

## **Working Group on the Development of the Lisbon System (Appellations of Origin)**

**Fourth Session**  
**Geneva, December 12 to 16, 2011**

### **DRAFT NEW INSTRUMENT CONCERNING THE INTERNATIONAL REGISTRATION OF GEOGRAPHICAL INDICATIONS AND APPELLATIONS OF ORIGIN**

*Document prepared by the Secretariat*

1. At its third session, which took place in Geneva from May 23 to May 27, 2011, the Working Group on the Development of the Lisbon System (Appellations of Origin) (hereinafter referred to as “the Working Group”) requested the International Bureau of the World Intellectual Property Organization (WIPO) to prepare a draft new instrument containing the draft provisions set out in Annex II of document LI/WG/DEV/3/2, as revised on the basis of comments made during the third session of the Working Group, as well as any further draft provisions the inclusion of which would be necessary for making the draft new instrument as complete as possible, while leaving open the question as to the legal instrument by which it might be formalized (document LI/WG/DEV/3/3).
2. As a result, the International Bureau has prepared the present document, which contains an Annex outlining such draft new instrument.
3. It is recalled that the objective pursued by the Working Group is to review the international registration system of the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (hereinafter referred to as “the Lisbon Agreement”) for making the system more attractive for users and prospective new members, while preserving the principles and objectives of the Lisbon Agreement.
4. Notes explaining the various provisions of the draft new instrument are contained in document LI/WG/DEV/4/4.

5. Reference is also made to documents LI/WG/DEV/4/3 and 5, which concern the draft regulations accompanying the draft new instrument and the notes explaining the various provisions of the draft regulations.

6. *The Working Group is invited to:*

*(i) take note of the present document;*

*(ii) indicate its recommendations with regard to the proposed draft new instrument contained in the Annex, both in terms of content and as to the further preparation of a process that might result in a revision of the Lisbon Agreement and/or a protocol or a new treaty supplementing the Lisbon Agreement; and*

*(iii) decide on any follow-up action that the Working Group may deem appropriate.*

[Annex follows]

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GEOGRAPHICAL INDICATIONS AND APPELLATIONS OF ORIGIN**

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## **Chapter I**

### **Introductory Provisions**

#### **Article 1**

##### **Special Union**

(1) The Contracting Parties to which this Agreement applies [constitute a Special Union within the framework of the Union for the Protection of Industrial Property] [shall be members of the same Special Union as the States party to the Lisbon Agreement].

(2) They shall apply the provisions of the Paris Convention in respect of the subject matter covered by this Agreement and in addition comply with the provisions stipulated in this Agreement.

#### **Article 2**

##### **Abbreviated Expressions**

For the purposes of this Agreement, unless expressly stated otherwise:

- (i) "Agreement" means the present [[Act Revising] [Protocol Supplementing] the Lisbon Agreement] [Treaty] Concerning the International Registration of Geographical Indications and Appellations of Origin;
- (ii) "Lisbon Agreement" refers to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration of October 31, 1958, as revised at Stockholm on July 14, 1967, and as amended on September 28, 1979 and when applicable the Lisbon Agreement as originally adopted;
- (iii) "Regulations" refers to the Regulations referred to in Article 25;
- (iv) "Paris Convention" means the Paris Convention for the Protection of Industrial Property, signed at Paris on March 20, 1883, as revised and amended;
- (v) "Madrid Agreement" refers to the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, signed at Madrid on April 14, 1891, as revised and amended;
- (vi) "TRIPS Agreement" refers to the Agreement on Trade-Related Aspects of Intellectual Property Rights of April 15, 1994, which is administered by the World Trade Organization;
- (vii) "geographical indication" means a geographical indication as defined in accordance with Article 3(5) of this Agreement;
- (viii) "appellation of origin" means a geographical indication defined as an appellation of origin in accordance with Article 3(5) of this Agreement;
- (ix) "international application" means an application for international registration;
- (x) "International Register" means the official collection of data concerning international registrations maintained by the International Bureau, whose entry is provided for in this Agreement or the Regulations, whatever the medium on which such data are kept;
- (xi) "Contracting Party" means any State or intergovernmental organization party to this Agreement;
- (xii) "Organization" means the World Intellectual Property Organization;
- (xiii) "Director General" means the Director General of the Organization;
- (xiv) "International Bureau" means the International Bureau of the Organization;

(xv) “competent authority” means the authority notified, in accordance with the Regulations, by a Contracting Party, or in the case of Article 3(4), two or more Contracting Parties, for the purposes of the procedures under this Agreement;

(xvi) “intergovernmental organization” refers to an intergovernmental organization eligible to become party to this Agreement in accordance with Article 29(1)(ii).

