

EU-Singapore trade and investment deals pass major milestone

OVERVIEW

Following the signature of the EU-Singapore trade and investment agreements on 19 October 2018, the European Parliament gave its consent on 13 February 2019 to conclude both agreements. These deals were created by dividing the initial free trade agreement reached between the EU and Singapore in 2014, but not ratified, into two separate instruments: a trade agreement and an investment protection agreement.

The trade agreement will enter into force with the finalisation of Singapore's internal administrative procedures and the conclusion of the final formalities by the EU and Singapore. In contrast, the investment protection agreement, which falls under the shared competence of the EU and its Member States, needs to be ratified by the EU Member States also, following their national procedures.

Singapore will be the first member state of the Association of Southeast Asian Nations (ASEAN) to conclude bilateral trade and investment agreements with the EU. The EU views bilateral agreements with ASEAN members as steps towards achieving the final objective of a region-to-region trade and investment agreement with ASEAN. Therefore, the EU-Singapore agreements are considered a reference as regards the EU's ambition to conclude trade and investment agreements with other ASEAN members.



Free trade agreement between the European Union and the Republic of Singapore; Investment protection agreement between the European Union and its Member States, of the one part, and the Republic of Singapore, of the other part

Committee responsible: International Trade (INTA)
Rapporteur: David Martin (S&D, United Kingdom)

2018/0093(NLE),
 2018/0095 (NLE)

Introduction

As an [open and trade-dependent](#) economy, Singapore supports the rules-based multilateral trading system, and pursues trade liberalisation. It is an active member of regional groups, such as [ASEAN](#) and Asia-Pacific Economic Cooperation ([APEC](#)), and has established a [network](#) of more than 22 implemented bilateral and regional trade agreements with more than 30 partners. Singapore is also one of the 11 countries that [signed](#) the Comprehensive and Progressive Agreement for Trans-Pacific Partnership ([CPTPP](#)) in 2018 and ratified it in the same year. In addition, Singapore is participating in the Regional Comprehensive Economic Partnership ([RCEP](#)) talks. Since 1987, Singapore's trade to gross domestic product (GDP) ratio has continuously been over [300%](#), indicating the country's [trade openness](#).

Singapore is a prime location for trade and finance activities, both in Asia and worldwide, although the country's key hub status is facing a number of [challenges](#). Over 10 000 European companies are established in the country, the majority of which use it as a regional hub. It also has a key position in global value chains (GVCs), [first](#) entering manufacturing GVCs in the late 1960s, and then service-oriented GVCs from the mid-1980s. As Singapore is an open economy with high rates of GVC participation, [concerns](#) have been raised about the impact of the escalating US-China trade conflict.

Strengthening trade and economic relations through the trade and investment agreements with Singapore, which is as committed as the EU to open and fair markets, will also mean that the EU's economic presence will grow in ASEAN, a dynamic market of around [640 million](#) people, and positioned, as a whole, as the world's fifth largest and Asia's third largest economy in 2017.

Existing situation

In 2007, [negotiations](#) were launched between the EU and a group of ASEAN countries for a region-to-region free trade agreement (FTA). Due to various reasons, such as human rights concerns related to Myanmar/Burma and the lack of consensus among ASEAN members in areas other than trade, talks were suspended in 2009. The EU decided to pursue bilateral trade agreements with the individual ASEAN member countries, although it remained committed to the strategic objective of concluding a bi-regional EU-ASEAN deal. The reasons for choosing Singapore as the first country with which to start negotiations for a comprehensive FTA were, among other things: it was the most developed country among the ASEAN members; it held significant EU foreign direct investment (FDI) stocks; and it had already concluded an FTA with the USA.

Singapore is the EU's most important ASEAN trading partner. Around [50 000](#) EU companies export to Singapore, of which 83 % are small and medium-sized enterprises (SMEs).

In 2017, Singapore was the EU's [14th](#) largest trading partner in goods, with a 1.4 % share in EU trade. The EU ranked as Singapore's [third](#) largest trading partner in goods, after China and Malaysia, representing 10.4 % of Singapore's global trade in goods. EU exports to Singapore amounted to €33.1 billion and imports to €20 billion in 2017. For trade in goods, the surplus for the EU increased significantly from €2 billion in 2007 to approximately €13 billion in 2017.

