

## **Working Group for the Preparation of Common Regulations under the Lisbon Agreement and the Geneva Act of the Lisbon Agreement**

### **Second Session Geneva, April 3 to 5, 2017**

#### **NOTES ON THE DRAFT 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**

*Document prepared by the International Bureau*

#### **I. INTRODUCTION**

1. The Lisbon System is currently governed by the Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration of October 31, 1958, as revised at Stockholm on July 14, 1967, and as amended on September 28, 1979 (hereinafter referred to as “the 1967 Act”)<sup>1</sup>. Upon the entry into force of the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications of May 20, 2015 (hereinafter referred to as

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<sup>1</sup> On the date of publication of this document, only one country is exclusively bound by the Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration of October 31, 1958 (Haiti), while the other countries have also ratified or acceded to the Lisbon Agreement as revised as revised at Stockholm on July 14, 1967, and amended on September 28, 1979 (Algeria, Bosnia and Herzegovina, Bulgaria, Burkina Faso, Congo, Costa Rica, Cuba, Czech Republic, Democratic People’s Republic of Korea, France, Gabon, Georgia, Hungary, Iran (Islamic Republic of), Israel, Italy, Mexico, Montenegro, Nicaragua, Peru, Portugal, Republic of Moldova, Serbia, Slovakia, The former Yugoslav Republic of Macedonia, Togo and Tunisia).

The revision of the Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration in 1967 did not modify the provisions relating to the international registration procedure for appellations of origin and the procedures relating to the management of the International Register (see Articles 1 to 8 of the 1967 Act). Whenever the Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration of October 31, 1958, is applicable rather than the 1967 Act, any reference to the 1967 Act in the present document shall therefore be understood to refer to the Lisbon Agreement of October 31, 1958.

“the Geneva Act”)<sup>2</sup>, the International Bureau will have responsibility for the administration of two different international instruments related to the international registration procedure for appellations of origin and geographical indications, namely the 1967 Act and the Geneva Act.

2. The Acts of the Lisbon Agreement are currently complemented by two sets of Regulations, namely:

- the Regulations under the Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration, as in force on January 1, 2016 (hereinafter referred to as “the Regulations under the Lisbon Agreement”); and
- the Regulations under the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications, which are not yet in force (hereinafter referred to as “the Regulations under the Geneva Act”).

3. In order that the International Bureau, the Competent Authorities of the members of the Lisbon Union and the users of the system have a single set of Regulations to deal with, and in order to provide for a legal framework for the administration of the International Register that shall record, according to Article 4 of the Geneva Act, registrations effected under the Geneva Act as well as those effected under the 1967 Act, it is proposed to replace, once the Geneva Act has entered into force, the Regulations under the Lisbon Agreement and the Regulations under the Geneva Act with 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”).

## II. EXPLANATORY NOTES ON THE DRAFT COMMON REGULATIONS

4. The draft Common Regulations are based on the Regulations under the Geneva Act complemented by additional provisions to reflect the specificities of the procedure under the 1967 Act.

5. The present document contains explanatory notes on the revised draft Common Regulations contained in document LI/WG/PCR/2/2. As in document LI/WG/PCR/1/3, the notes focus on the draft changes to the Regulations under the Geneva Act aimed at reflecting specificities under the procedure under the 1967 Act. They refer also to the proposed drafting amendments introduced in the revised draft Common Regulations following the results of the discussions at the first session of the Working Group.

### NOTES ON RULE 1: DEFINITIONS

CR01.01. Compared to the Regulations under the Geneva Act, Rule 1 is very different because it has been the subject of extensive amendments and it has been supplemented by new definitions in order to also accommodate the procedure under the 1967 Act (paragraph (1)). The title of Rule 1 takes into account the content of the new paragraph (2) that establishes a correspondence between some expressions used in the 1967 Act and the Geneva Act.

CR01.02. Paragraph (1)(i) contains a definition of the Geneva Act.

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<sup>2</sup> On the date of publication of this document, 15 States have signed the Geneva Act (Bosnia and Herzegovina, Burkina Faso, Congo, Costa Rica, France, Gabon, Hungary, Italy, Mali, Nicaragua, Peru, Portugal, Republic of Moldova, Romania and Togo). According to Article 29(2), the Geneva Act shall enter into force three months after five eligible parties have deposited their instruments of ratification or accession.

