

WIPO



LI/GT/1/3

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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

WORKING GROUP ON THE MODIFICATION OF THE REGULATIONS UNDER THE LISBON AGREEMENT FOR THE PROTECTION OF APPELLATIONS OF ORIGIN AND THEIR INTERNATIONAL REGISTRATION

Geneva, July 10 – 13, 2000

REPORT

adopted by the Working Group

I. INTRODUCTION

1. The Working Group on the Modification of the Regulations Under the Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration (hereinafter “the Working Group”) held its first session in Geneva from July 10 to 12, 2000.
2. The following member States of the Lisbon Union were represented at the session: Algeria, Bulgaria, Burkina Faso, Congo, Costa Rica, Cuba, France, Haiti, Hungary, Israel, Mexico, Portugal, Slovakia, Togo (14).
3. The following States were represented by observers: Croatia, Georgia, Indonesia, Iran, Jamaica, Jordan, Madagascar, Nigeria, Panama, Romania, The Former Yugoslav Republic of Macedonia (11).

4. Representatives of the following intergovernmental organizations took part in the session in an observer capacity: Commission of the European Communities, International Vine and Wine Office (OIV), World Trade Organization (WTO) (3).
5. Representatives of the following non-governmental organizations took part in the session in an observer capacity: European Communities Trade Mark Association (ECTA), International Association for the Protection of Industrial Property (AIPPI), International Trade Mark Association (INTA) (3).
6. The list of participants is given in the Annex to this report.
7. Mr. Francois Curchod, Deputy Director General, opened the session and welcomed the participants on behalf of the Director General of WIPO.
8. The Working Group unanimously elected Mrs. Margit Sümeghy (Hungary) Chair and Mr. Luis Polinaris Vargas (Costa Rica) and Mrs. Maria Joana Marques Cleto (Portugal) Vice-Chairs. Mr. Denis Cohen (WIPO) acted as Secretary of the Working Group.
9. Discussions were based on document LI/GT/1/2 drawn up by the International Bureau of WIPO and entitled "Questions to be Examined with a View to the Modification of the Regulations Under the Lisbon Agreement."
10. The Secretariat noted the interventions and recorded them on tape. This report summarizes the discussions without necessarily reproducing all the comments that were made.

II. GENERAL COMMENTS

11. The Delegation of France said that the revision work on the Regulations under the Lisbon Agreement seemed a useful means of improving the procedure under the Lisbon system and its transparency.
12. The Delegation of Cuba stated that it was favorable to any modification of the Regulations under the Lisbon Agreement tending to bring the practice of this Agreement in line with the Madrid and the Hague systems. The modifications should aim at making the Lisbon system more user-friendly and more attractive for the countries which were not yet party to it, and particularly for developing countries. The amendments to the Regulations should be as far reaching as the text of the Lisbon Agreement allowed, bearing in mind the debates taking place in the TRIPS Council. The Delegation of Cuba supported the initiative to amend the Lisbon Regulations, particularly since Cuba was working to promote appellations of origin and had recently revised its legislation on this matter.
13. In reply to a question from the Representative of AIPPI concerning the possibility and timing of a revision of the Lisbon Agreement itself, the Secretariat said that WIPO was convinced of the need to revise the Agreement, among other things in order to broaden its geographical scope. That aim was made more difficult to achieve, however, by the fact that the Lisbon system was based on the necessity of *specific* protection for appellations of origin, which was not a universally-recognized concept. The Secretariat mentioned that on two

occasions in the past attempts had been made to bring that about, but to no avail. However, the revision work on the Regulations under the Lisbon Agreement — which was called for in any event — provided the opportunity to see whether the exercise might not generate sufficient momentum for WIPO to contemplate another revision of the Agreement itself. While such a revision was not on the agenda, it was always present in the mind of the International Bureau of WIPO.

14. The Representative of INTA said her organisation supported the idea of revising the Lisbon Agreement in order to comply with the TRIPS Agreement.

