

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

**Tenth Session
Geneva, October 27 to 31, 2014**

SUMMARY BY THE CHAIR

adopted by the Working Group

1. The Working Group on the Development of the Lisbon System (Appellations of Origin) (hereinafter referred to as “the Working Group”) met in Geneva, from October 27 to 31, 2014.
2. The following Contracting Parties of the Lisbon Union were represented at the session: Algeria, Bosnia and Herzegovina, Bulgaria, Congo, Costa Rica, Czech Republic, France, Georgia, Haiti, Hungary, Iran (Islamic Republic of), Israel, Italy, Mexico, Nicaragua, Peru, Portugal, Republic of Moldova, Slovakia, Togo, Tunisia (21).
3. The following States were represented as observers: Afghanistan, Albania, Australia, Bahamas, Benin, Burundi, Cameroon, Canada, Chile, Colombia, Comoros, Cyprus, El Salvador, Germany, Greece, Iraq, Japan, Jordan, Latvia, Pakistan, Panama, Paraguay, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Senegal, South Africa, Spain, Switzerland, Thailand, Turkey, Ukraine, United Kingdom, United States of America, Uruguay (36).
4. Representatives of the following international intergovernmental organizations (IGOs) took part in the session in an observer capacity: European Union (EU), International Organisation of Vine and Wine (OIV), International Trade Centre (ITC), West African Economic and Monetary Union (WAEMU), World Trade Organization (WTO) (5).
5. Representatives of the following international non-governmental organizations (NGOs) took part in the session in an observer capacity: Association of European Trademark Owners (MARQUES), Brazilian Association of Intellectual Property (ABPI), Centre for International Intellectual Property Studies (CEIPI), Consortium for Common Food Names (CCFN), European Communities Trade Mark Association (ECTA), International Association for the Protection of Intellectual Property (AIPPI), International Federation of Intellectual Property Attorneys (FICPI), International Trademark Association (INTA), Knowledge Ecology International, Inc. (KEI), Organization for an International Geographical Indications Network (oriGIn) (10).

6. The list of participants is contained in document LI/WG/DEV/10/INF/2 Prov. 2*.

AGENDA ITEM 1: OPENING OF THE SESSION

7. The Deputy Director General of the World Intellectual Property Organization (WIPO), Ms. Wang Binying, opened the session, recalled the mandate of the Working Group and introduced the draft agenda, as contained in document LI/WG/DEV/10/1 Prov.

AGENDA ITEM 2: ELECTION OF A CHAIR AND TWO VICE-CHAIRS

8. Mr. Mihály Ficsor (Hungary) was unanimously elected as Chair of the Working Group, Mr. Alfredo Rendón Algara (Mexico) and Ms. Ana Gobechia (Georgia) were unanimously elected as Vice-Chairs.
9. Mr. Matthijs Geuze (WIPO) acted as Secretary to the Working Group.

AGENDA ITEM 3: ADOPTION OF THE AGENDA

10. The Working Group adopted the draft agenda (document LI/WG/DEV/10/1 Prov.) without modification.

AGENDA ITEM 4: REPORT OF THE NINTH SESSION OF THE WORKING GROUP ON THE DEVELOPMENT OF THE LISBON SYSTEM (APPELLATIONS OF ORIGIN)

11. The Working Group took note of the adoption, on October 17, 2014, of the Report of the ninth session of the Working Group, as contained in document LI/WG/DEV/9/8, in accordance with the procedure established at the fifth session of the Working Group.

AGENDA ITEM 5: DRAFT REVISED LISBON AGREEMENT ON APPELLATIONS OF ORIGIN AND GEOGRAPHICAL INDICATIONS AND DRAFT REGULATIONS UNDER THE DRAFT REVISED LISBON AGREEMENT

12. The Chair recalled that the Lisbon Union Assembly had approved, at its ordinary session in 2013, the convening of a Diplomatic Conference for the Adoption of a Revised Lisbon Agreement on Appellations of Origin and Geographical Indications (hereinafter referred to as "the Diplomatic Conference") in 2015.
13. Discussions were based on documents LI/WG/DEV/10/2, LI/WG/DEV/10/3, LI/WG/DEV/10/4 and LI/WG/DEV/10/5. The Working Group examined in detail the pending issues enumerated in paragraph 5 of document LI/WG/DEV/10/2 with a view to reducing their

* The final list of participants will be made available as an Annex to the Report of the session.

number. As a result some pending issues were settled while others would be submitted to the Diplomatic Conference, either in an amended form or as contained in document LI/WG/DEV/10/2. The outcome of the discussions can be summarized as follows¹:

A. Settled issues

- (i) the title and the Preamble of the draft Revised Lisbon Agreement;
- (ii) the question as to whether Article 9(1) should be kept and whether Article 9(2) should be moved to Article 6;
- (iii) the issue as to whether Article 10(2), read in conjunction with Article 15(2), should refer to any other or to more extensive protection;
- (iv) the issues as to whether Article 13(2) to (4) should be kept and whether consequential amendments should be made to Article 17(2) and to footnote 4 relating to that provision.

