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I

*(Legislative acts)***REGULATIONS****REGULATION (EU) 2019/1753 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL****of 23 October 2019****on the action of the Union following its accession to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) In order for the Union to be fully able to exercise its exclusive competence in relation to its common commercial policy, and in full compliance with its commitments under the Agreement on the Trade-Related Aspects of Intellectual Property Rights (TRIPS) of the World Trade Organization, it will become a Contracting Party to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications ('the Geneva Act') pursuant to Council Decision (EU) 2019/1754 ⁽³⁾ which also authorises Member States to ratify the Geneva Act or accede to it in the interest of the Union. The contracting parties to the Geneva Act are members of a Special Union created by the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration ('Special Union'). In accordance with Decision (EU) 2019/1754, the Union and the Member States that have ratified the Geneva Act or acceded to it are to be represented by the Commission in the Special Union as regards the Geneva Act.
- (2) It is appropriate to lay down rules allowing the Union to exercise the rights and to fulfil the obligations laid down in the Geneva Act, on its behalf and on behalf of the Member States which ratify or accede to that Act.
- (3) The Geneva Act protects appellations of origin, including designations of origin within the meaning of Regulations (EU) No 1151/2012 ⁽⁴⁾ and (EU) No 1308/2013 ⁽⁵⁾ of the European Parliament and of the Council, as well as geographical indications within the meaning of Regulations (EU) No 1151/2012, (EU) No 1308/2013, (EU) No 251/2014 ⁽⁶⁾ and (EU) 2019/787 ⁽⁷⁾ of the European Parliament and of the Council, which are together referred to as 'geographical indications' in this Regulation.

⁽¹⁾ OJ C 110, 22.3.2019, p. 55.

⁽²⁾ Position of the European Parliament of 16 April 2019 (not yet published in the Official Journal) and decision of the Council of 7 October 2019.

⁽³⁾ Council Decision (EU) 2019/1754 of 7 October 2019 on the accession of the European Union to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (see page 12 of this Official Journal).

⁽⁴⁾ Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ L 343, 14.12.2012, p. 1).

⁽⁵⁾ Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

⁽⁶⁾ Regulation (EU) No 251/2014 of the European Parliament and of the Council of 26 February 2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and repealing Council Regulation (EEC) No 1601/91 (OJ L 84, 20.3.2014, p. 14).

⁽⁷⁾ Regulation (EU) 2019/787 of the European Parliament and of the Council of 17 April 2019 on the definition, description, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs, the protection of geographical indications for spirit drinks, the use of ethyl alcohol and distillates of agricultural origin in alcoholic beverages, and repealing Regulation (EC) No 110/2008 (OJ L 130, 17.5.2019, p. 1).

- (4) Upon the accession of the Union to the Geneva Act and thereafter on a regular basis, the Commission should file with the International Bureau of the World Intellectual Property Organization ('the International Bureau') applications for the international registration of geographical indications originating and protected in the territory of the Union in the register of the International Bureau ('the International Register'). Such applications should be based on notifications from Member States that act on their own initiative or at the request of a natural person or legal entity as referred to in point (ii) of Article 5(2) of the Geneva Act or of a beneficiary as defined in point (xvii) of Article 1 thereof. When preparing the notifications, Member States should consider the economic interest in international protection of the geographical indications concerned and take into account, in particular, the production value and the export value, protection under other agreements, as well as current or potential misuse in third countries.
- (5) The registration of geographical indications in the International Register should serve the purposes of providing quality products, fair competition and consumer protection. Given their significant cultural and economic value, the registration of geographical indications should be assessed with respect to the value created for local communities, with a view to supporting rural development and promoting new job opportunities in production, processing and other related services.
- (6) In order to establish an ongoing dialogue with relevant stakeholders, the Commission should use existing mechanisms to consult Member States, trade associations and Union producers regularly.
- (7) Appropriate procedures should be established for the Commission to assess geographical indications originating in the Contracting Parties to the Geneva Act that are not Member States ('third Contracting Parties'), and registered in the International Register, in order to take decisions with regard to protection in the Union and to invalidate such protection, where relevant.
- (8) Enforcement by the Union of the protection of geographical indications that originate in third Contracting Parties and that are registered in the International Register should be carried out in accordance with Chapter III of the Geneva Act, in particular with Article 14 thereof, which requires each Contracting Party to make effective legal remedies available for the protection of registered geographical indications and provide that legal proceedings for ensuring protection of such indications can be brought by a public authority or by any interested party, whether a natural person or a legal entity, whether public or private, in accordance with that Contracting Party's legal system and practice.
- (9) With a view to ensuring the protection of Union, regional and national trade marks alongside geographical indications, having regard to the safeguard in respect of prior trade mark rights as set out in Article 13(1) of the Geneva Act, coexistence of prior trade marks and geographical indications registered in the International Register which are granted protection or used in the Union should be safeguarded.
- (10) Given the exclusive competence of the Union in relation to the common commercial policy, Member States which are not already party to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration of 1958 as revised at Stockholm on July 14, 1967 and amended on September 28, 1979 ('the Lisbon Agreement'), should not ratify or accede to that Agreement.
- (11) The Member States which are already party to the Lisbon Agreement should be allowed to remain as such, in particular to ensure the continuity of rights granted under, and the fulfilment of obligations laid down in, that agreement. However, they should act solely in the interest of the Union and in full respect of the exclusive competence of the Union. Those Member States should therefore exercise their rights and obligations under the Lisbon Agreement in full compliance with the authorisation granted by the Union pursuant to this Regulation. In order to respect the uniform protection system for geographical indications established in the Union as regards agricultural products and in order to further enhance harmonisation within the internal market, those Member States should not register under the Lisbon Agreement any new appellations of origin for products falling within the scope of Regulation (EU) No 1151/2012, (EU) No 1308/2013, (EU) No 251/2014 or (EU) 2019/787.
- (12) The Member States which are already party to the Lisbon Agreement have registered appellations of origin under the Lisbon Agreement. Transitional arrangements should be provided for so as to make continued protection of those appellations of origin possible, subject to the requirements of that agreement, the Geneva Act and Union law.

- (13) The Member States which are already party to the Lisbon Agreement protect appellations of origin of third parties to that agreement. In order to provide them with the means to fulfil their international obligations assumed before the accession of the Union to the Geneva Act, a transitional arrangement, which should produce effects at national level only and have no effect on intra-Union or international trade, should be provided for.
- (14) It is appropriate that the fees to be paid under the Geneva Act and the Common Regulations under the Lisbon Agreement and the Geneva Act of the Lisbon Agreement (the 'Common Regulations') for filing an application with the International Bureau for the international registration of a geographical indication, as well as the fees to be paid in respect of other entries in the International Register and for the supply of extracts, attestations, or other information concerning the contents of that international registration, should be borne by the Member State in which the geographical indication originates, by a natural person or legal entity as referred to in point (ii) of Article 5(2) of the Geneva Act or by a beneficiary as defined in point (xvii) of Article 1 thereof. Member States should have the option of requiring that natural person, legal entity or beneficiary to pay some or all of the fees.
- (15) In order to defray any shortfall in relation to the operating budget of the Special Union, the Union should be able to provide, within the means available for this purpose in the annual budget of the Union, for a special contribution as decided by the Assembly of the Special Union pursuant to Article 24(4) of the Geneva Act, given the economic and cultural value of geographical indications protection.
- (16) In order to ensure uniform conditions for the implementation of the Union's membership of the Special Union, implementing powers should be conferred on the Commission to establish a list of geographical indications to be included in the application to be filed for their international registration with the International Bureau upon accession to the Geneva Act and for any subsequent filing of an application, to reject an opposition, to decide whether to grant protection of a geographical indication registered in the International Register, to withdraw the refusal of the effects of an international registration, to request the cancellation of an international registration, to notify the invalidation of the protection in the Union of a geographical indication registered in the International Register, as well as to authorise Member States to provide for any necessary modifications in respect of the appellation of origin for a product which is protected under Regulation (EU) No 1151/2012, (EU) No 1308/2013, (EU) No 251/2014 or (EU) 2019/787 and to notify the International Bureau thereof. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁽⁸⁾.
- (17) In accordance with the principle of proportionality, it is necessary and appropriate, for the achievement of the basic objective of enabling the Union to participate in the Special Union in a way which will ensure efficient protection of EU geographical indications at international level, to lay down rules and procedures concerning actions of the Union following its accession to the Geneva Act. This Regulation does not go beyond what is necessary in order to achieve the objective pursued, in accordance with Article 5(4) of the Treaty on European Union.
- (18) It is important to ensure that the Commission monitors and evaluates the participation of the Union in the Geneva Act over time. In order to conduct such an evaluation, the Commission should, inter alia, take into account the number of geographical indications protected and registered under Union law for which applications for international registration have been submitted, cases where protection has been rejected by third Contracting Parties, the evolution of the number of third countries participating in the Geneva Act, the action taken by the Commission to increase that number, as well as the impact of the current state of Union law as regards geographical indications on the attractiveness of the Geneva Act to third countries, and the number and type of geographical indications that originate from third Contracting Parties and that have been rejected by the Union,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter

1. This Regulation establishes rules and procedures concerning actions of the Union following its accession to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications ('the Geneva Act').