15. The Delegation of Israel stated that it was in favor of measures which safeguarded the interests of consumers. Consumer protection would be best served through a system which ensured that the holders of a right to an appellation of origin should be responsible for maintaining the appellation of origin eligibility criteria over time, while those which did not maintain such eligibility criteria should be subject to a judicial or administrative mechanism to invalidate the corresponding appellation. Similarly, where substantive changes occurred in respect of an existing appellation of origin, consumer protection would be ensured by requiring a new registration and examination procedure. A system which contained mechanisms for assuring its own integrity would inspire consumer confidence. Without consumer confidence, the Lisbon system would have little commercial value. Furthermore, compatibility with the TRIPS Agreement should be taken into account, including the promotion of a balance between trademark rights and the rights deriving from appellations of origin. Generally, a proper balance could be found in a “first in time, first in right” system, which was also the approach taken by the TRIPS Agreement. Lisbon member States should therefore be free to refuse protection in their territory to a foreign appellation of origin on the grounds that it was in conflict with a prior trademark right in that territory. From an Israeli perspective, such a system would safeguard Israeli interests insofar as the appellation of origin “JAFFA” would be protected in Lisbon member States from later similar trademarks and appellations of origin. Similarly, Israeli trademarks consisting of or containing geographical terms would be protected in other Lisbon member States from later appellations of origin.

III. QUESTIONS EXAMINED

16. Before starting the examination of the questions listed in document LI/GT/1/2, the Secretariat announced a correction to be made to the statistics given in paragraph 7 of that document: with regard to the registrations still in force, 90 refusals were entered in the International Register — not 62 — and they concerned 73 international registrations. Moreover, if one were to consider all the international registrations effected since the entry into force of the Lisbon Agreement, the figure for refusals of protection entered in the International Register would be 92.

17. The Delegation of France asked the Secretariat whether, in the case of a refusal of protection based on the existence of a prior trademark, the corresponding declaration of refusal included a mention that the trademark related to goods identical or similar to those covered by the appellation of origin concerned.

18. The Secretariat replied that the question was one to be settled individually according to the legislation or practice of the Office concerned (in view of the absence of any requirement to that effect in the Regulations), and that, in the International Bureau's experience, no such information usually appeared in declarations of refusal; the matter could however be usefully considered in the discussion on the contents of declarations of refusal, which are covered by paragraphs 41 to 44 of document LI/GT/1/2.

Definitions

19. The Secretariat presented paragraphs 11 to 13 of document LI/GT/1/2.

20. As no comment was made by the Working Group, the Chair considered the creation of a new Rule 1 entitled "Definitions" to have been welcomed favorably by the Working Group.

Concept of "Office"

21. The Secretariat presented paragraphs 14 to 17 of document LI/GT/1/2.

22. The Delegation of Hungary mentioned that, in addition to the three categories of administrations mentioned in paragraph 14 of document LI/GT/1/2, there was another category concerned by the provisions of the Lisbon system, namely the administration competent to institute the necessary proceedings for enforcing the protection of appellations of origin on its territory, referred to in Article 8 of the Agreement. The Delegation considered that it would also be useful for the identity of the latter to be notified to the International Bureau by virtue of the Regulations.

23. The Representative of the Commission of the European Communities approved the idea of a rule requiring member countries of the Lisbon Union to inform the International Bureau of the different categories of administrations, including the competent administration referred to in Article 8 of the Agreement. He recalled moreover that, under the Community Regulation on the protection of geographical indications and designations of origin for agricultural products and foodstuffs (Council Regulation (EEC) No. 2081/92 of 14 July, 1992), there was only one administrative contact point, namely the Directorate-General for Agriculture of the European Commission, which grouped all the competences attributed to the various categories of administrations mentioned in paragraph 14 of document LI/GT/1/2.

24. The Delegation of France pointed out that, for the purposes of the Community system and the TRIPS Agreement, there was only one contact point in the French administration, namely the International Relations Department of the Ministry of Agriculture and Fisheries. In the interest of harmonization, it might perhaps be appropriate for that administration to be likewise competent for the implementation of the Lisbon system, but that was a decision to be taken by the national authorities.

25. The Secretariat first pointed out that the identity of the administration competent to initiate the legal action necessary for the protection of appellations of origin, referred to in Article 8 of the Agreement, was definitely of interest to third parties. However, that kind of administration did not intervene in the international procedure leading to international

registration, so it did not seem necessary to provide for it to be identified under the proposed modification of the Regulations, but it was a category that would be expressly mentioned in the documents to be submitted to the Working Group at its second session. The Secretariat pointed out moreover that it would have no objection, if that were the wish of the Working Group, to the designation of just one competent office, for the purposes of the international procedure, in each State party to the Lisbon Agreement.

