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## Roadmap – non-agri GI

The Confederation of Swedish Enterprise (Svenskt Näringsliv) welcomes the Commission's IP Action Plan Roadmap. It is an important initiative, as a strong IP framework is key to sustainable innovation.

The Confederation of Swedish Enterprise is Sweden's largest and most influential business federation representing 60 000 member companies. Among the member companies many are Small and Medium-Sized Enterprises (SMEs).

From our perspective, a new sui generis geographical indication right does not solve any problem that cannot be solved, or is already solved, by other means.

Free movement and freedom of competition are two cornerstones for the European Union. All intellectual property rights must balance protection with freedom. Limiting free movement and freedom of competition is beneficial in certain situations, as for example patent rights are important as an incentive for innovation. However, that should only be done when other solutions are not already in hand.

There are already rules applicable if someone would give misleading information regarding where a product comes from. All European countries in EU already have existing and established protection against unfair business practices relating to non-agri GIs. The protections against unfair competition has developed differently in different countries. However, there are at least a couple of points that are common to all different approaches – it is a provision for actors in trade with an existing effective remedy against unlawful and dishonest business of their competitors. In some countries, specific statutes providing for the repression of unfair competition also fulfil the function of consumer protection.

In Article 6.1 b Unfair Commercial Practices Directive it is stated that it is considered as a misleading action when a commercial practice contains false information on not only commercial but also geographical origin. This is well in line with jurisprudence in the Member States even before the directive was implemented.

Trade mark protection does to a large extent cover the same interests as a protection for geographical indications. Trade marks helps customers identify the commercial origin of a product. In order to help producers to market their products as guaranteeing a certain quality linked to their geographical origin a reform of the trade mark system may have to be done. That would serve the purpose better than to create a unitarian protection for non-agri GIs.

The differences between agri and non-agri GIs are bigger than what has been argued for in surveys made by EU-Commission. The need and use of agri GI protection cannot and shall not be used analogously – since the very core of the instruments for protection differ from agri GIs. Employment, free movement and the equality of the Member States chances to let companies and people to have prosperous expansions through existing and new businesses are risking to be hampered.

Last spring, the Confederation of Swedish Enterprise published a memorandum on non-agri GI. This memorandum is enclosed.

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