

Working Group on the Development of the Lisbon System

Third Session Geneva, November 2 and 3, 2020

DRAFT REPORT

prepared by the Secretariat

1. The Working Group on the Development of the Lisbon System (hereinafter referred to as “the Working Group”) met in Geneva, on November 2, 2020.
2. The following Contracting Parties of the Lisbon Union were represented at the session: Albania, Algeria, Bulgaria, Czech Republic, Dominican Republic, European Union, France, Georgia, Hungary, Iran (Islamic Republic of), Israel, Italy, Mexico, Nicaragua, Peru, Portugal, Republic of Moldova, Serbia, Slovakia and Togo (20).
3. The following States were represented as observers: Australia, Azerbaijan, Bangladesh, Barbados, Belarus, Belgium, Brazil, Brunei Darussalam, Burundi, Canada, Croatia, Djibouti, Germany, Japan, Kazakhstan, Kuwait, Lebanon, Lithuania, Mauritius, Morocco, Myanmar, Netherlands, Oman, Pakistan, Poland, Republic of Korea, Russian Federation, Saudi Arabia, Spain, Switzerland, Thailand, United Kingdom and the United States of America (33).
4. Representatives of: (i) Palestine (1); (ii) American Bar Association (ABA), Consortium for Common Food Names (CCFN), European Communities Trade Mark Association (ECTA), International Trademark Association (INTA), International Wine Law Association (AIDV), International Vine and Wine Office (IWO), Knowledge Ecology International, Inc. (KEI), MARQUES – Association of European Trademark Owners, Organization for an International Geographical Indications Network (oriGIn) (9), participated in an observer capacity.
5. The list of participants is contained in Annex III.

AGENDA ITEM 1: OPENING OF THE SESSION

6. Mr. Daren Tang, Director General of the World Intellectual Property Organization (WIPO), opened the session and welcomed the participants to the third session of the Lisbon Working Group on the Development of the Lisbon System, this time in an unprecedented hybrid format imposed by the COVID-19 pandemic. In particular, the Director General warmly thanked the commitment of the Geneva-based representatives as well as the over 50 Contracting Parties and Observer Delegations that were joining on the online platform, thereby allowing the International Bureau of WIPO to keep the work going.

7. The Director General started by saying that while the ongoing pandemic had disrupted everyone's daily lives severely it had also strengthened people's fundamental desire for social connection. In that regard, the Director General underlined that the discussions at the present session had the capacity to fuel that connection by ensuring that quality products linked to geography and culture are brought into people's homes and shared with family and friends. He underlined that, for producers of quality products, geographical indications were a key branding tool for entering new markets, while for consumers, they were a mark of quality and authenticity.

8. The Director General pointed out that geographical indications were not just markers of heritage and culture, but also gave local communities an opportunity to lift up their lives. By way of illustration the Director General referred to the example of Cambodia, which had domestically registered the geographical indication for Kampot Pepper in 2010. In the following years, export sales increased significantly and currently about 70 per cent of the production of Kampot Pepper is dedicated to the international market, with close to 60 tons exported in 2020. Sharing a quote from the Department of Intellectual Property (DIP) of Cambodia, the Director General said that "with the increase of their income, producers of Kampot Pepper are now driving motorbikes and no more bicycles". However, given the increasing demand for Kampot Pepper, the Director General also reported an increase in fake products, which in turn had encouraged Cambodia to submit an international application for Kampot Pepper under the Geneva Act of the Lisbon Agreement earlier that month.

9. The Director General further clarified that the success of Kampot Pepper was not just the result of the efforts made to produce a high quality geographical indication, but also of the efforts made to effectively commercialize it. In that regard, the Director General pointed out that the packaging of Kampot Pepper nicely combined trademark and design elements to make the geographical indication even more attractive and distinctive. The Director General indicated that such holistic approach to intellectual property would be increasingly used to help communities commercialize the unique local products they have to offer to the world.

10. Since there were many successful stories involving geographical indications in different parts of the world, the Director General said that the entry into force of the Geneva Act of the Lisbon Agreement in February 2020 could not have been more timely. As a result, there had been an increased interest amongst WIPO members from different parts of the world and levels of development in obtaining geographical indication protection in foreign markets. The Director General more specifically recalled that over a two-year period, from 2018 to 2019, Cambodia, Côte d'Ivoire, Albania, Samoa, the Democratic People's Republic of Korea, the Dominican Republic and the European Union had deposited their instruments of accession.

