

DECISIONS

COUNCIL DECISION (EU) 2022/1222

of 12 July 2022

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

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 ('the Union') is a Contracting Party to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications ⁽¹⁾ ('the Geneva Act'), which entered into force on 26 February 2020. Pursuant to Article 21 of the Geneva Act, its Contracting Parties are members of the Special Union ('the Lisbon Union') created by the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration ('the Lisbon Agreement'). Pursuant to Article 22(2)(a)(iii) of the Geneva Act, the Assembly of the Lisbon Union is to amend the Regulations under the Geneva Act.
- (2) The entry into force of the Geneva Act has brought to light a need to consider amendments to the Common Regulations under the Lisbon Agreement and the Geneva Act (the 'Common Regulations') in order to simplify and streamline the procedures under the Lisbon System for the International Registration of Appellations of Origin and Geographical Indications ('the Lisbon System'), including with the aim of providing greater clarity to the users of the Lisbon System.
- (3) During the General Assemblies of the World Intellectual Property Organization (WIPO) from 14 to 22 July 2022, the Assembly of the Lisbon Union will be invited to adopt amendments to the Common Regulations.
- (4) In its fourth session, which took place in Geneva from 14 to 16 June 2022, the Working Group on the Development of the Lisbon System (the 'Lisbon Working Group') recommended to the Assembly of the Lisbon Union the adoption of various amendments to the Common Regulations, as proposed by the WIPO Secretariat and modified by the Lisbon Working Group.
- (5) A proposed amendment to Rule 7(4)(a) of the Common Regulations ensures that only modifications relating to Rule 5(2) are to be subject to the payment of the fee specified in Rule 8(1)(ii) in relation to the transfer of an appellation of origin from the Lisbon Agreement to the Geneva Act. That adaptation would facilitate the accession to the Geneva Act of States that are party to the Lisbon Agreement.
- (6) A proposed amendment to Rule 8(1)(ii) of the Common Regulations would limit the fees for several modifications submitted in the same request to 800 CHF. That would enhance the attractiveness of the Lisbon System, while preserving its financial sustainability.
- (7) A proposed amendment to Rule 9(1)(c) of the Common Regulations would clarify that the general principle set out therein applies to all refusals received in accordance with Rule 9(1)(b), which should be read in conjunction with Rule 9(1)(c).

⁽¹⁾ Council Decision (EU) 2019/1754 of 7 October 2019 on the accession of the European Union to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (OJ L 271, 24.10.2019, p. 12).

- (8) The proposed amendments to Rule 15(1)(i) and (ii) of the Common Regulations would streamline the procedure concerning the request for entry of a modification presented to the International Bureau of WIPO.
- (9) The proposed deletion of Rule 15(1)(vi) and the proposed amendment to Rule 16(2) of the Common Regulations would ensure that, in the case of a withdrawal of renunciation linked to Rule 6(1)(d), concerning an irregularity in respect of a requirement based on a notification made under Rule 5(3) or (4), or on a declaration made under Article 7(4) of the Geneva Act, the payment of the fee for a modification will no longer be required. In the case of a renunciation under Rule 6(1)(d), the withdrawal of renunciation will be subject to the correction of the irregularity.
- (10) The proposed amendments to the Common Regulations should enter into force on 1 January 2023, and should simplify and streamline the procedures under the Lisbon System and provide greater clarity to its users, which is in the interest of the users, beneficiaries and stakeholders of the Lisbon System in the Union.
- (11) The Union should therefore support the adoption of those amendments.
- (12) In addition, taking note of the positions expressed by delegations at the fourth session of the Lisbon Working Group in respect of Rule 5(4) of the Common Regulations, and as part of the conclusions of the meeting of the Working Group, the Chair invited the delegation of the Union to submit a written proposal in due course for further consideration at the next session of the Working Group.
- (13) It is appropriate to establish the position to be taken on the Union's behalf in the Assembly of the Lisbon Union,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the meeting of the Assembly of the Lisbon Union in the framework of the WIPO General Assemblies from 14 to 22 July 2022 shall be to support the adoption of amendments to the Common Regulations as set out in Section 1 of 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.

