

WIPO



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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

WORKING GROUP ON THE MODIFICATION OF THE REGULATIONS UNDER THE LISBON AGREEMENT FOR THE PROTECTION OF APPELLATIONS OF ORIGIN AND THEIR INTERNATIONAL REGISTRATION

Second Session
Geneva, March 19 – 22, 2001

REPORT

adopted by the Working Group

I. INTRODUCTION

1. The Working Group on the Modification of the Regulations under the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (hereinafter “the Working Group”) held its second session in Geneva from March 19 to 22, 2001.
2. The following member States of the Lisbon Union were represented at the session: Algeria, Burkina Faso, Costa Rica, Cuba, France, Gabon, Haiti, Hungary, Italy, Mexico, Portugal, Republic of Moldova, Slovakia, Togo, Tunisia (15).
3. The following States were represented by observers: Argentina, Belize, Côte d’Ivoire, Croatia, India, Indonesia, Libyan Arab Jamahiriya, Morocco, Philippines, Romania, Spain, Sri Lanka, Switzerland, The former Yugoslav Republic of Macedonia, Venezuela (15).

4. The following intergovernmental organization was represented by an observer: World Trade Organization (WTO) (1).
5. The following international non-governmental organization was represented by an observer: European Communities Trade Mark Association (ECTA) (1).
6. The list of participants is given in Annex I to this report.
7. Mr. François Curchod, Deputy Director General, opened the session on behalf of the Director General of WIPO. He welcomed the participants and especially the Delegation of the Republic of Moldova which, by virtue of the deposit of its instrument of accession to the Lisbon Agreement on January 5, 2001, had become the 20th country party to the Agreement.
8. The Working Group unanimously elected Mr. Amor Bouhnik (Algeria) Chair and Mrs. Ágnes Szabó (Hungary) and Mrs. Maria Joana Marques Cleto (Portugal) Vice-Chairs. Mr. Denis Cohen (WIPO) provided the Secretariat of the Working Group.
9. Discussions were based on the following documents submitted by the International Bureau: "Proposals for Modification of the Regulations under the Lisbon Agreement" (document LI/GT/2/2) and "Notes Concerning the Proposals for Modification of the Regulations under the Lisbon Agreement" (document LI/GT/2/3).
10. The Secretariat noted the interventions and recorded them on tape. This document summarizes the discussions without necessarily reporting all the comments made.

II. PROPOSALS FOR MODIFICATION OF THE REGULATIONS UNDER THE LISBON AGREEMENT

Rule 1: Definitions

11. The Delegations of France and Hungary welcomed the inclusion of this new rule in the Regulations. The Delegation of France also proposed, for the sake of comprehensiveness, that the term "appellation of origin" be defined in Rule 1 by reference to Article 2(1) of the Agreement.
12. The Secretariat, while agreeing with the proposal by the Delegation of France, suggested that the title of the provision ("Definitions") should be replaced by "Abbreviated Expressions" which seemed to correspond better to the content of Rule 1 as proposed.
13. In response to a comment by the Delegation of Mexico supported by the Delegations of Argentina and Spain, regarding the term used to designate the periodical publication in the Spanish version of Rule 18 ("repertorio"), it was agreed that the word would be changed to "Bulletin" in item (xii) of Rule 1 (and also in Rule 18) and that the Bulletin would be defined by reference to Article 5(2) of the Agreement rather than to Rule 18.

14. The Secretariat said that, in the English version of item (x) of Rule 1, the expression “natural or legal person” should be replaced by “natural person or legal entity,” in order that the wording of the provision in the Regulations might correspond in all respects to the terminology used in Article 5(1) of the Agreement to designate the holder or holders of the right to use the appellation of origin.

15. The Chair noted that there were no further comments on Rule 1, and therefore declared it approved by the Working Group subject to the above amendments.

Rule 2: Calculation of Time Limits

16. The Chair noted that there were no comments on Rule 2, and therefore declared it approved by the Working Group as proposed.

Rule 3: Working Language

Paragraph (1)

17. The Delegation of Mexico considered that the time had come to consider the possibility of introducing Spanish as a new working language in the Lisbon system. It pointed out in particular that such a change in the Regulations would be likely to promote the accession to the Agreement of new countries, especially Latin American countries. With that in mind, the Delegation of Mexico asked the Secretariat what financial implications such a broadening of the language regime would have for the Lisbon system.

18. The Secretariat said that any increase in the number of working languages under the Lisbon system might involve not only Spanish but also English, which was traditionally the second working language used in the international registration treaties administered by the International Bureau of WIPO. In view of the low volume of activity within the Lisbon system at the present time, and in view of the fact that applications for international registration and communications subsequent to such applications contained only very little text for translation by the International Bureau, extending the range of working languages to include English and Spanish would not have any significant financial implications, and would not result in an increase in fees payable under the Lisbon system. That said, the matter of the use of Spanish arose also in connection with the system under the Madrid system for the international registration of marks. The proposal of a broadening of the language regime under the Lisbon system to include English and Spanish should be coordinated with any proposal that might be submitted to the Madrid Union Assembly the following September. The Director General of WIPO would make proposals to the Lisbon Union Assembly at the same time.

19. The Secretariat added that, assuming the hypothesis of the Lisbon Union Assembly taking the decision to extend the language regime of the Lisbon system, certain provisions of the Regulations as proposed would have to be modified, notably Rules 3, 5 and 7.

Paragraph (2)

20. The Delegation of France considered that the provision should be completed in such a way as to make it clear that, in the same way as for translations, transliterations of appellations of origin would not be subjected to any checking by the International Bureau.

