



2018/0189(COD)

30.11.2018

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DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council on the action of the Union following its accession to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (COM(2018)0365 – C8-0383/2018 – 2018/0189(COD))

Committee on Legal Affairs

Rapporteur: Virginie Rozière

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▯ symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council on the action of the Union following its accession to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (COM(2018)0365 – C8-0383/2018 – 2018/0189(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2018)0365),
- having regard to Article 294(2) and Article 207 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0383/2018),
- having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
- having regard to Rule 59 of its Rules of Procedure,
- having regard to the report of the Committee on Legal Affairs and the opinions of the Committee on International Trade, the Committee on the Environment, Public Health and Food Safety and the Committee on Agriculture and Rural Development (A8-0000/2018),

Amendment 1

Proposal for a regulation

Recital 1 a (new)

Text proposed by the Commission

Amendment

On 6 October 2015, the European Parliament adopted a resolution on the possible extension of geographical indication protection of the European Union to non-agricultural products, and in which it set out its views in this area.

Or. en

Amendment 2

Proposal for a regulation

Recital 4

(4) Following the accession of the Union to the Geneva Act, the Commission should as a first step file with the International Bureau of the World Intellectual Property Organization ('the International Bureau') an application for registration of a list of geographical indications originating and protected in the territory of the Union in their register ('the International Register'). ***The criteria for the establishment of such a list should, as it is the case*** for some of the bilateral and regional agreements of the Union regarding protection of geographical indications, ***take into account*** in particular the production value and export value, protection under other agreements as well as current or potential misuse in the third countries concerned.

(4) Following the accession of the Union to the Geneva Act, the Commission should as a first step file with the International Bureau of the World Intellectual Property Organization ('the International Bureau') an application for registration of a list of geographical indications originating and protected in the territory of the Union in their register ('the International Register'). ***In order for the Commission to establish such a list, a Member State, an interested group of producers or a single producer using a geographical indication that is protected and registered in the Union should notify the Commission of the names of the geographical indications they would like to be included in that list. The Commission should include those geographical indications in that list. However, based on criteria frequently used*** for some of the bilateral and regional agreements of the Union regarding protection of geographical indications, in particular the production value and export value, protection under other agreements as well as current or potential misuse in the third countries concerned, ***the Commission should be able to object to the inclusion of a specific geographical indication in the list of geographical indications originating and protected in the territory of the Union and should justify its decision. Moreover, the list should encompass all of the geographical indications which currently benefit from protection under Union law and are registered in the International Register by those Member States who were members of the Special Union before the accession of the Union to the Geneva Act.***

Or. en

Amendment 3

Proposal for a regulation Recital 5

Text proposed by the Commission

(5) In order to ensure that additional geographical indications protected and registered in the Union are registered in the International Register, it is appropriate to authorise the Commission, at a later stage, to file applications for the international registration of such additional geographical indications, on its own initiative **or** at the request of a Member State or of an interested group of producers or, in exceptional cases, at the request of a single producer.

Amendment

(5) In order to ensure that additional geographical indications protected and registered in the Union are registered in the International Register, ***including the extension of protection to geographical indications for non-agricultural products***, it is appropriate to authorise the Commission, at a later stage, to file applications for the international registration of such additional geographical indications, on its own initiative, at the request of a Member State, ***of the European Parliament*** or of an interested group of producers or, in exceptional cases, at the request of a single producer.

Or. en

Amendment 4

Proposal for a regulation Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) The Commission should use a regular mechanism to consult Member States, trade associations and Union producers in order to establish an ongoing dialogue with relevant stakeholders.

