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From: Presidency
To: Delegations

Subject: Regulation on geographical indications and quality schemes
- Presidency drafting suggestions on domain names, EUIPO, as well as
producer groups and recognised producer groups

Delegations will find attached revised Presidency drafting suggestions concerning:

- domain names (recitals 18 and 25, Articles 27(3) and 34),
- EUIPO (recitals 7, 39, 40, 56 and Articles 3(3a), 17, 19(10), 23(7), 25(10), 26(6), 34(3), 35(2), 46, 47, 82), as well as
- producer groups and recognised producer groups (Articles 2(1)(d) and (da), 25(1), 26(2a), 32 and 33).

Compared to the Commission proposal (7639/22 REV 1 + ADD 1-3), added text is marked in bold and underlined, and strikethrough is used for deleted text. Changes compared to the previous drafting suggestions (6609/23 for recitals 18 and 25 as well as the articles up to Article 52, and 15113/22 for the remaining provisions) are indicated in yellow.

RECITALS AND ARTICLES ON DOMAIN NAMES

(...)

- (18) Protection should be granted to names entered in the Union register of geographical indications with the aim of ensuring that they are used fairly and in order to prevent practices liable to mislead consumers **as well as to strengthen the protection of geographical indications and to combat counterfeiting more effectively, the protection of designations of origin and geographical indications should also apply to domain names on the internet. The same protection should apply to terms that are part of a compound name and are considered not to be generic.** ~~In order to strengthen the protection of geographical indications and to combat counterfeiting more effectively, the protection of designations of origin and geographical indications should also apply to domain names on the internet.~~

(...)

- (25) The relationship between internet domain names and protection of geographical indications should be clarified as regards the scope of the application of the remedy measures, the recognition of geographical indications in dispute resolution, and the fair use of domain names. ~~Persons having a legitimate interest on a geographical indication applied for registration before the registration of the domain name should be empowered to request for the revocation or the transfer of the domain name in case of conflict.~~ **Alternative dispute resolution systems of country-code top level domain name registries throughout the Union should acknowledge geographical indications as a right to be invoked during such disputes. Intermediary services, in particular online platforms, are increasingly being used for the sale of products, including those designated by geographical indications. In this regard, information related to the advertising, promotion and sale of goods that contravenes the protection of geographical indications provided for in Articles 27 and 43 of this Regulation should be considered illegal content within the meaning of Article 3(h) of Regulation 2022/2065 of the European Parliament and of the Council and be subject to obligations and measures under that Regulation.**

Article 27

Protection of geographical indications

(...)

3. ~~¶~~ Paragraph (1) shall also apply to **any use of** a domain name containing or consisting of the registered geographical indication.

(...)

Article 34

~~Protection of geographical indication rights in~~ Alternative dispute resolution procedures for domain names

- ~~1. Country-code top-level domain name registries established in the Union may, upon the request of a natural or legal person having a legitimate interest or rights, revoke or transfer a domain name registered under such country-code top-level domain to the recognised producer group of the products with the geographical indication concerned, following an appropriate alternative dispute resolution procedure or judicial procedure, if such domain name has been registered by its holder without rights or legitimate interest in the geographical indication or if it has been registered or is being used in bad faith and its use contravenes Article 27.~~
2. **Country-code** top-level domain name registries established in the Union shall ensure that ~~any alternative dispute resolution procedures established to solve disputes relating to the registration of~~ **for** domain names referred to in paragraph (1), shall recognise geographical indications as **a** rights that may prevent a domain name from being registered or used in bad faith can be invoked in these procedures.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 84 supplementing this Regulation by provisions entrusting EUIPO to establish and manage a domain name information and alert system that would 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 registries of country code top-level domain names, established in the Union, to provide EUIPO with the relevant information and data.

RECITALS AND ARTICLES RELATED TO EUIPO

(7) For the purpose of applying Regulation (EU) 2018/1725 the Commission is the authority with whom the owners of personal data **subject** may exercise the related rights, by sending comments, raising questions or concerns, or submitting a complaint regarding the collection and use of the personal data. It should, therefore, be clarified that the Commission is considered the controller within the meaning of Regulation (EU) 2018/1725 in relation to the processing of personal data in the procedures for which it is responsible under this Regulation, Regulation (EU) No 1308/2013, Regulation (EU) 2019/787 and the provisions adopted pursuant thereto. **When performing a preliminary assessment the European Union Intellectual Property Office (EUIPO) should act as a processor of personal data and should not have any margin to affect the purpose and the essential elements of the personal data processing.**

(...)

