



QUESTIONS & ANSWERS



Specialised Training for IPOs on GI Examination

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Zoom

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CARIFORUM



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Questions and Answers

1. How are you going to proceed with the list of *potential* GIs (Caribbean countries submitted a list of potential GIs), will it be part of the exchange of GIs for recognition in the EU according to EPA?

For the future protection agreement under Art. 145 E. of the EPA, only GIs already registered in the CARIFORUM countries and the EU are to be included. The list of GIs in this future agreement will be updated regularly, so that any new GIs registered in the CARIFOURM countries can gradually be included in the list.

The list of *potential* GIs has been developed in line with Art. 164 of the EPA, to identify products that could benefit from protection as GIs and as a basis to request support or technical assistance from the EU for any action aimed at achieving protection as GI for such products, where appropriate.

CARIFORUM countries can articulate such requests in the framework of the CarIPI project, and other EU funding instruments such as TAIEX¹, for technical assistance and support to achieve more GIs to be registered in the CARIFORUM countries.

2. Is there any other instance (apart from opposition during the registration process, or litigation in the European court) in which a GI already recognized by the EU can be taken off the list other than by objection?

Under EU regulations, as well as under EPA Art. 145 B. it shall be possible to cancel the registration of a GI. The procedure to this effect shall allow for the participation of any natural or legal person having a legitimate interest. The EU GI may be cancelled if the compliance with the conditions of the specification is not ensured, or where no product is placed on the market under a GI for at least seven years.

3. How are the lists updated?

The list of GIs protected under the future protection agreement (EPA Art. 145 E.) would be updated regularly through committees established under the agreements (Special Committee on Agriculture and Fisheries, the Trade and Development Committee (TDC) and the Joint Council of the EPA). Most likely the updating would be done every 2 years.

¹ https://ec.europa.eu/neighbourhood-enlargement/tenders/taiox_en

4. Difference between the term definition of alcoholic beverages (wine, spirited wine, other fermented beverages, etc).

Please refer to the product categories and relevant definitions in the respective regulations at European Commission, Quality schemes explained, <https://ec.europa.eu/info/food-farming-fisheries/food-safety-and-quality/certification/quality-labels/quality-schemes-explained>

EU law is available at EUR-Lex: <https://eur-lex.europa.eu/homepage.html?locale=en>

- Agri products and food - Regulation (EU) No 1151/2012 for 'other fermented beverages'
- Wines – Regulation (EC) No 1308/2013 for 'wine'
- Spirits – Regulation (EU) 2019/787 for 'spirit wine'
- Aromatised wines – Regulation (EU) No 251/2014 for aromatised wines

5. Is there any office that provides assistance for producers that are preparing their specifications and documentation for GIs?

Technical assistance and support could be requested via the CarIPI project or, alternatively when this is out of scope, the EU Delegations could help the interested parties to access other funding instruments such as TAIEX.

In addition, specific questions on CARIFORUM GIs could be solved via e-mail contacting the persons involved in the negotiations in DG AGRI.

6. Can the description of the product be amended and the GI still be preserved?

Yes, the product description can be amended after the GI was registered. The application for such amendment should provide an exhaustive description and the specific reasons for such amendment. In case the amendment of the product description has an impact on other GI elements (e.g. GI specificity or the 'link' with the geographical area), this should be clearly stated and supported by relevant explanations. If, following the assessment, the amendment of the product description is accepted, the relevant GI is preserved.

7. For GIs which are based directly on natural factors and which are affected by climate change, if owners adapt processing and change production techniques slightly, does that cause the GI to be cancelled and wouldn't this lead to a decrease in GI registration? Or can they provide an amendment to the GI?

In such cases, the relevant GI specifications can be amended. If the change in natural factors and production methods influences other GI elements (e.g. specificity or the 'link' with the geographical area), this should be clearly stated and supported by relevant explanations. If, following the assessment, the amendment is accepted, the relevant GI is preserved.

8. How long does production have to cease before the GI is cancelled?

7 years.

9. Is it necessary for the description to compare the product to similar products in order to distinguish it in the market?

Reference to other products of the same type can be made where this can help to highlight the casual link between the territory and the specific qualities of the product e.g. our lemon is sweeter than "this other one", or our lemon is sweeter than others. This would be included in the specifications under the link description.

10. Can the same fruit coming from different territories, where there are differences in tastes or sweetness, be accepted?

Yes. Similar products from different territories can be registered as GIs if there are differences which can be distinguished by, for example, some unique organoleptic characteristics.

11. Is it possible to obtain GI protection for tobacco or for cigars in the EU?

There are currently no GIs registered for tobacco or cigars at the EU level. Information on the possibility of protecting tobacco as GI is mentioned in Annex I to the Treaty. The scope of Regulation (EU) N° 1151/2012, as defined in its Article 2, is however limited to the agricultural products listed in Annex I to the Treaty and other agricultural products and foodstuffs listed in Annex I to that Regulation that are intended for human consumption, meaning expected to be ingested by humans. In that respect, one may wonder if the protection of the raw material can be sought but not as regards the final product. Nevertheless, tobacco products can be protected effectively via Trade Marks.

12. Can GIs for cannabis be registered as GIs in the EU? Are there any special rules which apply?

Cannabis is used in the EU for medical purposes only, but legally prohibited for human consumption. GI protection is for agricultural products for human consumption. At the moment, cannabis is only “tolerated” in limited quantities for human consumption in one EU Member State.

Until this changes, you may have to protect cannabis using other IP tools such as trade marks, patents or plant variety rights, depending on the product.

13. What is the status of the EU consideration of non-agricultural GIs?

Currently there is no single mechanism at the EU level for the protection for non-agricultural GIs. Some EU Member States however, do have relevant legislation on non-agri products in place, mainly for handicrafts, but also for other products like natural stone. Others protect non-agri GI through their trade mark systems. Until there is EU legislation, protection can be sought at EU Member State level. At the EU level, research and discussions on non-agricultural GIs have been going on for some years. A study on economic aspects of non-agri GIs protection was published in February 2020.² On that basis, the Commission is currently reflecting on possible next steps as regards the possibility of introducing the EU protection system for non-agricultural geographical indications.

14. Other

e-Ambrosia – the EU’s GI register: <https://ec.europa.eu/info/food-farming-fisheries/food-safety-and-quality/certification/quality-labels/geographical-indications-register/>

GIs from noEU countries protected in the EU under bilateral agreements: https://ec.europa.eu/info/sites/info/files/food-farming-fisheries/food_safety_and_quality/documents/list-gis-non-eu-countries-protected-in-eu_en.pdf

² https://ec.europa.eu/growth/industry/policy/intellectual-property/geographical-indications/non-agricultural-products_en