Ownership of appellations of origin and their international registration

26. The Secretariat presented paragraphs 18 to 25 of document LI/GT/1/2.

27. The Representative of ECTA said that a definition of the concept of “owner of the right to use” the appellation of origin in the Regulations would risk altering the scope of the concept as it appeared in Article 5(1) of the Agreement itself. He pointed out that it was for each country, or its courts, to determine the exact import of the concept according to criteria specific to itself.

28. The Delegation of France, supported by the Delegations of Mexico, Portugal and Romania, said that it shared the misgivings expressed by the representative of ECTA as to the wisdom of including a definition of the concept of “owner of the right to use” in the Regulations, particularly in view of the fact that the “use” in question could be different from country to country, depending on the different national concepts involved. The Delegation of France also expressed doubts as to the desirability of making a distinction in the Regulations between owners of the right to dispose of the international registration and owners of the right to use it. It concluded by saying that it was reserving its position on those matters until a specific proposal for amendment was submitted.

29. The Representative of the Commission of the European Communities said that Article 5(1) of the Agreement itself did not define what was meant by the term “owner of the right to use,” neither did it distinguish between owners of the right to use and owners of the right of disposal or provide for any limitation of the manner in which the owner or owners of the right to use should be mentioned in the application for international registration (designation by name or collective designation). In order to avoid any problems in the legal interpretation of those issues, it seemed wiser to leave each contracting country to settle them at its discretion rather than impose them in the Regulations.

30. In reply to the various comments made by the Working Group, the Secretariat first made it clear that there was no suggestion that a distinction would be made between the owner or owners of the right to use and the owner or owners of the right of disposal. The proposal in paragraph 25 of document LI/GT/1/2 was intended only, and then subject to Article 5(1) of the Agreement, to determine the *procedure for the identification* of the owner or owners of the right to use in an application for international registration (namely the principle of collective designation, and designation by name where that was the only possibility). It was understood that the Regulations could not go beyond what the Agreement itself provided. Moreover, the same question had also to be considered in the light of Rule 5(4), according to which certain modifications concerning an international registration — notably those relating to owners — necessitated a new international registration.

31. The Delegation of Cuba said that it was in favor of modifying the Regulations to make it clear that the owner or owners of the right to use should in principle be designated collectively in the application for international registration. It noted in particular that the principle did allow for exceptions, notably the possibility of designation by name if that were the only possibility. Such a modification would be consistent with the provisions written into Cuban legislation.

32. The Secretariat, in reply to a question raised by the Delegation of France, said that the difference between the “generic” and “collective” designation of the owner or owners of the right to use was not decisive, and that the use of the single term “collective” seemed sufficient.

33. The Representative of ECTA said that, since the concept of “owner of the right to use” did not seem to have caused particular difficulties up to the present in the administration of the Lisbon system, there did not seem to be any need to make its import or the manner of its implementation more specific in the Regulations.

34. The Chair said that, in the light of the discussions on the matter in hand and the views expressed by the Working Group, the Secretariat had the necessary elements with which to draft a text proposal for the next session of the Working Group.

Contents of the application for international registration

Identification of the product to which the appellation of origin applies

35. The Secretariat presented paragraphs 26 to 28 of document LI/GT/1/2.

36. The Representative of AIPPI said that, while precise identification of the product to which an appellation of origin applied was indeed an important piece of information for third parties, it still did not seem desirable to complete Rule 1(2)(v) in that respect: the question did not seem to have given the administrations of member countries of the Lisbon Union any implementation difficulties, and it was not the responsibility of the International Bureau, which only had to undertake an examination of the international application with respect to form, to determine what constituted a “precise” designation. Moreover, in the absence of a precise designation of the product concerned, the national administrations of contracting countries had the option of issuing a refusal of protection on that ground.

37. The Delegation of France, supported by the Delegation of Mexico and the Representative of the Commission of the European Communities, shared the opinion that the International Bureau should not be entitled to call into question the manner in which the product to which the appellation of origin applied was designated in the application for international registration.

38. The Delegation of Portugal drew the Working Group’s attention to the fact that, since the wording used for the goods covered by the appellation of origin would already have been fixed in the country of origin, it would be dangerous and unfortunate to find discrepancies between those goods as designated at the national level on the one hand and as designated at the international level on the other.

39. The Chair noted that the Working Group had given the Secretariat very clear guidance on the matter in hand.

Translation of the appellation of origin

40. The Secretariat presented paragraphs 29 to 31 of document LI/GT/1/2, adding that it would also be necessary to introduce a requirement according to which, where the name of the appellation of origin was in other than Latin characters, it should be given in the form of a transliteration in Latin characters (which would have to conform to the phonetics of the language of the international application).

