

The Lisbon Agreement and its Future Development

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The Lisbon Agreement

- The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration was concluded in 1958; it came into force in 1966
- Membership: 26 States (on June 15, 2009) :
 - Algeria, Bulgaria, Burkina Faso, Congo, Costa Rica, Cuba, Czech Republic, Democratic People 's Republic of Korea, France, Gabon, Georgia, Haiti, Hungary, Iran (Islamic Republic of), Israel, Italy, Mexico, Montenegro, Nicaragua, Peru, Portugal, Republic of Moldova, Serbia, Slovakia, Togo, Tunisia
- At present, the only **functioning** system for the international registration of geographical indications
- 887 appellations of origin have been registered under the Lisbon system, of which 813 are in force (June 15, 2009)



Objectives of the Lisbon system

- **Facilitate** the protection of **appellations of origin** (AO) in the member countries of the Lisbon Agreement through a simple and economic procedure. It allows users to:
 - **obtain** a registration for an appellation of origin with legal effects in member countries
 - **administer** that registration subsequently
- Provide users of appellations of origin with an **alternative** and **optional** procedure to obtain protection for their appellations of origin in member countries

International registrations of AO by country of origin (on June 15, 2009)

Country of origin	Total
France	564
Czechoslovakia	108
Bulgaria	50
Hungary	28
Italy	28
Georgia	20
Algeria	19
Cuba	19
Mexico	12
Czech Republic	8
Portugal	8
Tunisia	7
Dem. People's Rep. of Korea	6
Peru	4
Montenegro	2
Slovakia	2
Israel	1
Moldova	1
Total	887

The Lisbon system - Principles (1/2)

- Establishes an **international register** for appellations of origin and a **procedure** for their registration
- Establishes a **definition** of *appellation of origin*:
 - the **geographical name** of a country, region or locality which serves to **designate a product originating** therein, the quality and **characteristics** of which are due exclusively or essentially to the geographical **environment**, including natural and human factors
- **Flexibility**: in practice **traditional names** that have the required geographical “quality link” can be assimilated to appellations of origin: e.g. MUSCADET (N° 279, wine, France), REBLOCHON (N° 458, cheese, France), VINHO VERDE (N° 564, wine, Portugal), GRAVES (N° 99, wine, France)



The Lisbon system - Principles (2/2)

- **Principles of protection**

- **Prior recognition in country of origin.** An AO must be recognized and protected *as such* in its country of origin prior to international registration
- **Country of origin** is the country whose name, or the country in which is situated the region or locality whose name, constitutes the appellation of origin which has given the product its **reputation**
- **Any sort of product** may be designated by an AO, ranging from natural products (e.g. mineral water, marble) to manufactured products (e.g. crystal-ware, porcelain), including agricultural, food and handicraft products



The Lisbon system - Registration (1/3)

- **Procedure for registration**

- > **Application** must be filed with WIPO (in English, French or Spanish) through the competent **authority** of the country of origin, on behalf of the holders of the right to use the appellation of origin
- > WIPO **registers** the AO in the international register, **notifies** all the countries of the Lisbon Union and **publishes** the AO in bulletin "Appellations of Origin"
- > A country may **refuse** (totally or partially) protection of the AO if it notifies WIPO within **one year** indicating the **grounds**. Refusal is recorded, notified and published by WIPO
- > **Remedies** under the law of country refusing protection



The Lisbon system - Registration (2/3)

- **Effects of international registration**

States that have not refused a notified AO within 12 months from receipt of the notification --

- must **ensure protection** of the appellation against **usurpation** or **imitation**, even if the true origin of the product is stated, or if the appellation is used in translated form or accompanied by a warning, clarification or disclaimer (“type”, “method”, “system”)
- may **not** regard the appellation as **generic** as long as it remains protected in its country of origin



The Lisbon system - Registration (3/3)

- **Effects of international registration (cont):**
 - **Term:** Protection of a appellation of origin in each member country that has not refused protection continues as long as the appellation is protected as such in its country of origin
 - **No renewal** is required to maintain an international registration
 - **Legal proceedings** to protect the appellation may be taken *ex officio* by a competent authority or at the request of the public prosecutor or of **any interested party**



The Lisbon system - After registration

- **Withdrawal** of declaration **of refusal**:
 - at any time
 - in whole or in part (negotiation possible)
- **Period to terminate use** by third parties
 - may be granted by competent authority of country
 - maximum period two years (negotiation possible)
- **Modifications** - at request of country of origin
 - change in holder of right to use the AO
 - change in name or address
 - change in the area of production
 - change in provisions that recognize the AO
 - renunciation of protection in one or more countries
- **Invalidation**: only before the authorities of the country where invalidation is sought



Development of the Lisbon system

- Short term
 - Improvement of procedures
 - Amendment of Regulations
- Future development
 - Identify areas for improvement and development of the Lisbon system
 - Possible revision of the Lisbon Agreement ?



