

PLENARY OF THE DIPLOMATIC CONFERENCE FOR THE  
ADOPTION OF A NEW ACT OF THE LISBON AGREEMENT FOR THE PROTECTION OF  
APPELLATIONS OF ORIGIN AND THEIR INTERNATIONAL REGISTRATION

President: Mr. Ambassador Luis Enrique Chávez Basagoitia (Peru)

Secretary: Mr. Francis Gurry (WIPO)

First Meeting  
Monday, May 11, 2015  
Morning

Opening of the Conference

1. Mr. GURRY (Director General of WIPO) welcomed the participants and recalled that the proposed revision of the Lisbon Agreement had been prepared by the Working Group on the Development of the Lisbon System, which had held 10 sessions between March 2009 and October 2014, in view of the need to look for improvements which would make the system more attractive for States and users, while preserving the principles and objectives of the Lisbon Agreement. The result of the Working Group's work was the Basic Proposal for a New Act of the Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration (LI/DC/3) and its Regulations. Mr. Gurry further recalled that the objectives expressed by the Assembly of the Lisbon Union were to refine and modernize the system, while preserving its principles and objectives, and to facilitate the accession of competent intergovernmental organizations. Underlining that both the conclusion of a new treaty and the revision of an existing treaty were major events in the life of the organization responsible for the administration of the treaty, Mr. Gurry emphasized that the Diplomatic Conference presented an opportunity and a challenge. The opportunity was the modernization of a system that was 57 years old, i.e., the Lisbon Agreement concluded in 1958. In that regard, he indicated the possibility of taking into account the many developments that had occurred in the world throughout those 57 years, including a wave of globalization which had seen markets open and international trade expand and a heightened role for brands and identifiers in the markets that constituted the globalized or globalizing economy. Brands and identifiers were indispensable signals to consumers in the global economy, which had multiple and extremely sophisticated means of communication. One could also notice an enhanced appreciation of the value and importance of specificity and distinctiveness in that context. In the interests of multilateralism, the challenge for WIPO was that the revision should produce a Lisbon System that would be attractive to the full membership of the Organization. Indeed, one of the objectives of the revision was to increase the membership of the Lisbon System well beyond its historically relatively low level of participation amongst the Member States of WIPO. Pointing out that the subject matter of the revision was not without controversy, he underlined that the heavy burden resting on the shoulders of the negotiators was to achieve an internationally attractive and modernized Lisbon System. He appealed to all Delegations for their goodwill and their patience throughout the upcoming two weeks to ensure the achievement of this result.

### Consideration and Adoption of the Rules of Procedure

2. Mr. GURRY (Director General of WIPO) drew the attention of the Conference to document LI/DC/1 Prov. 2 containing the Revised Draft Agenda of the Diplomatic Conference. He then turned to item 2 of the Revised Draft Agenda (Consideration and Adoption of the Rules of Procedure) and recalled that the Rules of Procedure of the Diplomatic Conference contained in document LI/DC/2 Prov. had been approved by the Preparatory Committee of the Diplomatic Conference. He also indicated that these were the Rules of Procedure that he should apply to the proceedings under item 2 of the Revised Draft Agenda in accordance with the practice that had been followed in every diplomatic conference of WIPO or held under the auspices of WIPO. He also recalled that the Rules of Procedure mentioned requisite majorities assuming that they would be applicable to the adoption of Draft Rules of Procedure and, finally, that these Draft Rules of Procedure had been prepared and approved by the Preparatory Committee, and recommended for adoption by the Diplomatic Conference. He noted that, in addition to document LI/DC/2 Prov., a number of Delegations had submitted a proposal for an amendment to the Draft Rules of Procedure distributed in all languages as document LI/DC/9.

3. Mr. NIEMTCHINOW (France) took the floor on behalf of the following member countries of the Lisbon Union: Bosnia and Herzegovina, Bulgaria, Burkina Faso, Congo, Costa Rica, Cuba, Czech Republic, Former Yugoslav Republic of Macedonia, France, Gabon, Georgia, Haiti, Hungary, Iran (Islamic Republic of), Italy, Mexico, Montenegro, Nicaragua, Peru, Portugal, Republic of Moldova, Serbia, Slovakia, Togo and Tunisia. He expressed the wish that the internal rules of the diplomatic conference of the Lisbon Union would be adopted by consensus in the version submitted, for the legal reasons developed in the collective mail addressed to the Director General of WIPO on May 5, 2015 and to ensure the start of substantive work at the earliest. He recalled that, during the seven years of effort by the Lisbon Working Group, the Member States of the Lisbon Union had always maintained the principle of inclusiveness and worked on the basis of consensus that made it possible to open the diplomatic conference of the Lisbon Union. He added, on behalf of almost all Member States of the Lisbon Union, in the same positive spirit of consideration and respect for all and despite the rules of procedure which already linked them provisionally, that these countries had accepted that observer and special delegations which so desire be allowed to take the floor on Item 2 of the agenda.- This overture was made in a spirit of transparency towards all members of WIPO, and the same spirit would guide these Member States of the Lisbon Union throughout the diplomatic conference. Although the draft rules of procedure already provided members of the Lisbon Union with the means to adopt it definitively and immediately through a vote, the countries on whose behalf he was speaking were willing to grant speaking time to observer countries wishing to take the floor. He trusted that they would manage that time well enough to limit their comments to this item of the agenda. The set objective was the adoption by Member States of the Lisbon Union of the rules of procedure, as submitted, without amendment, during that morning session, in order to move on to substantive discussions.

4. Ms. HAMAMOTO (United States of America), speaking on behalf of a group of co-sponsor Delegations, namely the Delegations of Argentina, Australia, Canada, Chile, Japan, New Zealand, Panama, Republic of Korea, Saudi Arabia, Singapore, the United States of America and Uruguay, introduced a written proposal to amend Rule 2 of the Draft Rules of Procedure in LI/DC/2 Prov. to provide for all WIPO members to be considered "Member Delegations" during this Diplomatic Conference. As discussed in the Preparatory Committee in October 2014, WIPO diplomatic conferences were normally open for full participation and voting by all WIPO members. However, the current Draft Rules of Procedure limited full participation and voting rights to current Lisbon members only. While excluding most WIPO members from participation, the Draft Rules of Procedure allowed two

non-WIPO members to have more rights to negotiate than WIPO members that were not Lisbon members. For over 20 years, WIPO diplomatic conferences, including a diplomatic conference to adopt a New Act of an existing treaty (the Hague Agreement), had allowed for equal participation of all WIPO members. For these reasons, and for the reasons that would be elaborated in their individual statements, the co-sponsors of this proposal continued to propose revising document LI/DC/2 Prov. to allow for full and equal participation by all WIPO members during the Diplomatic Conference.

5. Mr. D'ALOTTO (Argentina), speaking on behalf of a group of WIPO Member States who were observers to the meetings of the Lisbon Union, namely the Delegations of Argentina, Australia, Chile, Japan, New Zealand, Panama, the Republic of Korea, the United States of America and Uruguay, wished to state for the record that these Delegations objected to the closed, non-inclusive method of work being advocated by most of the Lisbon members for this Diplomatic Conference. They were dismayed and concerned that a very small number of WIPO members – less than 15% of the WIPO membership – would deviate from WIPO's established practice of consensus, and inclusive and member-driven norm-setting, by adopting a method of work that closed off equal participation by 160 of their multilateral partners. Furthermore, this method of work would also contradict the spirit of Recommendation 15 of the Development Agenda that indicated that norm-setting activities should be "inclusive and member-driven and take into account different levels of development", as well as "a participatory process, which took into consideration the interests and priorities of all WIPO Member States". They understood this principle to mean substantive participation, not participation only as mere observers. Many of the Delegations on behalf of which he spoke had sent delegations of experts to Geneva this week knowing that there was one final chance for the Lisbon members to make the choice to advance an inclusive and consensus-based approach for this Diplomatic Conference that would respect the interests and perspectives of all WIPO members in the development of the new international norms that Lisbon members were striving to create during the next two weeks. The broader WIPO membership had worked constructively with the Lisbon Union to date, and they genuinely wished to make a good faith contribution to this negotiation. This was not only because certain subject matter for discussion during this Diplomatic Conference – the protection of geographical indications – was of interest to all WIPO members. It was also because it had been a consistent and well-established practice for the past 25 years at WIPO, a multilateral (not plurilateral) institution, for all WIPO Member States to enjoy equal status in WIPO diplomatic conferences. Multilateral participation was an essential ingredient in the negotiation of WIPO treaties. Many of the Delegations on behalf of which he spoke had viewed this process as an opportunity to take into consideration the interests and priorities of all WIPO Member States and as a result, to promote the interests of, and improve the services for, all of their stakeholders, which included intellectual property rights holders, agricultural producers, and industrial producers who were all extremely significant contributors to their respective economies. This had been a core objective behind most WIPO treaties. During the Preparatory Committee in October, it was quite clear that there was a globally representative interest in taking advantage of this opportunity, as demonstrated by the presence and voices of colleagues from all over the world and from all levels of development who agreed with the importance of inclusiveness and equality in norm-setting. If Lisbon members expected that WIPO - as an institution and Organization of 188 Member States - would embrace this New Act, the broader WIPO membership should be involved genuinely and meaningfully – in other words, equally – in the negotiation of the Act and the establishment of this new instrument. However, it appeared that the openness that all had worked hard to share during the sessions of the Working Group would not be provided at the Diplomatic Conference and, thus, the deliberations were likely to proceed in a direction that would not endeavor to find common ground and that would not attempt to bridge differences. At the Diplomatic Conference, according to the Draft Rules of Procedure, the Delegations on behalf of which he spoke would have a lower status than they had had as

observers at the sessions of the Working Group, and even lower than non-WIPO members called "Special Delegations", as they would not be able to make proposals to amend the Basic Proposal, or participate in informal working groups during the Diplomatic Conference. It did not have to be that way, however, the Delegations on behalf of which he spoke strongly encouraged the Conference to consider positively the choice to hold a diplomatic conference equally inclusive of all WIPO members. The Delegations on behalf of which he spoke believed that international law allowed for this choice to be made. To confirm their understanding, he requested the Legal Counsel of WIPO to provide a legal opinion as to whether the Lisbon Union was required by either the Lisbon Agreement or the Vienna Convention on the Law of Treaties to hold a closed diplomatic conference, or could instead choose a path of equal participation by all WIPO members.

6. Ms. TAN (Singapore) said that Singapore was a co-sponsor of the proposal advocating an open diplomatic conference. She stated that the Delegation of Singapore believed that the Rules of Procedure for the Lisbon Diplomatic Conference should allow for full and equal participation by all WIPO members. She recalled that the Lisbon Union members had expressed the wish to modernize and improve the Lisbon Agreement and to produce significant benefits to attract a broad range of perspective new members. If that was indeed the case, the Delegation wondered why they would choose to refuse full and equal participation in the Diplomatic Conference by all WIPO members. Some Lisbon Union members asserted that a closed diplomatic conference was consistent with the Lisbon Union's international rights and obligations. However, they conveniently omitted acknowledging that an open diplomatic conference would not necessarily go against their international commitments. In fact, holding an open diplomatic conference was not incompatible with general international law and practice for multilateral treaties, especially with regard to WIPO treaties. The Lisbon Union clearly had a choice and it would be unfortunate should it choose the less inclusive option. It had been WIPO's established practice in the past 25 years that all WIPO members participated on a full and equal footing at all WIPO diplomatic conferences regardless of whether or not they were parties to a particular treaty. This practice was aimed at upholding the important principles of inclusiveness and transparency, critical for ensuring the integrity and credibility of WIPO. These principles were especially relevant when it pertained to the development and negotiation of international norms. It was no secret that the verdict was still out on whether or not the adoption of the New Act of the Lisbon Agreement amounted to a simple revision or a substantive change of the treaty. The Delegation of Singapore urged the Lisbon Union members to reconsider the option of an open diplomatic conference and to allow full and equal participation by all WIPO members. Otherwise, it would ultimately render to the Lisbon Union only a pyrrhic victory, as all of the WIPO members, including the Lisbon Union, would have to live with the long-term consequences for the integrity of the Organization and the system as a whole.

7. Ms. HAMAMOTO (United States of America) said that the Delegation of the United States of America, as a member of the World Intellectual Property Organization (WIPO) and a strong supporter of its fundamental objectives and rules, was deeply troubled by what had transpired at WIPO in the context of these negotiations to expand the Lisbon Agreement to include geographical indications. Her Delegation was concerned by the precedent that the Lisbon Agreement parties had set and sought to continue at this Diplomatic Conference. This was about more than the legitimacy of the Lisbon Agreement itself. This issue had alarming implications for the future of WIPO as an Organization. The Lisbon Union members had chosen to depart from fundamental and longstanding principles of inclusiveness and participation by all WIPO members in norm setting. They had chosen to deny an equal and meaningful voice in the negotiations to the vast majority of WIPO members, to limit them to observer status and to include the largest GI *demandeur*, the European Union, which was not a party to the Lisbon Agreement. This broke with a long tradition of open participation

in WIPO diplomatic conferences. All WIPO members should be able to participate equally in this Diplomatic Conference, as they had done in all diplomatic conferences at this Organization for the past 25 years. Some Lisbon members had argued that two tiers of WIPO membership was justified or even required under international rules. The Delegation of the United States of America did not agree and was not alone. All Delegations should be entitled to preserve their sovereign rights and defend their national interests in WIPO and several had written to the Lisbon Union members to state the importance of that principle. The Congress of her country had also written to the Director General to express strong concerns. There was nothing in international law that excused excluding the vast majority of WIPO members from a WIPO treaty negotiation. A small number of WIPO members should not be able to declare themselves to be more equal than others. If international rules provided such a justification, the question was why WIPO members had repeatedly chosen the opposite course of inclusiveness and participation; and why full participation rights had been granted to WIPO members that were not members of the treaty being updated. Of course, past diplomatic conferences had not been inconsistent with international law; and geographical indications did not merit different treatment than copyright and trademarks. The long-term interest of the many, and of WIPO, should not be sacrificed for the short-term interest of the few. The goal in this context should be an inclusive treaty bridging different national approaches and allowing participation by the entire WIPO membership. She further pointed out that her Delegation had engaged throughout the development of these negotiations but, as 160 other WIPO members, it had always been observer. Many Delegations had raised their strong concerns with both this process and the current text in the meetings of the Lisbon Union, including the Preparatory Committee, the Coordination Committee, the Budget Committee and the General Assembly. With regard to the Draft Rules of Procedure as well as the text of the Basic Proposal, which omitted fundamental due process rights of objection, her Delegation had had no ability to engage in the negotiations in a meaningful way. The Draft Rules of Procedure had effectively stripped 160 WIPO members of their rights to vote, propose and second amendments to the Basic Proposal; to participate in working groups, to serve as elected officers or on committees or to count towards a quorum; to raise points of order or to adjourn or close a debate. She said that her Delegation had heard complaints from the national businesses for years that obtaining protection for their geographical indications in other countries was bewildering and uncertain. The United States of America had valuable geographical indications and stakeholders who were seeking protection in their export markets had repeatedly approached the government of her country to intervene with foreign governments that require the government itself to negotiate protection for their geographical indications, which were private property rights. Trademark owners from the United States of America of products bearing common names had approached the government to intervene with foreign governments to prevent their rights being taken away or diminished in established export markets, simply because a list of geographical indications was negotiated for this market. This mechanism of seeking or objecting to geographical indication protection in foreign markets stood in stark contrast to the way that other global IP registration systems operated. If the Lisbon members sought a sustainable and broadly supported international filing mechanism working with any type of protection system for geographical indications, more flexibility would be required than what her Delegation had seen from the Lisbon members so far. Such flexibility would not be possible without full participation and contributions by all WIPO members. As a result, her Delegation and 11 other countries had resubmitted a proposal to amend Rule 2 of the Draft Rules of Procedure contained in document LI/DC/2 Prov. to the effect that all WIPO members would be considered Member Delegations. The history of the past discussions on geographical indications at WIPO brought into sharp focus the departure that the Lisbon Union was taking from consistent WIPO practice in deciding to revise the Lisbon Agreement as an exclusionary small club.

8. She went on by referring to a survey that the International Bureau had conducted, in 1972, at the request of the Lisbon Union, on the protection of appellations of origin and geographical indications among the countries of the Paris Union for the Protection of Industrial Property. Significantly, this survey had been sent to all members of the Paris Union, including those that were not also Lisbon Union members, in an effort to inclusively obtain information about different views and systems. In 1974, WIPO had invited all Paris Union members to attend the Committee of Experts on the International Protection of Appellations of Origin and Other Indications of Source, which had been convened to discuss whether to advance the protection for geographical indications through the revision of the Madrid Agreement on False Indications of Source, a revision of the Paris Convention, a revision of the Lisbon Agreement or the creation of an entirely new treaty. In 1975, the International Bureau had analyzed the similarities and differences between the draft treaty that was being discussed and the Lisbon Agreement, finding that the conclusion of a new treaty was more appropriate than a revision of the Lisbon Agreement, due to the significance of the changes being proposed, most of which were now also contained in the current Basic Proposal. Her Delegation raised this historical perspective to illustrate the divergent practices between now and then: a) all WIPO members had been invited to join the Committee of Experts that discussed the question of protection for geographical indication; b) a text had been developed with many of the same elements that were now in the current Basic Proposal; c) the International Bureau had advised the Committee of Experts that a new treaty was the appropriate approach, based on the differences between the texts at issue; d) all WIPO members in the Committee of Experts had been empowered to decide what mechanism should be pursued. This divergence could be remedied today by embracing the presumption of inclusiveness enjoyed by all WIPO members in the discussions that had taken place in the 1970s. Thus, WIPO members were potentially on the brink of a momentous event, as at the end of the coming two weeks, a global geographical indication filing system could be concluded appropriately balancing interests of all WIPO members and providing more certain protection for geographical indication owners around the world. However, her Delegation was concerned that this was not the direction in which it seemed to be heading. There were critical steps needed to reach this goal. The first was full participation rights for all WIPO members. Full participation rights would be consistent with the New Act being a new treaty, rather than a revision. The proposed amendment of the Rules of Procedure should be adopted. Her Delegation viewed WIPO as a member-driven, inclusive Organization. If the present discussion demonstrated otherwise, WIPO would face a serious credibility problem. If negotiations were not inclusive, it could not be claimed that the resulting norms represented a legitimate multilateral WIPO treaty. The second necessary step was to improve the Basic Proposal, so as to create a truly global system. Given that the Lisbon Union had not invited all WIPO members to be full participants in these negotiations, many geographical indication experts were not present. Their governments considered remote the probability of an open diplomatic conference and could not justify sending experts to attend a meeting where they would not be permitted to participate. Therefore, there was already a profound deficit. This process had effectively excluded many whose expertise and insight would have improved the results. Nonetheless, many Delegations were present with experts who were ready to fully participate and create a new filing system that filled the needs of all and not just those of a few. Finally, she said that her Delegation looked forward to working with all Delegations present to reach an acceptable outcome from this Diplomatic Conference.

9. Mr. MCCORMICK (Australia) said that Australia was a sponsor of the proposed amendments to the Rules of Procedure for this Diplomatic Conference and was also part of the joint statement presented by the Delegation of Argentina. He recalled that WIPO Member States had repeatedly chosen an inclusive and consensus-based approach to the development of international intellectual property law, respecting the interests and perspectives of all Member States. For the past 25 years, this basic principle had guarded

the development of international intellectual property law in this global institution. The WIPO Development Agenda included specific recommendations on the development of international norms. All Member States should recognize the importance of this principle for all. His country recognized that the protection of geographical indications was a subject matter of importance to a wide group of WIPO Member States and that the proposed revision of the Lisbon System would provide a mechanism for traders to protect their geographical indications in their export markets. However, it would also include substantive obligations for that protection. Decisions made by this Diplomatic Conference could affect fundamental intellectual property principles, right holders, agriculture producers and industrial producers on an international scale. However, if the Rules of Procedure were agreed as they stood, the 28 members of the Lisbon Union convening this Diplomatic Conference would alone seek to create a new international system for the protection of geographical indications. As this would affect all, whether members of the Lisbon Union or not, it was beyond question that in such circumstances all WIPO members had a legitimate right to an equal say at this Diplomatic Conference. His Delegation had spoken directly with many Lisbon Union members since these Draft Rules of Procedure were agreed in October 2014 and was now co-sponsoring the request to amend them at this Diplomatic Conference. His Delegation understood that existing Lisbon Union members had a genuine interest in the development of the Lisbon System and feared that opening up the Diplomatic Conference to the wider membership might undermine this interest. Nevertheless, his Delegation was disappointed that its interest in these negotiations was not similarly respected. His Delegation had worked constructively with the Lisbon Union to date and wished to continue to make a good faith contribution with confidence that its interests would be reflected in any outcome. This had been an open and inclusive process. However, without full and equal participation of all Member States of WIPO at this Diplomatic Conference, its outcome risked being viewed as less than legitimate. Lisbon Union members could not claim to represent his Delegation's interests. As regards the view that the Lisbon Union was entitled under international law to keep this Diplomatic Conference closed to equal participation, he said that his Delegation did not wish to get into a debate about the intricacies of international law. Irrespective of the legitimacy of any decision to keep this Diplomatic Conference closed, just because it could be kept closed did not mean that it should be kept closed. Lisbon members had a choice and could exercise that choice in favor of an inclusive multilateral outcome. International law did not prevent them from doing so. He therefore strongly urged Lisbon Union members to reconsider their approach. WIPO had been historically inclusive and the consensus-based approach to international norm-setting was well established. Legitimate, inclusive international norms required genuine and meaningful involvement of all interested parties. The participation of the Delegation of Australia to date had always been constructive and would continue to be so. But the case for equal participation was compelling and should not be set aside lightly by a small group of Member States in multilateral rule setting institutions such as WIPO.