### **Article 3**

#### **Protection of Geographical Indications and Appellations of Origin Registered at the International Bureau**

(1) The Contracting Parties undertake to protect on their territories, in accordance with Chapter III below, the geographical indications and appellations of origin of products of the other Contracting Parties of the Special Union, registered in accordance with Chapter II, below.

(2) Protection as stipulated in the preceding paragraph shall be provided in respect of a geographical indication or appellation of origin that meets the respective definition in paragraph (5), below and as long as it enjoys protection, granted by virtue of a legislative or administrative act, a judicial decision or registration, under a legal instrument applying in the geographical area of origin.

(3) The legal instrument referred to in the preceding paragraph can be any national law, or a law applying between the member States of an intergovernmental organization, which provides protection, as stipulated in Article 9, in respect of the geographical indication or appellation of origin in question, whether through *sui generis* legislation or other legislation.

(4) Notwithstanding the preceding paragraph, in case the geographical area of origin is situated in two or more Contracting Parties, the legal instrument may also be an international agreement concluded between the Contracting Parties concerned for the purpose of the establishment of a common geographical indication or appellation of origin.

(5) (a) A Contracting Party may not protect a geographical indication registered under this Agreement, if the geographical indication does not qualify as an indication identifying a product because of a quality, reputation or other characteristic, essentially attributable to its geographical origin;

(b) A Contracting Party may not protect an appellation of origin registered under this Agreement, if the appellation of origin does not qualify as a geographical denomination known as the designation of a product that originates in a given geographical area, including any denomination traditionally known as designating the geographical origin of a product, the quality or characteristics of which are due exclusively or essentially to the geographical environment in that geographical area, including natural and/or human factors;

(c) However, any Contracting Party may agree to protect also any geographical indication or appellation of origin registered under this Agreement on the basis of another definition, as stipulated in the legal instrument referred to in paragraph (3), above, and shall do so in case the law of the Contracting Party in question provides protection on the basis of the same definition;

(d) In any event, a Contracting Party shall not apply stricter definitions to refuse protection under this Agreement in respect of international registrations of other Contracting Parties.

#### **Article 4**

##### Protection by Virtue of Other Texts

The provisions of this Agreement shall in no way exclude more extensive protection as may be available in a Contracting Party. Neither shall it exclude the protection granted to geographical indications or appellations of origin in each of the Contracting Parties by virtue of other international instruments, such as the Paris Convention, the Madrid Agreement, the TRIPS Agreement or by virtue of national or regional legislation or court decisions.

#### **Chapter II**

##### **International Application and International Registration**

#### **Article 5**

##### Filing International Applications

- (1) The registration of geographical indications and appellations of origin under this Agreement shall be effected with the International Bureau in accordance with Article 6.
- (2) The international application for the registration of a geographical indication or an appellation of origin shall be presented by the competent authority, in the name of, and upon request from, any natural persons or legal entities, public or private, being, according to the legislative or administrative act, judicial decision or registration referred to in Article 3(2), the holder or holders of the right to use the geographical indication or appellation of origin in question.
- (3) Alternatively, if the legal instrument referred to in Article 3(3) so permits, the international application may be presented directly to the International Bureau by the holder or holders of the right to use the geographical indication or appellation of origin in question, or a federation or association having legal standing to assert that right, provided that the application is accompanied by proof that the particulars specified in the international application correspond to the particulars in the legislative or administrative act, judicial decision or registration referred to in paragraph (2), above.
- (4) The Regulations shall specify the particulars to be indicated in the international application.
- (5) The international application may contain other particulars, in conformity with the Regulations.
- (6) Where the international application does not contain all the following particulars:
  - (i) the competent authority presenting the application or, in the case of paragraph (3), above, details identifying the applicant or applicants,
  - (ii) the holder or holders of the right to use the geographical indication or appellation of origin,
  - (iii) the geographical indication or appellation of origin for which registration is sought,
  - (iv) the product to which the geographical indication or appellation of origin applies,the international registration shall bear the date on which the last of the missing particulars is received by the International Bureau.

