



EU and Lisbon Agreement

A single International Register for Geographical Indications

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1. Functioning of the Geneva Act



Legal framework for GIs

- **WTO**: TRIPS agreement as framework (no register, bilateral agreements to identify GIs)
- **WIPO**: Geneva Act of the Lisbon Agreement (multilateral register)
- **EU**: Four sets of rules for food, wine, spirit drinks & aromatised wines (EU register). *Sui generis* EU system as regards 4 agri sectors

Multilateral scheme (WIPO)

Lisbon Agreement, Geneva Act 2015

Multilateral Lisbon system of registration

Lisbon Agreement (1958 and 1979 acts) - only Appellations of Origin ('AO')

The "Special Union" (34 Members of LA, 7 EU MS)

20 May 2015: modernized Lisbon Agreement: "**Geneva Act of the Lisbon Agreement**" (GA)

6 parties of GA: Albania, Cambodia, DPR Korea, European Union, Laos, Samoa (France will follow soon)

Entry into force on February 26, 2020

'Kampot Pepper' the 1st registration under GA



The Geneva Act: main innovations

- Facilitates the international protection of GIs through a single registration procedure
- One register, multiple protection

Main innovations introduced by GA into Lisbon System:

- extension beyond AOs to all GIs
- flexibility on domestic GI systems
- open to accession of Intergovernmental Organizations (IGOs)



Kraški pršut PGI (SI)

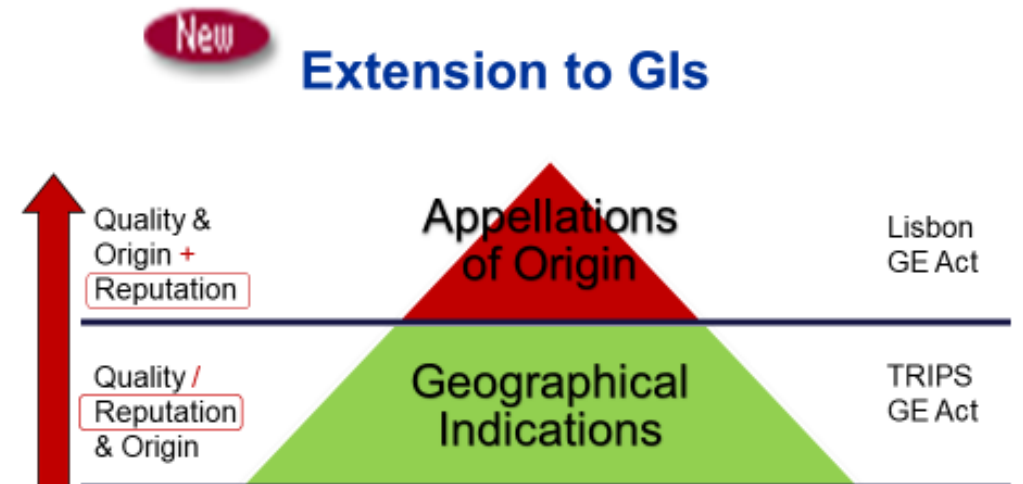


Bourgogne PDO (FR)

The Geneva Act: extension to GIs

- **Appellations of Origin (AOs):**
the quality(ies) or characteristics are **due** to the geographical environment (which has given reputation)
- **Geographical Indications (GIs):**
a quality, **reputation** or characteristic is **attributable** to the geographical origin

→ more products can benefit from the Lisbon System



The Geneva Act: Flexibility on domestic GI systems

- Different national means of GI protection allowed (Art. 9 and 10 GA)
- *Sui generis* legislation



- Trademark system (collective/certification marks)
- Administrative systems
- Unfair competition laws

The Geneva Act opens Lisbon system to Intergovernmental Organizations (IGOs)

- European Union (27 Member States) acceded on 26/11/2019



- African Organization of Intellectual Property (OAPI)
17 Member States



- Accession Criteria (Art. 28 GA): IGO grants regional titles of protection for GIs

The Geneva Act: registration and procedures



Articles 5 and 6 GA

- Application to WIPO by the Competent Authority
- WIPO examination of formal elements
- Registration of the AO/GI in the International Register
- Notification of the AO/GI to Contracting Parties

The Geneva Act: registration and procedures

Articles 6,18,19 GA



- Protection is granted if
 - grant of protection is notified
 - absence of refusal after 1 year
- Invalidation
- Renunciation
- Cancellation

The Geneva Act: registration and procedures



Article 15 and 16 GA

- Refusal (notification of refusal)
- Withdrawal (of the refusal)
- Modifications

The Geneva Act: international application



Rules 5.2 and 5.5 CR

Mandatory contents:

- 5.2 Contracting Party (CP),
- 5.2 Competent Authority (CA),
- 5.2 Beneficiaries
- 5.2 Name of AO/GI (+ transliteration)
- 5.2 Good category
- 5.2 Area of origin/production
- 5.2 registration details in the CP
- 5.5 protection not claimed for certain elements

The Geneva Act: international application

Rules 5.3 and 5.4 CR



Mandatory contents on declaration:

