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Proposal for a

COUNCIL DECISION

**on the position to be taken on behalf of the European Union in the Assembly of the
Lisbon Special Union**

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns the decision establishing the position to be taken on the Union's behalf in the Assembly of the Special Union of the World Intellectual Property Organization ('WIPO') in connection with the envisaged adoption of amendments to the 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 ('the Common Regulations').

2. CONTEXT OF THE PROPOSAL

2.1. The Geneva Act

The Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications of 2015 ('the Geneva Act') updates and enhances the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration of 1958, ('the Lisbon Agreement'). It entered into force on 26 February 2020. The European Union is a party to the Geneva Act¹.

2.2. The Assembly of the Special Union

The Special Union, administrated by WIPO, is composed of the Contracting Parties to the Geneva Act and the States party to the Lisbon Agreement. Article 22 (2) of the Geneva Act provides that the Assembly of the Special Union deals with, i.a. all matters concerning the maintenance and development of the Special Union and the implementation of the Geneva Act and amends the Common Regulations.

2.3. The envisaged act of the Special Union

During the WIPO General Assemblies on 8-17 July 2025, the Assembly of the Special Union may adopt the amendments to the Common Regulations set out below.

The proposed amendment to Rule 1(1) updates the definition of "official form" in subparagraph (vi) to include a reference to the electronic interface (e-Lisbon), which has been made available by the International Bureau to Competent Authorities of the Lisbon System on the Organization's website.

The proposed amendments to Rule 8(9) update the current provisions by clarifying the relevant date for determining the amount of fees to be paid under the Lisbon System, taking into account its specificities.

The proposed new subparagraph (a) of Rule 8(9) of the Common Regulations specifies that the date of filing of an application for international registration determines the amount of fees to be paid under Rule 5(2)(c) of the Common Regulations, namely the fee for an international registration (Rule 8(1)(i) of the Common Regulations) and any other fees as specified in Rule 8 of the Common Regulations).

The proposed new subparagraph (b) of Rule 8(9) of the Common Regulations specifies that the date of filing of a request for entry of a modification determines the amount of fees to be paid under Rule 15(2)(a) of the Common Regulations, namely the fee for one or several modifications (Rule 15(1) of the Common Regulations).

¹ Council Decision (EU) 2023/1051 of 22 May 2023 (OJ L 141, 31.5.2023, p. 34).

The proposed new subparagraph (c) of Rule 8(9) of the Common Regulations specifies that in the case of accession to, or ratification of, the Geneva Act by a State that is party to the 1967 Act, the relevant date to determine the amount of the fees to be paid – namely any fee for a modification (Rule 7(4)(a) of the Common Regulations) or any individual fee (Rule 7(4)(d) of the Common Regulations) – is the date of entry into force of the Geneva Act for that State.

The proposed new subparagraph (d) specifies that the provisions under the current version of Rule 8(9) will continue to apply in all other cases.

The proposed amendments to Rule 15 introducing new subparagraphs (vii) to (ix) in par. (1) extend the list of modifications that can be recorded in the International Register, such as a modification of the appellation of origin or the geographical indication, a modification of the good or goods to which the appellation of origin or the geographical indication applies, or a modification of the particulars, as referred to in Rule 5(3)(a) or the information referred to in Rule 5(6)(a)(vi). The proposed new paragraph (5) of Rule 15 of the Common Regulations introduces the possibility for a Contracting Party to notify a refusal if it is not in a position to ensure the protection of the appellation of origin or geographical indication because of the modification.

The proposed amendment to Rule 18(4) aligns the wording of this provision with the proposed new paragraph (5) of Rule 15.

3. POSITION TO BE TAKEN ON THE UNION'S BEHALF

The proposed position is to join a potential consensus on a decision of the Assembly of the Lisbon Union regarding the adoption of amendments to the Common Regulations or in any event to vote in favour of the proposed amendments to the Common Regulations under the Lisbon Agreement and the Geneva Act set out in the Annex to this Decision. Those amendments are of technical nature and aim at streamlining and simplifying the procedure as well as improving the legal certainty in the management of the applications for registration and modification of the appellations of origin and geographical indications under the Geneva Act.

