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From:	General Secretariat of the Council
To:	Delegations
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Delegations will find attached, for information, the final EU/Member States statements delivered at the above-mentioned WIPO meeting.

**5<sup>th</sup> Session of the Working Group on the Development of the Lisbon System****(Geneva, 24-26 January 2023)****Agenda item 1****Opening of the Session**

Chair,

1. The European Union and its Member States welcome the continuous enlargement of the membership of the Geneva Act over the course of last year, and notably the recent accession of the African Intellectual Property Organization (OAPI) as the second intergovernmental organization to join the Lisbon System. The inclusion of 17 new African countries is a strong political signal of the increasing attractiveness of the Lisbon system. We encourage other WIPO members to consider joining the Geneva Act as well. In order to enable the Lisbon Registry to accommodate the needs of a growing membership, and to support and promote new accessions, we consider that it is desirable to allocate appropriate resources – both human and financial – to the Lisbon Registry Office in order to manage both the new applications received and the technical assistance and capacity building initiatives to be provided to WIPO members in the framework of the promotion of the Lisbon System.
2. The EU and its Member States have continued to make progress in the implementation of their membership in the Lisbon system under the Geneva Act. The EU has in particular started protecting third country GIs under the Geneva Act. We also have filed further applications for the international registration of GIs in the course of last year, and more applications are expected to be filed over the coming months.
3. We welcome the entry into force on 1 January 2023 of the amendments to the Common Regulations under the Lisbon Agreement and the Geneva Act. We propose to continue the path of improving the Common Regulations, and we are looking forward to a fruitful discussion in this session of the Working Group on the EU proposal in this respect.

Thank you.

## Opening Statement

### Developments concerning geographical indication protection for craft and industrial products at EU level

Chair,

1. On behalf of the EU and its Member States, I am pleased to inform the Working Group and the WIPO Secretariat about some recent developments concerning geographical indication protection for non-agricultural products at EU level.
2. As announced at the last session of the Lisbon Working Group, on 13 April 2022 the European Commission adopted a proposal on a self-standing EU regulation concerning geographical indication protection for craft and industrial products, which is now under examination by the co-legislators of the EU.
3. The new regulation will establish EU-wide sui generis protection of geographical indications for craft and industrial products to protect and enforce intellectual property rights relating to those products across the EU. The proposal also establishes the connection between the new EU GI protection scheme and the Lisbon system by enabling those craft and industrial GIs registered within the EU to be protected through the Geneva Act.
4. During the last session of WIPO's Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications in November 2022, an information session on GIs discussed the topic of protection for non-agricultural GIs. In that panel discussion, the European Commission was pleased to present the main features of the proposal for the new EU Regulation, as also shared with the Working Group at its last session.
5. In follow up to such information, we are happy to report that the EU Competitiveness Council unanimously approved a general approach on the Commission proposal on a regulation for the protection of GIs for craft and industrial products on 1 December 2022. The European Parliament has not adopted its position yet, but discussions are underway. The proposal for the new EU Regulation could be expected to be adopted in the course of 2023.

6. We shall keep the Working Group and the WIPO Secretariat informed of further developments concerning the proposal.

Thank you.

## Agenda item 4

### **Proposal by the European Union and its Member States Concerning Amendments to Rule 5 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 (LI/WG/DEV-SYS/5/2)**

Chair,

1. The European Union and its Member States would like to thank the WIPO Secretariat for including this proposal in the agenda of this Session of the Working Group on the Development of the Lisbon System for discussion.
2. We would like to recall that at the fourth session of the Lisbon Working Group, the Chair invited the delegation of the EU to submit a written proposal concerning the deletion of Rule 5(4) of the Common Regulations for further consideration at the next session of the Working Group.
3. Accordingly, the EU and its Member States have submitted the proposal suggesting the following amendment to Rule 5 of the Common Regulations, which would read as follows: ‘In Rule 5, paragraph (4) is deleted.’
4. As regards the justification for the proposal, let us provide the following rationale:
  - We consider that the proposed deletion of Rule 5(4)(a) of the Common Regulations (Application Governed by the Geneva Act – Signature and/or Intention to Use) is justified as the signature requirement is already fulfilled and verified at the time of the initial application for registration.
  - As far as Rule 5(4)(b) is concerned, the requirements to declare the intention to use and to exercise control over the use contravene the constituent elements of appellations of origin or geographical indications. Appellations of origin and geographical indications are protected against any use infringing the recognised specifications, even if the products concerned are not marketed in the country where the fraudulent uses are detected. Moreover, their international registration necessarily presupposes their recognition within the Contracting Party from which they originate.

The requirement in Rule 5(4)(b) departs from the spirit of the Geneva Act. It does not correspond to the purpose and content of the protection described in Articles 2 and 11 of the Act respectively:

Article 2 of the Geneva Act states that the link between the geographical environment from which the product designated by the protected name originates, and the quality, reputation or goodwill associated with the name that derives from this link, are at the heart of the Treaty protecting appellations of origin and geographical indications. These elements are not subordinate to the intention to use the name in a given territory.

Article 11 of the Geneva Act defines the content of the protection independently of the intention of use. Therefore, the deletion of the provisions of Rule 5(4) in their entirety is justified.

5. Finally, and importantly, this amendment ensures an administrative simplification in the interest of all Contracting Parties, while further enhancing the attractiveness of the appellations of origin and GI protection system.

Thank you.

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