting the EUIPO with the examination and other administrative tasks concerning third country geographical indications, other than geographical indications under the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications, proposed for protection pursuant to international negotiations or international agreements. By this

Title the Commission ensures that administrative tasks related to geographical indications in the context of international negotiations and international agreements which are devoid of any trade or external policy considerations may be outsourced to the Office.

Title 7: Supplementary provisions – Articles 63 – 66

Title 7 sets out the Commission's empowerment to adopt delegated acts to supplement or amend the Regulation as regards detailed rules on procedures and form of the cancellation process and the presentation of the requests referred to in Article 29. This includes the requirements or listing additional items of the accompanying documentation referred to in Article 9, defining procedures and conditions applicable to the preparation and submission of Union applications for registration referred to in Article 17, rules on entrusting EUIPO to operate the Union register of geographical indications for craft and industrial products referred to in Article 26, the formal content of the notice of appeal, the procedure for the filing and the examination of an appeal as well as the formal content and the form of the Boards of Appeal's decisions referred to in Article 30, the information and requirements identified in the self-declaration referred to in Article 49 and the corresponding Annex 1 and technical assistance of the Office referred to in Article 62. It also identifies the implementing acts that the Commission must undertake to ensure uniform conditions to implement this Regulation.

Title 8: Transitional and final provisions – Articles 67 - 70

Title 8 sets out that transitional national geographical indications protection for craft and industrial products should cease to exist by one year after the date of entry into force of this Regulation. Member States should inform the Commission and the Office which of their legally protected or which of their names established by usage they wish to register and protect pursuant to this Regulation.

B. Information on Consultation Process

1. Submissions

The Department seeks the views of stakeholders and interested parties, including craft and industrial products producers who may seek GI protection for their products.

We ask that respondents structure their responses according to the 7 titles as outlined, responding to one or more of the titles as appropriate. We would also appreciate your views on the specific questions posed by the Department in section C.

Respondents are requested to make their submissions by email to the Intellectual Property Unit at trademarks@enterprise.gov.ie. Submissions should be marked ***“Response to Public Consultation on Proposal for a regulation on Geographical Indications for craft and industrial products”***,

The closing date for submissions is 5pm on 5th August 2022.

2. Confidentiality of Submissions

Contributors are requested to note that it is the Department’s policy to treat all submissions received as being in the public domain unless confidentiality is specifically requested. Respondents are, therefore, requested to clearly identify material they consider to be confidential and to place same in a separate annex to their response, labelled “confidential”. Where responses are submitted by email, and those emails include automatically generated notices stating that the content of same should be treated as confidential, contributors should clarify in the body of their emails as to whether their comments are to be treated as confidential.

3. Freedom of Information Act 2014 and Publication of Submissions

The Department may decide to make public on its website all submissions received under this consultation. Your attention is also drawn to the fact that information provided to the Department may be disclosed in response to a request under the Freedom of Information Act 2014. Therefore, should you consider that any information you provide is commercially sensitive, please identify same, and specify the reason for its sensitivity. The Department will consult with you regarding information identified by you as sensitive before publishing or otherwise disclosing it.

4. General Data Protection Regulation (GDPR)

Respondents should note that the General Data Protection Regulation (‘GDPR’) entered into force in Ireland on 25th May 2018 and it is intended to give individuals more control over their personal data. The key principles under the Regulation are as follows:

- Lawfulness, fairness and transparency;
- Purpose Limitation;
- Data minimisation;
- Accuracy;
- Storage Limitation;
- Integrity and confidentiality, and
- Accountability.

The Department of Enterprise, Trade and Employment is subject to the provisions of the Regulation in relation to personal data collected by it from 25 May 2018. Any personal information which you volunteer to this Department, will be treated with the highest standards of security and confidentiality, strictly in accordance with the Data Protection Acts 1988 to 2018.

C. Questions

General

1. Name (and contact details if you wish)
2. Are you:
 - a producer of craft and industrial products
 - an organisation/producer group representing producers of craft and industrial products
 - other – please describe.
3. In which industry type/sector do you operate?

Article 6

4. If you are a producer of craft and industrial products, do you intend to seek GI protection for your product?
5. Article 6 provides that a producer group can submit an application for registration of a GI. Do you envisage that you and other producers of the same product will establish a producer group for this purpose?

Article 7

6. Do you have any views on the 'Product specification' requirements as set out in article 7?

Article 8

7. Who do you foresee will carry out the role of the 'product certification body' or 'natural person' that will certify that products designated by geographical indications comply with the product specification, taking into account the requirements of Article 50?

Article 49

8. Do you have any views on the self-declaration certification procedure under article 49, whereby the producers may submit a self-declaration to the competent authorities to verify compliance with the product specification?

We would also appreciate receiving any other views you may have on the other articles in the Regulation.