In 2017, the EU exported [€28.8 billion](#) worth of services to Singapore, while imports of services from Singapore totalled



€22.3 billion. The average annual growth rates for the 2013-2017 period for trade in services with Singapore (imports 12.1 % and exports 11.1 %) are considerably higher than those for trade in goods (3.8 % and 5 % respectively). In 2017, the EU remained Singapore's [largest](#) services export destination, and the second largest source of services imports behind the USA.

In 2017, Singapore held [€117.3 billion](#) inward FDI stocks in the EU (-14.7 % compared to 2016), constituting approximately 1.4 % of total extra-EU inward stocks. In the same year, it accounted for €227.1 billion outward FDI stocks from the EU (+15.8 % compared to 2016), a share worth 2.4 % of total EU FDI stocks held abroad. In 2017, the EU remained the [leading source](#) of FDI in Singapore.

In addition to its economic importance, the EU-Singapore FTA also gained attention because of the CJEU opinion, which sets the parameters for the division of competences between the EU and its Member States in similar trade and investment agreements. Further to the CJEU opinion, the [Council conclusions](#) of 22 May 2018 on the negotiation and conclusion of EU trade agreements outlined the key principles of the Council's approach towards trade negotiations in the future. In its conclusions, the Council noted the Commission's intention to present draft negotiating mandates for FTAs and separate investment agreements in the future. However, it stated that it will be up to the Council to make a decision regarding the launch of negotiations on this basis. Similarly, it will be 'for the Council to decide, on a case-by-case basis, on the splitting of trade agreements'.

EU negotiation objectives

Because of the low or zero tariffs already applied by Singapore in most manufacturing sectors, one of the EU's main areas of interest was obtaining better market access for a range of services sectors, such as financial and banking services, telecommunications, engineering and architectural services, maritime transport and postal services.

Another core issue for the EU was geographical indications (GIs).¹ As Singapore applied a US-inspired system of GIs, there was a significant difference between the systems used by the two parties. Regarding copyright, Singapore again applied a US-style regime.

Rules of origin was also a priority for the EU. Although the EU did not consider exports from Singapore a risk to its sensitive sectors, it was concerned that third countries, such as China, may seek to export their goods to the EU duty free via Singapore.

Singapore's position

Exports from Singapore contain a very high content of imported components. Therefore, one of Singapore's key objectives was to reach a favourable agreement on the rules of origin relating to its key exports to the EU, for instance machinery, petrochemicals and electronics. The EU's objectives to push for service liberalisation and an agreement on GIs strengthened Singapore's bargaining position on the rules of origin. A key player in the worldwide service market, Singapore also had a key interest in gaining better access to the EU's services market. Moreover, it was also keen to obtain comparable market access commitments on goods and services to those granted in the EU-South Korea FTA.

Parliament's position

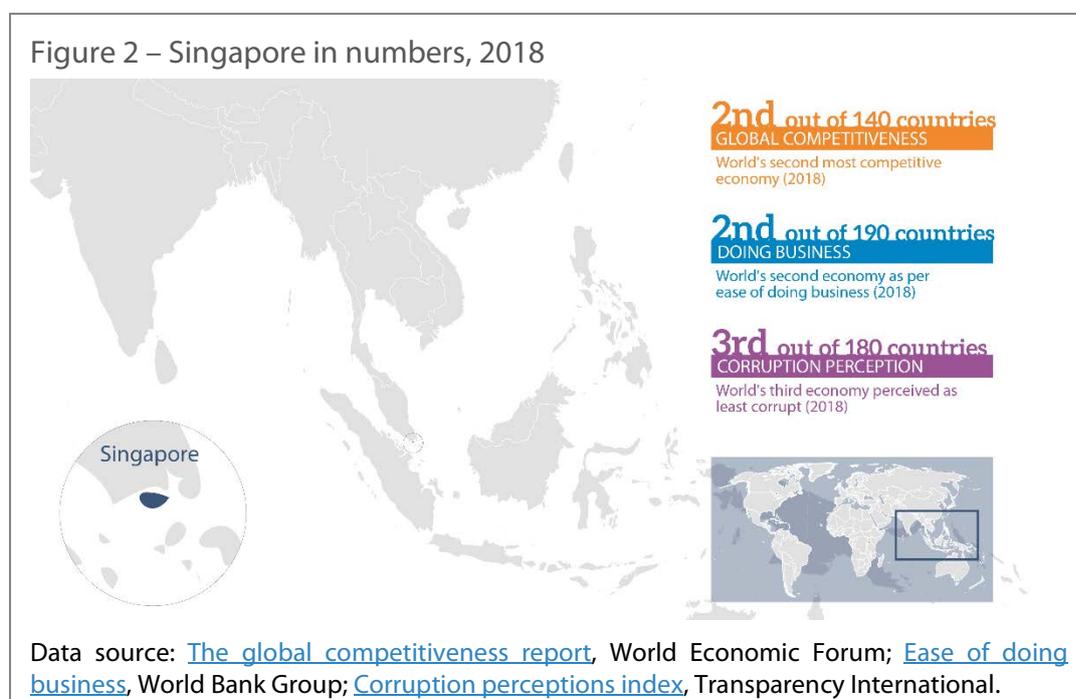
The European Parliament's 2008 [resolution](#) on trade and economic relations with ASEAN states that 'a Partnership and Cooperation Agreement (PCA), containing enforceable human rights clauses, is a prerequisite for the Union to conclude an FTA with any country'. Negotiations for a PCA were [concluded](#) with Singapore in 2013. The signature of the agreement took place in October 2018, alongside that of the trade and investment agreements. On 13 February 2019, the European Parliament gave its [consent](#) to the conclusion of the EU-Singapore PCA.