11. The Director General indicated that even though the pandemic had slowed the momentum of accessions in the current year, it seemed to be picking up again with the upcoming deposit of the instrument of accession to the Geneva Act by the Lao People's Democratic Republic. The Director General went on to say that while the number of applications under the Lisbon System had increased again in 2020 compared to 2019, the COVID-19 pandemic had somehow delayed the filing of new registrations by new Contracting Parties to the Geneva Act. The Director General pointed out, however, that those new members had informally indicated that the Lisbon Registry should be expecting their deposit in 2021.

12. On the operations level, the Director General said that the pandemic had shown that the digital transformation of the Lisbon System was important and would therefore continue. The Director General took due note of the interest expressed by members of the Lisbon System in using online application forms in the future, and in being able to manage their portfolio of international registrations in an integrated IT ecosystem, similar to what the other WIPO registration systems had successfully put in place. Upon pointing out that third parties had also expressed their need to receive regular electronic alerts on new Lisbon transactions, the Director General indicated that further work on the digital transformation of the Lisbon System, including through a more integrated Lisbon IT Platform, would remain an important objective for WIPO in the years ahead.

13. The Director General stressed that the Lisbon Working Group discussions and decisions had a direct impact on local farmers, craftswomen and craftsmen, and local communities at large. The Director General added that, in refining the Lisbon framework, the members of the Working Group not only had the capacity to facilitate the successful commercialization of origin-based quality products of local producers and communities in domestic and foreign markets, but they were also in a position to secure adequate safeguards for other interested parties, such as holders of prior trademarks and users of generic terms.

14. Referring to the agenda before them, the Director General indicated that the present session would require deliberations on a number of items, including the introduction of a new Rule *2bis* in the Common Regulations. The Director General added that the proposed new rule would enable users to benefit from safeguards in certain situations akin to a *force majeure* event, but also in case of interruption of postal or delivery services or failure of electronic communication systems. In that regard, the Director General recalled that a similar decision was taken by the Working Group on the Legal Development of the Madrid System for the International Registration of Marks (hereinafter referred to as the "Madrid Working Group") two weeks ago. Lastly, the Director General said that the members of the Working Group will have the possibility to discuss and comment on the most recent developments of the Lisbon System with the entry into force of the Geneva Act and the Common Regulations that govern the proceedings of Lisbon transactions under the Lisbon Agreement (1958 and 1967 Acts) and/or the Geneva Act (2015 Act).

15. In that context, the Director General recalled the decision taken by the Assemblies of the Member States of WIPO in October 2019 that "fee-financed Unions with a projected biennial deficit in the 2020/21 biennium should examine measures in accordance with its own treaty to address that deficit" (document A/59/14, paragraph 152(iii)), as well as the decision taken by the Working Group at its second session in May 2019 to "further discuss appropriate measures to ensure the financial sustainability of the Lisbon Union in the future, including the review of the Schedule of Fees on a regular basis, while recognizing the need to assess the impact of the entry into force of the Geneva Act on the financial situation of the Union" (document LI/WG/DEV-SYS/2/4, paragraph 33(ii)). While the Director General appreciated that the financial sustainability of the Lisbon Union was a delicate matter requiring careful and frank consideration, the Director General was confident that the members of the Working Group would find a suitable solution that would meet the legitimate expectations of all interested parties.

AGENDA ITEM 2: ELECTION OF A CHAIR AND TWO VICE-CHAIRS

16. Mr. Cristóbal Melgar (Peru) was unanimously elected as Chair of the Working Group and Ms. María del Pilar Escobar Bautista (Mexico) and Mr. Csaba Baticz (Hungary) were unanimously elected as Vice-Chairs.

