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From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
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Subject:	Draft COUNCIL DECISION on the accession of the European Union to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications - Adoption - Statements

Commission statement

The Commission notes that the Union has exclusive external competence on geographical indications and is acceding to the Geneva Act of the Lisbon Agreement as a Party on its own right. This follows from the ruling of the European Court of Justice of 25/10/2017 (case C-389/15-Commission v. Council). Given the EU's exclusive external competence, Member States are prevented from becoming Parties to the Geneva Act in their own right and should no longer themselves protect geographical indications newly registered by third country members of the Lisbon system. The Commission, mindful of the exceptional circumstances given that seven Member States have been Parties to the Lisbon Agreement for a long time, that they have extensive intellectual property registered under it and that a smooth transition is needed, would exceptionally have been ready to agree that, in this particular case, BG, CZ, SK, FR, HU, IT, PT could have been authorised to accede to the Geneva Act in the interest of the EU.

The Commission strongly objects to the Council's continued insistence on the possibility for all EU Member States which wish to do so to be authorized to ratify or accede to the Geneva Act alongside the Union, while giving as a reason the regularisation of the Union's voting rights in view of point (b)(ii) of Article 22(4) of the Geneva Act rather than the aforesaid exceptional circumstances.

Further, the Commission would like to recall that, given that the Union has exercised its internal competence for agricultural geographical indications, the EU Member States cannot have national agricultural GI protection systems of their own.

Therefore the Commission reserves its rights including the right to avail itself of legal remedies against the Council's decision and, in any event, considers that this case cannot constitute a precedent for any other existing or future international/WIPO agreements, in particular but not only where the EU has already ratified international agreements by itself on the basis of its exclusive competence.