Or. en

Amendment 5

Proposal for a regulation Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) *It is appropriate to provide for a procedure for withdrawal of refusal of protection, especially in the case of further developments in Union law allowing non-agricultural geographical indications to be protected.*

Or. en

Amendment 6

Proposal for a regulation Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) *It is possible that those seven Member States would also wish to participate in the Geneva Act in order to protect the geographical indications which do not benefit from horizontal protection at Union level. In order to allow them to do so, consideration should be given to the possibility of them partially participating in the Geneva Act, notwithstanding the competences of the Union where applicable.*

Or. en

Amendment 7

Proposal for a regulation Recital 11

Text proposed by the Commission

Amendment

(11) In order to ensure uniform conditions for the implementation of the Union membership in the Special Union, implementing powers should be conferred on the Commission to establish a list of

(11) In order to ensure uniform conditions for the implementation of the Union membership in the Special Union, implementing powers should be conferred on the Commission to establish a list of

geographical indications for the filing of an application for their international registration with the International Bureau upon accession to the Geneva Act, for the subsequent filing of an application for international registration of a geographical indication with the International Bureau, for rejecting an opposition, for a decision on whether or not to grant protection of a geographical indication registered in the International Register, *and* for cancelling the protection in the Union of a geographical indication registered in the International Register. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁷,

geographical indications for the filing of an application for their international registration with the International Bureau upon accession to the Geneva Act, for the subsequent filing of an application for international registration of a geographical indication with the International Bureau, for rejecting an opposition, for a decision on whether or not to grant protection of a geographical indication registered in the International Register, *and for the withdrawal of refusal of the effects of an international registration*. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁷. *The list of the Committees within the meaning of Regulation (EU) No 182/2011 should be updated in the event that further developments in Union law allow non-agricultural products to be protected.*

⁷ 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).

⁷ 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).

Or. en

Amendment 8

Proposal for a regulation Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) In view of the still limited participation of third Contracting parties in the Geneva Act, it is important to

ensure that the Commission monitors and evaluates the participation of the Union over time. In order to conduct such an evaluation, the Commission should, inter alia, take into account the number of geographical indications protected under Union law which have been notified, those which have been rejected by third parties, the evolution of the participation of third countries in the Geneva act and the action taken by the Commission to increase this number and the number of non-agricultural geographical indications originating from Contracting Parties of third countries which have been rejected by the Commission.

Or. en

Amendment 9

Proposal for a regulation Recital 11 b (new)

Text proposed by the Commission

Amendment

(11b) In order for the Union to fully participate in the Geneva Act, it is necessary to provide, as soon as possible, for a system to protect non-agricultural geographical indications through horizontal legislation at Union level. The Commission should therefore, where appropriate, submit a legislative proposal to extend the protection granted to geographical indications under Union law to non-agricultural products,

Or. en

Amendment 10

Proposal for a regulation Article 2 – paragraph 2

Text proposed by the Commission

The Commission shall adopt an implementing act establishing the list of geographical indications referred to in the first paragraph, in accordance with the examination procedure referred to in Article 13(2).

Amendment

The Commission shall adopt an implementing act establishing the list of geographical indications referred to in the first paragraph, in accordance with the examination procedure referred to in Article 13(2). ***That list shall contain all of the geographical indications which currently benefit from protection under Union law and are registered in the International Register by those Member States who were members of the Special Union before the accession of the Union to the Geneva Act.***

Or. en

Amendment 11

Proposal for a regulation

Article 2 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

By ... [six months from the entry into force of this Regulation], an authority of a Member State, an interested group of producers or a single producer using a geographical indication protected and registered in the Union shall notify to the Commission the names of the geographical indications they wish to have included in the list of geographical indications referred to in the second paragraph.

Or. en

Amendment 12

Proposal for a regulation

Article 2 – paragraph 3 – introductory part

Text proposed by the Commission

In order to establish the list referred to in the second paragraph, the Commission shall **take** into account, in particular, the following:

Amendment

In order to establish the list referred to in the second paragraph, the Commission shall **include all the notified geographical indications received in accordance with paragraph 3.**

However, the Commission may refuse to include a specific geographical indication in the list and shall justify its decision, taking into account, in particular, the following:

Or. en

Amendment 13

**Proposal for a regulation
Article 3 – paragraph 1**

Text proposed by the Commission

Following the accession of the Union to the Geneva Act, the Commission may on its own initiative or at the request of a Member State **or** of an interested group of producers or of the single producer using a geographical indication protected and registered in the Union, adopt implementing acts in order to file an application for international registration of a geographical indication protected and registered under Union law and pertaining to a product originating in the Union with the International Bureau.

