

WIPO



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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

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WORKING GROUP ON THE DEVELOPMENT OF THE LISBON SYSTEM (APPELLATIONS OF ORIGIN)

First Session
Geneva, March 17 to 20, 2009

SUMMARY BY THE CHAIR

approved by the Working Group

1. The Working Group responsible for exploring possible improvements to the procedures under the Lisbon Agreement met in Geneva from March 17 to 20, 2009.
2. The following Contracting Parties of the Lisbon Union were represented at the session: Algeria, Bulgaria, Costa Rica, Cuba, Czech Republic, Democratic People's Republic of Korea, France, Georgia, Hungary, Iran (Islamic Republic of), Italy, Mexico, Montenegro, Peru, Portugal, Republic of Moldova, Serbia, Slovakia, Togo, Tunisia (20).
3. The following States were represented as observers: Argentina, Australia, Bosnia and Herzegovina, Brazil, Canada, Chile, China, Egypt, Germany, Guatemala, Iraq, Japan, Lithuania, Morocco, Qatar, Romania, Spain, Sudan, Switzerland, Thailand, The former Yugoslav Republic of Macedonia, Turkey, United Kingdom, United States of America (24).
4. The Permanent Observer Mission of Palestine took part in the meeting in an observer capacity.
5. Representatives of the following international intergovernmental organizations (IGOs) took part in the session in an observer capacity: European Communities (EC), World Trade Organization (WTO) (2).

6. Representatives of the following international non-governmental organizations (NGOs) took part in the session in an observer capacity: Brazilian Intellectual Property Association (ABPI), European Communities Trade Mark Association (ECTA), International Trademark Association (INTA), MARQUES (Association of European Trademark Owners), Organization for an International Geographical Indications Network (OriGIn) (5).

7. The list of participants is contained in document LI/WG/DEV/1/INF/1.

Agenda Item 1: Opening of the session

8. Mr. Ernesto Rubio, Assistant Director General, opened the session, recalled the mandate of the Working Group and introduced the draft agenda, as contained in document LI/WG/DEV/1/1 Prov.

Agenda Item 2: Election of a Chair and two Vice-Chairs

9. Mr. Mihály Zoltán Ficsor (Hungary) was unanimously elected as Chair of the Working Group, and Mr. Randall Salazar Solórzano (Costa Rica) and Mr. Belkacem Ziani (Algeria) were elected as Vice-Chairs.

10. Mr. Matthijs Geuze (WIPO) acted as Secretary to the Working Group.

Agenda Item 3: Adoption of the Agenda

11. The Working Group adopted the draft agenda (document LI/WG/DEV/1/1 Prov.) without modification.

Agenda Item 4: Possible Improvements to the Procedures Under the Lisbon Agreement

12. Discussions were based on document LI/WG/DEV/1/2 Rev.

13. The Chair noted that there appeared to be consensus that it would be in the interest of users of the Lisbon system, and would contribute to legal certainty, to introduce the possibility for the competent authorities of contracting countries to issue statements of grant of protection.

14. Following the views expressed by a number of delegations during the course of the discussions, the Secretariat prepared a revised version of the text of proposed new Rule 11*bis* for consideration by the Working Group. That text is contained in the Annex attached to the present Summary.

15. With regard to the matter of electronic communications, the Chair noted that it would be useful to include in the Regulations provisions for the establishment by the Director General of Administrative Instructions, similar to those already existing under the Madrid System for the International Registration of Marks and the Hague System for the International Registration of Industrial Designs, which would deal with the conditions for and modalities of such communications.

16. The Chair noted that, while the use of electronic communications may be a preferred option and would be encouraged by the International Bureau, nevertheless such method of communication would not be imposed upon the competent authority of any contracting country.

17. Following the comments made by a number of delegations during the course of the discussions, the Secretariat prepared a revised text of the Spanish language version of proposed new Rule 23*bis*(4), as well as a draft text for a possible amendment to Rule 22, consequential to proposed new Rule 23*bis*, as contained in the Annex attached to the present Summary.

18. The Chair noted that the question of possible consequential amendments had been raised by a number of delegations and recalled that, as indicated in document LI/WG/DEV/1/2 Rev., this was something that the contracting countries and the International Bureau would need to consider further, both in relation to new Rule 11*bis* and new Rule 23*bis*.

19. The Chair concluded that the Working Group had agreed that the International Bureau submit to the Assembly of the Lisbon Union, for adoption at its session in September 2009, proposed new Rule 11*bis* and new Rule 23*bis*, and the amendment of Rule 22, as set out in the Annex to the present document, along with any further consequential amendments that are necessary for ensuring consistency with new Rules 11*bis* and 23*bis*.

Agenda Item 5: Other Matters

20. Following an exchange of views among delegations participating in the Working Group, the Chair concluded that the Working Group had given ample guidance to the International Bureau and to the Assembly of the Lisbon Union for further work and that there was a clear consensus that the work embarked upon should continue, in particular as there was a need 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 Agreement.