CR01.03. Since the provisions relating to the international registration procedure for appellations of origin and the procedures relating to the management of the International Register are the same under the Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration of October 31, 1958, and under the 1967 Act (see Articles 1 to 8), only the reference to the 1967 Act is used in the Common Regulations for the sake of simplicity. Paragraph (1)(ii) takes into account the situation of the State (Haiti) that is exclusively bound by the Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration of October 31, 1958. The revised formulation of paragraph 1(ii) reflects a suggestion made by the Representative of INTA at the first session of the Working Group aimed at clarifying its meaning.

CR01.04. Paragraph (1)(iii) is based on Rule 1(iii) of the Common Regulations Under the 1999 Act and the 1960 Act of the Hague Agreement.

CR01.05. Paragraph (1)(vii) contains a definition of communication.

CR01.06. Paragraph (1)(viii) and (ix) define the different kinds of application that the International Bureau will be required to process following the coming into force of the Geneva Act. As specified in Article 31 of the Geneva Act, the mutual relations of Contracting Parties will be governed either by the 1967 Act or by the Geneva Act depending on whether the Contracting Parties have acceded to or ratified the 1967 Act and/or the Geneva Act. The revised formulation of paragraph 1(viii) and (ix) reflects a drafting suggestion made by the Representative of INTA at the first session of the Working Group aimed at clarifying their meaning.

CR01.07. Paragraph (1)(x) contains a definition of refusal.

CR01.08. Paragraph (2). The 1967 Act, on the one hand, and the Geneva Act, on the other hand, refer sometimes to identical concepts while using different terminology. For the sake of simplicity and consistency, terminology used in the 1967 Act is aligned with the terms used in the Geneva Act. Items (i) to (iii) list the terms contained in the 1967 Act requiring harmonization with those contained in the Geneva Act.

### **NOTES ON RULE 3: WORKING LANGUAGES**

CR03.01 The formulation of the subtitle of paragraph (2) has been aligned with the terminology used in Article 1(x) of the Geneva Act for the sake of consistency.

CR03.02 Given that the possibility to file an application directly with the International Bureau has been given to beneficiaries, natural persons or legal entities under Article 5(3) of the Geneva Act, the first sentence of paragraph (2) limits that possibility to those Contracting Parties bound by the Geneva Act.

CR03.03 The last sentence of paragraph (2) dealing with the translations of communications concerning an application or an international registration reflects the provision introduced in the Regulations under the Geneva Act. The aim of including this provision in the Common Regulations, without restricting it to the Geneva Act, is to clarify that the provision also applies to the communications effected under the 1967 Act. Paragraph (3) entails a similar clarification for entries in the International Register and their publication and applies also to both Acts.

CR03.04 As in the Regulations under the Geneva Act, the reference to the Bulletin in paragraph (3) has been deleted also with respect to the publications effected under the 1967 Act, given that the publications referred to may, in the future, only take place in an electronic format to be specified.

CR03.05 Compared to Rules 3(4) and 5(3)(ii) of the Regulations under the Lisbon Agreement, the Geneva Act no longer provides the possibility to submit in the application one or more translations of the appellation of origin. Therefore, paragraph (5) retains and limits that possibility for those applications filed under the 1967 Act, as confirmed at the first session of the Working Group. In that context, it should be noted that Rule 3(4) of the Regulations under the Lisbon Agreement clearly states that the International Bureau does not check whether the provided translations are correct or not.

#### **NOTES ON RULE 4: COMPETENT AUTHORITY**

CR04.01 Compared to Rule 4(1) of the Regulations under the Lisbon Agreement, paragraph (1) has been simplified along the lines of Rule 4(1) of the Geneva Act. In particular, it does not distinguish among the various communications between the Competent Authority and the International Bureau. At its first session, the Working Group supported the suggestion to extend the new obligation to provide information on the applicable procedure for the enforcement of rights in appellations of origin and geographical indications to the Contracting Parties that are party to the 1967 Act only, in order to increase transparency and promote the exchange of information among those Contracting Parties. Therefore, a limitation of the obligation under subparagraph (b) and the division of paragraph (1) in two subparagraphs are no longer needed.

