Council Decision (EU) 2019/1754 of 7 October 2019 on the accession of the European Union to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications

COUNCIL DECISION (EU) 2019/1754

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207 in conjunction with point (a) of Article 218(6) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

(1) The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration of 31 October 1958 ('the Lisbon Agreement') created a special union ('the Special Union') within the framework of the Union for the Protection of Industrial Property which was established by the Convention for the Protection of Industrial Property signed in Paris on 20 March 1883 ('the Paris Convention'). Under the terms of the Lisbon Agreement, the contracting parties undertake to protect on their territories the appellations of origin of products of the other countries within the Special Union which are recognised and protected as such in the country of origin and which are registered at the International Bureau of the World Intellectual Property Organization (WIPO), unless those parties declare, within a period of one year from the receipt of the notification of such a registration, that they cannot ensure such protection.

(2) Seven Member States are parties to the Lisbon Agreement, namely Bulgaria (since 1975), the Czech Republic (since 1993), France (since 1966), Italy (since 1968), Hungary (since 1967), Portugal (since 1966) and Slovakia (since 1993). Three other Member States have signed, but not ratified the Lisbon Agreement, namely Greece, Spain and Romania. The Union itself is not a party to the Lisbon Agreement as it provides that only countries can accede to it.

(3) On 20 May 2015, the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications ('the Geneva Act') was adopted which revised the Lisbon Agreement. In particular, the Geneva Act expands the scope of the Special Union in order to extend the protection of appellations of origin of products to all geographical indications within the meaning of the World Trade Organisation Agreement on Trade-Related Aspects of Intellectual Property Rights. The Geneva Act is compatible with that agreement and with relevant Union law on the protection of designations of origin

Changes to legislation: *There are currently no known outstanding effects for the Council Decision (EU) 2019/1754. (See end of Document for details)*

and geographical indications for agricultural products, and allows intergovernmental organisations to become contracting parties to it.

(4) The Union has exclusive competence for the areas covered by the Geneva Act. This was confirmed in the judgement of the Court of Justice of 25 October 2017 in Case C-389/15[(1)] which clarified that the draft revised Lisbon Agreement, which has been subsequently adopted as the Geneva Act, is essentially intended to facilitate and govern trade between the Union and the third States party to the Lisbon Agreement and has direct and immediate effects on such trade. Therefore the negotiation of the Geneva Act fell within the exclusive competence of the Union pursuant to point (e) of Article 3(1) TFEU as it was within the field of the common commercial policy referred to in Article 207(1) TFEU, in particular with regard to the commercial aspects of intellectual property.

(5) Regarding certain agricultural products, the Union has established uniform and comprehensive protection systems for geographical indications for wines (1970), spirits (1989), aromatised wines (1991) and other agricultural products and foodstuffs (1992). Based on the exclusive competence of the Union under Article 3 TFEU, Member States should not have national protection systems to protect agricultural designations of origin and geographical indications of third country members of the Special Union. However, since the Union is not a contracting party to the Geneva Act, it cannot submit agricultural designations of origin and geographical indications registered at Union level for protection within the Special Union, nor can it protect third country members' designations of origin and geographical indications by means of the protection systems established by the Union in accordance with the Geneva Act.

(6) In order for the Union to be able to properly exercise its exclusive competence for the areas covered by the Geneva Act and its functions in the context of its comprehensive protection systems for agricultural designations of origin and geographical indications, the Union should accede to the Geneva Act and become a contracting party thereto.

(7) The Union's accession to the Geneva Act is in accordance with Article 17(2) of the Charter of Fundamental Rights of the European Union, which provides for the protection of intellectual property.

(8) The Union should endeaveour to regularise the issue of its voting rights in the Assembly of the Special Union of the Geneva Act in order to ensure its effective participation in the decision-making procedures, in view of point (b)(ii) of Article 22(4) of the Geneva Act. It is therefore appropriate that the Member States which wish to do so, should also be authorised to ratify or to accede to, as appropriate, alongside the Union the Geneva Act in the interest of the Union.

(9) At the same time, this will allow to ensure the continuity of rights resulting from the existing membership of seven Member States in the Special Union.

(10) The ratification or accession by the Member States should however fully respect the exclusive competence of the Union, and the Union should remain responsible for ensuring the exercise of the rights and fulfilment of the obligations of the Union and the Member States under the Geneva Act.

***Changes to legislation:** There are currently no known outstanding effects for the Council Decision (EU) 2019/1754. (See end of Document for details)*

(11) In the Special Union, the Union and those Member States having ratified or acceded to the Geneva Act are represented by the Commission in accordance with Article 17(1) of the Treaty on European Union (TEU),

HAS ADOPTED THIS DECISION:

Article 1

The accession of the European Union to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications ('the Geneva Act') is hereby approved on behalf of the Union.

The text of the Geneva Act is attached to this Decision.

Article 2

The President of the Council shall designate the person empowered to deposit, on behalf of the Union, the instrument of accession provided for in point (ii) of Article 28(2) of the Geneva Act, in order to express the consent of the Union to be bound by the Geneva Act, as well as to make the declaration and notification attached to the instrument of accession provided for in Article 5 of this Decision.

Article 3

Member States which wish to do so, are hereby authorised to ratify or accede to, as appropriate, alongside the Union, the Geneva Act in the interest of the Union and in full respect of its exclusive competence.

Article 4

1 In the Special Union, the Union and any Member States which ratifies or accedes to the Geneva Act pursuant to Article 3 of this Decision shall be represented by the Commission in accordance with Article 17(1) TEU. The Union shall be responsible for ensuring the exercise of the rights and fulfillment of the obligations of the Union and of the Member States which ratify or accede to the Geneva Act pursuant to Article 3 of this Decision.

The Commission shall make all the necessary notifications under the Geneva Act on behalf of the Union and those Member States.

In particular, the Commission shall be designated as the Competent Authority referred to in Article 3 of the Geneva Act, responsible for the administration of the Geneva Act in the territory of the Union and for communications with the International Bureau of the WIPO under the Geneva Act and the Common Regulations under the Lisbon Agreement and the Geneva Act of the Lisbon Agreement (the 'Common Regulations').

2 The Union shall vote in the Assembly of the Special Union and the Member States which have ratified or acceded to the Geneva Act shall not exercise their right to vote.

Article 5

In accordance with Article 29(4) of the Geneva Act, a declaration attached to the instrument of accession shall specify an extension by one year of the time limit referred to in Article 15(1) of the Geneva Act, and the periods referred to in Article 17 of the Geneva Act, in accordance with the procedures specified in the Common Regulations.

In accordance with point (a) of Rule 5(3) of the Common Regulations, a notification to the Director-General of WIPO attached to the instrument of accession shall specify the