



Brussels, 2.10.2017  
COM(2017) 557 final

Recommendation for a

**COUNCIL DECISION**

**authorising the European Commission to negotiate an Agreement with the  
CARIFORUM States to protect geographic indications based on Article 145 of the  
CARIFORUM - EU Economic Partnership Agreement**

## **EXPLANATORY MEMORANDUM**

The CARIFORUM – EU Economic Partnership Agreement (EPA), under Chapter 2, Section 2 ‘intellectual property’, Article 145<sup>1</sup>, establishes the level of protection of geographical indications, terms of protection and other parameters. However, no list of protected geographical indications has been established under this Agreement. For this reason, the EPA also contains in its Article 145 a rendezvous clause requiring the parties to complete the provisions on geographical indications and to establish the list of protected geographical indications.

### **1. CONTEXT OF THE PROPOSAL**

- **Reasons for and objectives of the proposal**

The CARIFORUM – EU EPA requires the parties to complete the regime of protection of geographical indications, including a list of protected names. Economic Partnership Agreements are in line with existing policy common commercial policy provisions of the Union.

- **Consistency with existing policy provisions in the policy area**

Not applicable.

- **Consistency with other Union policies**

Not applicable.

### **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

The legal basis for the measure is Article 218 of the Treaty on the Functioning of the European Union (TFEU).

- **Subsidiarity (for non-exclusive competence)**

Not applicable. Under Article 3 of the TFEU common commercial policy falls within the exclusive competences of the Union.

- **Proportionality**

The recommendation for a Council decision will adhere to the provisions already laid down in the EPA. The substantive additions will be the list of names of protected geographical indications and provisions on cooperation procedures. This is the minimum necessary to meet the requirements of the EPA.

- **Choice of the instrument**

The chosen instrument, international agreement, is the only appropriate instrument for the purpose.

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<sup>1</sup> Economic Partnership Agreement between the CARIFORUM States, of the one part, and the European Community and its Member States, of the other part, OJ L289/3, 30.10. 2008.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Ex-post evaluations/fitness checks of existing legislation**

Not applicable.

- **Stakeholder consultations**

Policy consultations took place with Member States and EP and through Council working groups and the relevant Committee of the EP. With CARIFORUM States and EU stakeholders consultation took place within the Consultative Committee of the CARIFORUM-EU EPA and via workshops and other GI related events (fairs, producer groups meetings etc.).

- **Collection and use of expertise**

Not applicable.

- **Impact assessment**

No Impact Assessment will be carried out for the initiative as there are no alternative policy options.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

Article 17(2) of the Charter of Fundamental Rights of the EU provides that intellectual property shall be protected, to which this agreement will contribute.

### **4. BUDGETARY IMPLICATIONS**

No budgetary implications are foreseen.

### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The Agreement will be implemented within the existing EPA framework, using the committee and procedures already foreseen therein, details of which will be developed further in the Agreement.

- **Explanatory documents (for directives)**

Not applicable.

- **Detailed explanation of the specific provisions of the proposal**

Around 180 Union geographic indications will be protected against misuse and counterfeiting in CARIFORUM States and, up to 30 CARIFORUM States' geographic indications will be protected in the Union. The Agreement will foresee regular updates of the list of the protected geographical indications, to ensure the reciprocal protection of new geographical indications.

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## **COUNCIL DECISION**

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 218(2) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) Article 145 of the CARIFORUM – EU Economic Partnership Agreement provides that the parties shall establish a list of protected geographic indications as well as further details of the regime of their protection under the mentioned Agreement.
- (2) To achieve this and to give full effect to Article 145 of the CARIFORUM – EU Economic Partnership Agreement the Commission needs to conduct negotiations with the CARIFORUM States.

HAS ADOPTED THIS DECISION:

#### *Article 1*

The European Commission is hereby authorised to negotiate with the CARIFORUM States an Agreement to protect geographical indications based on Article 145 of the CARIFORUM-EU Economic Partnership Agreement, including establishing a list of protected geographical indications, in line with the directives set out in the Annex.

#### *Article 2*

This Decision shall enter into force on the day of its adoption.

Done at Brussels,

*For the Council  
The President*