

RIKSDAG ADMINISTRATION

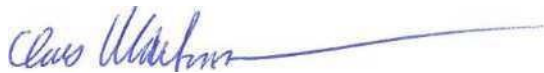
DEPUTY DIRECTOR OF THE RIKSDAG

**THE
SWEDISH
PARLIAMENT
(RIKSDAG)**

To the European Commission [sg-national-
parliaments@fflec.europa.eu](mailto:sg-national-parliaments@fflec.europa.eu)

The Riksdag submitted the Commission Green Paper *Making the most out of Europe's traditional know-how: a possible extension of geographical indication protection of the European Union to non-agricultural products*, COM(2014) 469, to the Committee on Trade and Industry for review.

The Committee reported its review of the Green Paper to the chamber in opinion No 2014/15;NU6. A decision on the opinion was taken on 22 October 2014. The opinion is enclosed.



Claes Mårtensson Deputy
Director of the Riksdag

Opinion of the Committee on Trade and Industry
2014/15:NU6

Review of the Green Paper on a possible
extension of geographical indication
protection of the European Union

Summary

In this opinion, the Committee considers the EU Green Paper

'Making the most out of Europe's traditional know-how: a possible extension of geographical indication protection of the European Union to non-agricultural products' (COM(2014) 469).

The Committee agrees with the Commission's view that extending the protection of geographical indications to products other than those already covered by such protection can benefit consumers. At the same time, the Committee would stress that such extended protection, if introduced, must not create additional administrative costs for businesses. It also considers it important that any such system should not have a negative impact on international trade negotiations or create any greater obstacles to trade.

\ / /

Table of Contents

Summary

Contents

The Committee's proposal for a decision by the Swedish Parliament

Overview of the issue

 The issue and preparatory work

 Background

 Main content of the Green Paper

The Committee's considerations

 Review of the Green Paper on a possible extension of
 geographical indication protection of the European Union

 The Commission Green Paper

 Further information

 The Committee's position

Annex

List of documents examined

The Committee's proposal for a decision by the Swedish Parliament

Review of the Green Paper on a possible extension of geographical indication protection of the European Union

It is proposed that Parliament submit the Committee's opinion to the consultation process

Stockholm 16 October 2014

On behalf of the Committee on Trade and Industry

Jennie Nilsson

The following members were involved in this decision: Jennie Nilsson (Social Democrats), Catharina Elmsäter-Svärd (Moderate Party), Hans Rothenberg (Moderate Party), Ingemar Nilsson (Social Democrats), Josef Fransson (Sweden Democrats), Cecilie Tenfjord-Toftby (Moderate Party), Christer Engelhardt (Social Democrats), Helena Lindahl (Centre Party), Lise Nordin (Green Party), Ann-Charlotte Hammar Johnsson (Moderate Party), Anna Wallén (Social Democrats), Mattias Bäckström Johansson (Sweden Democrats), Christer Nylander (Liberal People's Party), Birger Lahti (Left Party), Penilla Gunther (Christian Democrats), Mattias Jonsson (Social Democrats) and Per-Arne Håkansson (Social Democrats).

Overview of the issue

The issue and preparatory work

Pursuant to Chapter 10, Section 5 of the Parliament Act (Riksdagsordning), the Chamber referred the European Commission's Green Paper on a possible extension of geographical indication protection of the European Union to non-agricultural products (COM(2014) 469) to the Committee on Trade and Industry for examination on 29 July 2014.

On 1 September 2014, the Committee received the Government Offices' explanatory memorandum (2013/14:FPM111) concerning the Green Paper.

The Commission's public consultation on the Green Paper continues until 28 October 2014 inclusive.

Background

A geographical indication (GI) is a sign, usually a name, used on goods that have a specific geographical origin and possess qualities, characteristics or a reputation essentially attributable to that place of origin. One example is champagne, an indication used for a specific type of sparkling wine from the Champagne region of France. Certain of these indications afford protection of industrial property rights.

At the moment there is uniform protection of GIs at EU level for agricultural products and foodstuffs, wines, flavoured wines and spirits. Products protected in this way enjoy extensive legal protection throughout the EU. Examples of Swedish products benefiting from such protection are *Kalixlöjrom* and *skånsk spettekaka*. There is no GI protection at EU level for any product categories other than the above. However, 15 EU Member States have some type of national framework to protect geographical indications for other types of product¹. Sweden does not offer any legal protection of geographical indications over and above the existing EU rules. All Member States, however, have basic protection in the form of laws on unfair competition or consumer deception, as well as the possibility of trademark protection.