41. The Representative of AIPPI said that he was in favor of the proposals by the International Bureau, adding however that, in the eventuality of the name of the appellation of origin containing a generic term, a translation of that term would have to be required by the Regulations.

42. The Delegation of France, supported by the Representative of the Commission of the European Communities, said that the transcription or transliteration of the appellation of origin could indeed prove to be a very useful piece of information, and that such information should be preserved in the framework of the international registration in a separate section. There should not be a translation of the geographical name that constituted the appellation of origin, because it was a proper name, and only the possibility of transcription or transliteration of the geographical denomination could be provided for in the Regulations as modified.

43. The Chair noted that the Secretariat would take due account of the guidance provided by the Working Group in the drafting of a proposal for a modified Rule.

Title and date of legislative or administrative provisions or of judicial decisions recognizing protection in the country making the application

44. The Secretariat presented paragraphs 32 to 35 of document LI/GT/1/2.

45. The Delegation of Mexico, after having noted that the Spanish version of the document contained a drafting error in paragraph 34,¹ said that it approved of the proposal mentioned in that paragraph, to the effect that Rule 1(2)(vii) would be completed with a reference to the date and number of national registration, where there was one.

46. The Delegation of France, supported by the Delegations of Portugal and Cuba, stated that the proposal in paragraph 35 – that the legal basis for protection in the country of origin should be systematically communicated to the International Bureau and that the latter would be empowered to send a copy, on payment of a fee, to any person so requesting – was liable to

¹ In the Spanish version of document LI/GT/1/2, the last sentence of paragraph 34 mentions a reference to the date and number of *international* registration, instead of a reference to the date and number of *national* registration.

unnecessarily increase the workload for national administrations. The Delegation of France felt that a simple reference to the legal basis in the international application was enough to achieve the desired aim, particularly at a time when modern technology, Internet for example, provided ready access to the information.

47. The Representative of the Commission of the European Communities stated that a balance had to be found between the concern for efficiency sought after by the International Bureau and the multiplication of administrative tasks that would result for the administrations of the contracting countries. A possible solution would be encourage the spontaneous submission of the documents concerned, but without making it compulsory under the Regulations.

Irregularities in an international application

Irregularities affecting the date of an international registration

48. The Secretariat presented paragraphs 36 and 37 of document LI/GT/1/2.

49. No comments were made on that matter.

Time limit for correcting an irregularity

50. The Secretariat presented paragraphs 38 to 40 of document LI/GT/1/2.

51. No comments were made on that matter.

Declaration of refusal and procedure subsequent to refusal

Contents of a declaration of refusal

52. The Secretariat presented paragraphs 41 to 44 of document LI/GT/1/2.

53. The Representative of INTA declared that the principle of “first in time, first in right” should apply to resolve a conflict between a trademark and a geographical indication. She pointed out that INTA adopted a Resolution in 1997, reading as follow: “whereas, the International Trademark Association has reviewed the principal international treaties and agreements requiring protection of geographical indications; whereas, in attempting to implement the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and multilateral and bilateral agreements, there appears to be some confusion as to the relationship between geographical indications and trademarks; be it resolved, that the International Trademark Association supports the principle of “first in time, first in right” priority when resolving conflicts between geographical indications and trademarks.”

54. The Representative of the Commission of the European Communities felt that the content of a declaration of refusal was likely to be considered a matter of substance rather than a matter of form. He further pointed out that the case of a conflict between a geographical indication and a prior trademark was resolved under the TRIPS Agreement,

which permitted the co-existence of those two industrial property rights if certain conditions referred to in Article 24(5) of TRIPS were met. Finally, the Representative of the Commission of the European Communities drew the attention of the Working Group to the application of the principle of speciality in such a hypothesis and recommended that the matter be looked at in relation to the ongoing work of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT).

55. The Delegation of France went along with the ideas expressed by the Representative of the Commission of the European Communities concerning the TRIPS Agreement. It further expressed its perplexity on the very concept of irregular refusal referred to in paragraph 44 of document LI/GT/1/2 and the consequences that such a concept could have. It requested further information from the Secretariat on that matter.

