

## **Working Group for the Preparation of Common Regulations under the Lisbon Agreement and the Geneva Act of the Lisbon Agreement**

**Second Session  
Geneva, April 3 to 5, 2017**

### REPORT

*adopted by the Working Group*

1. The Working Group for the Preparation of Common Regulations under the Lisbon Agreement and the Geneva Act of the Lisbon Agreement (hereinafter referred to as “the Working Group”) met in Geneva, from April 3 to 5, 2017.
2. The following Contracting Parties of the Lisbon Union were represented at the session: Algeria, Bulgaria, Costa Rica, Czech Republic, France, Gabon, Georgia, Hungary, Iran (Islamic Republic of), Israel, Italy, Mexico, Montenegro, Peru, Portugal, Republic of Moldova, Slovakia, Togo, Tunisia (19).
3. The following States were represented as observers: Albania, Australia, Canada, Chile, China, Colombia, Croatia, El Salvador, Estonia, Germany, Guatemala, Guinea, India, Japan, Kuwait, Latvia, Lebanon, Morocco, Panama, Republic of Korea, Russian Federation, Senegal, Spain, Switzerland, Turkey, Ukraine, Uganda, United States of America (28).
4. Representatives of the following international intergovernmental organizations (IGOs) took part in the session in an observer capacity: African Intellectual Property Organization (OAPI), European Union (EU), Food and Agriculture Organization of the United Nations (FAO), Organisation Internationale de la Francophonie (OIF), World Trade Organization (WTO) (5).
5. Representatives of the following international non-governmental organizations (NGOs) took part in the session in an observer capacity: Centre for International Intellectual Property Studies (CEIPI), International Wine Law Association (AIDV), European Communities Trade Mark Association (ECTA), International Trademark Association (INTA), MARQUES – Association of European Trademark Owners, Organization for an International Geographical Indications Network (oriGIn) (6).
6. The list of participants is contained in Annex II.

## **AGENDA ITEM 1: OPENING OF THE SESSION**

7. Mr. Francis Gurry, Director General, opened the session.

8. He started the meeting by providing updates on the Lisbon System since the previous session of the Working Group held from June 7 to June 9, 2016.

9. From the point of view of registrations and day-to-day operations of the Lisbon Registry, he pointed out that in 2016 there had been a total of 25 new registrations and that since the previous Assemblies in October 2016 three new international applications had been received, namely one from Slovakia, one from Mexico and one from Italy. Those registrations brought the total number of international registrations under the Lisbon System to 1,063, of which 958 were in force. He further indicated that the International Bureau was continuing with plans to further automate the administration of the Lisbon Registry, notably with respect to filing, registration and notification procedures.

10. He recalled that consideration of the revised draft Common Regulations under the Lisbon Agreement and the Geneva Act of the Lisbon Agreement was one of the main items for discussion at the present session.

11. Referring to the decision taken by the Lisbon Union Assembly (thirty-third session) in October 2016 concerning financial matters of the Lisbon Union, he recalled that there were two main issues that were dealt with in the decision. The first was the projected deficit of the Lisbon Union for the current 2016/17 biennium of approximately 1.523 million Swiss francs. He recalled that the Lisbon Union Assembly had agreed that the payment of subventions under Article 11(3)(iii) of the Lisbon Agreement would constitute measures to eliminate the projected biennial deficit in the current biennium and that the Assembly had requested the International Bureau to take the necessary administrative steps to receive those subventions. He stressed that the International Bureau had received 568,021 Swiss francs to date in the form of subventions from Georgia, Italy, Mexico and Portugal. In addition, announcements had been made regarding additional subventions by other Lisbon Union members.

12. As regards the second part of the decision of the Lisbon Union Assembly, which concerned the long-term financial sustainability of the Lisbon Union, beyond the current biennium, he recalled that the Lisbon Union Assembly had decided to emphasize promotion activities of the Lisbon System including the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications; to further consider the establishment of a contribution system; to monitor the Lisbon Fee Schedule, and to take advantage of the current session of the Lisbon Working Group, and any informal meetings that the Chair of the Working Group might request the Secretariat to organize, to advance discussions on the issue of the long-term financial sustainability of the Lisbon Union.

13. He concluded by saying that all the elements of the decision of the Lisbon Union Assembly were extremely important matters not just for the Lisbon Union, but also for the Organization as a whole. In that regard, he recalled that, since the current year was a budgetary year, the International Bureau was in the process of preparing the draft Program and Budget for the 2018/19 biennium, which should in principle be published in May 2017, and which should be considered by the Program and Budget Committee (PBC) in the summer and by the Assemblies in October. Emphasizing that the measures regarding the projected deficit for the current biennium, as well as the long-term financial sustainability of the Lisbon Union would feature prominently in the discussions on the draft Program and Budget, he urged the members of the Lisbon Union to continue the good discussions that had already taken place with a view to advancing towards solutions of those two issues.

## **AGENDA ITEM 2: ADOPTION OF THE AGENDA**

14. The Working Group adopted the draft Agenda (document LI/WG/PCR/2/1 Prov. 2) without modification.

## **AGENDA ITEM 3: ADOPTION OF THE DRAFT REPORT OF THE FIRST SESSION**

15. The Working Group adopted the draft report (document LI/WG/PCR/1/6 Prov. 2) without modification.

## **AGENDA ITEM 4: DRAFT COMMON REGULATIONS UNDER THE LISBON AGREEMENT FOR THE PROTECTION OF APPELLATIONS OF ORIGIN AND THEIR INTERNATIONAL REGISTRATION AND THE GENEVA ACT OF THE LISBON AGREEMENT ON APPELLATIONS OF ORIGIN AND GEOGRAPHICAL INDICATIONS**

16. Discussions were based on documents LI/WG/PCR/2/2, LI/WG/PCR/2/3 and LI/WG/PCR/2/4.

### **GENERAL STATEMENTS**

17. The Delegation of the United States of America expressed its appreciation for the opportunity to engage with the Lisbon Union members in the development of the Common Regulations under the Lisbon Agreement and the Geneva Act. The Delegation added that it was contributing to that effort in case its outsider's perspective on the operations of such historical registration system might be useful as the Working Group was considering ways to improve and make more efficient the Registry's operations so as to keep the costs down.

18. The Delegation indicated, however, that until such time as the financial sustainability of the Lisbon System would be appropriately and meaningfully addressed, the United States of America would not support the preparation of the Common Regulations under consideration or the entry into force of the Geneva Act, as both efforts would simply create a higher financial burden on the Organization as a whole than the Lisbon System currently did.

19. The Delegation pointed out that the Lisbon System had relied on funding from other more successful registration systems without the consent of those affected assemblies, most notably the PCT and the Madrid Assemblies and was therefore of the view that such practice had to stop. The Delegation added that even if other funding from the Organization or its members were to be used to hold up the Lisbon System, then all WIPO members would be paying for it. As such, all should have a say in whether the Geneva Act should be administered by the Organization and that question should be contingent on whether the financial situation would be adequately addressed before the Geneva Act would enter into force.

20. The Delegation reiterated that the Diplomatic Conference to conclude the Geneva Act was fundamentally flawed, as it had been negotiated without meaningful input on its provisions by a majority of Member States. As such, it could not be considered a WIPO administered Treaty and the Organization had to take an affirmative decision in that regard.

21. The Delegation said that it had heard from delegations that the Lisbon Union members believed that by simply promoting accession to other WIPO members the financial situation would be solved. That seemed unlikely in light of the provisions that the Lisbon Union members had negotiated on their own which drastically favored their own interests and disadvantaged prospective Contracting Parties. The Delegation went on to say that therein laid the fundamental conflict created by the establishment of the proposed draft Common Regulations and with how the Lisbon Union had negotiated the Geneva Act.

22. In addition, the Delegation was of the view that it would be premature for the present Working Group to create and finalize Common Regulations for the 1967 and the Geneva Act because the Contracting Parties to each Act were likely to be overlapping but also different. The Delegation went on to say that if the draft Common Regulations under consideration were to proceed, that would represent an effort by the existing 1967 Act members to make preferential rules for themselves that would govern the potentially different members of the Geneva Act. For example, the Lisbon Union members had structured the Geneva Act and the Common Regulations under consideration so that their legacy registrations could automatically be rolled over into the Register of the new Geneva Act without further payment of any additional international registration fees, except for a smaller modification fee for those registrations that would have to be modified to fit the Geneva Act requirements. The Delegation expressed the view that there lied an opportunity for the Lisbon Union to create some parity between the legacy members of the Lisbon Union and the newly acceding Geneva Act members. However, that opportunity had not only been ignored, but more importantly, the opportunity of rolling over 1967 Act registrations into the Geneva Act could have been used to create a mechanism to help fund the operations of the Lisbon System. In addition, the Lisbon Union members also appeared to be ignoring that opportunity to move towards financial sustainability within their own membership, just as they chose to resist the idea of international registration renewal fees which would have also created some sustainable financing in the future.

23. The Delegation acknowledged the fact that the financing situation was far from settled and there was still a slight chance that contributions could fund the operations going forward but that also meant that such contributions would have to be required from Lisbon Union members every biennium. In that regard, the Delegation reminded the Working Group that promotion of the Geneva Act by WIPO itself could not be done using funds from other registration systems and, in that light, it was clear that promotion would not and could not fund the System at the present time or in the future.

24. In light of the financial difficulties faced in the Lisbon Union, the Delegation urged the Working Group to focus on ways in which the operations of the Lisbon Agreement could be streamlined and made more efficient for purposes of decreasing the costs of operating the Lisbon System. The Delegation pointed out that there were likely lessons learned by the Madrid Registry in that regard and said that it hoped that there were ongoing consultations to seek such advice about efficiencies. The Delegation concluded by saying that it looked forward to contributing to the Working Group's effort to find cost-cutting measures and efficiencies to keep the costs of the Lisbon System to a bare minimum in light of the lack of sustainable funding for the System going forward.

25. Upon reiterating the importance that Georgia paid to the effective protection of geographical indications, the Delegation of Georgia stated that it was eager to see progress in that particular regard at the present session of the Working Group and encouraged the other delegations to have constructive deliberations over the issues on the Agenda in a pragmatic and efficient manner.

26. Referring to Agenda item 4 concerning the draft Common Regulations of the Lisbon Agreement and the Geneva Act, the Delegation of Iran (Islamic Republic of), recalled that the mandate to draft such Common Regulations by the Working Group had been acknowledged by the General Assembly and hoped to make further progress on the issue at the present session.

27. With regard to the financial sustainability of the Lisbon Union, the Delegation recognized the political determination and the willingness of the members of the Lisbon Union to find a long-standing financial solution to the problem. In that connection, the Delegation commended the Lisbon Union members for their endless efforts to undertake and consider all possible options to tackle the problem of the short-term deficit and the long-term financial sustainability of the Lisbon Union.

28. The Chair opened the discussions on Agenda item 4 and invited the International Bureau to present the three working documents before them.

29. The Chair opened the discussions on the draft Common Regulations and suggested following a rule-by-rule review in respect of those rules.

#### Rule 1: Definitions

30. Referring to Rule 1(1)(i), the Representative of CEIPI suggested reversing the order of subparagraphs (ii) and (iii) of Rule 1(1) without changing the wording for greater clarity since the current subparagraph (ii) under consideration contained a reference to the 1967 Act without the corresponding definition which only appeared in subparagraph (iii).