In addition to geographical indications, there is also legal protection at EU level for 'traditional specialities guaranteed' such as *falukorv*.

The possibility of extending protected geographical indications to non-agricultural products was broached by the Commission in May 2011 in its Communication 'A Single Market for Intellectual Property Rights' (COM(2014)287). This communication was followed up in March 2013 by a study on geographical indication protection for non-agricultural products in the internal market².

¹ Belgium, Bulgaria, Croatia, Czech Republic, Estonia, France, Germany, Hungary, Latvia, Poland, Portugal, Romania, Slovakia, Slovenia and Spain.

² Study on geographical indications protection for non-agricultural products in the internal market.

The Commission cited the results of that study as supporting evidence that the legal instruments currently available in the EU are insufficient.

Main contents of the Green Paper

The Green Paper 'Making the most of Europe's traditional know-how: a possible extension of geographical indication protection of the European Union to non-agricultural products (COM(2014) 469)' was presented on 15 July 2014. The Commission's aim was to raise the question of whether protection for geographical indications should be extended to cover products not protected up to now. The Green Paper is intended as a basis for consultation and discussion of this topic. It does not contain any specific proposals for new legislation. In the Green Paper, the Commission argues that extending the protection of geographical indications would have many potential benefits. These potential benefits are seen as applying in four main areas: economic benefits, consumer benefits, support for the EU's international efforts to enhance the protection of GIs, and as a contribution to the preservation of Europe's diversity and cultural heritage.

The Committee's considerations

Review of the Green Paper on a possible extension of geographical indication protection of the European Union

The Committee's proposal in brief

The Committee proposes that Parliament submit its opinion to the consultation process. The Committee agrees with the Commission's view that extending the protection of geographical indications to other categories of product can benefit consumers. At the same time, the Committee would stress that such extended protection, if introduced, must not create additional administrative costs for businesses. We also consider it important that any such system should not have a negative impact on international trade negotiations or create any greater obstacles to trade.

The Commission Green Paper

General

The purpose of the Green Paper is to encourage discussion on whether there is a need to extend legal protection of geographical indications to products other than those already covered by such protection at EU level and, if so, what form such extended protection should take.

The Green Paper does not contain any specific proposals for new legislation. It contains 45 questions intended as a basis for the Commission's public consultation.

In the Green Paper, the Commission reviews the current legal situation in the EU, looking at the existing state of GI protection for agricultural products, etc. and the forms of protection available at national level in the various Member States.

Possible impact of extended protection of geographical indications

The Commission examines the potential benefits and advantages of extending protection to non-agricultural products at EU level. These potential benefits are seen as applying in four main areas.

It argues firstly that a harmonised EU system of protected geographical indications could have certain economic benefits.

Increased protection could boost sales of the goods concerned and there would be more effective and uniform protection for producers against losses caused by counterfeiting or imitation. It could also help boost employment, particularly in small and medium-sized businesses in poorer areas.

The Commission's second argument is that protection of this nature would help consumers to make informed purchase choices.

Thirdly, it claims that unitary protection of geographical indications for non-agricultural products could support the EU's international efforts to enhance the protection of GIs, and that the absence of a harmonised system of GI protection for non-agricultural products affects the EU's bilateral negotiating capacity, e.g. in free trade negotiations. Many of the EU's trading partners have such protection systems and, according to the Commission, this question has become an increasingly significant factor in a number of bilateral trade negotiations. It is also argued that a unitary European system of protection for non-agricultural GIs could improve the EU's negotiating power within the World Trade Organisation (WTO).

Fourthly, the Commission points to the value extending protection for GIs could have in helping to preserve European traditions, know-how, diversity of cultural expression and cultural heritage.

Alternative options for extending protection of geographical indications

The Green Paper presents two alternatives for increasing the protection of GIs for non-agricultural products.

The first is harmonisation of national legislation. This would mean countries – including Sweden – that currently do not have a non-agricultural GI protection system having to introduce some form of national legislation to that end. The system would be based on reciprocal recognition and protection of all the Member States' geographical indications in every Member State. The Commission claims that this option has been considered but was discarded in view of the introduction of protection for agricultural GIs.

The other alternative is to create a single EU-wide system. This is the kind of system currently being used for agricultural GIs.

Points to be considered concerning the form extended protection of geographical indications should take

The Commission also raises a number of questions concerning the concrete form extended protection of geographical indications should take. These concern, for example, the use of marks, names and symbols, the development of a GI registration system, who should be able to apply for protection and similar matters.

