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

**Sixth Session**  
**Geneva, December 3 to 7, 2012**

### **DRAFT NEW INSTRUMENT ON APPELLATIONS OF ORIGIN AND GEOGRAPHICAL INDICATIONS**

*prepared by the Secretariat*

1. At its fifth session, which took place in Geneva from June 11 to 15, 2012, 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 revised versions of the draft new instrument and draft regulations, as set out in documents LI/WG/DEV/5/2 and LI/WG/DEV/5/3, on the basis of comments and drafting suggestions made during the fifth session of the Working Group.
2. The Annex to the present document contains the revised draft new instrument, reflecting where this was considered appropriate, alternative provisions and different options between brackets. The revised draft regulations are contained in document LI/WG/DEV/6/3. Notes explaining the various provisions of the revised draft new instrument and revised draft regulations are contained in documents LI/WG/DEV/6/4 and LI/WG/DEV/6/5, respectively.
3. It is recalled that the Working Group is reviewing the international system of the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (hereinafter referred to as “the Lisbon Agreement”) with a view to improving the Lisbon system so that it might attract a much wider membership, while preserving the principles and objectives of the Lisbon Agreement. This mandate implies that the Working Group should work towards the establishment of an international registration system for both geographical indications and appellations of origin. Furthermore, the prevailing view in the Working Group is that the minimum level of protection in respect of international registrations should be ambitious and the same for both geographical indications and appellations of origin.

4. On the basis of this two-fold mandate, the Working Group agreed, at its fifth session, to continue to work towards: (i) a revision of the Lisbon Agreement that would involve the refinement of its current legal framework and the inclusion of the possibility of accession by intergovernmental organizations, while preserving the principles and objectives of that Agreement; and (ii) the establishment of an international registration system for geographical indications.

5. Discussions in the Working Group have not yet been conclusive as to whether these two goals should result in a proposal for two new instruments or could be combined in substantive and procedural terms and, consequently, result in a proposal for one new instrument. There was, however, agreement that work should continue aiming at a revision of the Lisbon Agreement and/or the conclusion of a new treaty or protocol supplementing the Lisbon Agreement.

6. In order to illustrate the issue referred to in the previous paragraph more clearly in the draft new instrument, the revised draft new instrument that is the subject of the present document is presented in the form of two draft instruments, i.e., in view of paragraph 4 above, and because of the substantive link between these two draft instruments, a draft revised Lisbon Agreement and a draft protocol/treaty on geographical indications. Annex I contains the proposed draft revised Lisbon Agreement and Annex II the proposed draft protocol/treaty on geographical indications.

7. Annex II presents the proposed draft instrument on geographical indications with two options, which differ in their structure and relation to the draft revised Lisbon Agreement but are the same in terms of their substantive provisions. Option A shows the draft instrument as a draft protocol supplementing the draft revised Lisbon Agreement contained in Annex I. Option B presents the draft instrument on geographical indications as a draft new treaty without an institutional link to the draft revised Lisbon Agreement.

8. It is recalled that, as indicated in the Summary by the Chair of the fifth session of the Working Group (document LI/WG/DEV/5/6), a Diplomatic Conference for revising the Lisbon Agreement can be convened by the Assembly of the Lisbon Union. However, to the extent that the contemplated new instrument would go beyond a revision of the Lisbon Agreement and necessitate the establishment of a new treaty, the General Assembly of WIPO would have the right to call a Diplomatic Conference for that purpose.

9. *The Working Group is invited to:*

*(i) comment on the various provisions contained in the two Annexes to the present document; and*

*(ii) make recommendations on future work or any follow-up action of the Working Group.*

[Annexes follow]

## **DRAFT REVISED LISBON AGREEMENT**

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## Preamble

The Contracting Parties,

Desiring to refine the legal framework of the Lisbon Agreement as well as to include the possibility of accession by intergovernmental organizations, while preserving the principles and objectives of the Agreement,

Have agreed to revise the Lisbon Agreement as follows:

## Chapter I Introductory and General Provisions

### Article 1 Abbreviated Expressions

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

- (i) “Lisbon Agreement” means the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, as revised at Stockholm on July 14, 1967, and as amended on September 28, 1979;
- (ii) “this Act” means the Revised Lisbon Agreement as established by the present instrument;
- (iii) “Regulations” means the Regulations under this Act;
- (iv) “Paris Convention” means the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised and amended;
- (v) “Madrid Agreement on Indications of Source” means the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, of April 14, 1891, as revised and amended;
- (vi) “TRIPS Agreement” means the Agreement on Trade-Related Aspects of Intellectual Property Rights of April 15, 1994, as set out in Annex 1C to the Marrakesh Agreement Establishing the World Trade Organization and as amended;
- (vii) “International Register” means the International Register maintained by the International Bureau in accordance with Article 4 as the official collection of data concerning international registrations of appellations of origin, regardless of the medium in which such data are maintained;
- (viii) “international registration” means an international registration recorded in the International Register;
- (ix) “application” means an application for international registration;
- (x) “registered” means entered in the International Register in accordance with this Act;
- (xi) “geographical area of origin” means a geographical area as referred to in Article 2(1);
- (xii) “trans-border geographical area of origin” means a geographical area of origin as referred to in Article 2(2);
- (xiii) “Contracting Party” means any State or intergovernmental organization party to this Act;
- (xiv) “Contracting Party of Origin” means the Contracting Party where the geographical area of origin is situated or the Contracting Parties where the trans-border geographical area of origin is situated;

- (xv) “Competent Authority” means the entity designated in accordance with Article 3;
- (xvi) “intergovernmental organization” means an intergovernmental organization eligible to become party to this Act in accordance with Article 28(1)(ii);
- (xvii) “Organization” means the World Intellectual Property Organization;
- (xviii) “Director General” means the Director General of the Organization;
- (xix) “International Bureau” means the International Bureau of the Organization.

## **Article 2**

### Subject-Matter

- (1) *[Appellation of Origin]* (a) This Act concerns denominations which serve to designate a product as originating in a geographical area situated in a Contracting Party<sup>1</sup>, where the quality or characteristics of the product are [traditionally known to be] due exclusively or essentially to the geographical environment, including natural [and<sup>2</sup>] human factors, and which have given the product its reputation.
- (b) For the purposes of this Act, such denominations are identified by the term “appellation of origin”.
- (c) An appellation of origin may consist of a denomination which is not, *stricto sensu*, geographical, provided all the other conditions of subparagraph (a) are fulfilled.
- (2) *[Trans-border Appellation of Origin]* Protected appellations of origin may serve to designate products originating in a trans-border geographical area delimited jointly by the adjacent Contracting Parties in whose territories such geographical area of origin is situated.

## **Article 3**

### Competent Authority

Each Contracting Party shall designate an entity which shall be responsible for the administration of this Act in its territory and for communications with the International Bureau under this Act and the Regulations. The Contracting Party shall notify the name and contact details of such Competent Authority to the International Bureau, as specified in the Regulations.

## **Article 4**

### International Register

The International Bureau shall maintain an International Register recording international registrations of appellations of origin effected under this Act or under the Lisbon Agreement and data relating to the status of such international registrations.

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<sup>1</sup> Such geographical area of origin may consist of the entire territory of a Contracting Party.

<sup>2</sup> [In exceptional cases, the geographical environment in which the product is produced may be determined exclusively or essentially by natural factors or exclusively or essentially by human factors.]

## Article 5

### Applicability of Other Protection Accorded by Laws of Contracting Parties and by Certain International Treaties

- (1) *[Freedom to Provide More Extensive Protection]* Contracting Parties shall be free to provide more extensive protection than the protection established under this Act.
- (2) *[Protection Under Other Instruments]* The protection established under this Act shall be without prejudice to any protection granted under other international instruments, such as the Paris Convention, the Madrid Agreement on Indications of Source, the TRIPS Agreement or bilateral agreements.
- (3) *[Obligation to Comply With the Paris Convention]* Contracting Parties shall comply with the provisions of the Paris Convention

[Option A: related to appellations of origin.]