17. Ms. Alexandra Grazioli (WIPO) acted as Secretary to the Working Group.

AGENDA ITEM 3: ADOPTION OF THE AGENDA

18. The Working Group adopted the draft Agenda (document LI/WG/DEV-SYS/3/1 Prov.3) without modification.

GENERAL STATEMENTS

19. Upon thanking the Secretariat for organizing the present session in a hybrid format, the Delegation of the Russian Federation, speaking on behalf of the Group of Central Asian, Caucasus and Eastern European Countries (CACEEC), welcomed the entry into force of the Geneva Act of the Lisbon Agreement on February 26, 2020. The improvement of the Lisbon System as well as the expanded coverage of the Geneva Act would allow CACEEC members to take into account the specific nature of existing national and regional protection systems for the labeling of products in order to ensure better protection. The Delegation concluded by saying that the members of the group wished to pursue their constructive cooperation with the International Bureau both on the technical and legal aspects of the Lisbon System, but also with respect to the organization of joint educational events to increase awareness about the opportunities offered by the Lisbon System.

AGENDA ITEM 4: DEVELOPMENT OF THE LISBON SYSTEM

20. Discussions were based on document LI/WG/DEV-SYS/3/2.

21. The Chair opened the discussions on Item 4 of the Agenda.

22. Upon thanking the WIPO Secretariat for preparing the document under consideration, the Delegation of the European Union and its member states welcomed the entry into force of the Geneva Act of the Lisbon Agreement as well as the accessions that had taken place so far, before indicating that it looked forward to the accession of new members in the next few months. In that regard, the Delegation further encouraged other WIPO members to consider joining the Geneva Act as well. The Delegation pointed out that the Lisbon System was less well known among intellectual property users by comparison with the other global systems managed by WIPO, such as for instance, the PCT, Madrid and the Hague Systems. Following up on the entry into force of the Geneva Act and in order to support and promote new accessions, the Delegation was of the view that an increase of resources, both human and financial, should now be allocated to the Lisbon Registry to enable the Lisbon System to become better known and be more widely used. The Delegation added that it would also be important that the promotion of the Lisbon System be undertaken through dedicated and focused initiatives without the obligation to promote at the same time the trademark system or the use of generic terms, as it had been the case so far. The Delegation further indicated that the European Union was currently concluding the implementation of its membership in the Lisbon System under the Geneva Act and was confident that it would be able to file the first applications for the international registration of some of its geographical indications in the first half of next year. Those new international registrations would generate new income for the Lisbon System making it more attractive to new members. Upon indicating that the European Union and its member states had taken due note of the decision that was taken during the Fifty-ninth Series of Meetings of the Assemblies of the Member States of WIPO relating to the proposed Program and Budget for the 2020-21 biennium, the Delegation said that it was convinced that, as had been the case for other WIPO global systems, it should be

possible to find a way to provide financial support to the Lisbon Union in line with the 'capacity to pay' principle, while still ensuring full respect of the long-standing principles of financial solidarity between the different WIPO Unions and the equality of treatment for each area of intellectual property. In that respect, the Delegation reiterated the importance of dedicated robust and focused promotion activities to increase the membership of the Lisbon System and the Geneva Act of the Lisbon Agreement, in particular. Having regard to the prevailing circumstances due to the COVID-19 crisis, the Delegation remained committed to further discussing appropriate measures to ensure the financial sustainability of the Lisbon Union in the future, including the review of the schedule of fees on a regular basis, while also recognizing the need to first assess the impact of the entry into force of the Geneva Act on the financial situation of the Lisbon Union.

23. Upon thanking the Secretariat for the organization of the present session under unprecedented circumstances, the Delegation of Iran (Islamic Republic of) reiterated that the legal protection provided to appellations of origin and geographical indications empowered local communities as it improved their ability to commercialize their products without fear of replacement by global mass production. In creating new markets for origin-based quality products from local communities, geographical indications serve to preserve the local traditional know-how and reward the production of quality products, while also benefiting consumers who demand authenticity and quality. The Delegation therefore welcomed the deposit of the required number of instruments of accession to the Geneva Act which led to its entry into force on February 26, 2020.

