

Special Union for the Protection of Appellations of Origin and their International Registration (Lisbon Union)

Assembly

Fortieth (25th Ordinary) Session
Geneva, July 6 to 14, 2023

REPORT

adopted by the Assembly

1. The Assembly was concerned with the following items of the Consolidated Agenda (document A/64/1): 1 to 6, 9, 10(ii), 12, 17, 21, 26 and 27.
2. The reports on the said items, with the exception of item 17, are contained in the General Report (document A/64/14).
3. The report on item 17 is contained in the present document.
4. Mr. Pascal Faure (France) presided over the meeting. Mr. Matúš Medvec (Slovakia) was elected Chair of the Assembly; Ms. Grace Issahaque (Ghana) and Mr. Tiago Serras Rodrigues (Portugal) were elected Vice-Chairs.

ITEM 17 OF THE CONSOLIDATED AGENDA

LISBON SYSTEM

5. Discussions were based on document [LI/A/40/1](#).

6. Introducing the document under consideration, the Secretariat recalled that at its fifth session, which took place from January 24 to 26, 2023, the Working Group on the Development of the Lisbon System (hereinafter referred to as “the Working Group”) recommended the adoption of the proposed amendments to Rule 5 of the Common Regulations under the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration and the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (hereinafter referred to as “the Common Regulations”), as well as the adoption of the proposed corrections to the Spanish version of the Common Regulations. The Secretariat indicated that the proposed amendments contained in the Annex to document LI/A/40/1, and in Annex II of the Spanish version of document LI/A/40/1, would enter into force, on July 14, 2023.

7. The Delegation of the Russian Federation supported the proposed amendments to Rules 5, 6 and 7 of the Common Regulations. It recalled that the Russian Federation had recently acceded to the Lisbon System in May 2023 and that, in doing so, had become a party to all global intellectual property (IP) Systems administered by the World Intellectual Property Organization (WIPO). The Delegation pointed out that, as a result, the Russian Competent Authority for purposes of the procedures under the Lisbon System would start receiving applications for the international registration of geographical indications and appellations of origin under the Lisbon System as of August 2023. The Delegation was of the view that accession of the Russian Federation to the Lisbon System opens up a new potential for the economic development of regions and support of local producers, since the Lisbon System enhanced the level of protection and the defense of regional brands. The Delegation added that the Lisbon System ensured reliable protection of appellations of origin and geographical indications in the territories of the other Contracting Parties, which was one of the main reasons that had motivated the accession of the Russian Federation to the Geneva Act of the Lisbon Agreement. In that respect, the Delegation expressed its gratitude to the WIPO Secretariat for its comprehensive support in the process of the Russian Federation's accession to the Lisbon System. Indicating that the Russian Federation stood ready to contribute significantly to the promotion and further improvement of the System, the Delegation emphasized that the Federal Service for Intellectual Property (ROSPATENT) attached particular importance to the promotion and use of geographical indications and appellations of origin, and that specialized seminars for the producers of traditional goods in all regions of the Russian Federation were held regularly throughout the year. The Delegation added that ROSPATENT also extended consultative and advisory support for the registration of geographical indications and appellations of origin. The Delegation commended the efforts of the International Bureau and the WIPO Office in the Russian Federation for the various events held by WIPO in the area of geographical indications, including the holding of thematic workshops and information sessions on geographical indications in the margins of the Working Group sessions of the Lisbon System. The Delegation offered to share its experience in acceding to the Lisbon System at the next session of the Working Group. The Delegation also thanked WIPO for the organization of the Worldwide Symposium on Geographical Indications in Georgia, in the framework of which various topics such as management strategies, branding of geographical indications, as well as international protection under the Lisbon System were addressed. Lastly, the Delegation also supported the initiative to increase the budget of the Lisbon System for the 2024/25 biennium as, it was of the view that financial resources would be necessary to ensure the further development of the System with a view to attracting new users and expanding its membership.

8. The Delegation of the European Union, speaking on behalf of the European Union and its member states, welcomed the entry into force of the amendments to the Common Regulations