[Option B: as contained in its Articles 1 to 4 and 6 to 10*ter*.]

## Chapter II

### Application and International Registration

## Article 6

### Application

- (1) *[Prerequisite]* Protection in the Contracting Party of Origin being a prerequisite for international registration, the application shall specify by which legislative or administrative act, judicial or administrative decision, or registration the appellation of origin that is the subject of the application has been granted protection in that Contracting Party, as well as the identifying details of the protection granted.
- (2) *[Place of Filing]* Applications shall be filed with the International Bureau.
- (3) *[Application Filed by Competent Authority]* Subject to paragraph (4), the application for the international registration of an appellation of origin shall be filed by the Competent Authority in the name of:
- (i) the natural and legal persons entitled, under the law of the Contracting Party of Origin, to use the appellation of origin; or
  - (ii) a legal entity<sup>3</sup> which has legal standing to assert the rights of such beneficiaries referred to in subparagraph (i), such as, for instance, a federation or association representing them, or a group of producers representing the beneficiaries referred to in subparagraph (i), whatever their composition and regardless of the legal form in which they present themselves.
- (4) *[Application Filed Directly by Beneficiaries]* If the legislation of the Contracting Party of Origin so permits, the application may be filed by the beneficiaries or the legal entity referred to in the preceding paragraph.

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<sup>3</sup> [The term "legal entity" refers to any association, corporation, partnership, proprietorship, trust, or individual that has legal standing in the eyes of law, i.e. that has legal capacity to enter into agreements or contracts, assume obligations, incur and pay debts, sue and be sued in its own right and to be held responsible for its actions.]

(5) *[Applications Concerning Trans-border Areas]*

(a) In case of a trans-border geographical area of origin, the Contracting Parties concerned may:

- (i) each file an application as Contracting Party of Origin in respect of an appellation of origin referring to the part of the trans-border area situated in its territory; or
- (ii) act as a single Contracting Party of Origin by filing an application jointly and through a commonly designated Competent Authority.

(b) Paragraph (4) shall apply *mutatis mutandis* under subparagraph (a), on the understanding that, for its application under subparagraph (a)(ii), the legislation of each of the adjacent Contracting Parties permits that the application may be filed by the beneficiaries or the legal entity referred to in the paragraph (3).

(6) *[Mandatory contents]* The Regulations shall specify the mandatory particulars that must be included in the application, in addition to those specified in Article 7(3).

(7) *[Optional contents]* The Regulations may specify optional particulars that may be included in the application.

## **Article 7** International Registration

(1) *[Formal Examination by the International Bureau]* Upon receipt of an application for the international registration of an appellation of origin in due form, the International Bureau shall register the appellation of origin in the International Register.

(2) *[Date of International Registration]* Subject to paragraph (3), the date of the international registration shall be the date on which the application was received by the International Bureau.

(3) *[Date of International Registration Where Particulars Missing]* Where the application does not contain all the following particulars:

- (i) the identification of the Competent Authority or, in the case of Article 6(4), the applicant,
  - (ii) the details of the natural and legal persons entitled to use the appellation of origin,
  - (iii) the appellation of origin for which registration is sought,
  - (iv) the description of the product to which the appellation of origin applies,
- the date of the international registration shall be the date on which the last of the missing particulars is received by the International Bureau.

(4) *[Publication and Notification of International Registrations]* The International Bureau shall, without delay, publish each international registration and shall notify the Competent Authority of each Contracting Party of the international registration.

## **Article 8** Fees

(1) *[Registration Fee]* International registration of each appellation of origin shall be subject to the payment of the fee specified in the Regulations.

(2) *[Other Fees]* 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.



(3) *[Developing Countries]* Reduced fees may be established by the Assembly in respect of international registrations of appellations of origin from developing countries.

### Chapter III Effects of International Registration

#### Article 9

##### Protection of Registered Appellations of Origin

(1) *[Commitment to Protect]* Each Contracting Party shall protect on its territory, in accordance with the terms of this Act, registered appellations of origin.

(2) *[Form of Legal Protection]* Each Contracting Party is free to choose the type of legislation under which the protection of registered appellations of origin is established, as long as that legislation meets the substantive requirements of this Act.

#### Article 10

##### Protection Accorded by International Registration

(1) *[Content of Protection]* (a) Subject to the provisions of this Act, each Contracting Party shall, from the date of international registration, extend to a registered appellation of origin protection against at least the following acts:

(i) any [direct or indirect] use of the appellation of origin in relation to a like product which

[Option A: would amount to usurpation, imitation, [or evocation] of the appellation of origin,]

[Option B: would be [likely to be] detrimental to or [likely to] exploit unduly the reputation of the appellation of origin,]

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"], ["style"], ["method"], ["as produced in"], ["like"], ["similar"], or the like;

(ii) any commercial use of the appellation of origin in relation to a [comparable], [similar], [related or linked] product, where such use

[Option A: would be [likely to be] detrimental to or [likely to] exploit unduly the reputation of the appellation of origin;]

[Option B: would result in a likelihood of confusion;]

(iii) any other false or misleading indications as to the provenance, origin, nature or essential qualities of a product to which the appellation of origin applies on the inner or outer packaging, advertising material or documents relating to the product, or any packing of the product in a container liable to convey a false impression as to its origin;]

(iv) any other practice liable to mislead the consumer as to the true origin of the product.]

(b) Without prejudice to Article 13(1), Contracting Parties shall refuse or invalidate the registration of a trademark which contains or consists of a registered appellation of origin with respect to products not originating in the geographical area of origin.

(2) *[Presumption in Case of Use by Third Parties]* Each Contracting Party shall provide for a presumption of unlawful use in case a registered appellation of origin is used in relation to a like product by a person who is not authorized to do so in the international registration.

(3) *[Improper Use by Eligible or Authorized Users]* Each Contracting Party shall be free to decide how to regulate the use of a registered appellation of origin by a person from the geographical area of origin entitled to use the appellation of origin in relation to a like product that, while originating in that area, does not have the quality or characteristics of the products designated by the appellation of origin.

(4) *[Homonymy]* The provisions of this Act do not prevent the international registration of homonymous appellations of origin. Each Contracting Party shall determine what protection it shall provide in respect of such appellations of origin, subject to the provisions of the TRIPS Agreement.

(5) *[Use as a [Generic] [Customary] Term or Name]* Use of a registered appellation of origin as a [generic] [customary] term or name shall be prohibited from the date of international registration in each Contracting Party unless and in so far the Contracting Party has refused the effects of the international registration under Article 15, or granted a transitional period, under Article 17.

#### **Article 11**

##### Shield Against Becoming a [Generic] [Customary] Term or Name

[Option A]: A denomination protected as a registered appellation of origin in a Contracting Party cannot be deemed to have become generic, as long as the denomination is protected as an appellation of origin in the Contracting Party of Origin.]

[Option B]: Protection under Article 10(6) shall guard a denomination protected as a registered appellation of origin against becoming a customary term in common language as the common name for certain products or services or the customary name of a grape, plant or animal variety, as long as the denomination is protected as an appellation of origin in the Contracting Party of Origin.]

#### **Article 12**

##### Duration of Protection

The effects of an international registration shall cease if a registered appellation of origin ceases to enjoy protection in the territory of the Contracting Party of Origin.

### **Article 13** Prior Rights

(1) *[Prior Trademark Rights]* Contracting Parties shall apply the provisions of the TRIPS Agreement relating to prior trademark rights.

(2) *[Other Prior Rights]* Contracting Parties shall apply the provisions of the TRIPS Agreement relating to other prior rights.