⁽⁸⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

2. For the purpose of this Regulation, the term 'geographical indications' covers appellations of origin within the meaning of the Geneva Act, including designations of origin within the meaning of Regulations (EU) No 1151/2012 and (EU) No 1308/2013, as well as geographical indications within the meaning of Regulations (EU) No 1151/2012, (EU) No 1308/2013, (EU) No 251/2014 and (EU) 2019/787.

Article 2

International registration of geographical indications

1. Upon the accession of the Union to the Geneva Act and thereafter on a regular basis, the Commission shall, in its capacity as Competent Authority within the meaning of Article 3 of the Geneva Act, file applications for the international registration of geographical indications protected and registered under Union law and pertaining to products originating in the Union pursuant to Article 5(1) and (2) of the Geneva Act with the International Bureau of the World Intellectual Property Organization ('the International Bureau').

2. For the purpose of paragraph 1, Member States may request the Commission to register in the International Register geographical indications that originate in their territory and that are protected and registered under Union law. Such requests shall be based on:

- (a) a request by a natural person or legal entity as referred to in point (ii) of Article 5(2) of the Geneva Act or by a beneficiary as defined in point (xvii) of Article 1 of the Geneva Act; or
- (b) their own initiative.

3. On the basis of such requests, the Commission shall adopt implementing acts listing the geographical indications referred to in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2).

Article 3

Cancellation of a geographical indication that originates in a Member State and is registered in the International Register

1. The Commission shall adopt an implementing act in order to request the International Bureau to cancel a registration in the International Register of a geographical indication originating in a Member State, in any of the following circumstances:

- (a) the geographical indication is no longer protected in the Union;
- (b) at the request of the Member State in which the geographical indication originates, based on:
 - (i) a request by a natural person or legal entity as referred to in point (ii) of Article 5(2) of the Geneva Act or by a beneficiary as defined in point (xvii) of Article 1 of the Geneva Act; or
 - (ii) its own initiative.

2. The implementing act referred to in paragraph 1 of this Article shall be adopted in accordance with the examination procedure referred to in Article 15(2).

3. The Commission shall, without delay, notify the International Bureau of the request for cancellation.

Article 4

Publication of third country geographical indications registered in the International Register

1. The Commission shall publish any international registration notified by the International Bureau pursuant to Article 6(4) of the Geneva Act, that:

- (a) concerns geographical indications registered in the International Register in respect of which the Contracting Party of Origin, as defined under point (xv) of Article 1 of the Geneva Act, is not a Member State; and
- (b) relates to a product in respect of which protection at Union level of geographical indications is provided.

2. The international registration referred to in paragraph 1 shall be published in the C series of the *Official Journal of the European Union*. The publication shall include a reference to the product type and country of origin.

*Article 5***Assessment of third country geographical indications registered in the International Register**

1. The Commission shall assess any international registration notified by the International Bureau pursuant to Article 6(4) of the Geneva Act concerning the geographical indications registered in the International Register and in respect of which the Contracting Party of Origin, as defined under point (xv) of Article 1 of the Geneva Act, is not a Member State, in order to determine whether it includes the mandatory contents laid down in Rule 5(2) of the Common Regulations under the Lisbon Agreement and the Geneva Act (the 'Common Regulations'), and the particulars concerning the quality, reputation or characteristics as laid down in Rule 5(3) of the Common Regulations, and to verify whether the publication referred to in Article 4 relates to a product in respect of which protection at Union level of geographical indications is provided.
2. The assessment referred to in paragraph 1 shall be carried out within four months from the date of the registration of the geographical indication in the International Register and shall not include an assessment of other specific Union provisions relating to the placing of products on the market and, in particular, to sanitary and phytosanitary standards, marketing standards or food labelling.

*Article 6***Opposition procedure for third country geographical indications registered in the International Register**

1. Within four months from the date of publication of the international registration in accordance with Article 4, the authorities of a Member State or of a third country other than the Contracting Party of Origin as defined under point (xv) of Article 1 of the Geneva Act, or a natural or legal person having a legitimate interest and established in the Union or in a third country other than the Contracting Party of Origin, may lodge an opposition with the Commission.

The opposition shall be in one of the official languages of the institutions of the Union.

2. The opposition referred to in paragraph 1 of this Article shall be admissible only if it is lodged within the time limit set out in paragraph 1 of this Article and if it is based upon one or more of the following grounds:
 - (a) the geographical indication registered in the International Register conflicts with a name of a plant variety or an animal breed and is likely to mislead the consumer as to the true origin of the product;
 - (b) the geographical indication registered in the International Register is wholly or partially homonymous with a geographical indication already protected in the Union and there is insufficient distinction in practice between the conditions of local and traditional usage and presentation of the geographical indication proposed for protection and the geographical indication already protected in the Union, taking into account the need to ensure equitable treatment of the producers concerned and not to mislead consumers;
 - (c) the protection in the Union of the geographical indication registered in the International Register would infringe a prior trade mark right at Union, regional or national level;
 - (d) the protection in the Union of the third country geographical indication would jeopardise the use of an entirely or partly identical name or the exclusive nature of a trade mark at Union, regional, or national level or the existence of products which have been legally placed on the market for at least five years preceding the date of the publication of the international registration in accordance with Article 4;
 - (e) the geographical indication registered in the International Register relates to a product in respect of which protection at Union level of geographical indications is not provided;
 - (f) the name for which registration is requested is a generic term in the territory of the Union;
 - (g) the conditions referred to in points (i) and (ii) of Article 2(1) of the Geneva Act are not complied with;
 - (h) the geographical indication registered in the International Register is a homonymous name which misleads the consumer into believing that products come from another territory, even if the name is accurate as far as the actual territory, region or place of origin of the products in question is concerned.
3. The grounds for opposition set out in paragraph 2 shall be assessed by the Commission in relation to the territory of the Union or part thereof.

*Article 7***Decision on protection in the Union of third country geographical indications registered in the International Register**

1. Where, based on the assessment carried out pursuant to Article 5, the conditions laid down in that Article are fulfilled and no opposition or no admissible opposition has been received, the Commission shall, as appropriate, by means of an implementing act, reject any inadmissible opposition and decide to grant protection of the geographical indication. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 15(2).
2. Where, based on the assessment carried out pursuant to Article 5, the conditions laid down in that Article are not fulfilled or an admissible opposition as set out in Article 6(2) has been received, the Commission shall, by means of an implementing act, decide whether to grant protection of a geographical indication registered in the International Register. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 15(2). In respect of geographical indications covering products not falling within the competence of the committees provided in Article 15(1), the decision whether to grant protection shall be adopted by the Commission.
3. The decision to grant protection of a geographical indication in accordance with paragraph 1 or 2 of this Article shall set out the scope of protection granted and may include conditions which are compatible with the Geneva Act, and in particular grant a defined transitional period as specified in Article 17 of the Geneva Act and Rule 14 of the Common Regulations.
4. In accordance with Article 15(1) of the Geneva Act, the Commission shall notify the International Bureau of the refusal of the effects of the international registration concerned in the territory of the Union, within one year from the receipt of the notification of international registration in accordance with Article 6(4) of the Geneva Act, or, in the cases referred to in the first paragraph of Article 5 of Decision (EU) 2019/1754, within two years from the receipt of that notification.
5. The Commission may, on its own initiative or following a duly substantiated request by a Member State, a third country or a natural or legal person having a legitimate interest, withdraw, in whole or in part, by means of an implementing act, a refusal previously notified to the International Bureau. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 15(2).

The Commission shall notify the International Bureau of such withdrawal without delay.

*Article 8***Use of geographical indications**

1. The implementing acts adopted by the Commission pursuant to Article 7 shall apply without prejudice to other specific Union provisions relating to the placing of products on the market and, in particular, to the common organisation of agricultural markets, sanitary and phytosanitary standards, and food labelling.
2. Subject to paragraph 1, geographical indications protected pursuant to this Regulation may be used by any operator marketing a product in accordance with the international registration of those geographical indications.