(7) In all other cases, the international registration shall bear the date on which the international application was received by the International Bureau.

## **Article 6** International Registration

(1) The International Bureau shall register as a geographical indication under this Agreement a geographical indication, that is the subject of an international application in accordance with Article 5, above, in respect of which protection had been granted by virtue of a legislative or administrative act, a judicial decision or registration, as referred to in Article 3(2), above, in the Contracting Party whose competent authority had presented the international application, on the basis of a legal instrument, as referred to in Article 3(3), above, containing a definition that corresponds to the definition of Article 3(5)(a), above, or, in the case of Article 5(3), above, under whose legal instrument the abovementioned grant of protection had been effected.

(2) If protection in the Contracting Party referred to in paragraph (1) of the present Article had been granted on the basis of another definition, as referred to in Article 3(5)(c), above, protection of the internationally registered geographical indication in another Contracting Party may be subject to proof that the legislative or administrative act, the judicial decision or the registration, as referred to in Article 3(2), above, contains particulars that would meet the requirements of the definition of Article 3(5)(a), above.

(3) Paragraphs (1) and (2) of the present Article apply *mutatis mutandis* with regard to an appellation of origin that is the subject of an international application in accordance with Article 5, above.

(4) Internationally registered appellations of origin shall be protected as appellations of origin in Contracting Parties providing protection in respect of appellations of origin separate from geographical indications and as geographical indications in Contracting Parties providing protection in respect of geographical indications on the basis of criteria that do not distinguish between geographical indications and appellations of origin.

## **Article 7** Fees

(1) Registration of each geographical indication or appellation of origin shall be subject to the payment of a fee as specified in the Regulations.

(2) The Regulations shall also specify the fee to be paid for in respect of other entries in the International Register and for the supply of extracts, attestations, or other information concerning the contents of the international registration.



### **Chapter III**

#### **Effects Of Registration**

#### **Article 8**

##### Date of Effect of International Registration

(1) (a) The effects of registration, as stipulated in this Chapter, shall apply from the date of the international registration or, where a Contracting Party has made a declaration in accordance with subparagraph (b), from the date mentioned in that declaration.

(b) A Contracting Party may, in a declaration, notify the Director General that, in accordance with the law of that Contracting Party, a geographical indication or an appellation of origin that is the subject of an international registration is protected from a date that is mentioned in the declaration, which date shall however not be later than the date of expiry of the period of one year referred to in Article 19(1).

(2) In the case of a withdrawal of a refusal or a statement of grant of protection following a refusal, the effects of registration in the Contracting Party concerned shall apply from the date specified in the notification of withdrawal or grant of protection.

#### **Article 9**

##### Content of Protection

(1) From the date of the registration so effected at the International Bureau in accordance with the provisions of Articles 6 and 8, the protection of the internationally registered geographical indication in each of the Contracting Parties shall be the same as if protection had been granted under a legal instrument as referred to in Article 3(3), above, directly.

(2) (a) Subject to Article 6(4), Article 19(1) and Article 21, Contracting Parties shall protect an internationally registered appellation of origin at least against:

(i) any direct or indirect use of the appellation of origin in respect of a product that does not originate in the geographical area of production to which the appellation of origin refers, as recorded in the International Register, where such use would amount to usurpation or imitation, even if the true origin of the product is indicated or if the appellation of origin is used in translated form or accompanied by terms such as "kind", "type", "make", "imitation", or the like; and

(ii) any direct or indirect use of the appellation of origin in respect of a product not covered by the international registration but that is to be considered comparable, identical or similar, related or linked to the product designated by the appellation of origin, where such use would amount to evocation of the appellation of origin and would likely be detrimental to its reputation or unduly exploit that reputation.

(b) The provisions of subparagraph (a), above, apply *mutatis mutandis* to the registration of a trademark containing or consisting of the appellation of origin by someone who is not a holder of the right to use the appellation of origin in question.