31. The Chair stated that the amendment suggested by the Representative of CEIPI would be reflected in the revised version of the draft Common Regulations that would be submitted to the following Assembly of the Lisbon Union.

#### Rule 2: Calculation of Time Limits

32. The Chair noted that no comments were made on Rule 2.

#### Rule 3: Working Languages

33. The Representative of INTA sought clarification from the Secretariat regarding the last sentence of paragraph (2) of Rule 3 which read "Any translation needed for the purposes of those procedures should be made by the International Bureau". More specifically, the Representative wished to know which communications were intended to be translated by the International Bureau under that provision.

34. In response to the request for clarification made by the Representative of INTA, the Secretariat indicated that the Communications Subsequent to the Application referred to in Rule 3(2) were not systematically translated by the International Bureau and were only notified to the other Contracting Parties in the language in which they were received. For example, whenever a notification of refusal or a statement of grant of protection is received in one of the working languages, it is forwarded as such to the Competent Authority of the Contracting Party of Origin of the concerned registration together with an accompanying communication from the International Bureau in the working language used by that Contracting Party. The Secretariat went on to explain that Rule 3(2) was merely a safeguard provision, that could be used whenever a translation of the communication appeared to be necessary.

#### Rule 4: Competent Authority

35. Since Rule 4 contained a proposal made by the United States of America at the previous session of the Working Group, the Chair invited the Delegation of the United States of America to introduce its proposal.

36. The Delegation of the United States of America indicated that what was then presented as an Option B in Rule 4(1) had been proposed as a matter of transparency and due process.

37. The Delegation of France reiterated the position it had expressed at the previous session of the Working Group, namely that Rule 4(1) only concerned the implementation of rights when an appellation of origin or geographical indication was registered. In other words, the purpose of the Geneva Act was to define protection procedures only and therefore the Delegation was in favor of Option A.

38. The Delegation of the European Union and its member States also expressed its preference for Option A for the reasons that had already been mentioned by the Delegation of France.

39. The Representative of AIDV stated that he had one suggestion and one question. His suggestion concerned paragraph (1) of Rule 4 which dealt with two points of a different nature, namely the obligation for a Contracting Party on the one hand and the obligation for a Competent Authority on the other hand. He went on to state that the provision in paragraph (1) was needed by the International Bureau in order to have the contact details of the Competent Authority of each Contracting Party before the International Bureau could actually submit notifications to the Contracting Party in question. In that connection, he suggested splitting paragraph (1) so as to put the second sentence of that paragraph in a new paragraph (4), primarily because paragraphs (2) and (3) were a continuation of the first sentence of paragraph (1). In that connection, he sought clarification as to whether it was the intention of the proposed provision to exempt the current members of the Lisbon Agreement from resubmitting the details of their respective Competent Authority. If that were indeed the case, he suggested clarifying that point in the Notes. More specifically, his question was whether it would be necessary for current Lisbon Union members that would become members of the Geneva Act once it enters into force, to resubmit the name and the contact details of their competent authorities or not. In his view, they should be exempted from doing so.

40. The Chair indicated that the proposal made by the Representative of AIDV would be circulated in written form for the consideration of delegations.

41. The Delegation of Australia expressed its support for Option B as it was of the view that the proposal made by the Delegation of the United States of America had value for all affected interested parties, not just for the right holders and that it was also connected to the issue of balance, much like other intellectual property rights.

42. Referring to the proposal made by the Representative of AIDV to move the second sentence of Rule 4(1) to a new paragraph (4), the Representative of CEIPI pointed out that paragraph (2) of Rule 4 only concerned the notification referred to in the first sentence of Rule 4(1), namely the notification of the Competent Authority or Competent Authorities, whereas paragraph (3) of Rule 4 concerned various notifications, namely the notification of the Competent Authority but also the notifications referred to in the second sentence of Rule 4(1). He therefore suggested moving the second sentence of Rule 4(1) to a new paragraph (3) and to transform the current paragraph (3) into a new paragraph (4) with the following amendment in the second sentence "the particulars referred to in paragraphs (1) and (3)".

43. Upon receiving confirmation from AIDV that it agreed with the proposal made by the Representative of CEIPI, the Chair stated that the Secretariat would re-draft Rule 4 according to the proposal made by the Representative of CEIPI.

44. Referring to the Options proposed under Rule 4, the Delegation of Iran (Islamic Republic of) expressed its support for Option A.

45. The Delegation of Italy indicated that it would wait to receive a written document with the proposal made by the Representative of CEIPI with respect to Rule 4 before expressing its position in that respect. As regards the proposed Options A and B, the Delegation expressed its support for Option A.

46. Upon taking note of the fact that some delegations supported Option A while some others supported Option B, the Chair suspended discussion on Rule 4(3) and suggested that the issue be further discussed in informal consultations.

47. Resuming deliberations on Rule 4, the Chair recalled that the new paragraph (3) contained two options and invited delegations to state their positions.

48. Upon expressing his preference for Option B, the Representative of CEIPI indicated that Option A appeared to be the outcome of a compromise made during the Diplomatic Conference in the absence of non-governmental organizations and therefore stated that he was not aware of the background of such provision. He then suggested adding a title to the new paragraph (3) that could for example read "Information on Applicable Procedures". Finally, he was of the view that the words "In addition" should not remain in paragraph (3) given the fact that the provision would become a separate paragraph in the revised version of the draft Common Regulations.

49. The Delegation of Iran (Islamic Republic of) expressed its preference for Option A and supported the Representative of CEIPI's proposal to add a title.

50. The Delegation of Italy supported Option A and also agreed with the amendments proposed by the Representative of CEIPI.

51. The Delegation of France expressed its support for Option A as well as for the addition of a title to the new paragraph (3).

52. The Delegation of Hungary expressed its support for Option A.

53. The Delegation of Mexico expressed its support for Option B.

54. The Delegation of Georgia, aligning itself with the statements by the Delegations of Italy and France, expressed its support for Option A.

55. In order to make progress in the discussions, the Chair invited interested delegations to hold informal consultations.

56. After the informal consultations, the Chair reverted back to Rule 4(3). He indicated that, in the course of the informal consultations, an agreement concerning the final wording of Rule 4 had been reached among interested delegations so that the text of the new paragraph (3) would read "The Competent Authority should make available information on the applicable procedures in its territory to challenge and enforce rights in appellations of origin and geographical indications".

57. The Delegation of France proposed to clarify, in the corresponding Explanatory Notes, that the information provided under Rule 4(3) corresponded to Articles 15(3) and 15(5) of the Geneva Act.

58. The Chair confirmed the understanding of the Delegation of France in that regard.

59. The Secretariat added that the Explanatory Notes would be revised to shed more light on that issue.

#### Rule 5: Requirements Concerning the Application

60. The Representative of INTA submitted various questions following the order of the paragraphs. Referring to the requirement to indicate in the application "the geographical area of production or the geographical area of origin of the good or goods" contained in Rule 5(2)(a)(vi), he pointed out that "the geographical area of production" neither appeared nor was defined in the Geneva Act, whereas "the geographical area of origin" was defined in Article 1(xii) of the Geneva Act, as it referred to Article 2(2) of the Geneva Act which dealt with "the geographical area of origin" both in respect of geographical indications and appellations of origin. He therefore sought further clarification on the origin of the notion of "geographical area of production" which appeared in the Geneva Act.

61. In response to the question raised by the Representative of INTA, upon confirming that the notion of “geographical area of production” was not defined in the Geneva Act, the Secretariat recalled that the distinction between “geographical area of production” and “geographical area of origin” had been made during the Working Group session that had preceded the Diplomatic Conference to take into account the wish expressed by some delegations to make a distinction between the geographical area of production in respect of appellations of origin on one hand, and the geographical area of origin in respect of geographical indications on the other.

62. Referring to the question raised by the Representative of INTA on Rule 5(2)(a)(vi), the Representative of AIDV stated that the terminology in question was used in the Regulations under the Lisbon Agreement and was also incorporated in the Regulations under the Geneva Act. The Representative of AIDV pointed out that the notion of geographical area of production was also mentioned in Rule 5(3) of the Regulations under the Geneva Act. The Representative of AIDV considered that, as long as the Lisbon Agreement was still effective, the reference to the geographical area of production next to the geographical area of origin was still useful.

63. The Delegation of Iran (Islamic Republic of) sought further clarification on the new requirement to provide the contact details of the beneficiaries in Rule 5(2)(a)(ii), as the Delegation was of the view that the submission of such contact details was not necessary.

64. The Secretariat recalled that the Geneva Act allowed that applications be filed directly by the beneficiaries themselves and therefore their contact details would be necessary for purposes of contacting them directly, in addition to the Competent Authority.

65. The Delegation of Bulgaria stated that it could go along with all the modifications and explanations provided by the Secretariat in respect to Rule 5(2)(a) because they clarified and improved the text. Concerning the reference to the geographical area of production or the geographical area of origin, the Delegation was in favor of keeping both expressions in subparagraph (vi).

66. Referring to Rule 5(2)(a)(ii), the Delegation of the European Union and its member States stated that the modification suggested by the Secretariat was acceptable but still wondered whether the text could be improved by splitting subparagraph 2(a) so as to read “(ii) the Competent Authority presenting the application” and “(iii) in the case of Article 5(3) of the Geneva Act, contact details identifying the beneficiaries or the natural person or legal entity referred to in Article 5(2)(ii) of that Act”. Referring to Rule 5(2)(vii), the Delegation agreed with the modification suggested by the Secretariat regarding the communication of the number of the registration, however, the Delegation suggested that the proposed text be slightly amended so as to read “and number of the registration, if applicable”, in order to preserve the flexibility of Member States as regards the choice of the registration system at the national level.

67. The Delegation of Mexico supported the position expressed by the Delegation of Bulgaria and considered the text proposed by the Secretariat appropriate.

68. Referring to the proposal of the European Union to split subparagraph (2)(a)(ii) of Rule 5 into two different subparagraphs (ii) and (iii), the Secretariat was of the view that such division would create confusion because the provision dealt with two alternative pieces of information; one concerning the Competent Authority, and the other concerning the beneficiaries or the natural person or legal entity in the case of Article 5(3) of the Geneva Act. The Secretariat was therefore of the view that the two references had to be kept in the same subparagraph (ii). Referring to Rule 5(2)(vii), the Secretariat invited the Working Group to consider using the language mentioned by the Delegation of the European Union and its member States in order to maintain some degree of flexibility as regards national systems of registration. Regarding Rule 5(5), the Secretariat recalled the divergent views that had been expressed during the first session of the Working Group with respect to a suggestion made by the International Bureau to

delete the expression between brackets “to the best knowledge of the applicant”. In that regard, the Secretariat further recalled that some members of the Working Group had indicated the importance of keeping the text of the provision as it had been negotiated during the Diplomatic Conference, while other members were of the view that the text had to be clarified because there was a discrepancy between a subjective element (the knowledge of the applicant), and an objective element (the information contained in the decision recognizing the protection of the appellation of origin or the geographical indication in the Contracting Party of Origin).