24. The Delegation expressed the wish that the recent entry into force of the Geneva Act and the potential new accessions improve the functioning of the Lisbon System as well as its financial sustainability. Upon recalling that the Geneva Act – which extends the protection to geographical indications alongside appellations of origin – had created many hopes and expectations among the holders of geographical indications worldwide, the Delegation said that there was a need to update and enhance the Lisbon System to appropriately respond to those legitimate expectations. Referring to Program 32 of the WIPO Program and Budget which concerned the Lisbon System, the Delegation deplored the postponement of some of the planned activities under that program. As a result, the completion of certain performance targets related to the enhanced automation of the Lisbon Registry had been adversely impacted. The Delegation recalled in particular that the improved operation of the Lisbon Registry, involving electronic processes and procedures, still had to be achieved. In that regard, the Delegation looked forward to an IT enhancement of the Lisbon System to meet the new requirements under the Geneva Act, but also to attain a level of productivity and service that would be adapted to the expansion of the geographical coverage of the Lisbon System. The Delegation reiterated that the conduct of promotion activities to attract new Contracting Parties, together with the provision of high quality services to the global intellectual property community were among the main functions of WIPO. The Delegation concluded by saying that it looked forward to equal prominence given to the Lisbon System along with other Unions and systems administered by WIPO.

25. The Delegation of Mexico welcomed the entry into force of the Geneva Act on February 26, 2020. The Delegation recalled that Mexico had played an important part in the debates concerning the Lisbon Agreement and the Geneva Act, as well as the financial sustainability of the Lisbon System. In that regard, the Delegation recalled that in 2016, together with other countries, Mexico made voluntary contributions to reduce the deficit of the Lisbon Union. Since the payment of those contributions cannot constitute a long-term solution, the Delegation reiterated its position on the matter, namely that the financial sustainability of the Lisbon Union should be achieved through the conduct of promotion activities to attract new Contracting Parties and increase the number of international registrations under the Lisbon System. The Delegation concluded by saying that the members of the Working Group could count on Mexico's support to continue working along those lines and to always be present in the debates and discussions.

26. The Delegation of Hungary aligned itself with the statement made by the European Union and its member states. More specifically, the Delegation welcomed the entry into force of the Geneva Act of the Lisbon Agreement as well as the accession of the European Union, the first intergovernmental organization to become party to the Geneva Act. The Delegation was pleased to announce that Hungary had started the process of ratification of the Geneva Act, and that the proposed text could be adopted by the Hungarian Parliament during its spring session in 2021. With regard to the financial sustainability of the Lisbon System, the Delegation indicated that Hungary remained committed to finding a reasonable and balanced solution in order to establish a long-term financially sustainable system. The Delegation reiterated, however, that the possible measures to be adopted in the future should be based on the long-standing principles of solidarity and capacity to pay, as well as the coordination of budgets of the Unions administered by WIPO, while still respecting the inherent nature of the Lisbon System and the legal provisions of the relevant treaties. The Delegation underlined the importance of conducting promotion activities to increase the membership of the Lisbon System and the necessary coordination of the members of the Lisbon Union in that respect.

27. Upon expressing its appreciation for the continuous efforts of the members of the Lisbon Union concerning the financial sustainability of the Lisbon Union, the Delegation of Japan pointed out however that no solution had been found to the present date. The Delegation therefore hoped that members of the Lisbon Union would pursue discussions on that issue to be able to present concrete proposals that would be implemented in the near future. The Delegation went on to say that, as shown in the general report of the Fifty-ninth Series of Meetings, Unions with deficits were required to discuss proposals for reducing their deficits. Based on that requirement, any proposal by the Lisbon Union to reduce the deficit would need to be specific and effective. The Delegation would therefore like to receive information on future promotional activities, the expected number of participating members and the expected number of filings. Following the entry into force of the Geneva Act of the Lisbon Agreement on February 26, 2020, the Delegation requested additional information on how such entry into force would impact the financial conditions of the Lisbon Union. Furthermore, the Delegation recalled that at the previous session of the Working Group, it was agreed to hold further discussions, including the review of the schedule of fees, on a regular basis. In that regard, the Delegation wished to know how the appropriateness of the fee structure and level would be analyzed. Lastly, the Delegation expressed the view that increasing the burden on other fee-financed and contribution-financed Unions would not be desirable and that a roadmap for eliminating the Lisbon deficit would be desirable.