In preparation for the next session of the Lisbon Working Group, the Union shall submit a written proposal to the WIPO Secretariat suggesting amendments to Rule 5 of the Common Regulations, as set out in Section 2 of the Annex to this Decision.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 12 July 2022.

For the Council
The President
Z. STANJURA

ANNEX

Section 1:

PROPOSED 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

as recommended by the WIPO Working Group for the Development of the Lisbon System for adoption by the Lisbon Union in the framework of the WIPO General Assemblies 2022:

In the heading, 'as in force on December 8, 2021' is replaced by 'as in force on 1 January 2023'.

Chapter II**Application and International Registration****Rule 7**

Entry in the International Register

Implementation of Articles 29(4) and 31(1) of the Geneva Act

In Rule 7(4), subparagraph (a) is replaced by the following:

- '(a) In case of the ratification of, or accession to, the Geneva Act by a State that is party to the 1967 Act, Rules 5(2) to (4) shall apply *mutatis mutandis* with regard to international registrations or appellations of origin effective under the 1967 Act in respect of that State. The International Bureau shall verify with the Competent Authority concerned any modifications to be made, in view of the requirements of Rules 3(1) and 5(2) to (4), for the purpose of their registration under the Geneva Act and shall notify international registrations thus effected to all other Contracting Parties that are party to the Geneva Act. Modifications relating to Rule 5(2) shall be subject to payment of the fee specified in Rule 8(1)(ii).'

Rule 8

Fees

Amount of Fees

In Rule 8(1), point (ii) is replaced by the following:

- '(ii) fee for one modification of an international registration³ 500
complementary fee for additional modification(s) submitted in the same request 300'

Footnote 3 is replaced by the following:

³ For an international registration referring to a geographical area located in a least developed country (LDC), in accordance with the lists established by the United Nations, the fee is reduced to 50 per cent of the prescribed amount (rounded to the nearest full figure). In such case, the fee will amount to 500 Swiss francs for an international registration referring to a geographical area of origin located in an LDC, to 250 Swiss francs for one modification of an international registration referring to a geographical area of origin located in an LDC, and to 150 Swiss francs for a complementary fee for additional modification(s) submitted in the same request. These fee reductions will apply three years after the entry into force of the Geneva Act."

Chapter III

Refusal and Other Actions in Respect of International Registration

Rule 9

Refusal

Notification to the International Bureau

In Rule 9(1), subparagraph (c) is replaced by the following:

- ‘(c) Unless demonstrated to the contrary by the Competent Authority referred to in subparagraph (a), the notification of an international registration referred to in subparagraph (b) shall be deemed to have been received by the Competent Authority 20 days after the date indicated in the notification.’.

Rule 15

Modifications

Permissible Modifications

Rule 15(1) is amended as follows:

1. Point (i) is replaced by the following:

- ‘(i) a modification of the beneficiaries consisting in the addition or deletion of a beneficiary or some beneficiaries, or a modification of the names or addresses of the beneficiaries or of the natural person or legal entity referred to in Article 5(2)(ii) of the Geneva Act’;

2. Point (ii) is deleted.
3. Point (vi) is deleted.

Rule 16

Renunciation of Protection

Withdrawal of a Renunciation

Rule 16(2) is amended as follows:

Subparagraph (a) is replaced by the following:

- ‘(a) Any renunciation, including a renunciation under Rule 6(1)(d), may be withdrawn, in whole or in part, at any time by the Competent Authority of the Contracting Party of Origin or, in the case of Article 5(3) of the Geneva Act, the beneficiaries or the natural person or legal entity referred to in Article 5(2)(ii) of that Act or the Competent Authority of the Contracting Party of Origin, subject to the correction of the irregularity in the case of a renunciation under Rule 6(1)(d).’

Section 2:

Line to take in the written proposal suggesting amendments to Rule 5 of the Common Regulations:

Chapter II

Application and International Registration

Rule 5

Requirements Concerning the Application

In Rule 5, paragraph (4) is deleted.

Justification:

The proposed deletion of Rule 5(4) 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. 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 control of their use within the Contracting Party from which they originate.
