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COVER NOTE

From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

No. Cion doc.: SEC(2022) 193 final

Subject: REGULATORY SCRUTINY BOARD OPINION
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

Delegations will find attached document SEC(2022) 193 final.

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EUROPEAN COMMISSION

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REGULATORY SCRUTINY BOARD OPINION

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

{COM(2022) 174 final}
{SWD(2022) 114 final}
{SWD(2022) 115 final}
{SWD(2022) 116 final}



EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB

Opinion

Title: Impact assessment / Geographical indication protection for crafts and industrial products

Overall opinion: POSITIVE WITH RESERVATIONS

(A) Policy context

This initiative aims to establish a harmonised or unitary geographical protection system for craft and industrial (CI) products. Geographical indications (GIs) establish intellectual property rights for products whose qualities are specifically linked to the area of production. While a GI protection system already exists at the EU level for agricultural products, such systems only exist at the national level in 16 Member States for CI products. The absence of EU-level protection for CI products does not allow the EU to meet its obligations under the Geneva Act administered by the World Intellectual Property Organisation.

(B) Summary of findings

The Board notes the useful additional information provided in advance of the meeting and commitments to make changes to the report.

However, the report still contains significant shortcomings. The Board gives a positive opinion with reservations because it expects the DG to rectify the following aspects:

- (1) The report is not sufficiently clear about the level of discretion the EU has to comply with its international obligations under the Geneva Act.**
- (2) The presentation of the options does not allow for a transparent assessment of their costs and benefits.**
- (3) The choice of the preferred option and its proportionality is not justified sufficiently.**

(C) What to improve

- (1) The report should clarify the degree of discretion the EU has to comply with the Geneva Act of the Lisbon Agreement. It should better explain what constitutes 'crafts and**

This opinion concerns a draft impact assessment which may differ from the final version.

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industrial products' and how the boundaries of application will be determined.

(2) The report should allow a more transparent assessment of the strengths and weaknesses as well as costs and benefits of the options with a view to bring out more clearly the available substantive policy choices. As option 5 (self-standing EU Regulation) builds on many elements of option 3 (extending the existing GI system), the sequencing of the options should be improved by presenting it directly after option 3 with option 4 (reform of the trade mark system) presented last. As option 5 presents a set of alternative sub-options, the report should identify the most relevant and best performing combination of suboptions upfront and subsequently compare them along all other options.

(3) Building on a better comparison of the options, the choice of the preferred option should be better argued, also considering the substantial equivalence between the estimated costs for option 3 and option 5. Taking into account that the envisaged eligible craft and industry GIs are rather limited, the proportionality assessment of the preferred option should be strengthened. As to option 4, the report should better assess how realistic it is to reform trade mark law in order to include GI features.

(4) Even in the absence of empirical evidence, the potential impacts of the various options on competition, innovation and the environment should be better analysed and explained.

(5) The report should clarify its position on the use of a mandatory or a voluntary protected geographical indication (PGI) logo, in view of the fact that consumer awareness of the PGI logo for agricultural products is low.

(6) The monitoring and in particular evaluation arrangements are missing in the report and need to be clearly established.

The Board notes the estimated costs and benefits of the preferred option(s) in this initiative, as summarised in the attached quantification tables.

Some more technical comments have been sent directly to the author DG.

(D) Conclusion

The DG may proceed with the initiative.

The DG must revise the report in accordance with the Board's findings before launching the interservice consultation.

If there are any changes in the choice or design of the preferred option in the final version of the report, the DG may need to further adjust the attached quantification tables to reflect this.

| | |
|---------------------|---|
| Full title | Proposal of a regulation of the European Parliament and of the Council concerning geographical protection for craft and industrial products |
| Reference number | PLAN/2020/9272 |
| Submitted to RSB on | 19 November 2021 |
| Date of RSB meeting | 15 December 2021 |

ANNEX: Quantification tables extracted from the draft impact assessment report

The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.

If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.

| <i>I. Overview of Benefits (total for all provisions) – Preferred Option</i> | | |
|---|--|---|
| <i>Description</i> | <i>Amount</i> | <i>Comments</i> |
| <i>Direct benefits</i> | | |
| Economic benefits | In the longer term, it could lead to economic development of GI region and yield an overall expected increase in intra-EU trade of these goods of about 4.9-6.6 % of current intra-EU exports (€ 37.6-50 billion). ¹ In the case of Solingen producers estimate that the use of the name Solingen raises the willingness to pay by about 30 percent ² | Help producers seize opportunities to develop and commercialize CI products. Raise the willingness to pay of the consumers |
| Social benefits | The analysis shows a potential increase of regional level employment by 0.12-0.14 %. Overall, this move would help create between 284 000 and 338 000 new jobs across the EU ³ . | Positive effect on employment ⁴ |
| Consumer benefits | e.g. producers of Perpignan Garnet Jewellery mentioned that demand has increased by 20-30 percent, since the recognition under the French GI regime ⁵ | Enhanced visibility on authenticity and quality of products |
| <i>Indirect benefits</i> | | |
| Environmental benefits | | GI protection is a way to increase economic sustainability to the |

² 2020 Study p.82

³ The analysis shows a potential increase of regional level employment by 0.12-0.14 %. Overall, this move would help create between 284 000 and 338 000 new jobs across the EU Geographical indications for non-agricultural products. Cost of non-Europe report (2019) [https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_STU\(2019\)631764](https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_STU(2019)631764) pp. II, 24-27

⁴ ibidem

⁵ VVA *et al* (2020), *supra* note, p. 81

| | | |
|-------------------|--|---|
| | | benefit of all stakeholders ⁶ |
| Tourism benefits | | Potential reputational effects for the region: raise the visibility of the product and the region, benefiting also the related industries such as tourism. ⁷ |
| Cultural heritage | | Help save products that have a long history behind them like Swiss watches, or Baluchari saree. ⁸ |

⁶ 2021 Study on Monitoring and enforcement rules for geographical indication (GI) protection for non-agricultural products in the EU. p.137 and 167; and in the agricultural area, some MS authorities use the specific GI protection as a tool to encourage sustainable development ([Evaluation support study on Geographical Indications and Traditional Specialities Guaranteed protected in the EU](#) p.246-247)

⁷ VVA *et al* (2020), supra note., p. 81

⁸ VVA *et al* (2020), supra note, Annex 1: Case study 6: GI and trade mark protection in non-EU countries pp.7-9

| II. Overview of costs (in million EURO)* – Preferred option | | | | | | | | | |
|---|--------------|-----------|-----------|--------------------------|-----------|---|-----------|--|-----------|
| Stakeholders Action | | Consumers | | Producers of GI products | | MS Authorities | | Commission/ EU body (EUIPO) | |
| | | One-off | Recurrent | One-off | Recurrent | One-off | Recurrent | One-off | Recurrent |
| (a) Setting up a CI GI protection system | Direct costs | | | | | Time for staff to acquire new procedures ⁹ | | Time for staff to acquire new procedures .2 years is estimated to implement the IT system for CI GIs application files ¹¹ | |
| | | | | | | Cost to implement the MS Scrutiny procedure ¹⁰ | | | |
| (b) administration and monitoring of the CI GI protection system: annual cost per GI (EUR) | | | | | | | | | |
| Registration | Direct costs | | | 15,000 | | | | 1,800 | |
| Verification | Direct costs | | | | 5,700 | | 100 | | |
| Management / monitoring / enforcement | Direct costs | | | | 3,000 | | 3,900 | | |

⁹ See Annex 9 p.143

¹⁰ See Annex 9 p.144

¹¹ See Annex 9 p.138