Amendment

Following the accession of the Union to the Geneva Act, the Commission may **either** on its own initiative or at the request of a Member State, **of the European Parliament**, of an interested group of producers or of the single producer using a geographical indication protected and registered in the Union, adopt implementing acts in order to file an application for international registration of a geographical indication protected and registered under Union law and pertaining to a product originating in the Union with the International Bureau. **To that end, the Commission shall use a regular mechanism to consult Member States, trade associations and Union producers.**

Or. en

Amendment 14

Proposal for a regulation

Article 4 – paragraph 1

Text proposed by the Commission

(1) The Commission shall assess the publication 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 Article 1(xv) of the Geneva Act, is not a Member State, in order to determine whether it contains the mandatory elements laid down in Rule 5(2) of the Common Regulations under the Lisbon Agreement and the Geneva Act (the 'Common Regulations')⁸, and the particulars concerning the quality, reputation or characteristics as laid down in Rule 5(3) of those Regulations, as well as to assess whether the publication relates to a product in respect of which protection within the Union of geographical indications is **currently** provided. The period for carrying out such assessment shall not exceed four months and shall not include assessment of other specific Union provisions relating to the placing of products on the market and, in particular, to sanitary and phytosanitary standards, the marketing standards, and to food labelling.

⁸ Common Regulations under the Lisbon Agreement and the Geneva Act of the Lisbon Agreement as adopted by the Assembly of the Lisbon Union on 11 October 2017, http://www.wipo.int/meetings/en/doc_detail.jsp?doc_id=376416, Doc. WIPO A/57/11 of 11 October 2017

Amendment

(1) The Commission shall assess the publication 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 Article 1(xv) of the Geneva Act, is not a Member State, in order to determine whether it contains the mandatory elements laid down in Rule 5(2) of the Common Regulations under the Lisbon Agreement and the Geneva Act (the 'Common Regulations')⁸, and the particulars concerning the quality, reputation or characteristics as laid down in Rule 5(3) of those Regulations, as well as to assess whether the publication relates to a product in respect of which protection within the Union of geographical indications is provided **at the time of the notification**. The period for carrying out such assessment shall not exceed four months and shall not include assessment of other specific Union provisions relating to the placing of products on the market and, in particular, to sanitary and phytosanitary standards, the marketing standards, and to food labelling.

⁸ Common Regulations under the Lisbon Agreement and the Geneva Act of the Lisbon Agreement as adopted by the Assembly of the Lisbon Union on 11 October 2017, http://www.wipo.int/meetings/en/doc_detail.jsp?doc_id=376416, Doc. WIPO A/57/11 of 11 October 2017

Or. en

Amendment 15

Proposal for a regulation

Article 4 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(3 a) Where, after the notification of the refusal of the effects of the international registration concerned in the territory of the Union on account of the absence of protection for a category of products within the Union geographical indications, further developments in Union law allow the category of products concerned by the refusal to be protected, the Commission shall reassess whether the geographical indication previously refused may now be protected within the territory of the Union.

Where, based on the assessment carried out pursuant to this paragraph, the Commission considers that the conditions laid down in paragraph 1 are fulfilled, it shall take a decision to withdraw the refusal by means of an implementing act adopted in accordance with the examination procedure referred to in Article 13(2).

In accordance with Article 16 of the Geneva Act, the Commission shall notify the International Bureau of the withdrawal of refusal of the effects of the international registration concerned within the territory of the Union.

Or. en

Amendment 16

Proposal for a regulation

Article 5 – paragraph 1

Text proposed by the Commission

(1) Within **two** months from the date of publication of the name of the geographical indication in the Official Journal of the European Union in accordance with Article 4(2), the authorities of a Member State or of a third country other than the Contracting Party of Origin, 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, in one of the official languages of the Union.

Amendment

(1) Within **four** months from the date of publication of the name of the geographical indication in the Official Journal of the European Union in accordance with Article 4(2), the authorities of a Member State or of a third country other than the Contracting Party of Origin, 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, in one of the official languages of the Union.