on January 1, 2023. In that regard, the Delegation proposed continuing in the path of improving the Common Regulations in order to simplify and streamline the procedures under the Lisbon System with the aim of providing more clarity to its users. The Delegation therefore supported the adoption of the proposed amendments to the Common Regulations, as set out in the Annex to document LI/A/40/1 prepared by the Secretariat. It pointed out that the European Union had made further progress in the implementation of its membership in the Lisbon System and the Geneva Act of the Lisbon Agreement and that the European Union was at that time in the final stages of the legislative process for the adoption of a European Union Regulation concerning geographical indication protection for crafts and industrial products. The Delegation added that while the European Union welcomed the proposed moderate increase in the 2024/25 WIPO budget for the Lisbon System, it also believed that adequate resources had to be made available to manage the Lisbon System effectively in view of the increasing membership. In that regard, the Delegation stressed the need to ensure the efficient performance of the Lisbon System, suggesting that the current backlog as well as the anticipated workload resulting from the growing membership be addressed and the full deployment of the functionalities of the new information technology platform, namely e-Lisbon, was achieved to ensure an efficient and smooth functioning of a modern electronic system of registration, notification and publication. The Delegation reiterated the importance of appropriate technical assistance being provided to support those Member States that had recently become – or that had expressed an interest in becoming – members of the Lisbon System, and of the Geneva Act of the Lisbon Agreement, in particular. The Delegation also noted with satisfaction the continuous enlargement of the membership of the Geneva Act of the Lisbon Agreement over the course of the year before and in that regard welcomed the accession of the African Intellectual Property Organization (OAPI) as the second intergovernmental organization to join the Lisbon System. The Delegation was of the view that the inclusion of 17 new African countries constituted a strong political signal of the increasing attractiveness of the Lisbon System. While the Delegation also welcomed the recent accession of Tunisia, it expressed serious concerns with respect to the Russian Federation's recent accession to the Geneva Act of the Lisbon Agreement. For as long as the Russian Federation did not reverse the course and abide by the principles of the United Nations (UN) Charter and its international obligations, it was clear that business as usual with the Russian Federation at the UN and other multilateral fora was no longer an option. Pointing out that the Russian Federation was violating the international legal order through its war of aggression against Ukraine, the Delegation expressed solidarity with Ukraine and expressed support for the sovereignty, independence and the territorial integrity of Ukraine within its internationally recognized borders and its inherent right of self-defense against the Russian Federation aggression. The Delegation called on the Russian Federation to immediately stop all violations of international law, its illegal war of aggression against Ukraine, and immediately, completely, and unconditionally withdraw all of its military forces and proxies from the entire territory of Ukraine and to fully respect Ukraine's territorial integrity, sovereignty, and independence. In concluding, the Delegation reiterated the European Union's continued support and solidarity with Ukraine and the Ukrainian people.

9. The Delegation of the Russian Federation said that it was difficult to imagine a more technical issue than the one under consideration, namely, the adoption of the proposed amendments to the Common Regulations. However, the Delegation deplored that the delegations present in the room were yet again forced to listen to absurd anti-Russian statements. The Delegation deplored not only the lack of respect for WIPO's mandate, but also the lack of civilized dialogue and use of destructive initiatives that were rocking the boat of the IP system that had been built over decades by WIPO. The Delegation pointed out that they were currently witnessing an artificial politicization of the work of the Assembly and therefore counted on the support of the Secretariat to ensure the observance of the Rules of Procedure in the course of the ongoing Assembly.

10. Aligning itself with the statement made by the Delegation of the European Union, the Delegation of France supported the proposed amendments to the Common Regulations contained in document LI/A/40/1, in particular, the proposal to delete Rule 5(4) that had been adopted by consensus by the Working Group on January 26, 2023. The Delegation was of the view that the proposed amendments were pragmatic and of genuine interest to the members of the Lisbon Union because they introduced administrative simplification while observing the spirit of the Geneva Act of the Lisbon Agreement.

11. Associating itself with the statement delivered by the Delegation of the European Union, the Delegation of Portugal expressed the view that a clear differentiation between the cultural heritage of their respective countries and their origin-based products was vital for the trade strategy of any company, region or country. In that context, the Delegation believed that appellations of origin and geographical indications were absolutely decisive at the international level and was therefore convinced that the support and development of the Lisbon System should be a priority for WIPO. In that regard, the Delegation welcomed the work and progress that had been made by the Working Group and supported the proposed amendments to the Common Regulations and the strengthening of the budget and resources of the Lisbon System. Lastly, the Delegation was pleased to see a progressive increase in the number of members of the Lisbon System and welcomed in particular the accession of OAPI and the addition of 17 new African countries to the Lisbon System.