### **Article 14** [Legal Proceedings] [Legal Remedies]

[Option A]: Each Contracting Party shall ensure that legal proceedings for ensuring the protection of registered appellations of origin may be brought by:

- (i) the public Prosecutor or, where the applicable law so provides, another public authority;
- (ii) any interested party, whether a natural person or a legal entity and whether public or private.]

[Option B]: Each Contracting Party shall provide effective legal remedies for the protection of registered appellations of origin.]

## **Chapter IV** **Refusal and Other Actions in Respect of International Registrations**

### **Article 15** Refusal

(1) *[Refusal of Effects of International Registration]*

(a) Within the time specified in the Regulations, the Competent Authority of a Contracting Party may notify the International Bureau of the refusal of the effects of an international registration in its territory. The notification of refusal may be filed by the Competent Authority *ex officio*, if its legislation so permits, or at the request of an interested party.

(b) The notification of refusal shall set out the grounds on which the refusal is based.

(c) The notification of a refusal shall not be detrimental to any other protection that may be available, in accordance with Article 5, to the denomination concerned in the Contracting Party to which the refusal relates.

(2) *[Obligation to Provide Opportunity for Interested Parties]* Each Contracting Party shall provide a reasonable opportunity to interested parties to present to its Competent Authority requests for the Competent Authority to notify a refusal in respect of an international registration.

(3) *[Registration and Communication of Refusals]* The International Bureau shall record the refusal and the grounds for the refusal in the International Register. It shall publish the refusal and the grounds for the refusal and shall communicate them to the Competent Authority of the Contracting Party of Origin or, where the application has been filed directly in accordance with Article 6(4), the concerned beneficiaries or legal entity referred to in Article 6(3).

(4) *[National Treatment]* Each Contracting Party shall make available to interested parties affected by a refusal the same judicial and administrative remedies that are available to its own nationals in respect of the refusal of protection for an appellation of origin.

#### **Article 16** Withdrawal of Refusal

(1) *[Procedures for the Withdrawal of Refusals]* A refusal may be withdrawn in accordance with the procedures specified in the Regulations. A withdrawal shall be recorded in the International Register.

(2) *[Negotiations]* The Contracting Party of Origin may enter into negotiations with a Contracting Party in respect of which a refusal has been recorded, in order to get the refusal withdrawn. Interested parties affected by a refusal shall be afforded a reasonable opportunity to request the Contracting Party of Origin to negotiate the possible withdrawal of such refusal.

#### **Article 17** Prior Use

(1) *[Phasing Out]* Without prejudice to the right of refusal under Article 15, where a denomination protected as a registered appellation of origin was in use, prior to the international registration of the appellation of origin, in a Contracting Party by a third party as a [generic term] [customary term in common language as the common name for certain products or services or the customary name of a grape, plant or animal variety], the Contracting Party may grant to the third party a defined period to terminate such use. The Contracting Party shall notify the International Bureau of any such grant.

(2) *[Withdrawal of Refusal on Ground of Prior Use]* Where a Contracting Party has refused the effects of an international registration under Article 15 on the ground of prior use and wishes to withdraw the refusal, it may make the withdrawal subject to the prior use terminating after a defined period of time.

(3) *[Coexistence]* Where a Contracting Party has refused the effects of an international registration under Article 15 on the ground of prior use under a trademark or other right, withdrawal of such refusal shall establish a situation of coexistence between the prior right and the registered appellation of origin, unless the withdrawal resulted from the cancellation, revocation or invalidation of the prior right.

#### **Article 18** Notification of Grant of Protection

The Competent Authority of a Contracting Party may notify the International Bureau of the grant of protection to a registered appellation of origin. The International Bureau shall record any such notification in the International Register and publish it.

**Article 19**  
Invalidation

(1) A Contracting Party may not invalidate the effects of an international registration, in part or in whole, in its territory without giving an opportunity to the concerned beneficiaries to defend their rights. Such opportunity shall also be given to a legal entity having legal standing to assert these rights, as referred to in Article 6(3)(ii).

(2) Each Contracting Party shall notify the invalidation of an international registration to the International Bureau, which shall record the invalidation in the International Register and publish it.

**Article 20**  
Modifications and Other Entries in the International Register

Procedures for the modification of international registrations and other entries in the International Register shall be specified in the Regulations.

**Chapter V**  
**Administrative Provisions**

**Article 21**  
Membership of the Lisbon Union

The Contracting Parties shall be members of the same Special Union as the States party to the Lisbon Agreement, whether or not they are party to that Agreement.

**Article 22**  
Assembly of the Special Union

(1) *[Composition]*

(a) The Contracting Parties shall be members of the same Assembly as the States party to the Lisbon Agreement.

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

(c) Each delegation shall bear its own expenses.

(2) *[Tasks]*

(a) The Assembly shall:

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

(ii) give directions to the Director General concerning the preparation of revision conferences referred to in Article 26(1), due account being taken of any comments made by those members of the Special Union which have not ratified or acceded to this Act;

(iii) have competence to amend the Regulations concerning the implementation of this Act;

(iv) review and approve the reports and activities of the Director General concerning the Special Union, and give him or her 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) determine which States, intergovernmental and non-governmental organizations shall be admitted to its meetings as observers, it being understood that any State party to the Lisbon Agreement that is not a member of the Assembly shall be admitted to the meetings of the Assembly as observer;
  - (ix) adopt amendments to Articles 22 to 24 and 27;
  - (x) take any other appropriate action to further the objectives of the Special Union and perform any other functions as are appropriate under this Act.
- (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) *[Quorum]*

- (a) 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.
- (b) Notwithstanding the provisions of subparagraph (a), 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) *[Taking Decisions in the Assembly]*

- (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 Act, but no such intergovernmental organization shall participate in the vote if any one of its member States exercises its right to vote, and *vice versa*.
- (c) On matters concerning only States that are bound by the Lisbon Agreement, Contracting Parties that are not bound by that Agreement shall not have the right to vote, whereas, on matters concerning Contracting Parties, only the latter shall have the right to vote.

(5) *[Majorities]*

- (a) Subject to Articles 25(2) and 27(2), the decisions of the Assembly shall require two-thirds of the votes cast.
- (b) Abstentions shall not be considered as votes.

(6) *[Sessions]*

(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) *[Rules of Procedure]* The Assembly shall adopt its own rules of procedure.

**Article 23**

International Bureau

(1) *[Administrative Tasks]*

(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) *[Meetings Other Than Sessions of the Assembly]* 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 such a body.

(3) *[Conferences]*

(a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for any revision conferences.

(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 revision conferences.

(4) *[Other Tasks]* The International Bureau shall carry out any other tasks assigned to it in relation to this Act.

**Article 24**

Finances

(1) *[Budget]*

(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) *[Coordination With Budgets of Other Unions]* 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) *[Sources of Financing of the Budget]* The budget of the Special Union shall be financed from the following sources:

- (i) international registration fees collected under Article 8 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) *[Fixing of Fees and Charges; Level of the Budget]*

(a) The amounts of the fees referred to in paragraph (3)(i), shall be fixed by the Assembly on the proposal of the Director General. Charges referred to in paragraph (3)(i) 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), 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 of the Organization.

(5) *[Working Capital Fund]* 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) *[Advances by Host State]*

(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) *[Auditing of Accounts]* 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 of the Organization. They shall be designated, with their agreement, by the Assembly.



## **Article 25** Regulations

- (1) *[Subject-Matter]* The details for carrying out this Act shall be established in the Regulations.
- (2) *[Amendment of Certain Provisions of the Regulations]*
  - (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) *[Conflict Between This Act and the Regulations]* In the case of conflict between the provisions of this Act and those of the Regulations, the former shall prevail.