21. The Chair noted that, subject to any proposal for the extension of the range of working languages that might be submitted to the Lisbon Union Assembly in September 2001, Rule 3 was approved by the Working Group with the amendment proposed by the Delegation of France.

Rule 4: Competent Authority

22. The Delegation of France declared itself pleased with this provision, which made it possible to standardize the terminology used throughout the Regulations to denote the authority of a contracting country, which it had pleaded for at the first session of the Working Group. It added that, in the case of France, there would probably be only one authority responsible for dealings with the International Bureau, in the same way as under the Community system known as “PDO-PGI” introduced by Council Regulation (EEC) No. 2081/1992 of 14 July 1992.

23. The Chair noted there were no other comments on Rule 4, and therefore declared it approved by the Working Group as proposed.

Rule 5: Requirements Concerning the International Application

Paragraph (2)(a)(ii)

24. The Delegation of Mexico declared its concern regarding item (ii) of Rule 5(2)(a), which required the mention in the international application of “the holder or holders of *the right to use* the appellation of origin” (and no longer “the owner or owners of the international registration,” as in Rule 1(2)(iii) of the present Regulations). It recalled that under the legislation applicable in Mexico, it was the Mexican Government that was the owner of the international registration and was therefore mentioned as such in the international application. As a result in particular of consultations that had taken place with interested groups in Mexico on the subject, the Delegation of Mexico said that it wished to retain the formulation of Rule 1(2)(iii) of the present Regulations. There could be a risk of any mention of the owner or owners “of the right to use” leading to a great many amendments subsequently being entered in the International Register.

25. The Delegation of Tunisia said that it shared the fears expressed by the Delegation of Mexico.

26. The Secretariat made it clear that, even if it was understood that the ownership rights in an international registration usually vested in the public authorities of the country of origin, namely the State itself or an offshoot of it (a government department), the addition of the phrase “of the right to use the appellation of origin” in item (ii) of Rule 5(2)(a) as proposed was intended solely to bring that provision of the Regulations into line with Article 5(1) of the

Agreement itself, which provided expressly that the registration of appellations of origin was effected “in the name of [persons or entities] having, according to the national legislation, *a right to use such appellations.*” In addition, the principle of collective designation (rather than designation by name, provided for in Rule 5(2)(a)(ii) (for instance, “producers or groups of producers meeting the conditions prescribed by law or in Decree No. ... of ...”) served precisely to avoid the need to make amendments to the International Register in the event of changes in the circle of collectively designated persons, failing which the system would seem unworkable in practical terms.

27. The Secretariat also explained that the International Bureau was not authorized to interpret the concept of “holder of the right to use the appellation of origin” or, consequently, to question information supplied in that connection by the competent authority of the country of origin in an international application.

28. The representative of ECTA considered that the distinction between the two concepts of “owner of the international registration of an appellation of origin” and “holder of the right to use an appellation of origin” was a substantive question, and one moreover closely connected with that of a modification concerning the owner of the right to use the appellation of origin, provided for in Rule 13(1)(i).

29. The Secretariat said that the difficulties mentioned regarding the concept of “holder of the right to use the appellation of origin” stemmed perhaps from a misapprehension concerning the manner of designation – either collective or by name – of the holder or holders. The expression “holder of the right to use the appellation of origin” seemed sufficiently broad to accommodate the case where a public entity was invested by national legislation with the prerogative of authorizing or designating the persons entitled to affix the appellation of origin concerned to the relevant product and/or to ensure that those persons abided by the production conditions. In order to remove all ambiguity from the issue, the matter of determining what constituted an acceptable collective designation would be made clear in the explanatory notes to be submitted to the Lisbon Union Assembly the following September.

30. The Delegation of Mexico said that, in the light of the explanations given by the Secretariat, and in view of the fact that they would be reflected in the explanatory notes as just mentioned, it was ultimately in favor of retaining Rule 5(2)(a)(ii) as proposed.

31. The Delegation of Tunisia endorsed the opinion expressed by the Delegation of Mexico.

32. The Secretariat pointed out that the hypothetical case in which collective designation was not possible, provided for in item (ii) of Rule 5(2)(a), would not necessarily arise just because only one user existed (as mentioned in paragraph 5.03 of the explanatory notes contained in document LI/GT/2/3), but more generally where there were only very few users. In any event, the matter of determining what was and what was not possible would be left to the competent administration of the country of origin to deal with on a case-by-case basis.

Paragraph (2)(a)(iii)

33. The Delegation of Portugal said that the requirement laid down in Rule 5(2)(a)(iii), whereby the appellation of origin had to be given in the official language of the country of origin, could be problematic inasmuch as protection would have to be assured not only in the official language of the country of origin but also where the appellation was used in translation. It gave the example of the appellation “Porto”, which also qualified for protection when the English form “Port Wine” was used.

34. The Secretariat replied that the aim pursued in paragraph (2)(a)(iii) was precisely to make a clear distinction between the name of the appellation of origin in the official language of the country of origin and its translation in a certain number of other languages, given that it followed from Article 3 of the Agreement that the appellation of origin covered by the international registration was protected against any use in translation, even if no such translation was actually mentioned in connection with the registration.

35. In reply to a question raised by the representative of ECTA, the Secretariat said that, in the case where an authority to which an international registration was notified considered a translation inaccurate, that should not constitute a ground for refusing protection, but the authority concerned could inform the competent authority of the country of origin that it regarded the translation supplied as going beyond the scope of protection provided for in Article 3 of the Agreement.

Paragraph (2)(a)(vii)

36. The Delegation of France said that any translations of the appellation of origin should be mentioned in the international application purely by way of information, for the sake of the smooth operation of the Lisbon system.