(3) The case of use of an appellation of origin by someone from the geographical area of production identified by the appellation of origin, as recorded in the International Register, in respect of a product that originates in that area, but which does not meet the qualifications on the basis of which the appellation of origin was granted protection, shall be dealt with as stipulated in the legislation of each Contracting Party, subject to Article 6(4), Article 19(1) and Article 21.

(4) In case of use or registration of an internationally registered geographical indication or appellation of origin as a trademark in respect of products of the same kind by someone who is not a holder of the right to use the geographical indication or appellation of origin in question, unlawful use under paragraph (2) shall be presumed.

(5) In the case of homonymous geographical indications and appellations of origin, Contracting Parties shall protect each of the geographical indications or appellations of origin in question, subject to paragraph (6), below. Such protection shall be subject to practical conditions taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled.

(6) A Contracting Party may not accord protection, as stipulated in this Agreement, in respect of a geographical indication or an appellation of origin which would, although literally true as to the geographical area in which the product identified by the geographical indication or designated by the appellation of origin originates, falsely represent to the public that the product originates in another territory.

#### **Article 10**

##### **Presumption that a Protected Geographical Indication or Appellation of Origin Cannot Become Generic**

A geographical indication or an appellation of origin enjoying protection in accordance with Article 9 in a Contracting Party cannot, in that Contracting Party, be deemed to have become generic, as long as it is protected as a geographical indication or an appellation of origin under the legal instrument referred to in Article 3(3).

#### **Article 11**

##### **Period of Validity of Registration**

International registration in conformity with Article 6 shall ensure, without renewal, protection for the whole of the period referred to in the foregoing Article.

#### **Article 12**

##### **Use Under a Prior Trademark**

Article 9 does not apply in the case of use based on a prior trademark right for a sign containing or consisting of a term that corresponds to the geographical indication or appellation of origin in a given Contracting Party, provided the trademark right extends to that term and was acquired in good faith. Right holders of such trademarks may enter into an agreement with the holders of the right to use the geographical indication or the appellation of origin to terminate use of the trademark.

#### **Article 13**

##### **Use Under Another Legitimate Prior Right, Such as a Trade Name**

Article 12 shall apply *mutatis mutandis* in respect of use under another legitimate prior right, such as a trade name.

**Article 14**  
Use as a Generic

Subject to Article 18, Article 9 shall apply in respect of use as a generic.

**Article 15**  
Legal Proceedings

Legal action required for ensuring the protection of geographical indications or appellations of origin may be taken in each of the Contracting Parties under the provisions of the national legislation by:

1. the public Prosecutor or, where applicable, another public authority;
2. any interested party, whether a natural person or a legal entity, whether public or private.

**Chapter IV**  
**Notification of International Registrations and**  
**Possible Subsequent Notifications by Contracting Parties**

**Article 16**  
Notification of International Registration

The International Bureau shall, without delay, notify the internationally registered geographical indication or appellation of origin to the competent authorities of the Contracting Parties and shall publish it.

**Article 17**  
Possible Subsequent Notifications

Notwithstanding the provisions of Chapter III, the competent authority of a Contracting Party may, in accordance with the relevant procedures specified in the Regulations: within a period of one year from its receipt of the notification referred to in Article 16,

- (i) notify a statement of grant of protection as referred to in Article 8;
- (ii) notify a declaration of refusal under Article 19(1);

within a period of 15 months from its receipt of the abovementioned notification,

- (iii) notify the grant of a defined period to terminate prior use under Article 18(1);

at any time,

- (iv) notify the invalidation of the effects of an international registration in its territory in accordance with Article 21;
- (v) notify the withdrawal of a refusal or a statement of grant of protection subsequent to a refusal in accordance with Article 20(1).