56. The Secretariat explained that, although the modified Regulations provided that other information would have to be provided in a declaration of refusal in addition to that concerning the grounds for refusal, for example the remedies or the essential data concerning a prior mark with which the appellation of origin was in conflict, an irregularity would not be raised by the International Bureau unless information of such kind was lacking, and not in the event of that information not satisfying the substantive conditions. In other words, the International Bureau would simply subject the declaration of refusal to a formal examination and not to a substantive examination.

57. The Secretariat stated that the relationship between the Lisbon Agreement and the TRIPS Agreement was an important matter that warranted detailed study in depth and pointed out that the issue would be discussed at the forthcoming session of the SCT. The fact that a WTO Member was required to comply with the provisions of TRIPS would not seem incompatible with its obligations deriving from participation in the Lisbon system, particularly since the Lisbon system contained no rule of primacy between a trademark and an appellation of origin. In particular, the opportunity given to a national Office to issue a refusal of protection on the grounds that the appellation of origin was in conflict with a prior trademark was a matter left to the discretion of each contracting country under its own legislation or in accordance with its obligations under the international treaties to which the country was party. It would be neither necessary nor even desirable for the Lisbon Agreement to contain a provision aimed at ensuring or checking the relevance of the alleged grounds, since that matter could but involve the exclusive competence of the contracting countries.

58. The Delegation of Portugal noted that the matter of refusal of protection raised numerous difficulties under the Madrid system and that it would be more prudent not to modify the provisions on refusal under the Lisbon system.

59. The Delegation of France, whilst agreeing with the aim of fuller information on declarations of refusal, wondered whether there was not a contradiction between the non-official nature of the form for a refusal and the legal sanctions that would result from the fact that the form was incomplete and therefore irregular. Like the Representative of the Commission of the European Communities, it was worried, in particular, about the fact that refusal would lose its effect if any of the information that was proposed to be added in the declarations of refusal were to be lacking.

60. The Chair noted that, even if the principles evolved by the Working Group in that matter did not lead to very specific conclusions, the Secretariat had sufficiently clear guidance in order to draw up a proposed wording for the second session of the Working Group. The wish had indeed been expressed that the Regulations be supplemented with regard to the contents of a declaration of refusal to ensure that interested persons were given information that was as precise and complete as possible, but without the absence of any of those additional indications having an effect on the validity of the refusal concerned.

Partial refusal

61. The Secretariat presented paragraphs 45 to 48 of document LI/GT/1/2, explaining that they dealt with two types of partial refusal: refusal concerning some of the goods and refusal concerning only a part of the appellation itself.

62. The Delegation of France considered, to begin with, that it was hard to conceive of a refusal that concerned only a part of the goods to which an appellation of origin applied; indeed, differing products could give rise to separate international registrations since the particulars contained in the international application, for example the holders of the right to use or the area of production, differed from one product to the other. The Delegation of France further stated that, if the name of an appellation of origin comprised a generic term, it would not be opposed to the idea that an administration requesting international registration should be able to include in its application a declaration that protection was not claimed for a generic term contained in the appellation of origin (disclaimer).

63. The Representative of AIPPI recommended prudence with respect to the principle of speciality in view of the fact that an increasing number of trademarks departed from that principle due to their reputation.

64. The Representative of the Commission of the European Communities agreed with the prudence that had been recommended by the Representative of AIPPI and pointed out that it would be necessary for national administrations to carry out a case-by-case examination, with particular attention to the possible risk of confusion for the consumer. Moreover, the Representative of the Commission of the European Communities made a reservation with regard to the significance of the following sentence referred to in paragraph 47 of document LI/GT/1/2: "It may also be noted that the European Commission, which keeps a Community register of protected designations of origin, has made similar registrations while specifying in a footnote that the Member State did not request protection for the generic element". That procedure had been used only during the initial implementation of Community law.

Time limits

65. The Secretariat presented paragraphs 49 to 59 of document LI/GT/1/2.

66. The Representative of ECTA wondered whether it was advisable to introduce a clarification concerning time limits insofar as the compatibility of Article 5.6) of the Lisbon Agreement with the TRIPS Agreement was a debatable question. From his point of view, it appeared pointless to amend a rule relating to Article 5.6) at this stage, especially if one wanted to attract more countries to the Lisbon Union.

67. While stating its understanding for the concerns expressed by the Representative of ECTA, the Secretariat said that the proposed amendments related only to the procedure and did not affect in any way the substance of Article 5.6) of the Lisbon Agreement. The specification of time limits did not in any way prejudice a substantive revision of Article 5.6) of the Agreement.