37. The Secretariat suggested dividing item (vii) into two new subparagraphs (b) and (c) in order to make it clear on the one hand that the names of the holder or holders of the right to use the appellation of origin or of the area of production could only be given in the international application in the form of a transliteration in Latin characters (new subparagraph (b)), and on the other hand that the appellation of origin could appear in other than Latin characters, in which case however it was mandatory to include a transliteration in Latin characters (new subparagraph (c)).

38. The Delegation of France said that, if the mention of a transliteration of the appellation of origin seemed necessary, among other things in order to make the appellation comprehensible for part of the international community, it wanted to have it made clear that a transliteration in the international application could not have the effect of extending the scope of protection, and notably of extending that protection to the appellation of origin in its transliterated form. Moreover that transliteration should not be used other than for the purposes of the present Regulations.

39. The Delegation of Cuba said that it did not share the interpretation given by the Delegation of France, and supported the text as proposed.

40. The Secretariat said that the specification required by the Delegation of France could present certain difficulties, in view of the fact that its perception of the effects of the transliteration of the appellation of origin was not necessarily shared by all the contracting countries of the Lisbon Union. That perception would nevertheless be recorded in the report of the Working Group.

41. The Chair noted that there were no other comments on Rule 5, and therefore declared it approved by the Working Group subject to the amendments mentioned in paragraph 37.

Rule 6: Irregular Applications

Paragraph (1)

42. The Delegation of Hungary proposed that the reference to Rule 5 in Rule 6(1) be completed in such a way as to make it quite clear that only the absence of a *mandatory* particular in the international application would have the effect of making it irregular.

43. It was agreed to add a reference to paragraphs (1) and (2) of Rule 5 in Rule 6(1).

Paragraph (2)

44. The Delegation of Hungary proposed that the fact of the international application not being written in the prescribed language be treated as an ordinary irregularity, in other words one rectifiable in the prescribed period of three months, and not as an irregularity resulting in the application not being considered such.

45. It was agreed that the words “or if the international application is not drawn up in French” would be deleted in Rule 6(2) as proposed, and that a reference to Rule 3(1) would be incorporated in Rule 6(1). Consequently, only failure of the international application to be presented by the competent authority of the country of origin remained as an irregularity resulting in the application not being considered as such by the International Bureau.

46. The Chair noted that there were no other comments on Rule 6 and therefore declared it approved by the Working Group, subject to the above amendments.

Rule 7: Entry of the Appellation of Origin in the International Register

47. The Delegation of France, supported by the Delegations of Portugal and Mexico, said that the date of effect of an international registration was an important matter that deserved to be discussed within the Working Group, and that it was prepared to go in the direction of the incipient harmonization of the subject. Referring to the findings of the study put in hand by the International Bureau, given in the Annex to document LI/GT/2/3, the Delegation of France declared that it could subscribe to the solution adopted by the majority of the contracting countries of the Lisbon Union whereby protection would start to run on the date of the international registration, as in the case of the Madrid system for the international

registration of marks. That said, in order to allow for the diversity of national situations regarding the question, one could contemplate laying down a principle in the Regulations according to which the starting point of protection was the date of the international registration, and providing for exceptions whereby any contracting country could depart from this principle in deference to the requirements of its national legislation.

48. The Delegation of Gabon said that the solution involving the establishment of a starting point for protection common to all contracting countries was a constructive one, as it was consistent with the move towards harmonization of international industrial property law.

49. The Delegation of Costa Rica, while declaring itself willing to join a consensus on an date of effect corresponding to the date of the international registration, asked for additional time for reflection in order that it might consult its authorities on the matter.

50. The Secretariat said that the reason why the draft modified Regulations did not contain any provision on the starting point of the protection of an international registration (as had been contemplated at the first session) was on the one hand the differences of approach to the matter from one contracting country to another, and on the other hand the apparent absence of clear-cut legal references in the legislation of contracting countries for the calculation of that date. However, in view of the consensus that seemed to be emerging within the Working Group, the Secretariat announced that it was going to circulate a proposed text to all member States of the Lisbon Union immediately after the present session of the Working Group in order to obtain in addition the opinion of those contracting countries that were not represented at the session. The proposal would provide that the appellation of origin was protected in every contracting country from the date of international registration, subject to the right of a contracting country to declare in a notification addressed to the Director General that, under its national legislation, the effective date of protection was a date, specified in the declaration, that was later than the date of international registration but not later than the expiry date of the period of one year provided for in Article 5(3) of the Agreement.

51. The Chair noted that there were no further comments on Rule 7 and therefore declared it approved by the Working Group as proposed.

Rule 8: Date of International Registration

52. The Chair noted that there were no comments on Rule 8 and therefore declared it approved by the Working Group as proposed.

Rule 9: Notification of a Declaration of Refusal

53. In response to a comment by the Delegation of France, it was agreed that the title of Chapter 4 would be completed with the words “of protection,” and that the words “notification of a” would be removed from the title of Rule 9. The titles of Chapter 4 and Rule 9 would therefore be “Declarations of Refusal of Protection” and “Declaration of Refusal” respectively.

Paragraph (1)

54. The Delegation of France proposed adding the words “by a contracting country” after “a declaration of refusal” in order to make it clear that the refusal of protection operated only on the territory of the contracting country that had issued the declaration.

55. The Secretariat said that the proposed text already accommodated the concern expressed by the Delegation of France, and that any further specification was liable to overload the text unnecessarily.

Paragraph (2)

56. The Delegation of France asked for clarification of the question whether item (iii) as proposed provided for the possibility of an appellation of origin coexisting with a prior right. The Secretariat said that item (iii) would apply only where a refusal had actually been pronounced, in other words once the possibility of coexistence had been removed.

