

## **Preparatory Committee of the Diplomatic Conference for the Adoption of a Revised Lisbon Agreement on Appellations of Origin and Geographical Indications**

**Geneva, October 30 and 31, 2014**

### VERBATIM REPORT

*prepared by the Secretariat*

1. Opening the Preparatory Committee of the Diplomatic Conference for the Adoption of a Revised Lisbon Agreement on Appellations of Origin and Geographical Indications, the Director General recalled that this was an extremely important meeting and welcomed the presence of so many delegates which, in his view, was a good sign of the engagement that the important subject matter was attracting. He said that as Member States were aware, the task of the Preparatory Committee was to set up the conditions for a diplomatic conference that would lead to a successful outcome for the important subject matter of appellations of origin and geographical indications, and a successful outcome for the Organization. The main questions that would be before the Preparatory Committee concerned: the adoption of draft Rules of Procedure which would govern the questions, amongst others, of participation and procedure at the Diplomatic Conference; to establish the list of States and Observer Organizations, namely observers to be invited to the Diplomatic Conference; to adopt the draft agenda of the diplomatic conference; and to determine the dates and venue of the diplomatic conference. He drew the attention of the Committee to document LI/R/PM/1 Prov. 4 which set out the draft agenda for the Preparatory Committee. Following the opening of the meeting, on the Agenda Item 2, namely, the election of a Chair and two Vice-Chairs, he wished to request proposals to this effect.

2. The Delegation of the Czech Republic thanked the Director General and said that it wished to propose Mr. Mihaly Ficsor of Hungary, as the Chair, for the Preparatory Committee and as Vice Presidents, Ms. Anna Gobechia of Georgia and Mr. Alfredo Rendon Algara of Mexico.

3. The Delegation of Bulgaria expressed its support to the proposals made by the Delegation of the Czech Delegation.

4. The Delegation of Italy also expressed its support to the proposal made by the Delegation of the Czech Republic.

5. The Director General thanked the Delegation of Italy, and noting that there were no other delegations requesting the floor, said that it was a great pleasure for him to announce the office bearers elected, namely, Mr. Mihaly Ficsor of Hungary as Chair and as Vice Chairs, Ms. Anna Gobechia of Georgia and Mr. Alfredo Rendon Algara of Mexico. He invited Mr. Ficsor to come to the podium and preside over the meeting.

6. The newly elected Chair made the following speech:

“Mr. Director General, Mr. Deputy Directors General, Excellencies, honorable delegates, dear colleagues. Let me start by thanking you all for your kind support and for the confidence you have put in me. I find your trust most honoring, and I will do my best to live up to your expectations. It goes without saying that during our discussions today, I should try and offer you the experience that I have gained through chairing the sessions of the working group on the development of the Lisbon System. In that regard, I think one of the most important lessons we have learnt in the working group, is that the need to respect the relevant legal framework for the process of revising the Lisbon Agreement can indeed be reconciled with the need to ensure that this process remains entirely transparent and inclusive. Thus, while – legally speaking – the revision process is taking place among the delegations of the Member States of the Lisbon Union – one can note with satisfaction a strong and ever intensifying involvement of other delegations – including WIPO Member States that are currently outside the Lisbon System, as well as intergovernmental organizations and non-governmental organizations. I find this particularly important as the process of revising the Lisbon Agreement is of interest not only to its current membership but also to other WIPO member states. I am confident that as a result of our joint efforts, we will be able to find ways to ensure that this process continues in the same inclusive and transparent manner, and no one feels excluded from it. May I continue by congratulating the Vice-Chairs of the Preparatory Committee, namely, Ms. Anna Gobechia from Georgia and Mr. Alfredo Redon Algara from Mexico on their election. I would also like to express my sincere and full appreciation for the work the International Bureau has done in preparing this meeting. I am particularly grateful to the Director General for his opening remarks recalling the mandate of this Preparatory Committee meeting. In that context, let me remind delegations of the decision the Lisbon Union Assembly took last year, on convening a Diplomatic Conference for the Revision of the Lisbon Agreement. In addition, let me also seize this opportunity to inform delegations that yesterday, the Working Group on the Development of the Lisbon System, agreed that the text of the draft revised Lisbon Agreement and the draft regulations resulting from its consideration of the pending issues – should constitute the Basic Proposal for the Diplomatic Conference.”

7. The Chair then proposed to move on to the adoption of the draft agenda. He pointed out that there were altogether eight items on the Agenda and suggested that the Committee take them in their original order as proposed without any change. As to the tentative timetable of the day he was of the view that the meeting should cover Items 1 to 6, and then reconvene on Friday afternoon, for the adoption of the report and for the closing of the meeting. He said that it was his understanding that, as was the practice, for meetings of preparatory committees, the report would be short and concise and would only reflect the decisions taken in the meeting of the Committee. It was not expected to fully reflect all the interventions made in the course of the deliberations. He hoped the Committee could work on that basis, and also hoped that the timetable suited the Member States well, that they would find it feasible, efficient and convenient. The adoption of the report and the closing of the session were envisaged to take place on the afternoon of the last day of the meeting after the adoption of the report for the Working Group on the Development of the Lisbon System and the closing of that session.

8. He then wondered if there was any delegation wishing to request changes to the draft agenda, and declared that the agenda of the Preparatory Committee of the Diplomatic Conference for the Adoption of a revised Lisbon Agreement on Appellations of Origin and Geographical Indications was unanimously adopted. He stated that before the meeting entered into a detailed discussion on agenda items 4 to 6, he wished to open the floor for general comments. He said that he would be most grateful if, in view of the time frame and the clear mandate of the meeting, Member States could be as brief as possible and make their statements as concise as possible and would also very much appreciate it if they could confine their opening remarks to the issues that were on the agenda of the meeting.

9. The Delegation of France said it wished to express its gratitude to the Secretariat for its support over the six-year process which had brought Member States to this stage and meeting. The Delegation said it welcomed, firstly, the very serene way in which Member States had worked over the past few years and had kept the family spirit within the geographical indications work. The Delegation observed that it was a voluntary union and had enjoyed a very positive spirit in the voluntary union, which was compatible with other systems, and hoped that the very serene family spirit continues to be seen. The Delegation very much welcomed as well the very open and participatory way in which the whole process had taken place. This was worth pointing out because it was fairly unique. Member States had seen developed and developing countries together, that is, countries of all levels of development participating in the work, on a sectoral issue, but in a very positive spirit and throughout the work of the ten sessions of the Working Group. The Delegation observed that everything had been done to ensure that the amendments as proposed by observers were taken into account and the compatibility of the systems preserved. The Delegation also wished to remind the meeting that in an institutional term, the General Assembly with 187 States adopted a budget in 2013, in that case adopting a decision for the Diplomatic Conference for the Adoption of the Revised Lisbon Agreement, that was confirmed by the Coordination Committee in September this year, and added that there had been no qualms in the process. In that view, all the rules had been respected and taken in the very positive spirit which they wanted to underscore. It was hopeful that Member States were about to see the positive outcome of a very serene and open process respecting all of the institutional rules of the organization.

10. The Delegation of Georgia said it wished to express its gratitude to the Committee for its trust to elect Georgia as Vice-Chair and said that it was a great honor for its Delegation, and wished to emphasize that the issue of the protection of appellations of origin and geographical indications, still remained a most sensitive and important issue in the agenda of its country. The Delegation emphasized and reiterated that the Working Group had invested lots of effort and made significant progress over the years and under the Chair and was of the view that the constructive spirit should be maintained over the issues to be addressed during the Committee.

11. The Delegation of the Czech Republic, speaking on behalf of the Group of Central European and Baltic States (CEBS), wished to congratulate the Chair on his election for the Preparatory Committee and extended its congratulations to the Vice-Chairs. The Delegation recalled that, as it had previously stated several times, including during the fifty-fourth series of the Assemblies of the Member States of WIPO, the CEBS Group extended great importance to the decision of the Lisbon Union Assembly of 2013 on convening a Diplomatic Conference for the Adoption of a revised Lisbon Agreement on Appellations of Origin and Geographical Indications to be held in 2015. It wished to reaffirm its commitment to its useful implementation. It therefore welcomed the present session of the Preparatory Committee and its agenda and believed that further positive steps would be made by the Committee. The CEBS Group wished to take the opportunity to express its thanks for the overall work performed by the Working Group under the able leadership of the Chair, regarding the revision of the Lisbon Agreement and wished to highlight the fact that the discussions within the Working Group on the Development of the Lisbon System had always been inclusive. The Group requested that the same principles be maintained and applied in respect of the Diplomatic Conference. It

reiterated its conviction that the revision would make the Lisbon System more attractive to all, in particular, to small producers from developing and developed countries and LDCs. It recalled that the goal was to strengthen and modernize the current framework of the Lisbon Agreement while preserving its principles and objectives. With regard to the draft Rules of Procedure of the diplomatic conference, the Group wished to thank the Secretariat for having prepared the draft in document LI/R/PM/2. In its view, the draft reflected the various procedural elements of this particular Diplomatic Conference, and relied on several rules of procedure agreed to on past occasions. There was need to constantly have in mind that the upcoming Diplomatic Conference was convened to consider and conclude a revised Lisbon Agreement. In conclusion, the Group wished to reiterate its commitment to a transparent and inclusive process leading to a revision of the Lisbon System that would be more attractive to stakeholders and both current and potential members of the Lisbon System. It stressed its readiness to adopt the draft Rules of Procedure as presented in document LI/R/PM/2 and the list of States and observers to be invited to the Diplomatic Conference and the text of the draft letters of invitation as proposed in document LI/R/PM/3.

12. The Delegation of Italy reaffirmed the importance that its Delegation attached to a successful revision of the Lisbon Agreement, and said that its commitment was based on the belief that the revision would bring considerable benefits for both producers and their country of origin. The inclusion of geographical indications in the Lisbon international registration and protection system, with the same normative regime as the appellations of origin would indeed facilitate producers worldwide particularly small and medium-sized as well as rural in obtaining protection in countries, other than country of origin, at an affordable cost. It would lower the risk for producers to bring court cases of misuse of their geographical indications with expensive trials in foreign countries as it was currently the case of the appellations of origin. Furthermore, the Delegation stated that the revised Lisbon System would foster public and private investment in geographical indications and appellations of origin with positive effects for the economy of a country in terms of increased competitiveness, export diversification and job creation. The revision could produce specific benefits for developing and least-developed countries and could also help, for example, in transforming the unique features of a country such as its traditional knowledge and biodiversity into marketable products that could not be de-localized. It could also encourage producers of labor-intensive commodities to turn into exporters of high-quality agribusiness and handicraft products. The Delegation said that as previous speakers had said before it, the revision of the Lisbon Agreement had been an inclusive and transparent process in which every WIPO Member State had the opportunity to express its views and to contribute to the debate. It recalled that in the tenth session of the Working Group that had taken place since 2009, constructive proposals from Member States had been welcomed by the present members of the Lisbon Agreement including its Delegation. The difference was between the current Lisbon Agreement and the draft revised agreement, which reflected the intention of making easier for a State to adhere to the Lisbon system. The Delegation said that it sincerely hoped that this would make the future international registration and protection system, more attractive. It was confident that the same inclusiveness and transparency that had so far inspired the revision work would continue at the 2015 Diplomatic Conference. Observer States attending the conference would once again have the opportunity to express their appreciative views on the draft revised Agreement and have their concerns seriously considered by Member States. The Delegation, for its part, would keep its open approach and it would make a more detailed comment later.

13. The Delegation of the Islamic Republic of Iran said that it was of the view that the revision of the Lisbon Agreement, in order to broaden its scope of application, would make the Lisbon System more responsive to the protection needs of geographical indications as a whole while preserving the principles and objectives of the current Lisbon Agreement. The Delegation believed that the refinement of the current legal framework and the extension of the international register to geographical indications, while maintaining separate definitions for appellations of origin and geographical indications on the understanding that similar substantive

provisions would apply to both, would not change the subject matter of the system. The proposed revision would make the system more simplified and user-friendly. This would be a valuable achievement and certainly allow for a wider membership. The Delegation expressed its support for the decision of the Lisbon Union Assembly in 2013 to convene a Diplomatic Conference for the Adoption of a Revised Lisbon Agreement on Appellations of Origin and Geographical Indications in 2015. It also wished to express its appreciation for the generous offer made by Portugal to host the Diplomatic Conference. The Delegation recalled that the Lisbon Working Group had always been making great efforts to involve all interested States and encourage greater participation in the sessions of the Working Groups since it was established. The extension of the Lisbon Agreement to geographical indications had not changed the subject-matter of the Treaty and its protection regime.

14. The Chair thanked the Delegation of the Islamic Republic of Iran for its statement and opened the floor for discussion on agenda Item 4 (consideration of the Draft Rules of Procedure of the Diplomatic Conference as contained in document LI/R/PM/2). Before opening the floor for comments on the Item, he invited the Secretariat to offer a brief introduction to the document.

15. Introducing the document, the Legal Counsel drew the attention of Member States to two issues. He recalled that the day before, the Working Group had taken certain decisions which would have to be reflected in the Draft Rules of Procedure, in particular, Rule 1 of the document dealing with the objective and the competence of the Conference, would be changed to reflect the title of the Diplomatic Conference as discussed in the Working Group. Secondly, he drew the attention of Member States to Rule 29 of the document, where a reference would be added to the Draft Regulations as well. Finally, the Legal Counsel wished to draw the attention of the Member States to the fact that there was an additional document co-sponsored by a member of the Lisbon Union as well as other WIPO Member States which appeared in document LI/R/PM/5 Rev.2. He said that the Proposal was made by the delegations of Argentina, Australia, Canada, Chile, Israel, Japan, New Zealand, Panama, Republic of Korea, Singapore, United States of America and Uruguay.

16. The Delegation of Israel thanked the Secretariat for its work on the Draft Rules of Procedure of the Diplomatic Conference and for document LI/R/PM/3 containing the list of invitees to the diplomatic conference and the text of the draft letters of invitation to the Diplomatic Conference for the Adoption of a Revised Lisbon Agreement on Appellations of Origin and Geographical Indications. It stated that the Delegations of Argentina, Australia, Bhutan, Canada, Chile, Israel, Japan, New Zealand, Panama, Republic of Korea, Singapore, United States of America and Uruguay wished to deliver the following Group statement in support of their proposal contained in LI/R/PM/5/Rev.2 which was to improve both draft documents.

“The Lisbon Working Group and now the Preparatory Committee is undertaking a normative project of great significance in the field of intellectual property protection. It cannot be said that the work in contemplation is a mere technical revision of an existing agreement. In fact, the draft text expands the existing Lisbon system to include geographical indications. This is a profound change. Geographical indications are a subject matter that is of interest to all WIPO Member States, intellectual property rights holders and third parties not just the current members of the Lisbon Agreement. WIPO diplomatic conferences are normally open for full substantive participation by all WIPO members. For over twenty years, WIPO Member States have a joint and equal say in all the diplomatic conferences held. This has included new treaties like the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who are Blind, Visually Impaired or Otherwise Print Disabled and the Beijing Treaty on Audiovisual Performances as well as revisions to existing treaty frameworks that have had limited WIPO memberships such as the 1999 Geneva Act of the Hague Agreement Concerning the International Registration

of Industrial designs. Despite this diversity of situations, the practice of equal participation was maintained throughout. It would set a concerning precedent for WIPO's normative agenda if this modern practice of equal participation were to change now, taking into account the strong interest expressed by the broader WIPO membership to be involved, the fact that the new area of international intellectual property protection is an issue and despite support from within the Lisbon Union itself for equal participation. That is why we have proposed amending the Draft Rules of Procedure of the Diplomatic Conference to provide for equal participation of all WIPO members. Under the current Draft Rules of Procedure, WIPO members not members of the Lisbon Union can only act as Observer delegations. There is no provision to attend the Working Groups or main committees to raise points of order or procedural questions, to make text proposals or to join a vote. Only Lisbon Union members enjoy all these rights even though all WIPO members have an interest. Fortunately, equal participation can be restored through a relatively simple change to the Draft Rules of Procedure confirming that member delegations are the delegations of all WIPO Member States. These changes will also make the rules consistent with those used for the last twenty plus years as demonstrated by the examples we have included in the Annex to our proposal. We believe they are compelling reasons for this Diplomatic Conference to be based on equal participation. We have been encouraged by the interest expressed by Lisbon members to involve the broader WIPO membership – a call that has been readily and constructively taken up by observers to the Lisbon Working Group – at times outnumbering Union members themselves. But if the broader membership is to be genuinely and meaningfully involved as they should be – the Lisbon members must take the next step and allow full and equal participation at the diplomatic conference. Equal status is consistent with the open and inclusive approach we wish to see continued within WIPO and is also the most effective way to achieve the aim of a revised agreement that appeals to the broadest membership.”

17. The Delegation of France said it wished to extend a warm welcome to the Delegation of Israel and recalled the high quality of their bilateral relations. It was also delighted to see the Delegation of Israel back in the forum. The Delegation recalled that ten meetings had been held and it was aware that the Israeli Mission had only participated in two meetings of the Working Group. Member States had had very deep discussions with regard to what they did within the Working Group on whether to revise the Lisbon Agreement or whether they needed a deeper debate on a new agreement with many of the observers attending. It pointed out that the issue had been debated in the third session in May 2011 and, unfortunately, the Delegation of Israel was not there when it was again discussed in the fourth session in December 2011. This was also the case in June 2012 during the fifth Session. The 27 Members of the Union, together with the Observers who spoke and participated at that time, agreed that they were moving toward a Revision of the Lisbon System – a minimal change to the System to bring it in line with the other systems – which was confirmed in the sixth session in 2012, the seventh session in May 2013 and the ninth session during all of which the Delegation of Israel was not present and also from Monday until Wednesday of the last session, Member States saw very limited participation from the Delegation of Israel. They were, however, delighted to see the three members of the Delegation of Israel in the room. The Delegation of France further stated that, as far as Member States were concerned, the status of the contracting parties had been confirmed by the General Assembly and there had been debates in the past which were now over with regard to whether they were looking into a revision or not. Member States knew how to move forward as a family and had no hostile conduct towards any other Member State and contributions would be welcome during the Diplomatic Conference. The Delegation believed that the preparation had been entirely transparent over the five years of debate and Member States had now come to the day where they were requesting the adoption of a package which was almost sealed and counted on the Delegation of Israel to respect the forum as it was raising items that could be problematic. The Delegation hoped that the Committee would be able to work as a Group of 28 and that the package as a whole would be able to be adopted,

and that the Delegation of Israel would be able to join the other 27 members of the Lisbon family.

