

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

Assembly

Thirty-Second (21st Ordinary) Session
Geneva, October 5 to 14, 2015

PROPOSAL TO ESTABLISH A WORKING CAPITAL FUND FOR THE LISBON UNION

Document prepared by the International Bureau

INTRODUCTION

1. During and subsequent to the twenty-fourth session of the Program and Budget Committee of WIPO, members of the Lisbon Union requested that further information be provided for the establishment of a Working Capital Fund for the Lisbon Union.
2. The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (as amended on September 28, 1979) ("Lisbon Agreement") provides, in Article 11, the relevant provisions for the financing of the Lisbon Union. Pursuant to Article 11, "international registration fees collected under Article 7(2) [of the Lisbon Agreement] and fees and charges due for other services rendered by the International Bureau in relation to the Special Union" are the primary means for financing of the Union. To date, such fees have proven insufficient to cover the Union's expenses, which in 2014 amounted to a total of 792,000 Swiss francs. Taking into consideration the "Proposal to Update the Fee Schedule under Rule 23 of the Regulations under the Lisbon Agreement"¹ as submitted to the Lisbon

¹ Document LI/A/32/2.

Union Assembly at its thirty-second (21st ordinary) session in Geneva, from October 5 to 14, 2015, the projected annual deficit in 2016/17 would still amount to approximately 700,000 Swiss francs.

3. Article 11(3)(v) of the Lisbon Agreement foresees as one means of financing the budget of the Lisbon Union “contributions of the countries of the Special Union, if and to the extent to which receipts from the sources indicated in items (i) to (iv) [of Article 11(3), namely international registration fees, sales of or royalties on publications, gifts, bequests, subventions, rents, interest, and other miscellaneous income] do not suffice to cover the expenses of the Special Union.” A simulation for individual payments of such contributions based on the proposed budget for the Lisbon Union for 2016/17 and in accordance with Article 11(5)(a) to (c) can be provided. In particular, Article 11(5)(c) stipulates that the date on which contributions are to be paid shall be fixed by the [Lisbon Union] Assembly.

4. Article 11(7) of the Lisbon Agreement directs the establishment of a working capital fund to cover any deficit in the operating expenses of the Lisbon Union. Consequently, and as referenced in document WO/PBC/24/16/Rev., “Options for the Financial Sustainability of the Lisbon Union,” the Director General is at this time presenting the following proposal for the proportion and terms of payment for a working capital fund, for the purpose of covering any operational deficit of the Lisbon Union, upon which it will hear the advice of the Coordination Committee (document WO/CC/71/6).

BACKGROUND AND RELEVANT POLICIES ON THE ESTABLISHMENT OF A LISBON UNION WORKING CAPITAL FUND

5. Article 11(7) of the Lisbon Agreement provides that:

“(a) The Special Union shall have a working capital fund which shall be constituted by a single payment made by each country of the Special Union. If the fund becomes insufficient, the Assembly shall decide to increase it.

(b) The amount of the initial payment of each country to the said fund or of its participation in the increase thereof shall be a proportion of the contribution of that country as a member of the Paris Union for the Protection of Industrial Property to the budget of the said Union for the year in which the fund is established or the decision to increase it is made.

(c) The proportion and the terms of payment shall be fixed by the Assembly on the proposal of the Director General and after it has heard the advice of the Coordination Committee of the Organization.”

6. As described in the document on Options for the Financial Sustainability of the Lisbon Union, a working capital fund is designed to finance operations in the absence of sufficient revenue, including covering for delays in receipt of contributions. It is therefore, by its nature, intended to be a temporary solution, until such time as a more permanent, sustainable solution is reached through other sources of financing as set forth in Article 11(3) of the Lisbon Agreement. Contributions to the working capital fund, which remain owed to the Members of the Lisbon Union, could then be repayable if revenues become sufficient to finance operations. Working capital funds for the PCT Union, the Madrid Union and the Hague Union were established in 1983, 1979 and 1978, respectively. The working capital fund for the PCT Union is proposed to be returned to Members of the PCT Union through deductions from contribution invoices in the 2016/17 biennium².

² WO/PBC/23/9.

7. WIPO's Financial Regulations and Rules (FRR) define Working Capital Funds as follows: "Working capital funds" shall mean funds established for providing advance financing of appropriations should there be a temporary liquidity shortfall and for such other purposes as the Assemblies of Member States and of the Unions, each as far as it is concerned, shall decide (*Financial Rule 101.3(q)*).

8. The FRR further provides that:

Working capital funds

Regulation 4.2

The working capital funds of the Organization and of the Paris, Berne, Madrid, Hague, IPC, Nice, PCT, Lisbon, Locarno and Vienna Unions shall be established in amounts to be determined by the Assemblies of the Member States and of the Unions, each as far as it is concerned.