57. In response to a proposal by the Delegation of Romania, it was agreed that item (v) would be completed with a mention of the applicable time limits.

58. The Chair noted that there were no other comments on Rule 9 and therefore declared it approved by the Working Group, subject to the above amendments.

Rule 10: Irregular Declaration of Refusal*Paragraph (1)*

59. In reply to an intervention by the Delegation of Portugal, which considered the consequences of an irregular declaration of refusal too onerous, the International Bureau explained that the four irregularities listed in paragraph (1) of the Rule, which would result in a declaration of refusal not being considered such, were all contemplated by Article 5(3) of the actual Agreement.

60. Replying to a question from the Delegation of France concerning the date that marked the starting point of the one-year period mentioned in Article 5(3) of the Agreement, the International Bureau explained that the setting of that date did not present a problem inasmuch as declarations of refusal were notified to competent authorities by registered mail with advice of receipt.

61. The Chair noted that there were no further comments on the Rule 10, and therefore declared it approved by the Working Group as proposed.

Rule 11: Withdrawal of a Declaration of Refusal

62. In response to a proposal by the Delegation of Costa Rica, supported by the Delegations of Mexico and Argentina, it was agreed that the word “*retirada*” would be replaced by “*retiro*” in the Spanish version.

63. The Chair noted that there were no other comments on Rule 11, and therefore declared it approved by the Working Group as proposed.

Rule 12: Period Granted to Third Parties

64. The Chairman noted that there were no comments on Rule 12, and therefore declared it approved by the Working Group as proposed.

Rule 13: Modifications

65. The representative of ECTA said that he doubted the wisdom of modifying the present Rule 5(4), which provided that modifications concerning holders called for a new international registration. In his opinion, contracting countries should not be deprived of the right to deny protection to an appellation of origin where there had been a change in the holder of the right to use it if they considered, for instance, that the new holder did not meet the conditions to be a holder of the appellation of origin, or, in the case of the succession of States, that the successor State did not exercise the necessary quality control over the appellation of origin.

66. The Delegation of France said that it was difficult to imagine the authority of another contracting country being able to rule on whether or not the new holder of the right to use an appellation of origin met the necessary conditions to be a holder, as that question lay within the jurisdiction of the competent authority of the country of origin. It mentioned moreover that, as far as quality control over the appellation of origin was concerned, it was not for other contracting countries to determine whether that control was sufficient, in view of the fact that it too was a matter within the exclusive jurisdiction of the country of origin. Consequently, the Delegation of France said that, as from the moment at which the entry of a change in the holder was requested by the competent authority of the country of origin, the contracting countries had no reason to question the legitimacy of the change.

67. The Delegation of Mexico, while making it clear that it did not want to disturb the consensus on the approval of proposed text with the view to its submission to the Lisbon Union Assembly in September 2001, said that it reserved its position on the modification of Rule 13, in view of the fact that consultations had not yet taken place in Mexico with interest groups, which were in favor of retaining the rule at present in force. The Delegation of Mexico mentioned moreover that it would inform the International Bureau of the outcome of those consultations.

68. The Delegations of Cuba and Hungary supported Rule 13 as proposed. After clarifications had been provided by the Secretariat, the Delegation of Costa Rica also declared itself in favor of the rule as proposed.

69. The Chair noted that there were no other comments on Rule 13, and therefore declared it approved by consensus by the Working Group as proposed.

Rule 14: Renunciation of Protection

70. The Chair noted that there was no comment on Rule 14 and therefore declared it approved by the Working Group as proposed.

Rule 15: Cancellation of an International Registration

71. The Chair noted that there was no comment on Rule 15, and therefore declared it approved by the Working Group as proposed.

Rule 16: Invalidation

72. The Delegation of France proposed that only final invalidation decisions, in other words those from which there was no appeal, be notified to the International Bureau.

73. The Chair noted that there were no other comments on Rule 16, and therefore declared that Rule 16 was approved by the Working Group subject to the above amendment.

Rule 17: Corrections Made to the International Register

Paragraph (1)

74. The Delegation of France proposed that the paragraph be completed to make it clear that only the *competent authority of the country of origin* should be entitled to request the International Bureau to make a correction to the International Register.

75. It was agreed that the point would be made clear.

Paragraph (3)

76. In reply to questions raised by the Delegation of France and the representative of ECTA on the desirability of retaining paragraph (3) of Rule 17, the Secretariat explained that the right of a competent authority to refuse protection in the case of a correction seemed necessary when, in relation to the international registration as corrected, there were grounds for refusal that did not apply to the international registration as originally notified to the competent authority concerned. However, a distinction could be made between those corrections that had to do with clerical errors that had no bearing on the scope of the protection conferred (which would not have the effect of opening a new one-year period of refusal) and those that related to substantive elements liable to influence the decision to grant protection (which on the other hand could give rise to a new one-year period of refusal).

77. The Delegation of Tunisia declared itself in favor of retaining paragraph (3) of Rule 17, but on the condition that those elements the correction of which would bring about the reopening of the refusal period were listed.

78. Taking into account the various opinions expressed on the question, the Secretariat submitted a new proposal for the modification of Rule 17(3) to the Working Group, worded as follows:

“(3) [Declaration that a Correction Has No Effect] Where the correction relates to the appellation of origin, the product to which the appellation of origin relates or the area of production of the product, Tthe competent authority of a contracting country may declare **that it cannot ensure the protection of the international registration so corrected**~~that a correction has no effect in that contracting country.~~ The declaration shall be addressed to the International Bureau by such competent authority within a period of one year from the date of notification by the International Bureau of the correction. Rules 9 to 11 shall apply *mutatis mutandis*.”