18. The Chair recalled that as mentioned during last year's Assemblies of the Member States of WIPO, although the benefits that the revision of the Lisbon Agreement would bring were very significant, its scope should not be over-estimated. It aimed at improving and updating the existing legal framework which regulated the functioning of the Lisbon System and was not aimed at introducing a new one. He also recalled that Member States had been updating the provision of the Lisbon Agreement and clarifying its scope and the conditions under which geographical indications could be registered since the beginning of the present session. He pointed out that unlike in the cases of the Beijing and Marrakesh Treaties, Member States were revising an existing agreement that, like any other international treaty, could confer rights and impose obligations on the Contracting Parties. Its Contracting Parties would be affected by any change in the norms of the Lisbon Agreement and therefore had their full interest in the current exercise. Their consent was ultimately required for any alteration of the norms of the agreements including those proposed by States of non-Contracting Parties. He stated that this was a basic principle of international law established by the Vienna Convention on the Law of Treaties, its Articles 39 and 40, which United Nations specialized agencies such as WIPO were familiar with and intended to apply. On these grounds, the solution contained in the Rules of Procedure proposed by the Secretariat, recognizing the status of Member Delegations and the voting right at the Diplomatic Conference only to States party to the Lisbon Agreement was fair and appropriate and was also fully in line with Article 13 of the Lisbon Agreement. He said that Member States also had to consider the revision clauses dictating WIPO Treaties which were different. He cited the example of the 1999 Diplomatic Conference that had adopted the Geneva Act of the Hague Agreement which was convened on the basis of a revision clause contained in the 1960 Hague Agreement, Article 29, which only prescribed that periodic revision should aim at the introduction of amendments designed to improve the protection resulting from the international deposit of designs. He recalled that most stringent revision clauses that emphasize the role of Contracting Parties were, on the contrary, contained in Article 60 of the PCT and Article 25 of the Geneva Act of the Hague Agreement, and as it was said before in the Lisbon Agreement. He said that apart from these legal arguments, Member States were convinced that without derogating from fundamental principles of international law, they could have a full inclusive and participatory Diplomatic Conference where the voice of all observer delegations would be heard. They were interested in hearing and taking again into account views and proposals of those delegations because only an inclusive revision process could ensure the sought-after enlargement of the Lisbon Community.

19. The Delegation of Israel apologized for taking the floor again and said that it wished to give its national statement. Firstly, the Delegation said it had a few words in French to thank the Delegation of France for its intervention. It, indeed, could only agree with the Delegation of France in terms of the quality of their bilateral relations. It pointed out that, nevertheless, the Lisbon Agreement was a multilateral treaty and its Delegation could not see anything therein to affect the excellent quality of their relations. The Delegation recalled that its country was a member of the Lisbon Agreement, and currently enjoyed only one registration of an appellation of origin which was the well-known Jaffa appellation of origin. Unfortunately, the Lisbon System had not succeeded in attracting a significant membership. It also pointed out that some Lisbon Member States had a few appellations of origin registrations, if any. The Delegation also recalled that the subject matter in scope of protection of the revised agreement was significantly broader than that currently covered by the Lisbon Agreement. The proposed revision could not be seen but as a substantial one and thus should take into account the interest of all WIPO Member States. The Delegation said that it believed that the interpretation of revisions set a poor precedent for the Organization as Member States should be able to decide based on their level of interest on whether to participate in negotiations on the new text. The Delegation stated that the proposed Diplomatic Conference may be an undesired divergence from the central mode of cooperation and quality derived from WIPO's objectives. It said that the closed process

should not be allowed to go forward, on the understanding that the current revision was intended to expand the scope of users of the Lisbon System. By opening the Diplomatic Conference to non-Lisbon members, they also stood a much greater chance of creating a treaty that would have wide appeal because ultimately it was in everyone's interest that more WIPO Member States become active members of the revised Lisbon. That was more likely to happen if they could be fully involved in the Diplomatic Conference otherwise Member States might end up with the Lisbon Agreement revision that also had no more than 28 members. In this context, Member States should take due note of Article 4 of the Lisbon Agreement regarding protection by virtue of other texts providing for the correspondence with interest of members of the Paris Union and also of Article 3 (1) and (2) of the WIPO Convention regarding both cooperation amongst States and among the Unions. Accordingly, the Delegation respectfully requested that the Lisbon Members accept the revisions proposed in LI/R/PM/5/Rev.2, namely the joint submission regarding the composition of the Diplomatic Conference, the status of the participants and the list of invitees to the said Conference as set forth.

20. The Delegation of Portugal said it wished to thank the Secretariat for the Draft Rules of Procedure under document LI/R/PM/2 and added that the document should, in its view, be approved without further ado. It, however, said that after hearing some of the speakers' interventions in the session, it wished to share some of its thoughts on the proposal in LI/R/PM/5 submitted by a group of WIPO Member States to, "improve the draft Rules of Procedure to the Diplomatic Conference and list of invitees to the Diplomatic Conference". It observed that some of the arguments put forward to support the proposal seemed to stem from an alleged but, in its view, erroneous idea that the current revision process suffered from some kind of lack of legitimacy, with which the Delegation disagreed. It pointed out that the revision process was undoubtedly in line with the norms of the Vienna Convention on the Law of Treaties, whose Article 39 read: "A treaty may be amended by agreement between the parties". Article 13(2) of the Lisbon Agreement went along the same lines as it referred to revisions by conferences held between the delegates of the countries of the Special Union. Any proposal providing for full participation rights to non-member states of the Lisbon Agreement would therefore be seen as a deviation from what was in fact a general key principle of international treaty law. While the Delegation acknowledged the existence of such precedence, it remained convinced that the customary practice when it came to revision process, was to limit the participation to the parties of the relevant agreement as they would be the ones primarily affected by any modification to the rights and obligations enshrined therein. It cited two examples of the 1970 Washington Diplomatic Conference and the 1989 Madrid Diplomatic Conference, where full participation rights were only conferred respectively to members of the Paris and the Madrid Unions. The Marrakesh and the Beijing Diplomatic Conference did not, in the Delegation's view, constitute a good example as these were aimed at creating new treaties and not reviewing existing ones. There was also the idea that the current Lisbon review process went way beyond a purely technical revision and it amounted to the creation of a whole new international legal regime. On this, the Delegation wished to state the following. Firstly, it appeared that there were no objective limits to treat revision in international law; secondly, the current process remained in line with the mandate that was given to the Working Group in 2009 which was, "to look for improvements of the Lisbon system which would make the system more attractive for States and users while preserving the principles and objectives of the Lisbon System". Lastly, the Delegation recalled that members of the Lisbon system did not deviate from the subject matter of the Agreement, when they engaged on the extension of the Lisbon international registry in order to cover the geographical indications, as appellations of origin were already considered a special kind of geographical indications. It said that the second line of argument in favor of the amendment proposals stemmed from the potential impact of the revision process on other Unions and on non-Member States of the Lisbon Agreement. In other words, non-members argued that they should be allowed to fully participate in the revision process because of the potential effects on their IP systems. While the Delegation could relate to some of these concerns, it remained convinced that in accordance with Article 39 of the Vienna Convention on the Law of Treaties, the revision of the Lisbon system would never create



rights and obligations for third parties without their consent. At the same time, members of the system would seek to accommodate to the extent possible, the protection need of geographical indications and the concerns of those prospective members that resorted to other filing systems. Thirdly, the potential economic impact should not serve as argument for the concession of full rights for participation to non-members, in the current situation where it was clear that not all observers seemed to share the same positive stance towards the Lisbon system in itself. It observed that closely linked to the previous one, it appeared that a third category of arguments focusing on the issue of inclusiveness had been put forward and its Delegation did not share the views expressed by some delegations. In fact, it remained of the opinion that inclusiveness and full participation were not necessarily overlapping concepts, a process could be, in its view, inclusive and at the same time ensure legal certainty and security especially in what relates to the approving of the different levels of participation in treaty-making or treaty revision. It, in fact, tended to look at the current revision process as a participatory process which strived to take into account, to the extent possible, the interests and priorities of all WIPO Member States and the viewpoints of other stake holders including intergovernmental organizations and non-governmental organizations. The Delegation recalled, once again, that one of the goals of the revision process was to make the system more attractive for States and users. Observers were allowed to present proposals and engage in the negotiations. Many of the ideas put forward had been taken into account and consideration to the extent that they were in line with the principles and objectives of the Lisbon system. The Delegation said that it could not help but notice that many of those who now argued for full rights of participation were absent from the process for most of the time while others only became engaged at very late stages of the negotiations. The Delegation was confident that the Member States of the Lisbon system were doing their utmost to accommodate the concerns of as many as possible, including developing and least-developed countries by providing a possibility to access at a reduced cost and through only one international registration to a sound and more sustainable mechanism for the protection of geographical indications. For the reasons that it had just mentioned, the Delegation wished to inform the Committee that its Delegation did not see the advantages of detracting from the regular Rules of Procedure and as such was not in a condition to support the amendments proposed in document LI/R/PM/5 and its subsequent revisions.

21. The Delegation of the Islamic Republic of Iran emphasized that the nature of the efforts of the Lisbon Working Group had been clearly to improve and update the existing legal framework rather than introducing a new system for the extension of the Lisbon Agreement to geographical indications, and had not changed the subject matter of the treaty and its protection regime. The Delegation believed that any treaty could be amended according to the amendment provision elaborated in the treaty itself or in accordance with the general rules on the amendment of treaties as stated in the relevant Articles of the Vienna Convention and, in particular, Articles 39 and 40. As a rule of international law which had become customary law that emphasized that a treaty may be amended by agreement between the parties and, besides, in accordance with the general principles of law, international treaties and their subsequent amendments or revisions would be primarily binding on the States that were parties to such treaty and the non-parties to the treaty would not be bound by the provisions therein. In this context, Article 13(2) of the Lisbon Agreement was of high importance which stated that the agreement may be revised by conferences held between the delegates of the countries of the special Union. Accordingly, only the Member States of the Lisbon Union would be legally entitled to decide a revision of this agreement. The Delegation pointed out that throughout the existing revision making process, the members of the Lisbon Union had had, the legal authority to confer such right to the non-members of the Union, should they wish to do so – a possibility that had not become reality.

22. The Delegation of the Czech Republic wished to thank the Delegation of Israel for its statements and arguments challenging the fact that the process had led to a revision of the Lisbon Agreement and wished to offer the Delegation of Israel information to support the above-mentioned fact. As was mentioned by other speakers, various options had been discussed repeatedly during several Working Group meetings, finally the option of a revision of the Lisbon Agreement, prevailed. It said that the revision preserves its principles and objectives and aims at modernizing the current framework. Member States were not creating a new subject-matter of protection, as was alleged, as the Lisbon Agreement was already dealing with geographical indications because appellations of origin were a sub-category of geographical indications. They qualified as geographical indications within the meaning of Article 22(1) of the TRIPS Agreement. The appellations of origin registered under the Lisbon Agreement met also definition criteria of geographical indications. The Delegation said that it therefore had no doubts concerning the aim of the Diplomatic Conference and reiterated that it was not to create a new agreement but to revise the existing Lisbon Agreement and expressed its continued support for Article 13(2) of the Lisbon Agreement as a basis of the Committee's proceedings.

23. The Delegation of Hungary said that without repeating the arguments made by previous speakers, its Delegation wished to simply state that it shared fully the views expressed by the Delegations of the Czech Republic, France, the Islamic Republic of Iran, Italy and Portugal.

24. The Chair thanked the Delegation of Hungary and wondered if any other Member Delegation wished to take the floor either on the Draft Rules of Procedure as a whole or on the proposal put forward by the Delegation of Israel, in particular, if there was any delegation wishing to speak in favor of the proposal for amendment submitted by Israel.

25. The Delegation of Australia said that it aligned itself with the statement made by the Delegation of Israel, on behalf of the group of co-sponsors to document LI/R/PM/5/REV.2, and also wished to thank the Secretariat for their work in preparing the draft documents under discussion. The Delegation said that it firmly believed that any Diplomatic Conference should be open to all WIPO Member States to participate on an equal basis. It was worth noting that this was a longstanding request by its Delegation and not something new, and that it had in fact been participating constructively in the Working Group. It said that while it appreciated the opportunity to have done so, it failed to see why this participative approach could not be formalised in the Diplomatic Conference.

26. The Delegation pointed out that the issue was important to how Members wished to define their approach to the creation of new international norms within WIPO. If the draft Rules of Procedure were not amended as proposed, it would be the first time in 25 years that a WIPO Diplomatic Conference had not provided full and equal participation of all Members. 25 years of open Diplomatic Conferences was a significant milestone for WIPO, and was a reflection of the value put on inclusive, consensus-based approaches. It was also a reflection of WIPO's status as the global forum for intellectual property services, policy, information and cooperation. New WIPO treaties concluded in Beijing and Marrakesh demonstrated full participation works and therefore urged all Member States to carefully consider any proposal to depart from this longstanding and valued practice. The Delegation said that if contemplated changes to the Lisbon Agreement were relatively minor and did not alter the subject matter scope of the treaty, the revision would be unlikely to give concern to the wider WIPO Membership, and full and equal participation may not be an issue. However, Members of the Lisbon Agreement had themselves made the decision to engage in this ambitious Treaty revision. In deciding to take this ambitious path, in deciding to so dramatically change and expand the scope of the agreement, Lisbon Members must also recognise that outcomes should be achieved through equal participation of all WIPO Members. It pointed out that while the rules indicate it was a right of the Lisbon Union to prevent equal participation there was no rule that would prevent equal participation. More importantly, there was no reason in principle to exclude from decision-making on this expansion the overwhelming majority of WIPO Members. At a practical

level, an exclusionary approach was likely to undermine the desire of the Lisbon Union to expand the treaty's membership. It argued that to attract a broader membership, it was vital that there be a level playing field for shaping the outcome, and that the contributions of WIPO Members were given equal weight in reaching a consensus position. It would be a lost opportunity if the outcome of the revision was such that it unnecessarily excluded potential new contracting parties by not taking adequate account of the different circumstances of WIPO Members. The Delegation hoped that these comments helped explain why it viewed equal participation as important; how it would support a positive treaty outcome and, beyond the Lisbon Agreement itself, how it was relevant to defining approaches to norm setting in WIPO.

27. The Delegation of Mexico thanked the Chair and the Delegations of Australia, Chile, United States of America, Israel, New Zealand, Panama, Republic of Korea, Singapore and Uruguay supported by Canada and Japan for their proposal that would have to be considered by the members of the Lisbon Union in accordance with the rules of procedure of the Agreement established by the Lisbon Union. Those Delegations were of the view that Member States of WIPO should be recognized as member countries and the Conference should not be limited to the Lisbon Union. Mexico was a firm supporter of inclusiveness and transparency, but those principles could not take precedence over the obligations derived from the legal framework that members of the Agreement had explicitly accepted. In that context, its Delegation wished to remind delegations that, by virtue of Article 13 of the Lisbon Agreement, the revision of the Agreement could only be carried out by conferences held between the delegates of the countries of the Union. The rule was very clear and, in the Delegation's view, there was no different interpretation possible there. This was also confirmed by international law principles and Article 39 of the Vienna Convention, in the sense that a treaty could only be amended by its contracting parties. What struck the Delegation in the proposal was that there were references to rules of procedure for previous Diplomatic Conferences of WIPO but it was worth pointing out that those were in the context of new treaties or new acts such as the new Hague Agreement or the Marrakesh Treaty or the Beijing Treaty. In the revision of the Trademark Law Treaty of 1994 which led to the Singapore Treaty on the Law of Trademarks in 2006, Member States of WIPO were all recognized as being able to participate in the Conference, but it was worth pointing out that that Treaty did not restrict the participation of members because it was indicated in Article 18(1) that the Treaty could be revised by a conference. Its Delegation was certain that the Rules of Procedure of Diplomatic Conferences that were referred to, could not be assimilated to the revision of the Lisbon Agreement. They were not comparable and could not be considered as a reasonable precedent. It also wished to point out that during the six years in the process of the revision of the Lisbon Agreement, decisions that had led to the convening of a Diplomatic Conference had been taken according to processes in strict accordance with the rules adopted by the Member states of WIPO. It also recalled the open spirit of the members of the Lisbon Agreement that had prevailed in an inclusive process in the revision of the Agreement, inviting other members of WIPO and other interested entities to participate as observers since the very beginning of the Working Group on the development of the Lisbon System. In that same spirit, members of the Agreement would continue to hold the Diplomatic Conference for the revised Lisbon Agreement on appellations of origin and geographical indications to enable Member States to have an open and more flexible system. Taking that to account, the Delegation said that as a member of the Lisbon Agreement, it wished to support the original drafting of paragraph 2 of the Draft of Rules and Procedure as contained in document LI/R/PM/2.

28. The Delegation of Peru wished to thank the Secretariat for the work done in presenting the documents for the Committee's consideration and also thank Observer delegations for their interest in participating in this inclusive process in thinking about the future revised Lisbon Agreement. The Delegation expressed support for everything that the Delegation of Mexico had said on the matter and wished to indicate that its Delegation hoped that the original text of the Draft Rules of Procedure contained in document LI/RPM/2 submitted to the Committee would be adopted without any amendment.

