

## **Working Group on the Legal Development of the Madrid System for the International Registration of Marks**

**Twenty-Second Session**  
**Geneva, October 7 to 11, 2024**

PROPOSAL BY THE DELEGATIONS OF BRAZIL, CABO VERDE, MOZAMBIQUE, PORTUGAL AND SAO TOME AND PRINCIPE

*Document prepared by the Secretariat*

1. In a communication dated September 6, 2024, the International Bureau received a proposal from the Delegations of Brazil, Cabo Verde, Mozambique, Portugal and Sao Tome and Principe concerning the possibility of introducing the Portuguese language into the Madrid System for the International Registration of Marks for consideration by the Working Group on the Legal Development of the Madrid System for the International Registration of Marks, at its twenty-second session to be held in Geneva from October 7 to 11, 2024.

2. The said proposal is annexed to this document.

[Annex follows]

**ANNEX: PROPOSAL BY THE DELEGATIONS OF BRAZIL, CABO VERDE, MOZAMBIQUE, PORTUGAL AND SAO TOME AND PRINCIPE**

**Proposal by the Delegations of  
Brazil, Cape Verde, Mozambique, Portugal, and São Tomé and Príncipe  
concerning the Introduction of the Portuguese language into the Madrid System**

1. In the spirit of promoting the Madrid System for the International Registration of Marks (hereinafter referred to as “the Madrid System”), the delegations of Brazil, Cabo Verde, Mozambique, Portugal, and São Tomé and Príncipe propose that the Portuguese language be introduced as an official language of the Madrid System for the International Registration of Marks for consideration by the Working Group on the Legal Development of the Madrid System for the International Registration of Marks, during its 22nd session to be held in Geneva from October 7 to 11, 2024.
2. Language barriers are still common challenges in using the Madrid System. The introduction of the Portuguese language into the Madrid System could benefit Portuguese-speaking users facing such language barriers, including small and medium-sized enterprises (SMEs), by allowing the language to be used in filing applications for international registration and subsequent requests and maintaining their international registrations under the Madrid System. This is specially the case in most Portuguese-speaking countries where the current working languages of the Madrid System are not commonly used, unlike countries where, historically, French or English are widely used by the population.
3. In its resolution 77/14 of 21 November 2022, the General Assembly of the United Nations considered the relevance of the Portuguese language in international affairs, unifying, at that time, over 278 million people in nine countries and four continents; noted the political commitment of the Community of Portuguese-speaking Countries to promote the Portuguese language in international and regional organizations, including the United Nations and its specialized agencies, funds and programs; and stressed the importance of strengthening the cooperation between the Community of Portuguese-speaking Countries and United Nations specialized agencies, in particular the World Intellectual Property Organization.
4. The Portuguese language enjoys a longstanding special and specific status at WIPO (see document MM/LD/WG/21/7, paragraph 105):
  - In 1979, the Governing Bodies of WIPO adopted Portuguese as a working language in respect of the production of certain publications and to be used in certain cooperation for development activities (see documents AB/X/11, paragraphs 18 to 20, and AB/X/32, paragraph 35);
  - In 1999, WIPO General Assembly decided that, in all WIPO training activities involving Portuguese-speaking countries, Portuguese would be used a working language (see document WO/ GA/24/12, paragraphs 100 to 112);
  - In 2000, WIPO General Assembly decided (i) to have Portuguese used in meetings in development cooperation activities for developing countries and least developed countries, as appropriate; (ii) to have promotional material produced in Portuguese regarding WIPO-administered treaties; (iii) to develop a Portuguese part of WIPO’s website for publications in Portuguese; and (iv) to provide Portuguese interpretation for diplomatic conferences and for the General Assembly (see document WO/GA/26/10, paragraphs 136 to 180);

- In 2007, WIPO General Assembly decided to include Portuguese as one of the languages in which PCT applications may be published. Thus applicants filing in Portuguese no longer need to file translations for the purposes of processing the application during its international phase;
- In 2023, WIPO General Assembly confirmed, once more, the special status of Portuguese regarding languages of oral interventions in WIPO's bodies and interpretation, in the most recent amendment to the General Rules of Procedure of WIPO (see Rule 41.1).

5. As noted by the International Bureau in August 2000, in the document intitled "*Use of Portuguese as a working language of WIPO*", apart from Portugal, all the other Lusophone countries are developing countries, and the following five States are least developed countries: Angola, Guinea-Bissau, Mozambique, São Tomé and Príncipe, and Timor-Leste (having become independent in 2002). In the same document, the International Bureau considers as evident that a wider use of Portuguese in the activities of WIPO would be of considerable benefit in enabling WIPO to reach out to the significant number of Portuguese-speaking peoples in the world, most of whom live in developing countries, and would enhance the participation of those countries in WIPO's activities, and that this would promote the cultural, social, economic and technological development, and wealth creation, of the developing countries concerned (see document WO/GA/26/1, paragraphs 7 and 8). A similar rationale should be considered in the language expansion of the Madrid System.