79. The Delegation of France, noting the possibility of an overlap between Rule 17(3), on corrections, and Rule 13, on modifications, proposed to exclude the area of production of the product from the elements whose correction opened a new refusal period, and consequently to limit those elements to the appellation of origin and to the product to which the appellation of origin applied.

80. After having heard various points of view on the subject of the wording of the new version of Rule 17(3), it was agreed that the reference to the area of production would be deleted, that the title of the paragraph would be replaced by “Application of Rules 9 and 11,” that the words “of the error” would be added after the words “where the correction” at the beginning of the provision as reworded above and to avoid the repetition of the word “may” by replacing it in the first instance by the expression “has the right to.”

81. The Chair noted that there were no other comments on Rule 17, and therefore declared that it was approved by the Working Group, subject to the above amendments.

Rule 18: Publication

82. Following the suggestion by the Delegation of Mexico that the word “*repertorio*” in the Spanish text should be replaced, the word “periodical” was replaced by “Bulletin,” as defined in Rule 1(xii).

83. The Chair noted that there were no other comments on Rule 18, and therefore declared it approved by the Working Group, subject to the above amendment.

Rule 19: Extracts from the International Register and Other Information Provided by the International Bureau

84. The Chair noted that there were no comments on Rule 19, and therefore declared it approved by the Working Group as proposed.

Rule 20: Signature

85. The Chair noted that there were no comments on Rule 20, and therefore declared it approved by the Working Group as proposed.

Rule 21: Date of Dispatch of Various Communications

86. The Chair noted that there were no comments on Rule 21, and therefore declared it approved by the Working Group as proposed.

Rule 22: Modes of Notification by the International Bureau

87. The Chair noted that there were no comments on Rule 22, and therefore declared it approved by the Working Group as proposed.

Rule 23: Fees

88. The Chair noted that there were no comments on Rule 23, and therefore declared it approved by the Working Group as proposed.

Rule 24: Entry Into Force

89. The Chair noted that there were no comments on Rule 24, and therefore declared it approved by the Working Group as proposed.

90. The text of the draft Regulations as approved by the Working Group appears in Annex II to this report.

91. This report was unanimously adopted by the Working Group on March 22, 2001.

[Annexes follow]

ANNEXE I/ANNEX I

LISTE DES PARTICIPANTS/LIST OF PARTICIPANTS

I. MEMBRES/MEMBERS

(dans l'ordre alphabétique des noms français des États/
in the alphabetical order of the names in French of the States)

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[Annex II follows]

Regulations under the Lisbon Agreement
for the Protection of Appellations of Origin
and their International Registration

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CHAPTER 1
GENERAL PROVISIONS

Rule 1
Abbreviated Expressions

For the purposes of these Regulations,

- (i) “Agreement” means the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration of October 31, 1958, as revised in Stockholm on July 14, 1967, and modified on September 28, 1979;
- (ii) “appellation of origin” means an appellation of origin as defined in Article 2(1) of the Agreement;
- (iii) “international registration” means the international registration of an appellation of origin effected under the Agreement;
- (iv) “international application” means an application for international registration;
- (v) “International Register” means the official collection of data concerning international registrations maintained by the International Bureau whose entry is provided for in the Agreement or these Regulations, whatever the medium on which such data are kept;
- (vi) “contracting country” means a country party to the Agreement;
- (vii) “country of origin” means the contracting country as defined in Article 2(2) of the Agreement;
- (viii) “International Bureau” means the International Bureau of the World Intellectual Property Organization;
- (ix) “official form” means a form drawn up by the International Bureau;
- (x) “competent authority” means the authority referred to in Rule 4(1)(a), (b) or (c) of these Regulations;
- (xi) “holder of the right to use the appellation of origin” means any natural person or legal entity referred to in Article 5(1) of the Agreement;
- (xii) “declaration of refusal” means the declaration referred to in Article 5(3) of the Agreement;
- (xiii) “Bulletin” means the periodical referred to in Article 5(2) of the Agreement, whatever the medium used for its publication.

Rule 2
Calculation of Time Limits

(1) *[Periods Expressed in Years]* A period expressed in years shall expire, in the relevant subsequent year, in the month having the same name and on the day having the same number as the month and the day of the event from which the period starts to run, except that, where the event occurred on February 29 and in the relevant subsequent year February ends on the 28th, the period shall expire on February 28.

(2) *[Periods Expressed in Months]* A period expressed in months shall expire, in the relevant subsequent month, on the day which has the same number as the day of the event from which the period starts to run, except that, where the relevant subsequent month has no day with the same number, the period shall expire on the last day of that month.

(3) *[Expiry on a Day Which Is Not a Working Day for the International Bureau or a Competent Authority]* If a period expires on a day which is not a working day for the International Bureau or a competent authority, the period shall expire, notwithstanding paragraphs (1) and (2), on the first subsequent working day.

Rule 3
Working Language

(1) [*International Application, Communications With the International Bureau, Entries in the International Register and Publications*] The international application as well as any communication concerning an international application or an international registration exchanged between the International Bureau and a competent authority shall be in French. Entries in the International Register and publications in the Bulletin shall be in French.

(2) [*Transliteration and Translations of the Appellation of Origin*] Where the competent authority gives a transliteration of the appellation of origin in accordance with Rule 5(2) or one or more translations of the appellation of origin, in accordance with Rule 5(3)(ii), the International Bureau shall not check that they are correct.