- 5.3: Particulars on quality reputation or characteristic(s)
- 5.4: Signature and/or Intention to use



2. Registering EU GIs in Geneva and protecting 3C GIs in the EU



EU legal basis for the implementation of the Geneva system - Regulation (EU) 1753/2019

- European Commission (COM) as Competent Authority (Article 3 of GA) will file applications with the WIPO International Bureau for international registration of EU GIs and will assess third countries' AO/GI submissions through Geneva act for protection in the EU

EU legal basis for implementation of the Geneva system:

- Regulation (EU) 2019/1753 of the EP and of the Council of 23 October 2019 on the action of the Union Following the accession to the Geneva Act
- Council Decision (EU) 2019/1754 on the accession of the European Union to the Geneva Act

EU legal basis - Regulation (EU) 1753/2019

EU GI Registration (AGRI GIs)

- Member States requests the Commission to register EU GIs in the Geneva Act (not for GI already registered under Lisbon Agreement)
 - on their own initiative or following a request by GI holders
- Commission adopts implementing acts and submits applications for these GIs
- Criteria for choosing GIs for registration: the economic interest in international protection of the GI should be considered, taking into account, in particular, the **production value** and the **export value**, protection under **other agreements**, as well as current or potential **misuse** in third countries

Geneva Act – Regulation (EU) 1753/2019

Fees

- Registration fees (currently 1000 CHF) shall be borne by the Member States (Article 13), but they may require that the GI holders pay some or all of the fees.

Geneva Act – Regulation (EU) 1753/2019

Third Countries' GIs (3C GIs)

- Regarding **third country GIs**: WIPO notification → publication in the EU OJ (with the exclusion of non-agri) for opposition → assessment
- Notification by WIPO to COM of the 3C registrations
- Publication in the EU OJ if in the scope of EU GI law
- Commission assessment: mandatory requirements (5.2 of CR), particulars (5.3 of CR) and scope of EU GI legislation
- IPR assessment only
- Decision (refusal) to be notified to WIPO within 1 year from notification
- GI view

Geneva Act – Regulation (EU) 1753/2019 non-agri GIs

- Regarding **non-agricultural GIs**: The EU will **not notify** any such GIs to the WIPO and will **refuse protection** for any GI proposed by third country members under the Geneva Act.
- The Geneva Act allows for withdrawal of the refusal (Article 16)
- The EU will need to maintain the refusal for non-agri GIs unless and until the EU sets up a system to protect them through horizontal legislation at EU level.

EU legal basis - Regulation (EU) 1753/2019

Transition from Lisbon Agreement

- Transition to the Geneva Act of AOs that were registered in the old Lisbon Agreement by the seven EU MS (BG, CZ, FR, IT, HU, PT, SK) parties to that agreement:
- Regulation 2019/1753 distinguishes between those:
 - (i) already protected under an EU GI regulation (in EU register),
 - (ii) falling in the scope of EU protection but not protected (not in EU register),
 - (iii) fall outside the scope of the EU protection (i.e. non-agri GIs)

EU legal basis - Regulation (EU) 1753/2019

Transition Lisbon - Geneva

- (i) GIs already protected in Lisbon and in EU:
 - The 7 MS must decide between registration under the Geneva Act and cancellation in the WIPO international register
 - The 7 MS must notify the Commission of this choice by 14 November 2022 (three years after entry into force of the Regulation)

Geneva Act – Regulation (EU) 1753/2019

Transition Lisbon-Geneva

- (ii) GIs registered in Lisbon but not protected in EU:
 - By 14/11/2022, 7 MS must decide if registering under Geneva or cancelling the AO (priority rights).
 - If MS decides for registration has to access the Geneva Act.
 - AO must be registered in EU. COM authorises MS to notify WIPO. MS have 1 year to register in Geneva

Geneva Act – Regulation (EU) 1753/2019

Transition Lisbon - Geneva

- (iii) GIs registered in Lisbon but not in the scope of EU GIs legislation (Non Agri):
- The 7 MS Parties to the Lisbon Agreement can **maintain** existing registrations of non-agricultural GIs **under the old Lisbon Agreement**
- They may also register new non-agri GIs originating in their territory under the old Lisbon agreement under certain conditions (*droit de regard* of the European Commission)

Geneva Act – Regulation (EU) 1753/2019

Lisbon v. Geneva

- The 7 MS may continue to protect AOs (agri and non-agri) registered before 26/2/2020 from a 3C Lisbon party via national protection
- If a 3C Lisbon party joins Geneva and agri AOs are then protected in the EU national protection superseded by EU.
- The 7 MS shall not be able to protect at national level 3C agri GIs notified after 26/2/2020 (only EU)

Useful links



[Geneva Register](#)

<https://www.wipo.int/ipdl/en/search/lisbon/search-struct.jsp>

[Geneva legislation WIPO page \(Geneva Act and Common Regulations\)](#)

<https://www.wipo.int/treaties/en/registration/lisbon/>

[GI View](#)

<https://www.tmdn.org/giview/>

[EUOJ containing Geneva Act and Relevant EU acts](#)

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2019:271:FULL&from=EN>

Thank you



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