12. The Delegation of the United States of America raised its long-standing concern with the chronic and increasing deficit of the Lisbon Union as well as with the proposed increased budget for the next biennium. The Delegation reiterated that the Lisbon System had significant negative ramifications for businesses worldwide, including small companies and new market entrants that depended on the use of common names, as well as the integrity of established trademarks to market and to sell their products globally. The Delegation stated that, by providing for the protection to geographical indications for a wide range of products without sufficient protection for users of common names or for prior trademark holders, the Lisbon System was hindering market access for stakeholders from the United States of America and other WIPO Member-States. The lack of safeguards was diminishing sales opportunities, erecting trade barriers and eroding trademark rights in countries that were blocking the use of common commercial names. The Delegation underscored that the Lisbon System was running a chronic deficit that was even expected to grow significantly under the proposed budget for the next biennium. The Delegation was of the view that the continuing deficit was driven and perpetuated by the Lisbon Union members' failure to adhere to their treaty obligations to make the System financially sustainable. It stressed that the language of the WIPO treaties and financial rules was clear and should not be disregarded by Member States who should be held accountable for their treaty obligations. The Delegation reiterated its serious concerns that fees paid to other WIPO Global IP Systems, particularly the Patent Cooperation Treaty (PCT), continued to be diverted to subsidize the Lisbon System. The Delegation considered that fairness and user expectation dictated that this should not occur. The Delegation recalled that it had already emphasized in various WIPO meetings the importance of developing a path for financial sustainability of all fee-funded unions, particularly, the Lisbon Union. The Delegation added that WIPO should provide a full and consistent accounting of the Lisbon System funding sources and establish a process in which the Lisbon Union would appropriately reimburse other WIPO Global IP Systems for previous cross-funding. The Delegation believed that it was important that WIPO preserved the diversity of the views of all WIPO Member States regarding geographical indications and was of the view that more needed to be done for WIPO to undertake a balanced and fair approach in its programmatic work on geographical indications and common names. The Delegation indicated that more awareness had to be provided to governments and other stakeholders on the inherent and intertwined relationship between geographical indication protection and the uses of generic or common names. The Delegation underscored that, when such balance failed to occur there were negative ramifications for

businesses worldwide that utilized common names, but also for established trademark owners that were prevented from marketing and selling their products globally.

13. The Delegation of Peru recalled that in the framework of the previous Lisbon Assembly, Peru had deposited its instrument of ratification to the Geneva Act of the Lisbon Agreement and it had since then been working very closely with the Secretariat to ensure the full implementation of the Act. The Delegation also welcomed the accession of three new countries as well as the accession of OAPI with its 17 member states. In that regard, the Delegation underscored the importance of allocating financial resources through an adequate budget to ensure quality services in an effective and timely manner to an increasing number of Contracting Parties. This would, in turn, contribute to strengthening the Lisbon System and to increasing its attractiveness. Lastly, the Delegation supported the proposed amendments to the Common Regulations, including the linguistic corrections to the Spanish version and the deletion of Rule 5(4).

14. The Delegation of Poland aligned itself with the statement delivered by the Delegation of the European Union. Taking note of the entry into force on January 1, 2023 of the amendments to the Common Regulations that enabled the users of the Lisbon System to benefit from simplified and streamlined procedures, the Delegation supported the adoption of the proposed amendments to the Common Regulations, as set out in the Annex to document LI/A/40/1, as they would ensure an administrative simplification in the interest of all Contracting Parties and further enhance the attractiveness of appellations of origin and geographical indications protection systems. It pointed out that geographical indications were very important for the Polish IP system as they protected Poland's traditional products and thereby ensured the preservation of the country's long lasting cultural heritage. The Delegation took note of the continuous enlargement of the membership of the Lisbon System and welcomed the proposed budget for the Lisbon System for the 2024/25 biennium that reflected the growing membership of the System. While the Delegation welcomed the new accessions to the Lisbon System, it expressed its concerns related to the accession of the Russian Federation to the Geneva Act of the Lisbon Agreement, as the Delegation was of the view, that a country that continued to violate international laws should not benefit from the achievements of the Lisbon System on a "business as usual" basis. Lastly, the Delegation expressed its solidarity with Ukraine and the Ukrainian people.

15. Aligning itself with the statement made by the Delegation of the European Union on behalf of its member states, the Delegation of Italy welcomed all the work done by the Lisbon Registry to improve the geographical representation of the Lisbon Union and also looked forward to a further development of the international registration system for appellations of origin and geographical indications, as well as a swift implementation of the e-Lisbon platform in the near future. Pointing out that a significant amount of the WIPO Union budget was currently being used by the Secretariat for technical support and capacity building activities, rather than for promotional purposes, the Delegation expressed the view that such technical support was indeed necessary to meet the growing needs of the Lisbon membership, which already extended to 71 countries in different geographical regions. The Delegation added that such enlargement provided evidence of the increased interest in geographical indications around the globe as an engine to foster economic development, and therefore considered it appropriate and necessary for the WIPO Secretariat to continue its work in the field of geographical indications. The Delegation pointed out that the moderate increase of the Lisbon budget for the next biennium responded to the growth in the administrative workload and in requests for technical assistance that the Registry was receiving. At the same time, the Delegation highlighted that such activities had a crosscutting impact that went well beyond the Lisbon System as they also contributed to regional and national development and to the achievement of the Sustainable Development Goals (SDGs), which was in full compliance with WIPO's mandate.