(39) The procedures for registration, amendment and cancellation of geographical indications, including the scrutiny and the opposition procedure, should be carried out in the most efficient way. This can be achieved by using the assistance ~~for the scrutiny of the applications provided by the European Union Intellectual Property Office (EUIPO)~~ **for the preliminary assessment of applications. When performing the preliminary assessment, EUIPO should support the Commission by checking the basic criteria for registration.** ~~While a partial outsourcing to EUIPO has been considered, t~~**The Commission would should remain responsible for the scrutiny of all applications for** registration, amendment and cancellation. ~~Due to a~~**Due to the strong relation between geographical indications with and the Common Agricultural Policy and to the expertise needed to ensure that the specificities of wine, spirit drinks and agricultural products are adequately assessed, this responsibility should remain with the Commission.**

(40) ~~Criteria should be set to assess the performance of the EUIPO. These criteria should ensure quality, coherence and efficiency of the assistance provided. The Commission should prepare a report to the Parliament and to the Council on the results and experience of the execution of these tasks by the EUIPO.~~

(...)

(56) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of ~~defining sustainability standards and laying down criteria for the recognition of existing sustainability standards; clarifying or adding items to be supplied as part of accompanying information; entrusting the EUIPO with the tasks related to scrutiny for opposition and the opposition procedure; operation of the register, publication of standard amendments to a product specification; consultation in the context of cancellation procedure, establishment and management of an alert system informing applicants about the availability of their geographical indication as a domain name; 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; establishing appropriate criteria for monitoring performance of the EUIPO in the execution of the tasks entrusted to it;~~ laying down additional rules on the use of geographical indications to identify ingredients in processed products; laying down additional rules for determining the generic status of terms; establishing the restrictions and derogations with regard to the sourcing of feed in the case of a designation of origin; establishing restrictions and derogations with regard to the slaughtering of live animals or with regard to the sourcing of raw materials; laying down rules for determining the use of the denomination of a plant variety or of an animal breed; laying down rules which limit the information contained in the product specification for geographical indications and traditional specialities guaranteed; laying down further details of the eligibility criteria for traditional specialities guaranteed; laying down additional rules to provide for appropriate certification and accreditation procedures to apply in respect of ~~product certification~~ **delegated** bodies; laying down additional rules to further detail protection of traditional specialities guaranteed; laying down for traditional specialities guaranteed additional rules for determining the generic status of terms, conditions for use of plant variety and animal breed denominations, and relation to intellectual property rights; defining additional rules for joint applications concerning more than one national territory and complementing the rules of the application process for traditional specialities guaranteed guaranteed; complementing the rules for the opposition procedure for traditional specialities guaranteed to establish detailed procedures and deadlines; supplementing the

[†] <https://www.wipo.int/publications/en/details.jsp?id=3983>

rules regarding the amendment application process for traditional specialities guaranteed; supplementing the rules regarding the cancellation process for traditional specialities guaranteed; laying down detailed rules relating to the criteria for optional quality terms; reserving an additional optional quality term, laying down its conditions of use; laying down derogations to the use of the term ‘mountain product’ and establishing the methods of production, and other criteria relevant for the application of that optional quality term, in particular, laying down the conditions under which raw materials or feedstuffs are permitted to come from outside the mountain areas. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making². In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States’ experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(...)

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.

(...)

² OJ L 123, 12.5.2016, p. 1.

Article 17

Scrutiny by the Commission and publication for opposition

1. **The Commission shall scrutinise 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 national 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. **The Commission shall be assisted in its scrutiny by EUIPO which shall perform a preliminary assessment of applications. EUIPO shall deliver the outcome of its assessment 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 8, 9, 14, 15, 29, 30, 31, 35, 48, 48a, 49(1) and (2) and 52 of** this Regulation, and in **Articles 93, 95 and 100 of** Regulations (EU) No 1308/2013, and **in Articles 3(4), 23 and 34 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. **The Commission may request from the applicant any supplementary information or modification necessary to finalise the scrutiny.**

4b. 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, the Commission shall inform the applicant of the reasons for the delay in writing.

~~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

(...)

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 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 operate the Union register of geographical indications.~~

(...)

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 Union amendments to product specifications of geographical indications for which no single document was published, on admissibility of applications for Union amendments, on the relationship between Union and standard amendments, and 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 Alternative dispute resolution procedures for domain names

(...)

3. *See text under recitals and articles on domain names (page 4)*

(...)

Article 35

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

(...)

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

(...)

Article 46

~~Scrutiny of third country g~~ **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 shall carry out** **scrutiny the preliminary assessment** 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.***

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

Article 47

Monitoring and reporting

1. ~~Where the Commission exercises any of the empowerments 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;~~
 - ~~(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~~ **preliminary assessment of applications at Union stage as referred to in Article 17 and of third country geographical indications referred to in Article 46(1) as well as maintenance of the list of the international agreements protecting geographical indications referred to in Article 46(2)** ~~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....]).’.