10. Mr. FRIED (Canada) said that his Delegation shared the concern expressed over the fact that Observer Delegations were not being granted voting rights over the text. Secondly, the proposed amendments to the Rules of Procedure would facilitate the discussion. Finally, the proposed amendments to the Lisbon Agreement, which reflected the interests of a small subgroup of WIPO members, could have a significant impact on non-parties. For example, there were potential impacts on the international trademark system and also on the work of other WIPO bodies, such as the Standing Committee on Trademarks, Industrial Designs and Geographical Indications and the work of bodies beyond WIPO, such as the WTO TRIPS Council, which was in the midst of considering a global geographical indication register. The Rules of Procedure did not allow for full participation by the members of all these other bodies. This conundrum resulted from the fact that important internationally legally required procedural steps had not been followed when developing the Rules of Procedure for the Diplomatic Conference. The WIPO Convention itself required the Coordination Committee,

prior to deciding to convene a diplomatic conference, to provide advice or views and the Lisbon Agreement itself provided that the Lisbon Union members should have made its decision after having heard the advice of the Coordination Committee on matters which were of interest also to other unions. The impact of the potential revision of the Lisbon Agreement created and had triggered a great deal of interest to members of other unions and, despite this fact, the procedure had not been followed. He recalled that the original premise of the Lisbon Working Group had been to pursue administrative and procedural improvements. However, the decision of the Lisbon members alone had now changed the nature of the consideration by seeking to create new rights for geographical indications through the proposed register. WIPO was founded on principles of inclusiveness and of equality of Members, which remained necessary in the spirit of good governance of the organization and the development of sound and balanced rules on the protection of intellectual property rights. Diplomatic conferences had long been recognized as a very important means of ensuring that these principles of inclusiveness and equality were put into practice and as a means to ensure that the diverse interests of various WIPO members were taken into account. As had already been pointed out, there was no legal or procedural requirement for this Diplomatic Conference to be closed. It seemed to be a deliberate and troubling choice of the Lisbon members to depart from consistent past practice. All Delegations, as WTO members, shared an interest in advancing rules on different aspects of intellectual property rights. WIPO was the most suitable forum for developing such rules. It was natural that some members might be more interested in advancing certain intellectual property rules than others. Although interested members should be able to explore rules among the entire WIPO membership that might not require participation of the whole membership at the end of the day, adopting rules that affected non-parties over their objections and without their consent, without the advice of the Coordination Committee, might undermine the legitimacy of the outcome. He expressed the concern of his Delegation that this was setting a negative precedent for future WIPO negotiations. If it became common practice for certain parties to negotiate rules among themselves without consideration of their effect on non-parties, on other bodies and on other institutions, this would lead members to question whether WIPO was a legitimate venue in which to develop such rules. For all these reasons, the Delegation of Canada was co-sponsoring the proposed amendment of the Rules of Procedure and urged Lisbon members to amend the rules in accordance with that proposal, so as to allow full participation by all WIPO members.

11. Ms. LESLIE (New Zealand) confirmed her Delegation's support for the joint statement presented by the Delegation of Argentina, requesting that the present Diplomatic Conference be open to all WIPO members. Inclusiveness was a principle that New Zealand, as a small country, held dear and also regarded as a fundamental pillar of WIPO in its normative work. Indeed, as others had mentioned, it had been over 20 years since a non-open diplomatic conference had been held under the WIPO umbrella. Her Delegation was, therefore, gravely concerned about the negative effects on the future good governance of the Organization, should the present Diplomatic Conference go ahead without the full participation of all WIPO members, in particular given the concerns raised by others regarding the process that had been followed to date. The proposed amendments to the Lisbon Agreement intended to expand the scope of the existing Agreement so as to establish new international norms regarding geographical indications and would amount to more than just technical amendments, as they would fundamentally change the nature of the Agreement and *de facto* amount to the creation of a new treaty. In this regard, all WIPO members had an interest in the setting of intellectual property norms, not only the members of the Lisbon Union. Therefore, the Delegation of New Zealand strongly believed that all WIPO members should have the opportunity to participate in the shaping of those norms and ensure that these norms would be consistent with international law. As one of the stated objectives of the amendment process was to facilitate an expanded membership of the Lisbon Agreement, the Delegation of New Zealand also saw it as being in the interest of the Lisbon members

themselves to enable maximum participation in the shaping of the Agreement. Thus, the process could result in the diverse system that Lisbon members said they were seeking to establish in order to encourage others to join the Agreement. For these reasons, the Delegation of New Zealand supported the joint proposal to amend the Draft Rules of Procedure of the present Diplomatic Conference, so as to allow full participation in the Conference by Observer Delegations. Adoption of the proposed amendment would ensure that the present Diplomatic Conference would be fully inclusive and enable all interested WIPO members to actively and fully engage in the shaping of any future geographical indication protection system.

12. Mr. OTABE (Japan) said that his Delegation associated itself with the joint statement delivered by the Delegation of Argentina and echoed the concerns voiced by other Delegations. The Delegation of Japan had joined the co-sponsorship of the alternative proposal to the Draft Rules of Procedure, i.e., to seek an open diplomatic conference, because of Japan's systemic interests in WIPO. As the issues under discussion might have a major impact on all WIPO members, they should be discussed by all WIPO members in an inclusive and transparent manner. The Delegation of Japan was of the view that the expansion of the protected subject matter to geographical indications would have a considerable impact on WIPO members in various respects, in particular as the proposed New Act would affect WIPO members' business practices based on other intellectual property systems, such as trademarks. As regards the aspect of the financial sustainability of the system, he pointed out that the Lisbon System relied on the overall WIPO budget, including revenues from the Madrid System. This meant that the proposed significant change of the system would have an impact on the regular budget of WIPO, as the costs required for the operation of the Lisbon System would increase due to a significant number of new applications for the international registration of geographical indications. Consequently, the Delegation of Japan sincerely hoped that the Lisbon members would choose the option of having an open diplomatic conference which would allow full substantive participation by all WIPO members.

13. Mr. KUMAR (India) associated his Delegation with the group of countries in favor of an equal, open and inclusive participation of Observer States during the Diplomatic Conference, with an equal opportunity to contribute meaningfully during the two week long deliberations. The fact that the Lisbon Diplomatic Conference proceedings would also encompass geographical indications would materially change the scope and content of the New Act to be arrived at. As the Delegation of India had also articulated during the preparatory meeting in October 2014, this went beyond a mere updating and amending of the existing provisions of the Lisbon Agreement. He expressed the hope that the proposed amendment to the draft Rules of Procedure would be accepted, so that the principles of inclusiveness and equality would be upheld.

14. Mr. Héctor CASANUEVA (Chile) stated that the Delegation of Chile echoed and fully shared the comments made by the delegations of the United States, Argentina, Singapore, Australia, Canada and New Zealand. He declared that, from the very beginning of the revision process, his country had participated actively, preparing text proposals that made it possible to fulfill the mandate of the Working Group, namely to reach an agreement attractive enough to bring in new members. The proposals had been analyzed and discussed during the working sessions that preceded the Conference, attended by members and non-members of the Lisbon Agreement. He indicated that by failing to consider the proposal of a very significant group of WIPO members during the Preparatory Conference, the rules of procedure currently proposed threatened the outcomes of the hard work done by this group of members with professionalism and good faith. He stated that there were certain specific topics proposed by Chile that his delegation would like to see reflected in the outcomes of the Diplomatic Conference but which he did not think was likely to happen, considering the

proposals made by members of the Lisbon Agreement. He stressed that the foregoing demonstrated the crucial importance of maintaining WIPO's institutional tradition of participating on equal terms in this diplomatic conference; that is with the same constructive spirit that his country had demonstrated during the sessions of the Lisbon Working Group. Consequently, the Delegation of Chile fully supported the approach presented by the Delegation of Argentina on its behalf name and on behalf of the rest of the countries and designated members.

15. Mr. EOM (Republic of Korea) thanked the Director General of WIPO and the Secretariat of WIPO for the preparation of the Diplomatic Conference. He recalled that the Republic of Korea was one of the co-sponsors of the proposal requesting that the Diplomatic Conference be open to all WIPO Member States with equal participation. He echoed the statement made by the Delegation of Argentina on behalf of a group of WIPO Member States. A diplomatic conference was the main gate for establishing international law. Therefore, providing inclusiveness and achieving consensus were very important factors to ensure the legitimacy of the result. He underlined that a diplomatic conference was not a place like a court where laws were applied, but rather a space like a Parliament where international law was discussed and concluded on the basis of political negotiations. From this perspective, achieving compromise with the relevant parties was much more important than just following the letter of certain provisions concerning the revision of a treaty. Referring to the Basic Proposal, in particular the provisions stipulating that the New Act would enter into force after five accessions or ratifications and that any State party to the Paris Convention was eligible to become a Contracting Party of this New Act, his Delegation considered it questionable that countries which were members of the Paris Convention, such as the Republic of Korea, would not be able to participate in the discussion and decision-making on this proposed New Act with equal rights. He underlined that geographical indications constituted a much broader concept than appellations of origin and that the proposed New Act would introduce a definition, and stipulate protection, in respect of geographical indications. Countries such as the Republic of Korea had their own legal systems to protect geographical indications. His Delegation wondered how it could be said that the proposed New Act would be just a revision of the Lisbon Agreement and for what reason countries, such as the Republic of Korea, were excluded from a discussion and decision-making process at a diplomatic conference that would establish international law in respect of intellectual property rights protected in their own territories. The Delegation of the Republic of Korea was of the view that, as an indispensable condition, all WIPO Member States should equally participate in the discussion and decision-making process and that the Draft Rules of Procedure should be modified to that effect. If the Draft Rules of Procedure had been the same as those of the past 25 years, no debate on this question would have been needed. It was not acceptable that only the Lisbon Union members would have full participation rights. Moreover, limited participation rights would undermine the legitimacy of the end result. He concluded by expressing the hope that, with equal participation and decision-making by all WIPO Member States, the Diplomatic Conference would be able to arrive at a mutually agreeable solution on this matter.

16. Mr. FASEL (Switzerland) recalled that Switzerland was not party to the Lisbon Agreement. Switzerland was interested in joining the system as soon as the mandate of its revision was satisfactorily fulfilled. Accordingly, his delegation had participated actively, as an observer State, in the meetings of the Working Group during which it had noted, with satisfaction, that the positions and proposals of observer States had been taken into account by Member States in a transparent and inclusive spirit. Member States had shown their openness to consider seriously the constraints and wishes of States likely to join the system in a bid to make it more attractive for a larger number of countries. His delegation recognized the legitimacy of the current contracting parties to the Lisbon Agreement to adopt the revised Act of the agreement. Consequently, his delegation, as an observer State,

supported the adoption of the draft rules of procedure, as submitted by the Preparatory Committee. Appellations of origin, explicitly covered by the current Lisbon Agreement, constitute a specific category of geographical indications. Consequently, geographical indications were *in fact* covered by the Lisbon Agreement. He felt that by formally introducing geographical indications into the Lisbon Agreement, the revision of the agreement through adoption of a new Act seeks to recognize the very pleasing development of indications through the world. According to his delegation, this was not a new issue on which the conference should negotiate a new agreement. Rather, it was an update of the existing agreement. He recalled that in-depth discussions had taken place at meetings of the Working Group attended by observer States in order to determine if the goal was to revise the existing agreement or, more broadly, to prepare a new agreement. It noted that several times during the process, the Working Group had spoken in favor of revising the current agreement with no Member State or observer State challenging that position. He added that every international agreement provided for different terms governing revision. The cited diplomatic conference examples supported the adoption of the rules of procedure of this conference, as proposed by the Preparatory Committee, so long as these conferences were organized according to the applicable provisions of the treaties to be reviewed, pertaining to the participation of contracting parties and observer States. His delegation was pleased to join the substantive discussions in the same spirit of transparency in order to modernize the Lisbon system which may be joined by many new members.

17. Mr. SCHENKEL (Brazil) stated that this was only the first topic of discussion in a long agenda, but its importance could not be overstated. Above all, the choice of the Rules of Procedure that would guide the work was essential for the success of the main objective set for the proposed revision, which was, according to its proponents, to make the Lisbon Agreement more attractive to non-members. However, this discussion was also important for systemic reasons. The decision whether all WIPO members would or would not be allowed to fully participate in the negotiations would determine the nature of the process. He indicated that Brazil had voiced its preference for an inclusive process on many occasions and wished to reiterate it. For the last quarter of a century, all diplomatic conferences in WIPO had followed this principle. His Delegation believed that this positive cycle should not be broken at the present Diplomatic Conference. Discussions that were undertaken in a plurilateral format might seem to fit the interest of small groups in the short term, but the decisions taken in such fora did not, at the end of the day, have the capacity of generating the benefits of open processes. Therefore, the principle of inclusiveness should apply to this Diplomatic Conference. Moreover, all Delegations were bound by the Recommendations of the Development Agenda and Recommendation 15 explicitly stated that norm-setting activities should, *inter alia*, be inclusive and member-driven. This made all the more clear that, in a WIPO diplomatic conference, all WIPO members should participate on an equal footing. For all these compelling arguments, the Delegation of Brazil urged the Lisbon Union members to consider the long term benefits of an inclusive diplomatic conference and amend the Draft Rules of Procedure accordingly.

18. Mr. FITSCHEN (Germany) said that the Delegation of Germany would be happy to work under the Rules of Procedure as proposed by the Preparatory Committee and that it did not see a strict need for amending them. He recalled that, like Switzerland, Germany was not a member of the Lisbon Union. However, Germany would be interested in joining the Lisbon Union once the Lisbon Agreement would have been revised, as proposed. On the issue of whether the Lisbon Union members should or should not have invited the wider WIPO membership to participate fully in the present Diplomatic Conference, he pointed out that the Delegations of Canada and Australia had rightly pointed out that it was up to the members of any Union to decide who to invite to a conference the purpose of which would be to replace the treaty establishing their Union by a new treaty or to make changes and amendments to the existing treaty. It was also true, as the Delegation of the United States of

America had pointed out at length, that the Singapore Treaty and the Geneva Act of the Hague Agreement had been adopted at a Diplomatic Conference to which all WIPO members had been invited to participate on an equal footing. Nonetheless, there was no strict legal rule for the unions to do either this or that. This was a reality that had also been acknowledged by many speakers in the room. He went on to say that he fully understood the approach taken by the Lisbon Union members in the Preparatory Committee for the Diplomatic Conference, namely that the purpose of the present Diplomatic Conference would be to revise the current Lisbon System and not to invent a new one. In that regard, he pointed out that the Lisbon Union had a very small membership compared to the full membership of WIPO and that, if all WIPO members would have voting rights, they would have a guaranteed majority to adopt just any change to the proposed New Act. In that sense, the Delegation of Germany fully understood the approach taken by the Lisbon Union members. Lastly, he said that the Delegation of Germany was confident that the Diplomatic Conference would be able to carry out its business under the proposed Draft Rules of Procedure, all the more since every country would have ample opportunity and speaking-time to make its views and positions heard.

19. Mr. GURRY (Director General of WIPO) recalled that the Delegation of Argentina, speaking on behalf of a number of Delegations, had made a request for an opinion from the Legal Counsel and therefore asked confirmation from the Delegation of Argentina as to whether it wanted to receive such clarification at the present time and whether the question raised was whether international law required the Member States of the Lisbon Union to have Rules of Procedure in the form in which Lisbon Union members only may vote on decisions or whether they could choose to include other Delegations.

20. Mr. D'ALOTTO (Argentina) said that the Delegation of Argentina wished to receive a response at the present point in time and clarified that it sought clarification from the Legal Counsel as to whether the Lisbon Union members were required by either the Lisbon Agreement or the Vienna Convention on the Law of Treaties to hold a closed diplomatic conference or also had the option to choose a path of equal participation by all WIPO members.

21. Mr. KWAKWA (WIPO) said that Articles 39 and 40 of the Vienna Convention on the Law of Treaties stated that a treaty could be amended by agreement between the parties and that each of those parties had a right to take part in the negotiation and conclusion, or indeed in any decision taken in respect of that treaty and that Article 13 of the Lisbon Agreement stated that the Agreement may be revised by conferences held between the Delegates of the countries of the Special Union, namely the 28 members of the Lisbon Union. He confirmed that international law did not impose any express obligation on the Lisbon members one way or the other, leaving it to them to decide what format to use in terms of determining participation rights in the present Diplomatic Conference.

22. Mr. GURRY (Director General of WIPO) referred to Rule 34(1) of the Draft Rules of Procedure, which stated that "All decisions of all bodies shall be made as far as possible by consensus". Upon hearing all Delegations that had taken the floor, he noted that there was no consensus in the room concerning the amendment that had been proposed by the Delegation of the United States of America on behalf of a number of other Observer Delegations. In consequence, he turned to Rule 34(2), which stated that "if it is not possible to attain consensus, the following decisions shall require a majority of two-thirds of the Member Delegations present and voting". Hence, in the absence of consensus, a vote by the Member Delegations was required. As far as the voting was concerned, he referred to Rule 35(2) of the Draft Rules of Procedure, which stated that "Voting on any question shall be by a show of hands unless a Member Delegation, seconded by at least one other Member Delegation, requests a roll-call, in which case it shall be by roll-call". Since no specific

request had been made, he requested Member Delegations to indicate by a show of hands whether they accepted the amendment to the Draft Rules of Procedure that had been proposed by the Delegation of the United States of America on behalf of a number of Delegations. Noting that only one Member Delegation expressed its support for the proposal, he concluded that the proposed amendment was not accepted.

23. Mr. MANOR (Israel) said that the Delegation of Israel, as a Lisbon Union member, wished to emphasize the importance that Israel attached to the present Diplomatic Conference, as attested to by the size of the Delegation, which comprised representatives of relevant Ministries and government agencies. The Delegation looked forward to beginning the discussion on the substantive issues concerning the Basic Proposal. However, before entering into the substance, the Delegation felt that there was still a need to discuss the procedural aspects of the present Diplomatic Conference. As a State which had unfortunately experienced exclusion from various United Nations bodies and other international fora, Israel deeply believed in inclusiveness and in equality of participation in such fora. Furthermore, his Delegation was of the view that the currently contemplated language of the revision would have far-reaching implications extending beyond the current scope of appellations of origin. In view of the breadth of those implications, which concerned both geographical indications and appellations of origin, but also trademark rights, the Delegation considered it imperative to conduct a full and broad discussion encompassing as many WIPO Member States as possible in the present proceedings. In that regard, equal weight should be given to the positions expressed by non-voting WIPO members. Only such discussions would bring about an effective normative framework that would actually be utilized by a larger number of Member States rather than remaining limited to the current Member States of the Lisbon Agreement. Moreover, for the past 25 years, WIPO diplomatic conferences had always been open to all WIPO members. Holding a closed diplomatic conference on this occasion would be a reversal of accepted traditional practices in the Organization and could seriously affect the future of its governance. Therefore, he reiterated his Delegation's wish to have a diplomatic conference that would be open and inclusive to all WIPO members, including as regards voting rights. The Delegation of Israel supported the proposed amendment of the Draft Rules of Procedure, as submitted by non-Lisbon WIPO members, and was opposed to the adoption of the Draft Rules of Procedure as proposed by the Preparatory Committee.

24. Mr. GURRY (Director General of WIPO) said that, in the absence of consensus regarding the adoption of the Draft Rules of Procedure, adoption of the Draft Rules of Procedure had to be voted on, in accordance with Rule 34(2) of the Draft Rules of Procedure. He noted that 26 Member Delegations were in favor of the adoption of the Draft Rules of Procedure as contained in document LI/DC/2 Prov. He also noted that one Member Delegation had expressed itself against such adoption and that another Member Delegation abstained from the vote. He therefore declared the Draft Rules of Procedure as set out in document LI/DC/2 Prov. adopted.

25. Ms. HAMAMOTO (United States of America) expressed the deep disappointment of the Delegation of the United States of America in view of the fact that, even after hearing such strong statements from so many concerned WIPO members who had requested an open diplomatic conference, the Lisbon members had nonetheless proceeded to choose a path of non-inclusiveness, thus effectively marginalizing 160 WIPO members.

### Election of the President of the Conference

26. Mr. GURRY (Director General of WIPO) asked for proposals in respect of item 3 of the draft Agenda, regarding the election of the President of the Conference.

27. Mr. SCHMIDLIN (Italy) proposed as President of the Conference the Ambassador of Peru, Mr. Luis Enrique Chávez Basagoitia.

28. As there were no other requests for the floor, Mr. GURRY (Director General of WIPO) noted that the proposal from the Delegation of Italy met overwhelming support. As a result, he announced that Ambassador Luis Enrique Chávez Basagoitia had been elected as Chair of the Diplomatic Conference.

29. The President thanked Member Countries of the Lisbon Agreement for their trust and generosity in appointing him to lead the discussions of the Diplomatic Conference. The Diplomatic Conference had the huge responsibility of finding common ground that would allow the inclusion of some amendments into the Lisbon Agreement to update its scope and above all to make the Lisbon system attractive enough to bring in new members. He called on delegates to make an effort to understand that procedural matters were over and they now had to focus on the subject matter of the conference, namely: how to reach an agreement that would transform the Lisbon Agreement into the most attractive Treaty possible and encourage many countries that still have not done so to consider joining it. He assured the delegates that under his chairmanship they would have the broadest discussion possible and that all proposals would be heard, clarifying that he understood consensus to mean the consensus of all participants in the discussions. He believed that participants had a collective and important responsibility and as President, he was aware that in many respects the various positions remained distant. However, under no circumstances would any position be interpreted as consensual if it did not meet with the acceptance, or at least the non-formal opposition of any of the participants in the negotiation, regardless of whether they are members or observers of the Agreement. He also urged the participants to work in the same spirit of inclusion that he would strive to maintain in the days ahead. After stating the above, the President moved to the next item on the agenda, namely adoption of the Agenda.

### Consideration and Adoption of the Agenda

30. The PRESIDENT opened the discussion on item 4 of the draft Agenda, regarding the consideration and adoption of the Agenda.

31. The Agenda of the Diplomatic Conference was adopted as proposed in document LI/DC/1 Prov. 2.

### Election of the Vice-Presidents of the Conference

#### Election of the Members of the Credentials Committee

#### Election of the Members of the Drafting Committee

#### Election of the Officers of the Credentials Committee, the Main Committees and the Drafting Committee

32. The PRESIDENT turned to items 5 to 8 of the Agenda concerning the election of the Officers of the Diplomatic Conference.

33. Mr. KWAKWA (WIPO) said that informal consultations were still being undertaken in respect of the Officers to be elected under Agenda Items 5 to 8. Therefore, he proposed to continue with Agenda Items 9 and 10 and to revert to Agenda Items 5 to 8 at a later point in time.

34. The President took note of the information provided by the Legal Counsel and indicated that he would accordingly postpone the decision on Agenda items relating to the election of the officers. He pointed out that this issue will be considered later.

#### Admission of Observers

35. The President moved on to the next agenda item relating to the admission of observers. He stated that there was a proposal in Document LI/DC/8 prepared by the Secretariat, and that it related to an application for admission as observer from the Indigenous Peoples' Center for Documentation, Research and Information (DOCIP), submitted to the Conference for consideration.

36. In the absence of any objection to the admission of DOCIP, he concluded that the Center was permitted to attend the Diplomatic Conference as an observer.

#### Opening Declarations by Delegations and by Representatives of Observers

37. Practically all Delegations and representatives of Observers which took the floor expressed their congratulations to Mr. Louis Enrique Chávez Basagoitia on his unanimous election as President of the Conference. In addition, they congratulated the Director General and the International Bureau for the preparation of the documents and services.

