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**COMMISSION STAFF WORKING PAPER**

**SUMMARY OF THE IMPACT ASSESSMENT  
ON GEOGRAPHICAL INDICATIONS**

**Accompanying document to the**

**Proposal for a Regulation of the European Parliament and of the Council on  
agricultural product quality schemes**

## 1. POLICY CONTEXT AND PROBLEM DEFINITION

Among the highest quality agricultural product and foodstuffs produced in the EU are those intrinsically linked to their geographical zone of production, with its particular environment and savoir faire of local producers. These products are often designated by the geographical name of the place, so that the name becomes synonymous not only with the origin of the product, but with its quality characteristics as well. Farmers and producers in a position to market such goods should be able to secure market share and prices that reflect the quality characteristics of their premium product. The capacity to produce and market these products represents a competitive advantage in the face of pressures from globalisation, concentration of power in the retail sector, and downward pressure on prices generally. Any commercial success for such producers, many of whom are located in less favoured areas, will therefore contribute to rural development objectives.

However, success in the marketplace depends on consumers having confidence that the agricultural product or foodstuff has been produced in line with the specifications and that it has the origin claimed. That confidence will be undermined if labelling is confusing, or if the geographical name is used on product not having the expected qualities, or if the production specifications are sometimes not followed by producers. This problem where the producer faces a difficulty to communicate value-adding information to a buyer is one of asymmetric information.

Since 1992, the geographical indication schemes at EU level have been designed to give a tool to producers and consumers to ensure that the consumer has guaranteed information about the quality and origin of products described by geographical indications. The schemes provide two mechanisms:

- Registration and intellectual property protection of names;
- Visibility for marketing purposes in the form of (i) the name as registered, (ii) an EU logo, and (iii) reserved terms 'protected designation of origin' or 'protected geographical indication' and their acronyms 'PDO' and 'PGI'.

The schemes are considered to have been overall a success with 900 names of agricultural products and foodstuffs representing a market value of 21 billion euro (2008 consumer prices), as well as 1800 wines and over 300 spirit names, protected. However, analysis of the current schemes shows that their effectiveness in meeting the overall challenge to overcome information asymmetry could be improved. In particular, the application processes are long and burdensome (22 months for the fastest approvals); the operation of four EU schemes with differing terminology and procedures is confusing and inconsistent; consumer recognition of the EU logos is weak (8% EU consumers can recognise the scheme); and a number of technical difficulties with current legislation have been identified. Furthermore the EU's small farmers find that the certification burdens, and need to adhere to strict specifications – which are all seen as essential for the credibility of the scheme – could have the effect of excluding them from participation.

Extensive stakeholder consultations in the field of agricultural product quality policy, including geographical indications, have been carried out since 2006 with a stakeholder hearing and conference on food quality certification schemes. This was followed by the launch of a policy review for geographical indications (agricultural products) in 2007, and

Green paper exercise in 2008. The analysis of stakeholder contributions to the Green Paper consultation shows general support for the schemes, as well as demands for clarification and harmonisation of the geographical indication schemes. However, certain stakeholders in the wine and spirits sectors opposed merger of the four separate systems. In 2009, Council supported the strategic orientations for geographical indications set out in the Commission's Communication on agricultural product quality policy. The European Parliament also adopted an opinion on the issue in 2010.

## **2. ANALYSIS OF SUBSIDIARITY**

The scheme for protected designations of origin (PDO) and protected geographical indications (PGI) provides for the protection of value-adding names throughout the territory of the European Union. If protected by Member States individually within their territories, the names would enjoy different levels of protection in each Member State and require multiple registrations for EU-wide coverage. This could mislead consumers, and disadvantage producers of genuine product who sell across Member State borders (20% of PDO/PGI trade is cross-border) and make way for conditions of unfair competition in marketing products identified by a quality scheme. The determination of such rights across the European Union can only be done effectively and efficiently at Union level.

The schemes for protected designations of origin and protected geographical indications, rely on Union symbols designed to convey information about the nature of the quality scheme. In order to ensure recognition of the symbols by consumers across the European Union, the symbols need to be established at Union level.