## **Chapter VI** **Revision and Amendment**

### **Article 26** Revision

- (1) *[Revision Conferences]* This Act may be revised by diplomatic conferences of the Contracting Parties. The convocation of any Diplomatic Conference shall be decided by the Assembly.
- (2) *[Revision or Amendment of Certain Articles]* Articles 22 to 24 and 27 may be amended either by a revision conference or by the Assembly according to the provisions of Article 27.

### **Article 27** Amendment of Certain Articles by the Assembly

- (1) *[Proposals for Amendment]*
  - (a) Proposals for the amendment of Articles 22 to 24, 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) *[Majorities]* 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 22, and to the present paragraph, shall require a four-fifths majority.

(3) *[Entry Into Force]*

(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 22(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 VII Final Provisions**

### **Article 28 Becoming Party to This Act**

(1) *[Eligibility]* Subject to Article 29 and paragraphs (2) and (3) of the present Article,

- (i) any State which is a member of the Organization may sign and become party to this Act;
- (ii) any intergovernmental organization may become party to this Act if at least one member State of that intergovernmental organization is 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 Act, and declares that, under the constituting treaty of the intergovernmental organization, legislation applies that provides protection in respect of appellations of origin in accordance with this Act.

(2) *[Ratification or Accession]* Any State or intergovernmental organization referred to in paragraph (1), may deposit

- (i) an instrument of ratification, if it has signed this Act, or
- (ii) an instrument of accession, if it has not signed this Act.

(3) *[Effective Date of Deposit]*

(a) Subject to subparagraph (b), 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 appellations of origin can only be obtained on the basis of legislation applying between the member States of the intergovernmental organization 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. However, this subparagraph does not apply with regard to States that are party to the Lisbon Agreement and shall be without prejudice to the application of Article 31 with regard to such States.

## Article 29

### Effective Date of Ratifications and Accessions

- (1) *[Instruments to Be Taken Into Consideration]* For the purposes of this Article, only instruments of ratification or accession that are deposited by States or intergovernmental organizations referred to in Article 28(1) and that have an effective date according to Article 28(3) shall be taken into consideration.
- (2) *[Entry into Force of the Agreement]* This Act shall enter into force three months after five eligible parties referred to in Article 28 have deposited their instruments of ratification or accession.
- (3) *[Entry Into Force of Ratifications and Accessions]*
- (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 Act shall become bound by this Act on the date of the entry into force of this Act.
  - (b) Any other State or intergovernmental organization shall become bound by this Act three months after the effective date of the deposit of its instrument of ratification or accession or at any later date indicated in that instrument.
- (4) *[International Registrations Effected Prior to Accession]* In the territory of the acceding State or intergovernmental organization, the benefits of this Act shall apply in respect of appellations of origin already registered under this Act at the time the accession becomes effective, subject to the provisions of Chapter IV, 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 referred to in Article 15(1), and the periods referred to in Article 17(1), in accordance with the procedures specified in the Regulations in that respect.

## Article 30

### Prohibition of Reservations

No reservations to this Act are permitted.

## Article 31

### Application of the Lisbon Agreement

- (1) *[Relations Between States Party to Both This Act and the Lisbon Agreement]* This Act alone shall be applicable as regards the mutual relations of States party to both this Act and the Lisbon Agreement.
- (2) *[Relations Between States Party to Both This Act and the Lisbon Agreement and States Party to the Lisbon Agreement Without Being Party to This Act]* Any State party to both this Act and the Lisbon Agreement shall continue to apply the Lisbon Agreement in its relations with States party to the Lisbon Agreement that are not party to this Act.

## Article 32

### Denunciation

- (1) *[Notification]* Any Contracting Party may denounce this Act by notification addressed to the Director General.

(2) *[Effective Date]* 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.

### **Article 33**

Languages of this Act; Signature

(1) *[Original Texts; Official Texts]*

(a) This Act 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) *[Time Limit for Signature]* This Act shall remain open for signature at the headquarters of the Organization for one year after its adoption.

### **Article 34**

Depositary

The Director General shall be the depositary of this Act.

[Annex II follows]

**[OPTION A]**

**DRAFT PROTOCOL ON GEOGRAPHICAL INDICATIONS SUPPLEMENTING THE REVISED LISBON AGREEMENT**

LIST OF ARTICLES

*Preamble*

*Article 1: Subject-Matter*

*Article 2: Application of the Provisions of the Revised Lisbon Agreement*

*Article 3: Membership of the Lisbon Union*

*Article 4: Assembly of the Special Union*

*Article 5: International Bureau*

*Article 6: Finances*

*Article 7: Regulations*

*Article 8: Revision*

*Article 9: Amendment of Certain Articles by the Assembly*

*Article 10: Becoming Party to This Protocol*

*Article 11: Effective Date of Ratifications and Accessions*

*Article 12: Prohibition of Reservations*

*Article 13: Denunciation*

*Article 14: Languages of This Protocol; Signature*

*Article 15: Depositary*

## Preamble

The Contracting Parties,

Desiring to establish criteria on the basis of which the Revised Lisbon Agreement, as established by the [*instrument revising the Lisbon Agreement*]<sup>4</sup>, can also be applied in respect of other geographical indications than those identified as appellations of origin in that Agreement,

Have agreed to adopt a protocol supplementing the Revised Lisbon Agreement as follows:

### Article 1 Subject-Matter

(1) [*Geographical Indication*] (a) This protocol concerns indications which identify a good as originating in a geographical area situated in a Contracting Party<sup>5</sup>, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.

(b) For the purposes of this protocol, such indications are identified by the term “geographical indication”.

(c) A geographical indication may consist of an indication which is not, *stricto sensu*, geographical, provided all the other conditions of subparagraph (a) are fulfilled.

(2) [*Trans-border Geographical Indication*] Protected geographical indications may identify a product originating in a trans-border geographical area delimited jointly by the adjacent Contracting Parties in whose territories such geographical area of origin is situated.

### Article 2

#### Application of the Substantive Provisions of the Revised Lisbon Agreement

(1) [*Introductory and General Provisions*] The provisions of Articles 1 to 5 of the Revised Lisbon Agreement shall apply, under this protocol, in respect of geographical indications, on the understanding that:

(i) “Revised Lisbon Agreement” refers to the Revised Lisbon Agreement as established by the [*instrument revising the Lisbon Agreement*]<sup>6</sup>;

(ii) “this protocol” means the protocol supplementing the Revised Lisbon Agreement as established by the present instrument;

(iii) “Regulations” means the Regulations under this protocol;<sup>7</sup>

(iv) “International Register” means the International Register maintained by the International Bureau, under this protocol, as the official collection of data concerning international registrations of geographical indications, regardless of the medium in which such data are maintained;

(v) “registered” means entered in the International Register in accordance with this protocol;

(vi) “geographical area of origin” means a geographical area as referred to in Article 1(1) of this protocol;

<sup>4</sup> A draft for such instrument is contained in Annex I to the present document.

<sup>5</sup> Such geographical area of origin may consist of the entire territory of a Contracting Party.

<sup>6</sup> A draft for such instrument is contained in Annex I to the present document.

<sup>7</sup> However, the Regulations and the Regulations under the Revised Lisbon Agreement may become part of Common Regulations, if so decided by the Assembly.

- (vii) “trans-border geographical area of origin” means a geographical area of origin as referred to in Article 1(2) of this protocol;
- (viii) “Contracting Party” means any State or intergovernmental organization party to this protocol;
- (ix) “Competent Authority” means the entity designated for the purposes of the Revised Lisbon Agreement and/or this protocol;
- (x) “intergovernmental organization” means an intergovernmental organization eligible to become party to this protocol in accordance with Article 10(1)(ii), for the purposes of this protocol;
- (xi) other abbreviated expressions defined in Article 1 of the Revised Lisbon Agreement relevant in the context of this protocol shall also apply as abbreviated expressions under this protocol.

(2) *[Application and International Registration]* In respect of geographical indications, applications can be filed and registered under this protocol in accordance with the procedures of Articles 6 to 8 of the Revised Lisbon Agreement.