38. Mr. Jorge LOMONACO (Mexico) stated that Mexico welcomed the adoption of the Rules of Procedure of the Diplomatic Conference pertaining to respect of the international rights and obligations of members of the Lisbon Union pursuant to article 13 of the current Lisbon Agreement and articles 39 and 40 of the Vienna Convention on the Law of Treaties. Furthermore, he indicated that the Delegation of Mexico wished to recall the positive and constructive spirit that had characterized the work of the delegates from the very beginning of the Lisbon Agreement revision process and that the delegation had made a commitment to participate in this Diplomatic Conference in the same spirit with which it participated in each of the meetings of the Working Group on the Revision of the Lisbon Agreement and the Preparatory Committee of the Diplomatic Conference. Lastly, he trusted that the positive participation of all delegations at the Diplomatic Conference would lead them to successfully conclude a new Act of the Lisbon Agreement.

39. Mr. KLING (Israel) recalled that Israel was a member of the Lisbon Agreement following its signature in 1958, ratification in 1963 and enforcement in 1966. Accordingly, a law for the protection of appellations of origin and geographical indications had been put into place in 1965. Since then, Israel had accepted for registration 838 appellations of origin, whereas 67 applications, lately filed, were still pending. He reminded that Israel had applied for one appellation of origin, in 1969, namely "JAFFA" for Jaffa oranges, late oranges, Marsh seedless grapefruits and sour lemons. Israel had registered the majority of appellations of origin applied for and transmitted to it by the International Bureau with no reservations, thus enacting the mode of equal treatment to which all the members of the Paris Union were committed. He underlined that his Delegation looked forward to maintaining this principle in the Diplomatic Conference.

40. Referring to the pending issues concerning the Basic Proposal, he said that the position of the Delegation of Israel was that the arrangements to be agreed upon should correspond to the mechanisms already enacted and in place in the field of trademarks under the Madrid Protocol. In this regard, he referred, in particular, to the provisions in respect of intergovernmental organizations. As regards substantive provisions, he underlined that, where an element was generic in the country of origin, nothing justified its protection in other countries. It was, therefore, important that, in case an appellation of origin contained an element that was considered generic in the country of origin, the international application specify the generic character of such element. Other elements that were not entitled to protection should also be clearly indicated in the application. On the other hand, if an appellation of origin was protected in the country of origin, it should be protected against becoming generic, at least as long as the national requirements regarding use, maintenance and renewal fees were met in the Contracting Party. On the issue of trans-border geographical indications, his Delegation proposed an amendment of Article 2(2) along the lines described in Explanatory Note 5.04, so as to make it absolutely clear in the text of the New Act that applications for a geographical indication or an appellation of origin in respect goods from a trans-border area could be filed by the Contracting Parties jointly, for the whole geographical area, or, in case they could not agree on filing jointly, individually, for that part of the area situated in their own territory. With regard to the entitlement to file an application under Article 5(2), he signaled that there was a difficulty in terms of ascertaining the right of the applicant to file an application as well as the legal entity having legal standing to assert the rights of the beneficiaries. In this regard, he invited Delegations to consider that each Contracting Party could require supporting evidence to substantiate such legal standing. Finally, he said that his Delegation was of the view that the Lisbon System should be self-sustaining. Therefore, his Delegation supported the introduction of maintenance fees under the Lisbon System. Just like in other international intellectual property filing systems, the proprietors and applicants should be the contributors and not the members of the Lisbon Union.

41. Ms. POLO (Togo) said that it is an honor for Togo to attend the diplomatic conference. She recalled that the discussions on the revision of the Lisbon Agreement on appellations of origin began almost seven years ago. Her delegation welcomed the holding of this important conference. She pointed out that Togo, as a member of the Lisbon Union, was fully aware of the challenges of this diplomatic conference and hoped that the discussions would lead to a revision of this international instrument whose extension to geographical indications would attract new members and thus strengthen and sustain the system. This was in the interest of thousands of local producers in developing countries.

42. She indicated that her delegation took note of the pending issues transmitted by the Preparatory Committee to the diplomatic conference. Her delegation hoped that the discussions would help to resolve these issues by considering the interests of all in a spirit of conciliation and openness. Regarding the substance of the draft Treaty, the Delegation of Togo, as a developing country, wished to point out, first of all that it attached importance to the issue of fees. They must not be heavy on applicants. While hoping that results will be achieved, she wished that the proceedings of the diplomatic conference would be crowned with success.

43. Mr. OKIO (Congo), speaking on behalf of the Minister of State, Minister of Industrial Development, Mr. Isidore Mvouba, who could not attend the meeting for scheduling reasons, and on behalf of the Delegation of the Congo, recalled that the Lisbon Agreement, which was 57 years old, had been signed as a response to the need to establish an international system that facilitated the protection of a specific category of geographical indications called appellations of origin in countries other than the country of origin through of their registration with the International Bureau of WIPO which kept the register of appellations of origin. To

date, this Agreement had had only a small number of States due to the limitation of its scope to appellations of origin and because it did not provide for membership for intergovernmental organizations. He stated that an in-depth discussion would be held on these two points during the proceedings and hoped that the outcomes of the conference which would be achieved through an inclusive approach would strengthen and give a new dynamic to this legal instrument. Revision of this instrument entailed taking geographical indications into account and no longer considering only appellations of origin and enabling intergovernmental organizations having registration offices, such as the African Intellectual Property Organization (OAPI), to join. He specified that the intellectual property system of OAPI, to which Congo is party and which arose from the Bangui Agreement, was based on a common office, centralized procedures, issued documents that are valid in each of the Member States and a system consistent with international conventions. His delegation considered that the admission of such organizations into the revised Lisbon system would yield several benefits to countries like Congo. Although it had been party to the Lisbon Agreement since November 16, 1977, Congo could not notify a refusal of international registration for an appellation of origin referring to the country because only OAPI, which plays the role of intellectual property office for each of the Member States and holds the registers of geographical indications and appellations of origin could do so. Accordingly, the new Act of the Lisbon Agreement would make a substantial improvement and modernize the current legal framework by facilitating the accession of intergovernmental organizations like OAPI. He pointed out that the challenges of globalization implied a need to protect geographical indications or appellations of origin against all forms of misappropriation because products covered by geographical indication or appellation of origin represented a significant share of exports from OAPI Member States. Congo could therefore take advantage of the new Lisbon Agreement to protect and lend additional value to its handicraft and agricultural products whose reputation is based on their geographical indication. According to his delegation, the new Agreement would also enhance the value of local products and contribute to the improvement of living conditions for rural communities, create jobs and stem rural exodus. He stated that with regard to all these advantages, he had been requested by his Government to seek the necessary consensus with each participant that would lead to the adoption of the new Lisbon Agreement, essentially to encourage and enhance traditional national products, improve the quality of a number of products, promote and defend collective interests, strengthen partnerships in the production, promotion and marketing of products with higher value-added, and boost the marketing of products stamped with a geographical indication. He concluded with the wish that the conference deliberations be crowned with success.

44. Ms. WHYTE GOMEZ (Republic of Costa Rica) stressed the fact that recognition and protection of geographical indications and appellations of origin were important to the Republic of Costa Rica as instruments of social and economic development which enabled some of the poorest segments of the population to improve their living conditions. Consequently, Costa Rican authorities had, in recent years, coordinated efforts to develop, promote and strengthen an efficient system for the protection and recognition of geographical indications and appellations of origin. She added that the Republic of Costa Rica had always fully honored its international commitments and had adjusted its national legislation to ensure full consistency with the requirements of the Lisbon Agreement and the Agreement on Trade-Related Aspects of Intellectual Property Rights. Hence, the international system for the protection of appellations of origin, which henceforth included geographical indications, was a sensitive issue of major importance for his Delegation because it provided producers with better tools for effectively differentiating themselves in foreign markets and facilitated their inclusion without any need for heavy expenditure to get protection. This boosted their competitiveness. Accordingly, she clarified that while the Delegation of the Republic of Costa Rica recognized the need for the Lisbon System to be self-sufficient from the economic standpoint, it was also advocating that any revision and adjustments on the said

theme should not, in any way, lead to the adoption of measures or agreements that transform it into an exclusive or inaccessible mechanism. She also extended thanks to WIPO and to all the delegations that had participated actively in the 10 meetings held from March 2009 by the Working Group on the Development of the Lisbon System and which had yielded results, such that today there was a text based on a high degree of consensus and which served as the basis for the holding of the current diplomatic conference. She recalled that from the beginning, the Delegation of the Republic of Costa Rica had participated actively in the process of revising and improving the Lisbon System to enhance its attractiveness and ensure its growth, to open new doors and opportunities for local producers. Accordingly, she assured the delegates that the Republic of Costa Rica was attending the Diplomatic Conference with the intention of collaborating in the drafting of a final text that will make it possible to improve the current system. She cordially invited all countries represented by their distinguished delegations to maintain constructive dialogue on outstanding issues that still needed to be addressed during the Diplomatic Conference but without failing to comply with the principles contained in the Lisbon Agreement and ensuring that the new Act was adjusted and compatible with the commitments made by participating countries under the Agreement on Trade-Related Aspects of Intellectual Property Rights. Lastly, cognizant of the supreme importance of intellectual property and of the protection and international recognition of geographical indications and appellations of origin in the present case, she wished the President of the Conference full success in the conduct of the discussions, which would undoubtedly benefit all the countries represented.

45. Ms. TRINDADE (Portugal) said that her Delegation was of the view that the Basic Proposal recommended by the Working Group to this Diplomatic Conference provided an excellent basis for discussions. Her country had a long-standing tradition in terms of protecting appellations of origin and geographical indications and her Delegation was convinced that the conclusion and/or revision of international legal instruments in this field would allow producers to better reap the benefits linked to the high quality and prestige of many of their products. The importance of appellations of origin and geographical indications went well beyond their commercial value. They constituted also important instruments for the promotion of important social economic goals, such as rural development, tourism, environmental sustainability, consumer protection and the safeguarding of historical and cultural heritage. It was therefore with great satisfaction that her Delegation had witnessed the progress in the negotiations which were now almost finalized. She expressed the hope that these negotiations would continue in the same constructive and responsible spirit and ensured her Delegation's respect for all proposals that would be made, whether coming from Member Delegations or from Observer Delegations, if they contributed to achieving the two underlying objectives of the revision process – making the Lisbon System more attractive for users and prospective new members while, at the same time, preserving the principles and objectives of the current Lisbon Agreement, in particular the *sui generis* level of protection for appellations of origin and, in the future, geographical indications. Her Delegation was also committed to ensuring that, where possible and in line with the objectives set out for the revision process, the Lisbon Agreement would include a fair degree of flexibility to accommodate the countries that did not have a *sui generis* protection system for appellations of origin or geographical indications. It was in this spirit that her Delegation intended to participate in the work. The only way to overcome divergences and conclude a revised Lisbon Agreement would be by introducing improvements to the current Lisbon System while, at the same time, making it more flexible and adjusted to the needs of users.

46. Mr. KRATOCHVÍL (Czech Republic) recalled that the protection of appellations of origin and geographical indications had a long tradition in the Czech Republic. While his country had always considered the Lisbon Agreement to be a highly effective and well-functioning instrument of international cooperation, his Delegation recognized the need to modernize and adapt the Lisbon Agreement, while maintaining its principles and objectives. His Delegation fully subscribed to the objectives that had determined the convening of the Diplomatic Conference and supported amendment of the Lisbon Agreement in order to attract new countries and intergovernmental organizations. The Basic Proposal was an excellent basis for a successful outcome of the negotiations at the Diplomatic Conference.

47. Mr. SCHMIDLIN (Italy) said that this Diplomatic Conference marked the final stage of the revision process that had started in 2009 and had been open since its inception to all WIPO members. It had been a long journey, during which many members and observers of the Lisbon Union had actively engaged in finding solutions to improve and update the legal framework regulating the Lisbon System, to clarify its scope with a view to adapting it to the evolving international legislation on intellectual property and to increasing its membership, while preserving the objectives and principles of the 1958 Lisbon Agreement. The revision of the Lisbon Agreement had been an inclusive and transparent process, during which the constructive contribution of the observers had been welcomed by the members of the Lisbon Union, in a firm belief that inclusiveness of the process would encourage the contemplated enlargement of the Lisbon community. For its part, his Delegation would continue to have an open approach and was of the view that the New Act of the Lisbon Agreement should be fit for the needs and aspirations of prospective members of the Lisbon Union. The whole exercise was intended to empower and not to damage any State. The availability of a WIPO international registration and protection system for geographical indications and appellations of origin could foster public and private investments in relevant sectors with positive effects for the economy of the country involved in terms of sustainable development, increased competitiveness, export diversification and job creation, while preserving the production concerned within the country. Geographical indications and appellations of origin offered an opportunity to explore a unique feature of the producer territory, such as traditional knowledge or biodiversity, and to transform this feature into marketable products. His Delegation stood for a prosperous and effective Lisbon System, capable of facilitating WIPO members in the full use of geographical indications and appellations of origin as a means for the social economic development, and capable of meeting the aspirations of producers from all over the world and of any dimension – be they small farmers or SMEs – to reach new markets for their products and to receive the solid protection for their geographical indications and appellations of origin without undue burden and at a contained cost. His Delegation was of the view that the revision of the Lisbon Agreement would not impact on the co-existence of the two main existing approaches for the protection of appellations of origin and geographical indications. On the contrary, it would preserve such diversity by providing a global intellectual property system open to WIPO members protecting geographical indications as a separate intellectual property right and accessible to producers using such a *sui generis* title of protection. The Diplomatic Conference was called to build upon the progress already achieved and to resolve the outstanding issues in the same spirit of dialogue that had so far inspired the revision process. To that end, a further step needed to be made. Merely restating preferred solutions without attempting to come closer to the one desired by others would not be enough. Moving forward would require good faith, mutual trust and understanding of each other's position and willingness to bridge gaps. His Delegation would do its part.

48. Mr. PRICA (Bosnia and Herzegovina) recalled that Bosnia and Herzegovina had become a Member State of the Lisbon Agreement in July 2013. Since July 2008, an interim Stabilization Association Agreement had applied in Bosnia and Herzegovina, which had been fully adopted by the European Union the month before and would become effective on June 1, 2015. The Agreement with the European Union stipulated the approximation of the existing legislation of Bosnia and Herzegovina with the legislation of the European Union. In that context, Bosnia and Herzegovina had taken all necessary measures to guarantee that the protection of industrial and commercial property in Bosnia and Herzegovina would be similar to the protection of these rights in the European Union and its member states, including effective procedures for the implementation of such measures. Taking into account the recently renewed strong readiness of the European Union to integrate Bosnia and Herzegovina, to the greatest extent possible, into political and economic processes in Europe as well as the prospects to provide the status to Bosnia and Herzegovina of potential candidate for European Union membership, Bosnia and Herzegovina had endeavored to approximate its legislation in relevant sectors with the European Union legislation in the field of intellectual property. Efforts had been made to harmonize the level of implementation of these rights with the standards of the European Union *acquis communautaire*, so as to bring them in conformity with the requirements set out in the Agreement with the European Union. In 2010, a comprehensive reform of the legislation in the field of intellectual property had been carried out and resulted in the adoption of the relevant regulations. The legislation of Bosnia and Herzegovina provided protection in respect of both geographical indications and appellations of origin, based on the rules and principles of the European Union *acquis communautaire* and the Lisbon Agreement. In the last year, an analysis had been made of the fulfillment of obligations under said instruments relating to the national portfolio of industrial property and, more precisely, to the geographical indications and appellations of origin for agricultural, fishery and food products, wine, alcoholic beverages, aromatized wines and traditional products. The result of this analysis showed that the legislation of Bosnia and Herzegovina was in conformity with said instruments. Bearing in mind the current economic situation in Bosnia and Herzegovina caused by the war in the 90's and further prolonged by strong and harsh financial and economic crisis in the last decade, Bosnia and Herzegovina intended to open to small producers and farmers in local areas and communities any possible means to stabilize their production, to increase competitiveness and to reach new markets for their products without any burden and at market acceptable terms. This diversity of protection could be a further impetus to attract foreign investments in certain areas contributing to the sustainability of these areas of the country as a whole. This process required a lot of efforts and continued work. A plan had already been drafted. It would be finalized and its implementation would start as soon as possible after the end of the Diplomatic Conference so as to achieve the stated goals. Taking in to consideration that the New Act of the Lisbon Agreement also introduced rights in respect of geographical indications within the Lisbon System, he expressed the support of his Delegation for these final efforts in making the Lisbon System more attractive to the right holders of geographical indications and appellations of origin and to the current and potential members of the Lisbon Union.

49. Ms. HORVÁTH (Hungary) said that the convening of this Diplomatic Conference was the result of a long and thorough process which had been conducted in the Working Group established for that purpose. She expressed her pride in the fact that her Delegation had actively contributed to the activities of the Working Group and underlined that this contribution corresponded to the paramount importance that Hungary attached to the protection of geographical indications in general and to the revision of the Lisbon System in particular. She noted with satisfaction that, while legally speaking the revision process was taking place among the Contracting Countries of the Lisbon Agreement, the latter had so far been able to ensure strong and ever intensifying involvement of other Delegations, including WIPO Member States currently outside the Lisbon System as well as intergovernmental and

non-governmental organizations. Her Delegation was fully convinced that, during this Conference, the Lisbon Union members should follow the same inclusive approach and engage in substantive discussions within the widest circle possible. She underlined the importance of this approach, as the revision of the Lisbon Agreement was indeed of interest not only to its current membership but also to other WIPO Member States, whether developing or developed countries. In that regard, her Delegation wished to highlight the main objectives of the revision of the Lisbon Agreement, namely: 1) the establishment of a global registration system covering all possible categories of geographical indications representing a long overdue complement to WIPO's global intellectual property systems; 2) enabling the European Union and other competent intergovernmental organizations to join the Lisbon System as full members; and 3) the refinement and modernization of its legal framework, so as to make the Lisbon System more user-friendly and to allow its membership to increase significantly and reach a truly global coverage. When pursuing these goals, the Diplomatic Conference should also seek to preserve the principles and values of the current Lisbon Agreement, such as the flexibility already inherent in the Lisbon System as to the type of national legislation under which the protection of appellations of origin and geographical indications was ensured in Contracting Parties. This should be maintained while embracing *sui generis* protection regimes in the revised Lisbon System. Throughout the discussions, the Diplomatic Conference should try to always keep in mind the interests of those whom the entire revision should ultimately serve, so as to live up to the expectations of producers relying on geographical indication regimes in their continued attempts to increase their competitiveness, to diversify their exports and to create new jobs or save existing ones. The Diplomatic Conference should also ensure that geographical indication functions were reliable guarantees to consumers as to the quality and production methods of products. Geographical indications were by definition deeply rooted in local cultures. Therefore, when one dealt with a global framework for their protection, one inevitably tried to connect local with global. At this Diplomatic Conference, participants had to make every effort to achieve, by appropriate legal techniques and efficient international cooperation, that local values could enrich the global community and local producers could benefit from their globally valued products. Her Delegation was confident that, if the Diplomatic Conference did not lose sight of the fundamental objectives of the reform and the vital economic and social interests at stake, Delegations would be able to jointly ensure a successful outcome of the Diplomatic Conference and agree on a New Act of the Lisbon Agreement acceptable and beneficial to all.

50. Mr. NIEMTCHINOW (France) declared that it was an honor and a pleasure for him to address participants at the opening of the diplomatic conference of the Lisbon Union, which was the culmination of seven years of work in which his delegation had been fully invested. He wished to limit his observations to three main messages. His first message was to underscore the point that, regardless of what others might say, the recognition and protection of geographical indications would be a major step forward for the international community as a whole. For producers, especially in entire professional sectors, geographical indications created value and provided market access with a higher remuneration than that of the same product which bears no geographical indication. He stated that the relevance of production sectors went far beyond increased incomes, especially and above all, in developing countries. Such sectors were a great lever for promoting local development, combating rural exodus and preventing the erosion of traditional knowledge. Today, the globalization of trade directly benefitted products of geographical indication that are increasingly exported. However, such commercial development was also accompanied by an escalation of usurpation. For this reason, it is vital for whole segments of the global economy to combat these abuses, and revision of the Lisbon Agreement would efficiently address the issue. He declared that consumers worldwide were increasingly disoriented by repeated health crises and concerns about the geographic origin and composition of what they drink or eat. Geographical indications reassured them on the quality and origin of products. Finally, he

sought to reassure those who expressed concerns about trademarks. They would continue to exist because the revised Act will be complementary to other forms of intellectual property. There was therefore no reason to pit the two systems against each other or to accept that one had hegemony over the other. The new Act was an open instrument with the possibility for States parties to choose their means of protection, which may be a *sui generis* right or another mechanism such as collective marks.

51. He then moved on to his second message which focused on the future developments of the revised Lisbon Agreement and recalled that the objective of this review was to make the Agreement attractive for new members, while maintaining its current principles and objectives. Logically therefore, it had been considered that its protection be extended to geographical indications to provide them with significant and harmonized protection through a simple and rapid international procedure at reasonable cost. He welcomed the already positive signals from several observer States on their willingness to join the future revised agreement and the possibility for intergovernmental organizations, such as the European Union or OAPI to accede to this revised agreement.

52. He concluded with his third message about the priorities of his delegation in the negotiations. These related first of all to improvement of the protection of geographical indications against usurpation and misuse.- Balancing the protection of appellations of origin and geographical indications and with that of the earlier marks and earlier rights was the second priority for France. The third priority was to strictly determine the grounds for invalidation of the protection previously afforded by States parties. The fourth priority of his delegation was to allow full membership for intergovernmental organizations under the revised Act.

53. The President adjourned the session.

Second Meeting  
Monday, May 11, 2015  
Afternoon

Opening Declarations (continuation)

54. Ms. RODRIGUEZ CAMERO (Cuba) declared that her delegation would participate actively and constructively in the discussions that would take place on pending issues.

55. Ms. MUJIRI (Georgia) expressed her Delegation's gratitude to the Working Group on the Development of the Lisbon System for its constructive work over the years, which had resulted in significant progress. Her country attached great importance to the protection of appellations of origin as an efficient tool for promoting and raising the potential of Georgian wines and other products. In this context, her Delegation supported the adoption of a single instrument for the protection of geographical indications and appellations of origin that would allow the Lisbon System to gain wider membership and become more attractive for users and prospective new members. Finally, she expressed her Delegation's hope for fruitful deliberations that would lead to a successful outcome of the Diplomatic Conference and adoption of the New Act of the Lisbon Agreement.

