Australian Government
Department of Agriculture, Fisheries and Forestry

Implementation of A-EU Free Trade Agreement - options for protecting wine geographical indications

Discussion paper prepared by Wine Policy, Department of Agriculture, Fisheries and Forestry

Introduction

The Australia-European Union Free Trade Agreement (**A-EUFTA**) negotiations were concluded in March 2026. Before the agreement can enter into force Australia will need to have a new geographical indications (**GIs**) system which will protect 231 spirit and 165 agricultural GIs. The new system will protect EU GIs as agreed by Australia under the A-EUFTA and is likely to have provision to protect other Australian and international GIs.

Development of the new system will also provide Australians the opportunity to consider protection of Australian GIs. IP Australia is the lead agency developing the GI protection system.

The A-EUFTA is product neutral and provides the opportunity for equivalent protection of wine and non-wine GIs. Australia is considering the most appropriate framework for implementing these obligations.

Since the *1994 Agreement between Australia and the European Community on Trade in Wine*, Australia has protected a list of EU wine GIs and domestic GIs through a GI protection regime established in the *Wine Australia Act 2013* (**Wine Act**) and *Wine Australia Regulations 2018* (**Wine Regulations**).

The Department of Agriculture, Fisheries and Forestry (**DAFF**) is consulting with the wine industry on whether the protection of wine GIs may best be served by:

> **Option A** - a single system for the registration, maintaining and enforcing wine, food, agriculture, and spirit GIs.
>
> **Option B** – maintain current wine GI system alongside new FTA GI system.

The purpose of this paper is to seek industry views on which option best suits the needs of the wine industry. The Australian Government has made no decision at this time. Industry feedback will inform advice to be provided to the Government.

Background

Through the World Trade Organization's Agreement on Trade Related aspects of International Property Rights (**TRIPS**) Australia is obliged to protect GIs for wine and spirits. This obligation is met through certification trade marks (**CTMs**) administered by IP Australia and wine GIs protected under the Wine Act administered by Wine Australia or as CTMs. Further enforcement is available for spirit GIs under the Australia New Zealand Food Standards Code.

In 1994, (about the same time as TRIPS was negotiated) Australia also signed a Wine Agreement with the EU and set up a separate (*sui generis*[1]) GI system for protecting wine GIs at a higher level of protection than other GIs.

The Wine Agreement does not specify how or where GIs will be protected.

GI obligations in the A-EUFTA

In the A-EUFTA Australia agreed to protect a list of EU GIs and that:

- wine and non-wine GIs will be protected at the same level[2]
- all requests for protection of GIs will be published for objection
- the enforcement of GIs will be provided *ex officio* by appropriate administrative and judicial steps
- Australia will provide administrative and judicial mechanisms to support GI enforcement, including certain ex officio administrative actions
- the person/authority responsible for the GI will also be able to enforce the GI protections.

Australia's agreement to provide for additional EU GI protection in Australia, means that Australia must establish a new domestic GI system to implement negotiated outcomes on spirits and agricultural goods protected under the A-EUFTA. Australia will need to make changes to existing wine GI protection arrangements to implement the A-EU FTA GI obligations. This consultation seeks views on the appropriate approach.

GIs in the Wine Act and Wine Regulations

The Wine Act and Wine Regulations set up a system for registering, maintaining and enforcing wine GIs. The parts of the Wine Act that deal with wine GIs are as follows:

[1] Meaning "of itself, unique"

[2] The only difference is between the level of protection for wine and non-wine GIs is an obligation in the FTA to protect non-wine GIs when used as an ingredient. There is not an equivalent obligation in the Wine Agreement.

Part VIA of the Wine Act establishes the Label Integrity Program which supports the truth of vintage, variety or geographical indication label claims on wine manufactured in Australia.

Part VIB of the Wine Act sets out rules for the determination and maintenance of GIs and other protected terms and for using these terms in the description and presentation of wine. Part VIB:

- sets out rules on the sale, export or import of wine with a false or misleading description and presentation which set out offences for breaching the rules of use of GIs (the offence provisions)
- sets up the Geographical Indications Committee (GIC) which determines Australian and International GIs
- establishes the Register of Protected GIs and Other Terms where protected GIs are listed
- sets out the rules for the application, determination, and omission of Australian GIs
- sets out processes for determining and omitting foreign GIs.

The Wine Regulations set out several rules regarding GIs:

Regulation 26 sets out rules for using GIs on labels. These rules implement obligations in the Wine Agreement and in World Wine Trade Group Agreements.

Regulation 30 exempts plant variety names that are also GIs from the offence provisions in the Act.

Regulation 31 provides rules for wines that are already labelled when a new and conflicting GI is determined.

Parts 6 to 8 of the Regulations provide more detailed rules about the determination and omission of Australian and foreign GIs.

Option A - a single system for the registration, listing and enforcement of all wine, food, agriculture, and spirit GIs.

Description/Features

A new single GI system could take advantage of existing architecture within the trade marks framework and IP Australia for examination, opposition and registration of GIs, as appropriate.

A new system could protect both Australian and international GIs, including EU GIs agreed under the A-EUFTA, as well as potentially incorporating the registration and domestic enforcement of wine GIs from the current wine GI system.

Table 1 provides details on what aspects of the protection of wine GIs could be in a possible new GI system.

