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NOTE

From: Presidency
To: Special Committee on Agriculture
Subject: Regulation on geographical indications and quality schemes
- *Presidency background document*

With a view to the meeting of the Special Committee on Agriculture on 5 December 2022, delegations will find attached a Presidency background document on the abovementioned proposal.

Presidency background document on Geographical Indications for the SCA of 5 December 2022

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on European Union geographical indications for wines, spirits and agricultural products and on agricultural product quality schemes, amending Regulations (EU) No 1308/2013, (EU) 2017/1001 and (EU) 2019/787 and repealing Regulation (EU) No 1151/2012

Introduction

On 31 March 2022, the Commission published a proposal revising the current EU legislation on geographical indications (GIs) for wines, spirit drinks and agricultural products, as well as quality schemes for agricultural products (7639/22 REV 1 + ADD 1-3). It aims in particular to strengthen the Union system of GIs, to promote the use of GIs across the Union, and to shorten the time needed to register new GIs. The proposal also seeks to harmonise legislation on:

- The procedure for registering, amending or cancelling a geographical indication, for all three sectors;
- The protection of GIs, for the three sectors;
- Control in the agricultural products and spirit drinks sectors.

Under the Czech Presidency, the proposal was discussed at seven meetings at Working Party level and, up to now, at one meeting of the Special Committee on Agriculture (SCA). Work also involved the provision of written comments from delegations, written explanations by the Commission and drafting suggestions from the Presidency.

The discussion showed that several important and sensitive issues require particular attention, including:

- The tasks to be performed by the European Union Intellectual Property Office (EUIPO)
- Producer groups and recognised producer groups
- The protection of GI rights in domain names

State of play of important issues

Tasks to be performed by EUIPO:

The main guidance on including EUIPO in the tasks performed on Geographical Indication's dossiers was given by the Member States on the SCA on 10 October. It showed that Member States would like the agricultural aspects of the GI products to be taken into account, which could be ensured by involving DG AGRI. At the same time, the Member States recognised the expertise offered by EUIPO in the area of intellectual property (IP) rights. Delegations could accept that EUIPO provides administrative support on GIs while the Commission should remain responsible for the non-administrative tasks. Some Member States wanted the cooperation with EUIPO to continue and to keep at least the status quo. Currently, EUIPO helps with the scrutiny of the applications for registration, the preparation of observations to be sent to the Member States or third countries applying, the technical scrutiny of the Union amendments and of third country GIs received under bilateral trade negotiations, other than those under the Geneva Act of the Lisbon Agreement, and the publication and regularly updating of the list of the international agreements protecting GIs.

After taking into account the guidance provided by the SCA, the Presidency prepared drafting suggestions set out in 14067/22 the main features of which are:

- **The bestowal of the tasks to the specific body should be specified in the basic act, not in the delegated act as proposed by the Commission.** Because of the link to the CAP and its objectives, the Member States emphasised the importance of the question which body, the Commission or the EUIPO, performs certain tasks in the course of the procedural process, hence the need to specify this issue in the basic act.
- **EUIPO will perform the first examination of the dossier providing the Commission with its opinion (Art. 17).** The Commission will then scrutinise the application and finish the procedure by adopting an implementing act rejecting an application for registration or registering the geographical indication.
- **EUIPO will not be involved in the Union opposition procedure and notice of comments (Art. 19).** In line with the views expressed of many delegations, EUIPO is not involved in this part of procedure.

Other tasks in which EUIPO will be involved include the management of the register of the GIs (Art. 23), the management of the domain name information and alert system (Art. 34), the invalidation of trade marks registered in breach with Art. 35 (1) and the scrutiny of the third country GIs (Art. 46). In Art. 25 and 26, the approval procedure of Union amendments and the cancellation procedure will follow mutatis mutandis the procedure laid down in articles on application and opposition including Art. 17, meaning that EUIPO will provide an opinion in case of amendments and cancellation, as relevant.

Producer groups and recognised producer groups:

The discussion on the recognised producer groups showed that important differences exist between Member States' national provisions as well as the practises of producers and those of Member States' authorities. Some Member States already recognise producer groups on the basis of a set of requirements that the groups need to fulfil. Some Member States only have a small number of GIs and their producer groups usually dissolve after registration of the GI, meaning that the recognition of producer groups would add administrative burden on them. As there was no support for the new provision on recognised producer groups, the Presidency proposed two options:

- **Delete Article 33, or**
- **Make Article 33 voluntary for Member States.** This voluntary option would mean that the Member States choosing to implement this provision would have to apply the same basic requirements for the groups in order to be recognised. Among these requirements would be the legal personality and representative status in nature by means of representing at least two-thirds of the producers of the GI accounting for more than a half of the GI production. The objective of the recognised producer group is to provide it the representative status for the GI it produces. With this role the recognised producer group could represent the GI producers in intellectual property enforcement networks and towards anti-counterfeit bodies established by national or Union authorities.

The two options proposed by the Presidency were discussed at Working Party level on 29 November. The discussion showed split of Member States between options (with bigger support for deletion) and different approach.

The rights and powers of the producer groups (Art. 32) are, in substance left untouched in comparison with the current regulatory framework (although subject to some adaptations) as well as the right to use a registered GI by any operator marketing a product in conformity with the corresponding product specification (Art. 36).

Protection of GI rights in domain names:

The discussion held at Working Party level on the domain names (Art. 34), showed that a majority of Member States do not want to interfere with the practises of the domain name registries. The drafting suggestions issued by the Presidency keep the provision on the recognition of the GIs as the rights in any alternative dispute resolution procedure and the establishment of the domain name information and alert system providing the information about the availability of the GI as a domain name. Originally, this provision was identical in the proposal for a Regulation on GI protection for craft and industrial products (CI GIs), but, as negotiation goes on, was deleted from CI GIs, keeping the recognition of the GIs as the rights in any alternative dispute resolution procedure only in recitals. As the provision concerns the same issue, the question is whether the Member States wish to take the same approach in the Regulation on EU GIs for wine, spirit drinks and agricultural products and thus align the two proposals where possible.

Way forward

Delegations are invited to share their views on the three subject-matters mentioned with regard to the approach suggested under the Czech Presidency and the way forward with a view to providing guidance to the incoming Swedish Presidency,

Question:

How would you assess the approach suggested by the Presidency in the three mentioned areas?