69. The Delegation of France reiterated its position by stating that the required information about the generic nature of certain elements of the appellation of origin or geographical indication would have to be transmitted only if the applicant was aware of such generic character or of any possible ongoing procedure in that regard. The Delegation also indicated that it did not have any objection to adding a reference to official languages. Referring to Rule 5(6), the Delegation stated that the text would have to be coherent with the final wording that would be adopted in respect of Rule 5(2)(ii) with respect to the contact details.

70. Regarding Rule 5(5), the Delegation of Costa Rica believed that the deletion of the terms between square brackets “to the best knowledge of the applicant” was important, as it would increase the transparency as to the scope of protection and, therefore, provide greater legal certainty.

71. The Delegation of Bulgaria supported the deletion of the terms between brackets because they created more uncertainty.

72. Referring to the statement made by the Delegation of France in respect of Rule 5(5), the Representative of CEIPI stated that he failed to understand how there could still be an ongoing procedure with respect to a registration that already existed or how someone could not be aware of an existing administrative or judicial act and therefore sought additional explanations in that regard. Referring to Rule 5(6)(a)(i), the Representative explained that he understood the text in a broader sense rather than just as a mere reference to Article 3 of the Geneva Act. In his view, the provision contained a more general reference to the Geneva Act, which meant that when the Competent Authority would file an application, it would also indicate the beneficiaries' addresses or the addresses of the natural person or the legal entity referred to in Article 5(2)(ii) of the Geneva Act.

73. Referring to the issue of whether the expression “to the best knowledge of the applicant” in Rule 5(5) should be deleted, the Delegation of the European Union and its member States shared the views expressed by the Delegation of France for the reasons already largely explained during the Working Group meetings and later on at the Diplomatic Conference itself. The Delegation of the European Union and its member States considered that issue to be a substantial point and underlined that there were concrete cases where that expression would be relevant. As regards geographical indications protected in the European Union in particular, the Delegation pointed out that some national court rulings could sometimes be unknown to the applicants and the Delegation would therefore prefer to keep the expression “to the best knowledge of the applicant” in the text. Referring to the last sentence of Rule 5(5), the Delegation called the attention of the Working Group and the International Bureau to the fact that there could well be registered names, or names suitable for registration and for protection, that would not necessarily be in the official language or languages of the Contracting Party of Origin.

74. Referring to Rule 5(5) and the expression “to the best knowledge of the applicant”, the Delegation of Hungary indicated that it wished to keep the sentence in the text.

75. The Delegation of Italy supported the positions expressed by the Delegations of the European Union and its member States, France and Hungary to maintain the bracketed text “to the best knowledge of the applicant” in Rule 5(5).

76. Referring to Rule 5(6), the Delegation of Iran (Islamic Republic of) pointed out that “the addresses of the beneficiaries” was listed as an optional element of the application, whereas the same element was listed as a mandatory element of the application in Rule 5(2). The Delegation therefore suggested aligning those provisions for the sake of consistency.

77. Upon taking note of the divergent views among delegations as to the deletion of the expression “to the best knowledge of the applicant”, the Chair suspended discussion on Rule 5(5) and suggested that the issue be further discussed in informal consultations.

78. Resuming the session, the Chair invited delegations to express their respective positions as to the inclusion of the terms “to the best knowledge of the applicant” in Rule 5(5).

79. Upon taking note of the observation made by the Delegation of Italy that the terms under consideration had been copied from the original Regulations under the Geneva Act, the Delegation of Bulgaria stated that it would not object to the inclusion of those terms in Rule 5(5), although it did not fully understand the reasons for keeping them in the text.

80. Since it appeared that those terms were already contained in the original Regulations under the Geneva Act, the Delegation of Costa Rica stated that it could nonetheless accept them in spite of its initial reservations in that regard, in order to ease the discussions and move forward.

81. The Chair thanked the Delegations of Bulgaria and Costa Rica for their constructive approach.

82. Referring to Rule 5(6)(a)(i), the Secretariat indicated that a suggestion to add the terms “and subject to subparagraph 2(a)(ii)” had been made so as to recall the obligation to indicate the contact details of the beneficiaries, the natural person or the legal entity referred to in Article 5(2)(a) of the Geneva Act in case of an application filed directly.

83. The Representative of CEIPI suggested replacing the terms “subject to” by “without prejudice to” or a similar wording. He further pointed out that Rule 5(6)(a)(i) should refer to “paragraph 2(a)(ii)” instead of “subparagraph 2(a)(ii)”.

84. The Chair noted that no further comments were made on the proposed revised version of Rule 5.

#### Rule 6: Irregular Applications

85. Referring to Rule 6(1)(d), the Representative of INTA suggested deleting the words “to the Geneva Act” because the Contracting Party that had made the notification or the declaration in question was obviously party to the Geneva Act.

#### Rule 7: Entry in the International Register

86. The Delegation of the United States of America sought further clarification with respect to Rule 7(3)(i) and wondered whether actual paper registration certificates would be issued. In light of the fact that the Secretariat was attempting to reduce costs, the Delegation was of the view that the issue of paper certificates would not be necessary and instead suggested that an electronic link be provided by the Secretariat for purposes of retrieving the certificates in question by interested parties.

87. The Representative of INTA supported the proposal made by the Secretariat to amend and clarify Rule 7(4)(d) by adding in the second line after the term “may” the words “in accordance with Article 15 of the Geneva Act”.

88. Referring to the comment made by the Delegation of the United States of America on Rule 7(3)(i), the Secretariat confirmed that efforts were being made to improve the electronic communications with the Lisbon Union members. In that regard, the Secretariat specified that most of the communications were already transmitted in an electronic format while some further improvements were still under consideration as regards the preparation of the Bulletin issued by the Lisbon Registry.

89. The Delegation of Australia expressed its satisfaction as regards the amendment proposed by the Secretariat in relation to subparagraph (d) of Rule 7(4).

90. Referring to the French version of Rule 7(4), the Representative of CEIPI observed that in subparagraph (b) the word “à” which preceded “the 1967 Act” would have to be replaced by the word “de”.

91. Referring to Rule 7(4), the Delegation of the United States of America expressed its concerns about the rolling over under the Geneva Act of the registrations that were contained in the Register of the Lisbon Agreement, as that would appear to be a big bonus for the holders of registrations under the Lisbon Agreement. Moreover, upon strongly encouraging the use of individual fees, the Delegation wondered how those fees would be imposed and when and how they would be collected.

92. Referring to the question posed by the Delegation of the United States of America, the Chair stated that neither he nor the Secretariat were in a position to provide a concrete response at the present time as the question concerned the future, once the Geneva Act would enter into force and declarations on individual fees were notified. The Chair was of the view that it would be appropriate to discuss the issues regarding individual fees only then.

93. Referring to Rule 7(4)(a), and upon noting that Article 29(4) was only mentioned in the heading, the Delegation of Australia suggested incorporating a reference to Article 29(4) in the provision itself for greater certainty. The Delegation therefore suggested a slight amendment in the second sentence so that the provision would read “The International Bureau should verify with the Competent Authority concerned any modifications to be made, in view of the requirements of Rules 3(1) and 5(2) to (4), for the purpose of their registration under the Geneva Act and notify international registrations thus effected to all other Contracting Parties that are party to the Geneva Act, in accordance with Article 29(4)”.

94. The Delegation of France sought further clarification on the proposed amendment to Rule 7(4)(a) made by the Delegation of Australia, in the form of a reference to Article 29(4) of the Geneva Act.

95. The Delegation of Australia explained that it had proposed to include a reference to Article 29(4) in the text of Rule 7(4) to ascertain that individual fees could be payable under Rule 7(4). The Delegation recalled that, at the previous session of the Working Group, it had expressed the wish to ensure that any notification under Rule 7(4) could trigger the payment of an individual fee in favor of countries having required such fees.

96. The Delegation of France, considering that the proposed addition was unclear, drew the attention of the Working Group to the title of Rule 7(4) which already referred to Article 29(4) of the Geneva Act. The Delegation was therefore of the view that the addition of another reference to Article 29(4) at the end of Rule 7(4) was not necessary.

97. The Delegation of the United States of America considered that, in the absence of a definition or other statement attesting that the heading of a Rule had legal effect, any relevant information should be put in the body of the Rule. Under some countries' case law or laws, the title of a paragraph or a Section of a law was merely used for ease of reference, basically to

know the contents of a given paragraph or Section. For that reason, the Delegation supported the proposal made by the Delegation of Australia and suggested that Article 29(4) of the Geneva Act be mentioned in the body of the Rule rather than just as an informational heading.

98. The Chair noted that some members of the Lisbon Union were not comfortable with the suggestion to include Article 29(4) in the text of Rule 7(4)(a).

99. The Delegation of Australia wondered whether such reference in the text would effect a major change to the operation of the Rule. Upon stating that its proposal aimed at bringing clarity and not at changing the purpose of the Rule, as an alternative, the Delegation wondered whether it would be possible to reflect in an updated version of the Explanatory Notes on Rule 7(4) a reference to the requirement of Article 29(4).

100. The Delegation of France stated that it could agree with the proposal made by the Delegation of Australia to include a reference to Article 29(4) in the Explanatory Notes on Rule 7(4).

Rule 7bis: Date of International Registration Effected Under the 1967 Act and Date of Its Effects

101. The Delegation of the United States of America sought further clarification regarding Rule 7bis, as the provision appeared to be a huge benefit for those countries that were already members of the Lisbon Agreement because of the effect given to the international registrations that were already contained in the Lisbon Register. More specifically, the Delegation wondered how the dates of the international registrations which already existed under the Lisbon Agreement would operate vis-à-vis prior trademarks or prior generic uses that could exist in a new Contracting Party to the Geneva Act.

102. In response to the question raised by the Delegation of the United States of America, the Secretariat specified that the date of effect of registrations made by a Contracting Party to the 1967 Act that would have also acceded to the Geneva Act vis-à-vis a new Contracting Party to the Geneva Act that would not be party to the 1967 Act, was regulated in the provision referring to the accession to the Geneva Act, namely Article 29(4). The Secretariat therefore clarified that the date of effect of an international registration effected under the 1967 Act by a Contracting Party to the 1967 Act which became later also party to the Geneva Act with respect to a newly acceding Contracting Party to the Geneva Act not party to the 1967 Act would be the date in which its ratification of or accession to the Geneva Act would become effective, subject to Article 7(4) of the Geneva Act. Prior trademarks could certainly constitute a ground for refusal depending on the national law of the acceding Contracting Party to the Geneva Act.

103. Referring to paragraph (1) of Rule 7bis, the Representative of AIDV wondered whether that provision also applied in respect of registrations of appellations of origin by Contracting Parties to the Geneva Act that were also party to the Lisbon Agreement. In particular, the Representative inquired if the date of registration and the date of the effects of those registrations were regulated by Article 6 of the Geneva Act or by the Lisbon Agreement. In addition, the Representative of AIDV sought clarification of the meaning of the word "effected" in Rule 7bis with respect to the applications for appellations of origin filed but not yet registered.