(3) *[Protection]* Registered geographical indications shall be protected in accordance with the provisions of Chapter III of the Revised Lisbon Agreement.

(4) *[Refusal and Other Actions in Respect of Registered Geographical Indications]* The provisions of Chapter IV of the Revised Lisbon Agreement shall be applicable in respect of geographical indications.

### **Article 3**

#### Membership of the Lisbon Union

The Contracting Parties shall be members of the same Special Union as the Contracting Parties of the Revised Lisbon Agreement and the States party to the Lisbon Agreement, whether or not they are party to any of these Agreements.

### **Article 4**

#### Assembly of the Special Union

(1) *[Composition]*

- (a) The Contracting Parties shall be members of the same Assembly as the Contracting Parties of the Revised Lisbon Agreement and the States party to the Lisbon Agreement.
- (b) Each Contracting Party shall be represented by one delegate, who may be assisted by alternate delegates, advisors and experts.
- (c) Each delegation shall bear its own expenses.

(2) *[Tasks]* The Assembly shall:

- (i) deal with all matters concerning the implementation of this protocol;
- (ii) give directions to the Director General concerning the preparation of revision conferences referred to in Article 8(1), due account being taken of any comments made by those members of the Special Union which have not ratified or acceded to this protocol;
- (iii) have competence to amend the Regulations concerning the implementation of this protocol;
- (iv) perform any other functions as are appropriate under this protocol.

(3) *[Quorum]*

(a) 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.

(b) Notwithstanding the provisions of subparagraph (a), 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) *[Taking Decisions in the Assembly]*

(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 protocol, but no such intergovernmental organization shall participate in the vote if any one of its member States exercises its right to vote, and *vice versa*.

(c) On matters concerning only Contracting Parties of the Revised Lisbon Agreement, Contracting Parties that are not bound by that Agreement shall not have the right to vote, whereas, on matters concerning Contracting Parties, only the latter shall have the right to vote.

(d) On matters concerning only States that are bound by the Lisbon Agreement, Contracting Parties that are not bound by that Agreement shall not have the right to vote, whereas, on matters concerning Contracting Parties, only the latter shall have the right to vote.

(5) *[Majorities]*

(a) Subject to Articles 7(2) and 9(2), the decisions of the Assembly shall require two-thirds of the votes cast.

(b) Abstentions shall not be considered as votes.

(6) *[Sessions]* In addition to meeting in ordinary sessions and extraordinary sessions as provided for by the Revised Lisbon Agreement, 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 having the right to vote on the matters proposed to be included in the agenda of the session. The agenda of such an extraordinary session shall be prepared by the Director General.

**Article 5**  
International Bureau

(1) *[Administrative Tasks]* International registration and related duties, as well as all other administrative tasks, under or concerning this protocol, shall be performed by the International Bureau.



(2) *[Conferences]*

(a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for any revision conferences.

(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 revision conferences.

(3) *[Other Tasks]* The International Bureau shall carry out any other tasks assigned to it in relation to this protocol.

## **Article 6**

### **Finances**

As far as Contracting Parties are concerned, the finances of the Special Union shall be governed by the same provisions as those contained in Article 24 of the Revised Lisbon Agreement, provided that any reference to fees shall be deemed to be a reference to fees established under this protocol.

## **Article 7**

### **Regulations**

(1) *[Subject-Matter]* The details for carrying out this protocol shall be established in the Regulations.

(2) *[Amendment of Certain Provisions of the Regulations]*

(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) *[Conflict Between This Protocol and the Regulations]* In the case of conflict between the provisions of this protocol and those of the Regulations, the former shall prevail.

## **Article 8**

### **Revision**

(1) *[Revision Conferences]* This protocol may be revised by diplomatic conferences of the Contracting Parties. The convocation of any Diplomatic Conference shall be decided by the Assembly.

(2) *[Revision or Amendment of Certain Articles]* Articles 4 to 6 and 9 may be amended either by a revision conference or by the Assembly according to the provisions of Article 9.

## Article 9

### Amendment of Certain Articles by the Assembly

(1) *[Proposals for Amendment]*

(a) Proposals for the amendment of Articles 4 to 6, 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) *[Majorities]* 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 4, and to the present paragraph, shall require a four-fifths majority.

(3) *[Entry Into Force]*

(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 4(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.

## Article 10

### Becoming Party to This Protocol

(1) *[Eligibility]* Subject to Article 11 and paragraphs (2) and (3) of the present Article,

(i) any State which is a member of the Organization may sign and become party to this protocol;

(ii) any intergovernmental organization may become party to this protocol if at least one member State of that intergovernmental organization is 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 protocol, and declares that, under the constituting treaty of the intergovernmental organization, legislation applies that provides protection in respect of geographical indications in accordance with this protocol.

(2) *[Ratification or Accession]* Any State or intergovernmental organization referred to in paragraph (1), may deposit

(i) an instrument of ratification, if it has signed this protocol, or

(ii) an instrument of accession, if it has not signed this protocol.

(3) *[Effective Date of Deposit]*

(a) Subject to subparagraph (b), 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 can only be obtained on the basis of legislation applying

between the member States of the intergovernmental organization 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.

#### **Article 11**

##### Effective Date of Ratifications and Accessions

- (1) *[Instruments to Be Taken Into Consideration]* For the purposes of this Article, only instruments of ratification or accession that are deposited by States or intergovernmental organizations referred to in Article 10(1) and that have an effective date according to Article 10(3) shall be taken into consideration.
- (2) *[Entry Into Force of This Protocol]* This protocol shall enter into force three months after five States have deposited their instruments of ratification or accession.
- (3) *[Entry Into Force of Ratifications and Accessions]*
- (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 protocol shall become bound by this protocol on the date of the entry into force of this protocol.
  - (b) Any other State or intergovernmental organization shall become bound by this protocol three months after the effective date of the deposit of its instrument of ratification or accession or at any later date indicated in that instrument.
- (4) *[International Registrations Effected Prior to Accession]* In the territory of the acceding State or intergovernmental organization, the benefits of this protocol shall apply in respect of geographical indications already registered under this protocol at the time the accession becomes effective, subject to the provisions of Chapter IV of the Revised Lisbon Agreement, 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 referred to in Article 15(1) of the Revised Lisbon Agreement, and the periods referred to in Article 17(1) of the Revised Lisbon Agreement, in accordance with the procedures specified in the Regulations in that respect.

#### **Article 12**

##### Prohibition of Reservations

No reservations to this protocol are permitted.

#### **Article 13**

##### Denunciation

- (1) *[Notification]* Any Contracting Party may denounce this protocol by notification addressed to the Director General.
- (2) *[Effective Date]* 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.

**Article 14**

Languages of This Protocol; Signature

(1) *[Original Texts; Official Texts]*

(a) This protocol 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) *[Time Limit for Signature]* This protocol shall remain open for signature at the headquarters of the Organization for one year after its adoption.

**Article 15**

Depositary

The Director General shall be the depositary of this protocol.