4. LEGAL BASIS

4.1. Procedural legal basis

4.1.1. Principles

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides for decisions establishing ‘*the positions to be adopted on the Union’s behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.*’

The concept of ‘*acts having legal effects*’ includes acts that have legal effects by virtue of the rules of international law governing the body in question. It also includes instruments that do not have a binding effect under international law, but that are ‘*capable of decisively influencing the content of the legislation adopted by the EU legislature*’².

4.1.2. Application to the present case

The Assembly of the Special Union is a body set up by an agreement, namely the Geneva Act.

² Judgment of the Court of Justice of 7 October 2014, Germany v Council, C-399/12, ECLI:EU:C:2014:2258, paragraphs 61 to 64.

The act which the Assembly of the Special Union is called upon to adopt constitutes an act having legal effects. The envisaged act will be binding under international law.

Therefore, the procedural legal basis for the proposed decision is Article 218(9) TFEU.

4.2. Substantive legal basis

4.2.1. Principles

The substantive legal basis for a decision under Article 218(9) TFEU depends primarily on the objective and content of the envisaged act in respect of which a position is taken on the Union's behalf. If the envisaged act pursues two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely incidental, the decision under Article 218(9) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

4.2.2. Application to the present case

The main objective and content of the envisaged act relate to the common commercial policy.

Therefore, the substantive legal basis of the proposed decision is Article 207 TFEU.

4.3. Conclusion

The legal basis of the proposed decision should be Article 207 TFEU, in conjunction with Article 218(9) TFEU.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The European Union is a Contracting Party to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications ('the Geneva Act')³, which entered into force on 26 February 2020. Pursuant to Article 21 of the Geneva Act, its Contracting Parties are members of the Assembly of the Special Union created by the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration ('Lisbon Agreement')⁴.
- (2) Pursuant to Article 22(2)(a)(iii) of the Geneva Act, the Assembly of the Special Union is empowered to amend the Regulations under the Geneva Act.
- (3) During the General Assemblies of the World Intellectual Property Organization (WIPO) to be held from 8 to 17 July 2025, the Assembly of the Special Union will be invited to adopt amendments to the Common Regulations under the Lisbon Agreement and the Geneva Act ('Common Regulations').
- (4) It is appropriate to establish the position to be taken on the European Union's behalf in the Assembly of the Special Union as those amendments will be binding on the Union.
- (5) In its sixth session, which took place in Geneva from 8 to 20 March 2025, the Working Group on the Development of the Lisbon System (the 'Lisbon Working Group') (i.e. the international system for the international registration of appellations of origin and geographical indications) recommended to the Assembly of the Special Union the adoption of various amendments to the Common Regulations, as proposed by the WIPO Secretariat and modified by the Lisbon Working Group.
- (6) The proposed amendment to Rule 1(1) updates the definition of "official form" in subparagraph (vi) to include a reference to the electronic interface (e-Lisbon), which has been made available by the International Bureau to Competent Authorities of the Lisbon System on the Organization's website.
- (7) The proposed amendments to Rule 8(9) update the current provisions by clarifying the relevant date for determining the amount of fees to be paid under Rules 5(2)(c),

³ Council Decision (EU) 2023/1051 of 22 May 2023 (OJ L 141, 31.5.2023, p. 34, <http://data.europa.eu/eli/dec/2023/1051/oj>).

⁴ <https://www.wipo.int/wipolex/en/text/285838>

15(2)(a), 7(4)(a) and 7(4)(d) as well as all other cases under the current version of Rule 8(9) respectively, taking into account the different specificities under the Common Regulations.

- (8) The proposed amendments to Rule 15 introducing new subparagraphs (vii) to (ix) in paragraph 1 extend the list of modifications that can be recorded in the International Register. The proposed new paragraph (5) of Rule 15 of the Common Regulations introduces the possibility for a Contracting Party to notify a refusal if it is not in a position to ensure the protection of the appellation of origin or geographical indication because of the modification.
- (9) The proposed amendment to Rule 18(4) aligns the wording of this provision with the proposed new paragraph (5) of Rule 15.
- (10) The Union should therefore support the adoption of those amendments,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the meeting of the Assembly of the Special Union in the framework of the WIPO General Assembly on 8 to 17 July 2025 shall be to support the adoption of amendments to the Common Regulations as set out in the Annex to this Decision.

The representatives of the Union may also agree to modifications to the proposed amendments, provided they do not significantly alter the substance.

Article 2

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council
The President*