104. In response to the question raised by the Representative of AIDV regarding paragraph (1) of Rule 7bis, the Secretariat specified that for those appellations of origin filed under the 1967 Act by Contracting Parties to the 1967 Act before their accession to the Geneva Act, the date of international registration of such registrations and the dates of its effects would correspond to those established under the 1967 Act and its Regulations, which corresponded to those established under Rule 7bis (1) and (2) of the draft Common Regulations. The Secretariat reiterated that, with regard to the Contracting Parties to the Geneva Act and not to the 1967 Act, the provisions of the Geneva Act would be applicable to establish those dates. As

regards the question raised by the Representative of AIDV regarding paragraph (2), the Secretariat indicated that the important moment to be considered was the date on which the application was filed and further specified that, for example, when the application was filed before the accession to the Geneva Act, the effect of such registration as regards the other Contracting Parties to the 1967 Act not party to the Geneva Act would be governed by the 1967 Act. On the contrary, when the application would be filed by a new member of the Geneva Act not party to the 1967 Act, then the Geneva Act would regulate the effects of the registration with respect to those countries that would only be parties to the Geneva Act or to both Acts. The Secretariat further clarified that if the Contracting Party of Origin was only a member of the 1967 Act, its registrations would have no effect whatsoever in respect of those countries that would only be party to the Geneva Act.

105. As regards paragraph (1) of Rule 7*bis*, the Representative of AIDV clarified that he was actually referring to the situation after the entry into force of the Geneva Act and wondered which provision would determine the date of an application filed at that time by a country that would be party to both the Geneva Act and the Lisbon Agreement. In particular, he wondered if that situation would be regulated by Article 6 of the Geneva Act. The Representative of AIDV clarified that he had raised the question regarding the term “effected” as it concerned only international registrations effected under the 1967 Act and it could well be the case for an application to have been filed before the entry into force of the Geneva Act, but only registered thereafter. He therefore asked which of the treaties would govern that particular registration.

106. In response to the question raised by the Representative of AIDV on the date of effect of an application filed after the accession to the Geneva Act, the Secretariat indicated that the situation would be governed by Article 6 of the Geneva Act with respect to Contracting Parties to the Geneva Act and to Contracting Parties to both Acts. Moreover, the Secretariat did not consider it appropriate to repeat the content of Article 6 of the Geneva Act under Rule 7*bis*, as the Geneva Act already specified both the date of registration and the date of its effects along the lines of the 1967 Act. Referring to the case of an application filed before an accession to the Geneva Act, the Secretariat clarified that Rule 25 would apply. Therefore, the Secretariat further clarified that when Contracting Parties to the 1967 Act would accede to the Geneva Act, the corresponding provisions of the Geneva Act would apply with respect to all the other members of the Geneva Act. However, the 1967 Act alone would be applicable to those Contracting Parties that would only be party to the 1967 Act. The Secretariat acknowledged that when a Contracting Party to the 1967 would become party to the Geneva Act, it would be important to determine precisely the date of registration and the date of effect of its international registrations in respect of the other Lisbon Union members.

107. The Representative of CEIPI noted a discrepancy in the title of Rule 7*bis* between the singular of the term “Date” which referred to an international registration effected under the 1967 Act and the plural “Dates” which referred to its effects. He was of the view that it would be preferable to use the singular in both cases. Referring to the French version of the draft Common Regulations, the Representative noted that the title of paragraph (3) had been simplified by deleting the reference to the ratification of the Geneva Act. In that regard he pointed out that in English the expression “adhesion” clearly covered both accessions and ratifications whereas in French the word “*adhésion*” did not cover ratifications. He therefore asked the Secretariat to check the terminology and to avoid using the word “*adhésion*” in the French version as it was too limited in scope.

108. The Chair noted that no further comments were made on Rule 7*bis*.

### Rule 8: Fees

109. The Secretariat clarified that Rule 8(10) had been introduced following a proposal of the Delegation of the Republic of Moldova to establish a safeguard clause between Contracting Parties to the 1967 Act. In that regard, the Secretariat recalled that since the possibility to collect individual fees only appeared in the Geneva Act, while it did not exist under the 1967 Act, the Republic of Moldova had proposed that no individual fees be collected in the future among Contracting Parties to both Acts, the 1967 Act and the Geneva Act.

110. The Delegation of France requested more time to examine the proposal.

111. The Delegation of the European Union and its member States stated that the proposal had to be considered in detail, in particular as regards its potential impact on newcomers to the Lisbon System. The Delegation was concerned that it might constitute a disincentive for joining the System, in particular for developing countries or least-developed countries. Lastly, the Delegation indicated that the impact on the administration of the Lisbon System itself, in terms of transparency and possible unforeseen complications, would also have to be considered.

112. The Representative of CEIPI pointed out that in the English version of the first line of Rule 8(10)(a) the word “subparagraph” had to be replaced by the term “paragraph”. He further indicated that the text of Rule 8(10)(b) in the French version could be simplified following the Madrid model.

113. The Chair suspended discussion on the proposed new Rule 8(10) and suggested that the issue be further discussed in informal consultations.

114. Resuming the session, the Chair invited the delegations to state their positions.

115. The Delegation of the European Union and its member States wondered whether the new proposed paragraph, although it had a parallel in the Madrid System, might actually constitute a disincentive for new members to join the Geneva Act, and therefore expressed its interest in hearing the views of the Lisbon Union members.

116. The Delegation of Mexico, echoing the statement made by the Delegation of the European Union and its member States, also considered that Rule 8(10) might constitute a disincentive for new Contracting Parties to accede to the Geneva Act. The Delegation therefore expressed the view that a more in-depth analysis of the proposed provision would be needed.

117. Upon clarifying that paragraph (10) did not concern potential new members as it strictly dealt with the relation between those Contracting Parties to the 1967 Act that would also become members of the Geneva Act, the Chair suggested further discussing Rule 8(10) in informal consultations.

118. After the informal consultations, the Chair reverted back to Rule 8(10). He indicated that the outcome of the discussions was that not all delegations agreed to include a safeguard clause in Rule 8, as proposed by the Delegation of the Republic of Moldova. The Chair proposed to recommend the adoption of the proposed Common Regulations, without the safeguard clause, to the General Assembly and to leave the safeguard clause as a pending item for further consideration.

### Rule 9: Refusal

119. The Representative of CEIPI suggested a couple of drafting amendments so that Rule 9(1)(b) would refer to “the notification of *the* international registration”, while Rule 9(1)(c) would read “the notification of *an* international registration *shall be* deemed”.

120. The Delegation of the United States of America sought clarification as to Rule 9(2)(v) which, in its view, appeared to require a receiving country to affirmatively refuse the effects of certain elements of the appellation of origin or geographical indication, such as a generic term, either as a part of or a component of, a compound appellation of origin or geographical indication in order to avoid enforcement obligations of that element. Consequently, the Delegation suggested redrafting Rule 9(2)(v) so that it would read “where the national law of a Contracting Party provides for refusal of effects of certain elements and the refusal concerns only certain elements of the appellation of origin or the geographical indication, an indication of the elements that it concerns”. The Delegation underlined that the purpose of its proposal was to clearly distinguish the particular words in a compound geographical indication or appellation of origin that would not be protected and in respect of which protection would not be sought.

121. In response to the United States of America, the Secretariat indicated that Rule 9(2)(v) merely reflected an existing practice. In effect, at the present time, Contracting Parties were already free to invoke any ground for refusal provided for in their respective legislation. In that regard, the Secretariat specified that it had already received refusals in respect of certain elements of a compound appellation of origin since Contracting Parties were free to issue a total or a partial refusal for an appellation of origin, on the basis of their national legislation. Therefore, the Secretariat concluded by saying that an explicit reference to the national law of a Contracting Party, as proposed by the Delegation of the United States of America, was already indirectly recognized and did not appear to be necessary.

122. The Delegation of the United States of America confirmed that the explanation given by the Secretariat had clarified the issue.

123. The Representative of AIDV wondered whether the wording under Rule 9(1)(c) implied that the situation would be rebuttable. In other words, if a Competent Authority would have been prevented from being on time and would have been able to justify it, he wondered whether a specific procedure would be established for that purpose or whether there would be an *ad hoc* procedure.

124. The Secretariat clarified that the aim of the presumption established in Rule 9(1)(c) was to facilitate the work of the International Bureau. It also recalled that, as indicated in Rule 9(1)(c), the Competent Authority of a Contracting Party would be able to demonstrate that it had received the notification at a later date. In such case, the one year period to notify a refusal for that Competent Authority would start at the date of the effective reception of the notification, as established in Rule 9(1)(b).

#### Rules 10 to 13: Irregular Notification of Refusal; Withdrawal of Refusal, Grant of Protection; Invalidation of the Effects of an International Registration in a Contracting Party

125. The Chair noted that no comments were made on Rules 10 to 13.

#### Rule 14: Transitional Period Granted to Third Parties

126. The Delegation of the United States of America sought clarification as to the reason for transcribing in the Register the transitional period granted to third parties. As the issue seemed to only concern the Contracting Party granting the transitional period and the concerned holder of the appellation of origin or the geographical indication, the Delegation wondered what would be the purpose of such notification process. The Delegation was of the view that the process would add more costs to a system that would instead need to cut costs and to create efficiencies.

127. Upon pointing out that the possibility to grant a transitional period to third parties already using an appellation of origin or a geographical indication was contained in the 1967 Act, the Secretariat was of the view that the existing procedure should be retained as it could be useful

for Contracting Parties to make that information public. The Secretariat further underlined that, since most communications were made by electronic means, processing the notification in question would not increase the workload of the International Bureau.

#### Rule 15: Modifications

128. Referring to Rule 15(1)(ii), the Representative of INTA was of the view that the names or addresses of the natural person or legal entity referred to in Article 5(2) and (3) of the Geneva Act, should also be provided, and therefore suggested adding the sentence “or of the natural person or legal entity referred to in Article 5(2) and (3) of the Geneva Act” after the word “beneficiaries” in subparagraph (ii) of Rule 15(1).

129. Upon expressing its agreement with the suggestion made by the Representative of INTA, the Secretariat stated that only a reference to Article 5(2)(ii) of the Geneva Act would be appropriate, as Article 5(3) also referred to Article 5(2)(ii).

130. The Representative of INTA aligned itself with the Secretariat’s approach.

#### Rule 16: Renunciation of Protection

131. The Secretariat pointed out that, following the comments made by the Delegation of the Republic of Moldova at the previous session of the Working Group, a new paragraph (2)(b) had been introduced in Rule 16 to clarify the date of effect of the withdrawal of renunciation with respect to those Contracting Parties in which the renunciation was effective.

132. The Representative of CEIPI suggested improving the French version of Rule 16(2)(b) by replacing “*des effets*” by “*ses effets*” to clarify which effects were being referred to in the French version of the draft Common Regulations.

133. The Representative of AIDV suggested adding a reference to Article 6(5) of the Geneva Act which provided the possibility for a Contracting Party to delay the requirement to protect by one year.

134. Referring to the sixth line of Rule 16(1), the Representative of INTA suggested replacing the terms “in respect of one or some of the Contracting Parties” by the terms “in respect of one or some but not all of the Contracting Parties”, as he was of the view that there could be a succession of renunciations and that such succession should not end up with protection being renounced in all the Contracting Parties. In support of his proposal, he further explained that if the protection were to be renounced in all the Contracting Parties, the registration should be canceled without the possibility of being revived by a withdrawal of a renunciation at a later stage.

135. In response to the suggestion by the Representative of AIDV, the Secretariat agreed that a reference to Article 6(5) of the Geneva Act could be added at the beginning of the paragraph.