29. The Delegation of the United States of America strongly supported the statement made by the Delegation of Israel on behalf of the co-sponsors of the proposal to amend the Draft Rules of Procedure of the Diplomatic Conference to provide that Member Delegations are the delegations of all WIPO Member States, and thereby affirm the policy of broad and inclusive multilateralism at WIPO. In the Delegation's view, this Diplomatic Conference presented a historic opportunity to develop a broad multilateral agreement that reflected the shared objective of WIPO members to provide appropriate protection for geographical indications while accommodating the diverse approaches in their various national systems. It urged Member States not to miss this opportunity. Without full transparency and equal participation by all Member States, true success would remain elusive. The United States of America was committed to engaging constructively in negotiations so as to find a solution that worked for all, but pointed out that they all needed to have seats at the table in order to do so. The current rules did not even allow non-Lisbon members to be in the room when negotiations would take place. There were many reasons why an open Diplomatic Conference was critical for the success of those negotiations as well as the legitimacy of an outcome. As a fundamental matter, the revised Lisbon agreement was much more than a mere technical revision. The proposed text would add a significant new subject matter, geographical indications and therefore, the normal WIPO Rules of Procedure for new treaties should apply, meaning that all Member States participate equally in the negotiations. This was particularly appropriate because all Member States had an interest in the international norms in this area, especially given the significant commercial and trade implications for each of them. Many countries were troubled by the potential impact on the use of common terms and existing trademarks. The lack of financial sustainability of the Lisbon System was also a serious and legitimate concern. The Delegation argued that the current Lisbon Union members who were less than a quarter of the WIPO membership, should not be allowed to dictate an outcome that would inevitably affect all. The Committee had heard a lot about technical legal arguments but as the Delegation of Australia had pointed out, there was nothing in the legal rules that prevented Lisbon members from opening the Diplomatic Conference to full participation. The fact remained, that a closed diplomatic conference was a fundamental departure from the practice of this Organization over the course of the last 25 years and the practice had been followed for good reasons. Open Diplomatic Conferences allowed all WIPO Member States to ensure that their interests were advanced and their concerns were considered during the development and adoption of new international norms. The Delegation urged Member States to affirm WIPO's long-held principle of broad and inclusive multilateralism by simply amending the Draft Rules of Procedure to provide that Member Delegations were the delegations of all WIPO Member States. All Member States had an interest in geographical indications, therefore, they all should have a say. The Delegation was confident that if they worked together, they could reach their shared objectives and accommodate their differences.

30. The Delegation of Chile thanked the Secretariat for its work in preparing the documents for the Committee. It recalled that its Delegation was a co-sponsor of document LI/R/PM/5 Rev.2 which had been presented by the Delegation of Israel on behalf of the group of co-sponsors and they were very grateful to the Delegation of Israel for the presentation. It pointed out that the Delegation of Israel and indeed, any Member State, was entitled to submit a proposal in the Organization and wished to reiterate that. The Convention Establishing the World Intellectual Property Organization stated that the role of the parties was to contribute to better understanding and cooperation among States for the mutual benefit on the basis of respect for their sovereignty and equality. Among its objectives, was the protection of intellectual property throughout the world through cooperation between States. So a cooperative spirit was at the very heart of the Organization. It recalled that recommendation 15 of the development agenda indicated that norm setting activities should be "inclusive and member-driven and take into account, different levels of development". This should be a participatory process taking into account the interests and priorities of all Member States. The Delegation firmly believed that the Diplomatic Conference for the adoption of a Revised Lisbon Agreement on Appellations of Origin and Geographical Indications, as part of the work of WIPO

should meet these principles of inclusiveness and substantial participation. It recalled that its Delegation had participated actively as an Observer during the ten sessions of the Working Group, submitting suggestions and textual proposals. However, the Delegation had no certainty of the future of these proposals and wished to have the possibility of participating fully in the process. The Delegation recalled that many years had gone by and there had been many substantive changes in the world since 1958, for instance, including a new issue under the subject matter as geographical indications indicated that there had been such changes. It believed that inclusiveness was a logical consequence and was of the view that all the members of WIPO should have a full participation in the Conference so that all members can participate in discussions about new issues that they defined and that the outcome would be really representative of the Organization. The Delegation stressed that the process should be inclusive and participatory and should represent the new times in which Member States were living.

31. The Delegation of the Republic of Korea recalled that as one of the Co-sponsors of the proposal for equal participation in the Diplomatic Conference, its Delegation wished to re-emphasize the justified nature of the proposal as well as the seriousness of the situation. The Diplomatic Conference was the main gate for setting international norms and thus it would be very important to arrive at a compromise. In order to achieve that, maintaining sovereignty was critical for any Union. It recalled that definitions and protection for geographical indications were stipulated in the TRIPS Agreement and based on these provisions, each country was now protecting geographical indications in its own territory. It was also generally accepted that appellations of origin were a special kind of geographical indications. From this understanding, inclusions of geographical indications in the Lisbon Agreement would be out of scope of the sovereignty of the Lisbon Union. It was clear that any Union should not transgress the border-line of its sovereignty and if there was some argument on whether it transgressed all that, it should be discussed in a more open forum following a transparent procedure. Secondly, WIPO was a global forum for establishing international norms in the field of intellectual property rights, currently because of the global complexity of international IP treaties and national laws. The Delegation said that looking back at the discussions of the recent Working Group meetings on the development of the Lisbon System, it could confirm that the subject of the Diplomatic Conference was the heart and controversial issue to all of WIPO Member States. In spite of the strong engagement and interest, equal and open discussion was not available to all the WIPO Member States, and so it could not but doubt some element of the core function of WIPO. Lastly, the Delegation said that it had heard, from some of the members of the Lisbon Agreement, that the process of the discussions had been inclusive and open to all of the WIPO members. However, in all processes, the last point was the most important point. The Delegation believed that the Diplomatic Conference was the last point and that explained all the prior procedures which had taken place before.

32. The Delegation of the Russian Federation said it had followed very closely the work of the Working Group on the amendment of the Lisbon System and it had seen that improvements were set to be made to the Agreement. It was a universal agreement and that was why all WIPO members should be able to participate in that process. The Russian Federation was interested in the Diplomatic Conference for the adoption of a revised Lisbon Agreement, and had listened to the arguments that were put forward with great interest. To those who believed that only members of the Lisbon Union should participate in the Conference, it pointed out that would be valid if the Conference was simply looking at the current subject matter without adding new subject matter to the agreement. However, in this case, the subject matter scope was intended to be extended to geographical indications and indeed geographical indications as a whole were going to be considered within the framework of the Agreement for the first time. Given the legal situation as well as those aspects, the Delegation was of the view that the Committee should not prevent interested parties from participating in the process and this might also lead to enlarging the membership of the Lisbon Union which would meet the objectives set for the process for a revised Lisbon Agreement. Practice and experience showed that,

generally speaking, all members of WIPO were entitled to attend diplomatic conferences of WIPO irrespective of whether they were members of the Special Union and recalled that decisions adopted in that regard, had always been helpful for WIPO's activities. In fact, limiting participation to members of the Union could also have damaging repercussions for the future work of the Organization as a whole. Therefore, it believed that all members of WIPO should enjoy full participation in the Diplomatic Conference as in previous conferences.

33. The Delegation of Japan, speaking in its national capacity, said that it wished to join previous speakers to congratulate the Chair on his election. It also expressed its thanks to the Secretariat for the preparation of the working documents. The Delegation stated that it joined the co-sponsors of document LI/R/PM/5/Rev.2, because it strongly believed that there were issues which might bring considerable impact on WIPO Member States that should be considered by all members of the Organization as was the norm. It, therefore, could be said that the co-sponsorship came from their systemic interest in the Organization, in particular, systemic concern about working method in the field of norm setting. In its view, in relation to the economic activities, the revision would affect at least WIPO Member States business practices based on the current IP system such as trademark laws. Turning now to the aspect of financial sustainability of the system, WIPO Member States had to recall the fact that this system operated not only based on the income from itself but was financed by the WIPO overall budget including the revenue from the Madrid system. This fact indicates that the significant change of the system might have an impact on the regular budget of WIPO which WIPO Member States not belonging to the Lisbon Union could not ignore. This revision might increase the cost needed to support the Lisbon system due to a significant number of new potential applications for international registration of geographical indications. With this reality in mind, and in order to make a system operate in a self-sustainable manner to the extent possible, it is fair to say that all WIPO Member States should be allowed to become involved in this revision process in such a way as to take different and variable views from all WIPO members on board. Therefore, its Delegation was convinced that the Diplomatic Conference for the adoption of this revision, reflected the status quo in a proper manner, and should be open for full substantial participation by all WIPO Member States. The Delegation believed that the proposal for an open Diplomatic Conference could contribute to a healthy development of the entire WIPO.

34. The Delegation of India recalled that geographical indications were of immense relevance to India with its large number of agro-climatic zones enabling the country to grow agricultural products that derive their distinctive qualities from the geographical area and the climatic conditions associated with it. India placed great importance on the protection of geographical indications as it believed that this had a vital role to play in product differentiation and thereby in the growth and viability of the handicrafts sector. In this context, the Delegation wished to place on record its appreciation of the work being carried out in the Lisbon Union for amendment of the Agreement to extend the protection granted for appellations of origin to all geographical indications. It was of the view that the work of the Lisbon Union had considerable significance for India and for other countries, especially, as it sought to bring within its ambit all geographical indications. Given the significance of the work being carried out and considering that the objective of the revision of the agreement was to enhance membership of the instrument with a view to achieving a truly global coverage, it was essential that such negotiations allow all Member States of WIPO to participate effectively with a right to vote in the Conference. Moreover, since the Member States were already committed to the TRIPS Agreement, participation of the entire membership of WIPO in the negotiations was also imperative to ensure that the negotiations did not conflict with the overall commitments under the TRIPS Agreement. It was also a fact that all treaties that were administered by WIPO had been so with the involvement of the contribution of the entire membership of WIPO. The same tradition needed to be followed in the negotiation on the amendments of the Lisbon Agreement. In this regard, the Delegation expressed its support for the amendments proposed by the group of nine countries, namely, Australia, Chile, Israel, New Zealand, Panama, Republic of Korea, Singapore, USA and Uruguay and were further joined by Argentina, Canada and Japan to

amend the Rules of Procedure of the Diplomatic Conference with the view to allowing all Member States of WIPO to participate effectively with the right to vote in the Diplomatic Conference.

35. The Delegation of Germany aligned itself with the statements of France, Italy, Hungary, Portugal, the Islamic Republic of Iran, the Czech Republic, Mexico and Peru. It stated that from its point of view, the proposal in document LI/R/PM/5/Rev.2 should not be followed. As Member States were aware, Germany had at the moment, observer status and for the future it was considering to become a Member State after the revision of the Lisbon Agreement. This revision aimed to strengthen and modernize the existing legal and framework. It pointed out that Member States were dealing with the revision of the existing legal framework. The revision would be legally binding only for Member States and therefore that had to be taken into account. The decision of the Member States of the Lisbon Agreement on how to convene the diplomatic conference on the revision of the Agreement should be respected, otherwise, in its view, an unpredictable precedent would be created.

36. The Delegation of Canada recalled that it was a co-sponsor of the proposal contained in document LI/R/PM/5/Rev.2. Its Delegation shared the view of numerous WIPO members who had spoken earlier that the Draft Rules of Procedure for the Diplomatic Conference could be improved, so as to provide all WIPO members with an equal and effective opportunity to shape the contents of the revised Lisbon Agreement. In the Delegation's view, this was especially important in light of the potential impact of a revised Lisbon agreement on the interests of non-Lisbon members of WIPO. Such a revised Treaty would have a clear effect on the work of other bodies such as the WIPO Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications as well as the TRIPS Agreement. Therefore, the Delegation respectfully encouraged all members of the Lisbon Union to adopt the proposal.

37. The Delegation of Brazil wished to thank the proponents of the proposal in document LI/R/PM/5/Rev.2. Brazil had always upheld the idea of inclusiveness in multilateral negotiations. This had been the principle consistently applied to their working in different fora and it believed the same should be applied to discussions that would take place in the Diplomatic Conference on the Lisbon Agreement as well. Inclusiveness of the diplomatic conference was important for several reasons. First of all, this would be in line with recommendation 15 of the Development Agenda which explicitly stated that norm setting activities should be inter alia (1) inclusive and member-driven, and (2) participatory process which took into consideration the interests and priorities of all WIPO Member States. Additionally, the Committee had to bear in mind that the Union's non-members of today could be the members tomorrow. The Delegation argued that if one of the reasons for the exercise was precisely to seek the expansion of the Union's membership, as had been stated by its proponents, it was just natural that all WIPO members contribute effectively in shaping the new text. It observed that at the end of the day, directly or indirectly, all countries were interested in changes that were promoted in the IP global protection system. Furthermore, the Delegation believed that all members should participate on an equal footing in the Diplomatic Conference because this would be in line with the positive practice established in WIPO. During the largest part of the last quarter of the century, all the conferences had been opened to the participation of the entire membership. The Delegation said it firmly believed that this had to be the way to work in the Organization and no different precedent should be set by the Lisbon Union.

38. The Delegation of New Zealand said that it fully endorsed the statement by the Delegation of Israel on behalf of the group of co-sponsors including its Delegation of the proposal LI/R/PM/5/Rev.2 which was to make a simple amendment to the Draft Rules of Procedure for the Diplomatic Conference for the Adoption of a revised Lisbon Agreement on Appellations of Origin and Geographical Indications. Being a small country, inclusiveness was a principle that New Zealand held very dear and saw it as a fundamental pillar of WIPO in its normative work. As previous speakers already noted earlier, the proposed amended Lisbon Agreement would

extend the scope of the existing Agreement and would establish new international norms regarding geographical indications. Those amounted to more than minor technical amendments. It observed that while geographical indications and appellations of origin were related, they were not exactly the same things. It pointed out that its Delegation was gravely concerned also about the negative precedent to the Organization, should the Rules of Procedure not be amended as proposed. Adoption of the proposed amendment to the Rules of Procedure would ensure that the Diplomatic Conference would be fully inclusive. It recalled that given that one of the objectives of the amendment process was to facilitate an expanded membership of the Lisbon Agreement, it would be in the interest of the Lisbon contracting parties to enable maximum participation in the shaping of the final agreement to ensure that it was the open, flexible and diverse system that Lisbon members said they were seeking.

39. The Delegation of Saudi Arabia stated that the government of the Kingdom of Saudi Arabia had always believed in the importance of transparency in international action by allowing equal opportunities to all countries to express their views and their positions and WIPO had always been the best example of that. The Delegation said that it believed, in principle, that as long as there was no obstacle, opportunity should be given to all Member States of WIPO to take part on equal footing in the work of the Diplomatic Conference concerning the discussion of the Lisbon Agreement. It expressed its full appreciation for the observations made on both sides. It believed that the revision of the Lisbon Agreement was going to bring about important obligations as regards the expansion of geographical indications and this was likely to have a great effect on all countries which were not members of the Agreement. In addition to the fact that it would affect the possibility of the products of the Delegation's country reaching international markets and therefore, it believed that if the real objective of revising the agreement at the Diplomatic Conference as was already pointed out by members of the Lisbon Union was to make the agreement more attractive and to ensure expansion of its membership, then it became natural that they should have no hesitation about the participation of all member-countries of the Organization on an equal footing at the Diplomatic Conference to give them the opportunity to express their positions and their points of view.

40. The Delegation of Panama, speaking in its national capacity, wished to echo the statement made by the Delegation of Israel in support of the proposal for the Draft Rules of Procedure for the Diplomatic Conference for the adoption of a revised Lisbon Agreement on Appellations of Origin. From the Delegation's view, the need for full participation for all Member States of WIPO came from the principle of inclusiveness in the Organization and out of the recommendations of the development agenda prepared by all Member States of the Organization in 2007. It recalled specifically Article 15 which established, amongst others, that norm setting activities must be inclusive and member-driven. This recommendation was of specific importance, when taking into account that the specific interest of the Working Group was to improve the working procedures of the Lisbon System to make it as attractive as possible to members and non-members alike. In the joint proposal, it was stated that the Working Group would work on new procedures in order to inscribe recognition and protection of registered geographical indications and new possibilities to register by electronic means. This was an item which was of interest to all Member States of the Organization as was the general matter concerning geographical indications. In short, as a small Delegation, it fully understood the limitations of other small delegations. As such, it wished to highlight that the impossibility of being able to attend one or another meeting, did not undermine the ability and entitlement of its country or any other to defend their interests where necessary. It recalled that Member States were relevant full members and that should not be forgotten. It was not about exclusion but rather different standards about participation.

41. The Delegation of Uruguay thanked the Chair for the opportunity to speak about the joint proposal for the improvement of the draft Rules of Procedure for the Diplomatic Conference and the list of invitees contained in document LI/R/PM/5/Rev.2. It wished to support and endorse the joint statement given by the Delegation of Israel as well as those made by the co-sponsors



and other delegations that spoke before it. The Delegation said that it also wished to take the opportunity to echo previous interventions and believed that nobody had to seek permission or request any type of assistance in order to put forward a proposal and believed that the Delegation of Israel had exercised this entitlement. It stated that its Delegation had participated in the discussions that had been undertaken within the working group as well as those that would be held next year in the Diplomatic Conference. It noted that these issues were of interest to all members of WIPO as the revision to the Lisbon agreement would include new elements such as geographical indications. Uruguay was a country highly committed to multilateralism with a long and active tradition of constructive participation in various fora. The Delegation believed that it should be able to participate on an equal footing regardless of the level of development, size or economic power as such. The Delegation added that at the time in which it was increasingly difficult to reach agreements in WIPO, here Member States had a historic opportunity to overcome that situation and at the same time to continue the practice of over 20 years in which the Organization has inclusive diplomatic conferences for all Member States. The present situation did not conform to the recommendation of Article 15 of the Development Agenda mentioning inclusivity.

42. The Delegation of Argentina said that it fully supported the statements made by the Delegation of Israel on behalf of the co-sponsor countries of the proposal contained in document LI/R/PM/5/Rev.2. As a result of the revision process that the Working Group on the development of the Lisbon system began in 2009, the scope of the Lisbon Agreement would be extended and would deal not only with the appellations of origin but also with geographical indications. The matters concerning geographical indications were of great importance to all members of WIPO whether or not they were party to the Lisbon Agreement. As such, the Delegation believed it was essential to allow all members of WIPO to participate on an equal footing in the Diplomatic Conference. This would be in line with the practice that the Organization had been following over the last 25 years which was to open Diplomatic Conferences to all members. Allowing the full participation of all members of WIPO in the Diplomatic Conference would also be in line with Recommendation 15 of the Development Agenda which established that norm-setting activities must be, among other factors, inclusive and member-driven. Finally, in addition to continuing forward with the well-established practice in the organization, which was in line with the recommendations of the Development Agenda, this would contribute to achieving one of the objectives of the revision itself, namely, attracting new members and raising the number of Contracting Parties of the Lisbon Agreement.

