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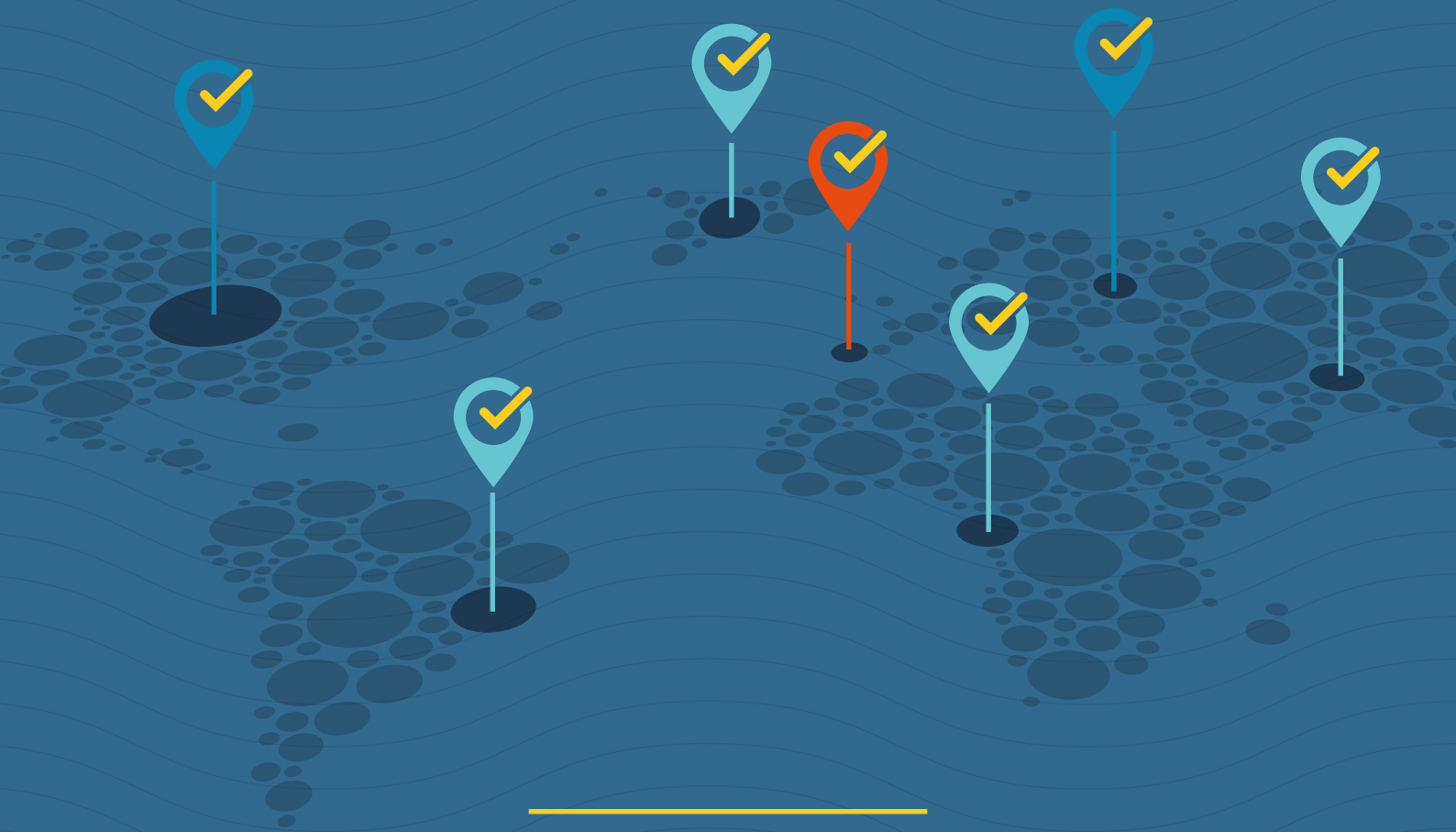
Understanding the Lisbon System:

Study on the opportunities and implications for countries related to the accession to the Geneva Act of the Lisbon Agreement on **Appellations of Origin and Geographical Indications**



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Contents

Acronysm

AO	Appellations of Origin
CJEU	Court of Justice of the European Union
EU	European Union
GI	Geographic Indication
IMPI	Instituto Mexicano de la Propriedad Intellectual
INAO	Institut National de l'origine et de la Qualite
OAPI	*Organisation Africaine de la Propriété Intellectuelle*
SMEs	Small and Medium-sized Enterprises
TFEU	Treaty on the Functioning of the European Union
TRIPS	Agreement on Trade-Related Aspects of Intellectual Property Rights
WIPO	World Intellectual Property Organisation
WTO	World Trade Organisation

1. Objectives

The objectives of this study are, on the one hand, to **understand the articulation of the Lisbon System**, composed of the WIPO Lisbon Agreement and its Geneva Act, as well as its potential in terms of enforcing the rights deriving from the international registration and protection of appellations of origin and geographical indications.

On the other hand, the study has the objective to **review some examples of ratifications and accessions by individual countries as well as intergovernmental organisations to the Geneva Act**.

So conceived, **the study represents a practical instrument for policymakers interested to evaluate the opportunities and implications of acceding to the Geneva Act**.

2. The WIPO Lisbon System:

Agreement on the Protection of Appellations of Origin and Their International Registration to the Geneva Act on Appellations of Origin and Geographical Indications

2.1 Introduction

he purpose of this Chapter is to analyze the main characteristics of the Lisbon Agreement, as well as its weaknesses which have limited its capacity to attract a large number of contracting parties. Likewise, this Chapter looks at the international legal and diplomatic context at the end of the first decade of the XXI century, which made it possible the exercise of reforming the Lisbon Agreement as well as at the main novelties introduced in the system by the Geneva Act.

2.2 The Lisbon Agreement: advancements and limits

The Lisbon Agreement on the Protection of Appellations of Origin and Their International Registration (hereinafter referred to as the Lisbon Agreement) was adopted in 1958 in the framework of the World Intellectual Property Organization (hereinafter WIPO)[1].

While the legal basis for the protection of geographical names used to identified products deeply rooted in their geographical environment could be found already in the 1883 Paris Convention for the Protection of Industrial Property[2] and in the 1891 Madrid Agreement for the Repression of False and Deceptive Indications of Source on Goods, the Lisbon Agreement can be considered **the first international instrument specifically devoted to the category of Intellectual Property Rights commonly identified today as Geographical Indications** (hereinafter GIs). The concept of GIs has been officially introduced at the multilateral level in 1994 with the adoption of the WTO TRIPs Agreement, which article 22.1 reads as follows: *"Geographical Indications are, for the purpose of this Agreement, indications which identify a good as originating in the territory of a Member, or*

1 Full text available at https://www.wipo.int/wipolex/en/treaties/textdetails/15625.

2 See art. 10bis(3) of the Paris Convention.

a region or locality in that territory, where a given quality, reputation or characteristic of the good is essentially attributable to its geographical origin".