#### Rules 17 to 22: Cancellation of an International Registration; Corrections Made to the International Register; Publication; Extracts from the International Register and Other Information Provided by the International Bureau; Signature; Date of Dispatch of Various Communications

136. The Chair noted that no comments were made on Rules 17 to 22.

#### Rule 23: Modes of Notification by the International Bureau

137. The Chair noted that no comments were made on Rule 23.

Rule 24: Administrative Instructions

138. The Chair noted that no comments were made on Rule 24.

Rule 25: Entry into Force; Transitional Provisions

139. As regards Rule 25(2)(ii), the Representative of CEIPI pointed out that the terms “governed by the 1967 Act” had been given a specific definition under Rule 1, and therefore suggested replacing the terms “governed by the 1967 Act” by “effected under the 1967 Act”, as was the case in Rule 7*bis*(2).

140. The Representative of AIDV inquired whether the changes suggested by the Representative of CEIPI would modify the explanation provided with respect to Rule 7*bis* according to which an application filed by a Lisbon Union member before its accession to the Geneva Act, but registered after that date, would be governed by the Geneva Act instead of the 1967 Act, at least for the determination of the date of registration. In other words, he wondered whether such application would continue to be governed by the 1967 Act or whether it would, from the date of accession by the Lisbon Union member to the Geneva Act, be exclusively governed by the Geneva Act.

141. The Secretariat indicated that the changes suggested by the Representative of CEIPI did not affect the explanation given in respect of Rule 7*bis*.

142. The Representative of AIDV further wondered whether the Secretariat was of the view that such applications would be governed by the Geneva Act from the moment of the accession of a Lisbon member State to the Geneva Act or whether they would continue to be governed by the 1967 Act. The Representative further underlined the importance of the issue in relation to Article 31 of the Geneva Act and in relation to the question as to whether the Geneva Act established a safeguard clause or not.

143. Referring to Article 31(1) of the Geneva Act, the Secretariat recalled that, when a Contracting Party to the 1967 Act would become a member of the Geneva Act, the relation with the other Contracting Parties to the Geneva Act would be governed by the Geneva Act alone, while its relations with the other Contracting Parties to the 1967 Act would continue to be governed by that Act. In the Secretariat’s opinion, these matters were already clarified by the provisions of the 1967 Act and the Geneva Act. Rule 7*bis* merely determined the date of registration and the date of its effect for Contracting Parties to the 1967 Act. The Secretariat therefore believed that no other explanation concerning the treatment of an application filed before or after the accession of a Contracting Party to the 1967 Act to the Geneva Act was needed. The Secretariat concluded by stating that the date of receipt of the application was the one that mattered and added that the determination of the date of registration and the date of its effects was equivalent under the two Acts.

144. The Chair concluded by stating that all the rules of the draft Common Regulations had been finalized and agreed upon.

Draft Administrative Instructions for the Application of the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration and the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications

145. Discussions were based on document LI/WG/PCR/2/4.

146. The Chair noted that no comments were made on Sections 1 to 4.

147. Referring to Section 5 “Communication in Writing; Communication Containing Several Documents”, and upon noting that most registration systems would have to accept different forms of communication from different applicants, the Delegation of the United States of

America wondered whether any effort had been made or would be made in the near future to require a mandatory electronic filing of forms both to ease the costs to the International Bureau and to make the entries into the database more efficient.

148. In response to the question of the Delegation of the United States of America, the Secretariat indicated that official written forms for the different mandatory actions were already being used by Contracting Parties. It further indicated that it had already implemented pragmatic means and procedures with the Contracting Parties to improve the efficiency of the System, such as electronic communications and the submission of new applications in Word format to facilitate their treatment by the International Bureau. The Secretariat added, however, that the development of electronic forms to make the System even more efficient was also contemplated.

149. The Chair noted that no comments were made on Sections 6 and 7.

150. Referring to Section 8 "Notifications Communicated by the International Bureau", the Representative of CEIPI pointed out that the deletion of that Section would require a renumbering of the subsequent sections and the corresponding corrections in the index.

151. The Chair noted that no comments were made on Sections 9 to 12.

152. The Chair concluded by saying that the Administrative Instructions had been fully reviewed and that the comments had been duly noted by the Secretariat.

#### **AGENDA ITEM 5: FINANCIAL SUSTAINABILITY OF THE LISBON UNION**

153. Discussions were based on document LI/WG/PCR/2/5.

154. Regarding the financial sustainability of the Lisbon Union, the Chair recalled that the issue under consideration had two parts. The first part was the elimination of the short-term deficit of the Lisbon Union for the current biennium, whereas the second part was the elaboration of a solution to address the long-term financial sustainability of the Lisbon Union.

##### Short-term financial sustainability

155. The Chair invited the Secretariat to provide a detailed update of the current situation regarding the elimination of the deficit for the 2016/17 biennium.

156. The Secretariat indicated that in 2016 the International Bureau had received subventions on the basis of Article 11(3)(iii) from Italy and Portugal for a total amount of 391,000 Swiss francs, and that in 2017 it had already received subventions from Mexico, Georgia and France for a total amount of 445,000 Swiss francs, which brought the total amount of subventions received to date to 836,000 Swiss francs. The Secretariat further indicated that the International Bureau had entered into discussions with other Lisbon Union members in order to receive their respective subventions shortly after the clarification of a few remaining procedural issues.

157. Summarizing the situation, the Chair indicated that the subventions received so far by the International Bureau already exceeded 800,000 Swiss francs while some other Lisbon Union members were in the process of finalizing the submission of their respective subventions for a final amount that would exceed one million Swiss francs. The Chair was of the view that those were excellent results, in particular if one bore in mind that the total amount of the deficit for the current biennium amounted to approximately 1.5 million Swiss francs.

158. The Delegation of the Czech Republic reconfirmed its intention to contribute to the financing of the projected deficit up to an amount of approximately 63,000 Swiss francs, which corresponded to 4% of the deficit, indicating that such payment was still in the process of administrative approval.

159. With regard to Israel's contribution to the 2016/17 operating deficit, the Delegation of Israel announced that it had obtained the approval for Israel's participation in the joint efforts of other Lisbon Union members to cover the current deficit and expressed its wish that the process be finalized soon.

160. The Delegation of Peru indicated that as soon as the amount of Peru's contribution to the short-term deficit would be determined it would inform the International Bureau without delay.

161. As regards the short-term deficit of the Lisbon Union, the Delegation of Hungary stated that it highly appreciated the subventions made by the Lisbon Union members under Article 11((3)(iii) of the Lisbon Agreement, which it regarded as a major step towards eliminating the projected deficit of the Lisbon Union that appeared in WIPO's Program and Budget for the 2016/17 biennium. The Delegation further indicated that internal administrative consultations were still going on among the Competent Authorities on the issue of providing a subvention under the said provision of the Lisbon Agreement. The Delegation expressed the wish that the outcome of those discussions would be a good one to be able to take part in the efforts made by other Lisbon Union members hopefully before the upcoming session of the Program and Budget Committee.

162. The Chair thanked all the delegations for showing a solid interest and engagement in the Lisbon System.

#### Long-term financial sustainability

163. The Chair opened the discussion on the long-term sustainability of the Lisbon Union by providing a brief update on the status of discussions among Lisbon Union members who very actively engaged in finding ways and in assessing various alternatives to ensure the long-term financial sustainability of the Lisbon Union. He recalled that several options were being considered by Lisbon Union members in order to find a solution that should not only be optimistic and balanced, but also in line with the principles of the current WIPO Program and Budget. The Chair opened the floor for delegations to make any statements they wished to make on the issue or to express their positions and views in that regard.

164. The Delegation of Portugal thanked the Chair for leading the discussions on the issue and also for his personal contribution to the advancement of the work concerning the financial sustainability of the Lisbon Union as per the mandate approved at the previous Lisbon Assembly. The Delegation pointed out that since 2015 Lisbon Union members had not only agreed to double the fees and to review them on a regular basis, but also to adopt measures to eliminate the projected deficit for the current biennium. In that context, the Delegation recalled that several Lisbon Union members, including Portugal, had already transferred a substantial amount to cover the current deficit. As regards the long-term financial sustainability of the Lisbon System, the Delegation was of the view that such sustainability could be achieved if the necessary means for the promotion of the Lisbon System would be in place so that more countries could better understand the benefits of protecting their appellations of origin and geographical indications, thereby convincing users to join the Lisbon System. The Delegation concluded by stating that it stood ready to continue the discussions bearing in mind that any future decision regarding the sustainability of the Lisbon System would have to preserve the basic principle of solidarity among unions and also respect the balance between the different intellectual property rights enshrined in the WIPO Convention.

165. Upon acknowledging and commending the efforts and willingness of Lisbon Union members to tackle the issue of the long-term financial sustainability of the Lisbon System, the Delegation of Iran (Islamic Republic of) reiterated its commitment to ensuring the financial sustainability of the Lisbon Union in the long-term. Nonetheless, the Delegation expressed the view that the Lisbon Union was one of the unions administered by WIPO and therefore had to be placed on an equal footing with all other WIPO-administered Unions, in accordance with Article 4 of the WIPO Convention. With regard to the different options to resolve the issue of the financial sustainability of the Lisbon Union, the Delegation indicated that its national authorities were still considering the various options on the table. Lastly, the Delegation stressed the importance of a robust and focused promotion of the Lisbon System to highlight the development potential of geographical indications to potential Contracting Parties.

166. The Delegation of Italy stated that geographical indication protection at a worldwide level was a clear priority for the Italian Government. In that regard, the Delegation recalled that Italy was a founding member of the Lisbon Union and therefore attached great importance to the full implementation of the Lisbon Agreement and the rapid entry into force of the Geneva Act. The Delegation also recalled that Italy had been one of the first Lisbon Union members that had sent its contribution for purposes of covering the deficit of the current biennium 2016/17. The Delegation went on to say that the uncertainty which surrounded the financial framework of the Lisbon Union discouraged the participation of potential new Contracting Parties, even among those countries that were in favor of geographical indications. Since that would be detrimental to an increase in the number of new accessions, registrations and registration fees, it would be important to find a long-term strategy to ensure the financial sustainability of the Lisbon Union. The Delegation underscored that any decision regarding the financial sustainability of the Lisbon Union would have to take due account of the needs of developing and least developed countries, as those countries might use the Lisbon System to increase the value of their traditional products, to preserve traditional production techniques compatible with environmental standards, to enhance diversity, to contribute to the conservation, preservation and safeguard of cultural and agricultural heritage, to enhance the power of rural distributors and to promote both the maintenance of jobs in the geographical areas of production and the diversification of economic activities, while also providing significant quality assurances to consumers through product specifications and control tests.

167. With regard to the possible initiatives that could be undertaken with respect to the long-term sustainability of the Lisbon System, the Delegation of Italy had two suggestions. One was the promotion of the Lisbon System by WIPO as the Delegation was of the view that repeated initiatives aimed at raising awareness and providing detailed information on the Lisbon System among potential users in Lisbon Union members, or in potential new Contracting Parties, would increase the number of registrations which in turn would generate a greater cash flow deriving from the corresponding registration fees. The Delegation was of the view that the promotion of the Lisbon System, including the Geneva Act, had to be fully and transversally integrated in all WIPO programs and activities, normative agendas, technical assistance programs, small and medium-sized enterprise policies, IT policies, social policies, and communication initiatives.

