

oriGIn EU

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Object: Questions regarding the European Commission proposal on the accession of the European Union to the Geneva Act of the Lisbon Agreement

oriGIn EU is the European antenna of the global alliance of geographical Indications (GIs) groups (<https://www.origin-gi.com>). Its mission is to ensure a better protection and promotion of the GIs before the European institutions.

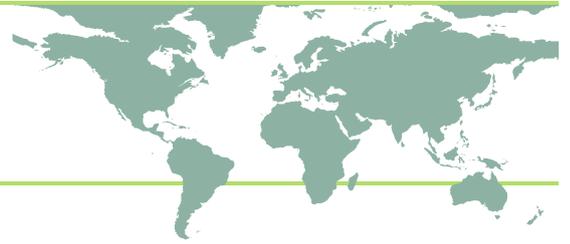
We had followed closely the negotiations which led in 2015 to the adoption of the Geneva Act of the Lisbon Agreement and believe it represents an opportunity to establish a solid international system for the protection of GIs. However, we would like to share with you some concerns following the European Commission (EC) proposals for a Council Decision on the accession of the European Union to the Geneva Act and a Regulation of the European Parliament and the Council on the action of the EU following its accession to the Geneva Act.

In its proposals, the EC underlines that the EU has exclusive competence for the Geneva Act of the Lisbon Agreement, based on the ruling of the European Court of Justice of 25 October 2017 in Case C-389/15 - Commission v Council. It therefore proposes that exclusively the EU joins the Geneva Act, without its Member States.

This approach raises in our view practical and legal issues for European GI groups:

- i) As the EU Member States would not join the Geneva Act, the EU will have no vote in the future Special Union, which will govern the system (art. 22.4.b.2 of the Geneva Act). This might weaken the EU position within the Special Union;
- ii) the EU would notify the European GIs to be protected under the Geneva Act;
- iii) only GIs recognised at the EU level would be eligible for protection;
- iv) EU non-agricultural GIs would not be eligible for protection (at least until a European system for non-agricultural GIs is adopted).

With respect to points ii), iii) and iv), we understand the European Commission proposes to notify under the Geneva Act a list of GIs (500 to 600) protected at the EU level. Further requests will be sent at a later stage. How will the selection of the EU GIs to be notified at a later stage be conducted? Moreover, this method would de facto exclude some appellations of origin protected at the national level in the seven EU Member States currently party to the Lisbon Agreement (Bulgaria, Czech Republic, France, Hungary, Italy, Portugal and Slovakia). What will happen to such GIs (mainly, but not exclusively, non-agricultural GIs) currently protected under the Lisbon Agreement? Will they lose the protection they have been granted for several years? This consequence must be avoided.



Moreover, oriGIn EU has some questions regarding the way the Lisbon Agreement and the Geneva Act will be implemented.

First of all, with respect to the European appellations of origin currently protected under the Lisbon Agreement, it is crucial and logical to maintain their current date of protection vis-à-vis those Lisbon Agreement parties which will join the Geneva Act. Prior rights in these countries must not be lost. Moreover, if the EU will have to submit a new request for registration under the Geneva Act also for such appellations of origin, who will cover the related costs? GIs groups may have to do so, as it seems unlikely that their respective Member States would cover any expense without being part of the system. This would add unnecessary costs, which small groups might not be able to cover. Practical solutions, such as allowing the appellations of origin currently protected under the Lisbon Agreement to be transferred under the Geneva Act without having to pay any additional fees, should be found in this respect.

For the Geneva Act to become a concrete opportunity to establish a solid international system for the protection of GIs, oriGIn EU believes that the above mentioned legal and practical issues need to be urgently addressed.

We thank you in advance for the attention you will pay to the above-mentioned concerns related to the EC approach proposed to allow the EU to accede to the Geneva Act of the Lisbon Agreement and look forward to receiving your clarifications. Meanwhile, we remain at your disposal for any further clarification you might require.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Claude Vermot-Desroches'.

Claude Vermot-Desroches
President of oriGIn

A handwritten signature in blue ink, appearing to read 'Massimo Vittori'.

Massimo Vittori
Managing Director of oriGIn