

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

2018/0214(NLE) - 14/03/2019 - Legislative proposal

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 within the framework of the Union for the Protection of Industrial Property which was established by the Convention for the Protection of Industrial Property signed in Paris on 20 March 1883.

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 the World Intellectual Property Organization (WIPO), unless those parties declare, within a period of one year from the receipt of the notification of such a registration, that they cannot ensure such protection.

Seven Member States are parties to the Lisbon Agreement, namely Bulgaria (since 1975), the Czech Republic (since 1993), France (since 1966), Italy (since 1968), Hungary (since 1967), Portugal (since 1966) and Slovakia (since 1993). 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 it provides that only countries can accede to it.

On 20 May 2015, the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications was adopted which revised the Lisbon Agreement.

In order for the Union to be able to properly exercise its exclusive competence for the areas covered by the Geneva Act and its functions in the context of its comprehensive protection systems for agricultural designations of origin and geographical indications, the Union should accede to the Geneva Act and become a contracting party thereto.

CONTENT: the draft Council Decision concerns the approval, on behalf of the Union, of the accession of the European Union to the Geneva Act of the Lisbon Agreement on designations of origin and geographical indications (Geneva Act).

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.

The revised Agreement:

- outlines the terms, conditions and processes by which contracting parties may seek protection for registered appellations of origin and geographical indications, while allowing for appropriate safeguards and transitional periods for certain entities;
- allows contracting parties, with regard to procedures relating to applications and international registration, to request a declaration of intent to use, if necessary, the protection provided by their national legislation of the Geneva Act and the Common Regulations under the Lisbon Agreement and the Geneva Act of the Lisbon Agreement;
- increases the registration fees from 500 CHF to 1000 CHF, future flexibility has been introduced to allow Members to further contribute to the budget as required. An individual fee can be required by Contracting Parties in order to covers the cost of substantive examination of the international registration;
- constitutes the obligation for each Contracting Party to protect registered appellations of origin and geographical indications on its territory, within its own legal system and practice but in accordance with the terms of this Act, subject to any refusal, renunciation, invalidation or cancellation that may become effective with respect to its territory;
- lays down the content of protection: each contracting party is required to provide the legal means to prevent use of the appellation of origin or geographical indication in respect of goods of the same kind but different origin and in respect of goods not of the same kind or services if such use would indicate or suggest a connection between those goods or services and the beneficiaries, and would be likely to damage their interests, or to impair or dilute or take unfair advantage of, the reputation of the AO/GI;
- effectively ensures that protected designations may not subsequently become generic;
- explicitly provides for coexistence of appellations of origin or geographical indications with prior trade mark rights;
- allows contracting parties to provide limited exceptions to the rights conferred by a trademark;
- provides for the option of a phasing out period for prior uses;
- does not refer to invalidity grounds and hence allows any Contracting Party to invoke its domestic rules, in line with EU legislation, which does not have an enumerative list of invalidation grounds, either.

The Geneva Act will enter into force three months after five parties have ratified it.