

# Main Provisions and Benefits of the Geneva Act of the Lisbon Agreement (2015)



# **In today's crowded global marketplace, product differentiation is crucial. That makes branding crucial too.**

Appellations of origin and geographical indications are identifiers for products that have a specific geographical origin and possess qualities or a reputation that are due to that origin.

Like other forms of intellectual property (IP), appellations of origin and geographical indications need to be protected. They can be protected at the national level through a variety of systems, so a global solution that is flexible enough to accommodate the needs of different jurisdictions is highly relevant.

A new international agreement aiming at establishing an effective international system of registration and protection for both appellations of origin and geographical indications was adopted in Geneva on May 20, 2015. The Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications is designed to help ensure that holders of appellations of origin and geographical indications can file a single application and pay one set of fees to seek protection in multiple jurisdictions.

## **The Geneva Act and the Lisbon Agreement**

The Geneva Act updates and enhances the existing international registration system protecting names that identify the geographic origin of products: the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration of 1958.

The Lisbon Agreement applies only to appellations of origin – a special kind of geographical indication for products that have a particularly strong link with their place of origin.

The Geneva Act extends that protection to geographical indications alongside appellations of origin, to better take into account existing national or regional systems for the protection of distinctive designations in respect of origin-based quality products.

It also allows certain intergovernmental organizations to join, making the international system of protection more inclusive.

Together, the Lisbon Agreement and the Geneva Act of the Lisbon Agreement form the Lisbon System, offering more comprehensive and effective international protection for the names of origin-based quality products.

This is not only advantageous for producers who want stronger legal protection for their brands in global markets; it also benefits consumers seeking assurance about the quality, authenticity and traceability of products.

## **What is protected under the new Act?**

Under the Geneva Act, both appellations of origin and geographical indications can be registered internationally so that they are protected in other Contracting Parties.

Broadly speaking, a geographical indication is a sign used on products that have a specific geographical origin and possess qualities, reputation or characteristics that are essentially attributable to that place. Certain requirements for appellations of origin – that the raw materials be sourced in the place of origin and that the processing of the product also take place there – do not necessarily apply in equal measure for a product to be protected as a geographical indication.

The Geneva Act also covers trans-border appellations of origin and geographical indications – those that originate from a geographical area which extends over the territory of two adjacent Contracting Parties. These may file joint or separate applications in respect of such appellations of origin or geographical indications.

## **The extent of protection**

Contracting Parties to the Act must provide legal means to prevent the use of an internationally registered appellation of origin or geographical indication in respect of goods of the same kind, or goods that are not of the same kind, or services, under certain conditions. They must also provide legal means to prevent any use amounting to the imitation of an appellation of origin or geographical indication.

## **A flexible international registration system**

Countries and regional groups of countries protect appellations of origin and geographical indications in different ways – through *sui generis* laws (special laws that apply specifically or exclusively to geographical indications and/or appellations of origin), trademark laws, administrative provisions, or other legal means.

The Geneva Act takes this diversity into account. Contracting Parties can use any type of legislation to protect products registered under the Lisbon System, provided that the legislation in question meets the requirements of the Act.

## **Who can apply for international registration?**

Under the Geneva Act, an application for international registration can be filed directly by the beneficiaries themselves or their representatives, or by the national Competent Authority (usually the national industrial property office).

## **Better protection for third-party rights**

The Geneva Act also offers better safeguards for third-party rights. Anyone whose interests would be affected by an international registration can request their national Competent Authority to notify a refusal of protection in respect of such registration. This is in addition to the traditional *ex officio* refusal of protection that the national Competent Authority could issue in respect of a given international registration.

Furthermore, prior trademark rights, prior use of generic terms, personal names used in business and rights based on a plant variety or animal breed denomination are all safeguarded under the Act.

## Maximum flexibility for Contracting Parties

The Geneva Act introduces several flexibilities into the Lisbon System.

As well as choosing how to meet the requirements of the Act through domestic law – whether by resorting to a *sui generis* protection regime, the trademark system, or some other approach – each Contracting Party can also make various optional declarations when it accedes to the Act. For example, it can:

- request additional information concerning the link between the quality, characteristics or reputation of a product and its geographical origin; and/or;
- request that an application for registration be accompanied by a declaration of intention to use the appellation of origin or geographical indication in its territory; and/or;
- request payment of an individual fee to cover the cost of substantive examination of a new application for international registration.

## Who can join?

States which are party to the Paris Convention or which are members of the World Intellectual Property Organization (WIPO) and whose legislation complies with the relevant provisions of the Paris Convention for the Protection of Industrial Property can accede to the Geneva Act. In addition, the Act foresees the possibility of accession by international intergovernmental organizations with competence to protect appellations of origin or geographical indications, for example the African Intellectual Property Organization (OAPI) and the European Union (EU).

**The Lisbon Agreement has already been used to register and protect the names of many renowned products that possess unique characteristics linked to their geographical origin. Examples include Parma Ham (Prosciutto di Parma), Habanos, Bohemia Crystal (ČESKÝ KŘIŠŤÁL), Chulucanas and Champagne. With the Geneva Act, many more products, producers and consumers stand to benefit.**

## **Benefits of accession**

Each Contracting Party to the Geneva Act will be able to obtain effective protection for its appellations of origin and geographical indications, regardless of the nature of the goods to which they apply,<sup>1</sup> in the other Contracting Parties.<sup>2</sup> Protection will be available through a single registration procedure with WIPO, reducing formalities and costs. Moreover, any appellation of origin or geographical indication registered under the Act will remain valid for as long as it is protected in the Contracting Party of origin.

## **Entry into force**

The Geneva Act will enter into force three months after five eligible parties have deposited their instruments of ratification or accession with the Director General of WIPO.

## **For more information**

To find out more about the Lisbon System, visit our webpage: [www.wipo.int/lisbon](http://www.wipo.int/lisbon)

- 1 This includes agricultural products, foodstuffs, wine and spirit drinks, handicrafts, industrial products and natural products, among other things.
- 2 Except where a Contracting Party refuses to protect an internationally registered appellation of origin or geographical indication, or invalidates its effect within its territory.

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