The Lisbon Agreement is intended to protect Appellations of Origin (hereinafter AO), defined in its article 2.1 as "*... the geographical name of a country, a region, or locality, which serves to designate a product originating therein, the quality and characteristics of which are due exclusively or essentially to the geographical environment, including natural and human factors.*" This article has been often understood as requiring both natural and human factors as cumulative elements for a product to fall into the AO definition. However, if one looks at the French text of the same article ("la qualité ou les caractères") as well as treaty practice (for example the protection via the Lisbon Agreement of the appellation of origin "Banano de Costarica" in 2012, whose link with the corresponding geographical area seem mainly based on reputational aspects[3]), this assumption becomes less evident. In spite of the debate over the interpretation of article 2.1 of the Lisbon Agreement, one of the main issues of its reform started in 2008 with the establishment of the WIPO Working Group on possible amendments to the Lisbon Agreement, has been the clarification of its scope of application, and in particular to make it clear that all GIs, as defined in the TRIPs Agreement, would be protectable under the system[4].

The purpose of the Lisbon Agreement is two-fold: on the one hand, to provide an international cost-effective system of registration of AO, thereby supporting producers which do not have the financial resources to proceed with individual registrations in foreign jurisdictions; on the other, to provide a first harmonization scheme for the protection of AO around a solid standard:

i. **To file an international registration via the Lisbon Agreement (article 5 of the Lisbon Agreement)**, an AO must first be protected in its country of origin. Following this, the designated national competent authority can file the international application with the WIPO Secretariat, with the payment of a single fee. It is important to note in this context that, under any circumstances producers are entitled to file directly an international application with the WIPO.

   The AO is then published and made available on the WIPO website, and the Secretariat notifies the application to all the other Lisbon Agreement contracting parties. Following this, competent authorities of contracting parties have the opportunity within a year to declare their refusal to grant protection to the AO at issue in their territory. When the WIPO Secretariat receives a refusal, it informs the competent authority in the AO country of origin.

   In case of refusal of protection, a reason is always provided by the contracting party at issue. In practice, three reasons have been mentioned in the Lisbon

3 For more details, see here.

4 On this, see paragraph *2.4* The Geneva Act: Current situation and prospects for the future.

Agreement context to refuse protection to an AO notified via an international application[5]:

a. Conflicts with previously registered trademarks in the jurisdiction of the contracting party refusing protection (for instance the Italian AO "Prosciutto di Parma" opposed by Mexico in 2002[6]);

b. The fact that AO corresponding name had acquired a generic nature in the jurisdiction of the contracting party refusing protection (for instance the Italian AO "Asiago" in Nicaragua[7]);

c. The AO at issue does not match the definition provided for in the treaty or is contrary to public order (for instance Tequila – like any other wine and spirit AO notified under the Lisbon Agreement – in Iran[8]).

When a refusal is issued by a national competent authority, the AO producers can challenge it before a tribunal in the jurisdiction of the contracting party. On the other hand, **the contacting party which has issued a refusal can subsequently withdraw it**. As a way of example, while Peru in 2006 refused to grant protection in its territory to the French AO "Champagne", it withdrew such refusal in 2008[9].

One specific issue which has raised a debate in the context of article 5 of the Lisbon Agreement, is its point 6. The obligation therein contained to terminate the use of names corresponding to AO protected in a contracting party via the Lisbon Agreement (after a phasing-out period not exceeding 2 years), was interpreted by some as covering as well previously registered trademarks. In that respect, this would have been contrary to the WTO rules and case law. In spite of the above-mentioned Lisbon Agreement practice in terms of refusals (previously registered trademark as a legitimate reason to refuse protection – point a. of the above paragraph), one of the main issues of the Lisbon Agreement reform has been the clarification of this article depth[10].

ii. Following expiration of the one-year timeframe, **contracting parties that have not made a declaration of refusal (as well as those which have made a declaration of protection before the expiration of the deadline) must protect the AO at issue in their territory against any usurpation or imitation, even if the true origin of the product is indicated, the appellation is used in a translated form, or it is accompanied by terms such as kind, type, make, imitation, or the like (article 3 of the Lisbon Agreement).**

5 Which makes the Lisbon Agreement perfectly compatible with the mandatory exceptions to GI protection contained in articles 24.5 and 24.6 of the TRIPs Agreement.

6 For more details, see here.

7 For more details, see here.

8 For more details, see here.

9 For more details, see here.

10 On this, see paragraph *2.4* The Geneva Act: Current situation and prospects for the future.

Moreover, an AO that has been granted protection in one contracting party cannot, in that country, be deemed to have become generic, as long as it is protected in the country of origin (article 6 of the Lisbon Agreement).

At the end of 2008, when the WIPO Working Group on possible amendments to the Lisbon Agreement was established, **the Treaty had attracted only twenty-six contracting party**[11]. Since then, beside the ratifications and accessions to the newly adopted Geneva Act on Appellations of Origin and Geographical Indications following its adoption 2015, the Lisbon Agreement has attracted a few more contacting parties: Albania (2019), Bosnia Herzegovina (2013), Dominican Republic (2019), the Republic of Moldova and North Macedonia 2010)[12]. **The two treatises will co-exist for a number of years, at least until all Lisbon Agreement contracting parties join the Geneva Act, and even later, as prior rights concerning AO protected under the Lisbon Agreement will always be regulated by this treaty. That's why the two treaties are commonly referred to as the "Lisbon System and are subject to a common regulation ("Common Regulations under the Lisbon Agreement and the Geneva Act of the Lisbon Agreement, as in force on January 1, 2023"**[13]).

When becoming party to the Lisbon Agreement (or the Geneva Act), a country (or intergovernmental organisation in the case of the Geneva Act[14]) automatically becomes a member of the Assembly of the Lisbon Union[15].

2.3 A promising context to revitalize the Lisbon Agreement

Following its adoption in 1958 and in spite of some minor changes implemented over the years, **the Lisbon Agreement limited number of contracting parties has progressively generated a debate about the need of its reform**. Towards the end of the first decade of the XXI century, ideal conditions were in place for a positive outcome of such an exercise.

First of all, following the 2008 WTO Meetings in Geneva[16], **it became clear that the GI negotiations within the Doha Development Agenda** – which included officially the establishment of an international register for wines and spirits GIs, but "unofficially"

11 Algeria, Bulgaria, Burkina Faso, the Democratic Republic of the Congo, Costa Rica, Cuba, Czech Republic, France, Gabon, Georgia, Haiti, Hungary, Iran, Israel, Italy, Mexico, Montenegro, Nicaragua, Peru, Portugal, the Democratic People's Republic of Korea, the Republic of Moldova, Serbia, Slovakia, Togo and Tunisia.

