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NOTE

From:	Presidency
To:	Delegations
Subject:	Regulation on geographical indications and quality schemes – state of play - <i>Information from the Presidency</i>

Delegations will find in the Annex the Presidency progress report on the abovementioned proposal.

I. INTRODUCTION

1. On 31 March 2022, the Commission published a proposal revising the current EU legislation on geographical indications (GIs) for wines, spirit drinks and agricultural products, as well as quality schemes for agricultural products (7639/22 REV 1 + ADD 1-3). It aims in particular to strengthen the Union system of GIs, to promote the use of GIs across the Union, and to shorten the time needed to register new GIs. The proposal also seeks to harmonise legislation on:
 - The procedure for registering, amending or cancelling a geographical indication, for all three sectors;
 - The protection of GIs, for the three sectors;
 - Control in the agricultural products and spirit drinks sectors.
2. Under the Czech Presidency, the proposal was discussed at seven meetings at Working Party level and two meetings of the Special Committee on Agriculture (SCA). Work also involved the provision of written comments from delegations, written explanations by the Commission and drafting suggestions from the Presidency. All this work allowed the Presidency to put together this progress report, which gives a snapshot of where the Council stands with its examination of the proposal.
3. The European Economic and Social Committee adopted an opinion on the proposal on 13 July 2022¹. The European Data Protection Supervisor (EDPS) provided its opinion on 18 July 2022².

¹ [Revision of the EU geographical indications \(GIs\) systems | European Economic and Social Committee \(europa.eu\)](#).

² 11516/22.

4. In the European Parliament, neither the Committee on Agriculture and Rural Development (AGRI) nor the Committee on Legal Affairs (JURI), which was granted associated status, has yet voted on its report.

II. STATE OF PLAY

5. Under the Czech Presidency, the Working Party on Horizontal Agricultural Questions (Geographical Indications and Designations of Origin) (WP HAQ(GI)) discussed the proposal during seven full-day meetings that took place on 12 July, 6 and 20 September, 4 and 25 October, as well as 4 and 29 November 2022. The Special Committee on Agriculture (SCA) was invited twice to exchange views on this file, on 10 October and 5 December 2022.
6. The WP HAQ(GI) continued the examination of the proposal started under the French Presidency and accomplished under the Czech Presidency a first read-through of the articles related to GIs (i.e. Articles 1-53 and 81-83), with the exception of those set out in Title V (Articles 84-89). To align the proposal to delegations' views, the Presidency tabled several sets of drafting amendments. While these drafting suggestions focus on the discussed articles and Annex I, they also include some consequential changes in recitals and other articles. In addition, the Presidency suggested transitional provisions for products designed with national GIs that were not part of the scope of Regulation 1151/2012 but will fall under the scope of the new Regulation. The Presidency also suggested transitional provisions for products that fall under the scope of Regulation 1151/2012, but will be newly covered by the proposal on craft and industrial GIs.

7. During the discussions held under the Czech Presidency the three following elements turned out to be particularly challenging: the proposed transfer of tasks to the European Union Intellectual Property Office (EUIPO), the provisions on producer groups and recognised producer groups, and the protection of geographical indication rights in domain names.
8. The Presidency invested major efforts to reconcile views with regard to EUIPO. It submitted to the WP HAQ(GI) several sets of drafting suggestions and organised two discussions at the SCA to receive guidance. Discussion showed that the division of tasks between the Commission and EUIPO should be clearly stated in the basic act. While the conferral of administrative tasks to EUIPO was widely accepted, the transfer of non-administrative tasks, such as the scrutiny of applications or the assessment to be done as part of the EU opposition procedure raised considerable concerns, because of doubts on the office's agricultural expertise. So the Presidency suggested provisions which are very similar to the current cooperation practice that is based on an administrative agreement between DG AGRI and EUIPO, this one being based on the Memorandum of Understanding between the Commission and EUIPO. Further work will be needed to find a solution that would ensure that the applications for registration are assessed with the necessary expertise without increasing the risk of creating a backlog of applications.
9. The Presidency also deployed considerable efforts to find an acceptable basis for the proposed provisions on recognised producer groups. While the Commission's objective of strengthening producers is broadly supported, several rounds of discussions, including at SCA level, showed that the Member States remain divided on the specific wording. The Member States with existing national systems consider that the proposed provisions would oblige them to adapt well established practices while other delegations fear additional administrative burden.