The processing and analysis of applications for a protected designation of origin or protected geographical indications is a task that does not need to be performed at European Union level, except in so far as certain elements are concerned. These include assessing eligibility for the protection of names across the European Union, upholding the rights of prior users of the names (especially those outside the Member State of application), and checking applications for manifest errors. The primary detailed analysis of an application however, can be more efficiently and effectively undertaken at national level.

The task of controls of PDO/PG schemes, in line with Regulation (EC) No 882/2004 on official feed and food controls, are to be undertaken in the first place under the responsibility of national competent authorities. Supervision of Member State control activities needs to be undertaken at Union level in order to maintain credibility in the food law schemes across the European Union, in line with the principles laid down in that regulation.

## **3. OBJECTIVES OF THE EU INITIATIVE**

The specific objectives of geographical indications policy are to:

- (1) Provide clearer information on specific product characteristics linked to geographical origin, enabling consumers making more informed purchase choices.
- (2) Provide simpler and single approach at EU level for a system of protection of names for products with specific qualities linked to geographical origin.

- (3) Ensure uniform respect - throughout the EU - of the intellectual property rights related to the names included in EU registers for PDO/PGI.

#### 4. OPTIONS

A range of options are considered and impacts assessed to an extent appropriate to support the proposals of the Communication. The main options considered and retained for impact analysis are:

- To streamline and recast the geographical indications instrument (Option A).
- To bring together the current four systems for wines, aromatised wines, spirits, and agricultural products and foodstuffs into one legislative framework, while preserving specificities of each sector (Option B).
- To create a single register for geographical indications protected at EU level, fed by the current separate 4 systems (Option C).
- To merge the two definitions ('geographical indication' and 'designation of origin') into one (Option D).
- To allow the creation of national systems for geographical indications (with intellectual property rights attached to national names, or without protection of the names) (Option E).

#### 5. ANALYSIS OF IMPACTS

Assessment of impacts shows that not enough information and methodology is available to assess the costs between the different options. The schemes for geographical indications cover a range of different products under diverse situations, and besides some case studies, it remains difficult to have an accurate approach to economic cost. Nevertheless qualitative assessment is provided, highlighting some of the advantages and disadvantages of proposals. Qualitative assessment also underlines some of the data gaps.

Assessment of impacts shows the main impact of geographical indications schemes falls in the economic area, with some incidental social implications in terms of employment, and some limited environmental impacts, particularly where the quality attributes of the product are linked to environmental values. The regulatory burdens on operators as well as on administrations are heavy. The analysis confirms that the smallest and most local of producers tend to be excluded from schemes. On the other hand, the certification and compliance burdens that put off small producers are essential to maintain confidence of consumers in protected names in the market place.

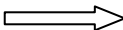
For **option A**, the impact assessment is clear that technical improvements are needed to tighten the descriptions and enforcement of protection as well as clarify rules and shorten procedures. Shortening of procedures from 22 to 12 months would allow earlier return on investment (estimated at 40.000 € to prepare and see through an application in some MS) for producers, mainly via higher returns from the market for PDO and PGI compared to a standard product. This would apply for 60 to 100 applications yearly.

The option of merger of the four schemes (**Option B**) is clearly favoured from a simplification perspective (four legislative instruments into a single one). However, stakeholders in the wine and spirits sectors (who are those most directly concerned by their respective schemes) are apprehensive of the implications of merger, especially since the EU-level schemes have only recently been adopted, separately from the agricultural product and foodstuffs scheme. If merger is premature, then coherence in the sense of a single register (fed by four legislative frameworks) (**Option C**) would improve the visibility of protected names (around 3000 names) and improve the effectiveness of protection measures, mainly. In any event, the clarity of the agricultural product and foodstuff scheme must be improved to close the technical deficiencies identified.

Merger of the 'PDO' and 'PGI' instruments (**Option D**) results in a loss of investment in marketing and communication of the PDO identity for producers and right holders. Merger would probably also lead to a loss of the higher added value associated with PDOs (compared with that of the PGI).

One issue remains unsolved by the possible changes to the EU-level schemes, and that is the effective exclusion of small farmers. The option of a national scheme (option E) was initially considered a possibility for these operators, but if the scheme includes protection of names and controls on the model of the EU-level schemes, the essential problems of costs, compliance burdens, and stringent requirements, are not addressed: neither an EU-managed scheme, nor a national scheme having name protection are appropriate. To recognise the contribution of the small producers to production in a local area, a more flexible (and regionally or nationally managed) scheme would be needed.