*Article 9***Invalidation of effects in the Union of a third country geographical indication registered in the International Register**

1. The Commission may, on its own initiative or following a duly substantiated request by a Member State, a third country or a natural or legal person having a legitimate interest, invalidate, in whole or in part, by means of an implementing act, the effects of protection in the Union of a geographical indication, in one or more of the following circumstances:
 - (a) the geographical indication is no longer protected in the Contracting Party of Origin;
 - (b) the geographical indication is no longer registered in the International Register;
 - (c) compliance with the mandatory contents laid down in Rule 5(2) of the Common Regulations or with the particulars concerning the quality, reputation or characteristics as laid down in Rule 5(3) of the Common Regulations is no longer ensured.

2. The implementing acts referred to in paragraph 1 of this Article shall be adopted in accordance with the examination procedure referred to in Article 15(2) and only after the natural persons or legal entities as referred to in point (ii) of Article 5(2) of the Geneva Act or the beneficiaries as defined in point (xvii) of Article 1 of the Geneva Act have been given an opportunity to defend their rights.

3. Where the invalidation is no longer subject to appeal, the Commission shall notify the International Bureau without delay of the invalidation of the effects in the territory of the Union of the international registration of the geographical indication in accordance with point (a) or (c) of paragraph 1.

Article 10

Relationship with trade marks

1. The protection of a geographical indication shall not prejudice the validity of a prior trade mark at Union, regional or national level applied for or registered in good faith, or acquired through use in good faith in the territory of a Member State, regional union of Member States or the Union.

2. A geographical indication registered in the International Register shall not be protected in the territory of the Union where, in the light of a trade mark's reputation and renown and the length of time it has been used, protection of that geographical indication in the territory of the Union would be liable to mislead the consumer as to the true identity of the product.

3. Without prejudice to paragraph 2, a trade mark which has been applied for or registered in good faith, or acquired through use, if that possibility is provided for by the applicable law, in good faith within the territory of a Member State, regional union of Member States or the Union, before the date on which the International Bureau has notified the Commission of the publication of the International Registration of the geographical indication, and the use of which would contravene the protection of the geographical indication, may continue to be used and renewed for the product concerned notwithstanding the protection of the geographical indication, provided that no grounds for invalidity or revocation exist under Regulation (EU) 2017/1001 of the European Parliament and of the Council⁽⁹⁾ or under Directive (EU) 2015/2436 of the European Parliament and the Council⁽¹⁰⁾. In such cases, both the use of the geographical indication and the use of the trade mark concerned shall be permitted.

Article 11

Transitional provisions for appellations of origin originating in Member States already registered under the Lisbon Agreement

1. In respect of each appellation of origin originating in a Member State which is party to the Lisbon Agreement, for a product that is protected under one of the Regulations referred to in Article 1 of this Regulation, the Member State concerned shall, on the basis of a request by a natural person or legal entity as referred to in point (ii) of Article 5(2) of the Geneva Act or a beneficiary as defined in point (xvii) of Article 1 of the Geneva Act, or on its own initiative, choose to request either:

- (a) the international registration of that appellation of origin under the Geneva Act, if the Member State concerned has ratified or acceded to the Geneva Act pursuant to the authorisation referred to in Article 3 of Decision (EU) 2019/1754; or
- (b) the cancellation of the registration of that appellation of origin in the International Register.

The Member State concerned shall notify the Commission of the choice referred to in the first subparagraph by 14 November 2022.

In the situations referred to in point (a) of the first subparagraph, the Member State concerned shall, in coordination with the Commission, verify with the International Bureau whether there are any modifications to be made under Rule 7(4) of the Common Regulations for the purpose of registration under the Geneva Act.

The Commission shall, by means of an implementing act, authorise the Member State concerned to provide for the necessary modifications and to notify the International Bureau. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 15(2).

⁽⁹⁾ Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark (OJ L 154, 16.6.2017, p. 1).

⁽¹⁰⁾ Directive (EU) 2015/2436 of the European Parliament and the Council of 16 December 2015 to approximate the laws of the Member States relating to trade marks (OJ L 336, 23.12.2015, p. 1).

2. In respect of each appellation of origin originating in a Member State which is party to the Lisbon Agreement, for a product falling within the scope of one of the Regulations referred to in Article 1(2) of this Regulation, but not protected under any of those Regulations, the Member State concerned shall, on the basis of a request by a natural person or legal entity referred to in point (ii) of Article 5(2) of the Geneva Act or a beneficiary as defined in point (xvii) of Article 1 of the Geneva Act, or on its own initiative, choose to request either:

- (a) the registration of that appellation of origin under the Regulation concerned; or
- (b) the cancellation of the registration of that appellation of origin in the International Register.

The Member State concerned shall notify the Commission of the choice referred to in the first subparagraph, and lodge the respective request, by 14 November 2022.

In the situations referred to in point (a) of the first subparagraph, the Member State concerned shall request the international registration of that appellation of origin under the Geneva Act, if that Member State has ratified or acceded to the Geneva Act pursuant to the authorisation referred to in Article 3 of Decision (EU) 2019/1754, within one year from the date of registration of the geographical indication under the applicable Regulation. The third and fourth subparagraphs of paragraph 1 shall apply.

If the request for registration under the applicable Regulation is refused and related administrative and judicial remedies have been exhausted, or if the request for registration under the Geneva Act has not been made pursuant to the third subparagraph of this paragraph, the Member State concerned shall, without delay, request the cancellation of the registration of that appellation of origin in the International Register.

3. In respect of appellations of origin for products not falling within the scope of one of the Regulations referred to in Article 1(2) of this Regulation, in respect of which protection at Union level of geographical indications is not provided, a Member State which is already party to the Lisbon Agreement may maintain any existing registration in the International Register.

Such a Member State may also submit further applications for registration in the International Register under the Lisbon Agreement of such appellations of origin originating in its territory if the following conditions are met:

- (a) the Member State concerned notified the Commission of the draft application for registration of such appellations of origin; such notification shall include evidence that the application satisfies the requirements for registration under the Lisbon Agreement; and
- (b) the Commission has not issued a negative opinion within two months of such notification; a negative opinion may only be issued after consultation with the Member State concerned, and in the exceptional and duly justified cases where the evidence required under point (a) does not sufficiently substantiate that the requirements for registration under the Lisbon Agreement are met, or if the registration would have an adverse impact on the Union trade policy.

In the case of a request for further information from the Commission on the notification made under point (a) of the second subparagraph, the deadline for the Commission to act shall be one month from the receipt of the information requested.

The Commission shall immediately inform the other Member States about any notification made under point (a) of the second subparagraph.

Article 12

Transitional protection for appellations of origin originating in a third country registered under the Lisbon Agreement

1. The Member States which were party to the Lisbon Agreement before the accession of the Union to the Geneva Act may continue to protect appellations of origin originating in a third country which is party to the Lisbon Agreement by means of a national protection system, with effect from the date on which the Union becomes a contracting party to the Geneva Act, as regards appellations of origin registered by that date under the Lisbon Agreement.

2. The protection referred to in paragraph 1 shall:
 - (a) be superseded by protection under the Union protection system for a particular appellation of origin if it is provided by a decision taken under Article 7 of this Regulation subsequent to the accession of the third country concerned to the Geneva Act, on condition that the protection provided by a decision taken under Article 7 of this Regulation preserves the continuity of protection of the respective appellation of origin in the respective Member State;
 - (b) cease for a particular appellation of origin when the effects of international registration end.
3. Where an appellation of origin originating in a third country is not registered under this Regulation, or the national protection is not superseded in accordance with point (a) of paragraph 2, the consequences of such national protection shall be the sole responsibility of the Member State concerned.
4. The measures taken by Member States under paragraph 1 shall have effects at national level only, and shall have no effect on intra-Union or international trade.
5. The Member States referred to in paragraph 1 shall transmit to the Commission any notification made by the International Bureau under the Lisbon Agreement. The Commission shall then transmit that notification to all other Member States.
6. The Member States referred to in paragraph 1 of this Article shall declare to the International Bureau that they cannot ensure national protection of an appellation of origin for a product falling within the scope of one of the Regulations referred to in Article 1(2) of this Regulation, registered and notified to them under the Lisbon Agreement from the date on which the Union becomes a Contracting Party to the Geneva Act.

Article 13

Fees

Fees to be paid under Article 7 of the Geneva Act, as specified in the Common Regulations, shall be borne by the Member State in which the geographical indication originates, or by a natural person or legal entity as referred to in point (ii) of Article 5(2) of the Geneva Act or by a beneficiary as defined in point (xvii) of Article 1 of the Geneva Act. Member States may require that natural person or legal entity or beneficiary to pay some or all of the fees.