10. With regard to domain names, the discussions held at Working Party and SCA level indicated that most delegations would like to take the same approach as in the General Approach reached on the Regulation concerning geographical indication protection for craft and industrial products (14703/22), i.e. to delete the proposed provisions and shift some of them to the recitals. Some delegations would however prefer specific provisions on domain names for GIs for wine, spirit drinks and agricultural products.
11. The text below summarises delegations' comments on the other main elements discussed under the Czech Presidency:
- Some delegations suggested to define 'producer group' in Article 2 as being composed of producers only; several delegations expressed concerns about the **definition** of 'production steps' which they consider not being in line with the definition of 'producer' in the same article;
 - Some delegations asked to align the **objectives** set out in Article 4(b) to those of Regulation 1151/2012;
 - Some delegations considered that the proposed **classification system** in Article 6 would also be useful for customs authorities and suggested to extend it to a 8-digit level;
 - The voluntary nature of the **sustainability** undertakings proposed in Article 12 was welcomed while some delegations criticised the requirement for these undertakings to go beyond EU law or requested a horizontal rule for sustainable food production;

- The Presidency's suggestion in Article 17 to set a compulsory **6-month deadline for scrutiny of applications by the Commission** received broad support, with some delegations suggesting to add a stop-the-clock mechanism;
- Several delegations were ready to support the request of one Member State in Article 21(6) to extend the possibility to grant a **transitional period** up to 15 (rather than 10) years **to allow producers to comply with changed product specifications**. The Presidency suggested to limit that extension to certain particular cases; some delegations also suggested to increase flexibility for producers to comply with product specifications in order to cope with the effects of war, energy, raw material supply, animal feed, drought, flooding, impact of climate change;
- Some delegations called for adding **exceptional circumstances** as a reason for granting temporary amendments to a product specification (Article 25(5));
- Several delegations asked to delete Article 27(2) on **evocation** against which GIs shall be protected to avoid restricting the European Court of Justice in its work, or at least to shorten the text; some delegations asked for explicit provisions on the protection of GIs to goods produced in the EU and marketed in third countries;
- The switch suggested by the Presidency in Article 28 from a system where the use of a **GI designating an ingredient** in the indication of a processed product would, as a general rule, be forbidden, to one where it would be allowed unless a producer group representing 2/3 of the producers disagrees met considerable resistance; several delegations feared that this would lead to arbitrary decisions of producer groups and had doubts about the feasibility of the 2/3 rule;

- Some delegations asked to move all the provisions on homonymity for the three sectors into Article 30 of the proposed Regulation;
- Some delegations questioned the proposed differentiation between **producer groups** in Article 32 and **recognised producer groups** in Article 33, and some delegations preferred to differentiate between producer groups that deal with GIs before their registration (“applicant producer groups”) and those that deal with them after the registration (“managing producer groups”); divergent views were expressed on whether the number of producer groups should be limited to one per GI or not; the possibility for public officials and interested stakeholders in the work of producer groups also met resistance;
- Many delegations expressed concerns about the possibility proposed in Article 51 according to which a **geographical name** could be registered **without previously being used in trade or in common language** and preferred the current approach according to which the names must already exist before being registered as GIs;
- Many delegations asked to have just **one Commission committee covering GIs**, traditional specialities guaranteed and optional quality terms as according to Presidency suggestions set out in Article 80;
- Many comments and concerns were also raised with regard to various proposed **delegated powers**, some of which were considered too broad (e.g. Article 15(6)) or not needed (e.g. Article 14(2)).
- The Presidency suggestion **to include the wine sector in the scope of controls and enforcement** in Article 38 was supported by some delegations but raised doubts of others; several delegations also opposed the Commission proposal to exclude the national control systems on GIs from the Commission audits;

- Some delegations entered scrutiny reservations on the Commission proposal to **regulate GIs for wine outside the Common Market Organisation (CMO)** in Article 81.

III. CONCLUSIONS AND WAY FORWARD

12. Under the Czech Presidency, the Council has made considerable progress on the proposed Regulation on GIs and quality schemes: a first read through of most Articles related to GIs has been accomplished and the Presidency has tabled several sets of drafting suggestions to accommodate delegations' requests and concerns. Work under the Czech Presidency has also allowed to identify the transfer of tasks to EUIPO, recognised producer groups and the protection of GI rights in domain names as three of the most controversial elements. In coordination with the incoming Swedish Presidency, the Czech Presidency has issued revised consolidated drafting suggestions that seek to address delegations' remarks. Together with this progress report they constitute the legacy of the Czech Presidency and the basis of the work under the incoming Swedish Presidency. Agreeing a Council negotiating position will require to take due account of delegations' feedback on these drafting suggestions, examine those Articles that have not yet been discussed and, more importantly, finding a solution on the most controversial elements such as EUIPO, recognised producer groups and domain names.
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