CR04.02 At its second session, the Working Group agreed to the proposal of the Delegation of the United States of America to extend the obligation of transparency to information about the applicable procedures in the Lisbon Union members to challenge and enforce rights in appellations of origin and geographical indications. The Working Group clarified in that regard that the information to be provided under Rule 4(3) corresponded to Articles 15(3) and 15(5) of the Geneva Act (see paragraphs 57 to 59 of document LI/WG/PCR/2/7 Prov.).

CR04.03 Paragraph (4) has been drafted in light of the practical experience of the International Bureau with regard to changes in the name and contact details of a Competent Authority. The application of this provision has been extended to Contracting Parties that are only party to the 1967 Act.

#### **NOTES ON RULE 5: REQUIREMENTS CONCERNING THE APPLICATION**

CR05.01 Given that the possibility to file an application directly with the International Bureau is available to beneficiaries, natural persons or legal entities, under Article 5(3) of the Geneva Act, paragraphs (1), (2)(a)(ii) and (iii) and (2)(b) limit that possibility to those Contracting Parties bound by the Geneva Act.

CR05.02 Paragraph (2)(a)(ii). The requirement to indicate the Competent Authority presenting the application contained in Rule 5(2)(a)(ii) of the Regulations under the Geneva Act has been extended to applications filed under the 1967 Act. This new requirement will not change substantively the practice for the Contracting Parties that are party to the 1967 Act since Rule 5(1) of the Regulations under the Lisbon Agreement already requires that the application be filed by the Competent Authority. The revised formulation of paragraph (2)(ii) reflects a suggestion made by the Representative of INTA at the first session of the Working Group aimed at facilitating contact with the beneficiaries, natural person or legal entity referred to in Article 5(2)(ii) of the Geneva Act. The Working Group is invited to indicate whether it wishes to retain the additional requirement.

CR05.03 Following discussions at the first session of the Working Group, paragraph (2)(a)(iv) has been amended to align the practice concerning future applications under the 1967 Act with the requirements foreseen under the Geneva Act relating to the indication of the appellation of origin in the other official languages of the Contracting Party of Origin. However, it should be noted in that context that, in Rule 3(5), the Working Group retained the possibility to submit, in the application filed under the 1967 Act, one or more translations of the appellation of origin as currently foreseen in Rule 3(4) of the Regulations under the Lisbon Agreement (see Note CR03.05). In addition, paragraph (6)(a)(v) incorporates the possibility to indicate in the application, as an optional element, one or more translations of the appellation of origin as currently foreseen in Rule 5(3) of the Regulations under the Lisbon Agreement (see Note CR05.09).

CR05.04 At the first session of the Working Group, the Representative of INTA suggested adding in paragraph (2)(vii) the terms “and number” to facilitate the identification of a given registration in addition to the date already foreseen in the provision. The Working Group is invited to indicate whether it wishes to retain this addition.

CR05.05 Paragraphs (2)(a)(vi) and (2)(b) have been redrafted for the sake of consistency with the terminology used in the Geneva Act, as the expression “geographical area of production” refers to appellations of origin and the expression “geographical area of origin” refers to geographical indications.

CR05.06 Given that the requirements concerning the applications relating to appellations of origin or geographical indications under Rule 5(3) and (4) of the Regulations under the Geneva Act are not provided for in the Regulations under the Lisbon Agreement, the scope of application of paragraphs (3) and (4) has been limited to the Geneva Act.

CR05.07 In view of the fact that the content of Rule 5(3)(iii) of the Regulations under the Lisbon Agreement is optional, whereas such content is mandatory under Rule 5(5) of the Regulations under the Geneva Act, paragraph (5) has been designed to limit its mandatory character to those applications governed by the Geneva Act, while the requirement will continue to be optional for those applications governed by the 1967 Act, as specified in paragraph (6)(a)(iv). At the first session of the Working Group, divergent views were expressed concerning the suggestion to delete the expression “to the best knowledge of the applicant” since it might appear to contradict the factual requirement “indicate whether or not the registration, the legislative or administrative act, or the judicial or administrative decision, by virtue of which protection is granted to the appellation of origin or the geographical indication, in the Contracting Party of Origin, specifies that protection is not granted for certain elements of the appellation of origin or the geographical indication”. The Working Group is invited to indicate whether it wishes to retain the formulation currently foreseen in Rule 5(5) of the Regulations under the Geneva Act or whether it prefers to delete the words “to the best knowledge of the applicant”.

