

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

Seventh Session
Geneva, April 29 to May 3, 2013

DRAFT SUMMARY BY THE CHAIR

prepared by the Secretariat

1. The Working Group on the Development of the Lisbon System (Appellations of Origin) (hereinafter referred to as "the Working Group") met in Geneva, from April 29 to May 3, 2013.
2. The following Contracting Parties of the Lisbon Union were represented at the session: Algeria, Costa Rica, Czech Republic, France, Georgia, Hungary, Iran (Islamic Republic of), Italy, Mexico, Peru, Portugal, Republic of Moldova, Serbia (13).
3. The following States were represented as observers: Australia, Benin, Brazil, Brunei Darussalam, Chile, Colombia, Germany, Indonesia, Iraq, Lithuania, Madagascar, Myanmar, Pakistan, Republic of Korea, Romania, Russian Federation, Sudan, Switzerland, Thailand, United States of America, Venezuela (Bolivarian Republic of) (21).
4. Representatives of the following international intergovernmental organizations (IGOs) took part in the session in an observer capacity: European Union (EU), World Trade Organization (WTO) (2).
5. Representatives of the following international non-governmental organizations (NGOs) took part in the session in an observer capacity: Brazilian Association of Intellectual Property (ABPI), Centre for International Intellectual Property Studies (CEIPI), European Communities Trade Mark Association (ECTA), Health and Environment Program (HEP), International Association for the Protection of Intellectual Property (AIPPI), International Trademark Association (INTA), MARQUES (Association of European Trademark Owners), Organization for an International Geographical Indications Network (oriGIn) (8).

6. The list of participants is contained in document LI/WG/DEV/7/INF/1 Prov. 2*.

AGENDA ITEM 1: OPENING OF THE SESSION

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

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

8. Mr. Mihály Ficsor (Hungary) was unanimously elected as Chair of the Working Group, Mr. Behzad Saberi Ansari (Iran (Islamic Republic of)) and Mr. Miguel Alemán Urteaga (Peru) were unanimously elected as Vice-Chairs.
9. Mr. Matthijs Geuze (WIPO) acted as Secretary to the Working Group.

AGENDA ITEM 3: ADOPTION OF THE AGENDA

10. The Working Group adopted the draft agenda (document LI/WG/DEV/7/1 Prov.) without modification.

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

11. The Working Group took note of the adoption, on April 26, 2013, of the Report of the sixth session of the Working Group, as contained in document LI/WG/DEV/6/7, in accordance with the procedure established at the fifth session of the Working Group.

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

12. Discussions were based on documents LI/WG/DEV/7/2, LI/WG/DEV/7/3, LI/WG/DEV/7/4 and LI/WG/DEV/7/5. The Working Group examined in detail Chapters I to IV of the Draft Revised Lisbon Agreement and the corresponding Rules in the Draft Regulations, and also addressed the remaining Chapters focusing on issues highlighted by delegations.

13. Following a detailed discussion on Article 13 of the Draft Revised Lisbon Agreement contained in Annex I of document LI/WG/DEV/7/2, the Chair concluded that the non-paper submitted by the Secretariat, as amended during the discussions (see the Annex to the present document), would be incorporated in the Revised Draft Lisbon Agreement that would be prepared by the Secretariat for the next session and would serve as the basis for future discussions on Article 13.

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

Future work

14. The Chair confirmed that the next session of the Working Group would be convened in December 2013, while also recalling that a half-day conference on dispute settlement within the Lisbon system would be organized as a side event in the margins of that meeting and that a factual document on the issue of dispute settlement would be prepared by the Secretariat to facilitate discussions at the conference.

15. He reiterated that the focus of the next session would be the examination and discussion of a revised version of the Draft Revised Lisbon Agreement and Draft Regulations that would be prepared by the Secretariat and distributed well in advance of the next session. In particular, the Secretariat would work along the lines of the guidance provided by the Working Group at the present session and would make sure that all comments and suggestions be duly reflected in those revised versions.