The European Parliament [resolution](#) of 5 July 2016 on a new forward-looking and innovative future strategy for trade and investment stressed the need for successfully concluded trade negotiations

to be ratified as swiftly as possible; more specifically, it called for the conclusion of the deal with Singapore.

In its [resolution](#) of 13 February 2019 on the conclusion of the free trade agreement, Parliament underlined the economic and strategic importance of the FTA. Besides highlighting, among other things, the facilitation for EU companies to access the services market and public procurement market in Singapore, and the recognition of the right of Member States at all levels to define and provide public services, Parliament deplored the fact that the protection of the EU GIs included in the agreement is not automatic. It requested that the development of the registration procedure should be started immediately, and that the registry should be established. It also stressed that Singapore should work towards ratifying the three outstanding International Labour Organization (ILO) core conventions.

In its [resolution](#) of the same day on the investment protection agreement (IPA), Parliament highlighted that the IPA, by replacing the existing bilateral investment agreements between Singapore and 13 EU Member States, will create greater coherence. It welcomed the new investment court system (ICS) included in the agreement, and that the IPA will provide for a high level of investment protection, transparency and accountability. It also welcomed Singapore's commitment to the establishment of the multilateral investment court. However, it deplored, for instance, the lack of provisions on investor responsibilities.



Preparation of the agreement

In 2009, while negotiations with ASEAN were ongoing, a Trade Sustainability Impact Assessment ([Trade SIA](#)) was published, which evaluated the likely economic, social and environmental impacts of the future FTA. It predicted significant gains in terms of GDP, income, trade and employment for all ASEAN members, and small but positive effects for the EU (a 0.2 % GDP gain plus over a percentage point in export value under the most ambitious long-term scenario).

A 2013 [economic impact assessment](#) of the outcome of the EUSFTA carried out by the European Commission predicted that, among other things, over a ten-year period, EU exports to Singapore would grow by approximately 3.6 %, and that in absolute terms the FTA would boost EU GDP by nearly €550 million. Over the same period, Singapore's exports to the EU would grow by around 10.4 %, and its economy would gain €2.7 billion. The lower benefits for the EU are due to the fact that tariffs are cut asymmetrically because Singapore already applies zero tariffs on almost all goods.

A 2018 [study](#) prepared for the European Parliament, based on the EUSFTA text as of May 2015, estimated that, over the first five years, trade volumes between the EU and Singapore would grow by 10 %; based on the combined effect of trade and FDI increases, EU and Singaporean GDP would grow by 0.06 % and 0.35 % respectively.

Negotiation process and outcome

The EU-Singapore negotiations commenced in 2010, on the basis of the ASEAN negotiating directives adopted in 2007. In fact, these directives had already envisaged the possibility of negotiating with ASEAN member countries on a bilateral level. As the Treaty of Lisbon came into force after the Commission's negotiation mandate was approved by the Council, the 2007 negotiating directives were [modified](#) in July 2011 to authorise the Commission to open negotiations on investment protection provisions within the FTA with Singapore. After the conclusion of talks on investment protection, negotiations were completed in October 2014, with other parts of the FTA already having been initialled in September 2013.