12 A lista completa das 30 partes contratantes do Acordo de Lisboa pode ser consultada em https://www.wipo.int/wipolex/en/treaties/ShowResults?search_what=C&code=ALL&treaty_id=10.

13 Disponível em https://www.wipo.int/wipolex/en/treaties/textdetails/19805.

14 Sobre esse tema, ver o parágrafo 2.4 do Ato de Genebra: Situação atual e perspectivas para o futuro.

15 Atuais membros da Assembleia da União de Lisboa: https://www.wipo.int/wipolex/en/treaties/ShowResults?search_what=B&bo_id=11.

16 Sobre as reuniões da OMPI de 2008 em Genebra, ver https://www.wto.org/english/tratop_e/dda_e/meet08_e.htm.

covered the extension of article 23 to all GIs and consequently the establishment of an international register for all GIs as well – **would not have made any substantial progress in the foreseeable future**.

On the other hand, during the same period, **the European Union (hereinafter EU) modified its practice in international bilateral trade and agricultural negotiations**: from "sectorial" agreements covering GIs in the spirit or wine sector – for instance the 1997 Agreement between the European Community and the United Mexican States on the mutual recognition and protection of designations for spirit drink[17]s or the 2008 Agreement between the European Community and Australia on trade in wine[18] – to Free Tarde Agreements (hereinafter FTAs) or stand-alone GI agreements covering both wines and spirits as well as agricultural GIs. Examples of this new practice are the 2010 Free Trade Agreement between the European Union and its Member States and the Republic of Korea[19] and the 2021 Agreement between the European Union and the Government of the People's Republic of China on cooperation on, and protection of, geographical indications[20]. **In those agreements, the EU not only proposes a robust level of protection for all GIs, but also an "exchange" of GI lists to be recognized in the partners' respective jurisdictions after having passed a process of transparent national scrutiny to allow interested parties to oppose protection**[21].

Furthermore, bilateral and multilateral cooperation agencies, **following the interest of developing countries and emerging economies related to the GI potential to promote inclusive local development**, started to get involved in GI related projects, with the objective to encourage the recognition/protection of names in those countries to reduce the rural exodus and increase farmers' revenues[22]. Following the recognition at the national level of such products' names, the issue of how to protect them internationally arose. In this respect, the idea of a simple and cost-effective solution for the international registration of such products' names appeared appealing for developing countries and emerging economies.

17 https://eur-lex.europa.eu/resource.html?uri=cellar:30da3b97-660b-4c8f-8822-4e0c3cda302c.0004.02/DOC_2&format=PDF.

18 https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:028:0003:0087:EN:PDF.

19 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2011:127:FULL&from=EN.

20 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2020.407.01.0003.01.ENG&toc=OJ%3AL%3A2020%3A407%3ATOC.

21 For a comprehensive analysis of such bilateral agreements covering GIs (under negotiation, concluded and in force) between the EU and its trade partners, please consult the oriGIn study available at https://www.origin-gi.com/web_articles/bilateral-agreements-covering-gis-under-negotiation-concluded-and-in-force-between-the-eu-and-its-trade-partners/.

22 On this trend, see the AfriPI "Manual for geographical Indications in Africa", available at https://www.origin-gi.com/03-05-2022-webinar-on-geographical-indications-in-africa-launch-of-afripis-manual/.

Against this background, at the end of the first decade of the XXI century all conditions were in place for a revitalization of the WIPO Lisbon Agreement, which would address the treaty's weaknesses identified in the previous paragraph[23] as well as take into account the specific needs of developing countries and emerging economies. In this context, in September 2008 the WIPO General Assemblies decided to establish a Working Group responsible for exploring possible improvements to the procedures under the Lisbon Agreement[24].

2.4 The Geneva Act: Current situation and prospects for the future

Following several Working Group meetings, in May 2015 the WIPO called a Diplomatic Conference in Geneva[25]. during which the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (hereinafter the Geneva Act) was finally adopted. Following the accession of the EU in November 2019, **the Geneva Act entered into force on 16 February 2020**[26].

The Geneva Act maintains the same structures of the Lisbon Agreement, offering contracting parties a practical and cost-effective solution for the international registration of geographical products' names, through a single procedure and one set of fees. It keeps the principle of one unique application – made through the WIPO – following which, contracting parties have one year to analyse and decide whether to grant or refuse protection in their jurisdictions, including the possibility to refuse protection and subsequently withdraw such refusal (article 5 of the Geneva Act). While not specifically mentioned in the Geneva Act, the same reasons used in the Lisbon Agreement practice to refuse protection – a conflict with a previously registered trademark, the corresponding name having acquired a generic nature and not matching the AO (and GI) definition – remain available to the competent authorities of the contracting parties not to protect in their jurisdiction an AO/GI notified via the treaty.

At the same time, **the Geneva Act introduces a number of improvements to address the issues that had limited the Lisbon Agreement number of accessions, including some specific needs of developing countries and emerging economies**, in particular:

23 2.1 The Lisbon Agreement: advancements and limits.

24 For more details on the Working Group mandate, please consult the Special Lisbon Union report adopted by the WIPO Assembly, available at https://www.wipo.int/edocs/mdocs/govbody/en/li_a_23/li_a_23_2.pdf.

25 The records are available at https://www.wipo.int/publications/en/details.jsp?id=4491.

26 The Geneva Act full text is available at https://www.wipo.int/wipolex/en/treaties/textdetails/15625.

i. **It formally introduces GIs under the treaty scope of application,** with a definition which substantially matches the TRIPs Agreement one (article 2 of the Geneva Act).

ii. It provides a robust level of protection for both GIs and AO (article 11 of the Geneva Act). **Such level has been strengthened compared to the Lisbon Agreement**, as the protection of names now extends to their use on goods that are not of the same kind as those to which the AO or GI applies, and on services, provided that this use impairs or dilutes in an unfair manner, or takes unfair advantage of the reputation of an AO or GI (article 11(1)(a)(ii) of the Geneva Act).

iii. **It clarifies the relations with prior trademark rights, in line with international norms and jurisprudence.** Article 13.1 of the Geneva Act states that: "The provisions of this article shall not prejudice a prior trademark applied for or registered in good faith, or acquired through use in good faith, in a Contacting Party. Where the law of a Contracting Party provides a limited exception to the rights conferred by a trademark to the effect that such a prior trademark in certain circumstances may not entitle its owner to the prevent a registered appellation of origin or geographical indication from being granted protection or used in that Contracting party, protection of the registered appellation of origin or geographical indication shall not limit the rights conferred by that trademark in any other way". This article confirms the WTO TRIPs Agreement and case law, as it reaffirms that countries have the right to give priority to a trademark registered or acquired in good faith, or – as a limited exception to trademark rights – provide the possibility of "coexistence" between an earlier trademark registered or acquired in good faith and a later AO or GI.

