

**Strasbourg Conference
on the
International Patent Classification**

**Strasbourg Agreement
of March 24, 1971**

Recommendations

General Report



**World Intellectual Property Organization
GENEVA 1971**

**Strasbourg Conference
on the
International Patent Classification**

**Strasbourg Agreement
of March 24, 1971**

Recommendations

General Report



**World Intellectual Property Organization
GENEVA 1971**

Strasbourg Agreement
Concerning the International Patent Classification
of March 24, 1971

The Contracting Parties,

Considering that the universal adoption of a uniform system of classification of patents, inventors' certificates, utility models and utility certificates is in the general interest and is likely to establish closer international cooperation in the industrial property field, and to contribute to the harmonization of national legislation in that field,

Recognizing the importance of the European Convention on the International Classification of Patents for Invention, of December 19, 1954, under which the Council of Europe created the International Classification of Patents for Invention,

Having regard to the universal value of this Classification, and to its importance to all countries party to the Paris Convention for the Protection of Industrial Property,

Having regard to the importance to developing countries of this Classification, which gives them easier access to the ever-expanding volume of modern technology,

Having regard to Article 19 of the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised at Brussels on December 14, 1900, at Washington on June 2, 1911, at The Hague on November 6, 1925, at London on June 2, 1934, at Lisbon on October 31, 1958, and at Stockholm on July 14, 1967,

Agree as follows:

Article 1

Establishment of a Special Union; Adoption of an International Classification

The countries to which this Agreement applies constitute a Special Union and adopt a common classification for patents for invention, inventors' certificates, utility models and utility certificates, to be known as the "International Patent Classification" (hereinafter designated as the "Classification").

Article 2

Definition of the Classification

(1) (a) The Classification comprises:

- (i) the text which was established pursuant to the provisions of the European Convention on the International Classification of Patents for Invention of December 19, 1954 (hereinafter designated as the "European Convention"), and which came into force and was published by the Secretary General of the Council of Europe on September 1, 1968;
- (ii) the amendments which have entered into force pursuant to Article 2(2) of the European Convention prior to the entry into force of this Agreement;
- (iii) the amendments made thereafter in accordance with Article 5 which enter into force pursuant to the provisions of Article 6.

(b) The Guide and the notes included in the text of the Classification are an integral part thereof.

(2) (a) The text referred to in paragraph (1)(a)(i) is contained in two authentic copies, each in the English and French languages, deposited, at the time that this Agreement is opened for signature, one with the Secretary General of the Council of Europe and the other with the Director General of the World Intellectual Property Organization (hereinafter respectively designated "Director General" and "Organization") established by the Convention of July 14, 1967.

(b) The amendments referred to in paragraph (1)(a)(ii) shall be deposited in two authentic copies, each in the English and French languages, one with the Secretary General of the Council of Europe and the other with the Director General.

(c) The amendments referred to in paragraph (1)(a)(iii) shall be deposited in one authentic copy only, in the English and French languages, with the Director General.

Article 3

Languages of the Classification

(1) The Classification shall be established in the English and French languages, both texts being equally authentic.

(2) Official texts of the Classification, in German, Japanese, Portuguese, Russian, Spanish and in such other languages as the Assembly referred to in Article 7 may designate, shall be established by the International Bureau of the Organization (hereinafter designated as the "International Bureau"), in consultation with the interested Governments and either on the basis of a translation submitted by those Governments or by any other means which do not entail financial implications for the budget of the Special Union or for the Organization.

Article 4

Use of the Classification

(1) The Classification shall be solely of an administrative character.

(2) Each country of the Special Union shall have the right to use the Classification either as a principal or as a subsidiary system.

(3) The competent authorities of the countries of the Special Union shall include in

- (i) patents, inventors' certificates, utility models and utility certificates issued by them, and in applications relating thereto, whether published or only laid open for public inspection by them, and

- (ii) notices, appearing in official periodicals, of the publication or laying open of the documents referred to in subparagraph (i)

the complete symbols of the Classification applied to the invention to which the document referred to in subparagraph (i) relates.