Article 14

Special financial contribution

If the income from the Special Union is derived in accordance with point (v) of Article 24(2) of the Geneva Act, the Union may make a special contribution within the means available for that purpose from the annual budget of the Union.

Article 15

Committee procedure

1. The Commission shall be assisted by the following committees within the meaning of Regulation (EU) No 182/2011, in respect of the following products:
 - (a) for wine-sector products falling within the scope of Article 92(1) of Regulation (EU) No 1308/2013, by the Committee for the Common Organisation of the Agricultural Markets established by Article 229 of that Regulation;
 - (b) for aromatised wine products as defined in Article 3 of Regulation (EU) No 251/2014, by the Committee on aromatised wine products established by Article 34 of that Regulation;
 - (c) for spirit drinks as defined in Article 2 of Regulation (EC) No 110/2008 of the European Parliament and of the Council ⁽¹⁾, by the Committee for Spirit Drinks referred to in Article 47 of Regulation (EU) 2019/787;

⁽¹⁾ Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89 (OJ L 39, 13.2.2008, p. 16), partly in force until 24 May 2021.

- (d) for agricultural products and foodstuffs falling within the scope of the first subparagraph of Article 2(1) of Regulation (EU) No 1151/2012, by the Agricultural Product Quality Policy Committee established by Article 57 of that Regulation.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 16

Monitoring and review

By 14 November 2021, the Commission shall assess the participation of the Union in the Geneva Act and submit a report on the main findings to the European Parliament and to the Council. The assessment shall be based, inter alia, on the following aspects:

- (a) the number of geographical indications which are protected and registered under Union law and for which applications for international registration have been submitted, and the cases in which the protection was rejected by third Contracting Parties;
- (b) the evolution in the number of third countries participating in the Geneva Act and the action taken by the Commission to increase that number, as well as the impact of the current state of Union law as regards geographical indications on the attractiveness of the Geneva Act to third countries; and
- (c) the number and type of third country geographical indications which have been rejected by the Union.

Article 17

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg, 23 October 2019.

For the European Parliament

The President

D. M. SASSOLI

For the Council

The President

T. TUPPURAINEN

Statement by the Commission on the possible extension of EU geographical indication protection to non-agricultural products

The Commission takes note of the European Parliament resolution of 6 October 2015 on the possible extension of EU geographical indication protection to non-agricultural products.

The Commission launched a study in November 2018 to get further economic and legal evidence on the protection of non-agricultural GIs within the Single Market, as a complement to a study of 2013, and to obtain further data on issues such as competitiveness, unfair competition, counterfeiting, consumer perceptions, costs/benefits as well as on the effectiveness of non-agricultural GI protection models in light of the proportionality principle.

In accordance with the principles of Better Regulation and to the commitments laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making, the Commission will examine the study as well as the report on the participation of the Union in the Geneva Act as referred to in the Article on monitoring and review of the Regulation on the action of the Union following its accession to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications and consider any possible next steps.

Statement by the Commission on the procedure set out in Article 11(3) of the Regulation

The Commission notes that whilst the procedure set out in Article 11(3) of the Regulation is a legal necessity given the exclusive competence of the Union it can nevertheless state that in the context of the current EU acquis any such intervention of the Commission would be exceptional and duly justified. During consultations with a Member State, the Commission will make every effort in order to resolve together with the Member State any concerns in order to avoid the issuing of a negative opinion. The Commission notes that any negative opinion would be notified in writing to the Member State concerned and pursuant to Article 296 TFEU would state the reasons on which it was based. The Commission would further note that a negative opinion would not preclude the submission of a further application concerning the same appellation of origin, if the reasons for the negative opinion have been duly addressed thereafter or are no longer applicable.

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION (EU) 2019/1754

of 7 October 2019

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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207 in conjunction with point (a) of Article 218(6) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration of 31 October 1958 ('the Lisbon Agreement') created a special union ('the 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 Paris Convention'). 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 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.
- (2) 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.
- (3) On 20 May 2015, the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications ('the Geneva Act') was adopted which 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 World Trade Organisation Agreement on Trade-Related Aspects of Intellectual Property Rights. The Geneva Act is compatible with that agreement and with relevant Union law on the protection of designations of origin and geographical indications for agricultural products, and allows intergovernmental organisations to become contracting parties to it.
- (4) The Union has exclusive competence for the areas covered by the Geneva Act. This was confirmed in the judgement of the Court of Justice of 25 October 2017 in Case C-389/15 ⁽¹⁾ which clarified that the draft revised Lisbon Agreement, which has been subsequently adopted as the Geneva Act, is essentially intended to facilitate and govern trade between the Union and the third States party to the Lisbon Agreement and has direct and immediate effects on such trade. Therefore the negotiation of the Geneva Act fell within the exclusive competence of the Union pursuant to point (e) of Article 3(1) TFEU as it was within the field of the common commercial policy referred to in Article 207(1) TFEU, in particular with regard to the commercial aspects of intellectual property.

⁽¹⁾ Judgment of the Court of Justice of 25 October 2017, Commission v Council, C-389/15, ECLI:EU:C:2017:798.

- (5) Regarding certain agricultural products, the Union has established uniform and comprehensive protection systems for geographical indications for wines (1970), spirits (1989), aromatised wines (1991) and other agricultural products and foodstuffs (1992). Based on the exclusive competence of the Union under Article 3 TFEU, Member States should not have national protection systems to protect agricultural designations of origin and geographical indications of third country members of the Special Union. However, since the Union is not a contracting party to the Geneva Act, it cannot submit agricultural designations of origin and geographical indications registered at Union level for protection within the Special Union, nor can it protect third country members' designations of origin and geographical indications by means of the protection systems established by the Union in accordance with the Geneva Act.
- (6) 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.
- (7) The Union's accession to the Geneva Act is in accordance with Article 17(2) of the Charter of Fundamental Rights of the European Union, which provides for the protection of intellectual property.
- (8) The Union should endeavour to regularise the issue of its voting rights in the Assembly of the Special Union of the Geneva Act in order to ensure its effective participation in the decision-making procedures, in view of point (b)(ii) of Article 22(4) of the Geneva Act. It is therefore appropriate that the Member States which wish to do so, should also be authorised to ratify or to accede to, as appropriate, alongside the Union the Geneva Act in the interest of the Union.
- (9) At the same time, this will allow to ensure the continuity of rights resulting from the existing membership of seven Member States in the Special Union.
- (10) The ratification or accession by the Member States should however fully respect the exclusive competence of the Union, and the Union should remain responsible for ensuring the exercise of the rights and fulfilment of the obligations of the Union and the Member States under the Geneva Act.
- (11) In the Special Union, the Union and those Member States having ratified or acceded to the Geneva Act are represented by the Commission in accordance with Article 17(1) of the Treaty on European Union (TEU),

HAS ADOPTED THIS DECISION:

Article 1

The accession of the European Union to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications ('the Geneva Act') is hereby approved on behalf of the Union.

The text of the Geneva Act is attached to this Decision.

Article 2

The President of the Council shall designate the person empowered to deposit, on behalf of the Union, the instrument of accession provided for in point (ii) of Article 28(2) of the Geneva Act, in order to express the consent of the Union to be bound by the Geneva Act, as well as to make the declaration and notification attached to the instrument of accession provided for in Article 5 of this Decision.

Article 3

Member States which wish to do so, are hereby authorised to ratify or accede to, as appropriate, alongside the Union, the Geneva Act in the interest of the Union and in full respect of its exclusive competence.

Article 4

1. In the Special Union, the Union and any Member States which ratifies or accedes to the Geneva Act pursuant to Article 3 of this Decision shall be represented by the Commission in accordance with Article 17(1) TEU. The Union shall be responsible for ensuring the exercise of the rights and fulfilment of the obligations of the Union and of the Member States which ratify or accede to the Geneva Act pursuant to Article 3 of this Decision.

The Commission shall make all the necessary notifications under the Geneva Act on behalf of the Union and those Member States.

In particular, the Commission shall be designated as the Competent Authority referred to in Article 3 of the Geneva Act, responsible for the administration of the Geneva Act in the territory of the Union and for communications with the International Bureau of the WIPO under the Geneva Act and the Common Regulations under the Lisbon Agreement and the Geneva Act of the Lisbon Agreement (the 'Common Regulations').

2. The Union shall vote in the Assembly of the Special Union and the Member States which have ratified or acceded to the Geneva Act shall not exercise their right to vote.