B. Issues that remain pending

1. *As amended at the tenth session of the Working Group on the Development of the Lisbon System*

- (v) Article 7(3), Article 8(3), Article 24(3)(vi) and related provisions concerning the possible introduction of maintenance fees;
- (vi) the possible re-introduction of the provisions of the current Lisbon Agreement dealing with contributions by members of the Lisbon Union;
- (vii) the various options in respect of Article 11(1)(a) and Article 11(3);
- (viii) the content of Article 12 concerning protection against acquiring a generic character;
- (ix) the content of Article 13(1) concerning safeguards in respect of prior trademark rights;
- (x) the content of Article 16(2) concerning negotiations following a refusal;
- (xi) the content of Article 17 concerning the necessity of a phasing out period;
- (xii) the issue as to whether Rule 5(3) should be optional or mandatory;
- (xiii) the issue of promoting transparency under Rule 5(5)(ii).

¹ For ease of reference, the numbering of the issues does not reproduce the numbering used in paragraph 5 of document LI/WG/DEV/10/2. Instead, the numbering reproduces the numbering of the Articles and Rules used in the Annexes to documents LI/WG/DEV/10/2 and LI/WG/DEV/10/3.

2. As contained in document LI/WG/DEV/10/2

- (xiv) implementation aspects of Article 1(xiv);
- (xv) the content of Article 2(2) and Article 5(4) concerning trans-border geographical areas of origin;
- (xvi) the issue of entitlement to file an application under Article 5(2);
- (xvii) Article 7(5) and (6) and related provisions concerning the possible introduction of individual fees;
- (xviii) the issue of the draft Agreed Statement contained in footnote 1 to Article 11 and provisions relating to the same issue;
- (xix) the issue as to whether Article 19(1) should establish an exhaustive or a non-exhaustive list of grounds for invalidation;
- (xx) the issue of the inclusion of Rule 5(4) permitting a Contracting Party to require a declaration of intention to use in respect of a registered appellation of origin or a registered geographical indication;
- (xxi) the amount of fees in Rule 8(1).

14. The Chair indicated that the Report of the present session would fully and accurately reflect the way in which the Working Group managed to settle some of the pending issues as well as the amendments agreed upon concerning the provisions related to other pending issues. On that basis, the basic proposal that would be submitted by the Director General to the Diplomatic Conference would fully and precisely reflect the outcome of the discussions on the pending issues at the present session of the Working Group, with the editorial changes that might appear necessary.

15. Following discussion of paragraph 7 of document LI/WG/DEV/10/2, the Chair concluded that the Working Group had agreed:

- (i) that the texts of the draft Revised Lisbon Agreement and the draft Regulations resulting from its consideration of the pending issues listed in paragraph 5 of document LI/WG/DEV/10/2 should constitute the basic proposal for the Diplomatic Conference; and
- (ii) to recommend that the Assembly of the Lisbon Union consider the need to amend, to the extent possible, the Regulations under the current Lisbon Agreement in view of the outcome of the Diplomatic Conference.

AGENDA ITEM 6: OTHER MATTERS

16. No interventions were made under this item.

AGENDA ITEM 7: ADOPTION OF THE SUMMARY BY THE CHAIR

17. The Working Group approved the Summary by the Chair, as contained in the present document.

18. A draft of the full Report of the session of the Working Group will be made available on the WIPO web site for comments by the delegations and representatives that participated in the meeting. Participants will be informed once the draft Report is available on the WIPO web site. Participants can submit comments within one month from its publication date, after which a track-changes version of the document, taking into account all the comments received from participants, will be made available on the WIPO web site. The availability of the comments and the track-changes version will also be communicated to participants, together with a deadline for the submission of final comments on that track-changes version. Thereafter, the Report, taking into account the final comments, as appropriate, will be published on the WIPO web site without track changes, indicating the date of such final publication. In the absence of comments within two weeks from that date the Report will be deemed adopted.

AGENDA ITEM 8: CLOSING OF THE SESSION

19. The Chair closed the session on October 31, 2014.

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