68. The Delegation of Cuba said that the proposals made by the International Bureau in order to determine in the Regulations the expiry date or starting point for certain time limits, particularly those referred to in Article 5(6) of the Agreement, were useful for national Offices since that would avoid any uncertainty but, on the other hand, would in no way prevent the substantive modification of Article 5(6) at a later stage.

Starting point for the protection of an international registration

69. The Secretariat presented paragraphs 60 and 61 of document LI/GT/1/2.

70. The Delegation of France considered that the aim of transparency sought by the International Bureau was commendable, but that the issue would require prior study with regard to the varying approaches on that matter between one contracting country and the other.

71. The Chair noted that a study would be pursued with the national Offices of the member countries of the Lisbon Union before the Secretariat drew up a proposal for modification.

Modifications to a registration requiring a new international registration

72. The Secretariat presented paragraphs 62 to 64 of document LI/GT/1/2.

73. The Representative of ECTA recalled that Rule 5(4) of the Regulations had been adopted after the conclusion of the original Regulations because it had been considered that certain changes, including a change in ownership, were so essential that they required a new international registration. In the case of a modification of the owner, an administration should be in a position to assess whether that new owner was capable of fulfilling his role and, should this not be the case, to issue a refusal. The Representative of ECTA believed that this reasoning was still applicable. He further stated that, when Rule 5(4) had been adopted, it had been decided that a difference would be made between major modifications, which would lead to a new registration, and minor ones, which would not require a new registration. Should there be any ambiguity in the Regulations concerning this distinction, it was proposed to make it clear.

74. The Delegation of Hungary, supported by the Delegations of France and Cuba, recalled that the change in ownership concerned referred to the persons entitled to use the appellation of origin. Although such a change was important, it did not justify requiring a new registration. It would therefore be wise to reconsider this requirement in the Regulations.

75. The Representative of AIPPI stated that, in accordance with Rule 5(4) as it currently stood, a new international registration made as a result of a given modification could be subject to a new refusal *whatever the grounds*, which did not appear justified.

76. The Delegation of Portugal, whilst noting the complexity of the matter, considered that the fact of effecting a new international registration was justified in the case of a change of owner, but that the solution appeared less justifiable in the case of a simple change in the name of the owner.

77. The Secretariat said that, when drawing up the proposals for the next meeting of the Working Group, it would look into the idea put forward by the Representative of AIPPI of a system under which a change of owner would not lead to refusal except on grounds directly related to the modification made, but without a new international registration being necessary.

Corrections made to the International Register

78. The Secretariat presented paragraphs 65 to 69 of document LI/GT/1/2.

79. In the absence of any comments by the Working Group on that matter, the Chair noted that the Secretariat would prepare a proposal for modification on the basis of Rule 28 of the Common Regulations under the Madrid Agreement and Protocol for discussion at the next session of the Working Group.

Entry of an invalidation in the International Register

80. The Secretariat presented paragraphs 70 to 72 of document LI/GT/1/2.

81. The Representative of ECTA was of the opinion that the International Bureau should have the possibility to record an invalidation in the International Register for the sake of transparency, failing which the situation could be unclear to third parties.

82. The Delegation of France stressed the importance of coordination on that matter between the member countries of the Lisbon Union, particularly on the fact of requiring an invalidation to be communicated to the International Bureau through the competent national administration.

83. The Secretariat, while stressing that it was a controversial issue, said that the fact that a national administration could not issue a refusal of protection with respect to an international registration of an appellation of origin should not prevent the protection thus granted from being contested subsequently before a court (subject, in particular, to Article 6 of the Agreement, under which an appellation of origin accepted for protection in a country could

not be held to have become generic in that country as long as it was protected as such in its country of origin). Consequently, machinery permitting the International Bureau to enter such invalidations in the International Register (particularly with a view to informing third parties) should be expressly provided for in the Regulations.

84. The Delegations of Cuba and Portugal shared the views expressed by the Secretariat.

85. The Delegation of France went along with the aims of information and transparency, but felt it necessary to take care that, in so doing, the founding principles of the Lisbon Agreement were not called into question. The Delegation of France finally said that it reserved its position on that matter until a written proposal for modification was submitted to the Working Group.