   Moreover, article 11.3 of **the Geneva Act clarifies (as the topic was not specifically dealt with by the Lisbon Agreement) that a contacting party must – ex officio if so provide by its national law or at the request of an interested party – refuse or invalidate the registration of a later trademark if use of the trademark would result in one of the situations covered by paragraph 1 of the same article on the length of protection**[27].

   Always in the context of protection, the Lisbon Agreement principle that an AO (now extended to GIs as well) that has been granted protection in one contracting party via the system cannot, in that country, be deemed to have become generic, as long as it is protected in the country of origin, has been maintained by the Geneva Act (article 12 of the Geneva Act).

iv. **It gives the possibility to intergovernmental organisations – under which regional titles of GIs/AO protection can be obtained – to become contracting parties** (article 28(1)(iii) of the Geneva Act). This means that to be able to join the Geneva Act, an intergovernmental organisation must be entrusted with the task of granting intellectual property rights for AO and GIs within its Member States.

27 See above, point ii.

v. **It Introduces more flexibility in terms of filing international applications** (groups and beneficiaries which are now allowed by their national law to file an international application can do so within the system, article 5.3 of the Geneva Act) **and fees** (article 7.3 of the Geneva Act). These provisions contribute to make the Geneva Act an attractive legal instrument for a variety of legal systems and traditions.

Those reforms seem to be working in the effort to expand the Lisbon System. As of June 2023, the Geneva Act has attracted 18 contracting parties, including two intergovernmental organisations (the "Organisation africaine de la propriété intellectuelle" – hereinafter the OAPI – with its 17 Member States[28], Albania, Cabo Verde, Côte d'Ivoire[29], Cambodia, the Czech Republic[30], France[31], Hungary[32], the Democratic People's Republic of Korea, the EU with its 27 Member States[33], Ghana, Laos, Oman, Peru, the Russian Federation, Samoa, Switzerland and Tunisia), **covering 55 jurisdictions around the world**.

In particular, **the accession of the EU** – with its market of some 440 million consumers interested in origin products and its Regulation for craft and industrial GIs in the process of being implemented[34] – **represents an incentive for several other WIPO Member States, including countries like China and India which have a high number of non-agricultural GIs protected at the national level, to join the Geneva Act in the near future**.

With respect to applications figures, through the "Lisbon Express"[35], it is possible to get data concerning the international applications received by WIPO under the Lisbon System over the years. Here are the figures concerning the last five years:

- 5 in 2019
- 6 in 2020
- 120 in 2021
- 26 in 2022
- 17 in 2023 (as of 5 September)

28 Benin, Burkina Faso, Cameroon, Central African Republic, Comoros, Chad, Congo, Côte d'Ivoire, Gabon, Guinee, Guinee Bissau, Equatorial Guinee, Mali, Mauritania, Niger, Senegal and Togo.

29 While the OAPI has joined the Geneva Act as an international organisation, Côte d'Ivoire has done it individually as well. On this, see Chapter 4, paragraph 4.3.

30 While the EU has joined the Geneva Act as an international organisation, some of its Member States have done it individually as well. On this, see Chapter 4, paragraph 4.2.

31 *Ibid.*

32 *Ibid.*

33 Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.

34 On this, see Chapter 4, paragraph 4.2.

35 Available at https://lisbon-express.wipo.int/struct-search?lang=en.

For the next two years, according to the WIPO program of work and budget (PoW&B) for the 2024/25 biennium[36], the number of applications under the Lisbon System is estimated at 80 applications per year in the next two years. The corresponding Lisbon fee income for the biennium is estimated at 200,000 Swiss francs, an increase of 33.3 per cent as compared to the 2022/23 PoW&B Income Estimate. While increasing, this amount is not yet sufficient to cover the Lisbon System costs (registry maintenance, promotion, etc.). As a result, no resources will be distributed to contracting parties. On the other hand, in application of the long-standing principle of financial solidarity among WIPO Unions and budget programs, the overall WIPO budget finances the Lisbon System remaining costs. In the future, the more WIPO countries join the system, the more the system will become self-sustainable[37].

Having said that, in application of the Geneva Act art. 7.4, contracting parties have the possibility, through a declaration, to notify the WIPO Director General that the protection resulting from an international registration will extend to the corresponding appellation of origin or geographical indication only if a fee is paid to cover its cost of substantive examination. The amount of such individual fee – to be indicated in the above-mentioned declaration – cannot be higher than the equivalent of the amount required under the national or regional legislation of the contracting party, diminished by the savings resulting from the international procedure. Additionally, the contracting party may, in a declaration, notify the Director General that it requires an administrative fee relating to the use by the beneficiaries of the appellation of origin or the geographical indication in that contracting party[38].

In light of the above, assuming that a country, which provides in its national legislation a fee for the examination of foreign appellations of origin or the geographical indications, joins the Lisbon System, in 2023, in 2024 and 2025 it can expect resources related to the examination of 160 applications, based on its own examination costs. Moreover, if the same country provides in its national legislation a fee relating to the use by the beneficiaries of the appellation of origin or the geographical indication in its country, it can expect resources related to the number of appellations of origin or the geographical indications which will be effectively exported to that country. Moreover, considering the existence of at least some 10.000 appellations of origin and geographical indications in the world[39], together with the trend of increasing ratifications of the Geneva Act, the number of annual international applications is poised to grow beyond 80 after 2025.

36 Available at https://www.wipo.int/edocs/mdocs/govbody/en/wo_pbc_36/wo_pbc_36_8.pdf.

37 Consider that, according to the oriGIn GI worldwide compilation, there are at least some 9.251 GIs recognised in the jurisdictions around the world: https://www.origin-gi.com/worldwide-gi-compilation/ (last consulted on 8 August 2023).

38 See also Ruel 8 of the Common Regulation under the Lisbon Agreement and the Geneva Act of the Lisbon Agreement, available at https://www.wipo.int/wipolex/en/text/587615.

39 See note 36.

The current Geneva Act contracting parties which require the payment of an individual fee for examination purposes are: OAPI, Cabo Verde, Cambodia, Ghana, the Russian Federation and Samoa. The ones requiring an administrative fee related to the use of an appellation of origin or geographical indication by the corresponding beneficiaries are: The Russian federation and Samoa[40].

On the other hand, the fee collected by the WIPO for an international application corresponds to 1,000 CHF, to which a country must add the examination as well as, eventually, use fees requested by the above-mentioned countries[41].