### Article 18

#### Prior Use as a Generic; Period Granted

- (1) If a denomination, which has been granted protection as an appellation of origin in a given Contracting Party pursuant to notification of its international registration under this Agreement, was already in use in that Contracting Party by third parties as a generic indication for a kind of product, corresponding to the product to which the appellation of origin applies, from a date prior to such notification, the competent authority of the said Contracting Party shall have the right to grant to such third parties a defined period to terminate such use, on condition that it advise the International Bureau accordingly within a period of 15 months from the abovementioned notification. While the length of the defined period may differ from case to case, it should normally not extend beyond five years.
- (2) Paragraph (1), above, shall apply *mutatis mutandis* in respect of a geographical indication that is identical with a term customary in common language as the common name for certain goods or services in the territory of the Contracting Party in question or the customary name of a grape variety.
- (3) The preceding paragraphs do not preclude the situations in question to be grounds for refusal, as referred to in Article 19.
- (4) The provisions of paragraph (1) related to the grant of a period of time to terminate prior use as a generic indication shall apply *mutatis mutandis* in case a refusal is withdrawn in accordance with the procedure for the recording of withdrawals of refusals or the procedure for the recording of statements of grant of protection as specified in the Regulations.

### Article 19

#### Refusal

- (1)
  - (a) The competent authority of a Contracting Party may notify a declaration, *ex officio* if its legislation so permits or at the request of an interested party, indicating that the grant of protection in respect of an international registration, as notified to it under Article 16, is refused.
  - (b) Such a declaration of refusal must contain the grounds on which the refusal is based and be notified to the International Bureau within a period of one year from its receipt of the notification referred to in Article 16.
  - (c) Refusals shall be without prejudice to any protection for the geographical indication or appellation of origin in question, as referred to in Article 4, which may be available in the Contracting Party concerned.
- (2) Declarations of refusal shall be recorded in the International Register in conformity with the procedures specified in the Regulations.
- (3) Interested parties shall be afforded a reasonable opportunity to file petitions for the competent authority to issue a refusal under paragraph (1), above.
- (4)
  - (a) The International Bureau shall, as soon as possible, notify any declaration of refusal made, as referred to in paragraph (1), above, to the competent authority of the Contracting Party or, in the case of Article 3(4), Contracting Parties in whose territory the geographical area of origin of the geographical indication or appellation of origin is situated and upon whose application the international registration was effected.
  - (b) The holder or holders of the right to use the geographical indication or appellation of origin and, where applicable, the federation or association having legal standing to assert that right, shall be informed by the competent authority referred to in paragraph (1), above.

(c) In the case of Article 5(3), above, the International Bureau shall notify the declaration of refusal directly to the holder or holders of the right to use the geographical indication or appellation of origin or, where applicable, the federation or association having legal standing to assert that right.

(5) In any event, interested parties may resort, in a Contracting Party whose competent authority has issued a refusal, as referred to in paragraph (1), above, to all judicial and administrative remedies open to the nationals of that Contracting Party.

#### **Article 20** Withdrawal of Refusals

(1) Refusals can be withdrawn in conformity with the procedures specified in the Regulations and shall be recorded in the International Register either as a withdrawal of a declaration of refusal or as a statement of grant of protection.

(2) Interested parties shall be afforded a reasonable opportunity to negotiate the withdrawal of a refusal.

#### **Article 21** Invalidation

Invalidation, by the competent authorities of a Contracting Party, of the effects, in the territory of that Contracting Party, of an international registration may not be pronounced without the holder of such international registration having, in good time, been afforded the opportunity of defending his rights. Invalidation shall be notified to the International Bureau.

### **Chapter V** **Modifications and Other Entries in the International Register**

#### **Article 22** Procedures for Modifications and Other Entries in the International Register

The Regulations shall specify procedures for modifications of international registrations and other entries in the International Register concerning international registrations.

### **Chapter VI** **Administrative Provisions**

#### **Article 23** Assembly of the Special Union

(1) (a) [The Special Union shall have an Assembly consisting of those Contracting Parties which have ratified or acceded to this Agreement.] [The Contracting Parties shall be members of the same Assembly as the States party to the Lisbon Agreement.]

(b) The Government of each Contracting Party shall be represented by one delegate, who may be assisted by alternate delegates, advisors and experts.

(c) The expenses of each delegation shall be borne by the Government which has appointed it.

[(d) Members of the Special Union that are not members of the Assembly of the States party to the Lisbon Agreement shall be admitted to the meetings of the Assembly as observers.]