28. The Delegation of the United States of America indicated that they had three main points they wished to share. First, that the administration by WIPO of the Geneva Act of the Lisbon Agreement was illegitimate; secondly, that the Lisbon Union had failed to address the financial situation and to demonstrate financial responsibility to the other WIPO members; and thirdly, that all WIPO members should have a right to discuss a system for the international protection of geographical indications that would meet the needs of all members, which clearly neither the Lisbon Agreement nor the Geneva Act of the Lisbon Agreement managed to do. The Delegation reiterated that only an extreme minority of WIPO members had negotiated a new treaty to protect new subject matter, and that in so doing they had decided upon a fee structure that would advantage existing members over new members. The Delegation added that the Director General had failed to enable an affirmative decision to be taken by the WIPO membership by submitting to the WIPO General Assembly proposed measures concerning the administration of the international agreement. The Delegation recalled that at the previous Working Group session, one Delegation had pointed to Article 30 of the Vienna Convention to support its statement that the Geneva Act had been legitimately adopted by its 28 members. While the Delegation appreciated that others could also read the Vienna Convention and perhaps come to a different conclusion, the Delegation indicated that such response had failed to address the basic question, namely whether the Geneva Act is a new agreement or not. The Delegation pointed out that the Lisbon members had continuously argued that it was not a

new agreement, even though it addressed substantially different subject matter or included members who could not join the Lisbon Agreement or WIPO, and even though the Lisbon Agreement and the Geneva Act could have no members in common.

29. The Delegation further indicated that no progress had been made to ensure the financial sustainability of the Lisbon System and that the fees set by the Lisbon Union were far less than the applicable fees under the PCT, the Madrid and the Hague Systems. In that regard, the Delegation believed that if the entire WIPO membership were able to weigh in on Lisbon fees, these would be at least commensurate with the fees of the other WIPO registration systems. Borrowing from other Unions without the expectation of repayment was not a solution and using contributions intended to cover the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) and other programs was not a solution either. As a result, the Delegation said that the United States of America remained concerned about the open question of whether the Lisbon System would ever become financially self-sustaining.

30. The Delegation reminded the Working Group that promotional activities to attract new members to the Geneva Act could not be paid for from the WIPO budget and instead should be strictly financed under the Lisbon Union's budget, since there had been no agreement for such expenses from all WIPO members. The Delegation welcomed interventions from other countries, both Lisbon members and WIPO members, on creative ways forward for solving that persistent problem. Finally, the Delegation wished to know the way in which some countries interested in acceding to the Geneva Act were prepared to protect third country non-agricultural geographical indications in order to meet their obligations both under TRIPS and the Geneva Act to protect all eligible subject matter. The Delegation concluded by saying that for the WIPO membership to be able to move forward on the issue of geographical indications, it was imperative for the Standing Committee on the Law of Trademarks (SCT) to enable a full discussion of a system for the international protection of geographical indications that would meet the needs of all WIPO members.

31. Upon acknowledging the entry into force of the Geneva Act, the Delegation of Australia said that it considered it crucial that the Lisbon Union focused its efforts in finding strategies to ensure the long-term financial sustainability of the Union. The Delegation encouraged the Lisbon Union to develop concrete solutions, beyond the promotion of the Lisbon System to draw in new members, to address its revenue deficits further than the projected biennial deficit for the biennium 2020/21, in order to ensure the long-term financial sustainability of the Lisbon Union. The Delegation anticipated that series of measures would be required to address the existing deficit, including actions to be taken in accordance with the Lisbon Union's own treaties. The Delegation expressed its continued encouragement to the Lisbon Union to look at other WIPO Unions for ideas and feasible options, consistent with other intellectual property rights, to better fund the operations of the Union. By way of conclusion, the Delegation said that additional sources of funding for the Lisbon System would have to be considered, to the extent possible, under the Geneva Act of the Lisbon Agreement and the Lisbon Common Regulations.

32. The Representative of INTA recalled that his organization had been highly involved as an observer in the discussions at WIPO regarding the development of the Lisbon System. Referring to paragraph 12 of document LI/WG/DEV-SYS/3/2 which stated that "in relation to the financial sustainability of the Lisbon Union, the Working Group emphasized the importance of promotion activities to increase the membership of the Lisbon System, including the Geneva Act of the Lisbon Agreement", and more particularly to the terms "increasing the membership of the Lisbon System", the Representative of INTA wished to share the position of his Organization with respect to geographical indication protection regimes, as embodied in the INTA Board Resolution adopted the previous year which contained four pillars. The first pillar was the protection of prior trademarks based on the principles of territoriality, exclusivity, priority under the "first in time, first in right" principle and good faith; the second pillar was transparency and

due process, including opportunities to oppose or cancel the protection of geographical indications; the third pillar was providing standing to third parties to object to the protection of geographical indications; and the last pillar was the protection against the monopolization of generic terms by virtue of geographical indication protection. The Representative of INTA concluded by saying that, unless a geographical indication system provided ample protection for each of those four pillars, INTA could not support it nor recommend expanding membership in such a regime.