(4) When signing this Agreement or when depositing its instrument of ratification or accession:

- (i) any country may declare that it does not undertake to include the symbols relating to groups or subgroups of the Classification in applications as referred to in paragraph (3) which are only laid open for public inspection and in notices relating thereto, and
- (ii) any country which does not proceed to an examination as to novelty, whether immediate or deferred, and in which the procedure for the grant of patents or other kinds of protection does not provide for a search into the state of the art, may declare that it does not undertake to include the symbols relating to the groups and subgroups of the Classification in the documents and notices referred to in paragraph (3). If these conditions exist only in relation to certain kinds of protection or certain fields of technology, the country in question may only make this reservation to the extent that the conditions apply.

(5) The symbols of the Classification, preceded by the words "International Patent Classification" or an abbreviation thereof to be determined by the Committee of Experts referred to in Article 5, shall be printed in heavy type, or in such a manner that they are clearly visible, in the heading of each document referred to in paragraph (3)(i) in which they are to be included.

(6) If any country of the Special Union entrusts the grant of patents to an intergovernmental authority, it shall take all possible measures to ensure that this authority uses the Classification in accordance with this Article.

Article 5

Committee of Experts

(1) A Committee of Experts shall be set up in which each country of the Special Union shall be represented.

(2) (a) The Director General shall invite intergovernmental organizations specialized in the patent field, and of which at least one of the member countries is party to this Agreement, to be represented by observers at meetings of the Committee of Experts.

(b) The Director General may, and, if requested by the Committee of Experts, shall, invite representatives of other intergovernmental and international non-governmental organizations to participate in discussions of interest to them.

(3) The Committee of Experts shall:

- (i) amend the Classification;
- (ii) address recommendations to the countries of the Special Union for the purpose of facilitating the use of the Classification and promoting its uniform application;
- (iii) assist in the promotion of international cooperation in the reclassification of documentation used for the examination of inventions, taking in particular the needs of developing countries into account;
- (iv) take all other measures which, without entailing financial implications for the budget of the Special Union or for the Organization, contribute towards facilitating the application of the Classification by developing countries;
- (v) have the right to establish subcommittees and working groups.

(4) The Committee of Experts shall adopt its own Rules of Procedure. These shall allow for the possibility of participation of intergovernmental organizations, referred to in paragraph (2)(a), which can perform substantial work in the development of the Classification, in meetings of its subcommittees and working groups.

(5) Proposals for amendments to the Classification may be made by the competent authority of any country of the Special Union, the International Bureau, any intergovernmental organization represented in the Committee of Experts pursuant to paragraph (2)(a) and any other organization specially invited by the Committee of Experts to submit such proposals. The proposals shall be communicated to the International Bureau which shall submit them to the members of the Committee of Experts and to the observers not later than two months before the session of the Committee of Experts at which the said proposals are to be considered.

(6) (a) Each country member of the Committee of Experts shall have one vote.

(b) The decisions of the Committee of Experts shall require a simple majority of the countries represented and voting.

(c) Any decision which is regarded by one-fifth of the countries represented and voting as giving rise to a modification in the basic structure of the Classification or as entailing a substantial work of reclassification shall require a majority of three-fourths of the countries represented and voting.

(d) Abstentions shall not be considered as votes.

Article 6

Notification, Entry into Force and Publication of Amendments and Other Decisions

(1) Every decision of the Committee of Experts concerning the adoption of amendments to the Classification and recommendations of the Committee of Experts shall be notified by the International Bureau to the competent authorities of the countries of the Special Union. The amendments shall enter into force six months from the date of dispatch of the notification.

(2) The International Bureau shall incorporate in the Classification the amendments which have entered into force. Announcements of the amendments shall be published in such periodicals as are designated by the Assembly referred to in Article 7.

Article 7

Assembly of the Special Union

(1) (a) The Special Union shall have an Assembly consisting of the countries of the Special Union.

(b) The Government of each country of the Special Union shall be represented by one delegate, who may be assisted by alternate delegates, advisors and experts.