Article 5

In accordance with Article 29(4) of the Geneva Act, a declaration attached to the instrument of accession shall specify an extension by one year of the time limit referred to in Article 15(1) of the Geneva Act, and the periods referred to in Article 17 of the Geneva Act, in accordance with the procedures specified in the Common Regulations.

In accordance with point (a) of Rule 5(3) of the Common Regulations, a notification to the Director-General of WIPO attached to the instrument of accession shall specify the requirement that, for the protection of a registered appellation of origin or geographical indication in the territory of the Union, the application shall, in addition to the mandatory contents set out in Rule 5(2) of the Common Regulations, indicate particulars concerning, in the case of an appellation of origin, the quality or characteristics of the good and its connection with the geographical environment of the geographical area of production, and, in the case of a geographical indication, the quality, reputation or other characteristic of the good and its connection with the geographical area of origin.

Article 6

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Done at Luxembourg, 7 October 2019.

For the Council

The President

A.-M. HENRIKSSON

**GENEVA ACT OF THE LISBON AGREEMENT ON APPELLATIONS OF ORIGIN AND
GEOGRAPHICAL INDICATIONS**

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CHAPTER I

Introductory and General Provisions

Article 1

Abbreviated Expressions

For the purposes of this Act, unless expressly stated otherwise:

- (i.) 'Lisbon Agreement' means the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration of October 31, 1958;
- (ii.) '1967 Act' means the Lisbon Agreement as revised at Stockholm on July 14, 1967, and amended on September 28, 1979;
- (iii.) 'this Act' means the Lisbon Agreement on Appellations of Origin and Geographical Indications, as established by the present Act;
- (iv.) 'Regulations' means the Regulations as referred to in Article 25;
- (v.) 'Paris Convention' means the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised and amended;
- (vi.) 'appellation of origin' means a denomination as referred to in Article 2(1)(i);
- (vii.) 'geographical indication' means an indication as referred to in Article 2(1)(ii);
- (viii.) 'International Register' means the International Register maintained by the International Bureau in accordance with Article 4 as the official collection of data concerning international registrations of appellations of origin and geographical indications, regardless of the medium in which such data are maintained;
- (ix.) 'international registration' means an international registration recorded in the International Register;
- (x.) 'application' means an application for international registration;
- (xi.) 'registered' means entered in the International Register in accordance with this Act;
- (xii.) 'geographical area of origin' means a geographical area as referred to in Article 2(2);
- (xiii.) 'trans-border geographical area' means a geographical area situated in, or covering, adjacent Contracting Parties;
- (xiv.) 'Contracting Party' means any State or intergovernmental organization party to this Act;
- (xv.) 'Contracting Party of Origin' means the Contracting Party where the geographical area of origin is situated or the Contracting Parties where the trans-border geographical area of origin is situated;
- (xvi.) 'Competent Authority' means an entity designated in accordance with Article 3;
- (xvii.) 'beneficiaries' means the natural persons or legal entities entitled under the law of the Contracting Party of Origin to use an appellation of origin or a geographical indication;
- (xviii.) 'intergovernmental organization' means an intergovernmental organization eligible to become party to this Act in accordance with Article 28(1)(iii);
- (xix.) 'Organization' means the World Intellectual Property Organization;
- (xx.) 'Director General' means the Director General of the Organization;
- (xxi.) 'International Bureau' means the International Bureau of the Organization.

*Article 2***Subject-Matter**

- (1) *[Appellations of Origin and Geographical Indications]* This Act applies in respect of:
- (i.) any denomination protected in the Contracting Party of Origin consisting of or containing the name of a geographical area, or another denomination known as referring to such area, which serves to designate a good as originating in that geographical area, where the quality or characteristics of the good are due exclusively or essentially to the geographical environment, including natural and human factors, and which has given the good its reputation; as well as
 - (ii.) any indication protected in the Contracting Party of Origin consisting of or containing the name of a geographical area, or another indication known as referring to such area, which identifies a good as originating in that geographical area, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.
- (2) *[Possible Geographical Areas of Origin]* A geographical area of origin as described in paragraph (1) may consist of the entire territory of the Contracting Party of Origin or a region, locality or place in the Contracting Party of Origin. This does not exclude the application of this Act in respect of a geographical area of origin, as described in paragraph (1), consisting of a trans-border geographical area, or a part thereof.

*Article 3***Competent Authority**

Each Contracting Party shall designate an entity which shall be responsible for the administration of this Act in its territory and for communications with the International Bureau under this Act and the Regulations. The Contracting Party shall notify the name and contact details of such Competent Authority to the International Bureau, as specified in the Regulations.

*Article 4***International Register**

The International Bureau shall maintain an International Register recording international registrations effected under this Act, under the Lisbon Agreement and the 1967 Act, or under both, and data relating to such international registrations.

CHAPTER II

Application and International Registration*Article 5***Application**

- (1) *[Place of Filing]* Applications shall be filed with the International Bureau.
- (2) *[Application Filed by Competent Authority]* Subject to paragraph (3), the application for the international registration of an appellation of origin or a geographical indication shall be filed by the Competent Authority in the name of:
- (i.) the beneficiaries; or
 - (ii.) a natural person or legal entity having legal standing under the law of the Contracting Party of Origin to assert the rights of the beneficiaries or other rights in the appellation of origin or geographical indication.
- (3) *[Application Filed Directly]*
- a) Without prejudice to paragraph (4), if the legislation of the Contracting Party of Origin so permits, the application may be filed by the beneficiaries or by a natural person or legal entity referred to in paragraph (2)(ii).

- b) Subparagraph (a) applies subject to a declaration from the Contracting Party that its legislation so permits. Such declaration may be made by the Contracting Party at the time of deposit of its instrument of ratification or accession or at any later time. Where the declaration is made at the time of the deposit of its instrument of ratification or accession, it shall take effect upon the entry into force of this Act with respect to that Contracting Party. Where the declaration is made after the entry into force of this Act with respect to the Contracting Party, it shall take effect three months after the date on which the Director General has received the declaration.
- (4) *[Possible Joint Application in the Case of a Trans-border Geographical Area]* In case of a geographical area of origin consisting of a trans-border geographical area, the adjacent Contracting Parties may, in accordance with their agreement, file an application jointly through a commonly designated Competent Authority.
- (5) *[Mandatory Contents]* The Regulations shall specify the mandatory particulars that must be included in the application, in addition to those specified in Article 6(3).
- (6) *[Optional Contents]* The Regulations may specify the optional particulars that may be included in the application.

Article 6

International Registration

- (1) *[Formal Examination by the International Bureau]* Upon receipt of an application for the international registration of an appellation of origin or a geographical indication in due form, as specified in the Regulations, the International Bureau shall register the appellation of origin, or the geographical indication, in the International Register.
- (2) *[Date of International Registration]* Subject to paragraph (3), the date of the international registration shall be the date on which the application was received by the International Bureau.
- (3) *[Date of International Registration Where Particulars Missing]* Where the application does not contain all the following particulars:
- (i.) the identification of the Competent Authority or, in the case of Article 5(3), the applicant or applicants;
 - (ii.) the details identifying the beneficiaries and, where applicable, the natural person or legal entity referred to in Article 5(2)(ii);
 - (iii.) the appellation of origin, or the geographical indication, for which international registration is sought;
 - (iv.) the good or goods to which the appellation of origin, or the geographical indication, applies;
- the date of the international registration shall be the date on which the last of the missing particulars is received by the International Bureau.
- (4) *[Publication and Notification of International Registrations]* The International Bureau shall, without delay, publish each international registration and notify the Competent Authority of each Contracting Party of the international registration.
- (5) *[Date of Effect of International Registration]*
- a) Subject to subparagraph (b), a registered appellation of origin or geographical indication shall, in each Contracting Party that has not refused protection in accordance with Article 15, or that has sent to the International Bureau a notification of grant of protection in accordance with Article 18, be protected from the date of the international registration.
 - b) A Contracting Party may, in a declaration, notify the Director General that, in accordance with its national or regional legislation, a registered appellation of origin or geographical indication is protected from a date that is mentioned in the declaration, which date shall however not be later than the date of expiry of the time limit for refusal specified in the Regulations in accordance with Article 15(1)(a).