33. The Chair took note of the positions expressed by all Delegations, including Observer Delegations.

34. The Working Group considered the contents of document LI/WG/DEV-SYS/3/2 and took note of the statements made under agenda Item 4.

AGENDA ITEM 5: PROPOSED 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

35. Discussions were based on document LI/WG/DEV-SYS/3/3 Rev.

36. Upon stating that the COVID-19 pandemic had caused severe disruptions among users of the WIPO global intellectual property systems, including the Lisbon System, the Delegation of Iran (Islamic Republic of) expressed the view that such an unprecedented situation had brought to light the existing deficiencies in the Lisbon Common Regulations and the need to introduce new provisions in order to respond to those situations effectively. The Delegation insisted on the need to consider appropriate means to provide users of the Lisbon System with safeguards, such as the excuse of delay in meeting time limits in a case of *force majeure*, such as the current pandemic, or in the event of interruption of postal or delivery services or a failure of electronic communication systems. The Delegation therefore considered the introduction of a new Rule *2bis* as a timely and relevant proposal. The Delegation believed that the new rule would be most helpful for users of the Lisbon System facing a *force majeure* situation that might prevent them from taking required action within the specified time limits. The Delegation further recalled that members of the Madrid Working Group had already recommended to the Madrid Union Assembly the adoption of an analogous amendment to the Madrid Regulations. The Delegation concluded by saying that it supported the entry into force of the new Rule *2bis* two months after its adoption by the Lisbon Union Assembly to protect the interests of the users of the Lisbon System.

37. The Delegation of the European Union and its member states welcomed the initiative to propose amendments to the Lisbon Common Regulations in response to the severe disruptions for users of the Lisbon System resulting from the COVID-19 pandemic. The Delegation noted that the proposed new Rule *2bis* of the Lisbon Common Regulations was intended to give users of the Lisbon System equivalent relief to the one provided in Article 82 of the Regulations under the Patent Cooperation Treaty (PCT). The Delegation recalled that the European Union and its member states had expressed support for similar adaptations of the procedural rules for the Hague and Madrid Unions, as those amendments were considered essential to cope with the challenges of the COVID-19 pandemic, ensuring WIPO's full functionality and operational capacity. Along the same lines, the Delegation of the European Union and its member states considered that the proposed amendments constituted a positive step forward towards the modernization of the Lisbon System. The Delegation concluded by expressing its support for the amendments, as proposed by the WIPO Secretariat in document LI/WG/DEV-SYS/3/3 Rev.

38. The Delegation of Mexico expressed its support for the proposed amendments to the Lisbon Common Regulations and the inclusion of new Rule *2bis*, providing applicants with a grace period due to a situation of *force majeure* such as the current COVID-19 pandemic. The Delegation viewed the proposal as a sound measure that would enable members of the Lisbon Union to protect the users of the Lisbon System, along the lines of the amendments made under the PCT and the Madrid Systems.

39. On the basis of the discussions that took place under Agenda Item 5, the Working Group recommended to the Assembly of the Lisbon Union the adoption of the proposed 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 with respect to the inclusion of a new Rule *2bis*, as presented in the Annex to document LI/WG/DEV-SYS/3/3 Rev., for their entry into force two months following their adoption by the Lisbon Union Assembly.

40. For ease of reference, Annex I contains the amendments to the Common Regulations, as recommended by the decision set out in paragraph 39, above.

AGENDA ITEM 6: ADOPTION OF THE SUMMARY BY THE CHAIR

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

42. The Delegation of the European Union and its member states agreed with the introduction of a new Rule *2bis* in the Lisbon Common Regulations, as reflected in the proposed Summary by the Chair.