When assessing the costs-benefits related to the accession to the Geneva Act, two more considerations should be taken into account:

1. From a purely financial point of view, if a country is not a Geneva Act contracting party, submitting individual applications in the countries party to such Agreement will require not only more time, but also additional financial resources related to the need to work with local lawyers to submit the applications.
2. Moreover, the Geneva Act ensures that, within a year, national appellations of origin and geographical indications are protected in 55 jurisdictions. This is not always the case with individual applications via national procedures, where opposition procedures can take longer.

All in all, **the WIPO Geneva Act represents today a modern and flexible international instrument for the protection of AO and GIs, poised to become a truly international register to facilitate their protection in foreign jurisdictions, to the benefits of small producers and small and medium-sized enterprises (SMEs)**.

40 The corresponding amounts can be found at https://www.wipo.int/lisbon/en/declarations.html.

41 See note 37.

3. Legal cases related to the implementation of the Lisbon Agreement

3.1 Introduction

The previous Chapter addressed the characteristics of the Lisbon Agreement, including its solid legal framework to protect the AO of a contracting party against any usurpation and imitation in the jurisdictions of the other contracting parties.

The purpose of this Chapter is to analyse a few legal cases where the Lisbon Agreement has been used as a legal basis to enforce AO rights. Likewise, a case in which it has been used as a flexible instrument to facilitate the implementation of contracting parties' international legal obligations deriving from treaties other than the Lisbon Agreement itself will also be mentioned.

Keeping into account that the level of protection provided by the Lisbon Agreement has been strengthened by the Geneva Act, and that its flexibilities maintained and clarified in the new treaty, **this Chapter is intended to show that the Geneva Act can be considered an even more effective instrument for the protection of AO and GIs internationally**.

3.2 The enforcement of the AO Parmigiano Reggiano in Mexico and Peru

The Italian AO "Parmigiano Reggiano" was registered via the Lisbon Agreement on 23 December 1969. In 2009, the association representing the "Parmigiano Reggiano" producers (hereinafter the Consorzio) considered that a cheese distributed in Mexico (another Lisbon Agreement contracting party) by the company Zitches S.A. – bearing the name "Parmigiano Reggiano" without respecting its characteristics as identified in the products' specification – was in breach of the AO protected in Mexico via the Lisbon Agreement (as well as of the collective trademarks registered by the Consorzio in Mexico). The Consorzio therefore

requested precautionary measures at the "Instituto Mexicano de la Propriedad Intellectual" (hereinafter IMPI).

The IMPI, with its decision 3224 of 23 February 2009, rejected the request of precautionary measures for the infringement of the AO. It considered that the Consorzio had not complied with the requirement set by article 229 of the Mexican IP law, according to which any intellectual property right recognised in Mexico should mention a clear indication that it is protected in that jurisdiction (in the case at stake, the original product should have mentioned the protection of the AO "Parmigiano Reggiano" 513 under the Lisbon Agreement). In this context, it should be mentioned that, at the time the Lisbon Agreement was the only way to protect a foreign AO in Mexico (no specific internal procedure was provided for foreign AO). Likewise, the Lisbon Agreement does not provide for the requirement of article 229 of the Mexican IP law.

The Consorzio appealed the INPI decision before a national court, on the following basis: a breach of the obligations deriving from the Lisbon Agreement (which does not require compliance with the requirement set forth in article 229 of the Mexican IP law) as well as violation of the guarantees contained in articles 14, 16 and 133 of the Mexican Constitution. The appeal was rejected, and the case reached subsequently the Mexican Supreme Court. The latter, with sentence of 24 March 2010, deferred the decision to a different administrative tribunal, stating that article 229 of the Mexican IP law is not applicable to the protection of AO in Mexico. Following this, with the sentence of 8 November 2010, granted full protection to the AO "Parmigiano Reggiano" in Mexico, considering legitimate the precautionary measures requested by the Consorzio before the INPI[42].

Along the same lines, thanks to the Lisbon Agreement, the Consorzio prevented the registration of a trademark in conflict with the AO "Parmigiano Reggiano" in Peru, another treaty's contacting party[43]. In 2009, the local company "Sancor Cooperativas Unidas Limitada" requested the registration of a trademark containing the denomination "Queso Reggianito Rallado" in class 29. Through its resolution N 12493, the local IP office (INDECOPI) considered that "Reggianito" is an imitation of the AO "Parmigiano Reggiano" protected in Peru under the Lisbon Agreement and rejected the trademark. "Sancor Cooperativas Unidas Limitada" appealed such decision, arguing among other that the denomination "Reggianito" had acquired a generic nature in Peru. Finally, the Chamber of appeal of INDECOPI confirmed the initial decision (including the reasoning on the AO imitation) and rejected the trademark[44].

42 The rulings mentioned in this paragraph are available under Annex I.

43 While the issue of later trademarks in conflict with an earlier AO is not dealt with directly by the Lisbon Agreement, it can be considered a direct consequence of the length of protection conferred to AO protected under the treaty by article 3 (see Chapter 1, paragraph 2.2). On the clarification of this issue in the Geneva Act, see Chapter 2, paragraph. 2.4.

44 The rulings mentioned in this paragraph are available under Annex II.

3.3 The enforcement of the AO Champagne in Peru

The French AO "Champagne" has been protected via the Lisbon Agreement since 1968. On 19 March 2019, the association representing the AO producers (hereinafter CIVC) and the Institute National of origin and Quality (hereinafter INAO) filed an opposition against the registration of the trademark "Shampiña" in class 33 in Peru (alcoholic beverages except beers, which contain fruits (pineapple); fruit extract with alcohol)[45].

By decision no. 0433-2021/TPI-INDECOPI, the Specialized Chamber for Intellectual Property of the Tribunal for the Defense of Competition and Intellectual Property rejected the application for registration. INDECOPI relied on the Lisbon Agreement (AO Champagne, international registration 231) and on Article 135 k) of Decision 486 of the Andean Community Commission and states that the consumer sees in "shampiña" the association of Champagne and pina (pineapple in Spanish). An "allusion" or "usurpation" could therefore be perceived to the appellation Champagne. In order to accept the opposition, the INDECOPI judges rely on the association of ideas that could be produced in the mind of the consumer, but also on the pronunciation and repetition of the name "Champagne": "the sign applied for consists of the name "shampiña" which will be pronounced "champiña"[46].

3.4 The enforcement of the AO Prosecco in Moldova

"Prosecco" is an Italian AO protected under the Lisbon Agreement since 2013. In 2016, the association representing the AO producers (hereinafter the Consorzio), successfully opposed the trademark application n. 035942 "Prosecco Pronto" filed with the State Agency on Intellectual Property (AGEPI) by the company Bulgari Winery S.R.L. Moldova is a Lisbon Agreement contracting party since 2010. In Moldova, the Consorzio is also the owner of the figurative trademark "Prosecco DOC" (registered via the Madrid system, international registration n. 1169551).