The negotiations were mainly focused on [services](#) and particularly on knowledge-intensive business services. In this context, great emphasis was placed on the issue of non-tariff barriers (NTBs) and technical barriers to trade (TBTs). Other particularly relevant issues included public procurement and investment. Moreover, a marked divergence in the positions of the parties on GIs and rules of origin emerged during the talks.

Although the negotiations were concluded in 2014 and the text of the proposed agreement was initialled, the process leading to the entry into force of the EU-Singapore FTA (EUSFTA) has been delayed, as in 2015 the Commission [sought the opinion](#) of the Court of Justice of the EU (CJEU) regarding which provisions of the EUSFTA fall within the EU's exclusive or shared competences and which ones remain within the exclusive competence of the Member States. In its [opinion](#) of 16 May 2017, the CJEU stated that the EUSFTA, in its 2014 form, also covered shared competences, especially with respect to investment dispute resolution. Therefore, the agreement could be concluded only as a 'mixed agreement', requiring ratification by both the EU and its Member States.

Moreover, as the negotiations had ended prior to the decision on the EU's [updated approach](#) on investment protection, which established a [new investment court system](#), Commission and Singapore experts started to explore how to adapt the investment protection provisions in the draft agreement to this new approach.

To take into account both the new investment approach and the CJEU opinion, the negotiations between the Commission and Singapore led to the splitting of the EUSFTA. Consequently, the Commission [presented](#) two agreements on 18 April 2018, as follows:

- The EU-Singapore [FTA](#) deals with trade and FDI liberalisation. Having been separated from the investment protection agreement, it includes only provisions that are within the exclusive competence of the EU, and can be concluded by the EU on its own.
- The EU-Singapore IPA covers investment protection and investment protection dispute resolution. According to the 2017 CJEU opinion, the agreement falls under shared competence and should therefore be ratified by both the EU and its Member States.

The changes the agreement would bring

Key elements of the trade agreement

Trade in goods. The agreement would remove virtually all tariffs, at the latest five years after the date of entry into force. For the EU, tariffs on over 80 % of all imports from Singapore would be eliminated immediately upon entry into force. An exemption from liberalisation for some fisheries and processed agricultural products was granted; however, the amount of trade in these products is very small. For [fruits and vegetables](#) under the EU entry price system, such as tomatoes and

oranges, the *ad valorem* tariffs would be phased out, while the specific tariffs would be kept. For Singapore, 100 % of the tariffs would be eliminated when the agreement enters into force (currently, specific duties are imposed only on a [few tariff lines](#), covering, for instance, alcoholic beverages). In addition, Singapore has committed to maintain tariffs at zero for all EU goods that already enter the country duty free. The agreement would also include a list of tariff lines for manufactured goods for which some degree of [regional ASEAN cumulation](#) would be allowed under certain conditions. This means that inputs sourced from other ASEAN member states would be considered as domestic content for the determination of the origin of the final product made in Singapore. Moreover, should the EU conclude additional FTAs with other ASEAN member states, regional cumulation would be further facilitated under specific conditions.

The agreement would include commitments on the reduction of TBTs, for instance, removal of double testing requirements for motor vehicles and electronics, in several key EU export sectors, such as automotive manufacturing, electronics and pharmaceuticals. As regards sanitary and phytosanitary (SPS) measures, to facilitate trade in products of animal origin, Singapore would evaluate the inspection and certification systems, rather than the individual establishments.

The EU-Singapore free trade agreement would be one of the first FTAs to be covered by a new EU Horizontal Safeguard [Regulation](#). The latter [aims](#) to establish a more coherent and efficient procedure for the EU to react when imports under an FTA increase to the extent that would 'cause or threaten to cause serious injury to the Union industry'.