43. The Working Group approved the Summary by the Chair, as contained in Annex II to the present document.

44. The Secretariat indicated that the draft Report of the third session of the Working Group would be made available on the WIPO website for comments by the delegations and representatives that participated in the meeting. Participants would be informed once the draft Report would be available on the WIPO website. Participants would be able to submit comments within one month from its publication date, after which a track-changes version of the document, taking into account all the comments received from participants, would be made available on the WIPO website. The availability of the comments and the track-changes version would also be communicated to participants, together with a deadline for the submission of final comments on that track-changes version. Thereafter, the Report, taking into account the final comments, as appropriate, would be published on the WIPO website without track-changes, indicating the date of such final publication. In the absence of comments within two weeks from that date the Report would be deemed adopted.

AGENDA ITEM 7: CLOSING OF THE SESSION

45. The Chair closed the session on November 2, 2020.

[Annexes follow]

AMENDMENTS TO THE COMMON REGULATIONS UNDER THE LISBON AGREEMENT AND
THE GENEVA ACT OF THE LISBON AGREEMENT

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...)

[...]

CHAPTER I
Introductory and General Provisions

[...]

Rule 2bis
Excuse of Delay in Meeting Time Limits

(1) [Excuse in Delay in Meeting Time Limits due to Force Majeure Reasons] Failure by a Competent Authority or, in the case of Article 5(3) of the Geneva Act, beneficiaries or a natural person or legal entity referred to in Article 5(2)(ii) of that Act to meet a time limit specified in the Regulations to perform an action before the International Bureau shall be excused if the Competent Authority or, in the case of Article 5(3) of the Geneva Act, the beneficiaries or the natural person or legal entity referred to in Article 5(2)(ii) of that Act submits evidence showing, to the satisfaction of the International Bureau, that such failure was due to war, revolution, civil disorder, strike, natural calamity, irregularities in postal, delivery or electronic communication services owing to circumstances beyond the control of a Competent Authority or, in the case of Article 5(3) of the Geneva Act, beneficiaries or a natural person or legal entity referred to in Article 5(2)(ii) of that Act or other *force majeure* reason.

(2) [Limitation on Excuse] Failure to meet a time limit shall be excused under this Rule only if the evidence and action referred to in paragraph (1) are received by and performed before the International Bureau as soon as reasonably possible and not later than six months after the expiry of the time limit concerned.

[...]

[Annex II follows]



LI/WG/DEV-SYS/3/4
ORIGINAL: ENGLISH
DATE: NOVEMBER 2, 2020

Working Group on the Development of the Lisbon System

Third Session Geneva, November 2 and 3, 2020

SUMMARY BY THE CHAIR

adopted by the Working Group

1. The Working Group on the Development of the Lisbon System (hereinafter referred to as “the Working Group”) met in Geneva, on November 2, 2020.
2. The following Contracting Parties of the Lisbon Union were represented at the session: Albania, Algeria, Bulgaria, Czech Republic, Dominican Republic, European Union, France, Georgia, Hungary, Iran (Islamic Republic of), Israel, Italy, Mexico, Nicaragua, Peru, Portugal, Republic of Moldova, Serbia, Slovakia and Togo (20).
3. The following States were represented as observers: Australia, Azerbaijan, Bangladesh, Barbados, Belarus, Belgium, Brazil, Brunei Darussalam, Burundi, Canada, Croatia, Djibouti, Germany, Japan, Kazakhstan, Kuwait, Lebanon, Lithuania, Mauritius, Morocco, Myanmar, Netherlands, Oman, Pakistan, Poland, Republic of Korea, Russian Federation, Saudi Arabia, Spain, Switzerland, Thailand, United Kingdom, United States of America (33).
4. Representatives of: (i) Palestine (1); (ii) American Bar Association (ABA), Consortium for Common Food Names (CCFN), European Communities Trade Mark Association (ECTA), International Trademark Association (INTA), International Wine Law Association (AIDV), International Vine and Wine Office (IWO), Knowledge Ecology International, Inc. (KEI), MARQUES – Association of European Trademark Owners, Organization for an International Geographical Indications Network (oriGIn) (9), participated in an observer capacity.