CR05.08 At the first session of the Working Group, the Representative of INTA suggested that paragraph (5) be amended to require that the elements of the appellation of origin or the geographical indication for which the protection is not claimed in an application governed by the Geneva Act also be indicated in the official language of the Contracting Party of Origin together with any translation as specified in paragraph (2)(a)(iv) or any transliteration as specified in paragraph (2)(b). The suggested addition will facilitate the identification of those specific terms. The Working Group is invited to indicate whether it wishes to retain the proposed addition.

CR05.09 Paragraph (6)(a)(iv),(v) and (vi) incorporates the optional elements of international applications that can be submitted under Rule 5(3) of the Regulations under the Lisbon Agreement. The proposed addition in paragraph (6)(a)(i) reflects a suggestion made by the Representative of INTA at the first session of the Working Group aimed at facilitating contact, in

the case of Article 5(3) of the Geneva Act, with the beneficiaries, natural person or legal entity referred to in Article 5(2)(ii) of that Act. The Working Group is invited to indicate whether it wishes to retain the proposed addition.

CR05.10 Paragraph (6)(b) reflects the practice that has developed under the Regulations under the Lisbon Agreement, namely not to translate the addresses of the beneficiaries (Rule 6(a)(i)), and to extend such practice also with respect to the additional information that might be provided under Rule 6(a)(vi).

## **NOTES ON RULE 6: IRREGULAR APPLICATIONS**

CR06.01 Rule 6 takes into account the new possibility introduced in Article 5(3) of the Geneva Act which permits international applications to be presented directly to the International Bureau by beneficiaries, natural persons or legal entities. Given that the possibility of making such direct applications is not provided for in the 1967 Act, Rule 6 limits the communications between the International Bureau and beneficiaries, natural persons or legal entities to those Contracting Parties bound by the Geneva Act.

## **NOTES ON RULE 7: ENTRY IN THE INTERNATIONAL REGISTER**

CR07.01 Paragraph (1)(b). The specific conditions set out in the Regulations under the Lisbon Agreement and the Regulations under the Geneva Act for the application governed by the 1967 Act are combined in Rules 3(1) and 5 of the draft Common Regulations. Rule 7(1)(b) of the Regulations under the Geneva Act is therefore not reproduced in the draft Common Regulations.

CR07.02 Paragraph (3) clarifies that the certificate will be transmitted to beneficiaries, natural persons or legal entities, only in respect of those Contracting Parties bound by the Geneva Act.

CR07.03 In the case of accession to, or ratification of, the Geneva Act by a Contracting Party of Origin that is already party to the 1967 Act, paragraph (4) stipulates how to deal with international registrations of appellations of origin already recorded under the 1967 Act in respect of other Contracting Parties to the Geneva Act that are not party to the 1967 Act.

CR07.04 It is proposed to retain in subparagraph (a) the original formulation of Rule 7(4)(a) of the Regulations under the Geneva Act without stipulating when the International Bureau and the Competent Authority verify any modification to be made to international registrations of appellations of origin already recorded under the 1967 Act. Following the intervention made by the Delegation of Australia regarding Rule 7(4)(a) during the second session of the Working Group, it was clarified that individual fees could be payable under Rule 7(4), as specified in Article 29(4) of the Geneva Act (see paragraph 190 of document LI/WG/PCR/2/7 Prov.).

CR07.05 The drafting of subparagraph (b) has been simplified.