(2) (a) The Assembly shall:

(i) deal with all matters concerning the maintenance and development of the Special Union and the implementation of this Agreement;

(ii) give directions to the Director General concerning the preparation for the revision conferences referred to in Article 27(1)[, due account being taken of any comments made by those members of the Special Union which have not ratified or acceded to this Agreement];

(iii) modify the Regulations, including the fixation of the amount of the fee referred to in Article 7 and other fees relating to international registration;

(iv) review and approve the reports and activities of the Director General concerning the Special Union, and give him all necessary instructions concerning matters within the competence of the Special Union;

(v) determine the program and adopt the biennial budget of the Special Union, and approve its final accounts;

(vi) adopt the financial regulations of the Special Union;

(vii) establish such committees and working groups as it deems appropriate to achieve the objectives of the Special Union;

(viii) subject to paragraph (1)(d), determine which States, intergovernmental and non-governmental organizations shall be admitted to its meetings as observers;

(ix) adopt amendments to Articles 23, 24, 26 and 28;

(x) take any other appropriate action to further the objectives of the Special Union and perform any other functions as are appropriate under this Agreement.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(3) (a) Each Contracting Party member of the Assembly shall have one vote.

(b) One-half of the members of the Assembly which are States and have the right to vote on a given matter shall constitute a quorum for the purposes of the vote on that matter.

(c) Notwithstanding the provisions of subparagraph (b), if, in any session, the number of the members of the Assembly which are States, have the right to vote on a given matter and are represented is less than one-half but equal to or more than one-third of the members of the Assembly which are States and have the right to vote on that matter, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the conditions set forth hereinafter are fulfilled. The International Bureau shall communicate the said decisions to the members of the Assembly which are States, have the right to vote on the said matter and were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of this period, the number of such members having thus expressed their vote or abstention attains the number of the members which was lacking for attaining the quorum in the session itself, such decisions shall take effect provided that at the same time the required majority still obtains.

- (4) (a) The Assembly shall endeavor to take its decisions by consensus.  
(b) Where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting. In such a case,  
(i) each Contracting Party that is a State shall have one vote and shall vote only in its own name, and  
(ii) any Contracting Party that is an intergovernmental organization may vote, in place of its Member States, with a number of votes equal to the number of its Member States which are party to this Agreement, and no such intergovernmental organization shall participate in the vote if any one of its Member States exercises its right to vote, and vice versa.
- (5) (a) Subject to Articles 25(2) and 28(2), the decisions of the Assembly shall require two-thirds of the votes cast.  
(b) Abstentions shall not be considered as votes.
- (6) (a) The Assembly shall meet once in every second calendar year in ordinary session upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.  
(b) The Assembly shall meet in extraordinary session upon convocation by the Director General, either at the request of one-fourth of the members of the Assembly or on the Director General's own initiative.  
(c) The agenda of each session shall be prepared by the Director General.
- (7) The Assembly shall adopt its own rules of procedure.

**Article 24**  
International Bureau

- (1) (a) International registration and related duties, as well as all other administrative tasks concerning the Special Union, shall be performed by the International Bureau.  
(b) In particular, the International Bureau shall prepare the meetings and provide the secretariat of the Assembly and of such committees and working groups as may have been established by the Assembly.  
(c) The Director General shall be the chief executive of the Special Union and shall represent the Special Union.
- (2) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly, the committees and working groups established by the Assembly. The Director General, or a staff member designated by him, shall be *ex officio* secretary of those bodies.
- (3) (a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for the conferences referred to in Article 27(1) to revise the provisions of the Agreement other than Articles 23, 24, 26 and 28.  
(b) The International Bureau may consult with intergovernmental and international and national non-governmental organizations concerning the said preparations.  
(c) The Director General and persons designated by him shall take part, without the right to vote, in the discussions at those conferences.
- (4) The International Bureau shall carry out any other tasks assigned to it.

**Article 25**  
Regulations

- (1) The details for carrying out this Agreement are fixed in the Regulations.
- (2)
  - (a) The Regulations may specify that certain provisions of the Regulations may be amended only by unanimity or only by a three-fourths majority.
  - (b) In order for the requirement of unanimity or a three-fourths majority no longer to apply in the future to the amendment of a provision of the Regulations, unanimity shall be required.
  - (c) In order for the requirement of unanimity or a three-fourths majority to apply in the future to the amendment of a provision of the Regulations, a three-fourths majority shall be required.
- (3) In the case of conflict between the provisions of this Agreement and those of the Regulations, the former shall prevail.