16. The Delegation of Lithuania fully aligned itself with the statement delivered by the Delegation of the European Union and supported the proposed amendments to the Lisbon Common Regulations. However, the recent accession of the Russian Federation to the Geneva Act of the Lisbon Agreement was a cause for serious concern. After launching a war of aggression against Ukraine, the Russian Federation had unilaterally adopted national legislation that legitimized violations of the international agreements in the field of IP and grossly violated the rights of other Contracting Parties to those agreements. This only reconfirmed that the Russian Federation's accession to the Geneva Act of the Lisbon Agreement neither contributed to the strengthening, nor to the promotion of the Lisbon System but rather weakened the System and made it more fragile. Finally, the Delegation said that those concerns should be addressed accordingly, being also mindful of the spectrum of solutions available under the Geneva Act of the Lisbon Agreement.

17. The Delegation of San Marino aligned itself with the statement made by the Delegation of Italy.

18. The Delegation of the European Union, speaking on behalf of the European Union and its member states, stated that it remained convinced of the possibility of finding a way to provide financial support to the Lisbon Union in line with the principle of the capacity to pay, while securing full respect for the long-standing principles of financial solidarity, between the different WIPO unions and equality of treatment for each area of IP

19. The Delegation of France underlined the increasing interest of various countries in the Geneva Act of the Lisbon Agreement over the past two years. In that context, the Delegation was of the view that the increase in the Lisbon budget proposed by the Director General of WIPO went in the right direction as it took due account of the increasing number of transactions generated by new accessions. The Delegation added that the proposed budget increase met the legitimate expectations of the Lisbon stakeholders, as it would ensure the efficient and smooth functioning of the Lisbon Registry. The proposed budget increase was not only reasonable but in the interest of budgetary transparency, essentially reflected the transfer under the Lisbon budget of a staff member already working for the Lisbon System but previously attached to a different budget line. The proposed budget increase constituted a negligible amount compared to the overall budget and financial results of WIPO. Moreover, the Delegation was surprised by the remark concerning generic names insofar as the Lisbon System has a perfectly clear and perfectly defined subject matter of protection. Generic names did not constitute intellectual property rights (IPRs), while geographical indications were IPRs and tools for development that were attracting growing support and interest among WIPO members from all regions of the world. In conclusion, the Delegation expressed support for the proposed increase of the Lisbon budget.

20. The Delegation of Iran (Islamic Republic of) attached great importance to the protection of geographical indications outside its territory through the Lisbon System and informed the Assembly that Iran (Islamic Republic of) was in the process of ratifying the Geneva Act of the Lisbon Agreement in Parliament. Recalling that geographical indications and appellations of origin were IPRs alongside copyright, trademarks, patents and designs, the Delegation underscored WIPO's commitment to promoting the protection of all types of IPRs throughout the world in accordance with Articles 3 and 4 of the Convention establishing WIPO. On the issue of the financial sustainability of the Lisbon Union, the Delegation pointed out the political determination and willingness of the members of the Lisbon Union to find a long-standing financial solution to the issue of the financial sustainability of the Lisbon System. The Delegation was convinced that a way could be found to provide financial support to the Lisbon Union while securing full respect of the long-standing principle of solidarity and equality of treatment for all areas of IP. As a tool for ensuring the long-standing financial viability of the Lisbon Union, the Delegation reiterated the need for a robust and focused promotion of the Lisbon System, including the Geneva Act of the Lisbon Agreement, that would highlight the

development potential of geographical indications with a view to attracting new Contracting Parties. Highlighting the importance of putting all WIPO Global IP Systems on an equal footing, the Delegation stated that it remained committed to the principles of solidarity, trust and equal treatment that had always been the basic principles of functioning and decision-making at WIPO.

21. Aligning itself with the statements made by the Delegations of the European Union and France, the Delegation of Portugal invited all Lisbon members to continue to work towards ensuring the financial sustainability of the Lisbon System. The Delegation reiterated its support for the budget proposed by the Secretariat to be able to deal with the delays in the procedures for the registration of appellations of origin and geographical indications.

22. The Representative of the Intellectual Property Latin American School (ELAPI) supported and welcomed the proposed amendments to the Common Regulations, as it was of the view that the deletion of Rule 5(4) would simplify and streamline the procedures under the Lisbon System, while the proposed amendments to the Spanish version of the Common Regulations would bring greater clarity and coherence. It concluded by saying that ELAPI would cooperate in the dissemination, promotion and study of the revised Common Regulations.

