

# Diplomatic Conference for the Adoption of a New Act of the Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration

Submission<sup>1</sup> of the Government of Israel in response to the request of the Lisbon Working Group for amendments to the Basic Proposal on issues that were identified as pending and set forth in paragraph 4 of Document LI/DC/5 (December 22, 2014) Notes On The Basic Proposal For The New Act of the Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration.

February, 1, 2015

## **[i] Implementation aspects of Article 1(xiv) –**

With regard to implementation aspects of Article 1(xiv), the Government of Israel proposes that the reference made to intergovernmental organizations be modeled on the provisions of Article 14 of the Protocol relating to the Madrid Agreement Concerning International Registration of Marks with respect to intergovernmental organizations.

## **[ii] the content of Article 2(2) and Article 5(4) concerning trans-border geographical areas of origin –**

The Government of Israel proposes that the text of the Basic Proposal be amended to state expressly that applications in respect of a trans border area may be filed jointly or individually as is currently expressly set forth in Explanatory Note 5.04 (Document LI/DC/5, Dec. 22, 2014) which states: *"Instead, each Contracting Party may prefer to file an individual separate application only for the part of the trans-border area situated in its territory, and of course not for the entire trans-border area."*

Accordingly, it is proposed:

- (1) That the bracketed sentence in Article 2(2) be retained and to add to it the words "*or a part thereof*" immediately following the words "geographical area," such that the amended text will read: "[This does not exclude the application of this Act in respect of a geographical area of origin, as described in paragraph (1), consisting of a trans-border geographical area, *or a part thereof*, subject to Article 5(4)]" ;

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<sup>1</sup> This submission is being made without prejudice to the right to make interventions on these points or other issues during the Diplomatic Conference or prior thereto.

- (2) With respect to Article 5(4) to add the words "*may act individually with respect to the part of the trans-border area situated in its territory or*" immediately following the words "the adjacent Contracting Parties" such that the amended text will read: "(a) In case of a geographical area of origin consisting of a trans-border geographical area, the adjacent Contracting Parties *may act individually with respect to the part of the trans-border geographical area situated in their territory or* may agree to act as a single Contracting Party of Origin by filing an application jointly, through a commonly designated Competent Authority."

**[iii] the entitlement to file an application under Article 5(2);**

Still under inter-ministerial discussion.

**[iv] Article 7(3), Article 8(3), Article 24(3)(vi) and related provision concerning the possible introduction of maintenance fees;**

Still under inter-ministerial review.

**[v] the possible re-introduction of the provisions of the current Lisbon Agreement dealing with contributions by members of the Lisbon Union;**

Still under inter-ministerial discussion.

**[vi] Article 7(5) and related provisions concerning the possible introduction of individual fees;**

With respect to Article 7(5) the Government of Israel supports Alternative A (examination and renewal fees).

**[vii] the various options in respect of Article 11(1)(a) and Article 11(3);**

- (1) With respect to Article 11(1)(a) the Government of Israel supports Alternative B (on the understanding that Alternative A, like Alternative B, is intended to apply in respect of goods not of the same kind as those to which the registration refers).

- (2) With respect to Article 11(3) the Government of Israel supports inclusion of Alternative D.

**[viii] the Draft Agreed Statement contained in footnote 1 to Article 11 and provisions relating to the same issue;**

The Government of Israel supports maintaining the content of footnote 1 to Article 11 in the Basic Proposal, preferably by its incorporation into the Article itself or alternatively as a footnote.

**[ix] the content of Article 12 concerning protection against becoming generic;**

The Government of Israel supports retention of all the bracketed words in Article 12 and in maintaining the content of footnote 3 to Article 12.

**[x] the content of Article 13(1) concerning safeguards in respect of prior trademark rights;**

With respect to Article 13(1) the Government of Israel supports Alternative B.

**[xi] the content of Article 16(2) concerning negotiations following a refusal;**

With respect to Article 16(2) the Government of Israel proposes that the bracketed paragraph be deleted.

**[xii] the content of Article 17 concerning the necessity of a phasing out period;**

With respect to the Content of Article 17 the Government of Israel supports retaining subparagraph (1).

**[xiii] whether Article 19(1) should establish an exhaustive or a non-exhaustive list of grounds for invalidation;**

With respect to Article 19(1) the Government of Israel supports Alternative A (the open ended list).

**[xiv] whether Rule 5(3) should be optional or mandatory;**

With respect to Rule 5(3) the Government of Israel supports Alternative A.

**[xv] the inclusion of Rule 5(4) permitting Contracting Party to require a declaration of intention to use in respect of a registered appellation or origin or a registered geographical indication;**

Still under inter-ministerial review.

**[xvi] promoting transparency under Rule 5(5);**

With respect to Rule 5(5) the Government of Israel supports Alternative A.

**[xvii] the amount of fees in Rule 8(1).**

Still under inter-ministerial discussion.