*Article 7***Fees**

- (1) *[International Registration Fee]* International registration of each appellation of origin, and each geographical indication, shall be subject to payment of the fee specified in the Regulations.
- (2) *[Fees for Other Entries in the International Register]* The Regulations shall specify the fees to be paid in respect of other entries in the International Register and for the supply of extracts, attestations, or other information concerning the contents of the international registration.
- (3) *[Fee Reductions]* Reduced fees shall be established by the Assembly in respect of certain international registrations of appellations of origin, and in respect of certain international registrations of geographical indications, in particular those in respect of which the Contracting Party of Origin is a developing country or a least-developed country.
- (4) *[Individual Fee]*
 - a) Any Contracting Party may, in a declaration, notify the Director General that the protection resulting from international registration shall extend to it only if a fee is paid to cover its cost of substantive examination of the international registration. The amount of such individual fee shall be indicated in the declaration and can be changed in further declarations. The said amount may not be higher than the equivalent of the amount required under the national or regional legislation of the Contracting Party diminished by the savings resulting from the international procedure. Additionally, the Contracting Party may, in a declaration, notify the Director General that it requires an administrative fee relating to the use by the beneficiaries of the appellation of origin or the geographical indication in that Contracting Party.
 - b) Non-payment of an individual fee shall, in accordance with the Regulations, have the effect that protection is renounced in respect of the Contracting Party requiring the fee.

*Article 8***Period of Validity of International Registrations**

- (1) *[Dependency]* International registrations shall be valid indefinitely, on the understanding that the protection of a registered appellation of origin or geographical indication shall no longer be required if the denomination constituting the appellation of origin, or the indication constituting the geographical indication, is no longer protected in the Contracting Party of Origin.
- (2) *[Cancellation]*
 - a) The Competent Authority of the Contracting Party of Origin, or, in the case of Article 5(3), the beneficiaries or the natural person or legal entity referred to in Article 5(2)(ii) or the Competent Authority of the Contracting Party of Origin, may at any time request the International Bureau to cancel the international registration concerned.
 - b) In case the denomination constituting a registered appellation of origin, or the indication constituting a registered geographical indication, is no longer protected in the Contracting Party of Origin, the Competent Authority of the Contracting Party of Origin shall request cancellation of the international registration.

CHAPTER III

Protection*Article 9***Commitment to Protect**

Each Contracting Party shall 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, and on the understanding that Contracting Parties that do not distinguish in their national or regional legislation as between appellations of origin and geographical indications shall not be required to introduce such a distinction into their national or regional legislation.

Article 10

Protection Under Laws of Contracting Parties or Other Instruments

- (1) *[Form of Legal Protection]* Each Contracting Party shall be free to choose the type of legislation under which it establishes the protection stipulated in this Act, provided that such legislation meets the substantive requirements of this Act.
- (2) *[Protection Under Other Instruments]* The provisions of this Act shall not in any way affect any other protection a Contracting Party may accord in respect of registered appellations of origin or registered geographical indications under its national or regional legislation, or under other international instruments.
- (3) *[Relation to Other Instruments]* Nothing in this Act shall derogate from any obligations that Contracting Parties have to each other under any other international instruments, nor shall it prejudice any rights that a Contracting Party has under any other international instruments.

Article 11

Protection in Respect of Registered Appellations of Origin and Geographical Indications

- (1) *[Content of Protection]* Subject to the provisions of this Act, in respect of a registered appellation of origin or a registered geographical indication, each Contracting Party shall provide the legal means to prevent:
 - a) use of the appellation of origin or the geographical indication
 - (i.) in respect of goods of the same kind as those to which the appellation of origin or the geographical indication applies, not originating in the geographical area of origin or not complying with any other applicable requirements for using the appellation of origin or the geographical indication;
 - (ii.) in respect of goods that are not of the same kind as those to which the appellation of origin or geographical indication applies or services, if such use would indicate or suggest a connection between those goods or services and the beneficiaries of the appellation of origin or the geographical indication, and would be likely to damage their interests, or, where applicable, because of the reputation of the appellation of origin or geographical indication in the Contracting Party concerned, such use would be likely to impair or dilute in an unfair manner, or take unfair advantage of, that reputation;
 - b) any other practice liable to mislead consumers as to the true origin, provenance or nature of the goods.
- (2) *[Content of Protection in Respect of Certain Uses]* Paragraph (1)(a) shall also apply to use of the appellation of origin or geographical indication amounting to its imitation, even if the true origin of the goods is indicated, or if the appellation of origin or the geographical indication is used in translated form or is accompanied by terms such as 'style', 'kind', 'type', 'make', 'imitation', 'method', 'as produced in', 'like', 'similar' or the like ⁽¹⁾.
- (3) *[Use in a Trademark]* Without prejudice to Article 13(1), a Contracting Party shall, *ex officio* if its legislation so permits or at the request of an interested party, refuse or invalidate the registration of a later trademark if use of the trademark would result in one of the situations covered by paragraph (1).

Article 12

Protection Against Becoming Generic

Subject to the provisions of this Act, registered appellations of origin and registered geographical indications cannot be considered to have become generic ⁽²⁾ in a Contracting Party.

⁽¹⁾ Agreed Statement concerning Article 11(2): For the purposes of this Act, it is understood that where certain elements of the denomination or indication constituting the appellation of origin or geographical indication have a generic character in the Contracting Party of Origin, their protection under this paragraph shall not be required in the other Contracting Parties. For greater certainty, a refusal or invalidation of a trademark, or a finding of infringement, in the Contracting Parties under the terms of Article 11 cannot be based on the component that has a generic character.

⁽²⁾ Agreed Statement concerning Article 12: For the purposes of this Act, it is understood that Article 12 is without prejudice to the application of the provisions of this Act concerning prior use, as, prior to international registration, the denomination or indication constituting the appellation of origin or geographical indication may already, in whole or in part, be generic in a Contracting Party other than the Contracting Party of Origin, for example, because the denomination or indication, or part of it, is identical with a term customary in common language as the common name of a good or service in such Contracting Party, or is identical with the customary name of a grape variety in such Contracting Party.

Article 13

Safeguards in Respect of Other Rights

- (1) *[Prior Trademark Rights]* The provisions of this Act shall not prejudice a prior trademark applied for or registered in good faith, or acquired through use in good faith, in a Contracting Party. Where the law of a Contracting Party provides a limited exception to the rights conferred by a trademark to the effect that such a prior trademark in certain circumstances may not entitle its owner to prevent a registered appellation of origin or geographical indication from being granted protection or used in that Contracting Party, protection of the registered appellation of origin or geographical indication shall not limit the rights conferred by that trademark in any other way.
- (2) *[Personal Name Used in Business]* The provisions of this Act shall not prejudice the right of any person to use, in the course of trade, that person's name or the name of that person's predecessor in business, except where such name is used in such a manner as to mislead the public.
- (3) *[Rights Based on a Plant Variety or Animal Breed Denomination]* The provisions of this Act shall not prejudice the right of any person to use a plant variety or animal breed denomination in the course of trade, except where such plant variety or animal breed denomination is used in such a manner as to mislead the public.
- (4) *[Safeguards in the Case of Notification of Withdrawal of Refusal or a Grant of Protection]* Where a Contracting Party that has refused the effects of an international registration under Article 15 on the ground of use under a prior trademark or other right, as referred to in this Article, notifies the withdrawal of that refusal under Article 16 or a grant of protection under Article 18, the resulting protection of the appellation of origin or geographical indication shall not prejudice that right or its use, unless the protection was granted following the cancellation, non-renewal, revocation or invalidation of the right.

Article 14

Enforcement Procedures and Remedies

Each Contracting Party shall make available effective legal remedies for the protection of registered appellations of origin and registered geographical indications and provide that legal proceedings for ensuring their protection may be brought by a public authority or by any interested party, whether a natural person or a legal entity and whether public or private, depending on its legal system and practice.

CHAPTER IV

Refusal and Other Actions in Respect of International Registrations

Article 15

Refusal

- (1) *[Refusal of Effects of International Registration]*
 - a) Within the time limit specified in the Regulations, the Competent Authority of a Contracting Party may notify the International Bureau of the refusal of the effects of an international registration in its territory. The notification of refusal may be made by the Competent Authority *ex officio*, if its legislation so permits, or at the request of an interested party.
 - b) The notification of refusal shall set out the grounds on which the refusal is based.
- (2) *[Protection Under Other Instruments]* The notification of a refusal shall not be detrimental to any other protection that may be available, in accordance with Article 10(2), to the denomination or indication concerned in the Contracting Party to which the refusal relates.
- (3) *[Obligation to Provide Opportunity for Interested Parties]* Each Contracting Party shall provide a reasonable opportunity, for anyone whose interests would be affected by an international registration, to request the Competent Authority to notify a refusal in respect of the international registration.