Trade in services. Under the agreement, both the EU and Singapore would commit to the liberalisation of a wide range of services sectors, going beyond WTO commitments in a number of areas. EU commitments would also surpass the commitments included in the EU-South Korea FTA in certain areas, such as on postal services. As for Singapore, compared to the treatment offered bilaterally to other partners, in many sectors, it would provide [better commitments](#) to EU services providers. In certain areas of financial services, wholesale and investment banking for instance, the EU would obtain commitments that would be at least equal to those granted to its global competitors. As regards the retail banking market, under certain conditions, EU banks would be able to open further customer services locations. The agreement would also address licensing requirements in a cross-cutting manner, preventing them from hindering market entry. Furthermore, it would establish detailed procedures concerning mutual recognition of professional qualifications. No commitments would be made in certain sensitive sectors, such as audiovisual, education and public health. The agreement would follow a [positive-list](#) approach, meaning that liberalisation commitments that apply to service suppliers from the other party would be made only for the listed services sectors.

Intellectual property (IP) rights. Under the EUSFTA, Singapore agreed to set up a new GI protection system, which would provide high level protection for EU GIs. However, protection under the FTA would not be automatic; EU GIs, including certain categories of wines, spirits, agricultural products and foodstuffs, would have to be registered in Singapore, after passing through a registration procedure. Once registered, EU GIs would enjoy the same level of protection in Singapore as they currently do in the EU.

In order to set up the new GI protection system, Singapore's 1999 Geographical Indications Act (GI Act) was [replaced](#) by the 2014 GI Act, which came into force on 1 April 2019. This new act provides for the establishment of a [GI registry](#), which will receive the GI registration applications in Singapore. Moreover, a three-stage procedure will be applied, including the submission of the requests for registration, the examination of the applications, and the publication of the applications for possible third-party opposition to registration. Following the conclusion of the objection proceedings, Singapore will issue the list of registered EU GIs before the entry into force of the FTA. As the Commission negotiated the entry into force of the FTA to be [conditional upon](#) a satisfactory outcome as regards the protection of EU GIs in Singapore, the Council, on the basis of the abovementioned list of registered GIs in Singapore, will have to decide on the conclusion of the

agreement. Once the FTA enters into force, the Trade Committee set up by the FTA would meet to include in Annex B to the IP chapter the list of GIs effectively protected.

The agreement would also include provisions that would, for instance, enable producers of sound recordings to receive broadcasting and performance royalties in Singapore.

Public procurement. The agreement would provide improved access to government procurement opportunities. The EU has, for example, granted access to tendering opportunities in the railway procurement market; similarly, Singapore has included in the trade agreement some of its key procuring entities in certain utilities sectors, such as the Public Utilities Board.

Trade and sustainable development (TSD). Among its objectives, the TSD chapter would set out civil society's involvement in the implementation and monitoring of the chapter, and establish a mechanism for reconciling differences on the implementation of the provisions included. However, this chapter would be [excluded](#) from the general dispute settlement mechanism. Moreover, Singapore has not yet ratified [two](#) International Labour Organization (ILO) core conventions relevant for the agreement ([one](#) further convention was denounced in 1979). The agreement would also include a chapter on renewable energy generation, including provisions to facilitate trade and investment in equipment for renewable energy generation.

Key elements of the investment protection agreement (IPA)

The investment protection agreement would replace the 12 existing bilateral investment agreements between Singapore and certain EU Member States. It would also cover all those aspects of the EU's new investment approach that are not included in these agreements.

While preserving the parties' right to regulate in the interest of the public, the IPA would offer a high level of investment protection. It would, for instance, protect EU investors in Singapore from expropriation, unless conditions for legal expropriation are fulfilled, such as when expropriation happens for public purposes and prompt, adequate, and effective compensation is paid.

The traditional arbitration framework (investor-state dispute settlement (ISDS) mechanism) included in the 2014 version of the EUSFTA has been replaced by the new investment court system (ICS). One of the main elements of this new system would be a permanent Investment Tribunal of First Instance and an Appellate Tribunal. Second, the EU and Singapore would appoint the tribunal members in advance, as opposed to the former system in which parties to the dispute made the selection. To be appointed, tribunal members would have to demonstrate expertise in public international law, hold appropriate qualifications, and comply with a binding code of conduct included in the IPA. Tribunal proceedings would be fully transparent; case documents would be publically available and hearings would be held in public. Moreover, interested third parties would have the opportunity to put forward submissions in proceedings before the Tribunal; parallel or multiple proceedings would be prohibited.

The opinion of the CJEU on the compatibility of certain aspects of the EU-Canada Comprehensive Economic and Trade Agreement (CETA), and in particular the ICS, with EU law could also influence the ratification process of the IPA. The [request for an opinion](#) from the CJEU was lodged by [Belgium](#) in September 2017, and it is expected that the CJEU will publish its opinion at the end of [April 2019](#).