56. Mr. ESFAHANI NEJAD (Iran (Islamic Republic of)) said that the Lisbon Agreement had been concluded to respond to the needs for an international system that would facilitate the protection of a special category of geographical indications, namely appellations of origin, in countries other than the country of origin, by means of their registration with the International Bureau of WIPO. In response to the growing demand, a process for revision of the Agreement had been initiated, not only to make the Lisbon Agreement more attractive and inclusive, but also to turn it into a more robust instrument for preventing the misuse and misappropriation of geographical indications and appellations of origin. His Delegation attached great importance to the revision process of the Lisbon Agreement, due to its structural and economic advantages for rural areas and overall development in countries. From a structural point of view, the broadening of the scope of the Agreement to geographical indications would make the Lisbon System more responsive. Moreover, the revised Lisbon System would offer to producers from both developed and developing countries a reliable tool to protect their products linked to geographical origin. The revised Lisbon System would also provide an opportunity to protect their culture, traditions and heritage. Furthermore, in coming up with a consolidated and unified framework for the protection of geographical indications and appellations of origin, the Lisbon System would be even more flexible, simplified and user-friendly, which would be a valuable achievement that would certainly allow the Lisbon System to attract a wider membership. Hence, the inclusion of geographical indications in the Lisbon international registration and protection system, with the same normative regime as for appellations of origin, would allow producers throughout the world to obtain protection in countries other than the country of origin at an affordable cost.

57. With regard to economic and development aspects, he underlined that the majority of developing countries, including Iran (Islamic Republic of), were rich in biodiversity and plant varieties because of their diverse ecosystems. Their different agro-climatic zones and agro-biodiversity systems enabled them to grow agricultural products that derived their distinctive qualities and reputation from the geographical area as well as human factors and the climatic conditions associated with that region. To that end, the protection of

geographical indications would play a vital role for the economy of these countries. It could also provide a meaningful tool for the benefit of farmers living in rural areas to protect their products in the global market and, consequently, assist countries in consolidating their development strategies towards sustainable development.

58. He recalled that his country had acceded to the Lisbon Agreement in December 2005. The National Act for the Protection of Geographical Indications had been enacted by Parliament in 2005 and had put in place a modern legislation for the protection of geographical indications in Iran (Islamic Republic of), thus providing a suitable ground for obtaining protection in Lisbon member countries. In this context, the Iranian competent authorities had exerted many awareness raising activities, informing and educating the target audiences and beneficiaries about the role and advantages of the Lisbon System and encouraging stakeholders to file applications under this system. Since 2013, 16 products had been registered and obtained protection under the Lisbon Agreement. His Delegation was of the view that the success of the Lisbon revision process would be WIPO's success in realizing and implementing its main objective, i.e., the promotion of intellectual property rights, as well as the crystallization of development objectives into the normative framework of intellectual property. His Delegation was committed to engaging constructively in the forthcoming discussions and looked forward to the adoption of the New Act.

59. Mr. KLINKA (Slovakia) expressed his Delegation's appreciation for the work and efforts of the Lisbon Working Group in preparing the ground for this Diplomatic Conference, which was the most important and remarkable normative event in WIPO in the current calendar year. The Slovak Republic had been a long-standing member of the Lisbon System with several registered appellations of origin. His Delegation welcomed the revision of the Lisbon Agreement to make it more attractive for potential members, for the benefit of both local producers and consumers. Considering the Basic Proposal a very good basis for the upcoming discussion, he expressed his belief in a spirit of openness and real partnership, allowing all relevant views, opinions and proposals to be heard and considered carefully, with due respect, so that the main aim could be reached on the basis of a substantive consensus, as widely as possible.

60. Ms. MORENO (Nicaragua) said that Nicaragua had been a member of the Lisbon Agreement from June 15, 2006, and had protected many appellations of origin from various countries, in keeping with international agreements and national laws. She added that her delegation was convinced that the draft document of the new Act to be revised, addressed the needs of many productive sectors whose products had achieved much recognition nationally and internationally and which possessed distinctive qualities and features specific to the region where they are extracted or produced. The Delegation of Nicaragua recognized the efforts made by the Working Group on the Lisbon Agreement and believed that the final document to be adopted would be efficiently consensual and contain provisions that are consistent with international law principles. Nicaragua was currently implementing actions to strengthen key companies and stakeholders involved in the manufacture of the country's emblematic products, relying on the tools of intellectual property which boost competitiveness. This new agreement would facilitate not only the protection of appellations of origin but also geographical indications. Such protection was necessary given the anti-competitive economic practices that had been prevalent of late.

61. Mr. EMRULI (the former Yugoslav Republic of Macedonia) said that the adoption of the New Act of the Lisbon Agreement would provide a significant improvement and simplification of the Lisbon System. As the revision of the Lisbon Agreement would be of great importance for developing countries, his Delegation supported the enhanced system for the protection of geographical indications. As the Lisbon Agreement would bring positive economic effects in terms of profitability and prices, he expressed the hope that the forthcoming discussions

would focus on how intellectual property rights could meet the needs of developing countries through geographical indications for agricultural and non-agricultural products with particular qualities, reputation or other characteristics. He also expressed the hope that the New Act would have a positive impact in terms of putting an end to the rural exodus and in terms of the preservation of jobs linked to the manufacture of traditional products and the related know-how, of catalyzing the manufacture of regional products and stimulating tourism and growth of jobs. His Delegation would contribute constructively to the negotiating process with the aim of achieving a positive outcome, so that the New Act would become a success story in WIPO's norm-setting activity, meet expectations of interested States and attract new members to the Lisbon System.

62. Ms. KOUIMBY MISSAMBO (Gabon) expressed her delegation's satisfaction with the imminent culmination of the long process towards the adoption of a new Act of the Lisbon Agreement. Gabon wished to draw the attention of all WIPO Member States to the fact that the conclusion of this process was, in spirit and form, an opportunity for a larger number of States as well as regional and intergovernmental organizations to adhere to an agreement that was fairer and broader in its application. She indicated that it was truly an opportunity to increase the contribution of intellectual property to the development of States. Her delegation was convinced that the adoption of a Lisbon Agreement extended to geographical indications would ultimately lead to the development of the villages, regions and national territory of Gabon, while promoting the know-how of its communities. For her delegation, this was a commitment to market rules that were fairer and more respectful of human value. The objectives of the revised Lisbon Agreement were perfectly consistent with the policy pursued by the President of the Republic of Gabon, His Excellency Ali Bongo Odimba, which is reflected in the *Gabon Émergent* Strategic Plan. This policy was geared towards, *inter alia*, diversification of the country's economy through processing of natural resources, with a clear option for sustainable development. Far from being a mere political gesture, this was a wise stance to address the legitimate claims of civil society and consumers' associations which were making ever-increasing demands about the quality and origin of the products they consume. She hoped that this dimension would be factored into the conference proceedings, so that the revised Lisbon Agreement would be a real development tool for States like Gabon.

63. Mr. KALUDJEROVIĆ (Montenegro) expressed the strong commitment of his country to the enhancement and modernization of the Lisbon System as a tool for the protection of geographical indications. In parallel with the accession process to the European Union, Montenegro had been continuously strengthening its legislation on intellectual property rights. Underlining that its national legislation had been fully aligned with the TRIPS Agreement, he said that geographical indications and appellations of origin were protected in his country under a *sui generis* regime, while internationally the protection could be obtained via the Lisbon System. In 2014, the Montenegro Intellectual Property Office had organized together with WIPO an international conference that had focused on the benefits of the protection of geographical indications for national products, including via the Lisbon System. The fact that several geographical indications were already registered under the Lisbon System had been an additional impetus for revising the Lisbon Agreement. Recalling that one of the goals of the revision process had been to contribute to competitiveness and preservation of traditions and local culture, his Delegation hoped that the Lisbon System would become a truly global registration system. As the revised Lisbon Agreement would refine the current legal framework by including provisions that would also apply to geographical indications besides appellations of origin, his Delegation believed that the modernized multilateral instrument would enable users to take advantage of it by transforming the unique features of their products into marketable products. Consequently, the Delegation looked forward to welcoming other WIPO members in the Lisbon System as well as intergovernmental organizations such as the European Union, OAPI and ARIPO. He

expressed confidence that implementation of the revised Agreement would have a positive impact on economic growth, export, diversification and sustainable development. Emphasizing that the Diplomatic Conference should enhance the cooperation and mutual understanding between Member States in creating and maintaining a balanced and effective international intellectual property system, he wished the Conference fruitful discussions and constructive negotiations.

64. Mr. ROSSI (Peru) stated that Peru adhered to the Lisbon Agreement of March 15, 2005 and this instrument entered into force on May 16 of the same year. The agreement was signed to address the need for an international system that facilitated the protection of a special category of geographical indications, namely "appellations of origin", in countries other than the country of origin, through registration at WIPO. Peru attached great importance to the protection of appellations of origin. Accordingly, its delegation was convinced of the importance of naming, distinguishing and protecting a product based on its special natural features and methods of production, which include traditional knowledge, thus contributing to the sustainable and inclusive development of countries of origin and the improvement of the living conditions of their peoples, and also enabling the ever-demanding consumers of various markets in the world today to have access to products of unique quality and recognized reputation gained in exclusive markets over the years, and in some cases, over the centuries. In this regard, Peru, like the rest of the members of the Lisbon Agreement, had made great efforts to promote the greater commercialization of products recognized with appellations of origin. He then mentioned some existing and recognized Peruvian appellations under the Lisbon Agreement, namely: Pisco, obtained from the distillation of wines from the valleys of Center and South Peru; Chulucanas traditional pottery; Cusco's giant white corn and Pallar de Ica; or the exceptional coffee of Villa Rica and Machu Picchu-Huadquina, among others. Fully convinced of the need to promote the appellations of origin in their country, the delegation of Peru had, from the very beginning, been involved in this revision process aimed at improving the Lisbon Agreement system. His country was doing so because this would benefit its members and make it possible to develop the most attractive system that would gradually become universal, but also because his delegation was convinced of the opportunity that an appellation of origin provides to producers and consumers globally. That was the essence of the Lisbon Agreement. Peru would do everything within its power to help ensure that the Diplomatic Conference adopted a new Act of the Lisbon Agreement, while maintaining its principles and objectives; i.e. by including provisions that do not compromise the nature of the exclusive protection granted by this international instrument to appellations of origin, and soon to geographical indications. Peru was willing to continue engaging in fully-open negotiations with the other members of the Organization and, where there was full agreement with all members of the Organization, to include provisions that effectively contribute to the strengthening of the Lisbon System.

65. Mr. SØRENSEN (European Union) said that the European Union and its member states, being very active in the field of geographical indications, welcomed the opening of the Lisbon Agreement for intergovernmental organizations and reiterated their support for the revision of the Lisbon Agreement with the objective of making the Lisbon System more attractive for users and prospective new members while preserving the principles and objectives of the current Lisbon Agreement. Underlining the importance of consistency of the draft new instrument and the draft Regulations with the TRIPS Agreement, his delegation welcomed the progress made since 2009 in the ten Working Group meetings towards refining the current legal framework of the Lisbon System and allowing accession by intergovernmental organizations. The Basic Proposal, which the Working Group had recommended for adoption by the Diplomatic Conference, would modernize the current Lisbon System, while preserving the principles and objectives of the Lisbon Agreement, in line with the mandate given to the Working Group by the Assembly of the Lisbon Union in September 2008. It reflected the different positions expressed by the Lisbon members as

well as other WIPO members that had participated in the discussions as observers. The text of the Basic Proposal was a good basis for achieving a fair and balanced outcome of the revision process. In particular, there would be adequate scope for accommodating the needs of countries which had not opted for *sui generis* protection of appellations of origin or geographical indications. The Basic Proposal gave sufficient flexibility for Lisbon System members, notably through adequate safeguards and the possibility to issue refusals of protection as under the current Lisbon Agreement, to accommodate the specific domestic legislative choices of implementing the protection of geographical indications. On this basis, he concluded that the Conference should make good use of the time available to ensure its successful outcome.

66. Mr. BATANGA (OAPI) speaking on behalf of Mr. Paulin Edou Edou, Director General of the African Intellectual Property Organization (OAPI), noted that in recent years, under the leadership of Mr. Edou Edou and through the willingness of OAPI Member States which wish to transform intellectual property into an instrument for their development, OAPI, which is an IPO with 17 Member States, had adopted a policy of participating in international conventions administered by WIPO, whenever the opportunity arose. He recalled that in 2008, OAPI acceded to the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs; in 2013, OAPI became a member of the Union for the Protection of New Varieties of Plants (UPOV); and recently, in December 2014, it filed its instrument of accession to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks. Lastly, if the proceedings of this conference were crowned with the desired success, OAPI could become a member of the Lisbon System. He recalled that even as this conference was holding, four Member States of OAPI were already members of the Lisbon System, namely: Burkina Faso, Congo, Gabon and Togo. OAPI and its Member States paid great attention to the developments under this Treaty and hoped that the conference would be conducive to reflection on the work accomplished and future prospects. He recalled that the new Act of the Lisbon Agreement was intended to facilitate access to the system of international registration of appellations of origin and geographical indications for certain States. OAPI and its Member States maintained a successful and exemplary cooperation with WIPO, manifest through their presence at the conference. Their presence also attested to OAPI's interest in a form of cooperation whose goals, actions and achievements were fully consistent with the profound aspirations of all States represented at the conference. The possibility that an intergovernmental organization which had a regional office for the purpose of registering marks could become a party to the new Act of the Lisbon Agreement was introduced into the Act in order to enable OAPI to join the system. For OAPI and its Member States, which are current and potential members of the Lisbon system, the new Act would be a tool extending the protection of geographical indications in several countries for an ever-growing number of producers' groups. At the same time, it was one means of attracting foreign investors. Also and above all, it would reassure the users of the system. The accession of many States to the Lisbon system was an opportunity for them to enjoy many advantages in cooperation between members, including facilitation of the protection of appellations of origin and geographical indications abroad, capacity-building, the attractiveness of their economies and trust between members.

67. Mr. SO (Democratic People's Republic of Korea) said that, thanks to the real and collaborative spirit of the Lisbon Union member States in the last six years of negotiation, the New Act of the Lisbon Agreement had reached its last stage of adoption. It would further upgrade the Lisbon System to be more attractive for States and users while preserving its principles and objectives for the protection of geographical indications. His Delegation applauded the significant progress made by the Working Group and WIPO Secretariat for the vocational endeavors for the Lisbon System to have a refined legal framework. Appellations of origin and geographical indications were important socio-economic factors. They gave praise to local people, ensured the quality of products, stimulated economic development

and generated other benefits. Like other countries in the world, the Democratic People's Republic of Korea had also valuable intellectual property in terms of appellations of origin and geographical indications that required protection. His Delegation was confident that the New Act would provide formal ground to better protect geographical indications and appellations of origin. At the same time, the Delegation looked forward to the expansion of the Lisbon family, as high interest had been demonstrated by non-Lisbon member States.

68. Mr. EL MALIKI (Morocco) said that geographical indications are distinctive signs that identify a product or service as originating from a territory or region. As a result, they represent a link between producers and consumers that is often more than commercial in character, especially in certain sectors such as agriculture, and for the local products and handicraft. Thus, where it is developed, a geographical indication seeks to rally all stakeholders around the notions of quality, territorial development and environmental protection, for example. That is why a number of countries, including the Kingdom of Morocco, have provided for a *sui generis* system for the protection of geographical indications within their national legislations. In Morocco, the national register of geographical indications and appellations of origin established by the law on industrial property in 2006 contains 17 geographical indications and three appellations of origin. A distinctive sign that is linked to a territory can also be protected by a collective mark or collective mark of certification. In Morocco, this choice had been adopted for a certain number of handicraft products thus giving them protection at the national level and the possibility of protection in nearly a hundred countries under the Madrid system which, for slightly over 25 years, had undergone changes similar to those of the new Act of the Lisbon Agreement which we hoped to conclude. The Kingdom of Morocco was not a member of the Lisbon Agreement but during the WIPO General Assembly of 2013, its delegation had supported the decision to hold the diplomatic conference. The Delegation of Morocco felt that the conference should seize this unique opportunity to adopt a new more open and attractive Act of the Lisbon Agreement that would focus more on the scope of the protection than on procedures; that would guarantee rights previously acquired in good faith; and that would take account of the specificities of national systems for the protection of geographical indications, especially for developing countries, so long as the objective is maintained. As usual, the Delegation of Morocco would work constructively during this diplomatic conference to iron out the few substantive points of divergence remaining on the agenda. He concluded with the hope that the proceedings of the conference would be crowned with success that matched the expectations of users of the industrial property system at the national and international levels.

69. Ms. MORARU (Romania) stated that the Delegation of Romania congratulated the International Bureau for the excellent quality of the documents submitted to the diplomatic conference which reflect the proposals made by participants of the Working Group on the Development of the Lisbon System over the past five years. She recalled that as a member of WIPO, Romania had always shown great interest in proceedings on industrial property development. Accordingly, the Delegation of Romania recognized the importance of a new Act of the Lisbon Agreement intended to strengthen and update the legal framework, and ensure that producers easily get protection for geographical indications and appellations of origin in countries other than the country of origin, and at affordable cost. She expressed the belief of her delegation that the final format of the documents submitted for adoption by the diplomatic conference would reflect a balance for all who are interested in acceding to the new Act of the Lisbon Agreement, which will be an important instrument for the development of international trade. Her delegation was pleased to note that the new Act would have a decisive effect on the harmonization of national legislations and communicated the intention of the Delegation of Romania to sign and ratify this legal instrument. As an observer delegation, Romania wished to share its hope that the proceedings of the conference would

be an example of international cooperation and mutual understanding between participants and that they would be crowned with success.

70. Mr. FERREIRA (Chile) indicated that his country, in its capacity as observer, had participated actively and constructively throughout the Lisbon Agreement revision process. Its participation had included the presentation of proposed texts that had been discussed during the various sessions of the Working Group on the Development of the Lisbon System and enriched by contributions from both members and observers. As everyone new, the formulation of a rule that expressly addressed aspects related to the protection of homonymous appellations of origin and geographical indications was a matter of special importance to the Delegation of Chile. In this regard, considering the history of the implementation of the current text among the members of the Lisbon Union, it was clear to his delegation that the members had not often had sufficient legal certainty as regards compatibility between their domestic regimes and the obligations arising from the Lisbon Agreement. Indeed, that had been the case for some members of the Agreement who had given national recognition to appellations of origin and geographical indications that were homonymous with a product registered under the Lisbon Agreement. He considered that given this situation, each contracting party had to preserve its autonomy to determine whether or not to permit the coexistence of homonymous products. Moreover, members who allow the coexistence of homonymous geographical indications or appellations of origin should have the certainty that this practice is consistent with the Lisbon Agreement. With a view to achieving the above, Chile had supported the inclusion of an "agreed statement" - currently added as a footnote to article 11 - which confirms the existence of this practice. Although it shared the concerns expressed by some States that it was inappropriate to resolve this matter through a footnote, his delegation wished to remind delegates that his country had supported previous versions where the issue was addressed within the articles. He added that unfortunately, the "agreed statement" was currently in square brackets and so its future was uncertain. His Delegation was convinced that including the "agreed statement" would give legal certainty to current members and encourage expansion of the membership. Hence, he called on the various delegations which are members of the Agreement to support incorporation of the "agreed statement" into the text of the agreement.

71. Ms. BILEN KATIĆ (Serbia) welcomed the current text of the Basic Proposal and expressed the hope that the forthcoming discussions would be fruitful and constructive. Her Delegation looked forward to seeing a New Act which would enable the beneficiaries, in particular from rural areas, to better use the international registration system of geographical indications and was of the view that it could be an additional instrument in support of the rural development in Serbia. Finally, she encouraged other countries and intergovernmental organizations to join the Lisbon Union.

72. Ms. PERLMUTTER (United States of America) wished to reiterate her Delegation's strong concern with the Diplomatic Conference and the flawed process which had preceded it. Her Delegation believed that the decision taken earlier under Agenda Item 2 further undermined the legitimacy of that process. In fact, a small subset of WIPO members had decided to strip 160 other members of their rights to vote, propose and second amendments and other critical rights of participation in norm-setting, even though they could have chosen differently. As confirmed by WIPO's Legal Counsel, they were not bound by international law to proceed this way, which was contrary to every past WIPO diplomatic conference for the past 25 years, at which all WIPO members had had full rights. Her Delegation wondered why geographical indications were so different from other intellectual property rights that they had justified this troubling break with WIPO tradition. She recalled that an explanation had been articulated previously by Germany, which seemed to be that the Lisbon Union was much smaller than the remainder of the WIPO membership and that Lisbon members might be outvoted. In her Delegation's view, this suggested that the choices made by the Lisbon

Union would not be choices that the wider WIPO membership would support. Her Delegation also wondered why a small group of WIPO members should be able to use WIPO to internationalize one specific type of geographical indication regime when for other intellectual property rights consensus on international rules had been required to accommodate divergent regimes around the world. The goal of the present Conference should also be a consensus text that would work for all WIPO members.

73. She went on to say that, while her Delegation agreed that intellectual property rights and geographical identifiers were important for development and for ensuring that farmers and producers of handicrafts receive the best price for their products, it was important to stress that trademark systems and *sui generis* geographical indication systems alike could accomplish this objective. Both systems required a continued connection to the producer's original land. Consequently, the New Act of the Lisbon Agreement should accommodate both. Instead, the Basic Proposal, in her Delegation's view, contained text that would force other countries to accept decisions by a geographical indication's country of origin, creating uncertainties in the market that would discourage legitimate trade, in particular by preventing the use or export of products with generic names to the detriment of both producers and consumers. Her Delegation wondered how requirements for re-labeling products bearing common food names with unknown ones would promote development. Her Delegation also remained unclear how diminishing trademark rights would promote job creation and value capture, when such trademarks were relied on heavily in both the developing and the developed world, particularly by SMEs. Without a right to vote, the United States of America and other WIPO members could not be sure that the Lisbon Union would choose wisely between alternatives. She feared that Lisbon members would maintain the *status quo* and introduce only minor changes in the Lisbon System, which would do nothing to increase the system's attractiveness, sustainability and legitimacy.