168. Another suggestion made by the Delegation was to offer visible and updated information on the WIPO website, in promotional videos, in WIPO donor programs, in WIPO Intellectual Property Annual Reports, in WIPO Intellectual Property facts and figures, in the social media, etc., thereby recognizing that the Lisbon Union had the same importance and required the same visibility as the PCT, the Madrid and the Hague Unions. Furthermore, the Delegation expressed the view that the number of registrations would not increase without an adequate number of staff members dedicated to the conduct of promotion activities of the Lisbon System and the examination and processing of new applications. In addition, a wider digitalization or automation of activities would bring more efficiency to the System, in particular when taking into

account the expected increase in the number of registrations by current users and prospective new Contracting Parties to the Lisbon System that would have been attracted through enhanced promotional activities at the international level.

169. Upon reiterating its strong interest and support in respect of all initiatives designed to further advance the challenging exercise before the Working Group, the Delegation of Georgia expressed its appreciation for the efforts made by Lisbon Union members in order to find solutions to address the long-term financial sustainability of the Lisbon Union, while it also commended all delegations for their efforts with regards to the short-term deficit. The Delegation concluded by stating that it would always favor an approach based on the solidarity principle and that would ensure a balanced protection of all intellectual property rights.

170. With regard to the long term-financial sustainability of the Lisbon System, the Delegation of Israel recalled that the purpose of the ongoing process was to improve the existing System so as to encourage new Contracting Parties to join the Lisbon Union and to expand the object of protection and the flexibilities in respect of registrations. The Delegation went on to say that it fully supported the proposal to continue discussing the modalities for the establishment of a contribution system that would support the Lisbon Union, as well as the methodology for calculating those contributions. Upon expressing its support for the proposal to emphasize promotional activities and increase efficiencies, the Delegation was of the view that there was a need to review the Fee Schedule, in particular as regards the introduction of new fees and the consideration of new fees for the provision of administrative services.

171. The Delegation of Mexico reiterated its commitment to the Lisbon Union which was reflected in the voluntary contribution that had been previously referred to by the Chair. With regard to short-term efforts, the Delegation thanked the other Lisbon Union members who had already made contributions and who had indicated that they would continue to do so in the future. The Delegation went on to say that it would continue to work in order to mitigate the long-term financial deficit, in particular by exploring measures which could be deemed appropriate in that regard such as an update of the Fee Schedule. The Delegation was fully aware that it was only through an expansion of the basis for contributions with a larger membership in the Union that they would be in a position to guarantee the long-term financial health of the Lisbon Union.

172. The Delegation of Hungary reiterated its commitment in finding a reasonable and balanced solution and further indicated that it had been studying all the possible options on the table. In any event, the Delegation expressed the view that the appropriate measures that would be adopted in the near future had to be based on the principle of solidarity among the different unions. The Delegation stressed that the enhanced promotion of the Lisbon System, including the Geneva Act, would be an excellent tool to establish a self-sustainable registration system.

173. The Delegation of France recalled that during the discussions between the Lisbon Union members various options had been envisaged even though a number of clarifications from the Secretariat were still necessary in that regard. In that light, the Delegation restated its interest in preserving the principle of financial solidarity which had to prevail between all the Unions.

174. The Delegation of Tunisia expressed its determination in contributing to the efforts aimed at taking adequate measures to ensure the long-term financial sustainability of the Lisbon Union, in particular by promoting the System and attracting new Contracting Parties, but also by promoting the efficiency of the System and establishing a future contribution system that would be both balanced and effective.

175. Upon thanking the Chair for his efforts and devotion to bring the current Working Group to a successful conclusion, as well as the Secretariat for its commitment to the work of the Lisbon Union, the Delegation of Bulgaria seconded the statements made by other delegations in

relation to the issues of solidarity and cooperation between the different unions and treaties administered by WIPO. The Delegation underlined that those statements reflected a long-standing principle that should not be abandoned. The Delegation took note of the progress made at the present session of the Working Group, in particular as regards the draft Common Regulations, and of the announcement made by the Chair that the latter would be submitted to the Assembly of the Lisbon Union. The Delegation expressed its full support to the request made to the WIPO Secretariat to devote more time and resources to the promotion of the Lisbon System. Upon pointing out that the Lisbon System constituted a global intellectual property service which did not only interest the 28 Lisbon Union members, the Delegation went on to say that the protection of appellations of origin and geographical indications was, and should be treated as a global issue and that it should not be the victim of short-term interests of countries not yet members of the Lisbon Union. If possible, the Delegation asked the Secretariat to include in the Report to the following General Assembly a set of comments that would justify and explain the importance of the Lisbon Union within the whole panoply of treaties administered by WIPO. Upon recalling that Bulgaria was still negotiating with its Ministry of Finance the modalities for submitting its subvention to eliminate the short-term deficit of the Lisbon Union, the Delegation reiterated its engagement to continue the search for viable financial solutions in the medium and long-term.

176. The Chair announced that the Report of the present session would also reflect the statements that have stressed the importance of geographical indications and the Lisbon Union.

177. Referring to the forthcoming WIPO Program and Budget Committee, the Delegation of Peru invited members of the other unions that had encountered similar situations to assist Lisbon Union members in identifying and considering relevant measures. The Delegation expressed the view that all unions had to be treated equally and that their respective deficits were a common responsibility, regardless of their origin.

178. Even though it understood the position of those countries advocating for the financial sustainability of the Lisbon Union, the Delegation of Gabon highlighted the well-established tradition of solidarity within WIPO between the different unions. Any solution aimed at achieving a long-term financial sustainability would have to take into account the main goals of the Geneva Act, without prejudicing the attractiveness of the Lisbon Union. Aligning itself with the statement made by the Delegation of Italy concerning the potential value of the Lisbon System for a number of countries, including Gabon, African countries and developing countries, the Delegation believed that the Lisbon Union offered indeed a great development opportunity for those countries and, in that regard, referred to the example of Cameroon, where a genuine opportunity on the local level had emerged for specific geographical indications.

179. The Delegation of the United States of America, referring to its opening statement, reiterated that the Geneva Act had moved forward without the support of all WIPO Member States and that it had not been established that WIPO would administer such Treaty. In consequence, the Delegation reminded the Working Group that the promotion of the Geneva Act by WIPO could not be made using funds from other registration systems administered by WIPO.

180. The Chair expressed his appreciation for the statements made by delegations underlining the importance of keeping the Lisbon System in place so as to give countries a greater opportunity to use and benefit from the added value those appellations of origin and geographical indications could generate. The Chair was of the view that further discussions on the issue related to the financial viability of the Lisbon System would be needed and therefore suggested that a recommendation be made to the Lisbon Union Assembly to prolong the mandate of the Working Group to further explore all available opportunities and alternatives to make the Lisbon System viable. He took note of the view expressed by several delegations that the promotion of the Geneva Act could constitute a tool to solve the financial sustainability of the Lisbon Union. The Chair went on to say that the review of the Fee Schedule would also remain

on the Agenda of the Lisbon Union and the Working Group. In his opinion, increasing the fees could impact the attractiveness of the System for some countries. Consequently, both issues should be kept and be in balance. Finally, the Chair underlined that, according to some statements made by delegations, any solution to the financial sustainability of the Lisbon System should be in line with the principles and the methodology of the current WIPO Program and Budget and should also be balanced and based on the principle of solidarity between the different unions because geographical indications and appellations of origin also qualified as intellectual property.

181. The Delegation of Australia, echoing the statement made by the Delegation of the United States of America, also expressed concerns about the promotion of the Geneva Act as it did not reflect the interests of the broader WIPO membership. The Delegation was of the view that any promotion in relation to a System for the international protection of geographical indications had to be conducted in a balanced manner across all relevant fora, without any prejudice to the main mechanisms used to protect geographical indications globally.

182. The Delegation of China expressed its support for the statement made by the Delegation of the United States of America with respect to the problem of financial sustainability.

183. The Delegation of Japan hoped that Lisbon Union members would advance their discussions on the issue so that their final decision would be implemented in the near future.

184. The Chair concluded by saying that the Lisbon Union members would continue to explore opportunities and alternatives to find a long-term sustainable solution for the financial viability of the Lisbon System. The Chair expressed the hope that the Working Group would continue to work in that direction so that, hopefully in the following biennium, a solution that would be acceptable to all Member States, while also serving the best interests of the Union and the best interests of WIPO's goals, would be reached.

#### **AGENDA ITEM 6: ADOPTION OF THE SUMMARY BY THE CHAIR**

185. The Chair introduced the discussion on Agenda item 6 concerning the adoption of the Summary by the Chair and opened the floor for comments by delegations.

186. The Delegation of the Republic of Moldova recalled that at the previous session of the Working Group it had made a proposal to introduce a safeguard clause in relation to individual fees under Rule 8. The Delegation added that the reason behind its proposal was to promote the adoption of the Geneva Act among the Contracting Parties to the 1967 Act without any prejudice to other Contracting Parties wishing to join the Geneva Act. He further clarified that the reasons behind the safeguard provision which also existed under other WIPO registration systems were obvious in that sense. At the same time, the Delegation took note that several delegations had required more time to consider its proposal. Nevertheless one of the projected and expected outcomes of the present session of the Working Group was to agree on the draft Common Regulations that would be submitted to the Assembly of the Lisbon Union for their adoption. Upon pointing out that the present session was the last session of the Working Group before the Assembly of the Lisbon Union, the Delegation wished to hear how other delegations would deal with its proposal and also asked the Secretariat to provide them with some perspectives as to how the issue under consideration would be dealt with in the future.

187. In response to the question raised by the Delegation of the Republic of Moldova as to when the proposal to introduce a safeguard provision under Rule 8 would be dealt with again in the future, the Secretariat recalled that the Chair had proposed that a recommendation be made to the Lisbon Union Assembly to extend the mandate of the Working Group in the following biennium. In that regard, the Secretariat indicated that the issue concerning the introduction of

a safeguard clause could also be included in a revised version of the Common Regulations as a result of the discussions that would take place in a future session of the Working Group according to the decision of the Lisbon Union Assembly.

188. Referring to the two proposals contained under paragraphs 12 and 18 of the draft Summary prepared by the Chair, namely “The Chair concluded that the proposal of the Republic of Moldova concerning Rule 8 of the Common Regulations would be considered further at the next available opportunity” and “The Working Group agreed to recommend to the Lisbon Union Assembly to extend the mandate of the Working Group with a view to allow further discussions on the development of the Lisbon System, including solutions for its financial sustainability”, the Delegation of Bulgaria asked whether the Delegation of the Republic of Moldova could go along with the proposed wording in order to avoid delaying the adoption of the implementing Regulations. The Delegation further recalled that implementing Regulations which did not require a Diplomatic Conference could be modified or amended by the Assembly of the Lisbon Union. Therefore each time the Assembly of the Lisbon Union would meet any Lisbon Union member could make a proposal and the Lisbon Union could discuss and eventually adopt such proposal.

189. The Delegation of Hungary supported the statement made by the Delegation of Bulgaria, but was of the view that paragraph 12 of the Chair Summary could be slightly amended so as to read “the next available opportunity, preferably the next session of the Lisbon Union Assembly”. Referring to Rule 7(4), the Delegation sought clarification as to whether the reference to the individual fees would be included in a footnote to Rule 7(4) or whether it would be included in the Explanatory Notes.

