10.4.2019 A8-0036/21

Amendment 21
Pavel Svoboda
on behalf of the Committee on Legal Affairs

Report
Virginie Rozière
Action of the Union following its accession to the Geneva Act of the Lisbon Agreement on
Appellations of Origin and Geographical Indications

Draft legislative resolution
Paragraph 1 a (new)

Draft legislative resolution
Amendment

1a. Takes note of the three statements by
the Commission annexed to this
resolution, the first and second of which
will be published in the L series of the
Official Journal of the European Union
together with the final legislative act;

Or. en

For information, the statements read as follows:

Commission statement concerning the proposal for a Council Decision on the accession
of the European Union to the Geneva Act of the Lisbon Agreement on Appellations of
Origin and Geographical Indications

The Commission notes that the Union has exclusive external competence on geographical
indications and is acceding to the Geneva Act of the Lisbon Agreement as a Party on its own
right. This follows from the ruling of the European Court of Justice of 25/10/2017 (case C-
389/15- Commission v. Council). Given the EU’s exclusive external competence, Member
States are prevented from becoming Parties to the Geneva Act in their own right and should
no longer themselves protect geographical indications newly registered by third country
members of the Lisbon system. The Commission, mindful of the exceptional circumstances
given that seven Member States have been Parties to the Lisbon Agreement for a long time,
that they have extensive intellectual property registered under it and that a smooth transition is
needed, would exceptionally have been ready to agree that, in this particular case, Bulgaria,
Czechia, Slovakia, France, Hungary, Italy, Portugal could have been authorised to accede to
the Geneva Act in the interest of the EU.

The Commission strongly objects to the Council’s continued insistence on the possibility for
all EU Member States which wish to do so to be authorized to ratify or accede to the Geneva
Act alongside the Union, while giving as a reason the regularisation of the Union’s voting rights in view of point (b)(ii) of Article 22(4) of the Geneva Act rather than the aforesaid exceptional circumstances.

Further, the Commission would like to recall that, given that the Union has exercised its internal competence for agricultural geographical indications, the EU Member States cannot have national agricultural GI protection systems of their own.

Therefore the Commission reserves its rights including the right to avail itself of legal remedies against the Council’s decision and, in any event, considers that this case cannot constitute a precedent for any other existing or future international/WIPO agreements, in particular but not only where the EU has already ratified international agreements by itself on the basis of its exclusive competence.

Commission statement 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.

Commission statement on the procedure set out in Article 9a(3) of the Regulation

The Commission notes that whilst the procedure set out in Article 9a(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.