(...)

ARTICLES ON PRODUCER GROUPS AND RECOGNISED PRODUCER GROUPS

Article 2

Definitions

(...)

- (d) ‘production step’ means any stage of production, processing, preparation or ageing, up to the point where the product is ~~in a form~~ **ready** to be placed on the ~~internal~~ market;

(da)* ‘operator’ means a natural or legal person who performs activities covered by the product specification;

(...)

Article 25

Amendments to a product specification

1. A producer group having a legitimate interest ~~of a product the name of which is a registered geographical indication~~ may apply for the approval of an amendment to the product specification, ~~of a registered geographical indication.~~ **Where a recognised producer group exists, that group is the only one entitled to apply.**

(...)

Article 26

Cancellation of the registration

(...)

2a. Where a recognised producer group exists, that group is the only one entitled to lodge a request for cancellation with Member States.

(...)

* The definition suggested in 6609/23 for ‘producer’ in point (da) of Article 2(1) has been deleted.

Article 32

Producer groups

1. A producer group shall be **an association of producers of the same product or products, irrespective of its legal form. It shall meet the following criteria:** set up on the initiative of interested stakeholders, including farmers, farm suppliers, intermediate processors and final processors, as specified by the national authorities and according to the nature of the product concerned. Member States shall verify that the producer group operates in a transparent and democratic manner and that a

(a) performing tasks under this Regulation, including at least one of those set out in paragraph 2;

(b) being voluntarily set up on the initiative of, and composed by, producers;

(c) being democratically organised and controlled by its members.

All producers of the product designated by the geographical indication shall have the enjoy-right of membership to join in the a producer group. Member States may provide that public officials, and other stakeholders such as consumer groups, retailers and suppliers, also participate in the works of the producer group. **Member States may restrict the membership to certain categories of producers, taking into account the nature of the product covered by the producer group.**

Member States may provide for additional rules, especially regarding the organisation, statute, functioning, membership and financial contributions.

2. A producer group may exercise in particular the following **powers tasks** and responsibilities:
- (a) develop the product specification, **apply for registration, amendment and cancellation,** and **develop activities, including supporting its members with their management internal own controls systems to** that ensure compliance **of production steps of the product designated by the geographical indication** with the **said product** specification **concerned**;
 - ~~(b) take legal action to ensure protection of the geographical indication and of the intellectual property rights that are directly connected with it;~~
 - (c) agree sustainable **quality undertakings practices**, whether ~~or not~~ included in the product specification or as a separate initiative, including arrangements for verification of compliance with those undertakings and assuring adequate publicity for them notably in an information system provided by the Commission;
 - (d) take action to improve the performance of the geographical indication, including:
 - (i) development, organisation and conduct of collective marketing and advertising campaigns;
 - (ii) dissemination of information and promotion activities aiming at communicating the attributes of the product designated by a geographical indication to consumers;
 - (iii) carrying out analyses into the economic performance, sustainability of production, nutritional profile, and organoleptic profile, of the product designated by the geographical indication;
 - (iv) dissemination of information on the geographical indication and the relevant Union symbol; and

- (v) providing advice, and training **and best practice guidelines** to current and future producers, including on **sustainable practices, scientific-technical progress, digitalisation,** gender mainstreaming and equality;

(da) engage in appropriate action to ensure protection of the geographical indication and of the intellectual property rights that are directly connected with it, including filing applications for actions with custom authorities in accordance with Regulation (EU) No 608/2013 and preventing or countering any measures which are, or risk being, detrimental to the reputation of the geographical indication concerned;

- (e) combat counterfeiting and suspected fraudulent uses on the **internal markets** of **products designated by** a geographical indications **designating products** that are not in compliance with the product specification, by monitoring **and verifying** the use of the geographical indication across the internal market and on third countries markets where the geographical indications are protected, including on ~~the internet~~ **online interfaces**, and, as necessary, inform enforcement authorities using confidential systems **where** available;

(f) represent the members of the producer group in intellectual property enforcement networks and towards anti-counterfeit bodies established by national or Union authorities.

2a. Member States may support within their territory the creation and functioning of producer groups.

2b. Member States may decide that stakeholders other than producers may be members of a producer group, if they have a specific interest in the products covered by the producer group. Those members shall not control the producer group.

2c. If, for a product designated by a geographical indication no producer group exists, Member States may exercise the tasks of paragraph 2(d) and (e). The Member State shall interact with the producers accordingly and assist producers in establishing a producer group.

