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GAIN Report

Global Agricultural Information Network

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EU Prepares to Join Lisbon Agreement on Geographical Indications

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Report Highlights:

In December 2017, the European Commission published a "roadmap" outlining its intention to prepare legal acts needed for EU accession to the Geneva Act of the Lisbon Agreement on geographical indications (GIs). According to the roadmap, EU accession is currently the only option available to protect GIs in a multilateral forum outside the EU. EU membership would be yet another tool for the EU to export its GI protection policy.

EU Prepares to Join Lisbon Agreement on Geographical Indications

In December 2017, the European Commission published a [roadmap](#) outlining its intention to prepare legal acts needed for the EU's accession to the "Geneva Act of the Lisbon Agreement on Appellations of Origin (AO) and Geographical Indications (GI)." According to the roadmap, EU accession is "currently the only viable option for protecting EU Geographical Indications in a multilateral forum outside the EU." EU membership would be yet another tool for the EU to export its GI protection policy.

Lisbon Agreement

The Lisbon Agreement, administered by the World Intellectual Property Organization (WIPO), makes it possible to obtain protection for [AOs](#) and [GIs](#) through a single registration. The Agreement has 28 Contracting Parties including 7 EU Member States (Bulgaria, Czech Republic, France, Hungary, Italy, Portugal and Slovakia). The EU as such is not a Contracting Party because the Lisbon Agreement only allowed for membership of states. This means that currently only GIs from the 7 EU Member States can be protected in the other contracting parties (Algeria, Bosnia and Herzegovina, Burkina Faso, Congo-Brazzaville, Costa Rica, Cuba, South Korea, Gabon, Georgia, Haiti, Iran, Israel, Mexico, Montenegro, Nicaragua, Peru, Moldova, Serbia, Former Yugoslav Republic of Macedonia, Togo and Tunisia).

Geneva Act Allows Intergovernmental Membership

The revised and modernized Agreement of 2015, the so-called "[Geneva Act](#)", allows "intergovernmental organizations" to become Contracting Parties. The Geneva Act stipulates that any intergovernmental organization can join "provided that the intergovernmental organization declares that it has been duly authorized, in accordance with its internal procedures, to become party this Act and that, under the constituting treaty of the intergovernmental organization, legislation applies under which regional titles of protection can be obtained in respects of geographical indications." The Commission roadmap states that the Geneva Act is compatible with the World Trade Organization (WTO) Agreement on Trade-Related Intellectual Property Rights (TRIPS) and with existing EU legislation on GI protection for agricultural products.

European Court Ruling on Exclusive EU Competence

In October 2017, the European Court of Justice ruled ([case C-389/15](#)) that the EU has exclusive competence for the Geneva Act as part of its common commercial policy, as protection under Member State systems would require country-by-country registration and could result in different legal guarantees. Member States need the Commission's authorization to join the Lisbon Agreement and can only become members together with the EU. As the EU is not a Contracting Party, it cannot submit agricultural GI products protected at the EU-level nor can the EU protect GIs registered under the Lisbon system. The Court ruling allows the Commission to apply for EU membership.

New Battlefield for GI Protection?

The roadmap claims that joining the Lisbon Agreement is the only viable option to protect EU GIs in a multilateral forum outside the EU. Displeased with the lack of support for the EU's initiative to establish a multilateral system under the WTO TRIPS system, the Geneva Act is the next best solution for the EU to export its GI protection policy. The EU intends to submit a shortlist, in close consultation with the Member States, of EU agricultural GIs for protection under the Lisbon system. This shortlist will undoubtedly contain all the GI's the EU always proposes for protection when negotiating Free Trade Agreements with third countries. The roadmap foresees the following advantages of an EU membership:

- It would be the only option to protect GIs in multilateral forum outside the EU
- It would allow the EU to refer to the Lisbon system rather than negotiating in detail the bilateral protection of GIs
- Current and future GIs registered at EU-level but not registered by the seven Member States could become eligible for protection in the Lisbon system
- EU GIs could gain rapid, high level, indefinite protection in all current and future parties to the Geneva Act (other WIPO members including Russia, China, India, and 17 francophone African States have expressed their interest in joining)
- International GI protection resulting from EU accession would have a positive impact on high value-added production in the agricultural sector

Next Steps

The Commission's proposal for EU membership is expected to be published in the second quarter of 2018. The proposal will then be submitted to the EU legislators for adoption, a process that may take several months.