Stakeholders' views

In 2010, the European Commission conducted a [public consultation](#) on the prospective agreement. It received [contributions](#) mainly from exports-oriented sectors interested in the ASEAN market. Companies active in the automotive and energy industries called for the most extensive liberalisation of bilateral trade. Negotiations also mobilised European investors, particularly those in the services sectors, which pushed for the liberalisation of the investment sector.

As a [study](#) on the EU's preferential trade agreements with Singapore and Vietnam pointed out, the consultation carried out by the Commission revealed that negotiations did not trigger specific

protectionist reactions. Another [study](#) analysing the results of a survey among EU services providers operating in Singapore found that although the agreement was favourably received by most of the companies, these companies would nonetheless welcome resuming the EU-ASEAN talks.

The aforementioned 2018 European Parliament study presented the [results](#) of a survey conducted among various stakeholders on both sides. A significant number of stakeholders considered that the EUSFTA has the potential to further improve trade relations. The EU trade unions consulted raised concerns related to the lack of sanctions mechanisms in case of labour rights violations, and to the non-enforceability of the TSD chapter. Some concerns raised by SMEs included the competitive advantage Singaporean goods could have because of lower production costs.

Signature and ratification process

The Council adopted the decisions to sign the agreements on [15 October 2018](#). The FTA and the IPA were signed during the Asia-Europe Meeting (ASEM) Summit in Brussels, on 19 October 2018.

Following the adoption of the decisions to sign the agreements, the Council sent the agreements to the European Parliament for its approval ('consent'). In the Parliament, the Council's requests for consent were referred to the Committee on International Trade (INTA). On 24 January 2019, members of the INTA committee adopted two recommendations on giving [consent](#) to the draft Council decision on the conclusion of the FTA and of the IPA. On 13 February 2019, the European Parliament [gave its consent](#) to the conclusion of the FTA by 425 votes to 186, with 41 abstentions, and of the IPA, by 436 votes to 203, with 30 abstentions. The Parliament also adopted the accompanying resolutions, in which it laid out its expectations for the implementation of the agreements and the reasons for its decision to approve the deals.

The FTA, as mentioned before, includes only provisions falling under exclusive EU competence. Therefore, it required the completion of only the EU ratification procedure in order to enter into force. The Council's approval of the decision on the conclusion of the FTA is contingent on, as described above, the protected EU GIs included in the Singaporean GI register that is to be set up.

In contrast, the EU-Singapore IPA must be ratified by both the EU and the individual Member States, following their own national procedures. Therefore, for this agreement to enter into force, the Council needs to approve it after all Member States have ratified it. It should be mentioned that the European Commission has not proposed the provisional application of the IPA.

EP SUPPORTING ANALYSIS

Binder K., [EU-Singapore Free Trade Agreement – Stimulus for negotiations in the region](#), EPRS, European Parliament, June 2017.

[Free Trade Agreement between the EU and the Republic of Singapore – Analysis](#), Policy Department for External Policies, European Parliament, March 2018.

OTHER SOURCES

European Parliament, Legislative Observatory, [Procedure file 2018/0093\(NLE\)](#).

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[Guide to the EU-Singapore Free Trade Agreement and Investment Protection Agreement](#), European Commission, April 2018.

[The economic impact of the EU-Singapore Free Trade Agreement](#), European Commission, September 2013.

Leong Susanna H.S., '[European Union-Singapore Free Trade Agreement – A new chapter for geographical indications in Singapore](#)', in part II: *Geographical indications at the crossroads of trade, development, and culture*, Calboli I. eds, Cambridge University Press, June 2017.

ENDNOTE

- ¹ 'Geographical indications (GIs) are a specific form of intellectual property rights (IPR). GIs are indications that distinguish goods as originating from a specific milieu géographique (that is, a country, region or locality), where a distinctive set of qualities, reputation or other characteristics of the goods are essentially attributable to their geographical origin, because of their intricate link to locally available natural and human resources.' (Puccio L., Sibona M., [EU Geographical Indications: Protection for non-agricultural products](#), EPRS, European Parliament, June 2016.)

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eprs@ep.europa.eu (contact)

www.eprs.ep.parl.union.eu (intranet)

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