Bulgari Winery S.R.L. appealed such decision and requested the cancellation of the above-mentioned trademark owned by the Consorzio based on the alleged generic nature of the term "Prosecco" as well as a number of ambiguous other arguments (such as the fact that the trademark "Prosecco Pronto" was requested not for wines but for champagne). The appeal was successful as the judge of first instance established that: "the Prosecco denomination is generic in Moldova in relation to champagne sparkling wine and that the

45 The rulings mentioned in this paragraph are available under Annex II.

46 The ruling mentioned in this paragraph is available under Annex III.

use of the name PROSECCO PRONTO by Bulgari Winery for its champagne sparkling wine does not violate the Prosecco AO".

The Consorzio appealed the first instance decision based on the protection enjoyed by the AO "Prosecco" in Moldova via the Lisbon Agreement as well as the bilateral agreement between Moldova and the EU on the protection of GIs for agricultural products and food. In particular, article 6 of the Lisbon Agreement ("an appellation which has been granted protection in one of the countries of the Special Union pursuant to the procedure under Article 5 cannot, in that country, be deemed to have become generic, as long as it is protected as an appellation of origin in the country of origin") was invoked by the Consorzio. As "Prosecco", which is protected in Moldova via the Lisbon Agreement (under registration n. 906) since of 24 September 2012, was not generic in Moldova at that point in time, it cannot be deemed to have become generic in 2016 (year of the dispute), as it was still protected in its country of origin (Italy, via the EU Regulation 1308/2013 on the protection of wine GIs).

The appeal judge accepted the Consorzio position and reaffirmed the full protection of the AO in Moldova as well as the prohibition of the local products which labels contain the name "Prosecco". The counterparty appealed the decision to the Supreme Court, which declared the appeal inadmissible.

3.5 The case of the AO Pisco

The AO Pisco has been protected via the Lisbon Agreement since 2006. The request of international application was submitted by Peru on 19 May 2005. Following the notification of WIPO to the other Lisbon Agreement contracting parties, a number of them submitted refusals[47]. For the purpose of this paper, it is interesting to analyse the refusals (and withdrawal of refusals) issued by the Lisbon Agreement contacting parties which are also EU Member States (Bulgaria[48], Czech Republic, France, Italy, Portugal, Slovakia and Hungary).

At this point, it has to be mentioned that the EU, in 2002, had concluded with Chile the Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part. This Agreement – in force since 01 February 2003 – contains Annexes providing the protection of European wines and spirits GIs in Chile as well as the protection of Chilean wines and spirits GIs (including the Chilean Pisco) in the EU[49]. This is a case typical of homonymous GIs, where an identical name is protected in two jurisdictions with respect of origin products having different characteristics.

47 Full details available here.

48 Bulgaria withdrew its refusal, but the content and consequences are the same of the refusals issued by the other EU Member States.

49 See Chapter 2, paragraph 2.3.

As a result, when the above-mentioned EU Member States which are also Lisbon Agreement contracting parties received the international application for the protection of Pisco (Peru), they were already bound by the bilateral agreement with Chile. As the Lisbon Agreement did not tackle the issue of homonymous AO[50], the solution found by such countries was a "partial refusal". In other worlds, Bulgaria, Czech Republic, France, Italy, Portugal, Slovakia and Hungary protected the AO Pisco (Peru) in their jurisdictions. Meanwhile, they allowed the coexistence with the commercialisation of the name Pisco for products originating from Chile, in line with the trade agreement between the EU and Chile. The exact wording used in all declarations of refusal (and withdrawal of refusal in the case of Bulgaria) is the following (in French): "*La protection de l'appellation d'origine Pisco est refuse uniquement en ce qu'elle ferait obstacle à l'utilisation pour des produits originaires du Chili de l'appellation Pisco protégée conformément à l'Accord du 18 novembre 2002 établissant une association entre la Communauté européenne et ses Etats membres, d'une part, et la République du Chili, d'autre part...*". In the EU GI legal framework, in fact, the possibility of coexistence between homonymous GIs, provided that there is sufficient distinction in the way they are presented to consumers and no risk for them to be misled, is provided.

In this respect, it has to be noted that the Geneva Act, through its article 13.4, partially addressed the issue of homonymous AO and GIs, de facto leaving contracting parties the possibility to allow or not their coexistence.

50 The only international obligation in this respect derives from article 23.4 of the TRIPs Agreement: "In the case of homonymous geographical indications for wines, protection shall be accorded to each indication, subject to the provisions of paragraph 4 of Article 22. Each Member shall determine the practical conditions under which the homonymous indications in question will be differentiated from each other, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled".

4. Selected examples of ratifications and accessions to the Geneva Act

4.1 Introduction

The purpose of this Chapter is to review some examples of ratifications of, and accessions to, the Geneva Act by individual countries as well as intergovernmental organisations.

4.2 The ratification of the EU, together with the one of France

In this respect, an interesting case it is represented by the EU. As an intergovernmental organisation, it had to establish a governance with its Member States, in particular the ones which at the time of the EU ratification of the Geneva Act were already contacting parties of the Lisbon Agreement.

4.2.1 Legal basis for the EU and its Member States accession to the Geneva Act

As the EU is entrusted to grant intellectual property rights for AO and GIs within its Member States[51], ratificou o Ato de Genebra em novembro de 2019[52].

The process had started in July 2018, when the European Commission made a proposal for a Council Decision on the accession of the European Union to the Geneva Act, on the basis of Article 207 and Article 218(6)(a) of the Treaty on the Functioning of the European Union (TFEU)[53]. Given its exclusive competence in the field of GIs, the Commission had proposed that only the European Union – and not its Member States – should accede to the Geneva Act.

51 See paragraph *2.4 The Geneva Act: Current situation and prospects for the future.*

52 See https://www.wipo.int/pressroom/en/articles/2019/article_0015.html.

53 The TFEU text is available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT.

Following a debate, the Council of the European Union adopted a different approach and sent the European Parliament a draft decision authorizing any EU Member State wishing to do so to accede to the Geneva Act. On 16 April 2019, the Parliament approved in a plenary session the draft decision proposed by the Council. **On 7 October 2019, the Council Decision (EU) 2019/1754 on the accession of the European Union to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications**[54] **and the Regulation (EU) 2019/1753 of the European Parliament and of the Council of 23 October 2019 on the action of the Union following its accession to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications**[55] **were finally approved.** Based on them, EU acceded to the Geneva Act in November 2019.