190. In response to the Delegation of Hungary, the Chair clarified that the reference to the individual fees under Article 29(4) would be included in the Explanatory Notes. Regarding the wording proposed by the Delegation of Hungary, the Chair pointed out that since the mandate of the current Working Group remained effective until the following session of the Lisbon Union Assembly, nothing prevented the Working Group from convening informal meetings to continue the discussions related to the financial sustainability of the Lisbon Union and the safeguard provision. He was therefore of the view that the indication of a specific date for continuation of discussions should be avoided.

191. The Delegation of China requested additional time to submit its comments on the draft Common Regulations in writing, after the end of the current session of the Working Group, as the revised version of such Regulations had only been distributed to delegations earlier that day.

192. Regarding the procedure, the Chair clarified that, according to its mandate, the Lisbon Working Group would decide at the end of the present session whether a recommendation for the adoption of the draft Common Regulations would be submitted to the Assembly of the Lisbon Union. If the Delegation of China wished to submit written comments on the proposed recommendations and on the draft Common Regulations it could certainly address them to the Secretariat at a later stage for purposes of their inclusion in the Report of the present session.

193. The Delegation of the Republic of Moldova sought clarification on whether its proposal would be removed from the draft Common Regulations or whether the idea was to leave it in the draft Common Regulations that would be discussed in a future meeting of the Working Group.

194. Upon clarifying that the withdrawal of the proposal made by the Delegation of the Republic of Moldova would not be necessary, the Chair indicated that the procedure that would be adopted would be first to recommend to the Lisbon Union Assembly the adoption of the Common Regulations without the safeguard clause which would in any event be left on the Agenda of the Lisbon Union Assembly itself (if the Lisbon Union members so decide), or on the Agenda of a later informal session or Working Group meeting.

195. The Secretariat clarified that during the following session of the Lisbon Union Assembly, the Delegation of the Republic of Moldova would still have the opportunity to present its proposal and recommend its adoption along with the other Rules contained in the Common Regulations, subject to earlier approval of the proposal by the other Lisbon Union members. Otherwise, in light of the fact that a recommendation would be made to the Lisbon Union Assembly to extend the mandate of the Working Group also in the new biennium, the Secretariat indicated that the proposal made by the Delegation of the Republic of Moldova could be included in the Agenda of the following session of the Working Group, under an Agenda item titled "Proposal for the revision of the Common Regulations", for example.

196. The Delegation of the Republic of Moldova stated that it would prefer to leave its proposal concerning Rule 8(10) in the text of the draft Common Regulations that would be submitted to the Lisbon Union Assembly for adoption since no delegations had expressed any opposition in that regard but had only requested more time to examine the proposal. The Delegation concluded by stating that it did not have any mandate from its Capital to withdraw the proposal from the text and therefore asked the other delegations whether they could agree to leaving Rule 8(10) in the text that would be submitted to the Lisbon Union Assembly and to try to find an agreement on the text among Lisbon Union members before then.

197. For the sake of clarification, the Secretariat indicated that the text that would be submitted to the Assembly of the Lisbon Union was the revised version of the draft Common Regulations that was distributed earlier that day, namely the updated text that did not contain the proposal made by the Delegation of the Republic of Moldova as regards a new Rule 8(10), as agreed earlier that morning by the Working Group. As an alternative, the Secretariat suggested submitting a clean copy of the draft Common Regulations without Rule 8(10) to the Lisbon Union Assembly, while still maintaining a parallel process among Lisbon Union members, until the following session of the Lisbon Union Assembly, to discuss the proposal of the Delegation of the Republic of Moldova in view of its possible inclusion in the draft Common Regulations that would be submitted to the Lisbon Union Assembly for adoption.

198. Referring to the draft Summary by the Chair that had been distributed, the Delegation of the Republic of Moldova pointed out that there were three points to be recommended to the Lisbon Union Assembly, two of which would require some further actions, namely subparagraph (i) of paragraph 11 which dealt with the draft Common Regulations to be adopted, and the amount of the fees to be fixed in subparagraph (iii) of paragraph 11. The Delegation expressed the view that the draft Common Regulations could not be adopted without the indication of the amount of such fees in the final text that would be submitted to the Lisbon Union Assembly and therefore sought further clarification from the Secretariat in that regard. As regards paragraph 12 of the draft Summary by the Chair, the Delegation took note of the proposal made by the Chair "to continue discussing the issue further at the next available opportunity" according to paragraph 18 which in turn set two directions to be discussed in the eventuality of a renewed mandate of the Working Group, namely the "development of the Lisbon System, including solutions for its financial sustainability". In that regard, the Delegation sought clarification on whether the safeguard requirement was related to the development of the Lisbon System or to the solutions for its financial sustainability. The Delegation concluded by saying that if the Summary by the Chair could be slightly amended so as to incorporate the comments made by the Delegation of Hungary, its Delegation would be in a position to adopt it.

199. In response to the Delegation of the Republic of Moldova, the Chair clarified that the safeguard provision was related to the development of the Lisbon System. The Chair further suggested deleting paragraph 12 of the Summary by the Chair and to move the corresponding wording to subparagraph (iv) of paragraph 11 so that it would also become a recommendation to the Lisbon Union Assembly to consider "the proposal from the Republic of Moldova concerning draft Rule 8(10) of the Common Regulations". The Chair then asked the Delegation of the Republic of Moldova whether it could accept that proposal.

200. The Delegation of the Republic of Moldova stated that it could accept the proposal made by the Chair to recommend to the Lisbon Union Assembly that its proposal be considered at its 2017 session.
201. The Delegation of Australia pointed out that paragraph 17 of the draft Summary by the Chair omitted the concerns expressed by other delegations, not members of the Lisbon Union, in relation to the promotion of the Lisbon System which from their point of view would favor a geographical indication protection system that was developed by a minority of WIPO Member States. The Delegation therefore requested that the Summary by the Chair also took note of the views expressed on that issue by those delegations that were not Lisbon Union members.
202. The Chair pointed out that all the positions expressed by delegations, including those expressed by observer delegations, would be fully reflected in the Report of the present session of the Working Group. The Summary of the Chair essentially highlighted the main elements that had emerged from the statements made by Lisbon Union members in order to achieve the financial sustainability of the Lisbon System.
203. The Delegation of the United States of America pointed out that in prior Summaries by the Chair there were indications of what observer delegations had stated in their interventions. The Delegation further indicated that since their intervention included a reminder that funds from WIPO could not be used for the promotion of the Lisbon System, simply because the whole membership had not agreed to the Act or the Regulations coming from such System.
204. The Chair pointed out that paragraph 17 simply reflected the statements made by the Lisbon Union members and did not ask the Organization as a whole to take any action with respect to the promotion of the Lisbon System.
205. While it understood that subparagraph (i) of paragraph 17 did not indicate that the funds would come from WIPO, the Delegation of the United States of America still expressed the wish that the statements made by observer delegations be included in a separate paragraph of the Summary by the Chair.
206. The Delegation of Hungary expressed the view that substantive debates should not be re-opened as regards the Chair Summary.
207. The Delegation of Bulgaria agreed with the statement made by the Delegation of Hungary and pointed out that since not only two but several observer delegations made statements at the present session it would not make sense to reflect all of them in the Summary by the Chair. The Delegation nonetheless agreed to indicate in a separate paragraph of the Summary by the Chair that the comments made by observer delegations would be reflected in the Report of the present session.
208. The Delegation of Italy also agreed with the statements made by the Delegations of Hungary and Bulgaria.
209. The Delegation of the Republic of Moldova pointed out that the Working Group did not have a mandate to express an opinion as regards the role of WIPO in the promotion of the Lisbon System.
210. The Delegation of Iran (Islamic Republic of) indicated that it was satisfied with the draft Summary by the Chair that had been submitted and therefore would not be in favor of the amendment proposed by two observer delegations.
211. In order to accommodate the concerns expressed by several delegations, the Chair suggested inserting a separate paragraph in the Summary by the Chair that would read "The Chair also took note of the statements made by some observer delegations regarding the conduct and funding of Lisbon promotion activities".

212. The Delegation of Australia stated that it could accept the suggestion made by the Chair.
213. The Delegation of the Republic of Moldova also stated that it could accept the wording proposed by the Chair.
214. The Delegation of Iran (Islamic Republic of) agreed with the suggestion made by the Delegation of Bulgaria to indicate in a separate paragraph of the Summary by the Chair that the comments made by observer delegations would be reflected in the Report of the present session.
215. The Delegation of Bulgaria expressed the wish to withdraw its initial proposal as it could accept the wording proposed by the Chair.
216. Taking into account the concerns expressed by observer delegations and in a spirit of flexibility, the Delegation of Italy proposed a separate paragraph that would read “The Chair also took note of the positions expressed by some observer delegations which are entirely reflected in the Report”.
217. Should the wording proposed by the Delegation of Italy be retained, the Delegation of the Republic of Moldova suggested removing the term “some” so that the sentence would read “positions expressed by observer delegations” to be more accurate.
218. The Delegation of Iran (Islamic Republic of) suggested replacing the terms “positions expressed” by “statements made” in the wording proposed by the Delegation of Italy.
219. The Delegation of the Republic of Moldova expressed its preference for the initial wording proposed by the Delegation of Italy, namely “positions expressed”.
220. The Chair concluded by stating that the wording that would be included in the Summary by the Chair would read “The Chair also took note of the positions expressed by observer delegations which would be fully reflected in the Report of the session”.
221. The Working Group approved the Summary by the Chair, as contained in Annex I of the present document.

#### **AGENDA ITEM 7: CLOSING OF THE SESSION**

222. The Chair closed the session on April 5, 2017.

[Annexes follows]



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LI/WG/PCR/2/6  
ORIGINAL: ENGLISH  
DATE: APRIL 5, 2017

## **Working Group for the Preparation of Common Regulations under the Lisbon Agreement and the Geneva Act of the Lisbon Agreement**

**Second Session  
Geneva, April 3 to 5, 2017**

### SUMMARY BY THE CHAIR

*adopted by the Working Group*

1. The Working Group for the Preparation of Common Regulations under the Lisbon Agreement and the Geneva Act of the Lisbon Agreement (hereinafter referred to as “the Working Group”) met in Geneva, from April 3 to 5, 2017.
2. The following Contracting Parties of the Lisbon Union were represented at the session: Algeria, Bulgaria, Costa Rica, Czech Republic, France, Gabon, Georgia, Hungary, Iran (Islamic Republic of), Israel, Italy, Mexico, Montenegro, Peru, Portugal, Republic of Moldova, Slovakia, Togo, Tunisia (19).
3. The following States were represented as observers: Albania, Australia, Canada, Chile, China, Colombia, Croatia, El Salvador, Estonia, Germany, Guatemala, Guinea, India, Japan, Kuwait, Latvia, Lebanon, Morocco, Panama, Republic of Korea, Russian Federation, Senegal, Spain, Switzerland, Turkey, Ukraine, Uganda, United States of America (28).
4. Representatives of the following international intergovernmental organizations (IGOs) took part in the session in an observer capacity: African Intellectual Property Organization (OAPI), European Union (EU), Food and Agriculture Organization of the United Nations (FAO), Organisation Internationale de la Francophonie (OIF), World Trade Organization (WTO) (5).