21. The Chair further concluded that the Working Group had agreed, in particular:

(a) that Annex II of document LI/WG/DEV/1/2 Rev. be submitted to the Assembly of the Lisbon Union at its session in September 2009, with the recommendation that the Assembly mandate the Working Group to further consider the general overview of the Lisbon system contained therein;

(b) that the International Bureau conduct a survey among contracting countries of the Lisbon Agreement, States non-members of the Lisbon system, interested intergovernmental and non-governmental organizations and interested circles, with a view to ascertaining how the Lisbon system might be improved, in order that the system would become more attractive for users and prospective new members of the Lisbon Agreement while preserving the principles and objectives of the Agreement;

(c) that the International Bureau conduct a study on the relationship between regional systems for the protection of geographical indications and the Lisbon system, and examine the conditions for, and the possibility of, future accession to the Lisbon Agreement by competent intergovernmental organizations;

(d) that the Assembly of the Lisbon Union be recommended to request the Director General to convene further meetings of the Working Group with a view to exploring further possible improvements to the procedures under the Lisbon Agreement and considering the results of the survey and the study contemplated under subparagraphs (b) and (c), above.

Agenda Item 6: Summary by the Chair

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

23. A draft of the full report of the session of the Working Group will be distributed for comments among the delegations and representatives that participated in the meeting. Any such comments can be submitted within two months from the distribution date, after which the draft report will be amended, as required, and made available to delegations on the WIPO website, for its adoption in due course.

Agenda Item 7: Closing of the Session

24. The Chair closed the Session on March 20, 2009.

[Annex follows]

ANNEX

**Regulations Under the Lisbon Agreement
for the Protection of Appellations of Origin
and Their International Registration**

(as in force on ~~April 1, 2002~~)

LIST OF RULES

[...]

Chapter 4: Declarations of Refusal of Protection; Optional Statements of Grant of Protection

[...]

Rule 11bis: Optional Statements of Grant of Protection

[...]

Chapter 6: Miscellaneous Provisions and Fees

[...]

Rule 23bis: Administrative Instructions

[...]

**Chapter 4
Declarations of Refusal of Protection; Optional Statements of Grant
of Protection**

[...]

Rule 11bis
Optional Statements of Grant of Protection

(1) [Statement of Grant of Protection Where No Declaration of Refusal Has Been Notified] (a) The competent authority of a contracting country which has not notified a declaration of refusal to the International Bureau may, within the one-year period referred to in Article 5(3) of the Agreement, send to the International Bureau a statement to the effect that protection is granted to the appellation of origin that is the subject of an international registration in the contracting country concerned.

(b) The statement shall indicate:
(i) the competent authority of the contracting country making the statement,
(ii) the number of the international registration concerned, preferably accompanied by other information enabling the identity of the international registration to be confirmed, such as the name of the appellation of origin, and
(iii) the date of the statement.

(2) [Statement of Grant of Protection Following a Refusal] (a) The competent authority of a contracting country which has notified a declaration of refusal to the International Bureau may, instead of notifying a withdrawal of refusal in accordance with Rule 11(1), send to the International Bureau a statement to the effect that protection is granted to the appellation of origin that is the subject of an international registration in the contracting country concerned.

(b) The statement shall indicate:
(i) the competent authority of the contracting country making the statement,
(ii) the number of the international registration concerned, preferably accompanied by other information enabling the identity of the international registration to be confirmed, such as the name of the appellation of origin, and
(iii) the date on which protection was granted.

(3) [Entry in the International Register and Notification to the Competent Authority of the Country of Origin] The International Bureau shall enter in the International Register any statement referred to in paragraphs (1) or (2) and notify such statement to the competent authority of the country of origin.

[...]

Chapter 6

Miscellaneous Provisions and Fees

[...]

Rule 22

Modes of Notification by the International Bureau

(1) *[Notification of the International Registration]* The notification of the international registration, referred to in Rule 7(1), shall be addressed by the International Bureau to the competent authority of each contracting country by registered mail with acknowledgement of receipt or by any other means enabling the International Bureau to establish the date on which notification was received, as provided for in the Administrative Instructions.

[...]

Rule 23bis
Administrative Instructions

(1) [Establishment of Administrative Instructions; Matters Governed by Them] (a) The Director General shall establish Administrative Instructions. The Director General may modify them. Before establishing or modifying the Administrative Instructions, the Director General shall consult the competent authorities of the contracting countries which have direct interest in the proposed Administrative Instructions or their proposed modification.

(b) The Administrative Instructions shall deal with matters in respect of which these Regulations expressly refer to such Instructions and with details in respect of the application of these Regulations.

(2) [Control by the Assembly] The Assembly may invite the Director General to modify any provision of the Administrative Instructions, and the Director General shall proceed accordingly.

(3) [Publication and Effective Date] (a) The Administrative Instructions and any modification thereof shall be published in the Bulletin.

(b) Each publication shall specify the date on which the published provisions become effective. The dates may be different for different provisions, provided that no provision may be declared effective prior to its publication in the Bulletin.

(4) [Conflict with the Agreement or These Regulations] In the case of conflict between, on the one hand, any provision of the Administrative Instructions and, on the other hand, any provision of the Agreement or these Regulations, the latter shall prevail.

[...]

[End of Annex and of document]