74. She recalled that the submission from her Delegation, dated February 1, 2015, outlined three principles that were fundamental to intellectual property registration systems, namely territoriality, due process and treatment of geographical indications as private rights. The submission further identified a series of changes that were needed to implement these principles in the New Act of the Lisbon Agreement. This would provide the ability for national governments to protect geographical indications without undue influence by foreign governments while ensuring fair and equitable procedures as well as financial sustainability, thus increasing the appeal of the system. First, the principle of territoriality was important for geographical indication registration systems, because it meant that countries could apply their own national law to determine the existence and scope of protection for a geographical indication in their country. Respecting territoriality would mean that each Contracting Party could make decisions on geographical indication protection that would balance national, not foreign interests, based on principles set out in its own law. Otherwise, parties were bound to simply give legal effect in their own territory to the originating country's decision. Once that happened, the Basic Proposal would provide a wide scope of protection using vague standards that could eliminate any prior legitimate uses or trademark rights. Moreover, the Basic Proposal made joining impossible for the many countries whose national systems required use, maintenance and enforcement as a condition for continued protection. For those countries whose law required that a geographical indication be used in commerce, the text should allow them to require the applicant to have an intention to use the geographical indication in their territory, as a condition for protection. On the issue of due process, she said that, in order to be acceptable to a wide range of potential Contracting Parties, the Basic Proposal must respect the due process rights of prior users and trademark owners in receiving countries. Pulling locally made goods off the shelves to accommodate a later in time foreign geographical indication which might never be marketed within their territory elevated the foreign right over national interests and national consumers. The Basic Proposal should give full effect to the established rights of third parties enabling them to

request invalidation of an international registration on any ground available under national law. It should also give prior trademark owners the right to prevent confusing uses of later conflicting geographical indications to the extent allowed under national law. Further, with reference to geographical indications as private property, she said that any international geographical indication registration system must allow for the fair and equitable operation of national systems and not dictate special treatment for foreign government interests. The text should not authorize governments to operate as a proxy for the owner of a geographical indication and negotiate the geographical indication's protection in foreign markets. Instead, the text should require the identification of the holder of the international registration, so as to allow accessions by the many countries around the world that treated geographical indications as private rights. In this connection, she also highlighted the need to eliminate the financial subsidization that Lisbon Union members had historically enjoyed in funding operations of the Lisbon System. As with all private property, the geographical indication holders that benefited from using the Lisbon System were the ones who should pay for the costs of obtaining protection, rather than other WIPO members or users of other more widely accepted WIPO systems.

75. In conclusion, she said that her Delegation was of the view that the Lisbon System should be revised so as to allow for: (1) collecting individual fees at the national level; (2) establishing a maintenance fee for the international registration; (3) increasing the international application fee; and (4) retaining the current provisions that would provide for funding of the system through Contracting Party contributions. She stressed that, without fundamental changes to both the structure of the Diplomatic Conference and the text, the legacy of the Lisbon System would be a lack of international legitimacy. If the Lisbon members sought a broadly acceptable multilateral agreement, they would need to allow all WIPO members to participate on an equal footing in this Diplomatic Conference. Finally, despite these serious concerns, she reaffirmed the readiness of her Delegation to continue to engage constructively to the extent it would be given any meaningful opportunity to do so in the interest of both its stakeholders and of WIPO as a whole.

76. Mr. WU (China) underlined the importance of the protection of geographical indications for agriculture, rural economy and the potential to improve the income of farmers. He also underscored the significance of the Lisbon Agreement and its revision to all countries, including China, and expressed the hope that the negotiating process would take the path of balance and take due consideration of the different practices of countries, so as to ensure that the revised Lisbon System would be inclusive, producing equitable and tangible benefits for all participating countries.

77. Ms. RUAMRAKSA (Thailand), joining other Delegations in offering the President of the Conference its total support and cooperation in both the conduct and discussion of the different topics to be dealt with at the Conference, said that it was a crucial time in the evolution of the international protection of geographical indications. Her Delegation was confident that the proposed changes to the Lisbon System would enable it to attract a larger membership while preserving the principles and objectives that underpinned the current Lisbon Agreement. In the course of six years, since the Assembly of the Lisbon Union had established the Working Group on the Development of the Lisbon System, significant resources had been spent to explore if the procedures of the current Lisbon System could be improved and much had been discussed to make the system more attractive for prospective new members. Surveys had been conducted and contributions from States, academia, private enterprises, professional organizations, intergovernmental and non-governmental organizations had been analyzed. Thailand was one of those countries that protected geographical indications under *sui generis* legislation and its government was keen to use geographical indications to support rural development and promote employment in the production and processing of origin-based products and related services. Geographical

indications had proven to create distinct value for local communities, as they were deeply rooted in geography, culture and tradition from generation to generation. Thailand had taken the lead in Southeast Asia in identifying and protecting geographical indications and recognizing its geographical indications for agricultural products, foodstuffs and non-agricultural products. As few of them were known and protected globally, she stressed her Delegation's strong interest in a multilateral system that would effectively promote geographical indications, which had the potential of adding value and promoting income and sustainable social development in the long run. In view of the different means of protection for geographical indications around the world, she expressed the hope that the revised Lisbon Agreement would not prescribe a specific legal form of geographical indication protection. In order to make the Lisbon System more attractive, Lisbon member States needed to consider the concerns of non-Lisbon member States and all needed to further engage in discussion to give sufficient leeway to issues that remained unsettled. In conclusion, she underlined her Delegation's commitment to a constructive participation in the deliberations and looked forward to the adoption of the New Act of the Lisbon Agreement.

78. Ms. MOORE (Australia) said that, at this Diplomatic Conference, all had a genuine opportunity to shape an international treaty for the protection of geographical indications that could be inclusive and of global reach. If all made the most of this opportunity, it might be possible to develop a useful and accessible mechanism for protecting geographical indications around the world. A number of Lisbon Union members had indicated their support for creating a system that would be inclusive of different protection systems, including trademark systems, and expressed their willingness to bridge gaps. Her Delegation was strongly committed to engage constructively with Lisbon members in achieving this. In this regard, her Delegation wished to stress that the draft text contained requirements that discouraged or excluded some countries from membership, as they were specific to a particular type of geographical indication protection. Her Delegation firmly believed that such requirements could be relaxed or deleted without affecting the policies and practices of Lisbon members. Flexibility on these few issues would enable a far greater range of countries to consider joining the revised Lisbon Agreement. In her Delegation's view, two of the aims of the current revision process appeared to be competing, namely the preservation of the principles and objectives of the Lisbon Agreement and an expansion of the Lisbon Agreement's membership. Preserving the principles and objectives of the current Lisbon Agreement might have the effect of reducing its attractiveness and impede the expansion that Lisbon members were looking for. However, if all showed flexibility as to how to achieve these principles and objectives or as to whether these needed to be addressed at all, the Conference could potentially achieve an outcome acceptable to all and allowing for an expanded membership. If producers and farmers from current and future Lisbon members would not be able to use the Lisbon System to acquire protection in countries whose accession to the system would not be possible because of those principles and objectives, this would leave their appellations of origin and geographical indications vulnerable in those countries or create additional costs and complexities, as they would have to seek protection separately.

79. She went on to say that the Delegation of Australia remained committed to making constructive contributions from resolving some of the pending issues in the text. For instance, the revised Agreement could accommodate the different *sui generis* geographical indication regimes and trademark systems while still providing a high level of protection for both appellations of origin and geographical indications. This protection might not be exactly the same in its detail as under the current Lisbon Agreement, but would achieve the stated goals of this revision process. For example, in relation to Article 11(1)(a) on the scope of protection, her Delegation believed that a more inclusive and objective language for Article 11 could help open the Lisbon System to a membership of a wider range of WIPO members while still providing a high level of protection. Article 12, which would protect

geographical indications against becoming generic, would prevent countries that used trademark systems to protect geographical indications, such as Australia, from joining the revised Agreement. Article 17(1) was also problematic in relation to the treatment of generic terms. In this regard, she emphasized that most jurisdictions, including in the European Union, prohibited the protection of terms that were generic in their territory. Silence on this in the revised Lisbon Agreement would not affect the existing laws or practices of Lisbon members or any new Contracting Parties, but it would make the revised Agreement more attractive to other countries. In relation to prior trademark rights and Article 13(1), her Delegation was confident that, with some flexibility, a text could be found that would be acceptable to all and be in line with existing international obligations. In relation to the availability of individual fees, she stressed that in countries such as Australia the relevant competent authorities were run on a cost recovery basis. Such countries could not join a system that did not allow them to recover the costs of processing. Further, the inclusion of a reference to the possibility of government negotiations in Article 16(2) risked, among other things, creating the impression that decisions made under national law could be influenced by foreign governments. Article 16(2) was not mandatory and could be omitted without affecting existing practices. In relation to invalidation and Article 19(1), if grounds for invalidation were limited inappropriately, countries that protect geographical indications under trademark regimes would not be able to join the revised Agreement.

80. Ms. KIRIY (Russian Federation) said that the goal of the New Act of the Lisbon Agreement was to increase the attractiveness of the Lisbon System for the international registration of appellations of origin and to extend it to geographical indications, as this was expected to lead to wider participation in the system. In view of the accession of the Russian Federation to the World Trade Organization and its efforts to harmonize the legislation of the Russian Federation with global trends in the area of intellectual property, the adoption of the New Act of the Lisbon Agreement was of interest to the Russian Federation. The Russian Federation was considering the possibility to join the Agreement. This issue would be considered in light of the outcome of the Diplomatic Conference and the contents of the New Act of the Lisbon Agreement. Geographical indications as a subject matter of intellectual property were a new concept for the legal system of the Russian Federation. The obligation to protect geographical indications stemmed from the membership of the Russian Federation in the WTO. That being said, it should be noted that, in setting the obligation of Member States to protect geographical indications, the TRIPS Agreement did not provide for their mandatory registration. However, given the current trends at the international level, the inclusion of provisions regulating geographical indications in the legislation of the Russian Federation on intellectual property could be considered as a future area of improvement of the national legislation. The Delegation of the Russian Federation had taken part as an observer in meetings of the Working Group on the Development of the Lisbon System. In its statements, the Delegation had repeatedly stressed the need to include in the revised Lisbon Agreement, along with the provision on the payment of a single fee for the international registration of appellations of origin and geographical indications, provisions on individual fees. Individual fees would be charged to cover examination costs by individual members, as well as expenses related to the protection of rights. In the discussions on the draft Articles and Rules, all Delegations should show flexibility, so as to bring their positions closer and help reach agreement on all outstanding issues, including the issue of individual fees. The inclusion of a provision on individual fees in the text of the New Act of the Lisbon Agreement was a fundamental issue for the Russian Federation. The Delegation of the Russian Federation would make every effort to help find solutions which would take into account the interests of all Member States of WIPO in a balanced manner.

81. Ms. KOUBITOBO NNOKO (Cameroon) indicated that over the past few years, Cameroon had had geographical indications whose development had left a significant economic and social impact on producers and production areas. These geographical indications had also contributed in building the reputation and recognition of Cameroon as a producer of local products whose value was recognized and appreciated. It was with great interest that her delegation had monitored and participated, as an observer, in the proceedings on revision of the Lisbon Agreement, which provide an opportunity for geographical indications to benefit from an international protection system. Such protection was of interest to her delegation, considering the multiple violations faced by Cameroonian products at the national and international levels. She hoped that the proceedings of the conference would iron out the few differences that remained in the basic proposal, particularly with regard to protection level, the legal effects of registration and the terms of effectiveness, so that a larger number of countries would accede to this new Act.

82. Mr. CURCHOD (CEIPI) declared that CEIPI had shown a keen interest in the revision of the Lisbon Agreement, ever since the revision proceedings started. Hence, in 2010, CEIPI had submitted a detailed response during the survey on the Lisbon Agreement launched by WIPO. In that response, CEIPI had particularly highlighted the potential that the Agreement held for developing countries, especially as regards protecting and adding value to agricultural products and traditional knowledge. CEIPI had subsequently participated actively in the sessions of the working group that prepared the revision. He was pleased to contribute to the conference and hoped that it would be successful, also adding that a successful conference was one that led to the adoption of a text that satisfied all participants, to the largest extent possible, regardless of their status at the conference. He added that a new Act which ignored most of the claims of a large group of countries and which, for that reason, was intended to attract a relatively small number of new members to the Lisbon Union, would not be a really successful one. Furthermore, a new Act that diluted the current level of protection would not be desirable either. He therefore wished that the delegations would find compromises to avoid these two pitfalls, but pointed out that the task was delicate, because the law on appellations of origin and geographical indications is one of the most difficult areas, if not the most difficult area, of intellectual property to negotiate at the international level. Such was the case because of the different approaches to protection that exist around the world, essentially the *sui generis* approach on the one hand and the approach based on the law of trademarks on the other hand. Solutions were yet to be found to questions that were very difficult to resolve. These were essentially financial aspects, but also and above all the content of the protection resulting from international registration. CEIPI considered that, if solutions were found to these issues, the conference would be crowned with success. Although there was room for optimism with regard to the financial aspects, issues related to the content of protection would still demand significant efforts.

83. He explained that the ideal would certainly be that the issue on the content of protection be resolved based on the basic proposal by establishing a link between the two systems. To achieve this goal, it would be necessary for the proponents of the *sui generis* approach to somehow moderate their positions and for proponents of the "trademark" approach to accept that the principles and practices of the trademark law would not be applied in their entirety. A compromise could be found that would enable all stakeholders to agree on a common text. CEIPI proposed that this solution be called: Plan A. Should this Plan A fail, the diplomatic conference should be able to fall back on a Plan B. He recalled that he had sketched the contents of this Plan B at least twice before the Working Group (see documents LI/WG/DEV/4/7, paragraph 140 and LI/WG/DEV/9/8, paragraph 36). Plan B suggests a two-tier system, modelled on the Patent Cooperation Treaty (PCT), where the possibility of reservations has enabled several States to be party to the Treaty while refraining to apply an entire chapter thereof, namely chapter II. Several years later, these States had withdrawn their reservation, thus proving the usefulness of this approach.

Perhaps these suggestions had been made a little too early in the review process. Nonetheless, CEIPI was inviting the delegations to reflect on what could be a plan B. This plan B would entail including a new provision in article 30, which prohibits any reservations in the text of the basic proposal. This new provision would allow the contracting parties which protect geographical indications through their trademark law to enter a reservation allowing them to implement article 9 without being bound by articles 11, 12, and possibly 13(1), 17(1) and 19(1) and (2) depending on the alternative that would be retained for some of these provisions. As for the other contracting parties, and in order to establish a balance between both parties, they would not also be bound by the aforementioned provisions of the new Act when implementing article 9, with respect to international registrations originating from a Contracting Party that has entered a reservation on the matter. In practice, the effect of this system would be to allow application of the content of protection, primarily the trademark law rather than the provisions of the new Act.

84. The CEIPI representative recognized that a detailed solution based on this idea was more complicated to write than to sketch, but suggested that interested participants should study this suggestion in detail based on a draft that he would provide in French and English. He recalled that this was only a Plan B, that would be implemented only if Plan A failed. However, that Plan B would lay the foundation for a Lisbon Union that aspired to include all WIPO Member States and interested intergovernmental organizations, through the creation of a unique and universal system for the filing and registration of appellations of origin and geographical indications that everyone wished for. He concluded that he would do everything possible to contribute to the success of the diplomatic conference, regardless of the means necessary to achieve that success.

85. Mr. VANRELL (ASIFI) expressed the hope that the long hours would be productive and result in the promotion of the new Act of the Lisbon Agreement. For most countries of the Americas, geographical indications were a very important vehicle of development, just like trademarks and patents. With regard to geographical indications, ASIFI had a Committee composed of over 40 professionals from the Americas and various European countries that had developed a document which, in his opinion, could be useful to the discussions to be held in the days ahead. Hence, with the President's permission, ASIFI wished to distribute that document to the various delegations so that it could contribute to the discussions to be held during this week. The document was in Spanish and English. Lastly, ASIFI, like the delegation of the United States of America, was concerned about the conflict that could arise between trademarks and geographical indications. Hence, the document had suggestions that could throw light on this highly important issue such that an agreement could be reached on a standard document that satisfied the expectations of countries.

86. Mr. MACHADO (INTA) said that INTA was looking forward to a positive outcome of the Conference and would be working to that end, in the same constructive spirit that had guided INTA's involvement in the Lisbon Agreement revision process to date. INTA was a not-for-profit association of trademark owners and professionals from more than 190 countries throughout the world. Representing the trademark community since 1878, INTA was dedicated to the support and advancement of trademarks and related intellectual property as elements of fair and effective commerce and consumer protection. INTA's membership included over 6,500 corporate members and professional firms spanning all fields of commerce and industry. Altogether, the Association's member organizations represented some 30,000 trademark professionals and included brand owners from enterprises of all sizes, law firms and non-profit organizations. INTA supported all forms of branding and was fully convinced of the importance and value of geographical indications for the promotion and marketing of products, particularly in the agricultural and foodstuffs sectors, of producers from all nations, including, in particular, developing nations. At the same time, the protection granted to geographical indications must not prejudice other

existing intellectual property rights, including trademarks. INTA believed that it was possible to achieve harmonious co-existence of protection systems for geographical indications and that conflicts between geographical indications and other intellectual property rights, including trademarks, should be resolved on the basis of the well-established intellectual property principles of territoriality, exclusivity and priority. For many years, INTA had taken an active role in international discussions regarding the protection of geographical indications. In connection with the negotiations at the WTO concerning the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits, INTA had developed a concept for a filing and registration system modelled on the Madrid System for the international registration of marks and on the Patent Cooperation Treaty. At WIPO, INTA had actively and constructively participated in the work of the Working Group on the Development of the Lisbon System since the first session of the Working Group in March 2009. INTA's active participation in the work of the Working Group had been guided by the hope that it would lead to an inclusive and balanced registration system that would be open to all geographical indication protection systems, including trademark-based systems, and provide for appropriate safeguards in respect of prior rights. However, there remained a number of provisions and alternative provisions in the Basic Proposal that were not conducive to such an inclusive approach and that would make it very difficult, if not impossible, for countries relying on trademarks in order to protect geographical indications to join the proposed New Act. Besides, the Basic Proposal contained draft provisions and alternative provisions that would or could seriously prejudice the rights of trademark owners, all the more so as the proposed New Act significantly expanded the scope of the Lisbon Agreement by including therein a new subject matter of protection, i.e. geographical indications, with a significantly broader definition. In INTA's view, this would result in a considerably larger zone of potential conflicts between trademarks and geographical indications. The provisions of the Basic Proposal that were a source of particular concern for trademark owners and/or that would constitute obstacles for countries with trademark-based protection systems in respect of geographical indications to join the proposed New Act of the Lisbon Agreement – thereby defeating what was a major objective of this Diplomatic Conference – included Article 11(1)(a) on the content of protection; Alternative A of Article 13(1) regarding safeguards in respect of prior rights; Article 16(2) relating to negotiations with a view to the withdrawal of a refusal of protection; the caveat in footnote 4 to Article 17 which raised doubts as to the extent to which trademarks were effectively shielded against the effects of that Article; Alternative B of Article 19(1) to the extent that it limited the grounds for invalidation; the wording of Article 8(1) concerning the dependency of the international registration on continued protection in the Contracting Party of Origin; Article 12 to the extent that it would run counter to the territoriality principle and would not take into account, in particular, use requirements under the law of a Contracting Party; and certain variants of Article 7 on fees.

87. Mr. VITTORI (oriGIn) said oriGIn was pleased to participate in the works of the Diplomatic Conference and looked forward to a positive outcome of the negotiations. Recalling that oriGIn had actively participated in the revision process of the Lisbon Agreement, he believed that the text submitted to the Diplomatic Conference contained flexibilities in order to make the Lisbon System more attractive and represented a solid basis for discussion. OriGIn, which represented some three million geographical indication producers from 40 countries that protected geographical indications through *sui generis* and/or trademarks systems – was fully committed to the Lisbon revision process and wished to provide input and pragmatic approaches to unsettled issues. OriGIn held the view that the major advancements of the revision process, as contained in the draft text, were the broadening of the scope of the Lisbon System to geographical indications; the solid level of protection for both geographical indications and appellations of origin; the opening of the Lisbon System to intergovernmental organizations; and the possibility for geographical indication beneficiaries and owners to file applications for international registration under the

Lisbon System, if their national law so allowed. OriGIn believed that the Conference was facing a historic opportunity to build a truly international system for the protection of geographical indications and appellations of origin, for the benefit of producers. In that regard, he recalled that misappropriations represented a major problem for producer associations worldwide and that the registration of their appellations of origin or geographical indications in every single jurisdiction to which their products would be exported would be extremely difficult and costly. Geographical indication misappropriation threatened the very existence of many businesses around the world, putting at risk jobs and impeding the sustainable development of countries. OriGIn was confident that the revised Lisbon System could also serve the interests of consumers, who needed to obtain information on geographical indications and products they buy. Recalling the importance of taking into account the point of view of all WIPO Member States, the Delegate encouraged all Lisbon Member States to consider all views presented and engage in pragmatic discussions as much as possible, so that a result would be achieved that would allow for a large number of States to join the New Act.

88. Mr. LONDOÑO FERNÁNDEZ (Columbia) indicated that it was important for his delegation to highlight the fact that geographical indications known under various names as appellations of origin, collective marks, certification marks, and own marks had the common characteristics of being competitive tools that were good for rightholders, owners or beneficiaries, depending on the system that each country chose. He added that his delegation held the view that appellations of origin and trademarks were tools that ensured market transparency. This was good for consumers and also resulted in healthy competition among market players who had mutual respect for each other's efforts without exploiting them unduly. Consequently, both trademarks and appellations of origin were industrial property rights.

89. The President adjourned discussions on item 10 to ask the Legal Counsel to report to the Plenary on the informal consultations organized for different elections.

Election of the Vice-Presidents of the Conference

Election of the Members of the Credentials Committee

Election of the Members of the Drafting Committee

Election of the Officers of the Credentials Committee, the Main Committees and the Drafting Committee

90. Mr. KWAKWA (WIPO) indicated that nominations for the Officers of Main Committee I had been received. However, informal consultations continued in respect of the composition of the Credentials Committee, the Drafting Committee and Main Committee II.

91. The President requested Mr. Kwakwa to announce the outcome of the informal consultations on the election of members of Main Committee I.

92. Mr. KWAKWA (WIPO) announced that, as a result of the informal consultations in respect of the composition of Main Committee, it was proposed that the Chair of Main Committee I be Mr. Mihály Zoltán Ficsor from Hungary, and the two Vice-Chairs Ms. Lilia Bolocan from the Republic of Moldova and Ms. Véronique Fouks from France.

93. The President noted that since this was the result of intensive consultations, the Diplomatic Conference could endorse these names for membership of Main Committee I and adjourned the session.

Third Meeting Tuesday, May 12, 2015 Afternoon
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Election of the Vice-Presidents of the Conference

Election of the Members of the Credentials Committee

Election of the Members of the Drafting Committee

Election of the Officers of the Credentials Committee, the Main Committees and the Drafting Committee

94. The President returned to outstanding matters relating to the election of officers of the Conference, namely items 5, 6, 7 and 8 of the agenda. He indicated that the Secretariat had managed to identify candidates for all outstanding positions of the Conference and the list of candidates was found in Document LI/DC/INF/3 Prov. As regards the Drafting Committee, he indicated that there were still some positions to fill. Hence, consultations would continue, and the vacant positions would be filled at the next plenary. However, the President believed that the Conference was able to elect all the officers it needed to do its work without delay.