**[OPTION B]**

**DRAFT TREATY ON GEOGRAPHICAL INDICATIONS**

LIST OF ARTICLES

*Preamble*

*Chapter I: Introductory and General Provisions*

- Article 1: Abbreviated Expressions
- Article 2: Subject-Matter
- Article 3: Competent Authority
- Article 4: International Register
- Article 5: Applicability of Other Protection Accorded by Laws of Contracting Parties and by Certain International Treaties

*Chapter II: Application and International Registration*

- Article 6: Application
- Article 7: International Registration
- Article 8: Fees

*Chapter III: Effects of International Registration*

- Article 9: Protection of Registered Geographical Indications
- Article 10: Protection Accorded by International Registration
- Article 11: Shield Against Becoming a [Generic] [Customary] Term or Name
- Article 12: Duration of Protection
- Article 13: Prior Rights
- Article 14: [Legal Proceedings] [Legal Remedies]

*Chapter IV: Refusal and Other Actions in Respect of International Registration*

- Article 15: Refusal
- Article 16: Withdrawal of Refusal
- Article 17: Prior Use
- Article 18: Notification of Grant of Protection
- Article 19: Invalidation
- Article 20: Modifications and Other Entries in the International Register

*Chapter V: Administrative Provisions*

- Article 21: Special Union; Assembly
- Article 22: International Bureau
- Article 23: Finances
- Article 24: Regulations

*Chapter VI: Revision and Amendment*

- Article 25: Revision
- Article 26: Amendment of Certain Articles by the Assembly

*Chapter VII: Final Provisions*

- Article 27: Becoming Party to This Treaty
- Article 28: Effective Date of Ratifications and Accessions
- Article 29: Prohibition of Reservations
- Article 30: Denunciation
- Article 31: Languages of This Treaty; Signature
- Article 32: Depositary

## Preamble

The Contracting Parties,

Desiring to establish an international system for the protection of geographical indications,

Have agreed as follows:

## Chapter I Introductory and General Provisions

### Article 1 Abbreviated Expressions

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

- (i) “this treaty” means the treaty on geographical indications as established by the present instrument;
- (ii) “Regulations” means the Regulations under this treaty;
- (iii) “Paris Convention” means the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised and amended;
- (iv) “Madrid Agreement on Indications of Source” means the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, of April 14, 1891, as revised and amended;
- (v) “Revised Lisbon Agreement” refers to the Revised Lisbon Agreement as established by the [*instrument revising the Lisbon Agreement*]<sup>8</sup>;
- (vi) “TRIPS Agreement” means the Agreement on Trade-Related Aspects of Intellectual Property Rights of April 15, 1994, as set out in Annex 1C to the Marrakesh Agreement Establishing the World Trade Organization and as amended;
- (vii) “International Register” means the International Register maintained by the International Bureau in accordance with Article 4 as the official collection of data concerning international registrations of geographical indications, regardless of the medium in which such data are maintained;
- (viii) “international registration” means an international registration recorded in the International Register;
- (ix) “application” means an application for international registration;
- (x) “registered” means entered in the International Register in accordance with this treaty;
- (xi) “geographical area of origin” means a geographical area as referred to in Article 2(1);
- (xii) “trans-border geographical area of origin” means a geographical area of origin as referred to in Article 2(2);
- (xiii) “Contracting Party” means any State or intergovernmental organization party to this treaty;
- (xiv) “Contracting Party of Origin” means the Contracting Party where the geographical area of origin is situated or the Contracting Parties where the trans-border geographical area of origin is situated;

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<sup>8</sup> A draft for such instrument is contained in Annex I to the present document.

- Article 3;
- (xv) “Competent Authority” means the entity designated in accordance with Article 3;
  - (xvi) “intergovernmental organization” means an intergovernmental organization eligible to become party to this treaty in accordance with Article 27(1)(ii);
  - (xvii) “Organization” means the World Intellectual Property Organization;
  - (xviii) “Director General” means the Director General of the Organization;
  - (xix) “International Bureau” means the International Bureau of the Organization.

## **Article 2**

### Subject-Matter

- (1) *[Geographical Indication]* (a) This treaty concerns indications which identify a good as originating in a geographical area situated in a Contracting Party<sup>9</sup>, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.
- (b) For the purposes of this treaty, such indications are identified by the term “geographical indication”.
- (c) A geographical indication may consist of an indication which is not, *stricto sensu*, geographical, provided all the other conditions of subparagraph (a) are fulfilled.
- (2) *[Trans-border Geographical Indication]* Protected geographical indications may identify a good originating in a trans-border geographical area delimited jointly by the adjacent Contracting Parties in whose territories such geographical area of origin is situated.

## **Article 3**

### Competent Authority

Each Contracting Party shall designate an entity which shall be responsible for the administration of this treaty in its territory and for communications with the International Bureau under this treaty and the Regulations. The Contracting Party shall notify the name and contact details of such Competent Authority to the International Bureau, as specified in the Regulations.

## **Article 4**

### International Register

The International Bureau shall maintain an International Register recording international registrations of geographical indications effected under this treaty and data relating to the status of such international registrations.

## **Article 5**

### Applicability of Other Protection Accorded by Laws of Contracting Parties and by Certain International Treaties

- (1) *[Freedom to Provide More Extensive Protection]* Contracting Parties shall be free to provide more extensive protection than the protection established under this treaty.

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<sup>9</sup> Such geographical area of origin may consist of the entire territory of a Contracting Party.



(2) *[Protection Under Other Instruments]* The protection established under this treaty shall be without prejudice to any protection granted under other international instruments, such as the Paris Convention, the Madrid Agreement on Indications of Source, the Revised Lisbon Agreement, the TRIPS Agreement or bilateral agreements.

(3) *[Obligation to Comply With the Paris Convention]* Contracting Parties shall comply with the provisions of the Paris Convention

[Option A: related to geographical indications.]

[Option B: as contained in its Articles 1 to 4 and 6 to 10*ter*.]

## **Chapter II** **Application and International Registration**

### **Article 6** **Application**

(1) *[Prerequisite]* Protection in the Contracting Party of Origin being a prerequisite for international registration, the application shall specify by which legislative or administrative Act, judicial or administrative decision, or registration the geographical indication that is the subject of the application has been granted protection in that Contracting Party, as well as the identifying details of the protection granted.

(2) *[Place of Filing]* Applications shall be filed with the International Bureau.

(3) *[Application Filed by Competent Authority]* Subject to paragraph (4), the application for the international registration of a geographical indication shall be filed by the Competent Authority in the name of:

- (i) the natural and legal persons entitled, under the law of the Contracting Party of Origin, to use the geographical indication; or
- (ii) a legal entity<sup>10</sup> which has legal standing to assert the rights of such beneficiaries referred to in subparagraph (i), such as, for instance, a federation or association representing them, or a group of producers representing the beneficiaries referred to in subparagraph (i), whatever their composition and regardless of the legal form in which they present themselves.

(4) *[Application Filed Directly by Beneficiaries]* If the legislation of the Contracting Party of Origin so permits, the application may be filed by the beneficiaries or the legal entity referred to in the preceding paragraph.

(5) *[Applications Concerning Trans-border Areas]*

(a) In case of a trans-border geographical area of origin, the Contracting Parties concerned may:

- (i) each file an application as Contracting Party of Origin in respect of a geographical indication referring to the part of the trans-border area situated in its territory; or

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<sup>10</sup> [The term "legal entity" refers to any association, corporation, partnership, proprietorship, trust, or individual that has legal standing in the eyes of law, i.e. that has legal capacity to enter into agreements or contracts, assume obligations, incur and pay debts, sue and be sued in its own right and to be held responsible for its actions.]

(ii) act as a single Contracting Party of Origin by filing an application jointly and through a commonly designated Competent Authority.

(b) Paragraph (4) shall apply *mutatis mutandis* under subparagraph (a), on the understanding that, for its application under subparagraph (a)(ii), the legislation of each of the adjacent Contracting Parties permits that the application may be filed by the beneficiaries or the legal entity referred to in the paragraph (3).

(6) *[Mandatory Contents]* The Regulations shall specify the mandatory particulars that must be included in the application, in addition to those specified in Article 7(3).

(7) *[Optional Contents]* The Regulations may specify optional particulars that may be included in the application.

## **Article 7** International Registration

(1) *[Formal Examination by the International Bureau]* Upon receipt of an application for the international registration of a geographical indication in due form, the International Bureau shall register the geographical indication in the International Register.

(2) *[Date of International Registration]* Subject to paragraph (3), the date of the international registration shall be the date on which the application was received by the International Bureau.

