Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications: accession of the European Union

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PURPOSE: to approve the accession of the European Union to the Geneva Act of the Lisbon Agreement on appellations of origin and geographical indications.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration of 31 October 1958 created a special union ('the Special Union') within the framework of the Union for the Protection of Industrial Property which was established by the Paris Convention (1883) for the Protection of Industrial Property.

Under the **terms of the Lisbon Agreement**, the contracting parties undertake to protect on their territories the appellations of origin of products of the other countries within the Special Union which are recognised and protected as such in the country of origin and which are registered at the International Bureau of Intellectual Property of the World Intellectual Property Organization (WIPO), unless those parties declare, within one year from the request for registration, that they cannot ensure such protection.

Seven Member States are parties to the Lisbon Agreement namely Bulgaria, the Czech Republic, France, Italy, Hungary, Portugal and Slovakia. Three other Member States have signed but not ratified the Lisbon Agreement namely, Greece, Spain and Romania. **The Union itself is not a party** to the Lisbon Agreement as the agreement provides that only States can accede to it.

On 20 May 2015, **the Geneva Act revised the Lisbon Agreement.** In particular, the Geneva Act expands the scope of the Special Union in order to extend the protection of appellations of origin of products to all geographical indications within the meaning of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights. The Geneva Act is compatible with this Agreement and with relevant Union legislation on the protection of designations of origin and geographical indications for agricultural products, and **allows international organisations (such as the European Union) to become contracting parties**.

The Union has exclusive competence for the areas covered by the Geneva Act. This was confirmed in a ruling of the European Court of Justice.

Regarding certain agricultural products, the Union has established uniform and comprehensive protection systems for geographical indications for wines (1970), spirits (1989), aromatized wines (1991) and other agricultural products and foodstuffs (1992). However, **without accession, the Union and its Member States could not benefit from the Geneva Act of the Lisbon Agreement**.

Given the exclusive nature of Union legislation on protection of geographical indications for agricultural products, the Member States are not supposed to have protection systems of their own nor themselves to protect agricultural geographical indications of third country members of the Lisbon system. However, as long as the Union is not a contracting party of the Geneva Act, it cannot submit agricultural geographical indications registered at Union level for protection under the Lisbon system, nor protect third country members' geographical indications on the basis of that system.

In order for the Union to properly exercise its exclusive competence for the Geneva Act of the Lisbon Agreement and its functions in the context of its exhaustive protection systems for agricultural geographical indications, the EU should become a contracting party.

IMPACT ASSESSMENT: the Commission has not carried out an impact assessment. It stresses, however, there would be a number of advantages in case of EU membership:

- it would ensure that current and future GIs registered at EU level but not registered by the seven EU Member States in the Lisbon Union could become eligible for protection in the Lisbon system;
- EU GIs could in principle gain rapid, high level, indefinite protection in all current and future parties to the Geneva Act;
- it would help rural stakeholders protect at global level what is valuable at local level, thus countervailing the usual globalisation trend toward uniform commodity standards and downward pressure on agricultural product prices;

- from an administrative point of view, the Geneva Act provides a single set of rules for obtaining protection in all members and therefore a simpler and more efficient mechanism compared to the current EU practice of dealing with a variety of local procedures through bilateral agreements;
- for businesses, EU accession will entail no additional adjustment, compliance or transaction costs or administrative burdens other than potential individual examination fees which Lisbon Members may apply but which will be diminished by the savings resulting from the international procedure.

CONTENT: with this proposal for a Council Decision, the Commission seeks authorization from the Council to **authorise the accession of the European Union to the Geneva Act**.

The Lisbon Agreement is open to parties to the Paris Convention for the Protection of Industrial Property.

All Member States are parties to the Paris Convention. The Commission would represent the EU in the 'Special Union' and make all the necessary notifications under the Geneva Act. Accession instruments should be deposited with the Director General of WIPO.

BUDGETARY IMPLICATION: the fees shall be borne by the Member State in which the appellation of origin or the geographical indication is originating. However, the Union may make a special contribution pursuant to the Geneva Act within the means available for this purpose in the annual budget of the Union. In 2018, an amount of **EUR 1 million** is allocated to budget line 05 06 01 to this purpose.