86. The Chair asked whether the Working Group wished to raise other questions not mentioned in document LI/GT/1/2.

87. No comments were made by the participants.

88. The Secretariat stated that, in the light of the discussions that had taken place in the Working Group and of the principles or approaches that had emerged, it would probably be able to submit proposals for modifications to the Working Group during the first half of 2001, with a view to submitting those proposals to the Lisbon Union Assembly in 2001, as was foreseen by the WIPO Program and Budget for the 2000-2001 biennium.

89. This report was unanimously adopted by the Working Group on July 12, 2000.

[Annex follows]

ANNEXE/ANNEX

LISTE DES PARTICIPANTS/LIST OF PARTICIPANTS

I. MEMBRES/MEMBERS

(dans l'ordre alphabétique des noms français des États/
in the alphabetical order of the names in French of the States)

ALGÉRIE/ALGERIA

Nabila KADRI (Mlle), directrice des marques, des dessins et modèles industriels et des appellations d'origine, Institut national algérien de la propriété industrielle, Alger

BULGARIE/BULGARIA

Dobrinka Diankova DOBREVA (Mme), examinatrice d'État, Office des brevets de la République de Bulgarie, Sofia

BURKINA FASO

Siaka MILLOGO, conservateur de bibliothèque, Direction générale du développement industriel, Ouagadougou

CONGO

Calixte Auguste BOBOZE, chef du Bureau des enregistrements, Service juridique, Direction de l'Antenne nationale de la propriété industrielle, Brazzaville

COSTA RICA

Nora RUIZ DE ANGULO (Sra.), Embajador, Representante Permanente, Misión Permanente de Costa Rica, Ginebra

Luis POLINARIS VARGAS, Vice Ministro de Justicia, Ministerio de Justicia y Gracia, San José

Esteban PENROD, Ministro Consejero, Misión Permanente de Costa Rica, Ginebra

Sergio CORELLA, Ministro Consejero, Misión Permanente de Costa Rica, Ginebra

CUBA

Clara Amparo MIRANDA VILA (Sra.), Jefa del Departamento de Marcas, Oficina Cubana de la Propiedad Industrial, La Habana

FRANCE

Camille-Rémy BOGLIOLO, chargé de mission, Service du droit international et communautaire, Institut national de la propriété industrielle, Paris

Aziz ALLAM, chargé des questions internationales, Ministère de l'économie, des finances et de l'industrie, Paris

Gislaine LEGENDRE (Mme), chargée de mission, Ministère de l'agriculture et de la pêche, Paris

HAÏTI/HAITI

Florence DEBROSSE VAVAL (Mme), directeur des affaires juridiques, Ministère du commerce et de l'industrie, Port-au-Prince

HONGRIE/HUNGARY

Margit SÜMEGHY (Mrs.), Senior Industrial Property Adviser, Hungarian Patent Office, Budapest

ISRAËL/ISRAEL

Mayer GABAY, Chair, Patents and Copyright Laws Revision Committees, Ministry of Justice, Jerusalem

MEXIQUE/MEXICO

J. Germán CAVAZOS-TREVIÑO, Director General Adjunto, Instituto Mexicano de la Propiedad Industrial, México

Josefina MORENO (Sra.), Subdirectora de Negociaciones y Legislación Internacional, Instituto Mexicano de la Propiedad Industrial, México

Karla Tatiana ORNELAS LOERA (Sra.), Agregada Diplomática, Misión Permanente, Ginebra

PORTUGAL

Maria Joana MARQUES CLETO (Mme), conseillère, Institut national de la propriété industrielle, Lisbonne

SLOVAQUIE/SLOVAKIA

Milan MÁJEK, Second Secretary, Permanent Mission, Geneva

TOGO

Fidegnon François KPAKPO, conseiller juridique, Ministère de l'industrie, du commerce et du développement de la zone franche, Lomé

II. ÉTATS OBSERVATEURS/OBSERVER STATES

CROATIE/CROATIA

Željko TOPIĆ, Assistant Director, State Intellectual Property Office, Zagreb

EX-RÉPUBLIQUE YOUGOSLAVE DE MACÉDOINE/THE FORMER YUGOSLAV
REPUBLIC OF MACEDONIA

Biljana LEKIĆ (Miss), Advisor, Industrial Property Protection Office, Skopje

GÉORGIE/GEORGIA

David GABUNIA, Director General, National Intellectual Property Center, Tbilisi

INDONÉSIE/INDONESIA

Iwan WIRANATA-ATMADJA, Counsellor, Permanent Mission, Geneva

Dewi M. KUSUMAASTUTI (Miss), First Secretary, Permanent Mission, Geneva

Umar HADI, Third Secretary, Permanent Mission, Geneva

IRAN

Bahman JAHANGIR, Minister Counsellor, Legal Department, Ministry of Foreign Affairs, Tehran