Before we enter into the details of Regulation (EU) 2019/1753 to understand the articulation between the European Commission and the EU Member States in the implementation of the Geneva Act, it is important to follow up on the capacity of EU Member States to joint that act. In January 2020, in fact, the European Commission brought an action for annulment of the Council Decision (EU) 2019/1754 before the Court of Justice of the European Union (CJEU). The Commission contested in particular articles 3 and 4 of Decision concerning the possibility for all Member States wishing to do so, to ratify or accede to the Geneva Act, together with the EU. The reason invoked by the European Commission was the full respect of its exclusive competence concerning GIs. On 22 November, the CJEU ruled in favor of the European Commission[56]. As the latter had not objected to the accession to the Geneva Act of EU Member States that were already party to the Lisbon Agreement, the Council and the Parliament had to ament the Decision (EU) 2019/1754 only with respect to that part[57]. **This means that – in the framework of the EU accession to the Geneva Act – only** Bulgaria, Czech Republic, France, Hungary, Italy, Portugal and Slovakia **(the EU Member States which were contracting parties to the Lisbon Agreement in November 2019) are allowed to become contacting parties of the Geneva Act alongside the EU itself. This to ensure the continuity of rights of the AO from these countries already protected under the Lisbon Agreement at the time of the EU ratification of the Geneva Act**[58].

This solution also ensures the EU voting rights within the Lisbon Union. Article 22(4)(b)(ii) of the Geneva Act, in fact, provides that contracting parties that are intergovernmental organizations have a number of votes equal to the number of its Member States which are party to it as well. No voting rights are given to intergovernmental organizations if any of its member States has them and vice versa.

54 Full text available at https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019D1754&rid=2#:~:text=Article%201-,The%20accession%20of%20the%20European%20Union%20to%20the%20Geneva%20Act,is%20attached%20to%20this%20Decision.

55 The fill text is available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2019.271.01.0001.01.ENG.

56 The full CJEU ruling is available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62020CJ0024.

57 See https://www.europarl.europa.eu/doceo/document/TA-9-2023-0128_EN.html.

58 On this, see paragraph *2.2 The Lisbon Agreement: advancements and limits.*

As of June 2023, the EU has submitted 122 applications for the international protection of its AO and GIs via the Geneva Act[59].

4.2.2 Articulation between the European Commission and the EU Member States in the implementation of the Geneva Act

The articulation between the European Commission and the EU Member States in the implementation of the Geneva Act is addressed by the above-mentioned Regulation (EU) 2019/1753 of the European Parliament and of the Council of 23 October 2019. These are the most relevant points of the Regulation:

i. **The European Commission, in his capacity as competent authority, is responsible to establish a list of AO and GIs protected under the Union law to be filed under the Geneva Act**. Such list will be based upon notifications from the EU Member States acting on their own initiative or upon the request of the beneficiaries (article 2 of the Regulation). In doing so, Member States should take into account the production and export value of AO and GIs, their protection under other agreements as well as existing infringements in third countries. While EU Member States which were contracting parties to the Lisbon Agreement will keep that status to ensure the continuity of their rights and obligations, they will not be able to register new AO for products falling within the scope of the existing EU GIs Regulations[60];

ii. **Likewise, the European Commission publishes any international application notified by other contracting parties via the Geneva Act** (article 4 of the Regulation) **and oversee the opposition procedure to give interested parties the possibility to oppose the protection in the EU of foreign AO and GIs** (article 6 of the Regulation). The exhaustive list of grounds to be invoked in the framework of such opposition procedure is indicated in point 2 of the same article;

iii. Moreover, following the opposition procedure, **the European Commission grants or refuse protection to the AO and the GIs notified by the WIPO via the Geneva Act** (article 7 of the Regulation);

iv. **The fees to be paid under article 7 of the Geneva Act will be paid by the EU Member States in which the AO and GIs originate.** Member States will have the option to require the beneficiaries to pay some or all such fees (article 13 of the Regulation);

4.2.3 The issue of non-agricultural GIs in the EU

The EU legislation on GIs – based on of Regulation (EU) No 1151/2012, Regulation (EU) No 1308/2013 and Regulation (EU) No 2019/787 – was perfectly compatible with the Geneva Act in terms of protection depth. The same cannot be said in terms of scope

59 A lista completa está disponível aqui.

60 Regulamento (UE) n. 1151/2012, Regulamento (UE) n. 1308/2013 e Regulamento (UE) n. 2019/787.

of protection. The Geneva Act, in fact, covers as well non-agricultural AO and GIs[61]. The three above-mentioned Regulations cover exclusively agricultural, wines and spirits GIs.

The EU ratification of the Geneva Act accelerated therefore the internal debate over the adoption of a specific regulation concerning non-agricultural GIs[62]. As a result, in April 2022, the European Commission published a legislative proposal on Geographical Indications for craft and industrial products[63]. Following this, the European Parliament and the Council have started working on this text. On 2 May 2023, the so-called "trilogue" (negotiations between the European Commission, Parliament and Council[64]) reached an agreement on the Regulation on geographical indication protection for craft and industrial products. On 24 May, the Member States' ambassadors to the EU approved such agreement, followed by the Legal Affairs Committee of the European Parliament (comJURI) on 30 May[65]. Before the Regulation enters into force, the plenary session of the European Parliament has to give its approval (vote expected in July 2023) and then the Council has to formally adopt it.

Once the EU Regulation on geographical indication protection for craft and industrial products will be adopted later this year, the EU legislation on GIs will be fully compatible with the Geneva Act.

4.2.4 The ratification of France

On 21 January 2021, France deposited with the Director General of WIPO its instrument of ratification of the Geneva Act[66]. As mentioned in paragraph 4.2.1 above, as a contracting party of the Lisbon Agreement and an EU Member State, France was allowed to join the Geneva Act to ensure the continuity of rights for its AO previously protected under the Lisbon Agreement vis-à-vis the other Lisbon Agreement contracting parties (even after they eventually join the Geneva Act, the prior rights of French AO in those countries will be maintained).

Given the fact that all legal issues concerning the EU and its Member States ratification of the Geneva Act were dealt with by the above-mentioned Regulation (EU) 2019/1753, **the ratification by France was finalized through a simple decree** ("Décret no 2021-505 du 26 avril 2021 portant publication de l'acte de l'arrangement de Lisbonne sur les appellations d'origine et les indications géographiques (ensemble un règlement d'exécution), signé à Genève le 21 mai 2015", which recalls the relevant pieces of legislation and published the Geneva Act full text[67]. France – through its public administrations involved with GIs (the

61 Ver definições no artigo 2 do Ato de Genebra.

62 Uma declaração final da Comissão em Regulamento (UE) 2019/1753 menciona esta questão.

63 O texto está disponível em https://single-market-economy.ec.europa.eu/industry/strategy/intellectual-property/geographical-indications-craft-and-industrial-products_en.