Rule 4
Competent Authority

(1) [*Notification to the International Bureau*] Each contracting country shall notify to the International Bureau the name and address, as well as any change concerning the name or address,

(a) of its authority competent

(i) to submit an international application in accordance with Rule 5, to remedy an irregularity contained in the international application in accordance with Rule 6(1), to request the entry in the International Register of a modification to an international registration in accordance with Rule 13(2), to notify the International Bureau that it renounces protection in one or more contracting countries in accordance with Rule 14(1), to request the International Bureau to cancel an international registration in accordance with Rule 15(1), to request correction of the International Register in accordance with Rule 17(1) and to communicate to the International Bureau, in accordance with Rule 19(2)(b), the documents referred to in Rule 5(3)(v), and

(ii) to receive the notifications of the International Bureau referred to in Rules 9(3), 10(1) and (2), 11(3), 12(2) and 16(2),

(b) of its authority competent

(i) to notify a declaration of refusal, to notify the withdrawal of a declaration of refusal in accordance with Rule 11, to notify an invalidation in accordance with Rule 16(1), to request correction of the International Register in accordance with Rule 17(1) and to declare, in accordance with Rule 17(3), that it cannot ensure the protection of a corrected international registration and

(ii) to receive the notifications of the International Bureau referred to in Rules 7(1), 13(3), 14(2), 15(2) and 17(2), and

(c) of its authority competent to give notice to the International Bureau that a period, which may not exceed two years, has been granted to third parties in accordance with Article 5(6) of the Agreement.

(2) [*One Authority or Different Authorities*] The notification referred to in paragraph (1) may indicate a single authority or different authorities. However, only one authority may be designated with respect to each of subparagraphs (a) to (c).

CHAPTER 2
INTERNATIONAL APPLICATIONS

Rule 5
Requirements Concerning the International Application

(1) [*Presentation*] An international application shall be presented to the International Bureau by the competent authority of the country of origin on the official form provided to that end and shall be signed by that authority.

(2) [*Mandatory Contents of the International Applications*] (a) The international application shall indicate:

- (i) the country of origin;
- (ii) the holder or holders of the right to use the appellation of origin, designated collectively or, where collective designation is not possible, by name;
- (iii) the appellation of origin for which registration is sought, in the official language of the country of origin or, where the country of origin has more than one official language, in one or more of those official languages;
- (iv) the product to which the appellation applies;
- (v) the area of production of the product;
- (vi) the title and date of the legislative or administrative provisions, the judicial decisions or the date and number of the registration by virtue of which the appellation of origin is protected in the country of origin.

(b) Where the names of the holder or holders of the right to use the appellation of origin or the area of production of the product are in characters other than Latin characters, they must be indicated in the form of a transliteration into Latin characters.

(c) Where the appellation of origin is in characters other than Latin characters, the indication referred to in subparagraph (a)(iii) must be accompanied by a transliteration into Latin characters.

(d) The international application shall be accompanied by a registration fee the amount of which is specified in Rule 23.

[Rule 5, cont'd]

(3) [*Optional Contents of the International Application*] The international application may indicate or contain:

- (i) the addresses of the holders of the right to use the appellation of origin;
- (ii) one or more translations of the appellation of origin, in as many languages as the competent authority of the country of origin wishes;
- (iii) a statement to the effect that protection is not claimed for certain elements of the appellation of origin;
- (iv) a declaration that protection is renounced in one or more contracting countries, designated by name;
- (v) a copy in the original language of the provisions, decisions or registration referred to in paragraph (2)(a)(vi).

Rule 6
Irregular Applications

(1) [*Examination of the Application and Correction of Irregularities*] (a) Subject to paragraph (2), if the International Bureau finds that an international application does not satisfy the conditions set out in Rule 3(1) or Rule 5(1) and (2), it shall defer registration and invite the competent authority to remedy the irregularity found within a period of three months from the date of such invitation.

(b) If the competent authority has not corrected the irregularity found within two months of the date of the invitation referred to in subparagraph (a), the International Bureau shall address to that authority a reminder of its invitation. The sending of such a reminder shall have no effect on the three-month period referred to in subparagraph (a).

(c) If the correction of the irregularity is not received by the International Bureau within the three-month period referred to in subparagraph (a), the international application shall be rejected by the International Bureau which shall inform the competent authority of the country of origin thereof.

(d) Where, in accordance with subparagraph (c), the international application is rejected, the International Bureau shall refund the fees paid in respect of the application, after deduction of an amount corresponding to half the registration fee referred to in Rule 23.

(2) [*International Applications Not Considered as Such*] If the international application is not presented to the International Bureau by the competent authority of the country of origin, it shall not be considered as such by the International Bureau and shall be returned to the sender.

CHAPTER 3
INTERNATIONAL REGISTRATION

Rule 7

Entry of the Appellation of Origin in the International Register

(1) [*Registration, Certificate and Notification*] Where the International Bureau finds that an international application satisfies the conditions set out in Rules 3(1) and 5, it shall enter the appellation of origin in the International Register, shall send a certificate of international registration to the authority that requested the registration and shall notify the international registration to the competent authority of those other contracting countries in respect of which protection has not been renounced.

(2) [*Contents of the Registration*] An international registration shall contain or indicate:

- (i) all the particulars given in the international application;
- (ii) the number of the international registration;
- (iii) the date of the international registration.

Rule 8
Date of the International Registration

(1) [*Irregularities Affecting the Date of the International Registration*] Where an international application does not contain all the following particulars:

- (i) the country of origin;
- (ii) the holders of the right to use the appellation of origin;
- (iii) the appellation of origin for which registration is sought;
- (iv) the product to which the appellation applies

the international registration shall bear the date on which the last of the missing particulars is received by the International Bureau.

(2) [*Date of the International Registration in All Other Cases*] In all other cases, the international registration shall bear the date on which the international application was received by the International Bureau.