JAMAÏQUE/JAMAICA

Symone BETTON (Miss), First Secretary, Permanent Mission, Geneva

JORDANIE/JORDAN

Mahmoud HMOUD, Director of Legal Affairs, Ministry of Foreign Affairs, Amman

MADAGASCAR

Olgatte ABDOU (Mme), premier secrétaire, Mission permanente, Genève

NIGÉRIA/NIGERIA

M.G. BUBA (Ms.), Commercial Attachée, Nigerian Trade Mission, Geneva

PANAMA

Lilia CARRERA (Mme), Mission permanente auprès de l'OMC, Genève

ROUMANIE/ROMANIA

Constanta MORARU (Mme), conseiller juridique, Office d'État pour les inventions et les marques, Bucarest

Alice Mihaela POSTĂVARU (Mlle), chef du Bureau juridique, Office d'État pour les inventions et les marques, Bucarest

III. ORGANISATIONS INTERGOUVERNEMENTALES/
INTERGOVERNMENTAL ORGANIZATIONS

COMMISSION DES COMMUNAUTÉS EUROPÉENNES/COMMISSION OF THE
EUROPEAN COMMUNITIES

Stéphane BESLIER, expert, Bruxelles

OFFICE INTERNATIONAL DE LA VIGNE ET DU VIN (OIV)/INTERNATIONAL VINE
AND WINE OFFICE (IWO)

Yann JUBAN, administrateur de l'Unité "Droit, Réglementation et Organisations Internationales", Paris

ORGANISATION MONDIALE DU COMMERCE (OMC)/WORLD TRADE
ORGANIZATION (WTO)

Matthijs C. GEUZE, Counsellor, Secretary Council for TRIPS, Geneva

IV. ORGANISATIONS NON GOUVERNEMENTALES/
NON-GOVERNMENTAL ORGANIZATIONS

Association communautaire du droit des marques (ECTA)/European Communities Trade
Mark Association (ECTA)

Dietrich C. OHLGART (Chairman, Law Committee), Hamburg
Tal BAND (Lawyer), Tel-Aviv

Association internationale pour la protection de la propriété industrielle (AIPPI)/International
Association for the Protection of Industrial Property (AIPPI)

Florent GEVERS (conseil en brevets, Gevers & Partners), Diegem

International Trademark Association (INTA)

Gordana PAVLOVIĆ (Mrs.) (External Affairs Committee), Belgrade

V. BUREAU/OFFICERS

Président/Chair:	Margit SÜMEGHY (Mme/Mrs.) (Hongrie/Hungary)
Vice-présidents/Vice-Chairs:	Luis POLINARIS VARGAS (Costa Rica) Maria Joana MARQUES CLETO (Mme/Mrs.) (Portugal)
Secrétaire/Secretary:	Denis COHEN (OMPI/WIPO)

VI. BUREAU INTERNATIONAL DE L'ORGANISATION MONDIALE
DE LA PROPRIÉTÉ INTELLECTUELLE (OMPI)/
INTERNATIONAL BUREAU OF THE WORLD INTELLECTUAL
PROPERTY ORGANIZATION (WIPO)

François CURCHOD, vice-directeur général/Deputy Director General

Département des enregistrements internationaux/International Registrations Department:
Bruno MACHADO (directeur/Director); Salvatore DI PALMA (directeur adjoint et chef de la Section de l'administration/Deputy Director and Head, Administration Section); Malcolm TODD (directeur adjoint et chef de la Section juridique/Deputy Director and Head, Legal Section); Denis COHEN (juriste principal, Section juridique/Senior Legal Officer, Legal Section); Marie-Paule RIZO (Mme) (juriste, Section juridique/Legal Officer, Legal Section); Jacques AUDIER (professeur, Faculté de droit et de science politique d'Aix-Marseille, Aix-en-Provence, consultant)

Division du droit de la propriété industrielle/Industrial Property Law Division:
Denis CROZE (chef de la Section du droit des marques/Head, Trademark Law Section)

Bureau du Conseiller spécial/Office of the Special Counsel:
Karen LEE (Mlle) (conseillère/Counsellor)

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