6. According to the most up-to-date estimates or projections by the national census authorities and the Population Division of the United Nations Department of Economic and Social Affairs, the number of native speakers of the Portuguese language now amounts to 287 million and, according to United Nations estimates, by 2050, they will be almost 400 million. Portuguese is the most spoken language in the Southern Hemisphere.

7. This vast linguistic community represents not only a cross-regional patchwork of rich cultural diversity, but also a significant global economic market. Together, the 9 economies of the Community of Portuguese Speaking Countries (Angola, Brazil, Cabo Verde, Equatorial Guinea, Guinea-Bissau, Mozambique, Portugal, São Tomé and Príncipe, and Timor-Leste) comprise a combined GDP of approximately \$2.2 trillion, which, if it were a country, would make it the seventh largest economy in the world.

8. If Portuguese was introduced into the Madrid System, language barriers to using the Madrid System would be eliminated for applicants who speak the language. Accordingly, it would be expected that the number of applications for international registration will grow, which could result in further use and development of the Madrid System. In the spirit of promoting the Madrid System, the criteria for the selection of possible new Madrid System languages should not be limited to the official languages of the United Nations.

9. It is desirable to use objective criteria for the selection of possible new Madrid System languages as much as a fair application thereof. The Portuguese language is only partly represented in the period from 2017 to 2021 considered for the compilation of statistical information reported in document MM/LD/WG/21/7 (paragraphs 84 to 109). The recent accessions to the Madrid System of Brazil (October 2019) and Cabo Verde (July 2022) result in relevant data deviations, both in terms of Madrid and Direct Applications, but even more acutely in what regards the criterion regarding designations under the Madrid System.

10. The updated statistics prepared by the International Bureau in document MM/LD/WG/22/6 already show that "Portuguese has moved to the ninth position" in *Table III: Number of Madrid Designations, Top 10 Languages Excluding English, French and Spanish*, "due to an increasing number of designations of Brazil" (paragraphs 17 to 20).

11. In document MM/LD/WG/21/7, Portuguese was already ranked in a high position in Madrid Market Share (Gap between direct and Madrid applications excluding English, French and Spanish), the criterion that would place emphasis on languages for which the possibility of attracting new users who are already able to use the Madrid System is the highest, and for whom the inability to file in their own language might be a disincentive against using the System (see document MM/LD/WG/21/7, paragraphs 98 to 101).

12. Regarding this criterion, the standing of Portuguese has also improved in the updated statistics. Previously in the sixth position, Portuguese now appears in the fifth position (see document MM/LD/WG/22/6, paragraphs 24 to 27).

13. Once specific milestones are met in the implementation of the technical elements described in paragraphs 111 to 130 of document MM/LD/WG/21/7, new and updated relevant statistical information should be compiled, to allow a fairer and more equitable perspective on the subject.

14. The African Intellectual Property Organization (OAPI) being a party to the Madrid Protocol (1989), the introduction of Portuguese into the Madrid System would also benefit Guinea-Bissau and Equatorial Guinea, which are Member States of that Intergovernmental Organization.

15. The introduction of Portuguese into the Madrid System would be an incentive for other Portuguese-speaking countries, namely Angola and Timor-Leste, to become parties to the Madrid Protocol, and/or for Equatorial-Guinea and Guinea-Bissau to do the same in national capacity. This, in turn, might encourage the accession of other Contracting Parties. Such anticipated geographical expansion of the Madrid System would benefit right-holders from the new Members as well as those from current Members, in line with the rationale for the introduction of Spanish into the Madrid System (see document MM/LD/WG/19/7, paragraphs 9 to 11).

16. For the purposes of cost-saving, translation quality and processing speed, the Industrial Property Offices of Brazil, Cape Verde, Mozambique, Portugal, and São Tomé and Príncipe have the intention to cooperate with the International Bureau in technical or practical measures to develop and improve the operational functions of the Madrid System under the multilingual regime, including the enhancement of a terminology database for improved *automatic translation* rates (see document MM/LD/WG/21/7, paragraphs 31, 53 and 135). These delegations also intend to engage constructively in discussions aimed at solving further technical issues during forthcoming sessions of the Working Group.

*17. In light of the above, we invite the Working Group on the Legal Development of the Madrid System for the International Registration of Marks to consider the proposal to include Portuguese as an official language of the Madrid System, and request the International Bureau to conduct a study on the possible introduction of Portuguese into the Madrid System.*

[End of Annex and of document]