43. The Delegation of Singapore recalled that it was one of the co-sponsors of the document submitted on amendments to the Rules of Procedures of the Diplomatic Conference and aligned itself firmly with the position of the other co-sponsors and the non-co-sponsors who had seen the merit of convening an open diplomatic conference and had made their views known earlier. It said that there was little need for its Delegation to repeat the points raised so eloquently by other delegations but wished to reiterate the following: The first point was that it would be useful to underscore, as some other delegations had done, that there was no rule preventing the convening of an open diplomatic conference. It added that, if it may venture one step further, a closer reading of Lisbon Article 13(2) and the Vienna Convention showed that there was nothing that compelled a closed Diplomatic Conference either. In its view, whether to have a closed or open Diplomatic Conference appeared therefore to be a choice to be made. Despite all the varying situations Member States had seen parallels in other Diplomatic Conferences or not, the choice for a closed Diplomatic Conference had not been exercised for one-quarter of a century and Member States would be disinclined to see this trend towards transparency and inclusiveness discontinued. For systemic reasons, Singapore had chosen to lend its voice to the revised document that had been submitted. Despite all the clever words exchanged earlier, the fact remained that the extension to include geographical indications was, to many, a substantive revision and with good reason. This would significantly expand the scope of the existing agreement and had caused tangible concern among a significant cross-section of WIPO members. Clearly, given the large turn-out in the Preparatory Committee

meeting, this was of interest to all members and as seen from a wide spectrum of members across all regional groups and levels of development, interested in participating on an equal footing. It was from this stand point of transparency, inclusiveness and collegiality that the Delegation of France had so highly valued, that the Delegation wished to recommend the proposal for the consideration by the Union.

44. The Delegation of Switzerland wished to thank the Secretariat for the Draft Rules of Procedure for the Diplomatic Conference which, for it, did not pose any particular problems. It stated that its Delegation, as an observer State to the Working Group on the revision of the Lisbon System had actively participated in the work of the Working Group since its first session. The Delegation felt that the proposals of the observers had indeed been taken into account very carefully by the current Member States of the Lisbon Agreement. This had been confirmed on several occasions within the various bodies of WIPO that Member States were currently undertaking a revision process for the Lisbon Agreement. The Delegation believed that it would be useful to recall once again that the revision which would be defined at the Diplomatic Conference would be confined to the current members. Furthermore, the aim of the current members of the Lisbon Agreement that was reiterated on many occasions and under the mandate of the Working Group, was to attract new members. As such, current members of the Lisbon Agreement had taken into account so far the proposals coming from countries potentially interested in becoming parties to the Lisbon Agreement. As such, the Delegation also welcomed the interest shown in the Lisbon revision process, with regard to the future expansion of the number of members to the Lisbon Agreement.

45. Observing that there were no requests for the floor the Chair pointed out that there had been an open and very constructive discussion on the outstanding issue of voting rights in the Diplomatic Conference. He wished to emphasize that, as Chair of this Preparatory Committee, he was in the hands of the current membership of the Lisbon Union. As it had been pointed out that if there was any choice to be made in this respect, the choice had to be made by the current members of the Lisbon Union. In that regard, a number of arguments had been advanced with respect to the applicable legal framework, quoting Article 13(2) of the Lisbon Agreement, and Articles 39 and 40 of the Vienna Convention on the Law of Treaties. In the reading of these delegations, this meant that the revision Conference should be held among the countries of the Lisbon Union. On the other hand, a number of delegations had pointed out that, in their view, those provisions would not prevent the current membership from calling for a revision conference open to other WIPO members. He mentioned, in that regard, that for years now, both in the Working Group on the development of the Lisbon System and in the Lisbon Union Assembly, the review of the Lisbon System had been based on the working assumption that the review ultimately would take the form of a revision of the current Agreement. He stated that at this point in time, as also happened in the Assembly of the Lisbon Union, this was being contested on the ground that the anticipated review of the Lisbon Agreement would amount to such a dramatic extension of the scope of the agreement that it raised questions as to whether this was indeed a revision. However, in the context of this Preparatory Committee, and from his view as Chair, he was not in a position to disregard the decision already taken by the Lisbon Union Assembly and the view of the Lisbon Union members, namely, that they continued to believe that it was a revision of the current Agreement that they were contemplating in this process and it was for that purpose that, in their view, the Diplomatic Conference should be convened. He was not of the view that he should elaborate in detail or at full length on the question of how appellations of origin relate to geographical indications. It was undisputed that appellations of origin constituted geographical indications, maybe as a sub-species of geographical indications and it was also undisputed that in the international register under the Lisbon Agreement, there were already geographical indications registered. He noted that, of course, it was up to the members of the Lisbon Union to consider whether they wanted to take on board the arguments that in spite of the fact that appellations of origin did constitute geographical indications, the scope of the agreement would be broadened dramatically. It seemed that the current membership did not share that view. He recalled that these were only

the legal aspects that Member States needed to consider and added that there were some other aspects that were not exempt from consideration either. He recalled that repeated references had been made to the need to maintain transparency and inclusiveness in the Organization. He said that he firmly believed that the activities of the Working Group on the development of the Lisbon system had set good example for that kind of inclusiveness and transparency. His only regret was that they had not had such broad participation in those Working Group meetings. He said that there was also a point made repeatedly, namely, that conducting the revision of the Lisbon system within the applicable legal framework and calling for a Diplomatic Conference where only the current members would have the voting rights, would not necessarily contradict the principles of inclusiveness and transparency. There were views that the process could continue to be inclusive and transparent even without equal or full participation. He stressed that equal participation was again a concept to which there had been repeated reference. Equality was an interesting concept and he understood fully, the concerns expressed by those WIPO Member States that were not yet members of the Lisbon Agreement in that regard. But on the other hand, he said that he also understood the concerns of the current Lisbon members. They might ask themselves, what was the advantage of being party to the Lisbon Agreement if others could have the same rights in reviewing the agreement to which they were not party? In his opinion, that was also a valid question. He noted that there had been references to Paragraph 15 of the Development Agenda calling for inclusiveness and for a participatory process in norm-setting and also that it should be member-driven. He believed that he had already covered the issues of inclusiveness and participation. Of course, member-driven was again a concept that Member States might wish to reflect upon because for the current membership of Lisbon, member-driven means, a process driven by all States. For the membership of WIPO, it meant a process driven by the entire membership and therefore suggested that Member States might wish to make choices. He confessed that, in his view, the Committee was in a very delicate position. The legal situation did enable the current membership of the Lisbon Union to go to a Diplomatic Conference to revise the current Agreement among themselves and, therefore, from his humble reading of the applicable legal provisions, the Draft Rules of Procedure as proposed by the Secretariat, would not run counter to any legal provision applicable in that respect. Whether this was advisable, desirable in political terms or not, it was something on which the current membership had already been reflecting and on which to further reflect. In that regard, what he wished to underline was that the Committee should not take the concerns expressed by a large number of WIPO members, maybe a number larger than the membership of the current Lisbon agreement lightly. The Committee needed to reflect on it and added that he was at the Member States' disposal in finding any possible compromise on the issue, so that they could uphold the constructive and inclusive spirit of that whole process. In order to facilitate any further formal or informal discussion on the outstanding issue, he outlined how he would proceed, unless he heard otherwise from Member States. He clarified that the landscape seen from his point of view was that there was a proposal for amending the Draft Rules of Procedure put forward by a Member Delegation. This had not been seconded by any other Member Delegation. It had been supported by a significant number of Observer delegations, while there were at least two Observer delegations supporting the original proposal. Unless Member States managed to come up with any other alternative solution to this, he was inclined later on to announce a decision from the Chair to the effect that the Draft Rules of Procedure were recommended by the Preparatory Committee to the Diplomatic Conference in an un-amended form as they were proposed by the Secretariat. He supposed that the decision could be taken in the afternoon after the lunch break and, in the course of that lunch break, Member States would have ample opportunity to further reflect on the way forward. He stressed he would be at their disposal to find any workable compromise, if possible. As there were no requests for the floor, he adjourned the meeting until 3 p.m. when the Preparatory Committee would reconvene.

46. Opening the afternoon session, the Chair informed the Committee that since the morning session broke for lunch, he had had a number of consultations with various delegations in an attempt to find a compromised, solution to the question of the draft Rules of Procedure. He said that those consultations had been quite informative and had been conducted in a very constructive manner, however, they had not yet yielded a satisfactory result on the basis of which he could say that he had exhausted all possibilities to reach a compromise. He therefore wished to propose, as a last attempt, to arrive at a solution that was acceptable to each and every delegation in the room. He then proposed informal consultations chaired by himself with the involvement of all participants of the Preparatory Committee except for the non-governmental organizations. He stressed that these consultations would be limited in time, and he intended to hold them until 5 p.m., and he assured the Member States that once they agreed to such informal consultations, everything they said would be off the record and would be taken on an informal basis. He pointed out that in view of the time constraints that would indeed be the last attempt to arrive at a solution in this meeting of the Preparatory Committee to the issue of voting rights at the Diplomatic Conference. He asked if Member States could go along with the suggestion or if there was any alternative proposal.

47. The Delegation of the European Union thanked the Chair for the proposal and wondered if it was possible for the Chair to suspend for just two minutes so that they could have a quick huddle before they started the consultation process.

48. On a humorous note, the Chair observed that two minutes were not feasible but would give five minutes but added that he would be strict and reconvene the informal session in five minutes' time.

49. Reopening the session, the Chair recalled that the Committee was considering item 4 of the Agenda and recalled that Member States had been invited to consider the draft Rules of Procedure and recommend them to the Diplomatic Conference for adoption. He said that it was the Diplomatic Conference that would finally adopt its own draft rules of procedure based on the recommendation by the Preparatory Committee. He also recalled that at the beginning of the Committee's deliberations on the item, the Secretariat highlighted the editorial and/or technical changes that needed to be introduced to the text and it had been his impression that the Preparatory Committee was in favor of those technical changes. In addition, a Member Delegation of the Preparatory Committee tabled a proposal for amending the draft Rules of Procedure and Member States had had discussions on the proposal for amendment. As it turned out, there had been no Member of the Lisbon Union supporting the proposal put forward by the Delegation of Israel, therefore the proposal was not seconded. As a result of informal consultations, there was a proposal to set a deadline for all WIPO Member States to submit in writing to the Secretariat proposals for amending the Basic Proposal by the end of the year. Those proposals should relate to substantive pending issues in respect of the Basic Proposal and the Secretariat would prepare a compilation of such proposals and submit them in due course to the Diplomatic Conference, for its consideration. If the proposal was accepted, that procedural element consisting of an additional opportunity to put forward proposals would be reflected in the report of the Preparatory Committee. The Chair now wished to announce a decision concerning the draft Rules of Procedure. In his understanding, the Preparatory Committee, namely, Member Delegations, were in favor of recommending the Draft Rules of Procedure of the Diplomatic Conference for adoption at the Diplomatic Conference as contained in document LI/R/PM/2 without any change except for those that had been indicated earlier by the Secretariat. In addition, the proposal for amendment submitted by a member delegation, but not seconded by any other delegation, was duly noted. As it had received no support, however, it would not form part of the draft Rules of Procedure to be submitted to the Diplomatic Conference.

50. The Delegation of Israel said it wished to underscore its Delegation's support for and co-sponsorship of the proposal for an open Diplomatic Conference, in which all WIPO members could participate on an equal basis. The Delegation said that it did not agree to Rules of Procedure that would create a closed, inequitable Diplomatic Conference, therefore, there was no consensus.

51. The Chair affirmed that there had been no consensus but, on the other hand, it seemed to him that 27 Member Delegations were in favor of or not objecting to his decision. Therefore, the Committee could take the decision while taking note of the reservation expressed by the Delegation of Israel.

52. The Delegation of Australia asked to know what exactly was being proposed. It was not sure where the discussions were leading at that moment. It observed that there had been a lot of delegations expressing very strong views on equal participation in the Diplomatic Conference as well as the Lisbon Union members, which expressed their positions. It requested the indulgence of the Chair to explain why the Committee was moving in that direction and not giving more opportunity for further discussion.

53. The Chair said he was sorry in case he had not been clear enough. He clarified that he had proposed to announce a decision to be taken on approving a recommendation concerning the draft Rules of Procedure, and there was only one delegation opposing that decision. He was of the view that the decision could be validly adopted. There was only one delegation speaking against the decision which meant that an overwhelming majority existed for the adoption of the decision. In his view, that was clear enough and it was in accordance with the Rules of Procedure. The Chair recalled that there were still a number of items to cover, and the Committee needed to take a decision otherwise letters of invitation could not be sent out. He recalled that he had done all he could do to arrive at a compromise solution, but the informal consultations that had been held thus far had made it clear that the Committee would be wasting time if it tried to carry on consultations they would yield no compromise solution by the delegations concerned. He therefore proposed to announce a decision for the sake of efficiency and in so that the Preparatory Committee could fulfill its mandate.

54. The Delegation of Israel said that it recognized the need for the Committee to be efficient and to finish on time but it wished to ask for a short break just to be clear about the proceedings.

55. In response, the Chair said that he took it as a procedural motion but he did not wish to rule on that procedural motion now because there was another request for the floor and therefore would come back to the Delegation's request, with its kind permission, once they had heard from the Delegation of the United States of America.

56. The Delegation of the United States of America said that it was deeply concerned about process in the meeting. It was of the view that the meeting seemed to be moving away from the normal consensus approach in WIPO discussions, and that was a significant change and a significant precedent for the Organization. In the Delegation's view, proceeding in an informal way because of a desire to move along quickly did not work where there was no consensus. It also wished to state that it understood the concern that letters of invitation needed to be sent out and there was a certain time that needed to be followed for the Diplomatic Conference. However, it wished to hear from the Legal Counsel's Office, whether letters of invitation could be sent out without specifying exactly what the role of each delegation was or could perhaps be whatever the role was as determined by the agreed procedures at the previous Diplomatic Conferences. To its mind, to say that because of the letters the Committee should not deal with a very difficult and real disagreement in the Organization was putting the cart before the horse. The Delegation supported the request by the Delegation of Israel for a break for some clarification and would also urge that if the Committee was really going to move forward, despite

a lack of consensus within the Lisbon Union and, of course, more broadly, its Delegation would urge that any such step be put forward until the next morning to allow all Member States to reflect, consider their positions and the impact of this step, and to consult with each other and their capitals.

57. The Chair requested the Legal Counsel to respond to the question raised by the Delegation of the United States of America.

58. In response to the question raised by the Delegation of the United States of America, the Legal Counsel drew the attention of Member States to document LI/RPM/3, the list of invitees to the Diplomatic Conference. As Member States would notice the Preparatory Committee would, after this Agenda item, be invited to comment on and endorse the proposed letters to be sent out to the various invitees. Those letters distinguished between the types of invitees, namely whether as Member Delegations or Observer Delegations which would be specified in the letters of invitation that went out.

59. The Delegation of the Republic of Korea expressed its support for the suggestion made by the Delegation of the United States of America to have some time to discuss the matter with respective capitals until the next day. The Delegation now saw a very strange situation in that, despite the considerable majority number of concerns raised, only one-quarter of the Member States had a view different from the majority positions. It wished to raise a question to the Legal Counsel whether, in the Organization, if a resolution was made by a specific Union contradicting the majority of WIPO members, there were any means or measures by which to reconsider the decision.

60. Responding to the question raised by the Delegation of the Republic of Korea, the Legal Counsel said that as he had understood the Chair's summary, this was a meeting of the Preparatory Committee of the Lisbon Union. And as the Chair pointed out, one Member of the Lisbon Union was on the side that the Delegation had referred to and the rest of the Lisbon Union members had taken a position different from that. According to the record, the majority of the Lisbon Union members had taken that position. He observed that the majority of WIPO Member States had taken a position that was different from what was being decided upon. In other words, the decision had been taken in the context of the Lisbon Union, and the majority of those members were in favor of that decision.

61. The Delegation of France wished to thank Observers for their proposals concerning the agenda and everything else, but as the Chair had reminded Member States, they had to get through the agenda and if they did not deal with the item, they not could get on to the others. Responding to the comments made by the Delegation of the United States of America as to whether there was precedent for a decision which was not taken by consensus, the Delegation wished to recall that Member States could not keep from continuing with their work, and pick the fruit which was nearly ripe, because of an absence of a consensus. Then it was a precedent for a Working Group, which had been meeting for six years now, to at the last moment be kidnapped and taken completely by surprise. The Delegation said that maybe the Secretariat could inform them of the cost to the Secretariat for the ten meetings of the Working Group and all the time spent by the Secretariat and the time taken by the delegations that had come here from their capitals. In its view, that was a much more worrying precedent than to see something happen at the very last minute, to throw away the work of the Working Group in a very open and inclusive way over a period of six years. All this had now been overtaken by a bad mood on the last day of the meeting and, in its opinion, that would be a much more bothersome precedent than anything that had been mentioned by the observer countries. It was therefore of the view that the meeting could move on and continue in the same spirit. As they were friends of geographical indications the Delegation called on everyone to participate and send in their amendments to the revised text.

62. The Delegation of Israel recalled that it was not an Observer but a Member State of the Lisbon Union and as such, it had asked for a clarification of the proceedings. It stated that the Chair had mentioned before that a majority agreed on the Secretariat's proposal, which was true, but it recalled that a majority and a consensus were not the same thing. If one wanted a consensus, it was not a majority, it had to be all of the members that had to agree, so that is why the Delegation felt the proceedings were not clear.

63. The Chair acknowledged that he was fully aware of the fact that consensus was different from a decision taken by either simple or qualified majority and he had not said that consensus equaled decisions taken by majority. He explained that what he had said was that it seemed that the Committee would be taking the decision on the draft Rules of Procedure almost unanimously, with only one vote against it or one delegation opposing it or expressing its reservations, even the Delegation of Israel had not questioned that there was only one delegation expressing its reservations on the draft Rules of Procedure. The Chair affirmed that there was therefore no consensus as the Delegation had said, and added that in accordance with the WIPO Rules of Procedure, in the Preparatory Committee decisions were to be taken by a simple majority, threshold they had reached in the Preparatory Committee.

64. The Delegation of Japan said it wished to register its significant concern about the manner in which they were conducting business in the Committee. The Delegation observed that there was no consensus within the members of the Union on the "little" procedure of the Diplomatic Conference. It stated that even in that situation, the Chair mentioned his decision was based on a simple majority. Its Delegation was strongly of the view that this was completely different from what Member States usually did in other committees of WIPO and, at the same time, they were deviating from the procedure which governed the committee. The Delegation therefore reiterated its significant concern about the way business was being conducted.