95. Mr. KWAKWA (WIPO) explained the selection process of the acting President of the Conference in accordance with Rule 16 of the Rules of Procedure and the precedence among the Vice-Presidents under Rule 15 of the Rules of Procedure. Further, he presented the box containing the names of the seven Vice-Presidential candidates by country names and kindly invited the President to proceed with the selection of “the ranking” Vice-President.

96. The President then proposed a joint adoption of the names contained in Document LI/DC/INF/3 Prov. Seeing no objection, the President declared the names contained in the document as approved. Nevertheless, the President indicated that lots must be drawn to select a Vice-Chair who would replace the President, whenever he is not able to preside over the plenary.

97. The President moved on to the drawing of lots.

98. Mr. KWAKWA (WIPO) announced that Israel was drawn by lot, in accordance with Rule 15(6) of the Rules of Procedure, to determine “the ranking” Vice-President of the Conference.

99. The President adjourned the session.

Fourth Meeting  
Friday, May 15, 2015  
Morning

Agenda item 11: Consideration of the first report of the Credentials Committee

100. The President informed the Plenary that he wished to brief delegates on the Steering Committee meeting that had just concluded with some organizational matters and then give the floor to the Chairman of the Credentials Committee to report on their proceedings.

101. With regard to the Steering Committee meeting, he informed participants of his satisfaction with the progress achieved over the last three days devoted entirely to the proceedings of Main Committee I. He indicated that considering the progress achieved by this Main Committee it had been agreed within the Steering Committee that the same method of work would be maintained today and during the weekend if necessary and that the Chairs of the Main Committees had the discretion to decide on the format and time of meeting during the weekend. He said the idea was to have a new summary report on Monday at 8.30 a.m. for the Steering Committee and a new plenary session at 10 a.m. on Monday to report on progress made over the weekend and the organization of discussions for the following week. He thanked the Conference for the efforts made so far and encouraged them to continue working in the same spirit, emphasizing that the Chairs were doing a great job and everyone was confident that under their chairmanship it would be possible to achieve substantive agreements on all outstanding issues. He repeated that the plenary would reconvene on Monday at 10 a.m. to hear a new report of the Steering Committee, determine the stage at which they were and how they would continue to negotiate. He added that they would also meet on Monday to hear the Chair of the Credentials Committee submit his second report for a second time. He then gave the floor to the Chair of the Credentials Committee to present the first report of the Committee.

102. Mr. RAMALHEIRA (Portugal) reported to the Plenary that the Credentials Committee had held a first meeting on May 13, 2015 to examine credentials, full powers, letters and other documents of appointment that had been presented for the purposes of Rules 6 and 7 of Rules of Procedure. He announced that the full report of the Credentials Committee was available in document LI/DC/10. Concerning Member Delegations, the Credentials Committee had found in order the credentials and full powers of 10 Delegations and the credentials without full powers of 18 Delegations. The Credentials Committee had therefore concluded that the 28 Member States of the Lisbon Union were fully accredited. With respect to Special Delegations, the Credentials Committee had found in order the credentials of the Delegations of the African Intellectual Property Organization (OAPI) and the European Union. Furthermore, concerning Observer Delegations, the Credentials Committee had found in order the credentials with full powers of two States and the credentials without full powers of 78 States. He finally reported that the Credentials Committee had also checked the letters or documents of appointment of representatives of five intergovernmental organizations and 15 non-governmental organizations. He said that the Credentials Committee recommended to the Plenary to accept the credentials and full powers of these Delegations as well as the letters or documents of appointment of the representatives of the organizations which had been presented so far. He concluded by announcing that the Credentials Committee would meet again on Friday, May 15 to examine documents submitted after its first meeting. He intended to present to the Plenary the final report of the Credentials Committee on Monday, May 18 under Agenda Item 13.

103. The President commended the report of the Chair of the Credentials Committee which had so far accredited 110 delegations. This was very good news that reflected interest in the Conference and the scope of participation. He recalled that on Monday a second report would be presented with updated information.

104. Mr. AZAMI SARDOUEI (Iran (Islamic Republic of)) expressed his Delegation's strong reservation concerning the parts of the report of the Credentials Committee, as well as all related documents of the Diplomatic Conference, which could be construed as a recognition of the regime of Israel. In addition, he stated that the Government of Iran (Islamic Republic of) was not bound by any decision which ran counter to its well-established position in this regard.

105. The President thanked the Delegation of Iran (Islamic Republic of) for its statement on the report of the Credentials Committee and assured them that their position would be duly recorded in the proceedings of the Diplomatic Conference.

106. The President adjourned the session.

Fifth Meeting  
Monday, May 18, 2015  
Morning

107. The President declared that he had convened the plenary session to hear the second report of the Chair of the Credentials Committee and report on the Steering Committee meeting held in the morning.

108. Mr. RAMALHEIRA (Portugal) said that the Credentials Committee had held its second meeting on May 15, 2015, and its report was available in document LI/DC/12. As far as Member Delegations were concerned, the Credentials Committee had received further credentials and full powers of one Delegation. As far as Observers were concerned, the Committee had received further letters and documents of appointment of one intergovernmental organization and three non-governmental organizations. After review of the documents submitted, the Committee had decided that one Delegation would appear as bearing credentials and not full powers as previously stated. To date, the Credentials Committee had received a total number of 12 credentials with full powers, and 101 credentials without full powers, which had been found in order by the Committee. The Committee had decided that, if necessary, it would re-convene to examine any further submissions that might be received by the Secretariat.

109. With respect to the Steering Committee meeting held in the morning, the President underscored the shared feeling of optimism, considering that the previous week's work had been very intense and fruitful and a host of issues had been resolved. He added that from that day onwards, efforts would focus on outstanding and sensitive issues. He observed that the Steering Committee was aware that the Conference would end on Thursday and that for various technical reasons, the negotiation process therefore had to end on Wednesday. He stated that there was not much time left to resolve these sensitive issues, but the Steering Committee was certain that if they maintained the same momentum, they could, by tomorrow, come up with a much more concrete idea of the issues they had not been able to resolve within the Main Committees. The President declared that he was ready to play that role in order to end up with a revised Lisbon Agreement that contained most of the issues considered pending as of last year. He also observed that in the days ahead, they would have to take decisions on what would finally be included in this revised Lisbon Agreement. He reminded all participants to be aware that they had to make their greatest and best efforts to ensure that they use the remaining time to include the greatest number of issues into the revised Lisbon Agreement and to reach consensus on the inclusion of the greatest number of issues. He observed that the challenge was great, but fortunately they had two Chairs who were highly capable of obtaining solutions for including issues that had hitherto remained unresolved.

110. The President adjourned the session.

Sixth Meeting  
Tuesday, May 19, 2015  
Morning

111. The President requested for attention to explain that the plenary was not scheduled, but Steering Committee members had deemed it important, at the end of their meeting, to inform the Plenary of the subject matter of their discussions. He said this would have an impact on the evolution of the proceedings in the time that remained. The President emphasized that it was important for all delegations to have the same information and the same understanding of the issues discussed in the latest meetings, what remained to be resolved, as well as the time frame and deadlines for resolving such issues. The first thing that he wished to share with the Assembly was the sense of optimism within the Steering Committee. The President observed that a series of key issues had already been resolved. He said that of the 17 issues pending at the beginning of the Conference, an agreement in principle had already been reached on the six issues classified under Group A; an agreement in principle had also been reached on two of the three issues in Group C and the third was being discussed, but the prospects of getting a solution were apparently good. The President explained that this meant there were two major, and probably most sensitive, issues to be resolved that day. He said that the first group of pending issues were four outstanding issues in Group B and Group D; the chapter relating to financial matters. He observed that the Conference had to take decisions in advance on the scope of protection, articles relating to the scope of protection, and articles relating to financial issues and costs. The President said that he had asked the two Chairs of the Main Commissions to devote all their efforts that day to reaching a conclusion on these two large chapters. He observed that much progress had been made and believed that the prospects were good. The President added that if all participants played their part, it would be possible to reach a point of understanding on these issues that day. In addition to his message of optimism and his call for flexibility, the President recalled that they only had that day left to conclude the consideration of pending issues. He declared that the Steering Committee was ready to meet at any time, once the Chairs of the Main Committees informed them that, based on their criteria, an agreement had been reached, hopefully on all outstanding issues, or that some issues could not be resolved, even at the level of the Main Committees.

112. The President declared that the negotiation time was in hands of the Chairs of the two Main Commissions. He added that the Steering Committee thought it was important that in a Plenary session all conference participants should bear in mind that, for various reasons including technical and political ones, the negotiation could not, under any circumstances, go beyond that day. He then explained that any issues not resolved on that day would revert to the Steering Committee. In consultation with the Steering Committee, and in his capacity as President, he said that he would make a proposal, hoping that the proposal would yield the package which they had resolved to adopt at the end of this Conference. The President then reminded delegates that on Thursday the revision document of the Lisbon Agreement would be adopted. He said that day would be crucial because it was an opportunity to find a point of understanding on outstanding issues. In any case, at the end of that day, the Steering Committee would receive reports from the Chairs of the two Main Committees and take the appropriate decisions to achieve the set goal. He explained that this was the way they would proceed on that day and urged participants to demonstrate the greatest understanding and flexibility possible. He observed that this was a unique opportunity for participants to formulate a better Lisbon Agreement. He said everyone had to be conscious of this responsibility and opined that if any issue was not resolved now, then it would be difficult to know when it would be resolved again. He said that was his

message in a nutshell, and urged participants to fully assume their responsibility. The President concluded with the hope that at the end of that day's negotiations, the Chairs of both Main Committees would have good news to share with all.

113. The President adjourned the session.

Seventh Meeting  
Wednesday, May 20, 2015  
Morning

114. The President briefed the plenary on the outcomes of the just-ended Steering Committee meeting and informed them on how the proceedings would be conducted that day. He said that the mood of the Committee meeting had been frankly optimistic and that he was very satisfied with the recent progress made, since the prevailing feeling was that there were reliable texts which could be submitted to the two Main Committees for a formal decision. In that respect, he explained that once the texts had been distributed, participants would be given a reasonable albeit brief time to verify that the clean copies were indeed consistent with the agreements reached a day earlier. He informed the Plenary that after the current session, Main Committee I would meet to review the items that were discussed within the Steering Committee and take a decision on the content of the articles that may be transmitted to the Plenary. He clarified that the Main Committee I meeting would begin at 11 a.m. while Main Committee II would meet at 2 p.m. He then indicated that a plenary was convened for 3.30 p.m., during which recommendations would be received from both Main Committees and decision taken on the texts. He concluded that they were on the threshold of a highly successful outcome. Consequently, he urged the delegations to not weaken the efforts and commitment they had shown hitherto. He reiterated that they were actually on the threshold of a very satisfactory conclusion to the Diplomatic Conference, with all what that meant not only for the Lisbon Agreement but also for WIPO in general.

115. The President adjourned the session.

Eighth Meeting  
Wednesday, May 20, 2015  
Afternoon

116. The President said that this plenary session would essentially be devoted to the adoption of the new Act of the Lisbon Agreement. However, he first gave the floor to the Chair of the Credentials Committee to present his final report.

117. Mr. RAMALHEIRA (Portugal) said that, since its meetings on May 13 and 15, 2015, the Credentials Committee had received and found in order the credentials and full powers of the Delegation of Gabon.

118. The President said that the Conference had taken note of the report of the Credentials Committee.

Adoption of the Geneva Act of the Lisbon Agreement for the Protection of Appellations of Origin and Geographical Indications

119. The President said that he had received the reports of the Chairs of Main Committees I and II, which had concluded their proceedings and recommended that the Plenary should adopt the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications as well as its Regulations. Considering the reports received from both Chairs of the Main Committees, the President understood that the text which the Conference had to approve, contained in Document LI/DC/16 of May 20, 2015, was ready for their consideration. Having been informed that some delegations may be interested in commenting on the document, the President indicated that he would open the floor immediately after the plenary had taken action on the document he had just mentioned.

120. The President asked if the Diplomatic Conference was ready to adopt the new Act of the Lisbon Agreement on appellations of origin and its international registration as contained in Document LI/DC/16, without a vote. Since there were no objections, he declared the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications as well as the Regulations under the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications adopted.

121. The President expressed gratitude for the adoption of the New Act and for the flexibility and efforts made by all participants. He added that they all had to be satisfied for arriving at the conclusion of such a long negotiation and that it was a transcendental moment for the Lisbon Agreement and the Organization in general. He also highlighted the extraordinary work done by the Chairs of Main Committees I and II, and the support he had received from WIPO through the Director-General, the staff of the Secretariat and the Steering Committee.

122. The President then opened the floor for general comments.

123. Ms. HORVÁTH (Hungary) wished to congratulate the Conference on the success of the Diplomatic Conference. She expressed her appreciation to the President for his able guidance which had led the Conference to the positive outcome after thorough discussions. She also expressed her gratitude to the Director General of WIPO and the International Bureau for the excellent work and the support that they continued to provide throughout the entire process. Her Delegation was pleased to see that the Conference had achieved the main goals of the revision of the Lisbon Agreement, i.e., the refinement and modernization of

its legal framework, the establishment of a global registration system covering geographical indications, and opening up the system to competent intergovernmental organizations. The Delegation was also pleased to note that, in pursuing those goals, the Conference had also managed to preserve the principles and values of the current Lisbon Agreement while bearing in mind the interest of those that the entire revision should ultimately serve. She believed that the Conference had adopted a text which would live up to the expectations of producers relying on geographical indication regimes and ensuring that geographical indications functioned as reliable guarantees for consumers. Furthermore, the Conference had adopted appropriate measures to ensure the financial balance and self-sustainability of the Lisbon System. She expressed the hope that the revised Lisbon Agreement would contribute to transforming the Lisbon System into a truly global WIPO administrative instrument for the protection of intellectual property. Her Delegation believed that the Conference had adopted an inclusive approach and that all Delegations wishing to engage in the revision of the Lisbon Agreement had been allowed to contribute to the substantive debate on outstanding issues. Inspired by the constructive spirit of all participants and their efforts to balance modernization of the Lisbon System with the preservation of its basic values, the Geneva Act and its Regulations contained all the necessary flexibilities to allow the accession of prospective new Contracting Parties.

124. Mr. MARTIN (France) thanked the Chair and conveyed the apologies of the head of the Delegation of France for his absence. The head of delegation would have liked to personally thank the President and the chairs of the two Main Commissions for their remarkable work. He especially thanked the three presidents for their tenacity, transparency and tranquility which introduced an atmosphere of serenity into the discussions. He also thanked all the observers who had, for several months adopted positions that were more or less favorable to the revision of the Lisbon Agreement. However, he hoped that the majority of them could join forces by adhering to the revised Lisbon Agreement. He specially thanked the members of the Lisbon Union. This revision of the Lisbon Agreement, started within WIPO six or seven years ago, had made it possible to overcome many traditional differences. Almost all regional groups were present within the Lisbon Union. New contacts and new approaches had created a new dynamic that would be exploited subsequently to enrich future WIPO proceedings on and increase understanding of other issues. The geopolitics were somewhat different from the often Pavlovian and anticipated character of discussions at WIPO. He thanked the Director General of WIPO, whose position was not an easy one; the Secretariat for doing a great job; as well as the translators and technical teams for managing the conference and its night sessions. He thanked them for their dedication.

125. On substantive issues, and without delving into an exegesis of the revision of the Agreement, he thought it was important to emphasize that this was a victory for the diversity and plurality of the modes of protection in international trade. This international register of geographical indications would coexist with the trade marks regime and it was this notion of peaceful coexistence that reflected the said plurality and diversity. Multinational companies still had good times ahead. This was cause for celebration and not for worry, because they were generating thousands and thousands of jobs. However, a thought must also be spared for the small producers on French territory, in remote and peripheral regions, and for geographical indication producers in developing countries who are struggling to pull their countries ahead and combat rural exodus, by attempting to operate on the basis of territorial and often ancestral data, which they have a duty to preserve.

126. Finally, he welcomed the responsible positions adopted by members of the Lisbon Union, who had had discussed far into the night and held long sessions, sometimes on weekends or public holidays, because they wished to go as far as possible in giving observers an opportunity to contribute to the proceedings. France, in particular, had made significant efforts, especially in budgetary terms, to open up many opportunities for

responsible State funding, where France will play its full role. Stressing the importance of geographical indications for the economy of France, he declared that his country would not default on its budgetary responsibilities. This message of responsibility and reassurance was addressed to the entire assembly.

127. Mr. SCHMIDLIN (Italy) expressed his appreciation to the President for his wise and effective chairmanship of the Diplomatic Conference. He also expressed his gratitude to the Chairs of the Main Committees for their excellent stewardship of the discussions, and to the Director General and the Secretariat for their support. He further thanked all participating Delegations for the constructive attitude they had shown during the Conference and for the contribution they had given to its positive conclusion. The Delegation of Italy welcomed the adoption of the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications and believed that the Act would make the Lisbon System more effective and attractive, thus paving the way for new accessions. The extension of the system to geographical indications together with the scope of protection provided for in the Geneva Act would also encourage new applications from producers and, thereby, improve the finances of the Lisbon Union. In his view, the Act constituted a meaningful instrument for economic development and job creation, which would enable Contracting Parties from developing and least developed countries to harness the benefits arising from the use of appellations of origin and geographical indications. It was important that the Secretariat within its activities promote the Act and, upon request, provide assistance for its implementation. As the adoption of the Geneva Act fulfilled the goals of the revision of the Lisbon Agreement, his Delegation wished to express its gratitude to all States, both members and observers of the Lisbon Union as well as the international organizations and stakeholder associations, for their trust in the process and for the engagement they had shown since 2009. The Geneva Act was the result of a transparent and inclusive Diplomatic Conference, where Member and Observer Delegations had been given ample opportunity to present their views and to advance proposals with no differentiation having been made between Member and Observer Delegations. The Act reflected the genuine efforts made by the Delegations to bridge gaps and to come closer to each other's positions and find compromises. The instrument contained flexibilities that took into account existing differences in national legislations on the protection of geographical indications and appellations of origin. While the diversity of views still remained, the Diplomatic Conference and the overall process of the revision of the Lisbon Agreement had contributed to a better understanding of such diversities and had significantly reduced the gaps. This was perhaps one of the most promising results of the Conference. He wished to underline that not all the proposals put forward by the Delegation of Italy had been accepted; concessions had been made, in a constructive spirit, in order to achieve a balanced result and increase the attractiveness of the Lisbon System as much as possible. Thus, he expressed the hope of his Delegation that the Geneva Act would lay the foundation of a strong, prosperous and effective Lisbon System that would meet the demands of producers, whether they were small farmers, SMEs or established businesses. Finally, while the financing of the system would require further discussion in the Assembly of the Union, he was confident that a balanced solution would be found to ensure the healthiness of the system while preserving its attractiveness for both States and users.

128. Ms. KOPECKÁ (Czech Republic) expressed her appreciation to the President and the Vice-Presidents of the Conference, and to the Chairmen of the Main Committees for their efforts in finding compromise solutions and their leadership in bringing the Conference to a satisfactory conclusion. She also expressed her appreciation to the Director General and the WIPO Secretariat for the preparatory work and for the excellent support during the Conference. The Delegate noted that huge efforts had been made to ensure a fully transparent discussion, both in the informal and formal negotiations, and to accommodate the concerns of all WIPO Member States. She believed that the Delegations had shown

flexibility to look for common grounds, not only within the Lisbon Union membership but on a much larger scale. Despite various concessions made by her Delegation, she was convinced that the Geneva Act represented a success in the modernization of the Lisbon System, for the benefits of users.

129. Ms. TRINDADE (Portugal) expressed her gratitude to the President of the Conference, the Chairs of Main Committees I and II, the Director General, the WIPO Secretariat and all Member, Observer and Special Delegations for the efforts made to achieve the positive result that had been reached. Her Delegation believed that the discussion on pending issues had been very fruitful, so that the Basic Proposal could be amended and accommodated, as far as possible, all views and concerns expressed by Delegations. While compromise had been found on several subjects, the Delegation of Portugal regretted that it had not been possible to overcome all differences with regard to the protection of geographical indications and appellations of origin. She believed that on important subjects, such as the scope of protection, her Delegation had shown enough flexibility to find well-balanced compromise solutions. The same approach had been taken with regard to other issues alien to its national legislation. She believed that the Conference had also managed to identify a number of sources of financing that could guarantee the sustainability of the Lisbon System in combination with its attractiveness. In conclusion, she welcomed with satisfaction the adoption of the Geneva Act of the Lisbon Agreement, which her Delegation believed would turn out to be a very useful instrument for promoting the protection of appellations of origin and geographical indications throughout the world and encouraging new accessions.

130. Ms. HERNANDEZ NARVAEZ (Mexico) declared that over the last ten days her delegation had been part of the open and inclusive process scrupulously followed by the Diplomatic Conference to consider each and every comment of participants, especially observer delegations. Right from the opening session of the Conference, an opportunity was given to all WIPO Member States to present their contributions, observations and concerns. During the numerous formal and informal sessions, there had been an enriching and inclusive exchange that had made it possible to achieve the outcomes and proposals of the Lisbon Agreement and its Regulations. She commended the hard work of the two Chairs of Main Committees I and II, which attested to their patience, negotiation skills and leadership in guiding the proceedings during each session, including late into the night. She also congratulated the President because his determination in the process had been crucial to the achievement of the Conference outcomes. She observed that the Conference participants had witnessed a historic process which concluded after three years of arduous work to achieve a more attractive system for the Lisbon Agreement. She congratulated WIPO and Member States for this collective effort which demonstrated significant progress in the regulatory domain. In conclusion, she thanked the Director General and all the Secretariat staff who had made the Diplomatic Conference possible, and obviously the interpreters whose work was, is and will remain essential to the deliberations.

131. Mr. OKIO (Congo) commended the President and members of the two main committees, for their tireless efforts and patience, which had contributed to the positive outcome of the diplomatic conference. The Delegation of Congo was satisfied with the outcomes of the conference. He expressed gratitude to delegates from Member States of the Lisbon Union, delegates from observer States and all other delegates at the conference for the quality of discussions on geographical indications, throughout the 10 days of proceedings. His delegation had been enriched by all these experiences. The Geneva Act of the Lisbon Agreement and the Implementing Regulations of the Act which had just been adopted were consistent with the modernization objectives set at the beginning. However, they would also contribute to the development of the agricultural and handicraft potential of

many developing countries including Congo. He thanked the Secretariat and the interpreters for their invaluable support. He wished that the Geneva Act would open a new horizon for the Lisbon Agreement, make it more attractive and increase the number of its members.