64 Sobre o processo legislativo da UE, ver https://www.consilium.europa.eu/en/council-eu/decision-making/ordinary-legislative-procedure/.

65 Ver o texto em https://data.consilium.europa.eu/doc/document/ST-9412-2023-INIT/en/pdf.

66 Ver https://www.wipo.int/lisbon/en/news/2021/news_0002.html.

67 Ver texto integral do "Décret" no Anexo IV, em anexo.

"Institut national de l'origine et de la qualité" - INAO[68], the "Ministère de l'agriculture et de la souveraineté alimentaire"[69] and the "Institut national de la Propriété Intellectuelle" - INPI[70]) keeps the contacts with French producers, as well as with the European Commission, to establish the lists of French AO and GIs no be notified via the Geneva Act.

4.3 The accession of the OAPI, together with the one of Cote d'Ivoire

The OAPI also grants intellectual property rights with respect of AO and GIs within its Member States. **As a result, on 15 December 2022, the OAPI could accede to the WIPO Geneva Act by depositing its instrument of accession with the Director General of WIPO**[71]. The treaty entered into force with respect to the Organisation (and its 17 member states, including Côte d'Ivoire, which had ratified the treaty in 2018), on March 15, 2023.

No official piece of legislation has yet been adopted at the OAPI level to implement its accession to the Geneva Act. Likewise, the OAPI has not yet notified any AO or GIs via the system. However, the OAPI has signed a cooperation agreement with the WIPO (which is not publicly available) to promote the international registration of its AO and GIs under the Geneva Act.

4.4 The accession of Peru

In July 2022, Peru deposited with the Director General of WIPO the instrument of accession to the Geneva Act, in the context of the Sixty-third series of meetings of the Assemblies of the Member States of WIPO, held in Geneva from July 14 to 22. The Geneva Act entered into force in Peru on October 18, 2022.

Peru has adopted two pieces of legislation to implement the Geneva Act: the "Resolución legislativa que aprueba el Acta de Ginebra del Arreglo de Lisboa relativo a las denominaciones de Origen y las Indicaciones Geográficas"[72] on 7 April 2002 and the "Decreto Supremo que ratifica el Acta de Ginebra del Arreglo de Lisboa relativo a las denominaciones de Origen y las Indicaciones Geográficas"[73].

68 https://www.inao.gouv.fr/
69 https://agriculture.gouv.fr/french-ministry-agriculture-and-food
70 https://www.inpi.fr/
71 https://www.wipo.int/lisbon/en/news/2022/news_0005.html
72 See full text in Annex V, attached.
73 See full text in Annex VI, attached.

Beside the AO previously notified via the Lisbon Agreement[74], Peru has not yet filed any international application under the Geneva Act.

4.5 The accession of Switzerland

On 31 August 2021, Switzerland deposited with the WIPO Director General its instrument of accession to the Geneva Act[75]. The treaty entered into force with respect to Switzerland on 1 December 2021. On 5 June of the same year, the President of the Swiss Confederation, had addressed the Parliament a message concerning the approval of the Geneva Act and the required modification of the Swiss law of 28 August 1992 on the protection of trademarks[76]. The proposed Federal decree, which was attached to the President message, has been subsequently approved by the Parliament.

The President message recalls the strategic value of AO and GIs for Switzerland, the public consultation previously conduced in the country, and explains the Geneva Act and its Regulations functioning.

The modifications of the Swiss law of 28 August 1992 on the protection of trademarks requested by the accession to the Geneva Act are also explained in the President message. They concern in particular the possibility to protect in Switzerland foreign AO and GIs, and the articulation of responsibilities between the Ministry of Agriculture (OFAG) and the national intellectual property office (IPI), which is appointed as competent authority of the Geneva Act. It is also clarified that products' names protected under the trademark system could be protected under the Geneva Act if they match the AO or GI definition contained in article 2 of the treaty.

As of June 2023, Switzerland has not yet transmitted any international application for the protection of its AO and GIs via the system.

74 The complete list is available here.

75 https://www.wipo.int/lisbon/en/news/2021/news_0008.html

76 Available in French at https://www.fedlex.admin.ch/eli/fga/2020/1366/fr.

5. Conclusions

The previous Chapters showed that **the Geneva Act represents a modern and flexible international instrument for the protection and enforcement of AO and GIs**, which can be beneficial mainly for SMEs.

They also showed that **the accession/ratification process is quite simple for interested countries and intergovernmental organisations**.

As a way of conclusions, **a list of issues to be checked for countries / intergovernmental organizations interested in the accession to the Geneva Act** is provided.

1. For intergovernmental organizations (IO):

   Does the intergovernmental legal framework provide for the organization to grant intellectual rights over AO and GIs?

   If the answer is no, the IO cannot join the Geneva Act, and its Member States should evaluate individually whether to join or not.

2. For IO and individual countries:

   Does the national/regional substantial law on AO and GIs cover both the scope provided for in article 2 of the Geneva Act (definitions) and length of protection provided for in articles 11, 12 and 13 of the Geneva Act?

   If the answer is no, public authorities should look at the possibility to amend the national/regional law to comply with the requirements of the Geneva Act. The process does not need necessarily to be completed before the accession to the Geneva Act, but at least within a reasonable time following that (see on this, the example of the non-agricultural GIs legislation in the EU, still in the process of being finalized[77], and the one of Switzerland, which completed the modification of its trademark law before the accession[78]).

77 See Chapter 4, paragraph 4.2.

78 See Chapter 4, paragraph 4.5.

3. For IO and individual countries:

   Which public body will be appointed as the Geneva Act competent authority, and which governance would be established to keep the relations with other concerned public institutions and with AO/GI producers?

   In assessing this, an effort needs to be made to ensure the selected competent authority has the capacity to manage the system, in particular with respect to the international notification system of its national/regional AO and GIs and opposition procedure with respect to the foreign AO and GIs notified via the system. Likewise, it needs to keep a smooth coordination with other concerned public authorities as well as with producers. The legal instrument to implement the Geneva Act might deal with this issue of coordination.

4. For IO and individual countries:

   Is there any other obligation in terms of AO/GI protection deriving from other bilateral or plurilateral agreements finalized (or in the process of being finalized) by the OI/country[79]?

   If yes, the analysis of the flexibilities provided by the Geneva Act (in the context of the procedure for the AO-GIs protection's refusal (on this see Chapter 2, paragraph 2.4 and Chapter 3, paragraph 3.5), should be looked at. Following the accession to the Geneva Act, such a preliminary analysis will allow an efficient management of those international applications in the framework of the Geneva Act which might partially conflict with other international obligations of the country/IO.

79 Essa questão não diz respeito ao Acordo TRIPS, que está em perfeita conformidade com o Ato de Genebra.

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