65. The Delegation of Uruguay said it wished to echo the statement made by the Delegation of Japan. It expressed its concern because it was new at WIPO as well and was not a lawyer and was not a member of the Lisbon Union. It observed that there was talk of not having consensus but of having a majority, and wondered if such a decision was taken by a vote as its Delegation had not seen one take place. In its opinion, a clarification was needed. It wondered what happened in the Lisbon Agreement context and it apologized for not knowing the regulations of the Lisbon Agreement enough, but it had been in different WIPO committees and that was not the regular practice. It observed that, in its view, this would set a very bad precedent. Member States were talking about a consensus minus one and going ahead with the Diplomatic Conference with a reservation from a Member and many of the delegations. It offered that it was willing to wait and discuss if there was no consensus and did not understand the urgency to take the decision and ignore the voices of many. The Delegation noted that the Committee needed advice from the Legal Counsel as to what happened when there was no consensus as it considered consensus, minus one not a consensus, at least, in Uruguay.

66. The Delegation of Mexico said that for its Delegation the situation was very clear. The Delegation of Israel was entirely right in saying that there was no consensus, but added that, there was a proposal from the Delegation of Israel and supported by co-sponsors and there was no consensus there too. In a meeting that recently took place in WIPO, his Delegation had submitted a proposal on governance that did not enjoy a consensus from the committee in which it was discussed, and was not accepted. That was how the Delegation saw the situation in the meeting, that is, there was no consensus with regard to the proposal submitted. The Delegation expressed its support for the Chair's conclusion on the agenda item. 27 countries of the Union did not support the proposed amendment and so the Rules of Procedure submitted by the Secretariat should be those recommended to the Diplomatic Conference.

67. The Delegation of Italy shared the analysis made by the Delegations of France and Mexico and expressed support for the Chair's conclusion, which respected the rules. That the Delegation of Israel was right that there was no consensus but there was a clear majority. It regretted to note that many Observer States that were active in the session had been much less active during the revision process, which had been very long, inclusive and transparent over the past six years, in which Member States had attended the meeting of the Working Group and also at a significant cost to send experts to these sessions to make their views heard. The Delegation recalled that it had already expressed its full readiness to take into consideration the proposal of observer States at the Diplomatic Conference.

68. The Delegation of Bulgaria expressed its regret for having to take the floor at a late stage and wished to stress its support for the Chair's conclusion and to what the preceding Delegations of France, Italy and Mexico had just said. The Delegation pointed out that there were two different rules of the games. One was the Lisbon Agreement and Lisbon Union rules, and the other was the WIPO rules. One could not just say that because they did not like the Lisbon Agreement rules, they should change them and apply WIPO rules. The Delegation indicated that it was as if they were having two different games of soccer and hockey. In soccer one could not change as many players as one wanted, whereas in hockey this was allowed but they could not stop in the middle of a soccer game and say they wanted to change the rules now to apply hockey rules. The Delegation noted that was what it was observing at the moment. Delegations were trying to impose other Rules on the Lisbon Union, which, already had rules that were very clearly stated in Article 13 about who was taking a decision and what was the basis for the decision. If they did not like it, they should change the Lisbon Agreement and then as a member of Lisbon Union, change the rules. Lisbon Members were trying to make the Lisbon Agreement as attractive as possible to others, but not against their own interest. It cited the example of one saying that the Security Council of the United Nations was not representative because 178 members had voted against a decision that the Security Council adopted in a different way. It could not be changed. It stressed that each organization and each Union had its own rules and it therefore wished for all the delegations present in the room to remember and to observe that there were different kinds of rules and they could not, in the middle of the game, change the rules.

69. The Delegation of the Czech Republic said that it wished to add to the delegations that had spoken before it and recalled that there had been no real suggested solutions by those requesting a change in the proposed Rules of Procedure that would bring the Committee to a way forward. Under the situation, the Delegation said it supported the way forward proposed by the Chair, and it considered it not the best solution imaginable, but a solution nevertheless.

70. The Delegation of Peru apologized for taking the floor again and added that it simply wanted to express its support for what the Delegations of the Czech Republic, Portugal, Bulgaria, Italy and Mexico had said and thanked the Delegation of Mexico because its Delegation supported everything that the former had said during this debate. If Member States did anything different from what the Chair had suggested then they would be setting a very bad precedent because, as many delegations had pointed out, the Secretariat's proposal had been put together carefully and was consistent with the rules and it would be to set a very bad precedent if the Committee ignored those rules.

71. The Delegation of the Islamic Republic of Iran wished to join others in support of the Chair's summary, and was also of the view that time was running out, and stressed that the Committee needed to move to the next item.

72. The Chair thanked the Delegation for its kind advice and observed that he still had four requests for the floor, and added that he intended to close the list of speakers.



73. The Delegation of the United States of America wished to start by responding to some of the comments made by the Delegations of France and a few others. Its Delegation understood that there was some frustration being expressed by the Lisbon Union members and wished to reassure them that no one was trying to kidnap the process or to throw away the hard work of a number of years. What Member States were asking for was to be included in the results of that work and wanted to build upon everything that had been accomplished even if it was not the way they would have approached it from the beginning. It reiterated its wish to work together to find an inclusive approach that could serve all of them. The Delegation strongly believed that that was possible and it was ready to work towards achieving it. What they were asking for was not to put a stop to anything, but to move forward. Reacting to the remark that no one heard them proposing a way forward, the Delegation noted that they had asked to be included and had been waiting to hear if there were any proposals to try to help them be included and none were forthcoming. Finally, the Delegation said it just wanted to reiterate its very strong concern that instead of proceeding on the basis of consensus as the Organization did, they were apparently being asked to proceed on the basis of the presumed result of a vote that never took place, and, in fact by its count, the meeting had heard from only 10 Lisbon Union Members at that point. It therefore wished to reiterate its request, to at least put off a decision on the issue until the next day to give everyone time to consult with each other and with their capitals.

74. The Delegation of Australia said that it wished to echo and support the comments which had just been made by the Delegation of the United States of America. It observed that there was obviously a little bit of frustration in the room and it was important for the Delegation to point out that this was not a last minute issue. In the Delegation's view, it was a very disturbing sign for what might be the kind of environment Member States might experience in a diplomatic conference, a situation which did not offer WIPO members equal status. On the proposal that had been made by the Chair, and also supported by a number of delegates in the room, the Delegation said it was thoroughly confused because it seemed like Member States were trying to apply different sets of rules to the same circumstances. That only confirmed for the Delegation that they really needed to think about what was the right approach without trying to rush something. The Delegation was of the view that part of the rush seemed to be premised on the need to get letters out in time, which was an odd way of arranging the discussion on a really important issue. Recalling the question raised by the Delegation of the United States of America to the Secretariat on possible alternative procedures for letters, the Delegation was concerned that the Committee should be driven by some kind of deadline around letters. Lastly, the Delegation expressed once again its support for the proposal by the Delegation of the United States of America to delay overnight as it would be completely unnecessary to try and force the issue, and recalled that it did not think that the issue of the letters should be driving the debate.

75. The Chair clarified that it was not a question of sending out letters but there was also the issue of convening a Diplomatic Conference, for which invitation letters had to be sent out. He recalled that the decision to convene the diplomatic conference was already taken and it was not all of a sudden that the Committee needed to decide on the draft Rules of Procedure, on the invitation letters, and on the list of invitees at the session of the Preparatory Committee.

76. The Delegation of the Republic of Moldova stated that even though its Delegation was a small one, it had attended eight meetings out of 10 during the last six years. With this in mind, the Delegation expressed its concern about the way observer States chose to participate. It felt that some delegations in the room were trying to undermine the position expressed by a huge majority of Member States of the Lisbon Union, and it wanted to express its support for the Chair's proposal regarding the way the Committee should proceed. It added that its Delegation accepted the draft rules of Procedure presented by the Secretariat.

77. The Delegation of Israel apologized for taking the floor and hoped that it was going to be the last time for the day. The Delegation recalled that, first of all, the Chair had talked about majority, and so its understanding was that in some cases, there was a need for a simple majority, but in that case, when one talked about majority, they meant a vote, and the Delegation was not aware that any voting had happened in the room during the day's meeting. Secondly, if one spoke of consensus, the Chair said that its delegation would be noted as having expressed reservation, but this was not what the Delegation had done. In the Delegation's view, legally it was two different things to say no consensus or to express a reservation. It stressed that it had not asked that it be reflected that it had expressed a reservation, but rather that it did not want to join the consensus. In its opinion, there was a legal difference between the two and that was why the Delegation had reiterated its request to have the meeting postponed to the next day, if that was possible, to allow delegations to consult with their capital.

78. The Delegation of Panama wished to express its concern about an issue of process. There were procedures at different levels, that is, for the Lisbon Agreement and the relevant procedures for WIPO, but there were attempts being made to try to establish steps within the context of the Lisbon Union, steps that seemed to be separate from what happened within WIPO as a whole. The Delegation observed that there were procedures that were very clearly established for more than 20 years within the Organization. Issues that covered a new subject matter should be dealt with in diplomatic conferences in which all Member States participated and which was the situation they were seeking in relation to the Lisbon Agreement. It pointed out that Member States were not just talking about procedural amendments being suggested to the existing agreement, but about the addition of an entirely new subject matter and added that it was not just relevant for the rules of the Lisbon Agreement. It stressed that the rules of the Organization should apply and was extremely concerned that the Committee seemed to be ignoring those rules which were there for everybody to ensure transparency and inclusiveness in discussions that concerned all members within the Organization. The Delegation expressed its thanks to the Delegation of Israel for clarifying its position. It asked the Chair to explain why he had come to the conclusion that the comment by the Delegation of Israel was merely a reservation in the face of 27 votes in favor and then later said 27 countries had agreed and there was one vote against. In fact, the Delegation of Israel was entirely right to stress that its Delegation refused to join the consensus. If there was to be a vote there would be procedures to follow for the purposes of transparency and certainty. The Delegation wished to know what the Chair meant when he said there was one vote against whereas in its recollection, the Delegation of Israel had instead said that it would refuse to join the consensus on the discussion to transmit the draft Rules of Procedure to the diplomatic conference.

79. The Delegation of Chile stated that it understood the need to move the meeting forward efficiently. However, it observed that strong positions were expressed in the earlier session, and support for a specific proposal seemed to have been ignored in favor of form or efficiency. Its Delegation was not of the view that this was the right way to go. It therefore wished to request that there should be a complete report of all of the interventions made during the session of the Preparatory Committee. It pointed out that it was an Observer Delegation that had participated actively in the Working Group and had submitted proposals and tried to seek consensus; it had also participated in different WIPO meetings on the issue. The Delegation supported the delegations that had expressed concern regarding the procedure and that requested further time to assess what was being proposed. It observed that a lot of doubts concerning procedures had been raised, which was not happening within a vacuum but within WIPO.

80. The Delegation of the Republic of Korea expressed its support for the intervention made by the Delegation of Panama. Despite the strong and broad request of Member States, it had not been reviewed with an open mind in the session. It therefore wished to kindly request the Chair for the Chair's summary to include the fact that the majority of participants were not in favor of the decision taken by 27 of the Lisbon Member States.

81. The Chair observed that it seemed that Member States really needed to get some things right. He said that he had no intention, whatsoever, of mixing up rules of procedure. In fact, he had done his utmost to clarify what rules should apply to the Preparatory Committee, and he added that he would make a last attempt to clarify these rules. The meeting was talking about a Diplomatic Conference convened by the Lisbon Union Assembly for the revision of the Lisbon Agreement. The legal basis for this was in the Lisbon Agreement, in particular, Article 13(2) and the provisions relating to the decisions that the Lisbon Union Assembly was empowered to take. A diplomatic conference was to be prepared by a meeting of a Preparatory Committee. In that meeting, voting rights only belonged to the members of the Lisbon Union. As this was not the Assembly of the Lisbon Union but a specific body in WIPO, the general rules of procedure apply to its procedures. Under those general rules of procedure, decisions were taken by a simple majority. He recalled that he was fully aware of the difference between consensus and a decision arrived at by the required majority and, without dwelling on the differences between reservations and not joining the consensus, he was prepared to accept that the Delegation of Israel was not in a position to join the consensus and the Delegation's position was duly noted. He observed that he had not referred to any number of votes cast, but had just noted that it seemed to him that there was an obvious, overwhelming majority support for the decision he intended to announce. On the question about the form the report of the session might take, he invited the Secretariat to respond.

82. The Legal Counsel stated that he noted the Delegation of Chile had made a request for a full report. From a Secretariat standpoint, the practice in preparatory committees was that a summary report was prepared and this was normally a two or three-page report that simply announced the decisions taken. That way, Member States could normally adopt the report at the end of the Preparatory Committee, which was what the Secretariat had planned for the next day. He pointed out that a request to have a full-fledged report would normally be made by a member of the Lisbon Union, on the assumption that there was no objection from any member of the Lisbon Union. The Secretariat would have no problem preparing a full-fledged report, as requested, on the understanding that such a report would not be ready the next day for adoption, but would have to be adopted electronically. The Secretariat would give a time frame to Member States, that is, another month or so within which they could send back comments before the report would be deemed adopted. He therefore stated that the decision on that was up to the Chair and the members of the Lisbon Union.

83. The Chair said that the Committee should try and sort that out. The requests for a full report of the meeting of the Preparatory Committee had been made, so far, by observer States and the Secretariat had rightly pointed out that such a report could be prepared unless there was any objection. That would imply, however, that the report could only be adopted through the usual written procedure using the electronic means referred to by the Legal Counsel. The Chair asked if there was any objection to the proposal.

84. The Delegation of South Africa pointed out that it was not objecting but was rather, raising a number of factors that Member States would have to consider before agreeing to a full report. As the Secretariat had already said, this was not normally done, but rather a summary report for preparatory committees was the normal procedure. The Delegation would be very hesitant to go against normal procedures, considering the cost involved in preparing a full report. If there was going to be a full report, it would therefore request the Secretariat to give Member States the financial figures of what it would cost to do so, as opposed to the normal summary, before it could take a decision on that.

85. The Delegation of Australia supported the request by the Delegation of Chile for a full report, given the substantial and significant concerns raised by many WIPO members across all regional groups at different levels of development. It stressed that it was important that those concerns be recorded, in a full record for the meeting. It also wished to address a few more questions to the Secretariat on what was the standard practice. The Delegation said that it had the opportunity to look back at some previous preparatory committee meeting reports and noted that the preparatory committee meeting for the Trademark Law Treaty document TLT/R/PM was around 48 pages and recorded the interventions of the Member States present. It stressed the need for transparency and to record the discussions that had been held, which was why it would be very beneficial and important to have a full report.

86. The Delegation of the United States of America expressed support for comments made by the Delegation of Australia and said that it believed it was very important to have a full report. This was not just a normal preparatory committee, but it was also not unprecedented, as the Delegation of Australia had pointed out, to have a full report. It observed that the meeting was at a position where a lot of delegations felt strongly about a different approach to the issue, which had been rejected without their being able to have a say, due to technical legal reasons. At the very least, those pleas needed to be on record and not treated as if they did not happen. As a point of clarification, the Delegation recalled that it had made a request, supported by the Delegation of Israel and a number of other delegations, to put off the decision on the issue until the morning which, in the Delegation's understanding, was rejected by the Chair. The Delegation observed that since it was now 6 minutes after 6 p.m., it was not clear why that request should not be honored to allow for the kind of consultation delegations requested.

87. The Chair confessed that he was a bit perplexed about the last remark. He recalled that the Committee had not yet taken the decision and due to the late hour, it seemed that the decision would in any event be taken the next day. He pointed out that the Delegation's concern in this way had been met. He said that before closing the first day's meeting of the Preparatory Committee, the Delegations of France, Italy and the Czech Republic wished to speak and he would close the session after those speakers.

88. The Delegation of France said that, in its opinion, it would be a good thing for all delegations to have a little bit of time, particularly for the Observers to agree whether or not they wanted a full report. From the Delegation's perspective, it could answer that question the next day, because the Committee was not going to have a decision on the conclusions that evening and its Delegation would wait for the observers to reach an agreement and then address the problem the next day.

89. The Delegation of the Czech Republic said it had two brief points. It had heard the Legal Counsel clarify that a full report normally must be requested by a Lisbon Union Member State and not objected to by any other member of the Lisbon Union. It observed that it had not heard a request for a full report from a Lisbon Union Member State and therefore, even if its Delegation wanted to, it did not have anything to which to object at this stage. Its second point was that over the course of the day, Member States had heard that the objections that were made to the draft Rules of Procedure as proposed by the Secretariat were made by delegations "across all regional groups". It could state with good authority as the Coordinator of one regional group, that it was not the position of the CEBS Group, as the Committee could also have heard from its Group's statement that morning. It stressed that there was no member of its Group that joined those pleas or demands.

90. The Chair concluded the first day of the meeting of the Preparatory Committee, but requested the Secretariat to respond to the questions raised by the Delegations of South Africa and the United States of America.

91. In response to the question raised by the Delegation of South Africa as to what the cost of the full report would be, the Legal Counsel said that he would need to check with his colleagues in Conference Services for that. While he did not know what the cost would be, there certainly would be additional costs considering the length of the report as well as the need to translate into all the United Nations languages. He noted that the Delegation of Australia also wanted to know what the precedents were in terms of reports provided, and had referred to the TLT preparatory committee report, which the Delegation said was close to fifty pages. The TLT, as he could recall, was about 20 years ago but that in the more recent preparatory committees, Member States had much shorter reports. He cited the example of the most recent preparatory committee for the Marrakesh Treaty, in which the final report came to three pages. With respect to the preparatory committee before that, that is the Beijing Treaty, the report came to a total of four pages. That had been the more recent trend, but he added that again the decision was entirely up to the Lisbon Union Members.

92. The Chair thanked the Legal Counsel for the clarification and announced that the next morning, the Committee would continue its considerations under Item 4 and then it would come back to the decision the Chair had proposed. In addition, once the Committee had the information from the Secretariat, concerning the additional cost of a full report, and once the delegations had reflected on the issue, the Committee would also decide on the issue of the form the report of the meeting should take. The Chair thanked the Member States and announced that the meeting would reconvene the next day at 10 a.m. He hoped the delegations would use the time available during the night for further reflections on the outstanding issues.