Developments in the short term

- Establishment of a **working group**
 - Proposal by the International Bureau of WIPO to the Assembly of the Lisbon Union (July 2008):
 - need to adapt procedures in light of new situations and evolving needs of users of the system, e.g.:
 - partial refusal
 - time-limit to notify refusal
 - need for Administrative Instructions
 - Decision by the Assembly of the Lisbon Union (September 2008):
 - establish a Working Group to explore possible improvements to procedures under the Lisbon Agreement



Working Group on the Development of the Lisbon System (1/2)

- First Session of the Working Group – March 2009
 - **Statement of grant** of protection – new *optional* procedures to notify and record a statement of grant of protection of an appellation of origin. Cases:
 - statement of (total) grant of protection *prior to expiration of refusal period*
 - statement of partial grant of protection *together with a declaration of partial refusal*
 - statement of (total or partial) grant of protection *instead of a (total or partial) withdrawal of refusal*



Working Group on the Development of the Lisbon System (2/2)

- First Session of the Working Group (cont.)
 - **Administrative Instructions** – new Rule in Lisbon Regulations to allow Director General to establish Administrative Instructions that may facilitate the operation of the Lisbon system
 - Administrative Instructions could provide for **electronic communications**, including --
 - notification of AO registrations by WIPO – identical starting date to compute refusal period
 - communications to WIPO from Members
 - agreed modes for electronic signature



Future development of the Lisbon System (1/2)

- First Session of the Working Group **agreed** --
 - that International Bureau submit to the Assembly of the Lisbon Union (September 2009) draft **new Rules** 11*bis* and 23*bis*, and amendment of Rule 22
 - to recommend that -
 - the Assembly **mandate** the Working Group to further consider the **general overview** of the Lisbon system
 - the International Bureau conduct a **survey** to ascertain how the Lisbon system might be improved to become **more attractive** for users and prospective new members while preserving the principles and objectives of the Lisbon Agreement



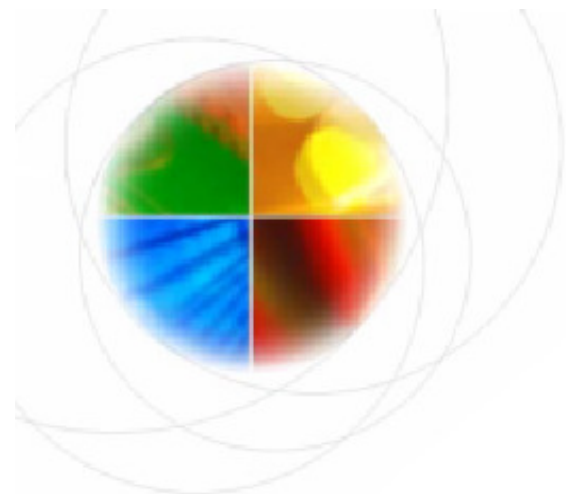
Future development of the Lisbon System (2/2)

- First Session of the Working Group also **agreed** -
 - to recommend that -
 - the International Bureau conduct a **study** on the relationship between regional systems for the protection of GIs and the Lisbon system, and examine the possibility of future accession to the Lisbon Agreement by intergovernmental organizations
 - the Assembly of the Lisbon Union request the Director General to convene **further meetings** of the Working Group with a view to **exploring more improvements** to the procedures under the Lisbon Agreement, considering the results of the survey and the study



Possible developments in the long term

- Long term development of Lisbon system may depend on:
 - results of the survey and the study to be conducted by WIPO
 - progress in other fora dealing with GI protection (viz. WTO)
 - political will
- A future revision process of the Lisbon Agreement could refer to a variety of matters, including e.g.:
 - broadening of the object of protection and its definition
 - membership of regional organizations in the Lisbon Union
 - optional direct filing of applications with WIPO
 - joint applicants in case of bi-national (shared) production area
 - possibility of extending the refusal period in certain cases
 - transition (tolerance) period to discontinue unauthorized use
 - dispute-settlement procedures
- All interested parties should submit ideas for improvement



Concluding remarks

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