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From:	Presidency
To:	Delegations
Subject:	Regulation on geographical indications and quality schemes - <i>Presidency revised drafting suggestions on the Articles related to EUIPO</i>

With a view to the meeting of the Working Party on Horizontal Agricultural Questions (Geographical indications and designations of origin) on 4 November 2022, delegations will find attached revised drafting suggestions on the Articles related to EUIPO (Articles 3(3a), 17, 19(10), 23(7), 25(10), 26(6), 34(3), 35(2), 46, 47 and 82) of the abovementioned proposal.

Compared to the Commission proposal, added text is marked in bold and underlined, and strikethrough is used for deleted text. Compared to the previous drafting suggestions (13382/22 for Articles 3(3a) and 17(1)-(4), and 12234/22 for the remaining articles), the changes are indicated in yellow.

Article 3

Data protection

(...)

3a. EUIPO shall be a processor within the meaning of Regulation (EU) 2018/1725 in relation to the processing of personal data linked to its tasks.

(...)

Article 17

Scrutiny by the Commission and publication for opposition

1. **The Commission EUIPO shall scrutinise examine any applications for registration submitted that it receives in accordance with pursuant to Article 16(1) and (2). It** Such scrutiny shall **check** consist of a check that there are no manifest errors, that the **applications contain the required** information provided in accordance with Article 15 is complete and that the single document referred to in Article 13 is precise and technical in nature. It shall take into account the outcome of the national **and that they do not contain manifest errors, taking into account the outcome of the scrutiny and opposition** procedure carried out by the Member State concerned. It shall focus in particular on the single document referred to in Article 13. **It shall deliver its opinion to the Commission.**
2. **Scrutiny should not exceed a period of 6 months. In the event that the scrutiny period exceeds or is likely to exceed 6 months the Commission shall inform the applicant of the reasons for the delay in writing.**

~~3. The Commission may seek supplementary information from the applicant.~~

4. ~~Where, based on the scrutiny carried out pursuant to paragraph 1,~~ **Based on the opinion referred to in paragraph 1,** the Commission **shall finalise the scrutiny and, where it** considers that the conditions laid down in **Articles 29, 30, 31, 35, 48, 49(1) and (2) and 50 of this Regulation, and in Articles 93 and 100 of** Regulations (EU) No 1308/2013, **and in Article 3(4) of Regulation** (EU) 2019/787, as appropriate, are fulfilled, it shall publish in the *Official Journal of the European Union* the single document and the reference to the publication of the product specification.

4a. EUIPO or the Commission, as appropriate, may request from the applicant any supplementary information or modification necessary to finalise the examination or scrutiny.

4b. Option 1:

Scrutiny shall, as a general rule, not exceed a period of 6 months. In the event that the scrutiny period exceeds or is likely to exceed 6 months, EUIPO or the Commission, as appropriate, shall inform the applicant of the reasons for the delay in writing.

OR:

Option 2:

Within 6 months from the reception of the application, EUIPO or the Commission, as appropriate, shall inform the applicant about the state of the scrutiny.

~~5. The Commission shall be empowered to adopt delegated acts in accordance with Article 84 supplementing this Regulation by rules on entrusting EUIPO with the tasks set out in this Article.~~

(...)

Article 19

Union opposition procedure and notice of comments

(...)

10. The Commission shall be empowered to adopt delegated acts, in accordance with Article 84 supplementing this Regulation by detailed procedures and deadlines for the opposition procedure, for the **official** submission of **notices of** comments by national authorities and persons with a legitimate interest, which will not trigger the opposition procedure, ~~and by rules on entrusting its tasks set out in this Article to EUIPO.~~

(...)

Article 23

Union register of geographical indications

(...)

7. ~~The Commission shall be empowered to adopt delegated acts in accordance with Article 84 supplementing this Regulation by rules on entrusting~~ EUIPO **to shall** operate the Union register of geographical indications **and keep it updated as regards applications for and publication, registration, amendment and cancellation of geographical indications and any other required information.**

(...)

Article 25

Amendments to a product specification

(...)

10. The Commission shall be empowered to adopt delegated acts in accordance with Article 84 supplementing this Regulation by provisions **entrusting EUIPO with the publication of on standard amendments referred to in paragraph (9).**

(...)

Article 26

Cancellation of the registration

(...)

- ~~6. The Commission shall be empowered to adopt delegated acts in accordance with Article 84 supplementing this Regulation by rules entrusting EUIPO with the tasks set out in paragraph (5).~~

(...)

Article 34

Protection of geographical indication rights in domain names

(...)

3. ~~The Commission shall be empowered to adopt delegated acts in accordance with Article 84 supplementing this Regulation by provisions entrusting EUIPO~~ **shall** establish and manage a domain name information and alert system ~~that would~~ **to** provide the applicant, upon the submission of an application for a geographical indication, with information about the availability of the geographical indication as a domain name, ~~and, on optional basis, the registration of a domain name identical to their geographical indication. That delegated act shall also include the obligation for The registries of country-code top-level domain names, established in the Union,~~ **shall cooperate with** ~~to provide~~ EUIPO with **a view to providing** ~~the~~ relevant information and data.

Article 35

~~Conflicting~~ Relationship between geographical indications and trade marks

(...)

2. Trade marks registered in breach of paragraph (1) shall be invalidated by EUIPO and, when applicable, the competent national authorities.

(...)

Chapter 5

Technical assistance**International agreements**

Article 46

Scrutiny of third country geographical indications under international agreements

1. ~~The Commission shall be empowered to adopt delegated acts in accordance with Article 84 supplementing this Regulation by rules on entrusting~~ **Upon request of the Commission,** EUIPO ~~with the~~ **shall carry out** scrutiny of third country geographical indications, other than geographical indications under the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications, proposed for protection pursuant to international negotiations or international agreements.

- 1a. On the basis of information received from the Commission, EUIPO shall make public and regularly update the list of the international agreements protecting geographical indications to which the Union is a contracting party as well as the list of geographical indications protected under those agreements.***

Article 47

Monitoring and reporting

- ~~1. Where the Commission exercises any of the empowerment~~ **1. Where the Commission exercises any of the empowerment** ~~provided for in this Regulation to entrust tasks to EUIPO, it shall also be empowered to adopt delegated acts in accordance with Article 84 to supplement this Regulation by criteria for monitoring performance in the execution of such tasks. Such criteria may include:~~
 - ~~(a) the extent of integration of agricultural factors in the scrutiny process;~~

* This paragraph was moved from Art. 23(5).

(b) ~~quality of assessments;~~

(c) ~~coherence of assessments of geographical indications from different sources;~~

(d) ~~efficiency of tasks; and~~

(e) ~~user satisfaction.~~

2. ~~No later than 5 years after the first delegation of any tasks to EUIPO, the Commission shall prepare and submit a report to the European Parliament and to the Council on the results and experience of the exercise of these tasks by EUIPO.~~

(...)

Article 82

Amendments to Regulation (EU) 2017/1001

Regulation (EU) 2017/1001 is amended as follows:

(1) in Article 151(1), the following point is inserted:

‘(f) ~~administration of geographical indications, notably~~ the tasks conferred on it ~~by means of Commission delegated acts adopted in accordance with Article [...]~~ ~~by~~ of Regulation (EU) .../... of the European Parliament and of the Council [Regulation on GIs]*

* Regulation (EU) .../... of the European Parliament and of the Council of [...][...] (OJ L [...], p....)].’.