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European Union

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## DECLASSIFICATION

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Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

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**NOTE**

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From: General Secretariat of the Council

To: Permanent Representatives Committee

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Subject: Recommendation for a Council Decision authorising the opening of negotiations on a Revised Lisbon Agreement on Appellations of Origin and Geographical Indications  
- Agreement on the text

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**I. INTRODUCTION**

1. On 30 March 2015, the Commission submitted to the Council a Recommendation for a Council Decision authorising the opening of negotiations on a Revised Lisbon Agreement on Appellations of Origin and Geographical Indications<sup>1</sup>.

**II. STATE OF PLAY**

2. The Working Party on Intellectual Property examined the recommendation on 16 April 2015.

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<sup>1</sup> Seven Member States are members of this agreement (Bulgaria, Czech Republic, France, Hungary, Italy, Portugal and Slovakia), the 21 other Member States having an observer status.

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3. A number of changes were requested by delegations at the Working Party meeting. In order to accommodate issues raised, a draft compromise was presented by the Presidency. Delegations were invited to indicate in writing until 20 April 2015 whether they could accept this draft.
4. A number of delegations still had difficulties in accepting this draft. In order to agree rapidly on this recommendation, the Presidency consulted delegations concerned in order to reach an acceptable solution. On the basis of the outcome of these consultations, the Presidency submits to the Permanent Representatives Committee, in the Annex to this note, a revised compromise text on the proposed Council Decision.

### III. CONCLUSION

5. Against this background, the Permanent Representatives Committee is invited to:
  - **finalise agreement on the Annex to this Note, and**
  - **invite the Council to adopt, in part "A" of its agenda at a forthcoming meeting, the text of the Decision as set out in the Annex to this Note.**

Recommendation for a

**COUNCIL DECISION**

**authorising of the opening of negotiations on a revised Lisbon Agreement on Appellations of Origin and Geographical Indications as regards matters falling within the competence of the European Union**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114, [207] and Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration of 1958 is a treaty administered by the World Intellectual Property Organisation (WIPO), open to parties to the Paris Convention for the Protection of Industrial Property. It has a membership of 28 contracting parties, including seven EU Member States (Bulgaria, Czech Republic, France, Hungary, Italy, Portugal and Slovakia).
- (2) The international system of the Lisbon Agreement is currently being reviewed with a view to improving it so that it might attract a wider membership, while preserving its principles and objectives. On the basis of progress made by a Working Group which established a basic proposal for the revision in October 2014, a Diplomatic Conference for the Adoption of a revised Lisbon Agreement on Appellations of Origin and Geographical Indications will be held in Geneva from 11 to 21 May 2015.

- (3) The revised Agreement establishes a system of protection for appellations of origin and geographical indications within the contracting parties through a single registration. This subject matter is harmonised by internal EU legislation as regards agricultural appellations and indications and falls therefore within the shared competence, of the Union (as regards agricultural appellations and indications) and of its Member States (as regards non-agricultural appellations and indications, and fees).
- (4) For the provisions of the Agreement covering both matters falling within the competence of the Union and matters falling within the competence of the Member States, the seven Member States parties to the current Lisbon Agreement and the Commission shall all be authorised by the Council to participate together in the negotiations at the Diplomatic Conference on the basis of the negotiating directives as set out in the Annex.
- (5) In order to preserve the principles and objectives of the Lisbon Agreement, it is necessary, in the interest of the Union, to discard any possibility of non-members to claim and exercise voting rights during the Diplomatic Conference. Therefore, the seven EU Member States parties to the Agreement shall exercise their voting rights, including as regards matters falling within the competence of the Union, based on a common position.
- (6) This Decision is without prejudice to the participation in the Diplomatic Conference and the exercise of the voting rights therein of the Member States currently parties to the Lisbon Agreement as regards matters falling within their own competence.
- (7) With a view to ensuring the unity of the external representation of the Union, the seven Member States parties to the Lisbon Agreement and the Commission should cooperate closely during the entire negotiation process, in accordance with Article 4(3) TEU.

## RESTREINT UE/EU RESTRICTED

HAS ADOPTED THIS DECISION:

### *Article 1*

The Commission is hereby authorised to participate, together with the seven Member States parties to the Lisbon Agreement, in the Diplomatic Conference for the adoption of a revised Lisbon Agreement on Appellations of Origin and Geographical Indications, as regards matters falling within the competence of the Union.

### *Article 2*

In the interest of the Union, the seven Member States parties to the Lisbon Agreement shall exercise the voting rights, based on a common position, as regards matters falling within the competence of the Union.

### *Article 3*

The negotiations shall be carried out in accordance with the negotiating directives set out in the Annex.

### *Article 4*

Appropriate coordination shall take place during the Diplomatic Conference, as regards matters falling within the competence of the Union. After the Conference, the negotiators shall swiftly report to the Council Working Party on Intellectual Property.

### *Article 5*

This Decision is addressed to the Commission and the seven Member States parties to the Lisbon Agreement.

Done at Brussels,

*For the Council*

*The President*

## RESTREINT UE/EU RESTRICTED

### NEGOTIATING DIRECTIVES

1. A Diplomatic Conference for the adoption of a New Act of the revised Lisbon Agreement on Appellations of Origin and Geographical Indications and its regulations, building upon the current WIPO Agreement for the Protection of Appellations of Origin and Their International Registration, made in Lisbon in October 1958, will take place in Geneva from 11 to 21 May 2015.
2. As regards the matters falling within the competence of the European Union, the objective of the negotiators is to complete the revision process of the Lisbon Agreement in order to:
  - Improve and modernise the legal framework of the Lisbon system so as to make it more attractive to prospective new members, including EU Member states, while preserving the principles and objectives of the current Agreement;
  - Safeguard the level of protection granted to appellations of origin by the current Agreement and extend it to geographical indications;
  - Specify and clarify the rules of the Lisbon system as regards application for, and validity of international registrations, protection and refusal of the effects of international registrations; in particular, the negotiators shall support joint applications in the case of a trans-border geographical area (Article 5), aim at the highest level of protection (Article 11) and at a high-level protection against becoming generic (Article 12), refuse prevalence of prior trademarks (Article 13), support the possibility of granting a phasing-out period for discontinuing prior use of geographical indications or appellations of origin (Article 17) and clearly define the grounds for invalidation (Article 19);
  - Ensure that the revised Agreement is compatible with the current EU legislation;

## RESTREINT UE/EU RESTRICTED

- Establish the possibility for intergovernmental organisations, such as the Union, to participate in the Lisbon system as a member, without prejudice to the status and prerogatives of the seven EU Member States parties to the current Agreement with respect to their participation in the Lisbon system and their right to vote in the bodies established under the revised Agreement.
3. As regards the matters falling within the competence of the European Union, the voting rights will be exercised, in the interest of the Union, by the seven EU Member States parties to the current Agreement based on a common position adopted through appropriate coordination. In order to preserve the principles and objectives of the current Agreement, they shall vote against any provision in the Rules of Procedure of the Diplomatic Conference conferring voting rights to observers (i.e. WIPO Member States not parties to the current Agreement).
  4. The common participation of the Member States currently parties to the Lisbon Agreement and the Commission in the negotiations, based on regular coordination meetings, shall ensure the greatest possible influence of the EU Party in the process.

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