**Article 26**  
Finances

- (1)
  - (a) The Special Union shall have a budget.
  - (b) The budget of the Special Union shall include the income and expenses specific to the Special Union and its contribution to the budget of expenses common to the Unions administered by the Organization.
  - (c) Expenses not attributable exclusively to the Special Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the Unions. The share of the Special Union in such common expenses shall be in proportion to the interest the Special Union has in them.
- (2) The budget of the Special Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organization.
- (3) The budget of the Special Union shall be financed from the following sources:
  - (i) international registration fees collected under Article 7 and fees and charges due for other services rendered by the International Bureau in relation to the Special Union;
  - (ii) proceeds from the sale of, or royalties on, the publications of the International Bureau concerning the Special Union;
  - (iii) gifts, bequests, and subventions;
  - (iv) rents, interest, and other miscellaneous income.
- (4)
  - (a) The amounts of the fees referred to in paragraph (3)(i), above, shall be fixed by the Assembly on the proposal of the Director General. Changes referred to in paragraph (3)(i) above shall be established by the Director General and shall be provisionally applied subject to approval by the Assembly at its next session.
  - (b) The amounts of the fees referred to in paragraph 3(i), above, shall be so fixed that the revenues of the Special Union from fees and other sources shall be at least sufficient to cover all the expenses of the International Bureau concerning the Special Union.
  - (c) If the budget is not adopted before the beginning of a new financial period, it shall be at the same level as the budget of the previous year, as provided in the financial regulations.



(5) 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. The proportion and the terms of payment shall be fixed by the Assembly on the proposal of the Director General.

(6) (a) In the headquarters agreement concluded with the State on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such State shall grant advances. The amount of those advances and the conditions on which they are granted shall be the subject of separate agreements, in each case, between such State and the Organization.

(b) The State referred to in subparagraph (a) and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

(7) The auditing of the accounts shall be effected by one or more of the States members of the Special Union or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

## **Chapter VII**

### **Revision and Amendment**

#### **Article 27**

##### **Revision**

(1) This Agreement may be revised by diplomatic conferences of the Contracting Parties. The convocation of any diplomatic conference shall be decided by the Assembly.

(2) Articles 23, 24, 26 and 28 may be amended either by a revision conference or by the Assembly according to the provisions of Article 28.

#### **Article 28**

##### **Amendment of Certain Articles by the Assembly**

(1) (a) Proposals for the amendment of Articles 23, 24, 26, and the present Article, may be initiated by any Contracting Party or by the Director General.

(b) Such proposals shall be communicated by the Director General to the Contracting Parties at least six months in advance of their consideration by the Assembly.

(2) Adoption of any amendment to the Articles referred to in paragraph (1) shall require a three-fourths majority, except that adoption of any amendment to Article 23, and to the present paragraph, shall require a four-fifths majority.

(3) (a) Except where subparagraph (b) applies, any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of those Contracting Parties which, at the time the amendment was adopted, were members of the Assembly and had the right to vote on that amendment.

(b) Any amendment to Article 23(3) or (4) or to this subparagraph shall not enter into force if, within six months of its adoption by the Assembly, any Contracting Party notifies the Director General that it does not accept such amendment.

(c) Any amendment which enters into force in accordance with the provisions of this paragraph shall bind all the States and intergovernmental organizations which are Contracting Parties at the time the amendment enters into force, or which become Contracting Parties at a subsequent date.