93. The Delegation of South Africa thanked the Chair and the Legal Counsel and stated that its Delegation would appreciate receiving, by the next day, the figures as to the difference in cost between a full report and a summary report because, even in other committees, most delegations insisted on cost cutting measures, and so it would be interested to see the difference in cost.

94. Opening the second session of the Preparatory Committee, the Chair offered a brief summary of the state of play as seen from his view. He recalled that the Lisbon Union Assembly had approved at its twenty-ninth session in October 2013 the convening of a Diplomatic Conference for the adoption of a revised Lisbon Agreement on Appellations of Origin and Geographical Indications in 2015, with the exact dates and venue to be decided by a Preparatory Committee meeting. Therefore, the Preparatory Committee meeting had been convened and was being held in full accordance with that mandate. In that regard, it followed that the Preparatory Committee consisted of the Members of the Lisbon Union, and that meeting was held under the said Union, with other WIPO Member States attending in an observer capacity. Thus, it was the Members of the Lisbon Union that were entitled to take decisions in the Preparatory Committee on the various agenda items, including item 4. The Chair stated that, under item 4, the Preparatory Committee was invited to approve a recommendation to transmit the Draft Rules of Procedure of the Diplomatic Conference. Under these very rules of procedure, namely under Rule 9.2(i), it was the conference meeting in plenary that would be competent to adopt the rules of procedure and to make any amendments thereto. Thus, the Preparatory Committee was only invited to recommend the Draft Rules of Procedure to the Diplomatic Conference for adoption. He said that the Secretariat had submitted the Draft Rules of Procedure in document LI/R/PM/2 and in addition, it had announced a few editorial changes that seemed necessary to align the text with the conclusions of the Working Group on the Development of the Lisbon System, and to further refine some provisions. These changes were of a purely editorial nature and related to the title of the Diplomatic Conference and Rule 29. Moreover, the Delegation of Israel, a member country of the Lisbon Union had tabled a proposal for amending the Draft Rules of Procedure to the effect that all WIPO Members should participate in the Diplomatic Conference as Member Delegations, in other words, with full rights of participation, including the right to vote. While this

proposal had indeed been co-sponsored and supported by a significant number of Observer Delegations in the meeting, it had not been supported by any other Member State of the Lisbon Union. In accordance with the respective decisions of the Lisbon Union Assembly, the process of reviewing the Lisbon system had been based, from the very outset and until now, on the premise that such review should take the legal form of a revision of the Lisbon Agreement. Consequently, Article 13(2) of the Lisbon Agreement, and Articles 39 and 40 of the Vienna Convention on the Law of Treaties applied. He was not of the view that it was contested, and was in fact sure that it could not be contested that, in accordance with these provisions, the Diplomatic Conference for revising the Lisbon Agreement could be held between the delegates of the Member Countries of the Lisbon Union with rules of procedure that granted full rights of participation, including the right to vote, to only those delegations. Admittedly, it had indeed been argued that these provisions would not prevent the Member States of the Lisbon Union from deciding otherwise, that is, from deciding to hold a Diplomatic Conference with other WIPO Member States attending the conference as Member Delegations with full rights of participation, including the right to vote. However, it seemed that the States members of the Lisbon Union were of the firm view that the inclusiveness, transparency and the participatory nature of the review process could be maintained within the applicable legal framework without giving the entire WIPO Member States the same rights as were enjoyed by those of the Lisbon Union. The Chair stated that this was a policy choice, made by the Member States of the Lisbon Union, and that he could only respect it. He recalled that the previous day, they had extensive discussions including informal consultations on the controversial issue. However, despite all the efforts made, Member States were unable to arrive at a compromise solution that would have proved acceptable to all Member States of the Lisbon Union. On the other hand, Member States were pressed for time and could not delay a decision on the issue any longer. The Chair clarified that he was not saying that only because of a bureaucratic formality, as he would certainly not underestimate or underplay the importance of the need to determine the list of invitees and the need to send out clear and unambiguous invitation letters to the Governments concerned. He said that it was obvious that in preparation for a Diplomatic Conference, Governments needed to know in what capacity their delegations would be able to attend and participate in the Diplomatic Conference, as well as in what capacity other delegations would take part. The Secretariat should also be in a position to know well in advance under what terms and conditions, and with what categories of delegations, they had to organize such a conference. Thus, he was inclined to close the debate on the item.

95. The Chair recalled that he had proposed to the Preparatory Committee to adopt the Draft Rules of Procedure as contained in document LI/R/PM/2 prepared by the Secretariat, with the editorial changes that Member States had agreed to, but without any further amendments, in particular without the amendment proposed by the Delegation of Israel. In addition, he recalled the proposal for setting a deadline of February 1, 2015, until which, all WIPO Member States could submit in writing proposals for amending the Basic Proposal, which would consist of the Draft Revised Lisbon Agreement and the Draft Regulations as they were submitted to and amended by the Tenth Session of the Working Group on the Development of the Lisbon System. The Secretariat would be invited to compile such proposals and submit that compilation for information to the Diplomatic Conference. As he had noted the previous day, all Lisbon Union Members that were present at the meeting were in a position to agree to a recommendation for transmitting the Draft Rules of Procedure as contained in the document prepared by the Secretariat to the Diplomatic Conference for adoption, while one Member State of the Lisbon Union was unable to join the consensus on that decision. The Chair also noted that Member States of WIPO who were currently not yet Contracting Parties to the Lisbon Union, and which were present at the meeting in an observer capacity, expressed their concerns about and their disagreement with such a decision. Those Observer Delegations included: Argentina, Australia, Brazil, Canada, Chile, India, Japan, New Zealand, Panama, Republic of Korea, Russian Federation, Saudi Arabia, Singapore, United States of America and Uruguay. He also noted that there were, at least, two Observer Delegations that spoke in favor of such a decision, namely Germany and Switzerland. These were the conclusions he could

draw from the discussions, including the informal consultations, and wondered if the Preparatory Committee was in a position to agree to such conclusions.

96. The Delegation of Israel expressed its surprise at the report the Chair just presented because there was, in its view, a great ambiguity. The Delegation noted that the Chair had said, on the one hand, that there was no consensus the previous day, but, on the other hand, that he had presented the Draft Rules of Procedure as something that was agreed and concluded. As far as the Delegation could remember, delegations left the last session of the previous day with the understanding that there was no decision yet taken. It was amazed to hear the Chair announce in the session that it had been agreed to by everybody. It stated that this was something that was not clear, as delegations had not yet discussed the way forward. The Delegation also recalled that the previous day, short informals were held, which to the Delegation's mind, were not enough for both sides to express themselves. It assumed the Chair would have presented both sides and both proposals since he had met with both groups, but this was not done. In the Delegation's view, this was the reason why the informal sessions did not lead anywhere. The Delegation acknowledged that a decision had to be reached, and it wished to reach a decision, but was of the view that the best way to do so would be to go to an informal session so that there could be progress toward reaching agreement.

97. In reaction to the statement by the Delegation of Israel, the Chair wished to clarify one point. He said that perhaps his introduction had not been entirely clear and expressed his apology for that. However, he could not recall any reference in his introduction to any decision taken on the Draft Rules of Procedure. He pointed out that he had just summarized the discussions the previous day and indicated that it seemed to him that all the Lisbon Union Members present at the meeting would be in favor of a recommendation to transmit the Draft Rules of Procedure to the Diplomatic Conference for adoption in the form they were proposed by the Secretariat. He offered the conclusion with a view to check with Member States whether they could go along with such a conclusion, but noted that there was one delegation, namely the Delegation of Israel, which was not in a position to join the consensus. He reiterated that no decision had been taken on that point. He suggested that they not dwell on whose mistake it was that the previous day's informal sessions had not led to a satisfactory result. He pointed out that no one had asked him during the informal sessions to put forward a compromise proposal. As that request was not made, he was not in a position to accede to such a request. He expressed his disappointment at the one or two minutes of silence with which the informal sessions had started, since certain delegations had asked for those sessions, and he was of the view that they had something to discuss, but obviously this was not the case. In his opinion, before Member States considered the procedural motion by the Delegation of Israel for holding informal meetings, they should listen to those delegations that had asked for the floor, unless the Delegation objected to this and immediately wanted to have a vote on whether the meeting should break for informal sessions.

98. The Delegation of Israel stated that it would very much have wished to break for informal sessions, but it would leave the other delegations to express themselves.

99. The Chair thanked the Delegation of Israel for its flexibility and opened the floor for deliberations.

100. The Delegation of Mexico wished to recognize the Chair's efforts and openness as well as his disposition to hear all views. In its view, the Preparatory Committee was ready to make a decision the previous day before lunch but the Chair allowed time for reflection. It said that it was again ready to make a decision in the afternoon, and the Chair again allowed for more time, that is, a whole night. So, the Delegation believed that Member States had more than exhausted what would be reasonable time for consultations to reach some compromise. It stated its agreement with both the Chair's interpretation of the situation and certainly with his conclusions. It said that the best example of transparency and inclusiveness was precisely the

present session. In the Delegation's view, that was the best example of the spirit with which they were all willing and committed to follow during the Diplomatic Conference. It stated that it was important to recognize that Member States were not discussing the substance because in some of the statements of the previous day, there was an intention to mix the substance or the outcome of the conference, with a discussion on the Rules of Procedure. It recalled that they were not discussing the substance, nor were they prejudging the outcome of the Diplomatic Conference. The Delegation stressed that what was being discussed was the Rules of Procedure. The Delegation believed that the Draft Rules of Procedure, as they were, did not contravene the legal framework of WIPO. The decision to accept the proposed amendment rested exclusively with the Contracting Parties, after listening to the proponents and other observers. It reiterated that it strongly agreed with the Chair. The Delegation added that the burden to muster support for any proposal lay on the proponents and not on the rest of the house. They were the ones who needed to build consensus or at least garner majority support from the Members for a proposal to be accepted. The Delegation pointed out that only one delegate from a Contracting Party was in support of this proposal. The Delegation said that its interpretation of what the Chair had proposed, and later clarified himself, was that the Committee should therefore recommend to the Diplomatic Conference the adoption of the Rules of Procedure as contained in document LI/R/PM/2 with the editorial changes referred to by the Chair. The Delegation expressed its support for that and also for the Chair's proposal and for a motion to close the debate.

101. The Delegation of Italy wished to renew its support for the Chair's assessment and proposed way forward. It also wished to share the observation just made by the Delegation of Mexico which was in line with what its Delegation had consistently said since the beginning of the session. The Delegation wished to recall that, in supporting the Rules of Procedure as they were, it maintained an open door on any future positions or observations that would be made to the Diplomatic Conference by Observer States.

102. The Delegation of France expressed its support for the Chair's conclusion that the Preparatory Committee recommend to the Diplomatic Conference the current rules of procedure and suggested to move to the next item. In the Delegation's view, Member States had struck a good balance between the two imperatives of openness and effectiveness. It recalled that there were other agenda items to get through and if the Committee wanted to complete its work, then it was really time to close agenda item 4 and move on.

103. The Delegation of Hungary said that it fully supported the conclusion the Chair had just presented to the Preparatory Committee, and also bearing in mind that the previous day quite a significant amount of time had been devoted to informal discussions. As the Delegation of Mexico clearly pointed out, even a whole night had been provided for further discussions, so its Delegation did not believe that further informal discussions should take place in the session on that item. The Delegation further expressed its support for the Chair's proposed decision, with the understanding that Observer States would be given the opportunity for further comments on the basic proposal which would be limited to the open issues as highlighted in the working documents which were prepared by the Secretariat.

104. The Delegation of the Czech Republic stressed that its Delegation wished to achieve a consensus, but due to one delegation this seemed not to be possible. It noted that there was not any sign of an attempt of the said delegation towards a consensus during the previous day's proceedings, including during the informal consultations. The Delegation said that it therefore supported the Chair's proposal to be able to fulfill the valid decision to hold the Diplomatic Conference in question and to be able to finalize the discussion on agenda item 4.



105. The Delegation of the Islamic Republic of Iran said that it wished to second the statements made by the Delegations of Mexico, Italy, France, Hungary and the Czech Republic. The Delegation expressed its full support for the Chair's conclusion again, and pointed out that enough time had been spent on the subject, and that it was time to take a decision on item 4 and move to the next item. The Delegation said that it strongly believed that the Committee should respect and observe the established rules and provisions of the Lisbon Agreement, which stated that "the agreement may be revised by conferences held between the delegates of the countries of the special Unions." The Delegation requested to conclude the discussions on the item in accordance with Rule 16(2) of the WIPO General Rules of Procedure.

106. The Chair thanked the Delegation of the Islamic Republic of Iran for its statement, including the suggestion that he should limit the time to be allowed to delegations. He said that he might be inclined to do that, but not at this stage and explained that if he sensed that the meeting was running too late, he would perhaps invoke the prerogative of the Chair. Given the constructive spirit of the delegations, however, he was not sure if any delegations really wanted to delay a conclusion of the discussion.

107. The Delegation of Portugal said that it wished to echo what was already stated by the previous delegations and totally supported the Chair's conclusion.

108. The Delegation of the Republic of Moldova said that its Delegation's view was in line with the statements provided by the Delegations of Mexico, Italy, France, Hungary, Czech Republic, Islamic Republic of Iran and Portugal. The Delegation expressed its full support for the conclusions proposed by the Chair concerning the draft Rules of Procedure as proposed by the Secretariat, as well as the deadline for receiving the positions of all WIPO Member States on substantive issues. The Delegation recalled that what was being discussed was the recommendation for the Diplomatic Conference, which was empowered to take a final decision on the Rules of Procedure. The Delegation invited the Chair to close the debate on agenda item 4 of the Preparatory Committee, which would allow the Committee to move forward on other issues of the agenda.

109. The Delegation of Serbia reiterated its full support for the Chair's conclusion as well as the proposal to adopt the recommendation regarding the Draft Rules of Procedure prepared by the Secretariat.

110. The Delegation of Peru stated that it simply wished to express its support for previous speakers, namely Mexico, Italy, France, Hungary, Czech Republic, Islamic Republic of Iran, Portugal, Republic of Moldova, and Serbia. The Delegation said it fully supported the Chair's conclusion and believed that the proposed Rules of Procedure prepared by the Secretariat and contained in document LI/R/PM/2 was in strict adherence to the legal procedures existing in the Lisbon Agreement and should be recommended to be adopted by the Diplomatic Conference.

111. The Delegation of Slovakia aligned itself with the statements by the delegations of Mexico, Italy, France, Hungary, Czech Republic, the Islamic Republic of Iran, Portugal, Republic of Moldova, Serbia and Peru. In the Delegation's view, the legal framework which was provided in the procedural rules was clear enough. It said that all Contracting Parties to the Lisbon Agreement had full rights to decide and seek consensus. It noted that Member States had exhausted the discussion the previous day and it wished to support the Chair's motion and proposal.

112. The Delegation of Costa Rica wished to echo previous speakers in giving its full support to the Chair's proposal and to move on with the agenda.

113. The Delegation of Tunisia fully supported the conclusions by the Chair, and urged observers to respect the recommendations of the Committee.

114. The Delegation of Bulgaria reiterated that its Delegation fully supported the Chair's proposal for a conclusion to adopt the Draft Rules of Procedure as prepared by the Secretariat. The Delegation aligned itself with all the statements delivered by the previous speakers.
115. The Delegation of the Democratic People's Republic of Korea said it wished to join other speakers in supporting the conclusion made by the Chair and also suggested the closing of the discussion on item 4.
116. The Delegation of Congo joined the previous speakers in supporting the Chair's proposal.
117. The Delegation of Bosnia and Herzegovina said it joined the other Member States of the Lisbon Union which had expressed support for the Chair's proposal.
118. The Delegation of Togo recognized the interest of delegations in the work of the Committee and had been listening very carefully to the discussions. The Delegation pointed out that Member States had come to the Working Group to provide contributions on technical issues such as the right to vote but they recognized that the Chair's conclusion fully adhered to the existing procedures and expressed its support for the Chair.
119. The Delegation of Georgia supported the suggestion to close the discussion on the current item and move to the next item, and reiterated its support for the proposal made by the Secretariat.
120. The Delegation of Israel said that, having listened to all interventions and the Chair's explanations, there were still some clarifications the Delegation wished to have. Although it fully agreed with the need to move on with the agenda, it was of the view that they still had to clarify some points. The Delegation pointed out that what the Chair had proposed was not a decision but a conclusion by the Chair. It stated that it was not clear to the Delegation what the difference was between a decision and a conclusion made by the Chair, and requested clarification.
121. The Chair thanked the Delegation of Israel for the question as it enabled him to clarify what he had done so far. He recalled that he had offered conclusions to see whether the Committee was indeed in a position to take a decision. He stated that having listened to other delegations speaking unanimously in favor of his conclusions, notwithstanding having also heard that the Delegation was still unable to join the consensus on the conclusions, in his view, he was in a position to announce a decision. As there were still requests for the floor, he was however inclined to listen to the Observer Delegations before announcing the decision.
122. The Delegation of the Republic of Korea thanked the Chair for his explanations. However, it pointed out that it still had difficulty understanding, and wished to know if the Chair could clarify the independence of the Lisbon Agreement. The Delegation wished to know what the relationship was between WIPO and the Lisbon Agreement. It wondered if holding the Diplomatic Conference needed to be reported to the WIPO General Assemblies.
123. In response, the Chair said that he was speaking under the control of the Secretariat, and pointed out that the relationship was that the Lisbon Agreement was an international agreement administered by WIPO, and hoped this answered the Delegation's question.
124. The Delegation of Turkey requested the Chair to add its Delegation to the list of Observer States which took the floor to state their concerns as reflected in the summary of the previous meeting he had just read out.

125. The Delegation of Australia noted that it was obvious Member States were very disappointed that they had not had more time or an opportunity to explore the proposal by the Delegation of Israel and other co-sponsors in full, and it was deeply regrettable. It observed that they seemed to be focusing a lot on procedure but, in its opinion, it seemed like this was a somewhat confusing two-step process. Focusing on the last point raised by the Chair that there was unanimous support for his proposed decision, the Delegation said that, in its view, what the Chair was suggesting was actually not a chair's summary but was a decision of the Committee, and so would be reflected as a unanimous decision with no lack of consensus, which according to the Delegation was not the case.