- (4) *[Registration, Publication and Communication of Refusals]* The International Bureau shall record the refusal and the grounds for the refusal in the International Register. It shall publish the refusal and the grounds for the refusal and shall communicate the notification of refusal to the Competent Authority of the Contracting Party of Origin or, where the application has been filed directly in accordance with Article 5(3), the beneficiaries or the natural person or legal entity referred to in Article 5(2)(ii) as well as the Competent Authority of the Contracting Party of Origin.
- (5) *[National Treatment]* Each Contracting Party shall make available to interested parties affected by a refusal the same judicial and administrative remedies that are available to its own nationals in respect of the refusal of protection for an appellation of origin or a geographical indication.

Article 16

Withdrawal of Refusal

A refusal may be withdrawn in accordance with the procedures specified in the Regulations. A withdrawal shall be recorded in the International Register.

Article 17

Transitional Period

- (1) *[Option to Grant Transitional Period]* Without prejudice to Article 13, where a Contracting Party has not refused the effects of an international registration on the ground of prior use by a third party or has withdrawn such refusal or has notified a grant of protection, it may, if its legislation so permits, grant a defined period as specified in the Regulations, for terminating such use.
- (2) *[Notification of a Transitional Period]* The Contracting Party shall notify the International Bureau of any such period, in accordance with the procedures specified in the Regulations.

Article 18

Notification of Grant of Protection

The Competent Authority of a Contracting Party may notify the International Bureau of the grant of protection to a registered appellation of origin or geographical indication. The International Bureau shall record any such notification in the International Register and publish it.

Article 19

Invalidation

- (1) *[Opportunity to Defend Rights]* Invalidation of the effects, in part or in whole, of an international registration in the territory of a Contracting Party may be pronounced only after having given the beneficiaries an opportunity to defend their rights. Such opportunity shall also be given to the natural person or legal entity referred to in Article 5(2)(ii).
- (2) *[Notification, Recordal and Publication]* The Contracting Party shall notify the invalidation of the effects of an international registration to the International Bureau, which shall record the invalidation in the International Register and publish it.
- (3) *[Protection Under Other Instruments]* Invalidation shall not be detrimental to any other protection that may be available, in accordance with Article 10(2), to the denomination or indication concerned in the Contracting Party that invalidated the effects of the international registration.

Article 20

Modifications and Other Entries in the International Register

Procedures for the modification of international registrations and other entries in the International Register shall be specified in the Regulations.

CHAPTER V

Administrative Provisions

Article 21

Membership of the Lisbon Union

The Contracting Parties shall be members of the same Special Union as the States party to the Lisbon Agreement or the 1967 Act, whether or not they are party to the Lisbon Agreement or the 1967 Act.

Article 22

Assembly of the Special Union(1) *[Composition]*

- a) The Contracting Parties shall be members of the same Assembly as the States party to the 1967 Act.
- b) Each Contracting Party shall be represented by one delegate, who may be assisted by alternate delegates, advisors and experts.
- c) Each delegation shall bear its own expenses.

(2) *[Tasks]*

- a) The Assembly shall:
 - (i.) deal with all matters concerning the maintenance and development of the Special Union and the implementation of this Act;
 - (ii.) give directions to the Director General concerning the preparation of revision conferences referred to in Article 26(1), due account being taken of any comments made by those members of the Special Union which have not ratified or acceded to this Act;
 - (iii.) amend the Regulations;
 - (iv.) review and approve the reports and activities of the Director General concerning the Special Union, and give him or her all necessary instructions concerning matters within the competence of the Special Union;
 - (v.) determine the program and adopt the biennial budget of the Special Union, and approve its final accounts;
 - (vi.) adopt the financial Regulations of the Special Union;
 - (vii.) establish such committees and working groups as it deems appropriate to achieve the objectives of the Special Union;
 - (viii.) determine which States, intergovernmental and non-governmental organizations shall be admitted to its meetings as observers;
 - (ix.) adopt amendments to Articles 22 to 24 and 27;
 - (x.) take any other appropriate action to further the objectives of the Special Union and perform any other functions as are appropriate under this Act.
- b) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(3) *[Quorum]*

- a) One-half of the members of the Assembly which have the right to vote on a given matter shall constitute a quorum for the purposes of the vote on that matter.

b) Notwithstanding the provisions of subparagraph (a), if, in any session, the number of the members of the Assembly which are States, have the right to vote on a given matter and are represented is less than one-half but equal to or more than one-third of the members of the Assembly which are States and have the right to vote on that matter, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the conditions set forth hereinafter are fulfilled. The International Bureau shall communicate the said decisions to the members of the Assembly which are States, have the right to vote on the said matter and were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of this period, the number of such members having thus expressed their vote or abstention attains the number of the members which was lacking for attaining the quorum in the session itself, such decisions shall take effect provided that at the same time the required majority still obtains.

(4) *[Taking Decisions in the Assembly]*

- a) The Assembly shall endeavor to take its decisions by consensus.
- b) Where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting. In such a case,
 - (i.) each Contracting Party that is a State shall have one vote and shall vote only in its own name; and
 - (ii.) any Contracting Party that is an intergovernmental organization may vote, in place of its member States, with a number of votes equal to the number of its member States which are party to this Act. No such intergovernmental organization shall participate in the vote if any one of its member States exercises its right to vote, and *vice versa*.
- c) On matters concerning only States that are bound by the 1967 Act, Contracting Parties that are not bound by the 1967 Act shall not have the right to vote, whereas, on matters concerning only Contracting Parties, only the latter shall have the right to vote.

(5) *[Majorities]*

- a) Subject to Articles 25(2) and 27(2), the decisions of the Assembly shall require two-thirds of the votes cast.
- b) Abstentions shall not be considered as votes.

(6) *[Sessions]*

- a) The Assembly shall meet upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.
- b) The Assembly shall meet in extraordinary session upon convocation by the Director General, either at the request of one-fourth of the members of the Assembly or on the Director General's own initiative.
- c) The agenda of each session shall be prepared by the Director General.

(7) *[Rules of Procedure]* The Assembly shall adopt its own rules of procedure.

Article 23

International Bureau

(1) *[Administrative Tasks]*

- a) International registration and related duties, as well as all other administrative tasks concerning the Special Union, shall be performed by the International Bureau.
- b) In particular, the International Bureau shall prepare the meetings and provide the Secretariat of the Assembly and of such committees and working groups as may have been established by the Assembly.

- c) The Director General shall be the Chief Executive of the Special Union and shall represent the Special Union.
- (2) *[Role of the International Bureau in the Assembly and Other Meetings]* The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly, the committees and working groups established by the Assembly. The Director General, or a staff member designated by him, shall be *ex officio* Secretary of such a body.
- (3) *[Conferences]*
- a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for any revision conferences.
- b) The International Bureau may consult with intergovernmental and international and national non-governmental organizations concerning the said preparations.
- c) The Director General and persons designated by him shall take part, without the right to vote, in the discussions at revision conferences.
- (4) *[Other Tasks]* The International Bureau shall carry out any other tasks assigned to it in relation to this Act.

Article 24

Finances

- (1) *[Budget]* The income and expenses of the Special Union shall be reflected in the budget of the Organization in a fair and transparent manner.
- (2) *[Sources of Financing of the Budget]* The income of the Special Union shall be derived from the following sources:
- (i.) fees collected under Article 7(1) and (2);
- (ii.) proceeds from the sale of, or royalties on, the publications of the International Bureau;
- (iii.) gifts, bequests, and subventions;
- (iv.) rent, investment revenue, and other, including miscellaneous, income;
- (v.) special contributions of the Contracting Parties or any alternative source derived from the Contracting Parties or beneficiaries, or both, if and to the extent to which receipts from the sources indicated in items (i) to (iv) do not suffice to cover the expenses, as decided by the Assembly.
- (3) *[Fixing of Fees; Level of the Budget]*
- a) The amounts of the fees referred to in paragraph (2) shall be fixed by the Assembly on the proposal of the Director General and shall be so fixed that, together with the income derived from other sources under paragraph (2), the revenue of the Special Union should, under normal circumstances, be sufficient to cover the expenses of the International Bureau for maintaining the international registration service.
- b) If the Program and Budget of the Organization is not adopted before the beginning of a new financial period, the authorization to the Director General to incur obligations and make payments shall be at the same level as it was in the previous financial period.
- (4) *[Establishing the Special Contributions Referred to in Paragraph (2)(v)]* For the purpose of establishing its contribution, each Contracting Party shall belong to the same class as it belongs to in the context of the Paris Convention or, if it is not a Contracting Party of the Paris Convention, as it would belong to if it were a Contracting Party of the Paris Convention. Intergovernmental organizations shall be considered to belong to contribution class I (one), unless otherwise unanimously decided by the Assembly. The contribution shall be partially weighted according to the number of registrations originating in the Contracting Party, as decided by the Assembly.