CR07.06 Following discussions at the first session of the Working Group, it is proposed to amend the subtitle of paragraph (4) to specify its scope of application with regard to Contracting Parties that are party to the Geneva Act without being party to the 1967 Act. Following the comments made by the Delegation of Australia, it is also proposed to add a new subparagraph (d) to clarify that Contracting Parties to the Geneva Act which are not party to the 1967 Act may notify a refusal of effects of an international registration already recorded under the 1967 Act, in accordance with the procedure laid down under Article 15(1) of the Geneva Act and within the time limit specified in Rule 9(1)(b) and (c). In that context, it should be noted that, in the case of an irregularity under Rule 6(1)(d), the protection resulting from the international

registration shall be considered to be renounced in the Contracting Party that has made the notification under Rule 5(3) or (4) or the declaration under Article 7(4) of the Geneva Act. Rules 9 to 12 apply *mutandis mutandis*.

#### **NOTES ON RULE 7BIS: DATE OF INTERNATIONAL REGISTRATION EFFECTED UNDER THE 1967 ACT AND DATES OF ITS EFFECTS**

CR07bis.01 The purpose of the new Rule 7bis is twofold. First, the Rule specifies, in paragraphs (1) and (2), the date of international registrations under the 1967 Act and the date of effects of such international registrations where the mutual relations between the Contracting Party of Origin and the other Contracting Parties are governed by the 1967 Act. Second, the Rule specifies, in paragraph (3), the date of effects of existing international registrations upon ratification of, or accession to, the Geneva Act by a Contracting Party of Origin to the 1967 Act in respect of other Contracting Parties to the Geneva Act that are not party to the 1967 Act. In that context, it should be noted that the date of an international registration and its date of effect for an application received by the International Bureau after the ratification of, or accession to, the Geneva Act by the Contracting Party of Origin is regulated by Article 6(2), (3) and (5) of the Geneva Act. While the date of effects of international registrations already recorded prior to the ratification of, or accession to, the 1967 Act or to the Geneva Act by a new member of the Lisbon Union is addressed, respectively, in Article 14(2)(b) and (c) of the 1967 Act and in Article 29(4) of the Geneva Act, in respect of those new Contracting Parties.

CR07bis.02 Paragraph (1) determines the date of international registration of an application that is filed by a Contracting Party of Origin that is party to the 1967 Act but not to the Geneva Act. It reproduces the content of the Rule 8(1) and (2) of the Regulations under the Lisbon Agreement and aligns it with the requirements contained in Article 6(3) of the Geneva Act. The new requirement to indicate the Competent Authority presenting the application<sup>3</sup> will not change substantively the practice for the Contracting Parties to the 1967 Act since Rule 5(1) of the Regulations under the Lisbon Agreement already requires that the application be filed by the Competent Authority.

CR07bis.03 Paragraph (2) practically reproduces the content of Rule 8(3) of the Regulations under the Lisbon Agreement. It stipulates that the date of effects of an international registration referred to in paragraph (1) is the date of the international registration in each Contracting Party which is already party to the 1967 Act at the time of the international registration or the date mentioned in a declaration according to subparagraph (b), provided the Contracting Party has not refused protection.

CR07bis.04 Paragraph (3). The date of effects of the international registration referred to in paragraph (1) will differ from the date of the international registration in the Contracting Parties that are party to the Geneva Act without being party to the 1967 Act following the ratification of, or accession to, the Geneva Act by the Contracting Party of Origin. In these Contracting Parties, the date of effects of the international registration referred to in paragraph (1) will be the date on which the ratification of, or accession to, the Geneva Act by the Contracting Party of Origin becomes effective, or the date mentioned in a declaration according to Article 6(5)(b) of the Geneva Act, provided the Contracting Party has not refused protection and there is no irregularity according to Rule 6(1)(d).

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<sup>3</sup> See Article 6(3)(i) of the Geneva Act.

## NOTES ON RULE 8: FEES

CR08.01 Rules 8(2) and 8(3) implement Article 7(4) of the Geneva Act which introduced the possibility to request the payment of individual fees provided that the Contracting Parties to the Geneva Act notify a declaration to that effect with the Director General upon their accession to the Geneva Act. Given that the possibility of making such a declaration is not provided for in the 1967 Act, paragraphs (2)(a) and (3) limit their scope of application to Contracting Parties that are party to the Geneva Act.