16. As regards the overall structure of the Draft Revised Lisbon Agreement and Draft Regulations, the Chair confirmed that the Secretariat would continue to work on the basis of a single instrument covering both appellations of origin and geographical indications and providing for a high and single level of protection for both, while maintaining two separate definitions, on the understanding that the same substantive provisions would apply to both appellations of origin and geographical indications.

17. The Chair encouraged all participants to submit comments and drafting suggestions to the Secretariat on the electronic forum that had been established for that purpose, while also recalling that such comments and suggestions would be posted for information purposes only and without prejudice to the role of the Working Group and the formal discussions therein.

18. The Chair concluded that, in view of the progress made at the present session, the Working Group agreed that a recommendation be made to the Lisbon Union Assembly to approve, at its session in the autumn of 2013, the convening of a diplomatic conference for the adoption of a Revised Lisbon Agreement in 2015, with the exact dates and venue to be decided by a preparatory committee meeting. The Chair noted that the Lisbon Union Assembly would be in a position to review the progress made in preparing the diplomatic conference at its session that will take place in the autumn of 2014.

19. The Chair further clarified that the roadmap that would be followed until then would include two further Working Group sessions, one in 2013 and one in the spring of 2014, which might be followed by an additional session of the Working Group in the autumn of 2014 if considered necessary by the Working Group.

20. The Chair noted the wish of the Working Group that the Secretariat should further promote the activities of the Working Group as well as the Draft Revised Lisbon Agreement and its Draft Regulations in order to raise awareness, and to stimulate discussions among the current membership of the Lisbon Union and other WIPO Member States.

AGENDA ITEM 6: OTHER MATTERS

21. No interventions were made under this item.

AGENDA ITEM 7: ADOPTION OF THE SUMMARY BY THE CHAIR

[22. The Working Group approved the Summary by the Chair, as contained in the present document.]

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

AGENDA ITEM 8: CLOSING OF THE SESSION

[24. The Chair closed the session on May 3, 2013.]

[Annex follows]

Article 13

Safeguards in Respect of Other Rights

- (1) *[Prior Trademark Rights]* Without prejudice to Articles 15 and 19, where a registered appellation of origin or a registered geographical indication conflicts with a prior trademark applied for or registered, or acquired through use, in good faith in a Contracting Party, the protection of that appellation of origin or geographical indication in that Contracting Party shall not prejudice the eligibility for, or the validity of, the registration of the trademark, or the right to use the trademark, [taking into account] [provided that] the legitimate interests of [the owner of the trademark as well as those of] the beneficiaries of the rights in respect of the appellation of origin or the geographical indication [are taken into account] and provided that the public is not misled.
- [(2) *[Prior Rights in Respect of Another Appellation of Origin or Geographical Indication]* Without prejudice to Articles 15 and 19, where a registered appellation of origin or a registered geographical indication contains a denomination or indication that is also contained in another appellation of origin or geographical indication already protected in a Contracting Party, that Contracting Party may protect both appellations of origin or geographical indications, [taking into account] [provided that] the legitimate interests of the beneficiaries of either appellation of origin or geographical indication [are taken into account] and provided that the public is not misled.
- (3) *[Personal Name Used in Business]* The provisions of this Act shall not prejudice the right of any person to use, in the course of trade, that person's name or the name of that person's predecessor in business, except where such name is used in such a manner as to mislead the public.
- (4) *[Rights Based on [Plant Variety Denominations, Animal Breeds or Trade Names] Used in the Course of Trade]* The provisions of this Act shall not prejudice the right of any person to use [a plant variety denomination, animal breed or trade name] in the course of trade, in respect of which a right other than those referred to in paragraphs (1) to (3) has been acquired in good faith in a given Contracting Party before the date on which a registered appellation of origin or geographical indication is protected in that Contracting Party, except where such [plant variety denomination, animal breed or trade name] is used in such a manner as to mislead the public.]

[End of Annex and of document]