CHAPTER 4
DECLARATIONS OF REFUSAL OF PROTECTION

Rule 9
Declaration of Refusal

(1) [*Notification to the International Bureau*] A declaration of refusal shall be notified to the International Bureau by the competent authority of the contracting country for which the refusal is issued and shall be signed by that authority.

(2) [*Contents of a Declaration of Refusal*] A declaration of refusal shall relate to a single international registration and shall indicate or contain:

(i) the number of the international registration concerned, preferably accompanied by further information enabling the identity of the international registration to be confirmed, such as the name of the appellation of origin;

(ii) the grounds on which the refusal is based;

(iii) where the refusal is based on the existence of a prior right, the essential particulars of that prior right and, in particular, if it is constituted by a national, regional or international trademark application or registration, the date and filing number, the priority date (where appropriate), the date and registration number (if available), the name and address of the holder, a reproduction of the trademark, together with the list of relevant goods and services given in the trademark application or registration, it being understood that the list may be submitted in the language of the said application or registration;

(iv) where the refusal concerns only certain elements of the appellation of origin, those elements that it concerns;

(v) the judicial or administrative remedies that may be exercised against the refusal together with the applicable time limits.

(3) [*Entry in the International Register and Notification to the Competent Authority of the Country of Origin*] Subject to Rule 10(1), the International Bureau shall enter in the International Register any refusal, together with the date on which the declaration of refusal was sent to the International Bureau, and shall notify a copy of the declaration to the competent authority of the country of origin.

Rule 10
Irregular Declaration of Refusal

(1) [*Declaration of Refusal Not Considered as Such*] (a) A declaration of refusal shall not be considered as such by the International Bureau:

(i) if it does not indicate the number of the international registration concerned, unless other information given in the declaration enables the registration to be identified without ambiguity;

(ii) if it does not indicate any grounds for refusal;

(iii) if it is sent to the International Bureau after the expiry of the one-year period referred to in Article 5(3) of the Agreement;

(iv) if it is not notified to the International Bureau by the competent authority.

(b) Where subparagraph (a) applies, the International Bureau shall, unless it is unable to identify the international registration concerned, notify a copy of the declaration of refusal to the competent authority of the country of origin and shall inform the authority that notified the declaration of refusal that the latter is not considered as such by the International Bureau and that the refusal has not been entered in the International Register, and shall state the reasons therefor.

(2) [*Irregular Declaration*] If the declaration of refusal contains an irregularity other than those referred to in paragraph (1), the International Bureau shall nevertheless enter the refusal in the International Register and shall notify a copy of the declaration of refusal to the competent authority of the country of origin. At the request of that authority, the International Bureau shall invite the authority that notified the declaration of refusal to regularize its declaration without delay.

Rule 11
Withdrawal of a Declaration of Refusal

(1) *[Notification to the International Bureau]* Any declaration of refusal may be withdrawn, in part or in whole, at any time by the authority that notified it. The withdrawal of a declaration of refusal shall be notified to the International Bureau by the competent authority and shall be signed by such authority.

(2) *[Contents of the Notification]* The notification of withdrawal of a declaration of refusal shall indicate:

(i) the number of the international registration concerned, preferably accompanied by other information enabling the identity of the international registration to be confirmed, such as the name of the appellation of origin;

(ii) the date on which the declaration of refusal was withdrawn.

(3) *[Entry in the International Register and Notification to the Competent Authority of the Country of Origin]* The International Bureau shall enter in the International Register any withdrawal referred to in paragraph (1) and shall notify a copy of the notification of withdrawal to the competent authority of the country of origin.

CHAPTER 5
OTHER ENTRIES CONCERNING
AN INTERNATIONAL REGISTRATION

Rule 12
Period Granted to Third Parties

(1) *[Notification to the International Bureau]* Where the competent authority of a contracting country gives notice to the International Bureau that a period has been granted to third parties in that country to terminate the use of an appellation of origin in that country in accordance with Article 5(6) of the Agreement, such notice shall be signed by that authority and shall indicate:

(i) the number of the international registration concerned, preferably accompanied by other information enabling the identity of the international registration to be confirmed, such as the name of the appellation of origin;

(ii) the identity of the third parties concerned;

(iii) the period granted to the third parties;

(iv) the date from which the time limit begins, it being understood that this date may not be later than the date on which the three-month period referred to in Article 5(6) of the Agreement expires.

(2) *[Entry in the International Register and Notification to the Competent Authority of the Country of Origin]* Subject to the notice referred to in paragraph (1) being sent by the competent authority to the International Bureau within three months from expiry of the period of one year laid down in Article 5(3) of the Agreement, the International Bureau shall enter such notice in the International Register together with the particulars shown therein and shall notify a copy of the notice to the competent authority of the country of origin.

Rule 13
Modifications

(1) [*Permissible Modifications*] The competent authority of the country of origin may request the International Bureau to enter in the International Register:

- (i) a change in the holder of the right to use the appellation of origin;
- (ii) a modification to the names or addresses of the holders of the right to use the appellation of origin;
- (iii) a modification to the limits of the area of production of the product to which the appellation of origin applies;
- (iv) a modification relating to the legislative or administrative provisions, the judicial decisions or the registration referred to in Rule 5(2)(a)(vi);
- (v) a modification relating to the country of origin that does not affect the area of production of the product to which the appellation of origin applies.

(2) [*Procedure*] A request for entry of a modification referred to in paragraph (1) shall be presented to the International Bureau by the competent authority, shall be signed by that authority and shall be accompanied by a fee the amount of which is specified in Rule 23.

(3) [*Entry in the International Register and Notification to the Competent Authorities*] The International Bureau shall enter in the International Register a modification requested in accordance with paragraphs (1) and (2) and shall notify it to the competent authority of the other contracting countries.