(c) Any intergovernmental organization referred to in Article 5(2)(a) may be represented by an observer in the meetings of the Assembly, and, if the Assembly so decides, in those of such committees or working groups as may have been established by the Assembly.

(d) The expenses of each delegation shall be borne by the Government which has appointed it.

(2) (a) Subject to the provisions of Article 5, the Assembly shall:

- (i) deal with all matters concerning the maintenance and development of the Special Union and the implementation of this Agreement;
- (ii) give directions to the International Bureau concerning the preparation for conferences of revision;
- (iii) review and approve the reports and activities of the Director General concerning the Special Union, and give him all necessary instructions concerning matters within the competence of the Special Union;
- (iv) determine the program and adopt the triennial budget of the Special Union, and approve its final accounts;
- (v) adopt the financial regulations of the Special Union;
- (vi) decide on the establishment of official texts of the Clas-

sification in languages other than English, French and those listed in Article 3(2);

- (vii) establish such committees and working groups as it deems appropriate to achieve the objectives of the Special Union;
- (viii) determine, subject to paragraph (1)(c), which countries not members of the Special Union and which inter-governmental and international non-governmental organizations shall be admitted as observers to its meetings, and to those of any committee or working group established by it;
- (ix) take any other appropriate action designed to further the objectives of the Special Union;
- (x) perform such other functions as are appropriate under this Agreement.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(3) (a) Each country member of the Assembly shall have one vote.

(b) One-half of the countries members of the Assembly shall constitute a quorum.

(c) In the absence of the quorum, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the conditions set forth hereinafter are fulfilled. The International Bureau shall communicate the said decisions to the countries members of the Assembly which were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of this period, the number of countries having thus expressed their vote or abstention attains the number of countries which was lacking for attaining the quorum in the session itself, such decisions shall take

effect provided that at the same time the required majority still obtains.

(d) Subject to the provisions of Article 11(2), the decisions of the Assembly shall require two-thirds of the votes cast.

(e) Abstentions shall not be considered as votes.

(f) A delegate may represent, and vote in the name of, one country only.

(4) (a) The Assembly shall meet once in every third calendar year in ordinary session upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.

(b) The Assembly shall meet in extraordinary session upon convocation by the Director General, at the request of one-fourth of the countries members of the Assembly.

(c) The agenda of each session shall be prepared by the Director General.

(5) The Assembly shall adopt its own Rules of Procedure.

Article 8

International Bureau

(1) (a) Administrative tasks concerning the Special Union shall be performed by the International Bureau.

(b) In particular, the International Bureau shall prepare the meetings and provide the secretariat of the Assembly, the Committee of Experts and such other committees or working groups as may have been established by the Assembly or the Committee of Experts.

(c) The Director General shall be the chief executive of the Special Union and shall represent the Special Union.

(2) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly, the Committee of Experts and such other committees or working groups as may have been estab-

lished by the Assembly or the Committee of Experts. The Director General, or a staff member designated by him, shall be *ex officio* secretary of those bodies.

(3) (a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for revision conferences.

(b) The International Bureau may consult with intergovernmental and international non-governmental organizations concerning preparations for revision conferences.

(c) The Director General and persons designated by him shall take part, without the right to vote, in the discussions at revision conferences.

(4) The International Bureau shall carry out any other tasks assigned to it.

Article 9

Finances

(1) (a) The Special Union shall have a budget.

(b) The budget of the Special Union shall include the income and expenses proper to the Special Union, its contribution to the budget of expenses common to the Unions and, where applicable, the sum made available to the budget of the Conference of the Organization.

(c) Expenses not attributable exclusively to the Special Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the Unions. The share of the Special Union in such common expenses shall be in proportion to the interest the Special Union has in them.

(2) The budget of the Special Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organization.

(3) The budget of the Special Union shall be financed from the following sources:

- (i) contributions of the countries of the Special Union;
- (ii) fees and charges due for services rendered by the International Bureau in relation to the Special Union;
- (iii) sale of, or royalties on, the publications of the International Bureau concerning the Special Union;
- (iv) gifts, bequests and subventions;
- (v) rents, interests and other miscellaneous income.

