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‘ROOIBOS’ / ‘RED BUSH’: THE FIRST AFRICAN GI INCLUDED IN THE EU REGISTER

Dirk Troskie, Estelle Biénabe, Marthane Swart¹

Abstract – ‘Rooibos’ / ‘Red Bush’ became the first African Geographical Indication (GI) to be included in the European Union (EU) GI Register on 31 May 2021. The origins of this registration started about 30 years ago with the usurpation of ‘Rooibos’ as a trademark in the United States. This act provided the impetus for the establishment of the South African Rooibos Council (SARC) and the eventual inclusion of rooibos in a GI valorisation project in Southern Africa. The results from the valorisation project led to ‘Rooibos’ / ‘Red Bush’ being included in the GI Protocol of the Economic Participation Agreement (EPA) between Southern Africa and the EU. For various reasons SARC subsequently took the decision to directly apply to the EU for GI recognition which led to success after a process of almost three years. Inclusion of ‘Rooibos’ / ‘Red Bush’ led to observed benefits for the Industry.

Key words – Geographical Indications (GI), Rooibos, EU Register, Africa.

INTRODUCTION

On 31 May 2021 ‘Rooibos’ / ‘Red Bush’ received the honour to be the first product from Africa awarded the coveted status of ‘PDO’ in the European Union’s (EU) Register of Geographical Indications (GI). This was the culmination of a long and complicated process driven by multiple role players.

The purpose of this paper is to describe the background to this registration, processes preparing rooibos for registration as a GI as well as the eventual registration process. In the final part of this paper some outcomes will be discussed.

BACKGROUND

‘Rooibos’ is an herbal tea from the plant *Aspalathus linearis* which only grows in the South-Western Part of South Africa. The GI journey of Rooibos started in 1992 when a South African company registered ‘Rooibos’ as a trademark in the United States of America (USA). In 2001 a USA company obtained this trademark and immediately demanded royalties on all rooibos products exported to the USA. Although the matter was subsequently settled out of court, it underlined the danger of usurpation as well as the value of obtaining GI protection. This forced the industry to establish the SA Rooibos Council (SARC). In 2012 a French company also attempted to *inter alia* register ‘Rooibos Tea’ as a trademark, but was successfully opposed by the Industry.

PROCESS OF REGISTRATION

Over the period 2005 to 2008 a multi-national project, funded by DURAS (a joint GFAR-Agropolis International initiative), analysed six potential GI in South Africa and Namibia. As part of this project, with the support of SARC, Rooibos as a case study was analysed, its unique characteristics documented and a draft product description developed. As this was an interactive and participatory project, the general buy-in of producers and processors were obtained from the start and the GI characteristics approved at an Annual General Meeting of SARC. The process and learnings from this process was described in Troskie and Biénabe, 2013.

Although the case for the registration of a Rooibos GI was very clear, no appropriate valorisation system existed in South Africa. Hence, domestic protection was only obtained in September 2013 and, along with Heuningbos, Karoo Meat of Origin and 102 wines, ‘Rooibos’ / ‘Red Bush’ was included in the GI Protocol of the Economic Participation Agreement (EPA) between the EU and Southern African states in July 2014. It is important to note that this GI Protocol must be considered as the deal-maker which resulted in the EPA (but this is a discussion for another day).

The Rooibos Industry took the next step and, for the following reasons, in August 2018 applied directly for further protection from the EU:

- a) PDO status and acronym in all EU languages.
- b) High consumer-recognition of PDO logo.
- c) Proof of protection.
- d) Improved publicity and enforcement access of the Register.
- e) Direct rather than negotiated right for producers.
- f) Ease of application for further GI protection.

The Western Cape Department of Agriculture (WCDoA) assisted the SARC in developing the single document for Rooibos and the application was submitted on 21 August 2018. Following comments received from the EU Commission, amended versions of the single document were submitted on 29 April 2019, 27 December 2019 and 20 February 2020. On 6 August 2020 the single document was published in the Official Journal of the EU for comments and two objections were received. These objections focussed on:

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- a) Contradictory paragraphs pertaining to sensory parameters.
- b) The enforcement of the content of aspalathin and nothofagin in the final product.
- c) Adherence to EU labelling requirements

On 8 October 2020 a meeting was held with the parties who submitted the objections and agreement was reached on amendments. The resolution were submitted to the EU on 9 November 2020. The final registration was published in the EU Journal on 28 May 2021 and 'Rooibos' / 'Red Bush' was finally included in the EU Register on 31 May 2021.

Based on this experience there are three important observations to be shared with the producers of other products contemplating a submission for inclusion in a multinational register. These can be summarised as follows:

- a) Although the Rooibos Industry could directly approach the EU Commission, it was considered important to recognise national authorities and work through them. In this way diplomatic channels were opened which eventually proved to be very valuable.
- b) Although this was a very long and complicated process, the comments and support received from the EU Commission was very valuable.
- c) The objections should be approached in a positive way. In the case of the 'Rooibos' / 'Red Bush' application the institutions submitting objections could approach the application from a fresh perspective as well as from years of practical experience. Hence, their contribution prevented challenges which would only materialise at a later stage.

OUTCOME

It is important to note that, immediately following inclusion in the EU GI Register, international interest in Rooibos increased substantially. This was evident by the number of requests for samples from abroad.

This observation is corroborated by a casual analysis of rooibos export data. Over the 25 months from 1 May 2019 to 31 May 2021 (when 'Rooibos' / 'Red Bush' were included in the EU GI Register) the global volume of Rooibos exports from South Africa was 16 386 741kg (an average of 655 470kg per month). Over the 10 months from 1 June 2021 to 31 March 2022 total exports amounted to 7 318 092kg (an average of 731 809kg per month) (PPECB, 2022). This means that an additional 76 340kg per month of rooibos were exported on average after the inclusion of 'Rooibos' / 'Red Bush' in the EU GI Register; an increase of 11,6%.

However, it is important to note that this is for global exports (assuming that EU Registration will have an impact on the demand in non-EU countries) and other variables were not taken into account. It follows that a more detailed analysis is required for a conclusive answer to be provided.

Lessons learned through this whole project, from the DURAS intervention to 10 months after inclusion in the EU GI Register, can be summarised as follows:

- a) Importance of having an appropriate domestic valorisation system.
- b) Importance of a credible and inclusive custodian of the GI.
- c) Challenges of translating foreign legal prescripts into local product realities.
- d) Need for a technical institutional support framework.
- e) Opportunity created for other GI created by an Industry paving the way.
- f) Realisation that the development of a GI is a long and complex process.
- g) Immediate increase in domestic and international interest in Rooibos.

Finally, the authors of this paper want to congratulate the producers of 'Poivre de Penja' from Cameroon which, on 17 March 2022, became the second African product to be included in the EU GI Register.

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