132. Mr. ESFAHANI NEJAD (Iran (Islamic Republic of)) expressed his delegation's gratitude to the President of the Conference and of the Chairmen of Main Committees I and II. He also thanked the Director General and the WIPO Secretariat for the preparation and organization of the Conference in a professional manner. His Delegation believed that the Geneva Act of the Lisbon Agreement was an attractive, inclusive and robust instrument for preventing the misuse and misappropriation of geographical indications and appellations of origin, which would benefit all producers from both developed and developing countries and would be a reliable tool for the protection of products linked to geographical indications, culture, tradition and heritage at an affordable cost. He also expressed his gratitude to all Delegations for the open and constructive approach during the negotiations, which had enabled the Diplomatic Conference to reach this path-breaking and great achievement. Finally, he expressed the hope that the same spirit of cooperation would guide all towards the realization of common goals and objectives.

133. Ms. MORENO (Nicaragua), speaking on behalf of her delegation, thanked the President, the Director General and the entire team of the International Office, for the work and efforts made to successfully hold the Conference diplomatic. She recognized that the outcome was harmonious and their work had been constructive and she could state with conviction that the meeting days had been fruitful. Her delegation thanked all delegations for their flexibility in all deliberations and also congratulated them for their active participation and spirit of cooperation demonstrated in each of the sessions. She was pleased that the majority of countries had supported this new agreement and that they had successfully achieved their set goal. The Delegation of Nicaragua highlighted the importance of geographical indications and appellations of origin in the economic, social and cultural development of sectors that produced or manufactured products with a historical background, a strong identity and deserving recognition for their qualities based on natural climatic conditions and traditional means of production. That was why her country had shown great interest in the adoption of this Agreement, and believed that every effort of small producers must of be recognized and, above all, protected. Her delegation was confident that this new agreement would make the Lisbon System more attractive to States and users, and that it will be an instrument for facilitating the international protection of geographical indications and appellations of origin. Since the general principles of law had pride of place in such agreements, she urged all WIPO Member States to take advantage of their adherence to this agreement.

134. Ms. SÁNCHEZ TORRES (Cuba) congratulated the President on the excellent work done as well as the Chairs of Main Committees I and II for the hard work done during the Diplomatic Conference. She congratulated the members of the Lisbon Union for their flexibility in seeking to obtain a text of the Geneva Act of the Lisbon Agreement on appellations of origin and geographical indications in a consensual manner. Lastly, she welcomed the active participation of observers and thanked the Secretariat and the interpreters for their work.

135. Ms. BOLOCAN (Republic of Moldova) wished to congratulate the President for his skillful guidance of the work of the Diplomatic Conference. She also extended her thanks to the Director General and to the WIPO Secretariat for the hard work in preparation of the Conference and for their efforts to make the event a successful one. It had taken about six years for the Working Group on the Development of the Lisbon System to prepare a proposal that could make the Lisbon System more attractive and easy to use, while maintaining its basic ruling principles and main objectives. Her Delegation recognized that the long-awaited

document had raised many discussions and controversial disputes in the last 10 days, but all Delegations had been actively involved in the reformation process. She had noted with satisfaction that all collective efforts and spent resources had been rewarded. In her Delegation's view, the Geneva Act of the Lisbon Agreement established an equitable, non-discriminatory and attractive international system for the protection of geographical indications, which was open not only to the current membership, but also to new countries and intergovernmental organizations, which she invited to consider their accession in the coming years. In order to capitalize its agriculture and cultural heritage as a country brand, her country had developed its geographical indication system. This had been one of the main objectives of the National Strategy on Intellectual Property 2020, which had resulted in a modern geographical indication legal framework had been developed as well as corresponding institutional capacities for the competent authorities. Work on promoting the advantages of the system for sustainable economic development was ongoing. It was of great importance that the Geneva Act covered geographical indications alongside with appellations of origin and that both benefited from the same level of protection. Her Delegation believed that the provisions of the Geneva Act provided an additional opportunity to consolidate the international intellectual property community through shared access to origin-linked assets, regardless of existing legal differences at national levels. Through the provisions related to trans-border geographical areas and by attributing to the beneficiaries the possibility of filing international applications directly, the Lisbon System became more attractive for States and more flexible for users. Her Delegation recognized that it had not been an easy task to achieve the abovementioned results. Despite strong debates and different views on some issues, the Member States of the current Lisbon Agreement had managed in a transparent and inclusive way to adopt the amendments. In this regard, her Delegation wished to commend the able leadership and dedication of the Presidents of both Main Committees. She affirmed her Delegation's commitment to engage in any further efforts required for the implementation of the Geneva Act as an effective instrument and looked forward to a fruitful cooperation with WIPO, its Member States and other interested stakeholders. Finally, she expressed her sincere appreciation to all Delegations for their contributions to the successful outcome of the Conference.

136. Mr. ROSSI COVARRUBIAS (Peru) thanked the President and the Chairs of Main Committees I and II, for the great efforts deployed day and night that had led to adoption of the Geneva Act. He also extended thanks to the Director General and his team. Secondly, she declared that the Diplomatic Conference had occurred at a special time for the Organization and all its members. It had demonstrated that after the adoption of the Beijing Treaty in 2012 and the Marrakesh Treaty in 2013, WIPO was once again capable of achieving a positive and concrete result at the multilateral level. Thirdly, he commended the openness of members during discussions, as well as their observance of the principles of inclusiveness and transparency. The Geneva Act was the result of a frank exchange of views begun not on May 11, 2015, but seven years ago. Without doubt, there had been a combination of efforts, both of the full-fledged members and of those who are observers today and whom he expects to adhere to this new Act. At a time when the objectives of the Lisbon Agreement should be preserved, he believed that the Act would provide producers, especially those from the developing countries, and small and medium-sized enterprises with an effective tool for competing in the global market and benefit consumers by providing them with new appellations of origin and geographical indications. Lastly, he thanked the interpreters, without whom it would not have been possible to achieve this result.

137. Mr. GIGOV (the Former Yugoslav Republic of Macedonia), congratulating the President and the Chairmen of Main Committees I and II for their able leadership and exceptional work in steering the debates in a constructive manner, welcomed with satisfaction the adoption of the Geneva Act of the Lisbon Agreement. He commended the work of all Member and Observer Delegations for their constructive contributions and positive

attitude geared towards the production of a New Act which would induce other States to become members of the Lisbon Union. He was confident that with the Geneva Act the international community had placed significant importance on the protection of appellations of origin. He expressed the hope that the Act would be useful in light of contributing to rural and regional development. It was of essential benefit for all regions to have their traditional products protected and the Geneva Act reaffirmed the provisions that dealt with the misappropriation of geographical indications. Following the inclusiveness of the process and the wide interest expressed by many Delegations, his Delegation was of the view that the Geneva Act would increase the membership of the Lisbon System and make it self-sustaining. The work done in the past two weeks had enabled the creation of a refined Lisbon System that accommodated the concerns of all Delegations.

138. Mr. KLINKA (Slovakia) expressed his Delegation's sincere gratitude and congratulations to the President of the Conference and to the Presidents of both Main Committees. Together, they had been leading the process and facilitating negotiations wisely and in an effective way, showing significant amount of flexibility and goodwill, hand in hand with an adequate pragmatic approach. He also thanked the Director General and the International Bureau of WIPO for all of their efforts. He said that the joined work of all participants in the Diplomatic Conference had to be appreciated. Looking at the outcome of 10 days' work, his Delegation was pleased that a well-balanced compromise text of the Geneva Act of the Lisbon Agreement had been achieved. He underlined that the discussion at the Diplomatic Conference, both in informal and formal format, had been inclusive, transparent and with an open-minded spirit. His Delegation looked forward to further continuing the development of the Lisbon System and invited other countries to consider joining the System.

139. Ms. PEROVIĆ (Montenegro) said that her Delegation attached great importance to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications and considered its adoption a remarkable achievement. She appreciated the work and dedication of the President of the Conference and the Presidents of Main Committees I and II, recognizing that their task had not been easy and that the process had taken a very constructive, open and expert way. She also extended her appreciation to the Director General and the International Bureau of WIPO as well as to the translators for the overall work regarding the revision process of the Lisbon Agreement. She also wished to express her Delegation's gratitude to all Member and Observer Delegations that had participated in the negotiations in an inclusive and transparent manner. Her Delegation was confident that the Geneva Act made the Lisbon System more attractive to all, in particular to small producers from developing and least developed countries. For her country, it opened a new window and perspective in the protection of geographical indications for its authentic products. While strengthening and modernizing the current framework of the Lisbon System, the Geneva Act preserved its principles and objectives. The outcome of the Conference along with the outcomes of the Beijing and Marrakesh Diplomatic Conferences showed that cooperation and mutual understanding between Member States could maintain a balanced and effective intellectual property system. The spirit of multilateralism had again prevailed. Finally, she reiterated the commitment of her country to the future normative agenda of WIPO.

140. Ms. WHYTE GOMEZ (Costa Rica) said that the Delegation of the Republic of Costa Rica welcomed the extraordinary work done by the Chairs of Main Committees I and II, and the President of the Conference. Under his proper guidance, some crucial issues of the Diplomatic Conference had been resolved and successfully concluded. She also thanked WIPO, its Director General and the Secretariat, interpreters and the entire support team for the excellent preparation of the conference and their invaluable contribution to the achievement of set goals. Her delegation expressed its satisfaction with the work done over

the past two weeks. The outcomes reflected the hard work and dedication of all delegations. We now had a consensus text that, to a large extent, reflected the positions of the countries attending the Conference. It had been an arduous and participatory work, that had provided them with much feedback. The Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications was now a reality which, from her perspective, provided a robust legal framework for the protection of geographical indications and appellations of origin. In her view, the text adopted that day was more favorable to the interests of contracting parties and would encourage new members to join since it had increased the scope and flexibility of the system. Furthermore, her delegation was pleased with the achievements accomplished with great effort to guarantee the financial health of the Lisbon system in future, as well as recognition of the economic efforts being generated by the system in each of the Contracting States. She considered that the objective pursued in the Diplomatic Conference had been largely attained and urged Member States and international organizations International to do their best to subscribe, within the shortest time possible, to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications so that it would soon become effective.

141. Ms. CHARIKHI (Algeria) thanked the Chair for the efforts made in conducting the proceedings. She thanked the Director General for his tireless efforts and the chairs of Main Commissions I and II for their efforts and their work. She also thanked the Secretariat and the delegations for their spirit of compromise. His delegation welcomed the adoption of the Geneva Act, which was a historic step for WIPO as regards the international protection of appellations of origin and geographical indications. She stressed that the Delegation of Algeria had participated actively in the two main committees and welcomed the constructive spirit that had today led to the adoption of this important treaty. Her delegation held the view that the Geneva Act would bring significant progress to the economies of developing countries that increasingly invest in agricultural development, by promoting the protection of appellations of origin and geographical indications. Finally, she declared that her country would strive to finalize and ultimately sign and accede to this treaty that will facilitate the attainment of its development goals.

142. Mr. HALL ALLEN (EU), speaking on behalf of the European Union and its member states, thanked and commended the President of the Conference as well as the Presidents of Main Committees I and II for the tremendous efforts that they and their supporting team from the Secretariat had made, especially the last few days of the Conference. He also thanked the Director General of WIPO for his endeavors upstream the Diplomatic Conference. His Delegation believed that the established working methods during the past two weeks had ensured that work had taken place in an inclusive and transparent manner. Throughout the discussions, no differentiation had been made between Lisbon member States and non-members. He recalled that the European Union was composed of both members and non-members of the Lisbon Union. The European Union and its member states had a significant interest in the revised Agreement and, therefore, particularly appreciated the approach that had been taken. Throughout the lengthy formal and informal negotiating process, every possible effort had been made to accommodate the concerns of all WIPO Member States and countless hours had been spent in different discussion formats in search of possible solutions. In this connection, his Delegation wished to highlight practical examples of flexibility from the side of the European Union in order to accommodate the concerns of a number of Member and Observer Delegations. For instance, regarding the scope of protection to be granted to appellations of origin and geographical indications, his Delegation had not insisted on the inclusion of an explicit reference to "evocation" or to protection of appellations of origin and geographical indications when used as ingredients, although those two concepts featured in the legislation of the European Union. Significant flexibility had also been shown on the issue of compound designations and on the issue of declarations of use, despite the fact that the latter concept was alien of the European Union

legislation in the area of geographical indications. On the question of invalidity, the Delegation had agreed to a formulation that could accommodate the views of all parties. Flexibility had also been shown in other areas. Thus, the European Union and its member states had fully explored and exhausted their potential for flexibility. As a result, his Delegation believed that the text represented a best endeavors effort to find common ground among those Delegations that had an interest in protecting appellations of origin and geographical indications.

143. Ms. HAMAMOTO (United States of America) said that her Delegation had not had an opportunity to speak before the President gavelled the decision and wished to underscore that the Delegation of the United States of America did not support the adoption of the Geneva Act of the Lisbon Agreement. Noting that, under the Rules of Procedure, the Conference was the competent body to adopt the New Act, her Delegation did not believe that there had been a consensus among all Conference members in favor of its adoption. She expressed her profound concerns with the Diplomatic Conference and its outcome, the Geneva Act of the Lisbon Agreement. Her Delegation felt that the decision taken before the Conference, i.e., to strip 160 WIPO members of meaningful participation rights, had been a negative undercurrent leading up to and throughout the negotiation. Despite the opportunity and the pleas of WIPO members to do otherwise, the Lisbon members had chosen to elevate their interests over the long-standing WIPO principles of inclusiveness and participation by all WIPO members. As a result, without full participation rights, the Delegation of the United States of America and the great majority of WIPO members had been negotiating at a profound disadvantage throughout the Diplomatic Conference. Consensus was a fundamental principle of multilateralism and Lisbon members' departure from it formed a precedent that presented broad and alarming implications for WIPO as an institution. Her Delegation questioned the legitimacy of the negotiations and believed that the legitimacy of the outcome of the Diplomatic Conference was in grave doubt. She emphasized that the ends did not justify the means. Although her Delegation had heard from several Lisbon members that the goal of the Diplomatic Conference had been to improve the Agreement and make it more attractive for a broader array of WIPO members and their stakeholders, she saw instead that the long-term interests of the many, and of the system, had been sacrificed for the short-term and narrow interests of the few. She said that it was hard to understand how the Geneva Act of the Lisbon Agreement would actually advance the stated objectives of the current Lisbon members, when the negotiating process and its outcome had been undertaken with consensus by only 15 per cent of the WIPO membership. Her Delegation did not see how WIPO members with trademark systems would be able to participate in the new Lisbon System, in view of the Delegation's grave concerns regarding critical issues such as the scope of protection, genericness, trademark protection and financial sustainability.

144. She went on to say that her Delegation did not believe that the Diplomatic Conference had achieved a result that would make the Lisbon System financially sustainable. The existing Lisbon System ran at a chronic deficit, despite an obligation for Lisbon members to make contributions to the system, an obligation they had never fulfilled. Her Delegation continued to be highly concerned by the confirmation that the deficit was financed by fee income from the Patent Cooperation Treaty and the Madrid Protocol filing systems. That standing practice, in her view, was particularly perverse given that the fees of patent and trademark applicants under the PCT and Madrid were subsidizing geographical indication beneficiaries and the Lisbon members themselves. All the more troubling was that the overwhelming majority of PCT and Madrid applicants came from WIPO members that had been denied meaningful participation rights in the Diplomatic Conference, and that would be unable to join the Geneva Act because the Lisbon members had refused to make it compatible with trademark systems. In this regard, she wished to emphasize that the WIPO members with the greatest interests in protecting trademark holders and users of generic

terms had been given the least ability to meaningfully engage in the negotiations on behalf of these stakeholders. Her Delegation had many questions regarding whether the Geneva Act would perpetuate that objectionable practice and would continue to scrutinize that issue closely. Likewise, it was hard to see how the interests of key stakeholders, including trademark holders and users of generic names, had been adequately safeguarded. Many stakeholders were small producers and small businesses, including those that relied heavily on trademark protection and continued generic use. Like several of the principal Lisbon *demandeurs*, her country also had large producers and businesses. Her Delegation could not lose sight of the reality of the broad array of stakeholder interests impacted by the Geneva Act. Many WIPO members relied on trademark protection and continued generic use to support economic development, job creation, and the production and export of local products. The effort to advance the singular interests of geographical indication holders came at a cost. She wondered what would happen to trademark holders and generic users who had relied on those legitimate uses, some for generations, for their livelihoods and those of their employees; and what would happen when, as a result of the Geneva Act, they could no longer sell and export their goods. Consequently, her Delegation continued to have serious concerns regarding the inadequacy of the safeguards for these producers, particularly in light of the extensive safeguards for geographical indication holders provided for in the Geneva Act. In conclusion, she reiterated her Delegation's disappointment with the process and its outcome, which raised fundamental questions about the legitimacy of the new Geneva Act and serious concerns as to what this precedent would mean for the future of WIPO as a multilateral institution.

145. Mr. BAXTER (Australia) wished to thank the President of the Conference, the Chairs of the Committees, the Officers and the Secretariat for their work during the Conference. However, he also wished to point out that his Delegation did not consider that the Geneva Act had been adopted by a consensus of the Conference. Issues had remained unresolved on substantive provisions, in particular Articles 11 and 12, which created a barrier to the use of the Lisbon System by countries that relied on trademarks to protect appellations of origin and geographical indications. His Delegation also believed that issues had remained unresolved on the administrative provisions, which created challenges and uncertainties for the future financial sustainability of the Lisbon System. Consequently, the outcome of the Conference was an opportunity lost. WIPO Member States had, up to this Diplomatic Conference, repeatedly chosen for an inclusive and consensus-based approach in respect of the development of international intellectual property law, i.e., an approach that respected the interests and perspectives of all WIPO Member States. This Conference had demonstrated, perhaps, the most important reason for that practice: restricting participation created an insurmountable obstacle to achieving a true and legitimate consensus. His Delegation recognized the attempt by many Lisbon members to be inclusive in the proceedings of the Conference, and appreciated the flexibility of the Chairs of Main Committee I and Main Committee II in conducting business at the Diplomatic Conference in the most inclusive way possible within the constraints of the Rules of Procedure. Within these constraints, the Delegation of Australia, as an Observer Delegation, had also worked constructively to try to create an inclusive Lisbon System that would attract a wider membership. He also recognized that some Lisbon members had made genuine efforts to be flexible. However, no amount of flexibility from some could overcome the constraining basis for the negotiations on the Basic Proposal. The problem was not just one of principle, though. The reality was that Lisbon members, in developing the Geneva Act, had sought to promote only the economic and commercial interests of their own enterprises. Although that was an understandable objective, the end result, i.e., the Geneva Act, would have a substantial detrimental impact on the economic and commercial interests of Australian enterprises. While the Delegation of Australia had worked with Lisbon members throughout the negotiations to protect those interests, as it had been fully entitled to do, the flawed nature of the Conference had made it impossible for his Delegation to protect those interests

in the way it would have been able to do, had the Conference followed established WIPO practice. The content of the Geneva Act of the Lisbon Agreement, in its most important aspects, reflected the interests of the Lisbon membership only and did not take into account the interests of the broader WIPO membership. While Lisbon members might not be concerned about the economic impact on non-Lisbon members, the failure of the Geneva Act to reflect the interests of so many WIPO Member States meant that this new treaty would not be able to achieve a truly global membership. A narrow membership would diminish the economic benefits of the new treaty for enterprises of Lisbon members as well. As his Delegation had mentioned in its opening statement, the objectives of preserving the principles of the Lisbon System and expanding its membership had indeed been competing. Lisbon members had chosen to promote the System at the expense of expanded membership. In his Delegation's view, the outcome would inevitably have been different and better representative of the views of WIPO Member States as a whole, if the Lisbon members had granted equal participation rights to all interested WIPO members at the Diplomatic Conference.

146. Mr. FITSCHEN (Germany) wished to join the Delegations that had expressed their appreciation to the President, the Chairmen of the Main Committees and the Director General for the successful conclusion of the work. The Delegation of Germany, which was not a member of the Lisbon System, welcomed with satisfaction the outcome of the Conference. The outcome was good for the Lisbon System, its current and future members as well as for WIPO, because it proved that countries with various systems under WIPO's umbrella could work on a normative text despite differing interests. His Delegation noted with satisfaction that the procedural concerns that had been raised at the beginning of the Conference ultimately did not prevent the Conference from approving the text that had resulted from the negotiations. While recognizing that some Delegations still seemed to have concerns, his Delegation believed, however, that all Delegations had been given ample time and opportunity to make their voices heard, to make proposals and to have them debated at length. He agreed with the Delegation of the United States of America, though, that the issue of the financing of the Lisbon System had not been fully resolved yet. In conclusion, he underlined that the outcome of the Conference was a clear signal that WIPO as an Organization and its Member States could do what they were supposed to do and expressed the hope that, despite the ongoing differences, the spirit of the past two weeks would give a boost to remaining issues on WIPO's agenda and would help towards more and greater consensus elsewhere.

147. Mr. CASANUEVA (Chile) started by congratulating the President on the conduct of the Conference and his contributions which energized the proceedings of the delegates. From September 2008 in this organization, members of the Agreement and the rest of WIPO members, had worked towards improving procedures planned under the Lisbon System, to make it more attractive for users and possible new members, safeguarding the principles and objectives of the Lisbon Agreement. For his part, Mr. Gurry, in the opening session, had mentioned the changes that had occurred in technology and international trade since the adoption of the Lisbon Agreement, considering the diplomatic Conference as "a major event in the life" of WIPO. The Director General had laid emphasis on "the heavy burden resting on the shoulders of the negotiators". Meanwhile, the President of the Conference had encouraged the full participation of all WIPO members in the discussions, emphasizing the need to achieve a common position, with a view to increasing the number of members under the Lisbon Agreement. He added that his country fully agreed with the objectives that prompted the holding of the Conference and with the views raised by the abovementioned senior representatives. Accordingly, his delegation had previously worked closely and in good faith in the preparation of the content and proposals to be examined during these weeks. Hence, it had also contributed to the proposal of a significant group of members, that the decisions of the conference be effectively open to all members, in accordance with the

institutional tradition. It did not appear consistent with that practice, that finally this Conference was conducted with the limited participation of WIPO members who are not party to the Agreement. In this regard, he made it clear that the agreements reflected in the Geneva Act, did not originate from or reflect a consensus of the 188 members of this Organization.