5. Representatives of the following international non-governmental organizations (NGOs) took part in the session in an observer capacity: Centre for International Intellectual Property Studies (CEIPI), European Communities Trade Mark Association (ECTA), International Trademark Association (INTA), International Wine Law Association (AIDV), Organization for an International Geographical Indications Network (oriGIn), MARQUES – Association of European Trademark Owners (6).

6. The list of participants is contained in document LI/WG/PCR/2/INF/1 Prov. 2\*.

#### **AGENDA ITEM 1: OPENING OF THE SESSION**

7. Mr. Francis Gurry, Director General, opened the session.

#### **AGENDA ITEM 2: ADOPTION OF THE AGENDA**

8. The Working Group adopted the draft agenda (document LI/WG/PCR/2/1 Prov. 2) without modification.

#### **AGENDA ITEM 3: ADOPTION OF THE DRAFT REPORT OF THE FIRST SESSION**

9. The Working Group adopted the draft report (document LI/WG/PCR/1/6 Prov. 2) without modification.

#### **AGENDA ITEM 4: DRAFT COMMON REGULATIONS UNDER THE LISBON AGREEMENT FOR THE PROTECTION OF APPELLATIONS OF ORIGIN AND THEIR INTERNATIONAL REGISTRATION AND THE GENEVA ACT OF THE LISBON AGREEMENT ON APPELLATIONS OF ORIGIN AND GEOGRAPHICAL INDICATIONS**

10. Discussions were based on documents LI/WG/PCR/2/2, LI/WG/PCR/2/3 and LI/WG/PCR/2/4.

11. The Working Group agreed to recommend to the Lisbon Union Assembly that, at its 2017 session:

- (i) the draft Common Regulations under the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration and the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (hereinafter referred to as “the Common Regulations”), as amended by the Working Group, be adopted;
- (ii) the proposal from the Republic of Moldova concerning draft Rule 8(10) of the Common Regulations (“Safeguard of the 1967 Act”), as set out in the Annex to the present document, be considered;
- (iii) the amount of the fees referred to in Rule 8(1) of the draft Common Regulations be fixed, following a proposal by the Director General; and
- (iv) the entry into force of the Common Regulations be set to coincide with the entry into force of the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications.

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\* The final list of participants will be made available as an Annex to the Report of the session.

12. Finally, the Chair requested the Secretariat to take note of the comments made on the draft Administrative Instructions for the Application of the Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration and the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications.

#### **AGENDA ITEM 5: FINANCIAL SUSTAINABILITY OF THE LISBON UNION**

13. Discussions were based on document LI/WG/PCR/2/5.

14. The Chair updated the Working Group on the payments of subventions under Article 11(3)(iii) of the Lisbon Agreement already received by the International Bureau from certain members of the Lisbon Union. He also noted that other members had announced their readiness to pay such subventions with a view to eliminating the projected biennial deficit of the Lisbon Union, in accordance with the decisions taken at the 2015 and 2016 Assemblies.

15. The Working Group took note of the statements made on the importance of the Lisbon System for countries (including developing countries) and on the long-term financial sustainability of the Lisbon Union.

16. The Chair highlighted, in particular, the following main elements emerging from the statements by Lisbon Union members:

- (i) the need to emphasize promotion activities of the Lisbon System including the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications;
- (ii) the need to continue reviewing the Lisbon Fee Schedule on a regular basis, while taking into account that an increase in the amount of fees may act as a disincentive to join and use the Lisbon System; and
- (iii) the need to ensure that any solution to the financial sustainability of the Lisbon System be in line with the existing WIPO budget principles and methodology, as well as with the principle of solidarity among all WIPO unions.

17. The Working Group agreed to recommend to the Lisbon Union Assembly to extend the mandate of the Working Group with a view to allowing further discussions on the development of the Lisbon System, including solutions for its financial sustainability.

18. The Chair also took note of the positions expressed by observer delegations which will be fully reflected in the Report of the session.

#### **AGENDA ITEM 6: ADOPTION OF THE SUMMARY BY THE CHAIR**

19. The Working Group approved the Summary by the Chair, as contained in the present document.

#### **AGENDA ITEM 7: CLOSING OF THE SESSION**

20. The Chair closed the session on April 5, 2017.

[Annex follows]

**Rule 8**  
Fees

[...]

(10) *[Safeguard of the 1967 Act]* (a) Notwithstanding paragraph (1)(v), a declaration made under Article 7(4) of the Geneva Act, by a Contracting Party of the Geneva Act and the 1967 Act, shall have no effect in the relations with another Contracting Party that is party to the Geneva Act and the 1967 Act.

(b) The Assembly may, by a three-fourths majority, repeal subparagraph (a), or restrict the scope of subparagraph (a) [, after the expiry of a period of 10 years from the entry into force of the Geneva Act, but not before the expiry of a period of five years from the date on which the majority of the Contracting Parties to of the 1967 Act have become party to the Geneva Act]. Only Contracting Parties of the Geneva Act and the 1967 Act shall have the right to vote.

[Annex II follows]



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LI/WG/PCR/2/INF/1  
ORIGINAL: FRANCAIS/ANGLAIS  
DATE: LE 5 AVRIL 2017 / APRIL 5, 2017

**Groupe de travail chargé d'élaborer un règlement d'exécution  
commun à l'Arrangement de Lisbonne et à l'Acte de Genève de  
l'Arrangement de Lisbonne**

**Deuxième session  
Genève, 3 – 5 avril 2017**

**Working Group for the Preparation of Common Regulations under the  
Lisbon Agreement and the Geneva Act of the Lisbon Agreement**

**Second Session  
Geneva, April 3 to 5, 2017**

**LISTE DES PARTICIPANTS  
LIST OF PARTICIPANTS**

*établie par le Secrétariat  
prepared by the Secretariat*

I. MEMBRES/MEMBERS

(dans l'ordre alphabétique des noms français des États)  
(in the alphabetical order of the names in French of the States)

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BULGARIE/BULGARIA

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HONGRIE/HUNGARY

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Bruna GIOIA (Ms.), Administrative Officer, International Trademarks, Italian Patent and Trademark Office (UIBM), Directorate General for the Fight Against Counterfeiting, Ministry of Economic Development, Rome

Matteo EVANGELISTA, First Secretary, Permanent Mission, Geneva

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Raúl VARGAS JUAREZ, Segundo Secretario, Misión Permanente, Ginebra

Paulina CEBALLOS ZAPATA (Sra.), Asesora, Misión Permanente, Ginebra

MONTÉNÉGRO/MONTENEGRO

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PÉROU/PERU

Luis MAYAUTE VARGAS, Ministro Consejero, Misión Permanente, Ginebra

PORTUGAL

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João PINA DE MORAIS, First Secretary, Permanent Mission, Geneva

RÉPUBLIQUE DE MOLDOVA/REPUBLIC OF MOLDOVA

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RÉPUBLIQUE TCHÈQUE/CZECH REPUBLIC

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Katerina DLABOLOVA (Ms.), Expert, International Department, Industrial Property Office, Prague

Martin TOČÍK, Third Secretary, Permanent Mission, Geneva

SLOVAQUIE/SLOVAKIA

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TOGO

Mnanta Komi LAMATETOU, directeur général, Institut national de la propriété industrielle et de la technologie (INPIT), Ministère du commerce, de l'industrie, de la promotion du secteur privé et du tourisme, Lomé

TUNISIE/TUNISIA

Nasreddine NAOUALI, conseiller, Affaires étrangères, Mission permanente, Genève

## II. ÉTATS OBSERVATEURS/OBSERVER STATES

(dans l'ordre alphabétique des noms français des États)  
(in the alphabetical order of the names in French of the States)

### ALBANIE/ABANIA

Darian SULI (Ms.), Lawyer, Directorate General of Industrial Property, Ministry of Economic Development, Tourism, Trade and Entrepreneurship, Tirana

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Olena ILIASHCHUK (Ms.), Deputy Head, Department of Qualification Examination on Claims for Marks and Geographical Indications of Goods, State Enterprise “Ukrainian Institute of Industrial Property” (SE UIPV), Kiyv

III. ORGANISATIONS INTERNATIONALES INTERGOUVERNEMENTALES/  
INTERNATIONAL INTERGOVERNMENTAL ORGANIZATIONS

ORGANISATION AFRICAINE DE LA PROPRIÉTÉ INTELLECTUELLE (OAPI)/AFRICAN  
INTELLECTUAL PROPERTY ORGANIZATION (OAPI)

Michel GONOMY, chef de service, Département de l'assistance au directeur général, Yaoundé

ORGANISATION DES NATIONS UNIES POUR L'ALIMENTATION ET L'AGRICULTURE  
(FAO)/FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS (FAO)

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ORGANISATION INTERNATIONALE DE LA FRANCOPHONIE (OIF)

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ORGANISATION MONDIALE DU COMMERCE (OMC)/WORLD TRADE ORGANIZATION  
(WTO)

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UNION EUROPÉENNE (UE)/EUROPEAN UNION (EU)

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Michele EVANGELISTA, Intern, Permanent Delegation, Geneva

IV. ORGANISATIONS NON GOUVERNEMENTALES/NON-GOVERNMENTAL ORGANIZATIONS

Centre d'études internationales de la propriété intellectuelle (CEIPI)/Centre for International Intellectual Property Studies (CEIPI)

François CURCHOD, chargé de mission, Genolier

Association communautaire du droit des marques (ECTA)/European Communities Trade Mark Association (ECTA)

Cecilia FALCONI PEREZ (Ms.), Member, ECTA Geographical Indications Committee, Quito

Association internationale des juristes pour le droit de la vigne et du vin (AIDV)/International Wine Law Association (AIDV)

Matthijs GEUZE, représentant, Divonne-les-Bains

Association internationale pour les marques (INTA)/International Trademark Association (INTA)

Bruno MACHADO, Geneva Representative, Rolle

MARQUES - Association des propriétaires européens de marques de commerce/MARQUES - Association of European Trademark Owners

Ozlem FUTMAN, Expert, Istanbul

Organisation pour un réseau international des indications géographiques (oriGIn)/Organization for an International Geographical Indications Network (oriGIn)

Massimo VITTORI, Managing Director, Geneva

Ida PUZONE (Ms.), Project Manager, Geneva

Angelina GRECO (Ms.), Consultant, Geneva

V. BUREAU/OFFICERS

Président/Chair: Nikoloz GOGILIDZE (GÉORGIE/GEORGIA)

Vice-présidents/Vice-chairs: Alfredo Carlos RENDÓN ALGARA (MEXIQUE/MEXICO)

Secrétaire/Secretary: Alexandra Grazioli (Mme/Ms.) (OMPI/WIPO)

VI. SECRÉTARIAT DE L'ORGANISATION MONDIALE DE LA PROPRIÉTÉ  
INTELLECTUELLE (OMPI)/SECRETARIAT OF THE WORLD INTELLECTUAL  
PROPERTY ORGANIZATION (WIPO)

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WANG Binying (Mme/Ms.), vice-directrice générale, Secteur des marques et des dessins et modèles/Deputy Director General, Brands and Designs Sector

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