## **Chapter VIII**

### **Final Provisions**

#### **Article 29**

##### **Becoming Party to This Agreement**

- (1) Subject to Article 30 and paragraphs (2) and (3) of the present Article,
- (i) any State which is a member of the Organization, and in which a legal instrument applies as referred to in Article 3(3) or (4), above, may sign and become party to this Agreement;
  - (ii) any intergovernmental organization may become party to this Agreement if at least one member State of that intergovernmental organization is party to the Paris Convention or a member of the Organization, and the intergovernmental organization declares that it has been duly authorized, in accordance with its internal procedures, to become party to this Agreement, and declares that, in the territory in which the constituting Treaty of the intergovernmental organization applies, a legal instrument applies as referred to in Article 3(3) or (4), above, that is binding on all its member States in respect of the subject-matter covered by this Agreement.
- (2) Any State or intergovernmental organization referred to in paragraph (1), above, may deposit
- (i) an instrument of ratification if it has signed this Agreement, or
  - (ii) an instrument of accession if it has not signed this Agreement.
- (3) (a) Subject to subparagraphs (b) to (d), the effective date of the deposit of an instrument of ratification or accession shall be the date on which that instrument is deposited.
- (b) The effective date of the deposit of the instrument of ratification or accession of any State, that is a member State of an intergovernmental organization and in respect of which the protection of geographical indications and/or appellations of origin can only be obtained on the basis of a legal instrument applying between the member States of the intergovernmental organization, as referred to in Article 3(3), above, shall be the date on which the instrument of ratification or accession of that intergovernmental organization is deposited, if that date is later than the date on which the instrument of the said State has been deposited, without prejudice to the provisions under Article 32.
- (c) Any instrument of ratification or accession of a State may contain or be accompanied by a declaration making it a condition to its being considered as deposited that the instrument of one other State or one intergovernmental organization, or the instruments of two other States, or the instruments of one other State and one intergovernmental organization, specified by name and eligible to become party to this Agreement, is or are also deposited. The instrument containing or accompanied by such a declaration shall be considered to have been deposited on the day on which the condition indicated in the declaration is fulfilled. However, when an instrument specified in the declaration itself contains, or is itself accompanied by, a

declaration of the said kind, that instrument shall be considered as deposited on the day on which the condition specified in the latter declaration is fulfilled.

(d) Any declaration made under paragraph (c) may be withdrawn, in its entirety or in part, at any time. Any such withdrawal shall become effective on the date on which the notification of withdrawal is received by the Director General.

### **Article 30**

#### Effective Date of Ratifications and Accessions

(1) For the purposes of this Article, only instruments of ratification or accession that are deposited by States or intergovernmental organizations referred to in Article 29(1) and that have an effective date according to Article 29(3) shall be taken into consideration.

(2) This Agreement shall enter into force three months after five States have deposited their instruments of ratification or accession.

(3) (a) Any State or intergovernmental organization that has deposited its instrument of ratification or accession three months or more before the date of entry into force of this Agreement shall become bound by this Agreement on the date of entry into force of this Agreement.

(b) Any other State or intergovernmental organization shall become bound by this Agreement three months after the date on which it has deposited its instrument of ratification or accession or at any later date indicated in that instrument.

(4) In the territory of the acceding State or intergovernmental organization, the benefits of the present Agreement shall apply in respect of geographical indications and appellations of origin already registered under the Agreement at the time the accession becomes effective, subject to the provisions of Chapter IV above, which shall apply *mutatis mutandis*. However, the acceding State or intergovernmental organization may specify, in a declaration attached to its instrument of ratification or accession, an extension of the period of one year referred to in Article 19(1)(b) above, and the period of 15 months referred to in Article 18(1), by, at a maximum, one year.

### **Article 31**

#### Prohibition of Reservations

No reservations to this Agreement are permitted.

### **Article 32**

#### Application of the Lisbon Agreement

(1) This Agreement alone shall be applicable as regards the mutual relations of Contracting Parties to both this Agreement and the Lisbon Agreement.

(2) Any Contracting Party to both this Agreement and the Lisbon Agreement shall continue to apply the Lisbon Agreement in its relations with Contracting Parties to the Lisbon Agreement that are not party to this Agreement.

**Article 33**

Denunciation of This Agreement

- (1) Any Contracting Party may denounce this Agreement by notification addressed to the Director General.
- (2) Denunciation shall take effect one year after the date on which the Director General has received the notification or at any later date indicated in the notification. It shall not affect the application of this Agreement to any international application pending and any international registration in force in respect of the denouncing Contracting Party at the time of the coming into effect of the denunciation.

**Article 34**

Languages of This Agreement; Signature

- (1) (a) This Agreement shall be signed in a single original in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic.  
(b) Official texts shall be established by the Director General, after consultation with the interested Governments, in such other languages as the Assembly may designate.
- (2) This Agreement shall remain open for signature at the headquarters of the Organization for one year after its adoption.

**Article 35**

Depositary

The Director General shall be the depositary of this Agreement.

[End of Annex and of document]