## 6. COMPARISON OF RETAINED OPTIONS BY SPECIFIC OBJECTIVES

| SPECIFIC OBJECTIVES<br> | Provide clearer information on products characteristics | Provide simpler and single approach at EU level | Ensure uniform respect of IPR |
|--|---|---|-------------------------------|
| <b>Option A: (status quo+) streamline and recast</b>   | Situation improved                                      | Situation unchanged                             | Situation improved            |
| <b>Option B: merge of 4 systems</b>  | Situation improved                                      | Situation improved                              | Situation improved            |
| <b>Option C: single register fed by 4 systems</b>  | Situation improved                                      | Situation deteriorated                          | Situation slightly improved   |
| <b>Option D: merger of 'PDO' and 'PGI'</b>   | Situation deteriorated                                  | Situation improved                              | Situation unchanged           |
| <b>Option E: national systems (with national protection of names)</b>                                      | Situation deteriorated                                  | Situation deteriorated                          | Situation deteriorated        |
| <b>Option E: national systems (with national list, but no name protection)</b>                             | Situation improved                                      | Situation unchanged                             | Situation unchanged           |

A number of options have emerged that would contribute to the objectives of the EU policy on protected designations of origin and protected geographical indications.

- Option A would improve the situation as to the provided a clearer information on product characteristics to the consumer, and ensure a uniform respect of intellectual property rights, by streamlining the procedure and clarifying the current legislative framework.
- Options B and C present the same situation as Option A as to respect of intellectual property rights (although option C would be slightly less appropriate – one register with different of registration rules and processes). In addition, Option B would present a simpler approach at EU level, by the implementation of the whole system of PDO and PGI through a single regulation.
- Option D shows serious drawbacks as to the objective to provide clearer information on product characteristics. The PDO instrument is better known by consumer in some MS, and this would disappear from the EU legal framework under this Option.
- As to option E, if we consider protection of the names, the situation would be significantly deteriorated: names with diverse protection would risk fragmenting the single market and complicating the legislative framework with national parallel schemes. Nevertheless, the same option E without reservation of the name it would present the advantage of providing a simpler scheme to small farmers and improve the visibility of local products.

The comprehensive analysis of that impact assessment showed strong justification for a Union-level geographical indications scheme and discarded alternatives to a European Union scheme for reasons of low efficiency and effectiveness (including co-regulation and self-regulation by the sector, no action at European Union level, protection through the international Lisbon Agreement, replacement by a notification system for national geographical indications, and protection through the existing Community collective trade mark). The impact assessment identified considerable ground for reducing complexity and facilitating enforcement by merging the agricultural product and foodstuffs scheme with those in the alcoholic beverages sectors, while assuring the specificities of each system (Option B). However, the impact assessment acknowledged the opposition of certain stakeholders to this option. The impact assessment also found that merging the instruments for protected designation of origin (PDO) and protected geographical indication (PGI) (Option D) would diminish the added-value benefits of the PDO identification. Option A, by streamlining (and shortening) the procedures and clarifying the legal texts and Option C, creation of a single register would also contribute to the objectives of the policy.

## 7. MONITORING AND EVALUATION

The following core progress indicators will be addressed:

| Objectives  | Core progress indicators   | Monitoring arrangements  |
|---|--|--|
| Provide clearer information on products specific characteristics linked to geographical origin, enabling consumers making more informed purchase choices. | Degree of recognition of the EU quality schemes and symbols.   | EU periodical survey both on the perception of the system and the knowledge of the logo.           |
| Provide simpler and single approach at EU level for a system of protection of names for products with specific qualities linked to geographical origin    | Number of registered PDO/PGI names.<br><br>Degree of operators' satisfaction with registration and enforcement procedures. | Monthly statistics on PDO/PGI registry<br><br>Annual statistics on the number of formal complaints |
| Ensure uniform respect - throughout the EU - of the intellectual property rights related to the names included in EU register.                            | Number of IPR enforcement files  | Monitor multiannual plans on control.<br><br>Monitor annual reports on control                     |