23. The Representative of the Organization for an International Geographical Indications Network (OriGIn) supported the proposed amendments to the Common Regulations because they aimed at further simplifying a System, which had been attracting the interest of several countries. It also welcomed new accessions such as the accession of OAPI, as that reaffirmed the point OriGIn had been making over the years, namely that the Lisbon System was particularly beneficial to small producers and small and medium-sized enterprises (SMEs), especially in developing countries. In that regard, it referred to the clear connection that had been emphasized by the Food and Agriculture Organization (FAO) of the United Nations on several occasions, namely the increasingly recognized link between sustainable development and geographical indications, as attested to by the increasing use of geographical indications as part of a sustainable strategy in agriculture. In order to address the needs of developing countries, the Representative expressed the wish that enough financial resources be allocated to the Lisbon System in order to ensure its smooth functioning. Lastly, it expressed great concern with respect to a proposal circulating within WIPO aimed at raising the international profile of common food names, beyond a mere exception to IPRs. It further indicated that the existing system with internationally recognized property rights and the admission of exceptions to those rights, to be evaluated on a case-by-case basis, was fully capable of ensuring the rights of geographical indication owners, while also giving the possibility to parties claiming the genericity of a name to demonstrate it before national courts. The Representative, in conclusion, said that the proposal concerning common food names was extremely dangerous for the international IP system and could potentially undermine its basic principles and values across IPRs well beyond geographical indications.

24. Supporting the comments made by the Delegation of the United States of America, the Representative of the Consortium for Common Food Names (CCFN) strongly believed that producers of common food names around the world should alert WIPO that the majority of producers, especially in the least developed countries (LDCs), were producers of common food names rather than geographical indications. The Representative added that it was therefore extremely important that WIPO made sure that those producers in LDCs also had a voice. In response to the comment that generic terms did not belong to the IPR world, it said that it was precisely to the contrary – that generic names were clearly part of IP. Lastly, the Representative thanked the United States of America and many countries in the new world that supported common food names and he encouraged WIPO and the Lisbon System to protect names like “Quechua”, which did not seem to be of interest compared to other less important names.

25. Taking note of the statements made by delegations with regard to the Lisbon budget, the Chair recalled that budgetary matters would be further discussed within the Program and Budget Committee (PBC).

26. The Assembly of the Lisbon Union:

(i) adopted the amendments to the Common Regulations under the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration and the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications, as set out in the Annex to document LI/A/40/1, and

(ii) adopted the proposed corrections to the Spanish version of the Common Regulations, as set out in the Spanish version of document LI/A/40/1,

with July 14, 2023, as their date of entry into force.

27. For ease of reference, the Annex to this report contains the amendments to the Common Regulations under the Lisbon Agreement and the Geneva Act of the Lisbon Agreement, as adopted by the decision set out in paragraph 26(i), above. The corrections to the Spanish version of the Common Regulations, as adopted by the decision set out in paragraph 26(ii), above, are only set out in Annex II of the Spanish version of the present report.

[Annex follows]

Common Regulations Under the Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration and the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications

as in force on July 14, 2023

[...]

Chapter II
Application and International Registration

Rule 5

Requirements Concerning the Application

[...]

4) [Deleted]

[...]

Rule 6

Irregular Applications

[...]

(1) *[Examination of the Application and Correction of Irregularities]*

[...]

(d) In the case of an irregularity with respect to a requirement based on a notification made under Rule 5(3), or on a declaration made under Article 7(4) of the Geneva Act, if the correction of the irregularity is not received by the International Bureau within the three-month period referred to in subparagraph (a), the protection resulting from the international registration shall be considered to be renounced in the Contracting Party that has made the notification or the declaration.

[...]

Rule 7

Entry in the International Register

[...]

(4) *[Implementation of Articles 29(4) and 31(1) of the Geneva Act]* (a) In case of the ratification of, or accession to, the Geneva Act by a State that is party to the 1967 Act, Rule 5(2) and (3) shall apply *mutatis mutandis* with regard to international registrations or appellations of origin effective under the 1967 Act in respect of that State. The International Bureau shall verify with the Competent Authority concerned any modifications to be made, in view of the requirements of Rules 3(1), 5(2) and (3) for the purpose of their registration under the Geneva Act and shall notify international registrations thus effected to all other Contracting Parties that are party to the Geneva Act. Modifications relating to Rule 5(2) shall be subject to payment of the fee specified in Rule 8(1)(ii).

[...]

[End of Annex and of document]