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## **Working Group on the Development of the Lisbon System**

### **Third Session Geneva, November 2 and 3, 2020**

#### DEVELOPMENT OF THE LISBON SYSTEM

*Document prepared by the Secretariat*

1. The present document presents recent developments concerning: (1) the entry into force of the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (“Geneva Act of the Lisbon Agreement”); (2) the legal framework of the Lisbon System following the adoption of the Geneva Act and its entry into force; and (3) ongoing discussions relating to the financial sustainability of the Lisbon Union.

#### ENTRY INTO FORCE OF THE GENEVA ACT OF THE LISBON AGREEMENT

2. In accordance with a decision taken by the Assembly of the Lisbon Union at its twenty-ninth (20<sup>th</sup> ordinary) session (September 23 to October 2, 2013) (document LI/A/29/2, paragraph 29(ii)), the Diplomatic Conference for the Adoption of a New Act of the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration was convened in Geneva, from May 11 to 21, 2015, at the headquarters of the World Intellectual Property Organization (WIPO).

3. On May 20, 2015, the Diplomatic Conference adopted the Geneva Act of the Lisbon Agreement and the Regulations under the Geneva Act of the Lisbon Agreement (document LI/DC/19).

4. Instruments of ratification or accession of the Geneva Act of the Lisbon Agreement were deposited:

- on March 9, 2018, by Cambodia;
- on June 26, 2019, by Albania;
- on October 2, 2019, by Samoa;
- on October 8, 2019, by the Democratic People's Republic of Korea; and
- on November 26, 2019, by the European Union.

Consequently, and in accordance with Article 29(2) of the Geneva Act of the Lisbon Agreement, the Act entered into force on February 26, 2020, with respect to the four States and one Intergovernmental Organization referred to above. An instrument of accession was also deposited, on September 28, 2018, by Côte d'Ivoire. In accordance with Article 28(3)(b), the accession by Côte d'Ivoire shall enter into force three months after the deposit by the African Intellectual Property Organization (OAPI) of its instrument of accession.

## LEGAL FRAMEWORK OF THE LISBON SYSTEM

5. At its thirty-second (21<sup>st</sup> ordinary) session held in Geneva from October 5 to 14, 2015, the Assembly of the Lisbon Union established a Working Group for the Preparation of Common Regulations under the Lisbon Agreement and the Geneva Act of the Lisbon Agreement (hereinafter referred to as "the Working Group"). The Working Group held two sessions in Geneva, the first from June 7 to 9, 2016, and the second from April 3 to 5, 2017.

6. At both sessions, the Working Group considered draft Common Regulations under the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration and the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (hereinafter referred to as "the Common Regulations") (documents LI/WG/PCR/1/2 and LI/WG/PCR/2/2). At its second session, the Working Group also considered draft Administrative Instructions for the Application of the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration and the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (hereinafter referred to as "the Administrative Instructions") (document LI/WG/PCR/2/4).

7. The purpose of the Common Regulations is to streamline the legal framework of the Lisbon System, for the benefit of the Competent Authorities of the members of the Lisbon Union, the users of the System and the International Bureau, by replacing two sets of Regulations under the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (hereinafter referred to as "the 1967 Act") and under the Geneva Act of the Lisbon Agreement, by a single set governing international registrations effected under the 1967 Act, as well as those effected under the Geneva Act of the Lisbon Agreement.

8. At its thirty-fourth (22<sup>nd</sup> ordinary) session held in Geneva from October 2 to 11, 2017, the Assembly of the Lisbon Union adopted the Common Regulations (document LI/A/34/4 paragraph 24(i) and Annex to document LI/A/34/4). On that occasion, the Assembly also decided that the entry into force of the Common Regulations would coincide with the entry into force of the Geneva Act of the Lisbon Agreement (document LI/A/34/4 paragraph 24(ii)).

9. The Schedule of Fees included in the Common Regulations was further amended by a decision of the Assembly of the Lisbon Union adopted at its thirty-fifth (13<sup>th</sup> extraordinary) session held in Geneva, from September 24 to October 2, 2018, with a view to enacting the fee reduction prescribed by Article 7(3) of the Geneva Act of the Lisbon Agreement (document LI/A/35/3, paragraph 23 and Annex).

10. Finally, a revised version of the Administrative Instructions entered into force on February 26, 2020, to complement the set of legal provisions governing the Lisbon System following the entry into force of the Geneva Act of the Lisbon Agreement.

## FINANCIAL SUSTAINABILITY

11. With regard to the discussions relating to the financial sustainability of the Lisbon Union, the attention of the Working Group is drawn to the fifty-ninth series of meetings (September 30 to October 9, 2019) of the Assemblies of the Member States of WIPO and of the Unions and their decision relating to the proposed Program and Budget for the 2020/21 Biennium:

“[...] the Assemblies of WIPO, each as far as it is concerned:

“(i) Approved the Proposed Program and Budget for the 2020/21 Biennium (document A/59/8), subject to the allocation of income and expenditure by Union as reflected in the attached revised version of Annex III, which reverts to the allocation of income and expenditure by Union in the Program and Budget for the 2018/19 Biennium;

“(ii) Recalled that, in accordance with the Treaties of the Fee-Financed Unions, each Union should have revenue sufficient to cover its own expenses;

“(iii) Noted that each Fee-Financed Union with a projected biennial deficit in the 2020/21 Biennium should examine measures in accordance with its own treaty to address that deficit;

“(iv) Noted that if any Union in any given biennium does not have sufficient revenue and reserves to cover its projected expenses, the amount required to fund the operations of such Union is provided from the net assets of the Organization and is disclosed in the Annual Financial Report and Financial Statements, Revenue, Expenses and Reserves by Segment of the Organization, which includes the Surplus/Deficit of the Unions, and is to be repaid when the reserves of such Union allow it to do so;

“(v) Decided that in accordance with (iv) above, for the 2020/21 Biennium, if any Fee-Financed Union does not have sufficient revenue to cover its expenses, the required amount mentioned in (iv) shall be provided from the reserves of the Contribution Financed Unions, if those reserves are fully sufficient, otherwise from the reserves of the other Fee-Financed Unions, and be disclosed in the Financial Statements as notes (document A/59/14, paragraph 152 (i) to (v)).”

12. At its thirty-sixth (23<sup>rd</sup> ordinary) session (September 30 to October 9, 2019), the Assembly of the Lisbon Union took note of the “Report on the Working Group on the Development of the Lisbon System” (document LI/A/36/1). More particularly, in relation to the financial sustainability of the Lisbon Union, the Working Group emphasized the importance of promotion activities to increase the membership of the Lisbon System, including the Geneva Act of the Lisbon Agreement, and the need to increase coordination among Lisbon members in that respect. During that session, the Working Group also decided to further discuss appropriate measures to ensure the financial sustainability of the Lisbon Union in the future, including the review of the Schedule of Fees on a regular basis, while recognizing the need to assess the impact of the entry into force of the Geneva Act of the Lisbon Agreement on the financial situation of the Union (document LI/A/36/1, paragraphs 2 and 3, and annexed document LI/WG/DEV-SYS/2/3, paragraphs 13 and 14(ii)).

13. *The Working Group is invited to consider the contents of the present document.*

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