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Special Union for the Protection of Appellations of Origin and their International Registration (Lisbon Union)

Assembly

Thirty-Eighth (24th Ordinary) Session
Geneva, October 4 to 8, 2021

DRAFT REPORT

prepared by the Secretariat

1. The Assembly was concerned with the following items of the Consolidated Agenda (document A/62/1): 1, 2, 3, 4, 5, 6, 10(ii), 11, 12, 24, 32 and 33.
2. The reports on the said items, with the exception of item 24, are contained in the draft General Report (document A/62/13 Prov.).
3. The report on item 24 is contained in the present document.
4. Mr. Pascal Faure (France) was elected Chair of the Assembly; Mr. Csaba Baticz (Hungary) and Ms. Alison Urquizo Olazabal (Peru) were elected Vice-Chairs.

ITEM 24 OF THE CONSOLIDATED AGENDA

LISBON SYSTEM

5. The Chair of the Lisbon Union Assembly pointed out that since the entry into force of the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (“Geneva Act of the Lisbon Agreement”) in February 2020, five countries had deposited their instruments of accession to/ratification of the Geneva Act of the Lisbon Agreement, namely France, Hungary, the Lao People’s Democratic Republic, Oman and Switzerland, which brought the total number of countries covered by the Lisbon System to 55. Upon noting with satisfaction that there was now a sizeable number of members covered by the Lisbon System, he wished them a warm welcome to the Lisbon Union Assembly. He underscored that the entry into force of the Geneva Act of the Lisbon Agreement represented a new stage in the development of the international intellectual property system and the establishment of effective protection for geographical indications. In particular, the Geneva Act of the Lisbon Agreement allowed the extension of the international protection to all geographical indications, which had been strictly limited to appellations of origin until then, and permitted the accession of intergovernmental organizations. He went on to say that geographical indications were not reserved to some, instead, they represented for all countries a powerful tool of protecting local resources and concerned both the protection of unique products linked to a specific territory as well as the protection of particular cultural expressions expressed through a specific know-how. He further indicated that the identification of products through the establishment of a clear link with their geographical origin and traditional local knowledge was specific to geographical indications, a fully-fledged intellectual property right (IPR). Geographical indications not only played a leading role for actors throughout the value chain but also incremented their visibility and were able to support local economies. In addition, they were also an effective tool to combat unfair competition and counterfeiting. From the perspective of States and local communities, geographical indications enhanced the dissemination of local knowledge and strengthened the visibility of local traditions and local history, while also being a vital component of sustainable development. Upon reiterating that the Lisbon System was an essential component of the international intellectual property system and therefore had its rightful place within the World Intellectual Property Organization (WIPO) among other global intellectual property (IP) systems, he concluded by saying that it was also the role of Lisbon members to adequately implement the Lisbon System so that it can also contribute to economic development.

6. Turning to the two documents on the agenda, namely documents LI/A/38/1 and LI/A/38/2, he indicated that they would be addressed separately.

Development of the Lisbon System

7. Discussions were based on document LI/A/38/1.

8. Introducing the document under consideration, the Secretariat recalled that the third session of the Working Group on the Development of the Lisbon System, held in November 2020, considered the developments of the Lisbon System that had occurred since the previous plenary session of the Lisbon Union Assembly in 2019, namely: (1) the entry into force of the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (“Geneva Act of the Lisbon Agreement”) in February 2020 and the updated status of accessions; (2) the evolution of the legal framework of the Lisbon System with the entry into force of the Common Regulations under the Lisbon Agreement on Appellations of Origin and Geographical Indications (“Common Regulations”) and the Geneva Act of the Lisbon Agreement in February 2020; and (3) lastly, the ongoing discussions concerning the financial sustainability of the Lisbon Union.

9. The Delegation of Peru welcomed the new members to the Lisbon Union hoping that the overall membership would expand quickly. Upon pointing out that Peru was advanced in the domestic ratification of the Geneva Act of the Lisbon Agreement, the Delegation reaffirmed Peru's support and commitment to strengthening the Lisbon System in the future.

10. The Delegation of Switzerland welcomed the upcoming entry into force of the Geneva Act of the Lisbon Agreement for Switzerland on December 1, 2021, before indicating that the Lisbon System was an indispensable component in the international framework for defining and protecting IP. Indeed, geographical indications were not only rich when it came to the traditions and collective know-how that they embodied but also in terms of individual trading strategies and innovations. The Delegation went on to say that thanks to the Geneva Act of the Lisbon Agreement, Swiss beneficiaries of geographical indications would be able to receive a high level of protection in the other Contracting Parties through a simple, unique and relatively cheap registration procedure, while at the same time consumers in Switzerland would be able to appreciate the authentic specialties originating from other Contracting Parties. The Delegation very much encouraged WIPO Member States to accede to the Geneva Act of the Lisbon Agreement to contribute to the development of the Lisbon System. The Delegation concluded by saying that Switzerland would work with conviction for the promotion, development and ongoing modernization of the Lisbon System to allow a larger number of producers, particularly from developing countries, to have access with the utmost legal security to markets in which their local products could arouse consumer interest.