- (5) *[Working Capital Fund]* The Special Union shall have a working capital fund, which shall be constituted by payments made by way of advance by each member of the Special Union when the Special Union so decides. If the fund becomes insufficient, the Assembly may decide to increase it. The proportion and the terms of payment shall be fixed by the Assembly on the proposal of the Director General. Should the Special Union record a surplus of income over expenditure in any financial period, the Working Capital Fund advances may be repaid to each member proportionate to their initial payments upon proposal by the Director General and decision by the Assembly.
- (6) *[Advances by Host State]*
- a) In the headquarters agreement concluded with the State on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such State shall grant advances. The amount of those advances and the conditions on which they are granted shall be the subject of separate agreements, in each case, between such State and the Organization.
 - b) The State referred to in subparagraph (a) and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.
- (7) *[Auditing of Accounts]* The auditing of the accounts shall be effected by one or more of the States members of the Special Union or by external auditors, as provided in the Financial Regulations of the Organization. They shall be designated, with their agreement, by the Assembly.

Article 25

Regulations

- (1) *[Subject-Matter]* The details for carrying out this Act shall be established in the Regulations.
- (2) *[Amendment of Certain Provisions of the Regulations]*
- a) The Assembly may decide that certain provisions of the Regulations may be amended only by unanimity or only by a three-fourths majority.
 - b) In order for the requirement of unanimity or a three-fourths majority no longer to apply in the future to the amendment of a provision of the Regulations, unanimity shall be required.
 - c) In order for the requirement of unanimity or a three-fourths majority to apply in the future to the amendment of a provision of the Regulations, a three-fourths majority shall be required.
- (3) *[Conflict Between This Act and the Regulations]* In the case of conflict between the provisions of this Act and those of the Regulations, the former shall prevail.

CHAPTER VI

Revision and Amendment

Article 26

Revision

- (1) *[Revision Conferences]* This Act may be revised by Diplomatic Conferences of the Contracting Parties. The convocation of any Diplomatic Conference shall be decided by the Assembly.
- (2) *[Revision or Amendment of Certain Articles]* Articles 22 to 24 and 27 may be amended either by a revision conference or by the Assembly according to the provisions of Article 27.

Article 27

Amendment of Certain Articles by the Assembly

- (1) *[Proposals for Amendment]*
- a) Proposals for the amendment of Articles 22 to 24, and the present Article, may be initiated by any Contracting Party or by the Director General.
 - b) Such proposals shall be communicated by the Director General to the Contracting Parties at least six months in advance of their consideration by the Assembly.
- (2) *[Majorities]* Adoption of any amendment to the Articles referred to in paragraph (1) shall require a three-fourths majority, except that adoption of any amendment to Article 22, and to the present paragraph, shall require a four-fifths majority.

(3) *[Entry into Force]*

- a) Except where subparagraph (b) applies, any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of those Contracting Parties which, at the time the amendment was adopted, were members of the Assembly and had the right to vote on that amendment.
- b) Any amendment to Article 22(3) or (4) or to this subparagraph shall not enter into force if, within six months of its adoption by the Assembly, any Contracting Party notifies the Director General that it does not accept such amendment.
- c) Any amendment which enters into force in accordance with the provisions of this paragraph shall bind all the States and intergovernmental organizations which are Contracting Parties at the time the amendment enters into force, or which become Contracting Parties at a subsequent date.

CHAPTER VII

Final Provisions

Article 28

Becoming Party to This Act(1) *[Eligibility]* Subject to Article 29 and paragraphs (2) and (3) of the present Article,

- (i.) any State which is party to the Paris Convention may sign and become party to this Act;
- (ii.) any other State member of the Organization may sign and become party to this Act if it declares that its legislation complies with the provisions of the Paris Convention concerning appellations of origin, geographical indications and trademarks;
- (iii.) any intergovernmental organization may sign and become party to this Act, provided that at least one member State of that intergovernmental organization is party to the Paris Convention and provided that the intergovernmental organization declares that it has been duly authorized, in accordance with its internal procedures, to become party to this Act and that, under the constituting treaty of the intergovernmental organization, legislation applies under which regional titles of protection can be obtained in respect of geographical indications.

(2) *[Ratification or Accession]* Any State or intergovernmental organization referred to in paragraph (1) may deposit

- (i.) an instrument of ratification, if it has signed this Act; or
- (ii.) an instrument of accession, if it has not signed this Act.

(3) *[Effective Date of Deposit]*

- a) Subject to subparagraph (b), the effective date of the deposit of an instrument of ratification or accession shall be the date on which that instrument is deposited.
- b) The effective date of the deposit of the instrument of ratification or accession of any State that is a member State of an intergovernmental organization and in respect of which the protection of appellations of origin or geographical indications can only be obtained on the basis of legislation applying between the member States of the intergovernmental organization shall be the date on which the instrument of ratification or accession of that intergovernmental organization is deposited, if that date is later than the date on which the instrument of the said State has been deposited. However, this subparagraph does not apply with regard to States that are party to the Lisbon Agreement or the 1967 Act and shall be without prejudice to the application of Article 31 with regard to such States.

Article 29

Effective Date of Ratifications and Accessions

- (1) *[Instruments to Be Taken into Consideration]* For the purposes of this Article, only instruments of ratification or accession that are deposited by States or intergovernmental organizations referred to in Article 28(1) and that have an effective date according to Article 28(3) shall be taken into consideration.
- (2) *[Entry into Force of This Act]* This Act shall enter into force three months after five eligible parties referred to in Article 28 have deposited their instruments of ratification or accession.
- (3) *[Entry into Force of Ratifications and Accessions]*
 - a) Any State or intergovernmental organization that has deposited its instrument of ratification or accession three months or more before the date of entry into force of this Act shall become bound by this Act on the date of the entry into force of this Act.
 - b) Any other State or intergovernmental organization shall become bound by this Act three months after the date on which it has deposited its instrument of ratification or accession or at any later date indicated in that instrument.
- (4) *[International Registrations Effected Prior to Accession]* In the territory of the acceding State and, where the Contracting Party is an intergovernmental organization, the territory in which the constituting treaty of that intergovernmental organization applies, the provisions of this Act shall apply in respect of appellations of origin and geographical indications already registered under this Act at the time the accession becomes effective, subject to Article 7(4) as well as the provisions of Chapter IV, which shall apply *mutatis mutandis*. The acceding State or intergovernmental organization may also specify, in a declaration attached to its instrument of ratification or accession, an extension of the time limit referred to in Article 15(1), and the periods referred to in Article 17, in accordance with the procedures specified in the Regulations in that respect.

Article 30

Prohibition of Reservations

No reservations to this Act are permitted.

Article 31

Application of the Lisbon Agreement and the 1967 Act

- (1) *[Relations Between States Party to Both This Act and the Lisbon Agreement or the 1967 Act]* This Act alone shall be applicable as regards the mutual relations of States party to both this Act and the Lisbon Agreement or the 1967 Act. However, with regard to international registrations of appellations of origin effective under the Lisbon Agreement or the 1967 Act, the States shall accord no lower protection than is required by the Lisbon Agreement or the 1967 Act.
- (2) *[Relations Between States Party to Both This Act and the Lisbon Agreement or the 1967 Act and States Party to the Lisbon Agreement or the 1967 Act Without Being Party to This Act]* Any State party to both this Act and the Lisbon Agreement or the 1967 Act shall continue to apply the Lisbon Agreement or the 1967 Act, as the case may be, in its relations with States party to the Lisbon Agreement or the 1967 Act that are not party to this Act.

Article 32

Denunciation

- (1) *[Notification]* Any Contracting Party may denounce this Act by notification addressed to the Director General.
- (2) *[Effective Date]* Denunciation shall take effect one year after the date on which the Director General has received the notification or at any later date indicated in the notification. It shall not affect the application of this Act to any application pending and any international registration in force in respect of the denouncing Contracting Party at the time of the coming into effect of the denunciation.

*Article 33***Languages of this Act; Signature**

- (1) *[Original Texts; Official Texts]*
- a) This Act shall be signed in a single original in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic.
 - b) Official texts shall be established by the Director General, after consultation with the interested Governments, in such other languages as the Assembly may designate.
- (2) *[Time Limit for Signature]* This Act shall remain open for signature at the headquarters of the Organization for one year after its adoption.

*Article 34***Depositary**

The Director General shall be the depositary of this Act.

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