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**SPECIAL UNION FOR THE PROTECTION OF
APPELLATIONS OF ORIGIN AND THEIR INTERNATIONAL REGISTRATION
(LISBON UNION)**

ASSEMBLY

**Twenty-Third (6th Extraordinary) Session
Geneva, September 22 to 30, 2008**

**PREPARATION OF CERTAIN AMENDMENTS TO THE REGULATIONS UNDER THE
LISBON AGREEMENT: ESTABLISHMENT OF A WORKING GROUP**

Document prepared by the International Bureau

1. Among the challenges identified in the WIPO Program and Budget for the 2008/09 biennium in relation to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration features the possible adaptation of its procedures to new situations and the evolving needs of users and the need to explore the possible introduction of improvements to these procedures (document A/44/2, page 96).
2. Recent experience with the procedures under the Lisbon Agreement and its Regulations has shown that certain amendments to the Regulations would be warranted. In this regard, the International Bureau would like to highlight, in particular, two situations to substantiate the view that improvements are needed.
3. The first situation relates to the submission by a number of Member States of the Lisbon Agreement of declarations of “partial refusal” with respect to an appellation of origin recorded in the International Register, which in fact were intended to be acknowledgements of protection with a limited reservation, based on an obligation to protect in their territory another homonymous appellation of origin related to a similar product. In the case at hand, the homonymous appellation originated in a country not party to the Lisbon Agreement. By submitting a declaration of “partial refusal”, the Lisbon Union Member States aimed to record in the Lisbon Register the actual situation of coexistence of the two homonymous appellations of origin in their territories.

4. As there is currently no procedure in the Lisbon Agreement or its Regulations to specifically address situations concerning homonymous appellations of origin, the International Bureau has recorded such declarations as “partial refusals” in the International Register and published them in the Bulletin, as requested by the Member States that submitted the declarations. Although this solution was found to be consistent with the Lisbon Agreement and its Regulations, the International Bureau is of the view that it would be preferable to include new provisions in the Lisbon Regulations laying down specific procedures for the notification and recording of an acknowledgement or acceptance of protection, in whole or in part, of registered appellations of origin, which would also cater for the case of coexistence of homonymous appellations.

5. The second situation that the International Bureau would like to highlight is related to the time-limit for notifying declarations of refusal. This time-limit starts running, as stipulated in Article 5(3) of the Lisbon Agreement, from the moment the competent authority of a contracting country receives the notification of a new international registration from the International Bureau. Unfortunately, the practice under Article 5(3) has, in several cases, led to different starting-points to compute the refusal period in the various contracting countries notified. Submission of the notification by facsimile has not always proven to be feasible and acknowledgement of receipt of registered mail has sometimes not been received or has been received only after several months. Dispatch by an express mail delivery service has proven to be a solution, but it would appear to be preferable to streamline the procedures through the establishment of an electronic communication system.

6. In this regard, the example of the Madrid and Hague systems may be followed, under which the establishment of electronic communication systems for the purposes of international registration procedures is dealt with in the Administrative Instructions^{*}. This is, however, at present not possible under the Lisbon system to the extent that the Lisbon Regulations do not contain provisions allowing for the establishment of Administrative Instructions.

7. It is therefore submitted that a Working Group could be established by the Assembly to look into the possible amendment of the Regulations under the Lisbon Agreement, as well as the possible content of Administrative Instructions that might be created under them.

8. The Assembly is invited to take note of the present document and decide on the establishment of a Working Group for the preparation of amendments to the Regulations under the Lisbon Agreement.

[End of document]

* See Rule 41 of the Common Regulations under the Madrid Agreement and Protocol and Section 11 of the Administrative Instructions for the Application of the Madrid Agreement and Protocol; and Rule 34 of the Common Regulations under the 1999 Act, the 1960 Act and the 1934 Act of the Hague Agreement and Section 204 of the Administrative Instructions for the Application of the Hague Agreement.