148. His delegation wished to make use of the opportunity to express some views on the outcomes of the Conference. In the first place, he commended the undisputed hard work of the Chairs of Main Committees I and II who geared their efforts towards consensus-building, wherever the circumstances so permitted. With regard to content, his delegation understood that in this Conference, it would be possible to expand the scope of the agreement, in keeping with new economic, commercial and technical realities. In this respect, he regretted the elimination of the agreed statement on homonymous appellations of origin. For his country, its inclusion was a logical and desirable outcome of the Lisbon Agreement revision process. Indeed, the omission of that subject in the Geneva Act was difficult to understand in light of the measures already provided for in the TRIPS Agreement, and of what has become a reality that is increasingly recognized by the business community. On this issue, he believed, like other members who shared this concern, the new Act had come into existence with a major omission which should give food for thought to all members of the Agreement and all members of WIPO. For its part, the Delegation of Chile would closely monitor the administrative process that will follow the holding of the Conference. It should be reflected in the explanatory notes that homonyms were a recognized reality in the implementation of national legal systems and that they do not constitute a breach of the Agreement. Therefore, he expected the Secretariat to include in the Explanatory Notes of the Conference, a reference that reflected their decision in that respect, as indicated in the originally proposed amendment as footnote 1 in article 11. In this regard, the Delegation of Chile requested that the Secretariat should confirm during the session that this would, indeed, be reflected. Furthermore, with regard to the final text of article 11(2), he felt that the standard of protection contained in the provision hindered the possible inclusion of new members into the Lisbon Agreement. The above point should be considered, due to possible incompatibilities between the standard of protection established in national laws and the one contained in the revised version of the Lisbon Agreement.

149. Mr. SCHAEELI (Switzerland) endorsed the appreciations expressed to the President, the Chairmen of the Main Committees and WIPO for all their preparatory work and efforts throughout the Conference and for assisting the membership in bringing that undertaking to fruition. His Delegation believed that the negotiating process at the Diplomatic Conference had been organized in an open, transparent and inclusive manner. As Observer Delegation, the Delegation of Switzerland had participated in all Committee meetings, whether formal or informal. Observer Delegations had participated intensively in the negotiating process and contributed to the outcome of the Diplomatic Conference with their proposals. The key goals of the revision process had been the inclusion of geographical indications in addition to appellations of origin in the scope of the Lisbon System and making the system more attractive to WIPO members and intergovernmental organizations, while maintaining its adequate, effective and coherent international protection and taking into account the specific nature of appellations of origin and geographical indications as intellectual property rights. His Delegation was of the view that the Geneva Act reflected those goals and hoped that many WIPO members not yet party to the Lisbon System would analyze the Geneva Act in detail and consider acceding. Switzerland would do so, but hopefully also many developing countries, considering that the Geneva Act provides a specific incentive for international registration of their geographical indications and appellations of origin and that international registration is a prerequisite for taking full advantage of the potential that geographical indication products hold. New members would inject a new dynamic into the Lisbon System and assist Lisbon members in their commitment to the financial sustainability of the Lisbon

System, as expressed at this Diplomatic Conference. His Delegation considered this a positive outcome and commended all those involved in and instrumental to that outcome of the Diplomatic Conference.

150. Ms. MORARU (Romania) congratulated the Chair of the Diplomatic Conference, and the chairs of all committees including the Main Committees I and II, for the skillful manner in which they guided the discussions and their relentless efforts to produce a text that was as consensual as possible. She also congratulated the Director general, the International Bureau of WIPO and the interpreters for their excellent work in facilitating the adoption of a new Treaty. Her delegation welcomed the adoption of the Geneva Act of the Lisbon Agreement and expresses its gratitude to all delegations for their flexibility, availability and spirit of compromise demonstrated during the negotiation of this Treaty. She believed that the discussions had been inclusive and transparent and that every effort had been made to produce an instrument that improved the protection system for appellations of origin and geographical indications such that it would attract a larger number of contracting parties. The Delegation of Romania also considered that the new Treaty would have a positive impact on the development of industrial property in general. Lastly, she expressed satisfaction again for the successful closure of the proceedings of the diplomatic conference and declared that her delegation was ready to sign the Geneva Act and hoped that other delegations would do same in the near future.

151. Mr. THIAM (Mali) stated that the consensual results achieved at the end of the diplomatic conference proceedings were a great source of satisfaction, after several days of profound and enriching technical discussions. These results were all the more convincing because they had reinterpreted the Lisbon Agreement to ensure better promotion of geographical indications, which have been a constant concern of OAPI Member States, including Mali. Indeed, on account of the many possibilities it offered, the Geneva Act and its regulations were a major step that would benefit Member States of the Lisbon Union, and those of WIPO. The protection of geographical indications made it possible to add value to local agricultural products and to diversify international market opportunities for such products. Actions to promote geographical indications in Mali, undertaken by the Malian Center for Industrial Promotion (CEMAPI) would certainly be relevant in today's global economy, especially through the increased openness of markets. The Delegation of Mali thanked and congratulated all delegations and welcomed the efforts made during almost two weeks of proceedings. He congratulated them for contributing to the improvement of their future prospects through their goodwill and patience. He also extended congratulations to the Chair of the conference, for his remarkable conduct of the discussions throughout the conference, and to the seven Vice-Chairs. He renewed his gratitude to the Chairs and respective members of the various committees, and all members of the Drafting Committee for contributing significantly to the success of the proceedings. Lastly, he extended gratitude to the Director general of WIPO and the Secretariat of the conference, for their full commitment to carry out the mandate of WIPO.

152. Ms. KIRIY (Russian Federation) extended her thanks, on behalf of the Delegation of the Russian Federation, to the President of the Diplomatic Conference, his Vice-Presidents, the Presidents and the Vice-Presidents of Main Committees I and II, the Secretariat, and the interpreters for their devoted work during the Conference. She also wished to thank the Director General for the excellent organization and welcome for all participants. Her Delegation welcomed with satisfaction the outcome of the Diplomatic Conference. Despite difficult and long discussions, consensus had been found on important issues. Many of her Delegation's expectations had been met, in particular with regard to the issue of individual fees. Although her Delegation had participated in the work of the Conference as an Observer Delegation, its positions of principle had been understood, heard and taken into account by other Delegations. She thanked the Lisbon Union membership for their

constructive spirit. The Geneva Act of the Lisbon Agreement contained several provisions that could be considered as progress in respect of the protection of appellations of origin and geographical indications. The Act no doubt would allow making the Lisbon System more attractive for other countries. A single register of geographical indications and appellations of origin was an important feature of the system. She expressed the hope that the Russian Federation would be able to join it. Finally, her Delegation had a number of drafting remarks to make with regard to the Russian text, which would be sent to the Secretariat shortly.

153. Mr. KIM (Republic of Korea), thanking the President, the Chairmen of the Main Committees and WIPO for their hard work, said that, unfortunately, the Delegation of the Republic of Korea could not fully support the adoption of the Geneva Act of the Lisbon Agreement. As mentioned in its opening statement, the adoption was the result of a closed Diplomatic Conference with no equal participation and decision-making by all WIPO Member States. Moreover, the Act was not a mere revision, as it introduced a new concept into the Lisbon System, namely that of geographical indications, which was much broader than the concept of the appellations of origin and subject to important differences among countries as to their national legal system for the protection of geographical indications. The Delegation regretted that the Rules of Procedure of the Diplomatic Conference had not permitted equal participation in decision-making. In spite of the efforts of the Observer Delegations, his Delegation believed that genuine inclusiveness had not been obtained during the discussions. Many critical provisions had been decided despite strong opposition from some WIPO Member States.

154. Mr. BARBOZA (Uruguay) stated that the Oriental Republic of Uruguay, as a founding member of the Nations United, had transformed the defence of multilateralism and international cooperation into State policy, considering these to be the ideal approach towards resolving global issues and challenges. He added that unfortunately, they were dealing with a process that had been and will be strongly questioned in its legitimacy, laying a dangerous precedent that would undoubtedly undermine the credibility of the Organization and of the Lisbon Union itself. At the beginning of the Diplomatic Conference, the members of the Lisbon Union, once again chose to ignore the concerns of a large number of WIPO members, taking the policy decision to deviate from the practice followed in this Organization for over 20 years, thus dealing unfairly with no less than 160 WIPO Member States. At the opening session, it was argued that if voting rights were given to observers, they would outnumber Lisbon Union members, thus confirming that members of the Union were thinking of taking decisions, and effectively did so, in a direction that was much different from the one that would have been taken by members of this organization if they had acquired such voting rights. His delegation regretted that they had opted for such a short-term approach, which reflected the vision of a few WIPO members, to the detriment of an inclusive outcome that covered the various systems for protecting appellations of origin and geographical indications. If they had adopted an inclusive approach and exhausted every possible avenue of negotiation, this would have contributed to achievement of the goal, routinely expressed by Lisbon Union members, of having an Act that was modern and attractive enough to draw in new members. He believed that they had lost a great opportunity to provide a global solution to an issue that had been awaiting negotiation for many years here and in other international fora. He regretted even more that within an organization of the United Nations System, priority was given to the interests of the few over those of the majority, ignoring the usual forms and procedures expected in a multilateral negotiation.

155. Mr. SUESCUM (Panama) expressed the deep concern of his delegation about the way the Preparatory Committee of the Conference had recommended to the Conference to adopt the procedures used, and about the decision of Lisbon Agreement members to conduct the Conference in a closed manner. Both actions could have serious systemic repercussions for WIPO, and would not facilitate the already difficult management of the Organization's

activities in future. The Preparatory Committee had followed dubious procedures to reach the conclusion of sending the recommendation of the rules of procedure without consensus or vote. This new practice cast doubt on the validity of sending those rules, and he feared that, in an environment like the one currently prevailing in the Organization, where every procedural advantage is taken to capitalize on controversial issues, it could happen in other instances that some members cite the Preparatory Committee as a precedent for pushing decisions that do not have the agreement of other WIPO members. He believed that everyone could think of at least one controversy in the not too distant future, in which some members could find this new practice very tempting. These concerns were compounded by the manner in which they had wanted to approve the final Act of the Conference. Equally disturbing was the fact that the members of the Lisbon Agreement decided to hold a closed and non-inclusive Diplomatic Conference in violation of over two decades of the Organization's routine practice. A minuscule number of WIPO members (less than 15%) had taken decisions on new international legal issues that would have major implications for the economies of all WIPO Member States and the finances of WIPO. It would also have consequences on both developed and developing countries, and collateral effects on most countries that have trade agreements with Lisbon Union members. The over 20 years old practice of holding open diplomatic conferences and finding real consensus and inclusiveness, was a practice based on the recognition that WIPO was a multilateral and not a plurilateral forum, and that only this manner of proceeding would yield results to which all its members feel committed and which they support or feel called upon to join the Agreement. At the Conference, 85% of the membership had had no significant say in a topic of interest for all, yet they and the International Bureau would be called upon to support very controversial outcomes. He was not sure that the Lisbon Agreement members understood the deep implications that this new practice could create within the Organization. He concluded by congratulating observer delegations for their constructive engagement during the session, and the Secretariat and the interpreters for their hard work.

156. Ms. RODRÍGUEZ (Argentina) expressed deep disappointment with the outcomes of the Diplomatic Conference, concluding that the process was characterized by the lack of inclusion of the majority of WIPO members. Contrary to the practice observed over the last 25 years and Recommendation 15 of the Development Agenda for the development, they had opted for a closed Diplomatic Conference diplomatic, thus limiting the participation of WIPO members who were not parties to the Lisbon Agreement. Although the observer delegations had had the opportunity to present their views, the outcomes of this Diplomatic Conference did not arise from the consensus of all WIPO members as would have been necessary, given the importance of geographical indications, the diversity of national systems and the effects that the new agreement would have on all members of the Organization. Consequently, it would be difficult to achieve the goal of attracting new members to the Lisbon System. She also expressed the concern of her delegation on various issues relating to the financial sustainability of the Lisbon System which had not been addressed with adequate determination and realism to correct the structural shortcomings of the System. In conclusion, her delegation believed that they had lost an opportunity to modernize the Lisbon System such that it has a global scope and is financially balanced.

157. Ms. EL OUARTI (Morocco) congratulated the three Chairs on the excellent work done during the diplomatic conference. She also congratulated the Director general, the Secretariat and the interpreters, who spared no effort to ensure that the conference be held under good conditions. The Delegation of Morocco expressed its satisfaction with the revised text of the Lisbon Agreement, which it considered to be a good compromise between the various positions expressed. Her delegation considered that this new text was consistent with the objectives it outlined in its opening statement, namely to guarantee rights previously acquired in good faith and take into account the specificities of national systems for the protection of geographical indications, including those of developing countries. She stated

that the work done would undoubtedly have a positive impact the social and solidarity economy, especially in the agricultural and handicraft sectors. Lastly, the Delegation of the Morocco, having supported the convening of the diplomatic conference, was satisfied with its decision, given the work done and the result obtained.

158. Mr. WU (China) welcomed with satisfaction the adoption of the Geneva Act, which had been possible thanks to the joint efforts of the President of the Conference, the Chairmen of the Main Committees and all Delegations as well as the excellent preparation by the WIPO Secretariat. The Chinese Government had put high emphasis on geographical indication protection in participating in the Diplomatic Conference. Consequently, his Delegation had actively participated in the formal and informal sessions, stating its viewpoints on different provisions and discussing the draft text with other Delegations. Although there were some provisions that did not correspond to his country's national legal system, several concerns and opinions expressed by his Delegation had been taken into consideration. Finally, he expressed the hope that many countries would consider acceding to the Geneva Act.

159. Ms. SANI (Niger) thanked and congratulated the Chair for the remarkable way in which he had guided the proceedings of the diplomatic conference. She also extend congratulations to the Working Group, whose quality had given rise to efficient and rich discussions. The delegation of Niger welcomed the outcome of these negotiations, which had made it possible to review all outstanding issues and produce a consensus document. During 10 days of intense discussions, the delegations had made significant contributions and improvements to the basic proposal submitted to them for consideration. This attested to the interest they had in this instrument. The Delegation of Niger greatly appreciated the flexible and open approach that had characterized the proceedings and made it possible to address the concerns of various delegations. Henceforth, States had an international protection and registration system that was easier to use, and which covered both appellations of origin and geographical indications. She recalled that Niger was an agricultural economy and that this instrument, which protected geographical indications in general, would yield several benefits, namely: curbing, if not elimination, of the misuse and illicit use of geographical indications and appellations of origin; the possibility afforded to different groups of producers to protect their well-known agricultural and handicraft products; considerable added value to the agricultural and handicraft products; and the development of economic activities within the communities of origin of these products. The Delegation of Niger hoped that this new instrument would, from its inception, lead to the accession of new members to the Assembly of the Lisbon Union. Her country had undertaken to protect its agricultural and handicraft products through geographical indications. In this regard, a national committee on geographical indications was created within the Ministry of agriculture. Ten agricultural products with a specific qualification linked to their origin had been identified through cooperation with OAPI. Draft specifications had already been prepared for four of these 10 products. These are "Kilichi" dried meat, cheese, Maralis red goat hide and the violet onions of Galmi. The goal is to achieve the protection of these products through geographical indications, within the shortest time possible. Niger would take all steps to sign and ratify this Act. Lastly, she called on WIPO to ensure that small and medium-sized enterprises benefit from technical assistance and appropriate measures through implementation of this Act. Such assistance could be provided in the form of capacity-building for various services and professional associations to ensure optimum use of this important instrument.

160. Mr. KUMOU (Côte d'Ivoire) congratulated the Chair for the skillful conduct of discussions at the diplomatic conference, which had led to satisfactory outcomes and been approved by all delegations. The Delegation of Côte d'Ivoire also congratulated the Director-general and all major players involved in this achievement. The Geneva Act which corrected the shortcomings of the protection mechanism for appellations of origin set up by the Lisbon

Agreement was further proof of the vitality of the multilateral normative system. Given the strategic interest of this instrument, Côte d'Ivoire which had many agricultural and handicraft products whose qualities were based on both the production areas and the know-how acquired by the people over the generations, will spare no effort in acceding to the new system of the Lisbon Agreement established today.

161. Mr. FUSHIMI (JAPAN) wished to thank the Director General and the Secretariat for the work done in preparation of the Diplomatic Conference. He also appreciated the efforts of the President of the Conference and the Chairmen of Main Committees I and II in addressing the concerns of Observer Delegations. However, substantive concerns still remained. He regretted not having had the opportunity to voice them before the adoption of the Geneva Act, due to the constraints set by the Rules of Procedure. Japan, as a WIPO Member State, had the responsibility to protect the interests of the Organization, in addition to its national interests, and also had a responsibility to protect multilateralism in the world of intellectual property. He expressed the hope that Member States would learn lessons from the present exercise and would continue to contribute to the interests of the organization.

162. Mr. VITTORI (oriGIn) expressed his gratitude to the President of the Conference and to the Chairmen of Main Committees I and II for their work, which had led to the adoption of the Geneva Act of the Lisbon Agreement. He extended his gratitude to the WIPO Secretariat for the organization of the Diplomatic Conference, and to all Delegations that had engaged in constructive negotiations, not only during the past two weeks, but also during the meetings of the Working Group on the Development of the Lisbon System. Representing producers of geographical indications from more than 40 countries with different levels of development, oriGIn welcomed with satisfaction the adoption of the Geneva Act. A solid protection for geographical indications and appellations of origin had been guaranteed and would make it easier for producers to protect their rights and to capture the sustainable development potential of geographical indications and appellations of origin. Several flexibilities had been provided, including the possibility for geographical indication holders and beneficiaries to file directly an application, if their national law so permitted; the possibility for Contracting Parties to collect individual fees; the possibility for Contracting Parties to require declarations of intention of use; and other flexibilities that would make the Lisbon System more attractive for countries and intergovernmental organizations. Since its establishment ten years ago, oriGIn had tried to move away the debate on geographical indications from ideological considerations to practical solutions. In this regard, the Geneva Act presented a good compromise for the establishment of a truly international system for the protection of appellations of origin and geographical indications. Therefore, he urged countries to ratify the Act soon.

163. Ms. JOHNSTON (MARQUES) congratulated Member and dele Delegations, the WIPO Secretariat and the Presidents of the Conference and the Main Committees for their hard work and diplomacy. She said that Representatives of MARQUES had participated in the meetings of the Lisbon Working Group since its first session, back in 2009, and that MARQUES had contributed to the deliberations with written and oral interventions. She pointed out that several suggestions from MARQUES and other Observer Organizations over the past six years had found their way into the Basic Proposal as well as Geneva Act.

164. Mr. VANRELL (ASIFI) first of all expressed gratitude for the space given to him over the past six years to participate in this process. He also commended the President of the Conference and the chairs of the Main Committees for the leadership demonstrated during this Conference. He recognized the efforts made by participating delegations during the entire process, and especially during this Conference, to reach a consensus on modernizing the international treaty to protect what happens *de facto* on the global stage, both in terms of the language and the introduction of new elements aimed at harmonizing the subject matter with that of other international treaties.

165. Ms. SCHERB (HEP) expressed her satisfaction for attending the diplomatic conference to adopt a new Act of the Lisbon Agreement. It was a historic moment and a major step forward for the recognition of geographical indications worldwide. She said that the new instrument was a compromise which did not, however, take account of all their claims. Yet, it was in the very nature of compromises to fall short of meeting 100% of all aspirations. Lastly, she hoped that this new agreement could be widely adopted by a large number of States around the world, making essential adjustments where appropriate.

166. Mr. LOVE (KEI) wished to point out that it was the third time in four years that WIPO had concluded a treaty, highlighting that this had been done in an open way, with texts being publicly available and non-governmental organizations being able to attend the meetings. This showed that it was indeed possible to conduct and conclude negotiations without secrecy and exclusion of the public.

167. The President gave the floor to the Legal Counsel to present Document LI/DC/18, which is the final act of the conference.

168. Mr. KWAKWA (WIPO) said that document LI/DC/18, entitled "Draft Final Act", specified the adoption of the treaty, its name and the dates and venue of the Diplomatic Conference. The document would be completed with the names of the States and intergovernmental organizations that would sign the final Act the following day. He requested those States and intergovernmental organizations that were not planning to sign the Final Act to inform the Secretariat.

169. The President considered the draft final Act approved and gave the floor to the Chair of the Credentials Committee to provide a final update of this report.

170. Mr. RAMALHEIRA (Portugal) informed the Conference that the Credentials Committee had received and found in order the full powers of the Delegation of France.

171. Mr. KIM (Republic of Korea) requested clarification as to whether there was a different signing procedure for Member Delegations and Observer Delegations.

172. In response to the Delegation of the Republic of Korea, the President said that the final document of the Conference was open for signature by all duly accredited Conference participants. He added a clarification relating to approval of Document LI/DC/16, stating that Agreed Statements 1 and 2 also formed part of the record of this Conference.

173. Mr. GURRY (Director General of WIPO) wished to join Delegations in thanking the various bodies and persons. Being aware that there had been significant differences in approach on procedure and substance, he wished to thank, in the first place, all Delegations of all WIPO Member States for their very constructive engagement in the Conference. Openness to discuss these differences, a very good participation and a very positive spirit had enabled that environment to occur and take place. He further expressed his appreciation to the President of the Conference, Ambassador Luis Enrique Chávez

Basagoitia, for his wise guidance and leadership throughout the Conference. He also thanked the President of Main Committee I, Mr. Mihály Zoltán Ficsor, and the President of Main Committee II, Mr. Vladimir Yossifov, for their remarkable efforts and leadership in bringing all to a result and in conducting a very inclusive process. He also thanked the Presidents of the Credentials Committee and the Drafting Committee as well as all other officers and bureaus of the Conference and the various Committees. Equally, he wished to extend his thanks to the staff of WIPO, in particular Ms. Wang Binying, Deputy Director General, who had led the revision exercise over the past seven years; under her guidance, Mr. Marcus Höpperger and his team for their able and hard work; and the Legal Counsel, Mr. Edward Kwakwa and his team for their assistance throughout this process. He also mentioned the Conference Services and Mr. Ambi Sundaram, the Assistant Director General in charge of that area; the Director of the Conference and Language Department, Mr. Pushpendra Rai, and the translators who had done an extraordinary job and worked like everyone else under extraordinary pressure and under unusual hours; and, finally, the interpreters for their availability and for the excellent work which they had accomplished.

174. The President endorsed the thanks expressed by the Director General.

175. Mr. CASANUEVA (Chile) reiterated his concrete request made that afternoon and invited the Secretariat to react to this point.

176. Mr. HÖPPERGER (WIPO), in reply to the question from the Delegation of Chile with regard to footnote 1 to Article 11, as contained in the Basic Proposal, said that this footnote had been deleted in the course of the negotiations in Main Committee I on the understanding that its content would be reflected in the Explanatory Notes and thus from part of the Conference documentation. He confirmed that the Explanatory Notes to the Basic Proposal would be updated in light of the text of the Geneva Act and published as part of the Records of the Diplomatic Conference, thus providing a basis for interpretation of the Act.

177. Mr. SCHMIDLIN (Italy) said that his Delegation wished to add to the names of persons to whom appreciation had been expressed, Mr. Matthijs Geuze, who has been the father of the revision of the Lisbon Agreement since 2009.

178. The President declared the Diplomatic Conference closed.