126. The Chair observed that maybe he had not been clear enough and requested the delegations to be a bit more attentive. He recalled that he had said that there was unanimous support with the exception of one delegation opposing his decision, but did not say that there was consensus. The Chair was aware that there was one delegation that was unable to join the consensus and he had kept referring to that. He reiterated that he had not said that there was consensus, or that there was unanimous support without any qualification, and had added the qualification that there was one delegation unable to join the consensus.

127. The Delegation of Israel wished to ask the Legal Counsel a question following the explanations the Chair had given them about the decision. It wondered if the decision was not supposed to be taken by the Member States, or if it was right that it was taken by the Chair?

128. The Chair stated that he could forward the question to the Legal Counsel, but recalled that decisions were not taken by the Chair but were only announced by the Chair. He pointed out that when he offered his conclusions, he had sought the views of delegations in the room, and as he had said, all Member Delegations in the Preparatory Committee, that is, all Members of the Lisbon Union that had taken the floor, had spoken in favor of those conclusions, which would form the basis of the decision, while the Delegation of Israel had obviously objected to that and had not been able to join the emerging consensus. He pointed out that the decision was taken by the Preparatory Committee and, in his opinion, it could not be contested that there was sufficient support for his conclusions and for the decision he was inclined to announce on the basis of these conclusions.

129. The Delegation of France indicated its willingness to try and continue to reassure the Delegation of Israel that there were several months to go before the Diplomatic Conference, and it hoped that the Delegation would be able to take advantage of that time to continue the discussion. The Delegation said it believed in dialogue, and that all the Members of the Union who had taken the floor to support the proposal, in its opinion, agreed with that. In its view, there had not been enough time for consultation since the Delegation of Israel had come forward with the proposal two weeks ago, and it was a bit of a surprise for the Members of the Union. The Delegation of Israel had never addressed their capitals, or come to them as delegations to indicate that they had a difficulty. Member States had considered it to be a constructive abstention of the Delegation of Israel and invited it to continue to maintain a position of constructive abstention. The Delegation called on all to remain a united family and keep showing solidarity.

130. The Delegation of Israel wished to go back to its previous intervention, in which it had put a question to the Legal Counsel. Secondly, the Delegation said that it was not sure how the Chair would draft the decision, but reiterated that it was important for its position to be reflected in the decision. In its view, the Chair did use the word unanimous, which meant full agreement, but unanimous did not apply to this specific case.

131. The Legal Counsel said in response that he could only confirm what the Chair said earlier, that decisions were taken by the Preparatory Committee, not by the Chair.

132. The Chair said that he understood the concerns of the Delegation of Israel. He was also prepared to summarize the discussions in his conclusions to reflect that the 19 Member Delegations of the Lisbon Union that had taken the floor after the Delegation of Israel had spoken in favor of the decision he intended to take including the motion to close the debate. He took note that the Delegation of Israel was not in a position to support such a decision and was unable to join the consensus formed by these delegations.

133. The Delegation of Mexico said that it first wished to associate itself with the intervention just made by the Delegation of France in terms of the spirit that should prevail. The Delegation noted that Member States should be mindful that the rules for requesting a vote required the proponent plus another delegation to second the request. That meant that the proposal that they had been discussing did not even achieve that threshold. So, the Chair had no choice but to make the decision that he announced he would make on behalf of the Members of the Committee. The Delegation added that the appropriate place to reflect the views of the Delegation of Israel was the report.

134. The Delegation of Israel said that it was not clear to the Delegation if a decision had just been taken, or how it had been reached. Reacting to the statement that the Delegation of Mexico had just made, the Delegation said that it was very glad that the Delegation of Mexico was in favor of a detailed and full report for which its Delegation was in favor, too. Reverting to the decision, the Delegation wished to understand from the Legal Counsel if any decision had been taken in the session, and if there were some rules of procedure to get to a decision.

135. The Chair regretted to note that the Delegation of Israel had ceased to talk to him and was now in dialogue with the Legal Counsel, but added that he was prepared to give the floor to the Legal Counsel to respond to the Delegation's question.

136. Responding to the question by the Delegation of Israel, the Legal Counsel stated that no decision had been taken by the Lisbon Union Preparatory Committee.

137. The Chair concurred with the Legal Counsel that this was his understanding too whether it mattered or not, and recalled that there were still three more delegations to take the floor, and he would then close the debate.

138. The Delegation of the Republic of Korea thanked the Chair for his answer to its question. Before a final decision was taken by the Member States of the Lisbon Union, as an observer of this Union, as well as a Member State of WIPO, the Delegation said it wished to reiterate the three points regarding the situation. As its Delegation had already expressed several times, deviations from the permissible authority of one Union would be a very serious problem in the Organization. It pointed out that the draft revision of the Lisbon Agreement included geographical indications. It was also generally accepted in public and especially expressed in various documents of WIPO that appellations of origin were a special kind of a geographical indication. But there were controversies on whether the draft revised Agreement was a new agreement or not. Despite all these facts, only some Member States of the Lisbon Union were now trying to decide on their own interpretation. Secondly, the Delegation wished to point out that if this decision was taken, it might set a precedent in WIPO on decision-making processes. Some delegations of the Lisbon Union mentioned that this discussion had a six-year history and so it was the time to decide. The Delegation wished to note that there were many subjects which were not yet concluded despite discussions for over ten years at WIPO, and wondered what would be the effect of these new precedents. Lastly, the Delegation wished to raise the question again, namely what was the rule in WIPO? The Lisbon Agreement was one of the agreements administered by WIPO, so sooner or later, the revised Lisbon Agreement would conflict with the views of the majority of the Member States of WIPO. The Delegation wondered if this would make sense from the perspective of harmonization of international law and the authority of the international organization.

139. The Delegation of Chile wished to express its thanks for the proposed solution to the debate, which had been discussed the day before. It said that it had taken note of the disappointment expressed by some delegations to the effect that there was not the time or the will to solve the question. The Delegation supported the fact that it was absolutely necessary to clarify the doubts of Members of the Union or other Members of WIPO to see how decisions were taken and how debates were managed. Moreover, it recalled that as it had mentioned the day before, it was the right of any Member State to table proposals with regard to establishing procedures as it had been the case here. The proposal was put forward and the ensuing debate reflected a constructive attitude and an attempt to find a way to express the views of everyone, which had to be the spirit of WIPO as an international organization.

140. The Delegation of the Russian Federation noted that the Chair several times referred to the fact that Israel could not join the consensus. The Delegation did not really understand what consensus the Chair was talking about if one Member was against and 28 or 27 were in favor. The Delegation noted that as Israel could not associate itself with the proposal made by the Chair, the Preparatory Committee could not talk about a consensus.

141. The Chair thanked the Delegation and, as he indicated, closed the debate. He intended to announce the following decision, which seemed to be supported by all the Delegations present except one. First, the Preparatory Committee agreed to transmit the Draft Rules of Procedure to the Diplomatic Conference and recommended them for adoption at the Conference meeting in plenary. The Preparatory Committee agreed to transmit the Draft Rules of Procedure as they were contained in document LI/R/PM/2 with the editorial changes agreed upon, but without any further amendments. The Preparatory Committee also agreed to set a deadline of February 1, 2015, for all WIPO Member States to submit proposals in writing for amendments to the basic proposal on issues that were identified by the Working Group on the Development of the Lisbon System as still pending. The Secretariat would compile these proposals and submit them in a document to the Diplomatic Conference for information. This was the decision the Preparatory Committee was invited to take, and the Chair asked if there was any Member Delegation wishing to object to this decision.

142. The Delegation of Israel took the floor to ask the same question again: The Chair said before that there was no decision but then the Chair took a decision. The Delegation did not understand the way this decision was taken. It presumed that there was a procedure to be followed in order to move from a Chair's conclusion to a decision. The Delegation objected to the summary of the Chair and wished to understand how it would be written. The Delegation also wished to see the text, and would ask the record to reflect that there was no consensus and no decision, because it was just a Chair's summary and it was very important for Israel's position to be accurately reflected in the summary, which was just a conclusion and not a decision taken by the Lisbon Preparatory Committee.

143. The Chair said that after consulting the Secretariat, he wished to offer the delegations the following explanation of the procedure. He offered conclusions, based upon discussions, of the decision he believed the Preparatory Committee would be prepared to take. All Delegations, but one, that had taken the floor had spoken in favor of such a decision. In fact, they advocated that the Preparatory Committee should take this decision as soon as possible without any further debate. He noted that he stated clearly what the decision was going to be, and that it would be reflected in the *verbatim* report. He added that it also went without saying that the position of the Preparatory Committee was going to be reflected in whatever form the report would take after discussing this issue in the Preparatory Committee later. Therefore, he stated, as it was obvious that the necessary majority had been attained for a decision to be taken, the Preparatory Committee would take a decision and he would announce the decision in full accordance with the applicable rules of procedure.

144. The Delegation of Israel wished to reiterate again that there was no consensus and no decision, and it was important to the Delegation that the report reflected that no decision was taken. The Delegation of Israel also said that, according to the Chair, all Delegations expressed themselves, but it did not see many delegations express themselves.

145. The Chair said that he was only in a position to propose decisions and had proposed a decision. This decision had only been objected to by a single Delegation, meaning all the other Delegations were in favor of such a decision. From the discussions that the Preparatory Committee had on his conclusions, it had become apparent that there was sufficient support for the decision to be taken. Of course, it would be duly noted in the report that the delegation of Israel dissented from this decision, had objected to this decision, and, whatever form the report would take, its position would be duly reflected. The decision, as proposed by the Chair, was taken by the Preparatory Committee.

146. The Chair then noted that the Preparatory Committee could move from item 4 of the agenda to item 5, which was the consideration of the List of States and Observers to be invited to the Diplomatic Conference and the texts of the draft letters of invitation. The Chair invited the Secretariat to briefly introduce these documents to the Preparatory Committee.

147. The Legal Counsel referred to document LI/R/PM/3, which was the list of invitees to the Diplomatic Conference and the text of the draft letters of invitation. He noted that there were a few editorial changes that would be required to this document, in particular in respect of Annex I, concerning the list of the Members of the Lisbon Union which inadvertently omitted Hungary but included Romania. Secondly, he wished to draw the attention of the Delegations to the fact that the Secretariat would change the draft letters of invitation to reflect the name of the treaty that was to be adopted at the Diplomatic Conference consistent with the decisions taken by the Working Group earlier in the week. The change would be made in all the letters of invitation.

148. The Delegation of the Republic of Moldova commented that the corresponding amendment should also be made in Annex III in the list of non-members, where Romania should be included and Hungary excluded.

149. The Representative of the Center for International Intellectual Property Studies (CEIPI) said that in all the letters of invitation there was a reference to the enclosure of the draft basic proposal, and it thought the word "draft" should be omitted. Secondly, in the draft of the invitation proposed to be addressed to each observer organization, Annex V, on the very last page of the document, CEIPI did not know why the document to be enclosed with the invitation was different in this draft letter from the other ones, namely, there was a reference to '(substantive, administrative and final clauses)' etc. It suggested that the Secretariat align this invitation letter with all the others.

150. The Chair believed that the word "draft" could be omitted from the text because the Diplomatic Conference would be dealing with the Basic Proposal, not with a draft. The Chair confirmed that this suggestion would be taken on board. The Chair observed that the Preparatory Committee was in a position to approve the proposals contained in document LI/R/PM/3, with the changes just agreed by the Preparatory Committee. The Chair then announced the next item on the agenda was the consideration of the agenda, date and venue of the Diplomatic Conference.

151. The Legal Counsel said that in respect of this agenda item, he wished to draw the attention of delegations to document LI/R/PM/4 "Agenda, Dates and Venue for the Diplomatic Conference". The Secretariat invited the Chair to kindly ask the Delegate of Portugal if there was any announcement to be made in respect of this agenda item.

152. The Delegation of Portugal recalled that Portugal indicated some months ago its willingness to host the Diplomatic Conference for the Adoption of a Revised Lisbon Agreement on Appellations of Origin and Geographical Indications. The Delegation of Portugal was deeply convinced that the process of revision of the Lisbon Agreement was extremely important. The growing importance of appellations of origin and geographical indications demanded strong legal instruments able to ensure that they received the adequate international protection against misuse and misappropriation. Portugal had been present in some of the most important stages and moments of these agreements. Portugal was there at its very beginning in 1958 and hosted the ceremony of the 50<sup>th</sup> Anniversary in 2008. The Delegation was also deeply engaged in the discussions of the Lisbon Working Group, participating in the debates leading to the current draft proposal which will, with some final adjustments, improve the system and adjust it to the actual needs of the users. However, it was with regret that the Delegation informed the Preparatory Committee that due to an unforeseen change in the circumstances at the national level, Portugal was not in a position to maintain its offer to host the Diplomatic Conference and, as such, wished to request its withdrawal. This request was already conveyed to the Secretariat. Nevertheless, the Delegation assured that its Government would remain committed to the revision process with a view to finding solutions that can guarantee the objectives set out by the Lisbon Assembly.

153. The Chair thanked the Delegation of Portugal for informing the Preparatory Committee of the withdrawal of the offer to host the Diplomatic Conference. He took note of this announcement with some regret because the Preparatory Committee would have been delighted to visit its beautiful country. However, the Preparatory Committee understood the Delegation's position. The Chair noted that this meant that, in accordance with customary practice, the venue of the Diplomatic Conference would be in Geneva, in the New WIPO Conference Hall. The dates would remain the same. The Chair then asked if the Preparatory Committee was in a position to agree to the holding of the Diplomatic Conference in Geneva in the WIPO Conference Hall from May 11 to 20, 2015, with the agenda as proposed in document LI/R/PM/4. He noted this seemed to be the case, but recognized a request to speak by an observer NGO.

154. The Association of European Trademark Owners (MARQUES) wanted to clarify the date announced, because the document said May 21 and the Chair said May 20.

155. The Chair confirmed that May 21, 2015, was the closing date. This brought the Preparatory Committee to item 7, the adoption of the report, on which the Chair thought there was an issue that needed to be resolved. Originally, he noted, at the beginning of the meeting, the Secretariat indicated that a summary report of this Preparatory Committee meeting would be prepared in accordance with the most recent practice followed at WIPO. The Chair also noted that in the course of discussions the day before, some observer delegations also indicated their wish to have a full report. It was then explained that the adoption of a full report could only take place through a written procedure while a summary report could be adopted at the conclusion of the meeting of the Preparatory Committee. The Chair heard no Member Delegation speaking in favor of a detailed report except one, the Delegation of Israel, which had indicated that it wished to have a full report. But after his assurances that the Delegation's position was going to be reflected even in the short summary report, the Chair inquired again as to the Delegation's position.

156. The Delegation of Mexico expressed its position on this issue, which was to maintain the original proposal that the Secretariat had made, that is, a summary report that could be adopted the same day, on the basis, as the Chair had mentioned, that the position of Israel would be reflected on agenda item 4. The Delegation wished to see that reflected in the record so that the Preparatory Committee could adopt the summary report the same day.

157. The Delegation of the Islamic Republic of Iran echoed the intervention of the Delegation of Mexico. Considering that the concerns of the one Member Country would be reflected in the summary report, and therefore thought there was no need for a full report.

158. The Delegation of Peru also echoed the views of the Delegations of the Islamic Republic of Iran and Mexico.

159. The Delegation of Israel said that concerning the report, since it was clear that there was no consensus and that a lot of delegations, which were observers to the Lisbon Union but which were Members of WIPO, expressed themselves differently, it would be very important to have its statements reflected in full in the report. The Delegation asked for a full report of the meeting.

160. The Delegation of Australia wished to reiterate its strong request for a full report and thought it was very important to reflect all the comments that were made. There had been a lot of views expressed that day, and the Delegation thought it was very important to have those views on record. It had heard a lot of discussion about transparency over the course of the two days so it wished that this spirit of transparency would continue. If there was a need for a summary report then the Delegation hoped that it could have that summary report followed by a full report. The Delegation underscored the importance of the principle of transparency and having everyone's comments reflected.

161. The Delegation of the United States of America supported Israel and Australia in endorsing strongly a full detailed report that could come out at a later date.

162. The Chair recalled that, the day before, a delegation asked the Secretariat for an estimate of the extra costs that the preparation of a full report would incur and he understood the Secretariat was in a position to indicate these costs. He gave the floor to the Secretariat.

163. The Legal Counsel informed the Preparatory Committee of the figures given by Conference Services concerning the question raised by the Delegate of South Africa as to what an additional or full report would cost. The Legal Counsel noted that the day before, the Delegation of Australia referred to a report from 1994 of around 50 pages. The Secretariat had used an estimate of 70 pages, given the extent of statements made over the two days, and on the assumption a full report would be around 70 pages, he was told the cost of translation alone from English into the five other languages would be approximately 72,000 Swiss Francs. That was the cost of translation of a *verbatim* report, and he noted that there might be additional costs relating to the transcripts or the captioning etc. If the Lisbon Union decided it wanted a summary report, the Secretariat could prepare such a report to reflect all the decisions taken. If the Lisbon Union decided it also wanted a longer full report at a later stage, the Secretariat could also do that, but then the decisions taken would be adopted that day, not at the later stage.

164. The Chair then said that while the Preparatory Committee heard the additional costs the full report would incur, it was obvious to him that there was a strong wish on the part of a number of delegations for such a report. He noted, however, that some of them had criticized the Lisbon Union for generating a deficit. He hoped that the Lisbon Union would not be blamed for this extra cost, which was due to the fact that they were asking for a full report. The Chair proposed that the Preparatory Committee adopt, as usual, the summary report of the session that day, reflecting the decisions it had taken and reflecting the position of the Delegation of Israel concerning the decision. The Chair also noted that although the extra cost of producing a full report was not insignificant, the Preparatory Committee could still agree to having a full report later on, adopted through the usual written procedure.