2d. Member States may set up a public register of producer groups situated in their territory, including authorities according to Article 8(2) and producers according to Article 8(3). The register shall contain, at least, for each the name, the legal form, the address, and all geographical indications covered by the producer group.

Article 33

Recognised producer groups

1. Upon a request of producer groups fulfilling the conditions of paragraph 3, **In addition to Article 32,** Member States shall **may** designate, in accordance with their national law, **one apply a system of recognition of** producer groups, **as recognised producer group for each. The recognition system may be applied to all producer groups whose members produce a product which is designated as a** geographical indication **or to producer groups producing specified categories of products designated as geographical indications.** ~~originating in their territory that is registered or is subject to an application for registration or for product names that are a potential subject for application for registration. A producer group may only be recognised upon request. Within a recognition system, authorities according to Article 8(2) and producers according to Article 8(3), shall be deemed to be recognised producer groups.~~
2. ~~A producer group may be designated as recognised producer group subject to a prior agreement concluded between at least two thirds of the producers of the product bearing a geographical indication, accounting for at least two thirds of the production of that product in the geographical area referred to in the product specification. As an exception, an authority, as referred to in Article 8(2), and a single producer, as referred to in Article 8(3), shall be deemed to be a recognised producer group.~~

Member States that apply the recognition system referred to in paragraph 1 shall provide for the following criteria for a group to be recognised:

(a) a certain legal form;

(b) a minimum share of more than 50% of members among the producers of the product.

Member States may provide for additional criteria, such as:

- (a) a minimum share of volume or value of marketable production**
- (b) having at its disposal the necessary financial contributions of its members;**
- (c) rules on the admission of new members, the termination of membership, and the infringement of membership obligations;**
- (d) a written statute.**

If a producer group ceases to fulfil the recognition criteria, the recognition shall be suspended or withdrawn.

3. ~~In addition to the powers and responsibilities referred to in Article 32(2), a recognised producer group may exercise the following powers and responsibilities:~~

- ~~(a) to liaise with intellectual property enforcement and anti-counterfeit bodies and participate in intellectual property enforcement networks as the geographical indication right holder;~~
- ~~(b) to take enforcement actions, including filing applications for actions with custom authorities, to prevent or counter any measures which are, or risk being, detrimental to the image of their products;~~
- ~~(c) to recommend to the national authorities binding rules to be adopted in accordance with Article 166a of Regulation (EU) No 1308/2013 for the regulation of the supply of products designated by a geographical indication;~~
- ~~(d) with a view to protecting the geographical indication in the internet domain name systems outside the jurisdiction of the Union, to register an individual, collective or certification trade mark depending on the trade mark system concerned, containing, as one of its prominent elements, a geographical indication and restricted to product conforming to the corresponding product specification.~~

The recognised producer group shall be the only one allowed to exercise the tasks referred to in Article 32 on behalf of all producers producing the product designated by the geographical indication concerned, without prejudice to the right of individual producers to act to defend their interests.

A producer group in a Member State not applying a system of recognised producer groups shall be able to exercise the tasks referred to in Article 32(2)(d), (da), (e) and (f) in a Member State applying a system of recognised producer groups.

4. ~~The powers and responsibilities referred to in paragraph 2 shall be subject to a prior agreement concluded between at least two-thirds of the producers of the product designated by a geographical indication, accounting for at least two-thirds of the production of that product in the geographical area referred to in the product specification.~~

~~5. Member States shall carry out checks in order to ensure that the conditions laid down in paragraph 2 are complied with. Where the competent national authorities find that such conditions have not been complied with, Member States shall annul the decision on the recognition of the producer group.~~

5a. Where a geographical indication designates a cross-border geographical area, the authorities of the Member States concerned or, where relevant, of the United Kingdom (Northern Ireland), shall cooperate regarding the designation of one recognised producer group. Where the Member States concerned do not agree and in case one of the Member States concerned does not apply the recognition system, no producer group shall be recognised for that geographical indication.

5b. Member States may decide that producer groups recognised under national law before [the entry into force of this Regulation] are recognised according to paragraph 1.

If such a recognised producer group does not meet the criteria set out in paragraph 2, it has to adapt to the relevant rules by [two years after the entry into force of this Regulation]. Otherwise, the Member State may prolong the deadline once for a maximum of one year or shall withdraw the recognition.

5c. In case a Member State applies the system of recognised producer group it shall notify the Commission electronically, through a digital system, of the name and address of the recognised producer group for each registered geographical indication, and update that information when a change occurs. The Commission shall enter this information in the Union register of geographical indications.

(...)