CR08.02 The proposed new paragraph (10) reflects a proposal made by the Delegation of the Republic of Moldova at the first session of the Working Group aimed at introducing a clause similar to Article 9*sexies* of the Protocol relating to the Madrid Agreement Concerning the International Registration of Marks which specified that Contracting Parties that are party to both the 1967 Act and the Geneva Act would not collect individual fees from each other, but would only be able to request the payment of individual fees in respect of those countries that would only be party to the Geneva Act. The Working Group is invited to indicate whether it wishes to retain this addition and whether it wishes to foresee a minimum period for the application of the safeguard clause in line with the Protocol Relating to the Madrid Agreement.

## NOTES ON RULE 9: REFUSAL

CR09.01 Paragraph (1)(b) deals with the time period for notifying a refusal of protection to the International Bureau under the 1967 Act and the Geneva Act; a reference to the equivalent provision of the 1967 Act (i.e., Article 5(2)) has been added to paragraph (1)(b).

CR09.02 At the first session of the Working Group, the Representative of INTA suggested an alternative solution to identify the date on which the refusal period would start, other than the one currently foreseen in the Regulations under the Lisbon Agreement and the Regulations under the Geneva Act (i.e. the date of receipt by the Contracting Party). Stating, for instance, that if the refusal period would start to run 20 days after the date indicated on the notification of the international registration to the Contracting Parties, this would facilitate the identification of the start date of the refusal period. A new subparagraph (c) has been introduced to reflect that suggestion. The Working Group is invited to indicate whether it wishes to retain the proposed new subparagraph (c).

CR09.03 Paragraph (2)(i). The requirement to indicate the Competent Authority notifying the refusal contained in Rule 9(2)(i) of the Regulations under the Geneva Act has been extended to applications notified under the 1967 Act. This new requirement will not be substantive in practice for the Contracting Parties that are party to the 1967 Act since Rule 9(1) of the Regulations under the Lisbon Agreement already requires that the declaration of refusal be notified by the Competent Authority.

CR09.04 Paragraph (2)(iv). The reference to Article 13 of the Geneva Act has been deleted to avoid an application of the provision which would be limited to those refusals notified under the Geneva Act.

CR09.05 Paragraph (3) clarifies that a copy of the refusal will be transmitted to beneficiaries, natural persons or legal entities, only in respect of those Contracting Parties bound by the Geneva Act.

## **NOTES ON RULE 10: IRREGULAR NOTIFICATION OF REFUSAL**

CR10.01 Rule 10 has been brought into line with the terminology used in Article 16 of the Geneva Act and Rule 9 of the Common Regulations.

CR10.02 Paragraphs (1)(b) and (2) clarify that a copy of the notification of an irregular refusal will be transmitted to beneficiaries, natural persons or legal entities, only in respect of those Contracting Parties bound by the Geneva Act. In addition, only beneficiaries, natural persons or legal entities from a Contracting Party bound by the Geneva Act will have the possibility to request a regularization of the refusal from the Competent Authority which submitted it.

## **NOTES ON RULE 11: WITHDRAWAL OF REFUSAL**

CR11.01 Paragraph (2)(ii) provides that all withdrawals of refusal indicate the reasons for the withdrawal and, in particular, in the case of a partial withdrawal, the particulars referred to in Rule 9(2)(v) of the draft Common Regulations for reasons of transparency, along the lines of the provisions contained in the Regulations under the Geneva Act.

CR11.02 Paragraph (3) clarifies that a copy of the notification of the withdrawal of refusal will be transmitted to beneficiaries, natural persons or legal entities, only in respect of those Contracting Parties bound by the Geneva Act.

## **NOTES ON RULE 12: GRANT OF PROTECTION**

CR12.01 Rule 12 has been aligned with the formulation retained in the draft Common Regulations for the other notifications.

CR12.02 Paragraph (2)(iii) provides that all withdrawals of refusal or all statements of grant of protection that amount to a partial withdrawal of refusal, including those notified under the 1967 Act, indicate the reasons for the withdrawal and the particulars referred to in Rule 9(2)(v) of the draft Common Regulations for reasons of transparency, as currently provided for in the Regulations under the Geneva Act.