(3) *[Date of International Registration Where Particulars Missing]* Where the application does not contain all the following particulars:

(i) the identification of the Competent Authority or, in the case of Article 6(4), the applicant,

(ii) the details of the natural and legal persons entitled to use the geographical indication,

(iii) the geographical indication for which registration is sought,

(iv) the description of the good to which the geographical indication applies,  
the date of the international registration shall be the date on which the last of the missing particulars is received by the International Bureau.

(4) *[Publication and Notification of International Registrations]* The International Bureau shall, without delay, publish each international registration and shall notify the Competent Authority of each Contracting Party of the international registration.

## **Article 8** Fees

(1) *[Registration Fee]* Registration of each geographical indication shall be subject to the payment of the fee specified in the Regulations.

(2) *[Other Fees]* 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.

(3) *[Developing Countries]* Reduced fees may be established by the Assembly in respect of international registrations of geographical indications from developing countries.

### Chapter III Effects of International Registration

#### Article 9

##### Protection of Registered Geographical Indications

- (1) *[Commitment to Protect]* Each Contracting party shall protect on its territory, in accordance with the terms of this treaty, registered geographical indications.
- (2) *[Form of Legal Protection]* Each Contracting Party is free to choose the type of legislation under which the protection of registered geographical indications is established, as long as that legislation meets the substantive requirements of this treaty.

#### Article 10

##### Protection Accorded by International Registration

- (1) *[Content of Protection]*
- (a) Subject to the provisions of this treaty, each Contracting Party shall, from the date of international registration, extend to a registered geographical indication protection against at least the following acts:
- (i) [any direct or indirect] use of the geographical indication in relation to a like good which
- [Option A: would amount to usurpation, imitation, [or evocation] of the geographical indication,]
- [Option B: would be [likely to be] detrimental to or [likely to] exploit unduly the reputation of the geographical indication,]
- even if the true origin of the good is indicated or if the geographical indication is used in translated form or accompanied by terms such as [“kind”, “type”, “make”, “imitation”, [“style”, [“method”, [“as produced in”, [“like”, [“similar”, or the like;
- (ii) any commercial use of the geographical indication in relation to a [comparable], [similar], [related or linked] good, where such use
- [Option A: would be [likely to be] detrimental to or [likely to] exploit unduly the reputation of the geographical indication;]
- [Option B: would result in a likelihood of confusion;]
- [(iii) any other false or misleading indications as to the provenance, origin, nature or essential qualities of a good to which the geographical indication applies on the inner or outer packaging, advertising material or documents relating to the good, or any packing of the good in a container liable to convey a false impression as to its origin;]
- [(iv) any other practice liable to mislead the consumer as to the true origin of the good.]
- (b) Without prejudice to Article 13(1), Contracting Parties shall refuse or invalidate the registration of a trademark which contains or consists of a registered geographical indication with respect to goods not originating in the geographical area of origin.

(3) *[Presumption in Case of Use by Third Parties]* Each Contracting Party shall provide for a presumption of unlawful use in case a registered geographical indication is used in relation to a like good by a person who is not authorized to do so in the international registration.

(4) *[Improper Use by Eligible or Authorized Users]* Each Contracting Party shall be free to decide how to regulate the use of a registered geographical indication by a person from the geographical area of origin entitled to use the geographical indication in relation to a like good that, while originating in that area, does not have the qualifications of the good identified by the geographical indication.

(5) *[Homonymy]* The provisions of this treaty do not prevent the international registration of homonymous geographical indications. Each Contracting Party shall determine what protection it shall provide in respect of such geographical indications, subject to the provisions of the TRIPS Agreement.

(6) *[Use as a [Generic] [Customary] Term or Name]* Use of a registered geographical indication as a [generic] [customary] term or name shall be prohibited from the date of international registration in each Contracting Party unless and in so far the Contracting Party has refused the effects of the international registration under Article 15, or granted a transitional period, under Article 17.

#### **Article 11**

##### Shield Against Becoming a [Generic] [Customary] Term or Name

[Option A]: An indication protected as a registered geographical indication in a Contracting Party cannot be deemed to have become generic, as long as the indication is protected as a geographical indication in the Contracting Party of Origin.]

[Option B]: Protection under Article 10(6) shall guard an indication protected as a registered geographical indication against becoming a customary term in common language as the common name for certain goods or services or the customary name of a grape, plant or animal variety, as long as the indication is protected as a geographical indication in the Contracting Party of Origin.]

#### **Article 12**

##### Duration of Protection

The effects of an international registration shall cease if a registered geographical indication ceases to enjoy protection in the territory of the Contracting Party of Origin.

#### **Article 13**

##### Prior Rights

(1) *[Prior Trademark Rights]* Contracting Parties shall apply the provisions of the TRIPS Agreement relating to prior trademark rights.

(2) *[Other Prior Rights]* Contracting Parties shall apply the provisions of the TRIPS Agreement relating to other prior rights.

#### **Article 14**

[Legal Proceedings]  
[Legal Remedies]

[Option A]: Each Contracting Party shall ensure that legal proceedings for ensuring the protection of registered geographical indications may be brought by:

- (i) the public Prosecutor or, where the applicable law so provides, another public authority;
- (ii) any interested party, whether a natural person or a legal entity and whether public or private.]

[Option B]: Each Contracting Party shall provide effective legal remedies for the protection of registered geographical indications.]

### **Chapter IV**

#### **Refusal and Other Actions in Respect of International Registrations**

#### **Article 15**

##### **Refusal**

(1) [*Refusal of Effects of International Registration*]

(a) Within the time specified in the Regulations, the Competent Authority of a Contracting Party may notify the International Bureau of the refusal of the effects of an international registration in its territory. The notification of refusal may be filed by the Competent Authority *ex officio*, if its legislation so permits, or at the request of an interested party.

(b) The notification of refusal shall set out the grounds on which the refusal is based.

(c) The notification of a refusal shall not be detrimental to any other protection that may be available, in accordance with Article 5, to the indication concerned in the Contracting Party to which the refusal relates.

(2) [*Obligation to Provide Opportunity for Interested Parties*] Each Contracting Party shall provide a reasonable opportunity to interested parties to present to its Competent Authority requests for the Competent Authority to notify a refusal in respect of an international registration.

(3) [*Registration and Communication of Refusals*] The International Bureau shall record the refusal and the grounds for the refusal in the International Register. It shall publish the refusal and the grounds for the refusal and shall communicate them to the Competent Authority of the Contracting Party of Origin or, where the application has been filed directly in accordance with Article 6(4), the concerned beneficiaries or legal entity referred to in Article 6(3).

(4) [*National Treatment*] Each Contracting Party shall make available to interested parties affected by a refusal the same judicial and administrative remedies that are available to its own nationals in respect of the refusal of protection for a geographical indication.

**Article 16**  
Withdrawal of Refusal

(1) *[Procedures for the Withdrawal of Refusals]* A refusal may be withdrawn in accordance with the procedures specified in the Regulations. A withdrawal shall be recorded in the International Register.

(2) *[Negotiations Between Interested Parties]* The Contracting Party of Origin may enter into negotiations with a Contracting Party in respect of which a refusal has been recorded, in order to get the refusal withdrawn. Interested parties affected by a refusal shall be afforded a reasonable opportunity to request the Contracting Party of Origin to negotiate the possible withdrawal of such refusal.

**Article 17**  
Prior Use

(1) *[Phasing Out]* Without prejudice to the right of refusal under Article 15, where an indication protected as a registered geographical indication was in use, prior to the international registration of the geographical indication, in a Contracting Party by a third party as a [generic term] [customary term in common language as the common name for certain goods or services or the customary name of a grape, plant or animal variety], the Contracting Party may grant to the third party a defined period to terminate such use. The Contracting Party shall notify the International Bureau of any such grant.