Or. en

Amendment 17

Proposal for a regulation
Article 5 – paragraph 2 – point e

Text proposed by the Commission

(e) that the geographical indication registered in the International Register relates to a product in respect of which protection within the EU of geographical indications is currently not provided;

Amendment

deleted

Or. en

Amendment 18

Proposal for a regulation
Article 13 a (new)

Text proposed by the Commission

Amendment

Article 13 a

Monitoring and review

1. By ... [two years after the entry into force of this Regulation], 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 protected under Union law which have been notified with a justification for the choice of the notified indications and the geographical indications protected under Union law which have been rejected by third parties;

b) the evolution of the participation of third countries in the Geneva Act and the action taken by the Commission to increase this number;

c) the number of non-agricultural geographical indications originating from third countries which have been rejected by the Commission.

2. By ... [two years after the entry into force of this Regulation], the Commission shall, where appropriate, submit a legislative proposal to extend the protection granted to geographical indications under Union law to non-agricultural products in view of the Union's full participation in the Geneva Act.

Or. en

EXPLANATORY STATEMENT

The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration is a 1958 treaty, which offers means of obtaining protection for appellations of origins in its Contracting Parties. The Agreement has currently twenty-eight Contracting Parties including seven Member States. However, the Union is not a Contracting Party for the Lisbon Agreement only allows for membership of states.

The Lisbon Agreement was updated through the Geneva Act, which allows the international organisations to become Contracting Parties. Thus, the Parliament will be invited to give its consent to the accession of the Union to the Geneva Act in order for the Union to fully exercise its exclusive competence in relation the common commercial policy. This proposal for a Regulation will then allow the effective participation of the Union to Lisbon Union.

In General, the Rapporteur welcomes the proposal that will comfort the position of the Union's GIs on the international stage as well as the leadership of the Union in respect of the protection of its local culture and producers and will help boosting trade for certain European products beyond the bilateral agreements concluded by the Union with its partners.

However, in the Rapporteurs' view, some shortcomings of the proposals should be addressed in order for it to be the most beneficial for the Union's GIs.

1. The Rapporteur would like to suggest that the Commission submit a first list of the GIs based on the inputs from Members States and relevant stakeholders. Indeed as they are in the best position for the identification of relevant GIs to be included in the International Register. Moreover, the Rapporteur is of the opinion that the Commission should include in its list all of the GIs, which currently benefit from the protection under Union law and are registered in the International Register by those Member States who were members of the Special Union before the accession of the Union to the Geneva Act. This list should be updated on a later stage and should aim at including as many as possible of Union's GIs. Moreover, the Parliament should be able to suggest GIs to be registered in the Lisbon Union.
2. While the Lisbon Agreement covers both agricultural and non-agricultural GIs, the Union does not provide for a protection for non-agricultural products. This constitutes a severe shortcoming which, at the moment, prevent the Union to fully participate in the Geneva Act. Moreover, given the exclusive competence of the Union, Member States who protects non-agricultural GIs will not be able to protect them under the Geneva Act. The Rapporteur regrets this situation, especially because it could have been solved before the adoption of this act, as there have been several demands from the Parliament to further develop the protection of this category of products in the past years. In consequence, the Rapporteur proposes that the Commission rapidly introduce an instrument to protect non-agricultural GIs through a horizontal legislation. Based on that suggestion, the Rapporteur made modification to ensure that this Regulation would still be fit for the purpose in case of further developments of Union law as regards to non-agricultural products.
3. Seven Member Sates are members of the Lisbon Union and as such have accepted protection of third country geographical indications. The Rapporteur welcomes the introduction of a transitional period in order for those Member States to be able to fulfil

their international obligations assumed before the accession of the Union to the Geneva Act. The Rapporteur would also like to stress that a solution, such as partial participation of those countries to the Geneva Act, should be explored in order for them to be able to fully continue to protect their non-agricultural GIs.

4. Although the Geneva Act allows international organisation to be member of the Special Union, it does not automatically ground them with a voting right. Indeed, each international organisation shall have a number of votes equal to the number of its member States part to the Act. Given the exclusive competence of the Union, this would deprive the Union from a voting right. The Rapporteur would like to express her worries about this situation and ask the Commission to explore possible solution to this issue, such as ratification of the instrument in the interest of the Union by Member States.