11. The Delegation of the European Union, speaking on behalf of the European Union and its member states, welcomed the entry into force of the Geneva Act of the Lisbon Agreement and the accession of Contracting Parties that had taken place so far. The Delegation looked forward to the accession of new members in the next few months and encouraged further accessions from other WIPO Members States. The Delegation pointed out that the Lisbon System was less well-known among IP users by comparison with the other global IP systems managed by WIPO (i.e., the Patent Cooperation Treaty (PCT), the Madrid and Hague Systems). In order to support and promote new accessions, increased resources, both human and financial, should now be allocated to the Lisbon Registry to enable the Lisbon System to effectively perform its institutional tasks related to the administration of the Geneva Act of the Lisbon Agreement and to become better known and more widely used. The Delegation added that it would be equally important that the promotion of the Lisbon System be undertaken through dedicated and focused initiatives, without the obligation to promote at the same time – as had been the case so far – the trademark system or the use of generic terms. The Delegation further indicated that the European Union had made progress in the implementation of the Geneva Act of the Lisbon Agreement and had filed, in the course of the present year, the first applications for the international registration of geographical indications originating in its member states. Among other positive effects, those new applications had generated new income for the Lisbon System, while the extended geographical coverage of the Lisbon Union made it more attractive to new members. The Delegation concluded by saying that the European Union and its member states were in the process of finalizing additional geographical indication applications that would soon be submitted to the International Bureau for purposes of their international registration under the Geneva Act of the Lisbon Agreement, and that they also looked forward to the submission of applications from other Lisbon members.

12. The Delegation of the Russian Federation welcomed the expansion of the Lisbon Union and said that the Russian Federation was making further efforts to increase brand protection. In particular, the Russian Federation adopted a new law on geographical indications which entered into force in July 2020, and which helped holders of geographical indications to have greater access to the market. In that regard, the Delegation pointed out that 12 applications for geographical indication protection had already been approved. The

Delegation was hopeful that the Russian Federation would accede to the Geneva Act of the Lisbon Agreement in the near future as the appropriate law had already been prepared and was being considered by the Government of the Russian Federation.

13. The Delegation of Portugal underlined the increasing commitment of Portugal to product differentiation and the production of value-added goods, rooted in the traditions and the historical and cultural heritage of countries, and that appellations of origin and geographical indications had acquired particular significance at the global level in recent years. The Delegation pointed out that several factors fueled the growing demand for appellation of origin and geographical indication protection. First, geographical indications and appellations of origin acted as a shield against the relocation of manufacturing facilities; second, they helped producers and consumers identify, protect and benefit from authentic products in increasingly globalized markets. In other words, the commercialization of such products was not only a tool to boost the economy but also served as a tool for socio-cultural development, bringing very significant benefits to peoples and places throughout the world. The Lisbon System played a key role in achieving that end and the Delegation was therefore of the view that the Lisbon System should become a priority for WIPO. The Delegation noted with satisfaction the progress made in recent years, in particular with respect to the growing membership of the Lisbon Union, and warmly welcomed the accession of the European Union as well as the recent accessions of France, Hungary, the Lao People's Democratic Republic, Oman and Switzerland. The Delegation indicated that there was an urgent need to continue promoting the Lisbon System to attract more members and, thereby, increase its revenue, which in turn would make it possible for the Lisbon System to meet its financial objectives. The Delegation also noted the dynamics by which members of the Lisbon System were guided in their search for increasingly advantageous solutions to IPR issues within WIPO, based on the respect of the long-standing principles of solidarity and equality, as well as through the careful consideration of other financing options, that would allow the Lisbon System to ensure its short and long-term sustainability. The Delegation cautioned that any solution should take into account the overall principles of the Organization, which should equally apply to all systems of IP protection, without exception. The Geneva Act of the Lisbon Agreement, in particular, was key to improving the Lisbon System's revenue flow, not only through the accession of new Contracting Parties, but also through the growing number of applications for international registration. Upon expressing the view that such dynamic would contribute to balancing the budget of the Lisbon System, the Delegation concluded by saying that Portugal stood ready to pursue the ongoing discussions in that regard and consider new mechanisms and funding models, acceptable to all Member States, that could foster a more efficient operation and use of the Lisbon System.

14. The Delegation of France associated itself with the statement delivered by the European Union and its member states. The Delegation welcomed the entry into force of the Geneva Act of the Lisbon Agreement on February 26, 2020, following the accession of the European Union. Upon recalling that France was one of the countries that had joined the Geneva Act of the Lisbon Agreement this year, the Delegation welcomed the increasing number of Contracting Parties that had acceded to it, thereby making the Lisbon System increasingly attractive. The Delegation also took note of the interest expressed by many Member States to provide specific protection to geographical indications in their countries. In that regard, the Delegation recalled the importance of promotion activities aimed at increasing the number of members in the Lisbon System, including the Geneva Act of the Lisbon Agreement to allow the Lisbon System to develop fully.