(2) *[Withdrawal of Refusal on Ground of Prior Use]* Where a Contracting Party has refused the effects of an international registration under Article 15 on the ground of prior use and wishes to withdraw the refusal, it may make the withdrawal subject to the prior use terminating after a defined period of time.

(3) *[Coexistence]* Where a Contracting Party has refused the effects of an international registration under Article 15 on the ground of prior use under a trademark or other right, the withdrawal of such refusal shall establish a situation of coexistence between the prior right and the registered geographical indication, unless the withdrawal resulted from the cancellation, revocation or invalidation of the prior right.

**Article 18**  
Notification of Grant of Protection

The Competent Authority of a Contracting Party may notify the International Bureau of the grant of protection to a registered geographical indication. The International Bureau shall record any such notification in the International Register and publish it.

**Article 19**  
Invalidation

(1) *[Requirement of Opportunity of Defense]* A Contracting Party may not invalidate the effects of an international registration, in part or in whole, in its territory without giving an opportunity to the concerned beneficiaries to defend their rights. Such opportunity shall also be given to a legal entity having legal standing to assert these rights, as referred to in Article 6(3)(ii).

(2) *[Notification of Invalidation]* Each Contracting Party shall notify the invalidation of an international registration to the International Bureau, which shall record the invalidation in the International Register and publish it.

## Article 20

### Modifications and Other Entries in the International Register

Procedures for the modification of international registrations and other entries in the International Register shall be specified in the Regulations.

## Chapter V Administrative Provisions

### Article 21

#### Special Union; Assembly

(1) *[Special Union]* The Contracting Parties to which this treaty applies constitute a Special Union under Article 19 of the Paris Convention.

(2) *[Assembly; Composition]*

- (a) The Special Union shall have an Assembly.
- (b) Each Contracting Party shall be represented by one delegate, who may be assisted by alternate delegates, advisors and experts.
- (c) Each delegation shall bear its own expenses.

(3) *[Tasks]*

- (a) The Assembly shall:
  - (i) deal with all matters concerning the maintenance and development of this treaty as well as its implementation;
  - (ii) give directions to the Director General concerning the preparation of revision conferences referred to in Article 25(1);
  - (iii) have competence to amend the Regulations concerning the implementation of this treaty;
  - (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) determine which States, intergovernmental and non-governmental organizations shall be admitted to its meetings as observers;
  - (ix) adopt amendments to Articles 21 to 23 and 26;
  - (x) take any other appropriate action to further the objectives of the Special Union and perform any other functions as are appropriate under this treaty.
- (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.

(4) *[Quorum]*

(a) 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.

(b) Notwithstanding the provisions of subparagraph (a), 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.

(5) *[Taking Decisions in the Assembly]*

(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 treaty, but no such intergovernmental organization shall participate in the vote if any one of its member States exercises its right to vote, and *vice versa*.

(6) *[Majorities]*

(a) Subject to Articles 24(2) and 26(2), the decisions of the Assembly shall require two-thirds of the votes cast.

(b) Abstentions shall not be considered as votes.

(7) *[Sessions]*

(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.

(8) *[Rules of Procedure]* The Assembly shall adopt its own rules of procedure.

**Article 22**  
International Bureau

(1) *[Administrative Tasks]*

(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) *[Meetings Other Than Sessions of the Assembly]* 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 such a body.

(3) *[Conferences]*

(a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for any revision conferences.

(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 revision conferences.

(4) *[Other Tasks]* The International Bureau shall carry out any other tasks assigned to it in relation to this treaty.

### **Article 23** Finances

(1) *[Budget]*

(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) *[Coordination With Budgets of Other Unions]* 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) *[Sources of Financing of the Budget]* The budget of the Special Union shall be financed from the following sources:

(i) international registration fees collected under Article 8 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) *[Fixing of Fees and Charges; Level of the Budget]*

(a) The amounts of the fees referred to in paragraph (3)(i), shall be fixed by the Assembly on the proposal of the Director General. Charges referred to in paragraph (3)(i) 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), 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 of the Organization.

(5) *[Working Capital Fund]* 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) *[Advances by Host State]*

(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) *[Auditing of Accounts]* 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 of the Organization. They shall be designated, with their agreement, by the Assembly.

## **Article 24** Regulations

(1) *[Subject-Matter]* The details for carrying out this treaty shall be established in the Regulations.

(2) *[Amendment of Certain Provisions of the Regulations]*

(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) *[Conflict Between This Treaty and the Regulations]* In the case of conflict between the provisions of this treaty and those of the Regulations, the former shall prevail.

## Chapter VI Revision and Amendment

### Article 25 Revision

- (1) *[Revision Conferences]* This treaty may be revised by diplomatic conferences of the Contracting Parties. The convocation of any Diplomatic Conference shall be decided by the Assembly.
- (2) *[Revision or Amendment of Certain Articles]* Articles 21 to 23 and 26 may be amended either by a revision conference or by the Assembly according to the provisions of Article 26.

### Article 26 Amendment of Certain Articles by the Assembly

- (1) *[Proposals for Amendment]*
- (a) Proposals for the amendment of Articles 21 to 23, 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) *[Majorities]* 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 21, and to the present paragraph, shall require a four-fifths majority.
- (3) *[Entry Into Force]*
- (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 21(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 VII Final Provisions

### Article 27 Becoming Party to This Treaty

- (1) *[Eligibility]* Subject to Article 28 and paragraphs (2) and (3) of the present Article,
- (i) any State which is a member of the Organization may sign and become party to this treaty;
  - (ii) any intergovernmental organization may become party to this treaty if at least one member State of that intergovernmental organization is 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 treaty, and declares that, under the constituting treaty of the intergovernmental organization, legislation applies that provides protection in respect of geographical indications in accordance with this treaty.
- (2) *[Ratification or Accession]* Any State or intergovernmental organization referred to in paragraph (1), may deposit
- (i) an instrument of ratification, if it has signed this treaty, or
  - (ii) an instrument of accession, if it has not signed this treaty.
- (3) *[Effective Date of Deposit]*
- (a) Subject to subparagraph (b), 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 can only be obtained on the basis of legislation applying between the member States of the intergovernmental organization 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.

### Article 28 Effective Date of Ratifications and Accessions

- (1) *[Instruments to Be Taken into Consideration]* For the purposes of this Article, only instruments of ratification or accession that are deposited by States or intergovernmental organizations referred to in Article 27(1) and that have an effective date according to Article 27(3) shall be taken into consideration.
- (2) *[Entry Into Force of This Treaty]* This treaty shall enter into force three months after five eligible parties referred to in Article 27 have deposited their instruments of ratification or accession.
- (3) *[Entry Into Force of Ratifications and Accessions]*
- (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 treaty shall become bound by this treaty on the date of the entry into force of this treaty.
  - (b) Any other State or intergovernmental organization shall become bound by this treaty three months after the effective date of the deposit of its instrument of ratification or accession or at any later date indicated in that instrument.

(4) *[International Registrations Effected Prior to Accession]* In the territory of the acceding State or intergovernmental organization, the benefits of this treaty shall apply in respect of geographical indications already registered under this treaty at the time the accession becomes effective, subject to the provisions of Chapter IV, 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 referred to in Article 15(1), and the periods referred to in Article 17(1), in accordance with the procedures specified in the Regulations in that respect.

**Article 29**  
Prohibition of Reservations

No reservations to this treaty are permitted.

**Article 30**  
Denunciation

(1) *[Notification]* Any Contracting Party may denounce this treaty by notification addressed to the Director General.

(2) *[Effective Date]* 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.

**Article 31**  
Languages of the Treaty; Signature

(1) *[Original Texts; Official Texts]*

(a) This treaty 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) *[Time Limit for Signature]* This treaty shall remain open for signature at the headquarters of the Organization for one year after its adoption.

**Article 32**  
Depositary

The Director General shall be the depositary of this treaty.

[End of Annex II and of document]