Further information

The Government Offices' explanatory memorandum

On 1 September 2014, the Committee received the Government Offices' explanatory memorandum (2013/14:FPM111). The memorandum essentially sets out the background to the issue and the content of the proposal.

The memorandum states that a preliminary Swedish opinion is currently being prepared within the Government Offices.

The Government standpoint is therefore as yet not known.

Previous discussion in Parliament

In autumn 2009, the Committee on Environment and Agriculture discussed the Government's proposal on controls on protected designations of agricultural products and food (prop. 2009/10:22, report 2009/10:MJU10). The proposal includes a new law on controls on protected designations of agricultural products and food to replace the existing one. The Committee approved the Government's proposal. No motions were submitted regarding the proposal.

Position of the European Parliament and the Member States

According to the Government Offices' memorandum, the Member States' positions are not yet known. However, it is noted that during the discussions preceding the creation of unitary protection for geographical indications for agricultural products it was essentially the southern European Member States which were in favour of such a system.

The matter is currently under discussion at the European Parliament. The European Parliament's position is not yet known.

Views of the bodies consulted

The Government Offices submitted the Green Paper to 34 different bodies for an opinion. So far, 22 have replied. Seven of them have expressed a generally positive opinion about the potential extension of geographical indication protection to non-agricultural products³. Eight bodies stated that they had no position⁴. One body, the Swedish National Food Agency, called for broader discussion about GIs. The National Food Agency points out its experience in working with GI protection for agricultural products. Its view is that the system requires a high work input and has so far proved of limited benefit to Sweden.

Another body consulted, the Swedish Patent and Registration Office, sets out both the potential advantages and possible risks of extended GI protection in its reply.

Five of the respondents express reservations about extending GI

³ FICPI Sweden (the Swedish arm of the *Fédération Internationale des Conseils en Propriété Intellectuelle*, in association with patent and trade mark agents), the Swedish Consumer Agency, the National Association for Small Businesses [Småföretagarnas Riksförbund], Stockholm University (Faculty of Law) the Swedish Association for the Protection of Intellectual Property, the Association of Swedish Advertisers and the Association of Intellectual Property Law Firms in Sweden (SEPAF).

⁴ The Swedish Institute for Language and Folklore, the Swedish Competition Authority, the National Swedish Handicraft Council, Svea Court of Appeal, the Association of IP Professionals in Swedish Industry, the Swedish Institute and the Swedish Bar Association.

protection. These are the Swedish Companies Registration Office [Bolagsverket], ICC Sweden (the Swedish National Committee of the International Chamber of Commerce), the Swedish National Board of Trade, the Confederation of Swedish Enterprise and the Swedish Agency for Economic and Regional Growth. The Swedish Companies Registration Office believes that extending GI protection beyond the products covered at the moment could conflict with current trademark legislation. ICC Sweden fears that a system of the kind proposed in the Green Paper could hinder product development and competition. The Swedish National Board of Trade [Kammarskollegium] also considers that such a system could impede competition and international trade. It also takes the view that the law on trademarks is a perfectly good alternative to extended GI protection. The Confederation of Swedish Enterprise [Svenskt Näringsliv] believes that extending GI protection would have a negative impact on international trade. It also warns of a potential conflict between a system of that kind and trademark legislation. A further point made is that the system could place an administrative burden on businesses. The Swedish Agency for Economic and Regional Growth [Tillväxtverket] states that extending GI protection to non-agricultural products could in itself bring certain competitive advantages, but these were very likely to be outweighed by the undesirable increase in the administrative burden.

The Committee's position

The most important function of geographical indications is that they enable consumers to make informed and safe choices on the basis of the geographical origin of the product and the quality or traditions associated with it. The Committee shares the Commission's opinion that extending GI protection can be a tool in creating transparency for consumers, enabling them make a similarly informed choice over a wider range of products.

At the same time, we would stress that such extended protection, if introduced, must not be in a form that creates additional administrative costs for businesses. New administrative costs arising as a result of the system could disadvantage small and medium-sized businesses in particular, reducing their ability to compete.

The Committee would also like to highlight the importance of ensuring that any extended system of GI protection does not restrict international trade or limit competition. The system must be designed to avoid a situation where extending GI protection creates increased obstacles to trade or has a negative impact on international trade negotiations.

The Committee thus proposes that the Swedish Parliament submit its opinion to the consultation process.

Annex

List of documents examined

Green Paper: Making the most out of Europe's traditional know-how: a possible extension of geographical indication protection of the European Union to non-agricultural products (COM(2014) 469).