Rule 14
Renunciation of Protection

(1) *[Notification to the International Bureau]* The competent authority of the country of origin may at any time notify the International Bureau that it renounces protection in one or more contracting countries, designated by name. The notification of renunciation of protection shall state the number of the international registration concerned, preferably accompanied by other information enabling the identity of the international registration to be confirmed, such as the name of the appellation of origin, and shall be signed by the competent authority.

(2) *[Entry in the International Register and Notification to the Competent Authorities]* The International Bureau shall enter in the International Register the renunciation of protection referred to in paragraph (1) and shall notify it to the competent authority of each contracting country with respect to which the renunciation has effect.

Rule 15
Cancellation of an International Registration

(1) *[Request for Cancellation]* The competent authority of the country of origin may at any time request the International Bureau to cancel an international registration that it has requested. A request for cancellation shall state the number of the international registration concerned, preferably accompanied by other information enabling the identity of the international registration to be confirmed, such as the name of the appellation of origin, and shall be signed by the competent authority of the country of origin.

(2) *[Entry in the International Register and Notification to the Competent Authorities]* The International Bureau shall enter in the International Register any cancellation together with the particulars given in the request and shall notify such cancellation to the competent authority of the other contracting countries.

Rule 16
Invalidation

(1) [*Notification of Invalidation to the International Bureau*] Where the effects of an international registration are invalidated in a contracting country and the invalidation is no longer subject to appeal, the invalidation shall be notified to the International Bureau by the competent authority of that contracting country. The notification shall indicate or contain:

(i) the number of the international registration concerned, preferably accompanied by other information enabling the identity of the international registration to be confirmed, such as the name of the appellation of origin;

(ii) the authority that pronounced the invalidation;

(iii) the date on which the invalidation was pronounced;

(iv) where the invalidation concerns certain elements only of the appellation of origin, the elements concerned;

(v) a copy of the decision that invalidated the effects of the international registration.

(2) [*Entry in the International Register and Notification to the Competent Authority of the Country of Origin*] The International Bureau shall enter the invalidation in the International Register together with the particulars, referred to in items (i) to (iv) of paragraph (1), which are given in the notification of invalidation and shall notify a copy of the notification to the competent authority of the country of origin.

Rule 17
Corrections Made to the International Register

(1) *[Procedure]* If the International Bureau, acting *ex officio* or at the request of the competent authority of the country of origin, finds that the International Register contains an error with respect to an international registration, it shall modify the Register accordingly.

(2) *[Notification of Corrections to the Competent Authorities]* The International Bureau shall notify such fact to the competent authority of each contracting country.

(3) *[Application of Rules 9 to 11]* Where the correction of the error concerns the appellation of origin or the product to which the appellation of origin applies, the competent authority of a contracting country has the right to declare that it cannot ensure the protection of the international registration so corrected. The declaration shall be addressed to the International Bureau by such competent authority within a period of one year from the date of notification by the International Bureau of the correction. Rules 9 to 11 shall apply *mutatis mutandis*.

CHAPTER 6
MISCELLANEOUS PROVISIONS AND FEES

Rule 18
Publication

The International Bureau shall publish in the Bulletin all entries made in the International Register.

Rule 19
Extracts From the International Register and Other Information
Provided by the International Bureau

(1) [*Information on the Contents of the International Register*] Extracts from the International Register or any other information on the contents of the Register shall be provided by the International Bureau to any person so requesting, on payment of a fee the amount of which is specified in Rule 23.

(2) [*Communication of Provisions, Decisions or the Registration Under Which an Appellation of Origin is Protected*] (a) Any person may request the International Bureau for a copy in the original language of the provisions, the decisions or the registration referred to in Rule 5(2)(a)(vi) on payment of a fee the amount of which is specified in Rule 23.

(b) Where such documents have already been communicated to the International Bureau, the latter shall transmit without delay a copy to the person who has made the request.

(c) If the documents have not been communicated to the International Bureau, the latter shall request a copy of them from the competent authority of the country of origin and shall transmit them, on receipt, to the person who has made the request.

Rule 20
Signature

Where the signature of an authority is required under these Regulations, such signature may be printed or replaced by the affixing of a facsimile or an official seal.

Rule 21
Date of Dispatch of Various Communications

Where the declarations referred to in Rules 9(1) and 17(3) or where the notice referred to in Rule 12(1) are communicated through a postal service, the date of dispatch shall be determined by the postmark. If the postmark is illegible or missing, the International Bureau shall treat the communication concerned as if it had been sent 20 days before the date on which it was received. Where such declarations or such notice are sent through a delivery service, the date of dispatch shall be determined by the information provided by such delivery service on the basis of the details of the mailing as recorded by it.

Rule 22
Modes of Notification by the International Bureau

(1) *[Notification of the International Registration]* The notification of the international registration, referred to in Rule 7(1), shall be addressed by the International Bureau to the competent authority of each contracting country by registered mail with acknowledgement of receipt or by any other means enabling the International Bureau to establish the date on which notification was received.

(2) *[Other Notifications]* Any other notification by the International Bureau referred to in these Regulations shall be addressed to the competent authorities by registered post or by any other means enabling the International Bureau to establish that the notification has been received.

Rule 23
Fees

The International Bureau shall collect the following fees, payable in Swiss francs:

	Amount (Swiss francs)
(i) Fee for registration of an appellation of origin	500
(ii) Fee for entry of a modification of a registration	200
(iii) Fee for providing an extract from the International Register	90
(iv) Fee for providing an attestation or any other information given in writing concerning the contents of the International Register	80

Rule 24
Entry into Force

These Regulations shall enter into force on April 1, 2002, and shall, as from that date, replace the previous Regulations.

[End of Annex II and of document]