CR12.03 Paragraph (3) clarifies that a copy of the notification of the statement of grant of protection will be transmitted to beneficiaries, natural persons or legal entities, only in respect of those Contracting Parties bound by the Geneva Act.

## **NOTES ON RULE 13: INVALIDATION OF THE EFFECTS OF AN INTERNATIONAL REGISTRATION IN A CONTRACTING PARTY**

CR13.01 The title of Rule 13 has been aligned with the formulation retained in the draft Common Regulations for the other notifications.

CR13.02 Paragraph (2) clarifies that a copy of the notification of invalidation will be transmitted to beneficiaries, natural persons or legal entities, only in respect of those Contracting Parties bound by the Geneva Act.

## **NOTES ON RULE 14: TRANSITIONAL PERIOD GRANTED TO THIRD PARTIES**

CR14.01 The title of Rule 14 has been aligned with the formulation retained in the draft Common Regulations for the other notifications.

CR14.02 Paragraph (1) deals with the notification to the International Bureau of the grant of a transitional period to third parties. Paragraph (1) has been complemented with a reference to the equivalent provisions of the 1967 Act (i.e., Article 5(6) and Article 5(2)). In addition, paragraph (1) requires the signature of the notification by the Competent Authority as currently foreseen in Rule 12(1) of the Regulations under the Lisbon Agreement. The signature in question forms indeed part of the notification.

CR14.03 Paragraph (1)(iii) includes the requirement to submit information on the scope of the transitional use, that is contained in the Regulations under the Geneva Act, also in respect of notifications of transitional period granted to third parties under the 1967 Act, for reasons of transparency.

CR14.04 Given that Article 5(6) of the 1967 Act regulates the duration of transitional period granted to third parties, paragraph (2) limits its scope of application to the Geneva Act.

CR14.05 Paragraph (3) clarifies that a copy of the notification of the transitional period granted to third parties will be transmitted to beneficiaries, natural persons or legal entities, only in respect of those Contracting Parties bound by the Geneva Act.

#### **NOTES ON RULE 15: MODIFICATIONS**

CR15.01 A reference to the geographical area of production has been included in paragraphs (1)(iii) and (v) and (2)(b). Hence, these paragraphs clearly refer to both appellations of origin and geographical indications.

CR15.02 Paragraph (1). The list of the permissible modifications under the 1967 Act has been aligned with the list included in the Regulations under the Geneva Act.

CR15.03 Paragraph (2)(a) and (b) has been amended so as to require that the request for entry of a modification be signed, as currently foreseen in Rule 13(1) of the Regulations under the Lisbon Agreement. The signature in question clearly forms part of the notification.

CR15.04 Paragraphs (2)(a) and (4). To the extent that the possibility for beneficiaries, natural persons or legal entities to file an application for international registration is provided for in Article 5(3) of the Geneva Act, the possibility to present a request for entry of a modification which is also given to those beneficiaries, natural persons or legal entities has been limited to the Contracting Parties that are party to the Geneva Act.

CR15.05 Given that neither the possibility to register an appellation of origin relating to a trans-border geographical area, nor the possibility to present a request for entry of a modification of such international registration, are envisaged in the 1967 Act, the scope of application of paragraph (2)(b) has been limited to those Contracting Parties bound by the Geneva Act.

#### **NOTES ON RULE 16: RENUNCIATION OF PROTECTION**

CR.16.01 To the extent that the possibility for beneficiaries, natural persons or legal entities to notify a renunciation of protection or its subsequent withdrawal is not provided for in the 1967 Act or their Regulations, paragraphs (1), (2) and (3) limit that possibility to the Contracting Parties to the Geneva Act.

CR.16.02 Paragraph (1) requires that the notification of a renunciation of protection be signed, as it is currently foreseen in Rule 14(1) of the Regulations under the Lisbon Agreement.

CR16.03 The possibility to withdraw a renunciation of protection was specifically introduced in the Regulations under the Geneva Act to take into account the fact that the reason behind the initial renunciation of protection might subsequently disappear. Paragraphs (2) and (4) introduce that possibility also in respect of Contracting Parties to the 1967 Act.