165. The Delegation of Uruguay urged the Preparatory Committee to adopt a full report, so that it did not appear that it had just been a simple procedural rubber-stamping meeting. Serious precedents had been established that should be reflected. The Delegation wished to also say one other thing and that was that the right of a Member State, Israel, had been questioned, in particular the right to submit proposals, on the basis of their attendance record and it seemed unacceptable that it had to justify itself to other Member States in order to be entitled to submit proposals. The Preparatory Committee had talked of new concepts such as consensus minus one, reservation when it was clearly opposition, and simple majority when there was not even a vote, and apparently, the Chair questioned who was going to vote on what among the 27 members present. These were new and interesting concepts that it thought at the very least needed to be thought about very carefully. The Delegation wished to see all of this reflected in the report because there were a number of arguments that the Delegation heard that the Delegation did not agree with. At this stage where WIPO needed agreement and needed to send out a signal that things were changing, the Preparatory Committee had decided to take a different route and to override many Delegates who had interesting things to say. It would ask the Preparatory Committee to adopt a full report where everything was reflected, because there was nothing to hide. The Chair had mentioned that Lisbon had an annual deficit, but it already had a deficit, so a little bit more was not going to make a big difference. The Delegation thought transparency and solidarity were extremely important, and it thought they were worth it. The Delegation did not think one could access the cost of transparency in purely financial terms.

166. The Delegation of the United States of America recalled that some delegations had expressed concern for the Lisbon Union deficit, and it had expressed great concerns for example, with the 8,000 Swiss Francs in fee collections with 1.6 million Swiss Francs in expenditures for the 2014-2015 biennium and the unwillingness of the Lisbon Union to change its fees for over 20 years. The Lisbon Union is a body of WIPO, and in that setting, the Delegation thought it was especially important that the wishes of the WIPO membership to have a record of these proceedings should be respected.

167. The Delegation of Israel said it was quite surprised again about the way the decision on the current item had been taken. It asked if it would be possible for the record to reflect its reservation to this decision, as the Delegation really thought it would be important and constructive to have a full report on this meeting.

168. The Chair noted that it seemed he continued to confuse the Delegate of Israel, and said that no decision had been taken on the format of the report. There had been a proposal from the Chair to the effect that in spite of the additional costs, the Preparatory Committee should have a summary report adopted at the meeting, that afternoon, plus a full report to be prepared at the request of a number of Delegations.

169. The Delegation of Mexico stressed the fact that the Preparatory Committee should complete its work that day and adopt the summary report including the different decisions that had been taken that day. The Delegation took note of the proposal of the possibility of the different interventions appearing in a *verbatim* report that could later be compiled by the Secretariat. If that is what the other Members of the Lisbon Union wanted, the Delegation could go along with that proposal to allow the adoption of the summary report that day. It thanked the Chair for all of his efforts and it wished to pay tribute to the work that he had done in a very open spirit. The Delegation thought the way in which he had chaired this meeting had been in strict adherence with the procedure.

170. The Chair thanked the Delegate of Mexico for showing flexibility on the issue of having, in addition to a summary report, a full report and also for the kind words addressed to him.

171. The Delegation of Japan fully supported the *verbatim* report. The Delegation noted that unfortunately the decision had been made in an exceptional way. As for the Chair's mention of the deficit of the Union in his statement, the Delegation stated that it was seriously concerned that what happened that day would bring a deficit to the Organization from an institutional perspective. The Preparatory Committee had to record what had happened that day in the *verbatim* report, which the Delegation fully supported.

172. The Delegation of Panama fully supported the statement made by Uruguay, and it wished to congratulate the Members of the Union for having taken decisions of a presumed majority. The Delegation stated that the members really needed to consider how that was going to affect other norm-setting activities in this Organization.

173. The Chair said that there appeared to be support for the Preparatory Committee to have a summary report to be adopted in the afternoon, followed later by a full *verbatim* report to be adopted in the usual procedure. The Chair invited the Secretariat to clarify how the summary report and the full report were going to be prepared, presented to the Preparatory Committee, and how it intended to have them adopted.

174. The Legal Counsel stated that the Working Group of the Lisbon Union would convene at 3 p.m. that day to adopt its report. The Secretariat would endeavor to have the report of the Preparatory Committee ready for adoption after the Working Group had adopted its report, which would probably be around 4 p.m. With respect to the fuller report, the Secretariat would, by December 1, 2014, post the draft report on the website, and then Members of the Lisbon Union as well as Observers would be invited to send any comments by January 1, 2015. And then it would be proposed that the report be deemed adopted soon thereafter. In any event, the Secretariat would have adopted the decisions of the work of the Preparatory Committee that afternoon. The full report was simply meant to reflect *verbatim* discussions and statements made by Delegations.

175. The Legal Counsel also mentioned that the Preparatory Committee had no guarantee that the afternoon's summary report would be available in all the six UN languages, but that the Secretariat would send it for translation as soon as possible. It promised the English version would be ready before adoption, but it could not promise the other language versions. It depended on the speed with which they could be translated. He apologized for the inconvenience, but it was because the decision had not been taken until a few minutes ago.

176. The Chair thanked the Legal Counsel for clarifying the practical aspects of preparing and adopting both sets of reports and with this, he understood that the adoption of the summary report would take place sometime around 4 o'clock that afternoon.

177. The Delegation of the Islamic Republic of Iran asked about the cost of preparing the full report. It wished to say its delegation was not in a position to go along with preparing a full report of the Preparatory Committee at this stage. It had to consult with capital and also with its Permanent Representative, and it would announce its position that afternoon.

178. The Chair duly noted the Delegation of the Islamic Republic of Iran's statement. The Chair said that the working premise was that, in addition to the summary report, the Preparatory Committee would have a full report, subject to a clarification of the position of the Islamic Republic of Iran. The Chair then concluded the session and stated that it would resume at about 4 o'clock, right after the closing of the Tenth Session of the Working Group on the Development of the Lisbon System.

179. The Chair welcomed the Preparatory Committee back to the meeting, for consideration of item 7, Adoption of the Report and the Draft Report, contained in document LI/R/PM/6 Prov. The Preparatory Committee adopted the Draft Report after making some editorial changes. The Report, as adopted, is contained in document LI/R/PM/6.

180. The Preparatory Committee then proceeded to the final agenda item, Closing of the session.

181. The Delegation of the Czech Republic, speaking on behalf of the Group of Central European and Baltic States, thanked the Chair and the Vice Chairs for their excellent work. The Delegation believed that it was the circumstances that were exceptional, not the proceedings and as such, the Preparatory Committee needed to tackle them and had done so in full conformity with the Rules, Procedures and also traditions of the Organization. The Delegation regretted that it was only possible to achieve consensus minus one on the draft Rules of Procedure but it strongly believed that through continuing dialogue in the coming months, the Diplomatic Conference would adopt the recommended Rules of Procedure to enable a successful Diplomatic Conference and deliver a positive outcome in the normative agenda within WIPO. The Delegation continued to remain available to all Lisbon Union members and non-members to work together in a transparent, inclusive and constructive manner.

182. The Delegation of the United States of America said that the United States had sent a Delegation of experts to Geneva this week, with high hopes for seizing what it viewed as a historic opportunity for the revision of the Lisbon system presented to the WIPO membership. The Delegation saw the process as a way to bridge the differences between the divergent systems for GIs protection through a global filing system. It had been gratified by the overwhelming global interest in taking advantage of this opportunity demonstrated by the presence and voices of colleagues from all over the world who agree with the importance of inclusiveness and equality in norm setting. However, the Delegation found that its hopes for working within the Working Group to find collective and constructive solutions were dramatically reduced because its enthusiasm for finding common ground was obviously not shared within the Lisbon Union membership, despite their stated goal of doing so. The Delegation took the discussions from the day before and that day as an unequivocal signal that whatever inclusiveness it had enjoyed during Working Group meetings was no longer realistically possible. With some show of flexibility on the part of the Lisbon members who spoke this week, perhaps it could have carried the constructive conversations of the Working Group through to the Diplomatic Conference but now it found that the openness it had all worked hard to share during the Working Groups would not be provided at the Diplomatic Conference. At the Diplomatic Conference, the Delegation would apparently have even lower status than it did as Observers at the Working Group and even less than non-WIPO members called Special Delegations. The Delegation would need to consult back home and with its like-minded colleagues in order to determine what its future engagement should be in this process. It would need to consider how to respond to this unacceptable outcome of a small and exclusive group of countries taking a decision that would affect the interest of all WIPO Members. The Delegation would also need to consider how this disappointing outcome and process would affect its GI stakeholders, its trademark holders and its industries that it relied on common names. The Delegation was appalled by the precedence set that day by 19 Lisbon Union members, a paltry fraction of WIPO's membership. The Delegation simply did not understand how the Lisbon Union went from no-consensus to an agreement on the Rules of Procedure with no procedural steps in-between. Despite repeated requests for an explanation of the legal basis for making such an unprecedented leap from a situation of no-consensus to a sudden situation of an agreement by the Lisbon Union, the question was never adequately answered. Therefore, the Delegation could only conclude that if there was no consensus, there was no decision. The Delegation could not support an approach at WIPO where if consensus could not be reached, the Chair announced an agreement presumably taken by tallying interventions made during debate without regard for Rules of Procedure and over one member's repeated

protests and requests for procedural clarification from the Legal Counsel. Such a practice was an assault on WIPO's long-standing and deeply cherished commitment to consensus based on constructive debate and cooperative decision making and it was without justification from procedural rules, past practice or shared principle.

183. The Delegation of Argentina expressed its deep concern with regard to the way in which the Preparatory Committee was run and in the way decisions were taken without respecting the position of a member of the Lisbon Union and without respecting the Rules, taking decisions where there was a lack of consensus as normally observed in WIPO, it believed that this took away legitimacy from the process and also set a serious precedent of which the consequences would be felt throughout the Organization. Faced with this situation, the Delegation would examine the measures available for it to take.

184. The Delegation of the European Union joined the Czech Republic in congratulating the Chair for his excellent work as Chairman of the Preparatory Committee and also of the Working Group earlier in the week. The Delegation took great interest in the successful outcome of the revision of the Lisbon Agreement at the Diplomatic Conference, which would result in a revised agreement with a refined legal framework and wider scope of application including the possibility of accession by intergovernmental organizations such as the European Union. The Delegation said that the European Union as an international organization which was very active in the field of geographical indications had clear interest in the establishment of this possibility. In a revision process, over the last few years, all delegations had had the opportunity to express their views and made amendments in an inclusive and transparent way. The decisions taken by the Preparatory Committee ensure that this open and transparent approach would also prevail in the preparation and conduct of the Diplomatic Conference. Therefore, the Delegation was confident that the Diplomatic Conference would be able to adopt the revised Lisbon agreement which would be more attractive for prospective members and hence, would have the potential of becoming a truly global and inclusive instrument in the WIPO family with broad membership.

185. The Delegation of Italy aligned itself with the statements made by the European Union and the Czech Republic. The Delegation thanked the Chair and the Vice Chairs for the excellent way they had chaired the last session of the Working Group and the Preparatory Committee. Today, the Preparatory Committee had taken a very important decision fully in line with WIPO Rules and Procedure that would lead to the 2015 Diplomatic Conference. As the Delegation had said, it had been an inclusive and transparent process, where proposals of Observer states were given due importance and welcome by members of the Lisbon Union. As the Delegation had always said, it was convinced that without derogating from fundamental principles of international law, it could have an inclusive and participatory Diplomatic Conference, where the voice of all states – both members and Observers of the Lisbon Union would be heard. In the coming months and with the Diplomatic Conference, it stood ready to listen to the views of Observer States, on the pending substantive issues and to hear and examine its proposal that would enable them to fully accede to the new treaty.

186. The Delegation of the Republic of Korea went along with the intervention made by the United States of America and Argentina.

187. The Delegation of Chile said that it had participated constructively in the sessions of the Working Group, submitting proposals and suggestions that was the right of any member of WIPO with the view to reaching a future agreement that reflected new realities and practices on the basis of a shared vision. During the Preparatory Committee, along with other countries, the Delegation had submitted a proposal that it thought would help to bring that spirit into practice at the forthcoming Diplomatic Conference, where the final decision would be taken. Regrettably, the proposal did not garner the support of the Union, nor did it give the opportunity to explore alternatives that would reflect the views of all delegations. Finally, a decision was taken without there being a consensus behind it. The Delegation thought that this situation not only

generated an institutional deficit, as one delegation referred to it in the morning, but it also affected the confidence and the trust which was a basic element of the Organization. The Delegation regretted that this was the procedure that followed in a context where multilateralism and in particular the work going on in the Organization was going through tough times.

188. The Islamic Republic of Iran thanked the Chair and also the Vice Chairs for their great work and also able leadership in both the Working Group and the Preparatory Committee of the Diplomatic Conference. The Delegation said that it had always made great efforts to encourage all entrusted states to participate in the sessions of the Working Group actively. Negotiations within their Working Group had been inclusive and transparent. The Delegation said that Observer delegations were in a position to contribute to the deliberations, therefore, it wished to encourage all WIPO Members to participate in the Diplomatic Conference which was decided by the Preparatory Committee in accordance with international law and also the Lisbon Agreement.

189. The Delegation of Tunisia supported the statements made by the Delegations of the Czech Republic, the European Union, Italy and the Islamic Republic of Iran and wished to congratulate the Chair on his wisdom and the professional way in which he had chaired discussions during the meeting.

190. The Delegation of France thanked the Chair for all his efforts during the week, in the Working Group and the Preparatory Committee. The Delegation said that it had an obligation to achieve a result this week. Surprisingly, just a couple of weeks ago, it was presented with an alternative. The choice was either to move forward or take things back to where it started from, and the Delegation was very grateful that it had managed to continue to move this process forward. The Delegation would continue to make progress in that sense, it wanted to have the Observers involved and they would be able to send extra comments and suggestions. The Delegation thought the Chair had adhered to the procedure perfectly. As the Legal Counsel of WIPO had pointed out, there had been exceptional circumstances which had led the Preparatory Committee to adopt this exceptional procedure. A Delegation had made a proposal 2 weeks ago, prior to the discussions that day, but never came to the other 27 members of the Lisbon Union to discuss the issue and try to explain the proposal and try to convince of its sincerity and the sovereignty of their approach. The Delegation thanked the Chair again for the way in which he had chaired discussions and wished to reaffirm its political will to continue to move the process forward, and wished to ensure that all Observers and Members of the Organization and Union could participate constructively in that approach leading to the Diplomatic Conference.

191. The Delegation of Mexico expressed its thanks to the Chair for all his work and efforts within the different meetings of the Working Group and in the Preparatory Committee. The Delegation supported what the Czech Republic, the Islamic Republic of Iran, Italy and France had said in that respect. The Delegation said that the Preparatory Committee took its decisions on the basis of the existing Rules and in full respect for the principles of international law codified in the Vienna Convention and in the Lisbon Agreement. These were basic principles for the Organization. The Delegation reiterated its spirit of openness which had been shown by the members of the Union, in particular, the exercise that took place in the Preparatory Committee.

192. The Delegation of Algeria thanked the Chair once again for the way in which he had steered the discussions during the Preparatory Committee. The Delegation also would support the decision taken by the Preparatory Committee on the substance, though not on the process. In its view, the process had not necessarily been respected at all times as it should have been, and it was talking about the procedures. One Delegation said that when there was no consensus, there was no consensus, and that was a fact in WIPO as it was anywhere else. The Delegation thought that some limits had been redefined by the meeting and as a Delegation, it was not really happy about following those limits. The Delegation wished to indicate that it

intentionally avoided taking the floor during the discussions about the Rules of Procedure that should govern the Diplomatic Conference. The Delegation said that it had always been in favor of receiving comments and proposals from Observers during the work of the Working Group, so it did not want to be associated with any position whereby the work of WIPO should be restricted or limited to private sessions, and as a Delegation it was one of the members who wanted to see open, inclusive approaches with the work of WIPO.

193. The Delegation of Bulgaria wished to join all those who preceded it in congratulating the Chair on handling the meeting and the meeting of the Working Group in an excellent manner. The Delegation said that the Chair managed to show the Preparatory Committee that finally the law prevails and the rules prevail because it had tried to read the Rules and Procedures in WIPO and it did not see the word consensus anywhere. The Delegation said that consensus was an emotional word that the Preparatory Committee always tried to arrive at. If there was no consensus, then a majority rule prevails. For those who said that the procedure was not followed, the Delegation thought the procedures were followed very closely according to international law, the Vienna Convention, according to the WIPO Rules and to the Lisbon Agreement and it wished to congratulate the Chair once again for that. The Delegation thanked the Secretariat for all the documents and support which were given to the Working Group and this was also to an extent, due to its work that the Preparatory Committee had a good result, and the Delegation hopefully would go to the Diplomatic Conference where a different Lisbon system would emerge in the future which would be attractive for many other countries which were not yet members of the Lisbon Union.

194. The Delegation of Peru thanked the Chair and the Members of WIPO who had taken part in the meeting without a distinction. The Delegation said that the objective was clear and the meeting had now reached a successful outcome.

195. The Delegation of Australia expressed its deep concern at certain occurrences and statements made in the context of the work of the Preparatory Committee. While the Delegation did not wish to repeat its comments regarding the manner in which decisions had been taken at the meeting, it would again stress its deep concern and would align itself with the statements made by the Delegations of Argentina, Chile, Republic of Korea and the United States of America. Many statements had been made about inclusiveness and transparency. Comments had also been made about late participation in Working Group sessions in an attempt to kidnap the process. In relation to these statements and the concept of inclusiveness, Australia wished to recall that it had taken the opportunity to participate in the work of the Lisbon Working Group, some sessions ago and had made some – in its view – very constructive contributions. These contributions had shown a high degree of flexibility in the context of broader discussion on the subject matter. The Delegation said its participation had been in good faith over an extended period and had included sending delegates from capital, from the other side of the world, at considerable expense and effort. These contributions had been made under the impression that not only the process was to be inclusive but the outcome was to be inclusive. The events of the day before and that day appeared to indicate that they had a very different understanding of the concept of inclusiveness. The Delegation was concerned that some of the comments and conclusions made this week, particularly in relation to participation, were difficult to reconcile with the avowed spirit of openness and inclusiveness.

196. The Delegation of Japan said that one answer to the question was still floating in its mind and that was how the Chair could arrive at a decision without consensus in this consensus-based organization.

197. The Chair thanked all participants for their hard work, the International Bureau for preparing the meeting in a thorough and efficient manner and also for the assistance during the meeting. He thanked also the interpreters for their kind assistance and also for their patience and flexibility. The Chair declared the meeting of the Preparatory Committee closed.