Table 1: GI rules and responsibilities in new system v GI rules and responsibilities in wine system

New GI system	Wine system
Rules for registering GIs	LIP to verify GI claims on label
Register of GIs	Regulations on use of registered GIs
Implementing article 9 of Wine Agreement and 17.41 of A-EUFTA (false and misleading use)	Export controls, including verifying use of registered GI label claims on exports
Rules for removing GIs	
Rules for amending GIs	
Rules for renewing GIs	
Investigating complaints about possible misuse of foreign GIs in Australia	

Some areas of the new system that it is anticipated could potentially differ from the wine system include:

- the system will be product neutral and rules likely to vary across products (for example wine-specific rules likely to be different to what is required for cheeses);
- the fees under the new system would to be similar to the fees charged for Trade Mark applications;
- GIs will need to be renewed every 10 years or they will be removed; and
- each GI will have a responsible person who may for example, establish the conditions of use, respond to any examination reports from IP Australia and ensure the GI is renewed.

Details of any changes and the above are subject to further development and Government consideration.

The new system would not impact on elements of the wine system that are not concerned with the registration, maintenance and enforcement of GIs. For example, these would likely include:

- The Label Integrity Program and record keeping rules relating to GIs, vintage, and variety, which provide for verifying the accuracy of label claims is intended to continue.
- Section 26 in the Wine Regulation provides rules for use of GIs registered in Australia and are intended to remain in the Wine legislation and be enforced by Wine Australia.

- Wine Australia is intended to retain responsibility in relation to the exports of wine and the approval of export shipments over one hundred litres, refusal of approval to export wine that is not compliant with GI rules.
- The implementation of the restrictions of wine grape variety names and their relationship to GIs are intended to remain in wine legislation with changes use of grape vine name Prosecco.
- The 'Register of Protected GIs and Other Terms' administered by Wine Australia and created in the Wine Act is intended to continue to protect traditional expressions and other terms.[3] Offence provisions for the misuse of country names and traditional expressions (which will be renamed as traditional terms) continue to be necessary.

Option B - Maintain wine GI system alongside new FTA GI system

Description/Features

The second approach is to have two systems for protecting GIs:

i. the new FTA GI system and
ii. for the wine GI system to remain a sui-generis system as established under the Wine Act.

The system being developed by IP Australia would protect EU GIs agreed under the A-EUFTA and would likely provide for the protection of other Australian and international GIs.

If a new system is developed there would be impacts on the wine GI system.

The relationship between wine GIs and non-wine GIs would need to be clear, for example, consideration of a process for identifying homonymous Australian GIs and defining boundaries of homonymous Australian GIs.

The A-EUFTA requires a range of penalty and enforcement measures for breaches of IP protections. Australian government policy is that penalties for similar offences of a similar seriousness should be consistent. As the systems for the protection of GIs are developed, DAFF and IP Australia would work together to develop a penalty and enforcement framework for breaches of GI protection.

A consideration when developing the new system may be whether it accepts applications to protect wine GIs, or a rule that wine GIs can only be protected under the stand alone wine GI system.

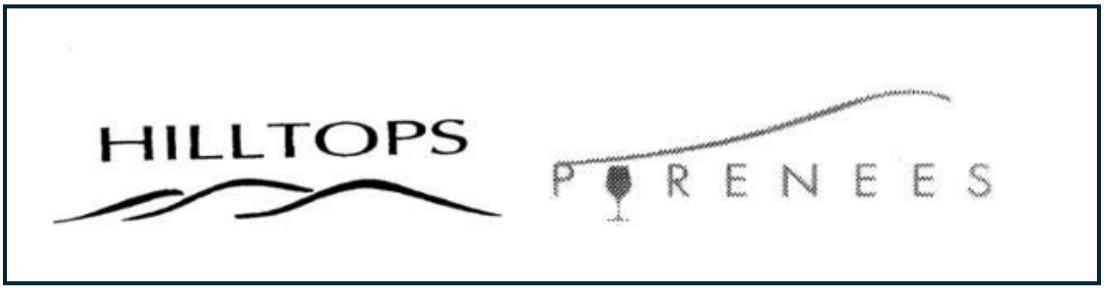
[3] Traditional expressions are not intellectual property and would not become the responsibility of IP Australia.

If the new GI system were to accept applications to protect wine GIs, there could be scope for regional GIs that include wine and other wine-like products.

The new GI system could be able to register GIs for a wine related product such as a wine spritz using an established wine GI name.

If a domestic wine GI were registered under the new GI system, producers within the area of the GI, may need to meet the requirements on use of one or more registered GI names on a label.

Australia meets its TRIPS obligations to protect GIs, in part, by providing for registration of GIs as CTMs. The CTM system accepts applications from Australian wine GIs. For example:



As shown in figures above, the advantage of registration as a CTM is that the GI can include a picture or representation. IP Australia intends the new GI system will provide that a GI can include a picture or representation.

Providing GIs with two forums where they can seek protection may result in forum shopping, or in an unsuccessful applicant in one forum applying for protection in the other and risks creating confusion amongst companies.

Consultation questions

1. Of the options put in this consultation paper, which is your preferred option to implement the Wine Agreement and A-EUFTA? Please explain why.

2. If Option A is preferred, what features of the current wine GI system should be contained within the Option A 'single system'?

3. If there were a single system for GIs, should wine GIs have a specific advisory committee to consider applications for the registration of wine GIs?

4. If there were a single system for GIs, are wine specific criteria (necessary for wine GIs?)

5. If there were a single system for GIs, should wine GIs continue to have a minimum size (5 vineyards each of 5 hectares collectively producing 500 tonnes)?

6. If there were a single system for GIs, should it be maintained as under the current system, that wine GIs cannot be amended?

7. The new GI system will have the capacity to protect non-wine domestic GIs. Wine GIs are not intended to have a right of veto over the names of new non-wine domestic GIs but are there issues that need to be considered about the relationship between new domestic non-wine GIs and wine GIs?

Please return your views to winepolicy@aff.gov.au by 5pm AEST Wednesday 30 September 2026.