CR16.04 Following the comments made by the Delegation of the Republic of Moldova at the first session of the Working Group, it is proposed to add a new paragraph (2)(b) to clarify the date of effect of a withdrawal of renunciation with respect to the Contracting Party in which a renunciation was effective. The Working Group is invited to indicate whether it wishes to retain this addition.

CR16.05 It should be noted that if the Working Group retains the new Rule 9(1)(c), the refusal period would start to run 20 days after the date indicated on the notification of the withdrawal of the renunciation to the Contracting Party concerned (see Note CR09.02).

#### **NOTES ON RULE 17: CANCELLATION OF AN INTERNATIONAL REGISTRATION**

CR17.01 Rule 17 reproduces the contents of Rule 15 of the Regulations under the Lisbon Agreement concerning the entitlement to request the cancellation of an international registration, while including the possibility for a direct request for cancellation by beneficiaries or natural persons or legal entities, as provided for under the Geneva Act.

CR17.02 Paragraph (1) requires that the request for cancellation of an international registration be signed, as it is currently foreseen in Rule 15(1) of the Regulations under the Lisbon Agreement.

#### **NOTES ON RULE 18: CORRECTIONS MADE TO THE INTERNATIONAL REGISTER**

CR.18.01 To the extent that the possibility for beneficiaries, natural persons or legal entities to request the correction of an error with respect to an international registration is not provided for in the 1967 Act or its Regulations, paragraphs (2) and (3) limits that possibility to the Contracting Parties that are party to the Geneva Act.

CR.18.02 Consistent with Rule 9(1) which defines the starting point of the time period to notify a refusal, paragraph (4) clarifies that the date of the receipt of the notification of any correction referred to in Rule 18(3) is the starting point of the one-year deadline to notify a refusal to the International Bureau. If the Working Group retains the new Rule 9(1)(c), the refusal period would start to run 20 days after the date indicated on the notification of the correction (see Note CR09.02). Finally, it should be noted that the views expressed by delegations at the first session of the Working Group were not in favor of expanding the type of corrections that might be subject of a refusal of protection under paragraph (4).

#### **NOTES ON RULE 19: PUBLICATION**

CR19.01 Compared to Rule 18 of the Regulations under the Lisbon Agreement, the reference to the Bulletin has not been retained as the publication in question may, in the future, only take place in an electronic format to be specified.

### **NOTES ON RULE 23: MODES OF NOTIFICATION BY THE INTERNATIONAL BUREAU**

CR23.01 If the Working Group retains the new Rule 9(1)(c) to define the start date of the refusal period, the International Bureau will not be required to establish the date on which the notifications referred to in Rules 9, 16 and 18 will be received, as currently requested under the Rule 22(1) of the Regulations under the Lisbon Agreement and Rule 23(1) of the Regulations under the Geneva Act. Therefore, it would be sufficient to retain, in Rule 23, a single mean of notification that will enable the International Bureau to establish that the notification has been received by the Competent Authority or, in the case of Article 5(3) of the Geneva Act, by the beneficiaries or the natural person or legal entity referred to in Article 5(2)(ii) of that Act, as currently specified under the Rule 22(2) of the Regulations under the Lisbon Agreement and Rule 23(2) of the Regulations under the Geneva Act.

### **NOTES ON RULE 24: ADMINISTRATIVE INSTRUCTIONS**

CR24.01 The clarification that exists in the Regulations of the Lisbon Agreement has been introduced in paragraph (3)(b) and the reference to the Bulletin which appears in the said Regulations has been deleted, for the reason mentioned in Note CR19.01.

### **NOTES ON RULE 25: ENTRY INTO FORCE; TRANSITIONAL PROVISIONS**

CR25.01 Paragraph (1). A new provision has been introduced in the draft Common Regulations to specify the date of entry into force of the Common Regulations along the line of Rule 24 of the Regulations under the Lisbon Agreement.

CR25.02 Paragraph (2). A new provision has been introduced in the draft Common Regulations to ensure that applications (item (i)) or other communications (item (ii)) governed by the 1967 Act which are received by the International Bureau before the date of entry into force of the Geneva Act are, to the extent that they conform to the requirements of the Regulations under the Lisbon Agreement, deemed to conform to the applicable requirements of the Common Regulations.

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