Regulation 4.3

The working capital funds shall be used, to the extent possible, as advances to finance budgetary appropriations that are not yet covered by available liquidity and for such other purposes as may be determined by the Assemblies of the Member States and of the Unions, each as far as it is concerned.

Regulation 4.4

Advances made from the working capital funds to finance budgetary appropriations shall be reimbursed to the working capital funds as soon as and to the extent that income is available for that purpose.

INITIAL LEVEL, MANAGEMENT AND REPORTING OF THE LISBON UNION WORKING CAPITAL FUND

9. The initial level of the Lisbon Union Working Capital Fund is proposed at 2 million Swiss francs based on the negative projected operating result of the Lisbon Union in the 2016/17 biennium³. In accordance with Article 11(7) (b) of the Lisbon Agreement, "the amount of the initial payment of each country to the said fund" ... "shall be a proportion of the contribution of that country as a member of the Paris Union for the Protection of Industrial Property". In accordance with the decision of the Assemblies of the Member States of WIPO, at the Thirty-Ninth Series of Meetings, from September 22 to October 1, 2003, in Geneva (document A/39/15), Member States' contributions are paid in accordance with the unitary contribution classes. It is therefore proposed that the initial contributions to the Lisbon Union Working Capital Fund by country be based on the same contribution classes as included in the Annex to this document.

10. The initial contributions to the Lisbon Union Working Capital Fund will be invoiced by the WIPO Secretariat to each country, as per the Annex, on January 1, 2016, with a payment due date of June 30, 2016.

11. The Lisbon Union Working Capital Fund will be used to cover any operational deficit of the Lisbon Union on an annual basis as reported in Note 28: Segment Reporting (Revenue, Expenses and Reserves by Segment) in the WIPO Annual Financial Report and Financial Statements. The balance of the Lisbon Union Working Capital Fund will be reported in the WIPO Annual Financial Report and Financial Statements.

³ Proposed Program and Budget 2016/17, Annex III, Table 11.

12. Proposals for the replenishment of the Lisbon Union Working Capital Fund will be submitted to the Lisbon Union Assembly and would be based on considerations of any *post facto* invoicing of unfunded actual deficits of the Lisbon Union, projected operating results for subsequent biennia and remaining available balances of the Lisbon Union Working Capital Fund.

13. The Assembly, having heard the advice of the Coordination Committee is invited to decide to establish a Lisbon Union Working Capital Fund, with the proportion and terms of payment as set forth in paragraphs 8 to 11 of document LI/A/32/4.

[Annex follows]

ANNEX

2016/17 Contributions to a Lisbon Union Working Capital Fund
(Based on Member States' Contribution Classes*)

| | | Contribution <i>(in Swiss francs)</i> | |
|--|--------------|---|------------------|
| <i>Country</i> | <i>Class</i> | <i>Units/Weight</i> | <i>Amount</i> |
| Algeria | IX | 0.25 | 6,935 |
| Bosnia and Herzegovina | <i>Sbis</i> | 0.0625 | 1,734 |
| Bulgaria | <i>VIbis</i> | 2 | 55,483 |
| Burkina Faso | <i>Ster</i> | 0.03125 | 867 |
| Congo | <i>Sbis</i> | 0.0625 | 1,734 |
| Costa Rica | S | 0.125 | 3,468 |
| Cuba | S | 0.125 | 3,468 |
| Czech Republic | VI | 3 | 83,225 |
| Democratic People's Republic of Korea | <i>Sbis</i> | 0.0625 | 1,734 |
| France | I | 25 | 693,541 |
| Gabon | S | 0.125 | 3,468 |
| Georgia | IX | 0.25 | 6,935 |
| Haiti | <i>Ster</i> | 0.03125 | 867 |
| Hungary | VI | 3 | 83,225 |
| Iran (Islamic Republic of) | VII | 1 | 27,742 |
| Israel | <i>VIbis</i> | 2 | 55,483 |
| Italy | III | 15 | 416,125 |
| Mexico | <i>IVbis</i> | 7.5 | 208,062 |
| Montenegro | IX | 0.25 | 6,935 |
| Nicaragua | <i>Sbis</i> | 0.0625 | 1,734 |
| Peru | IX | 0.25 | 6,935 |
| Portugal | <i>IVbis</i> | 7.5 | 208,062 |
| Republic of Moldova | IX | 0.25 | 6,935 |
| Serbia | VIII | 0.5 | 13,871 |
| Slovakia | VI | 3 | 83,225 |
| The former Yugoslav Republic of Macedonia | VIII | 0.5 | 13,871 |
| Togo | <i>Ster</i> | 0.03125 | 867 |
| Tunisia | S | 0.125 | 3,468 |
| Total Contributions | | | 2,000,000 |

*The contribution class for most developing countries is based on the UN scale of assessment. The present scale is valid for the years 2013-2015. The new scale for 2016-2018 will be approved in December 2015 by the UN General Assembly. The specific amounts to be paid by some countries might therefore change slightly.

[End of Annex and of document]