5. The list of participants is contained in document LI/WG/DEV-SYS/3/INF/1 Prov. 2*.

AGENDA ITEM 1: OPENING OF THE SESSION

6. Mr. Daren Tang, Director General of the World Intellectual Property Organization (WIPO), opened the session.

AGENDA ITEM 2: ELECTION OF A CHAIR AND TWO VICE-CHAIRS

7. Mr. Cristóbal Melgar (Peru) was unanimously elected as Chair of the Working Group and Ms. María del Pilar Escobar Bautista (Mexico) and Mr. Csaba Baticz (Hungary) were unanimously elected as Vice-Chairs.

8. Ms. Alexandra Grazioli (WIPO) acted as Secretary to the Working Group.

AGENDA ITEM 3: ADOPTION OF THE AGENDA

9. The Working Group adopted the draft agenda (document LI/WG/DEV-SYS/3/1 Prov. 3) without modification.

AGENDA ITEM 4: DEVELOPMENT OF THE LISBON SYSTEM

10. Discussions were based on document LI/WG/DEV-SYS/3/2.

11. The Chair took note of the positions expressed by all Delegations, including observer Delegations. These will be fully reflected in the Report of the present session.

12. The Working Group considered the contents of document LI/WG/DEV-SYS/3/2 and took note of the statements made under agenda item 4.

AGENDA ITEM 5: PROPOSED AMENDMENTS TO THE COMMON REGULATIONS UNDER THE LISBON AGREEMENT FOR THE PROTECTION OF APPELLATION OF ORIGIN AND THEIR INTERNATIONAL REGISTRATION AND THE GENEVA ACT OF THE LISBON AGREEMENT ON APPELLATIONS OF ORIGIN AND GEOGRAPHICAL INDICATIONS

13. Discussions were based on document LI/WG/DEV-SYS/3/3 Rev.

14. On the basis of the discussions that took place under Agenda item 5, the Working Group recommended to the Assembly of the Lisbon Union the adoption of the proposed 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 with respect to the inclusion of a new Rule *2bis*, as presented in the Annex to document LI/WG/DEV-SYS/3/3 Rev., for their entry into force two months following their adoption by the Lisbon Union Assembly.

15. For ease of reference, the Annex to this Summary by the Chair contains the amendments to the Common Regulations, as recommended by the decision set out in paragraph 14, above.

AGENDA ITEM 6: ADOPTION OF THE SUMMARY BY THE CHAIR

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

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

AGENDA ITEM 7: CLOSING OF THE SESSION

17. The Chair closed the session on November 2, 2020.

[Annex I 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...)

[...]

CHAPTER I
Introductory and General Provisions

[...]

Rule 2bis

Excuse of Delay in Meeting Time Limits

(1) [Excuse in Delay in Meeting Time Limits due to Force Majeure Reasons] Failure by a Competent Authority or, in the case of Article 5(3) of the Geneva Act, beneficiaries or a natural person or legal entity referred to in Article 5(2)(ii) of that Act to meet a time limit specified in the Regulations to perform an action before the International Bureau shall be excused if the Competent Authority or, in the case of Article 5(3) of the Geneva Act, the beneficiaries or the natural person or legal entity referred to in Article 5(2)(ii) of that Act submits evidence showing, to the satisfaction of the International Bureau, that such failure was due to war, revolution, civil disorder, strike, natural calamity, irregularities in postal, delivery or electronic communication services owing to circumstances beyond the control of a Competent Authority or, in the case of Article 5(3) of the Geneva Act, beneficiaries or a natural person or legal entity referred to in Article 5(2)(ii) of that Act or other *force majeure* reason.

(2) [Limitation on Excuse] Failure to meet a time limit shall be excused under this Rule only if the evidence and action referred to in paragraph (1) are received by and performed before the International Bureau as soon as reasonably possible and not later than six months after the expiry of the time limit concerned.

[...]

[End of Annex and of document]

[Annex III follows]

F - E



LI/WG/DEV-SYS/3/INF/1
ORIGINAL: FRANCAIS / ANGLAIS
DATE: LE 2 NOVEMBRE 2020 / NOVEMBER 2, 2020

Groupe de travail sur le développement du Système de Lisbonne

**Troisième session
Genève, 2 et 3 novembre 2020**

Working Group on the Development of the Lisbon System

**Third Session
Geneva, November 2 and 3, 2020**

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LIST OF PARTICIPANTS

*établie par le Secrétariat/
prepared by the Secretariat*

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[End of Annex III and of document]