15. The Delegation of Serbia said that Serbia strongly supported the work of the Lisbon Union and welcomed the valuable results achieved so far. The Delegation welcomed the entry into force of the Geneva Act of the Lisbon Agreement in 2020 as it would strengthen the Lisbon Union even more and open space for the increase of its membership. The

Delegation took note of the new accessions to the Geneva Act of the Lisbon Agreement this year and of the increased interest in the protection of geographical indications in WIPO Member States. The Delegation further indicated that the 2021 edition of the Worldwide Symposium on Geographical Indications organized by WIPO in September 2021 fulfilled all expectations and offered valuable practical and useful information on the importance of geographical indications for the local and the world economy. In particular, the Delegation said it had visited WIPO's Exhibition on Geographical Indications with great interest and had been pleased to discover so many beautiful traditional products from all over the world, including traditional products from Serbia. The Delegation further indicated that recently Serbia had invested enormous efforts to transform its local traditions into manufactured products protected as IP. In that respect, valuable assistance had been provided by the Swiss Confederation through the Swiss Federal Institute of Intellectual Property, with its exceptional experience in building local brands and presenting them on the market. The Delegation went on to say that the Association "Regional Serbia" had been established with its business policy focusing primarily on the promotion of traditional products protected under a geographical indication. The Delegation pointed out that the market price of certain products had significantly increased after they had started to be sold as products with a designated geographical indication. By way of conclusion, the Delegation expressed the view that geographical indications may not always be the preferred engine of macro economy for certain countries, but they certainly had the capacity to help the population of a specific village or region improve their quality of life through the commercialization of their unique traditional products.

16. The Delegation of Iran (Islamic Republic of) expressed the view that in order to make the Lisbon System more attractive, additional financial and human resources would have to be allocated to the Lisbon Registry and more promotion and awareness-raising activities should be undertaken to attract new members to the Geneva Act of the Lisbon Agreement, so as to ultimately achieve financial sustainability.

17. The Representative of the Health and Environment Program (HEP) said that its Organization encouraged international and regional organizations to promote the accession to the Geneva Act of the Lisbon Agreement to secure protection of local products. She indicated that Cameroon had witnessed significant socio-economic success after the grant of a geographical indication to *Penja Pepper* and other food products. Therefore, HEP could only encourage other Contracting Parties to accede to the Geneva Act of the Lisbon Agreement to be able to protect their products also in foreign markets. The Representative pointed out that many countries in Africa did not know how to ensure that their local products be put in world markets or what the procedures for geographical indication protection were. In that regard, HEP was counting on international cooperation and WIPO's assistance to help developing Contracting Parties accede to the Geneva Act of the Lisbon Agreement as soon as possible. Lastly, the Representative indicated that HEP strongly encouraged the accession of regional organizations to the Geneva Act of the Lisbon Agreement.

18. The Assembly of the Lisbon Union took note of the document "Development of the Lisbon System" (document LI/A/38/1).

Proposed Amendments to the Common Regulations under the Lisbon Agreement and the Geneva Act of the Lisbon Agreement

19. Discussions were based on document LI/A/38/2.

20. Introducing the document under consideration, the Secretariat recalled that the proposed amendments concerned in particular the introduction of a new Rule 2*bis* concerning safeguards in case of *force majeure* events. The Secretariat indicated that the proposed amendments contained in the Annex to document LI/A/38/2 would enter into force

two months following its adoption by the present Lisbon Union Assembly, namely on December 8, 2021.

21. The Delegation of the European Union and its member states welcomed 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, in response to severe disruptions for users of the Lisbon System resulting from the COVID-19 pandemic. The Delegation noted that proposed new Rule *2bis* of the Lisbon Common Regulations, entitled “Excuse of Delay in Meeting Time Limits” was intended to give users of the Lisbon System relief equivalent to that provided for in Rules 82 and 82*quarter* of the PCT Regulations. The Delegation recalled that it had expressed its support for similar adaptations of the procedural rules for the Hague and Madrid Unions, which were essential for purposes of coping with the challenges of the COVID-19 pandemic and ensuring WIPO’s full functionality and operational capacity. Along the same lines, the Delegation considered that the proposed amendments under consideration constituted a positive step forward in the modernization of the Lisbon System and therefore supported the adoption of the amendments as proposed by the Secretariat. Lastly, the Delegation encouraged further discussions on how to better implement the Geneva Act of the Lisbon Agreement and further improve the Lisbon Common Regulations in future sessions of the Working Group on the Development of the Lisbon System.

22. The Assembly of the Lisbon Union adopted the amendments to the Common Regulations under the Lisbon Agreement and the Geneva Act of the Lisbon Agreement, as set out in the Annex to document LI/A/38/2.

23. For ease of reference, the Annex to this report contains the amendments to the Common Regulations under the Lisbon Agreement and the Geneva Act of the Lisbon Agreement, as adopted by the decision set out in paragraph 22, above.

[Annex 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 on December 8, 2021)

[...]

**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 submit 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]