(4) (a) For the purpose of establishing its contribution referred to in paragraph (3)(i), each country of the Special Union shall belong to the same class as it belongs to in the Paris Union for the Protection of Industrial Property, and shall pay its annual contribution on the basis of the same number of units as is fixed for that class in that Union.

(b) The annual contribution of each country of the Special Union shall be an amount in the same proportion to the total sum to be contributed to the budget of the Special Union by all countries as the number of its units is to the total of the units of all contributing countries.

(c) Contributions shall become due on the first of January of each year.

(d) A country which is in arrears in the payment of its contributions may not exercise its right to vote in any organ of the Special Union if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. However, any organ of the Special Union may allow such a country to continue to exercise its right to vote in that organ if, and as long as, it is satisfied that the delay in payment is due to exceptional and unavoidable circumstances.

(e) If the budget is not adopted before the beginning of a new financial period, it shall be at the same level as the budget of the previous year, as provided in the financial regulations.

(5) The amount of the fees and charges due for services rendered by the International Bureau in relation to the Special Union shall be established, and shall be reported to the Assembly, by the Director General.

(6) (a) The Special Union shall have a working capital fund which shall be constituted by a single payment made by each country of the Special Union. If the fund becomes insufficient, the Assembly shall decide to increase it.

(b) The amount of the initial payment of each country to the said fund or of its participation in the increase thereof shall be a proportion of the contribution of that country for the year in which the fund is established or the decision to increase it is made.

(c) The proportion and the terms of payment shall be fixed by the Assembly on the proposal of the Director General and after it has heard the advice of the Coordination Committee of the Organization.

(7) (a) In the headquarters agreement concluded with the country on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such country shall grant advances. The amount of those advances and the conditions on which they are granted shall be the subject of separate agreements, in each case, between such country and the Organization.

(b) The country referred to in subparagraph (a) and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it was notified.

(8) The auditing of the accounts shall be effected by one or more of the countries of the Special Union or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

Article 10

Revision of the Agreement

(1) This Agreement may be revised from time to time by a special conference of the countries of the Special Union.

(2) The convocation of any revision conference shall be decided by the Assembly.

(3) Articles 7, 8, 9 and 11 may be amended either by a revision conference or according to the provisions of Article 11.

Article 11

Amendment of Certain Provisions of the Agreement

(1) Proposals for the amendment of Articles 7, 8, 9 and of the present Article may be initiated by any country of the Special Union or by the Director General. Such proposals shall be communicated by the Director General to the countries of the Special Union at least six months in advance of their consideration by the Assembly.

(2) Amendments to the Articles referred to in paragraph (1) shall be adopted by the Assembly. Adoption shall require three-fourths of the votes cast, provided that any amendment to Article 7 and to the present paragraph shall require four-fifths of the votes cast.

(3) (a) Any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of the countries members of the Special Union at the time the amendment was adopted.

(b) Any amendment to the said Articles thus accepted shall bind all the countries which are members of the Special Union at the time the amendment enters into force, provided that any amendment increasing the financial obligations of countries of the Special Union shall bind only those countries which have notified their acceptance of such amendment.

(c) Any amendment accepted in accordance with the provisions of subparagraph (a) shall bind all countries which become members of the Special Union after the date on which the amendment entered into force in accordance with the provisions of subparagraph (a).

Article 12

Becoming Party to the Agreement

(1) Any country party to the Paris Convention for the Protection of Industrial Property may become party to this Agreement by:

- (i) signature followed by the deposit of an instrument of ratification, or
- (ii) deposit of an instrument of accession.

(2) Instruments of ratification or accession shall be deposited with the Director General.

(3) The provisions of Article 24 of the Stockholm Act of the Paris Convention for the Protection of Industrial Property shall apply to this Agreement.

(4) Paragraph (3) shall in no way be understood as implying the recognition or tacit acceptance, by a country of the Special Union, of the factual situation concerning a territory to which this Agreement is made applicable by another country by virtue of the said paragraph.

Article 13

Entry into Force of the Agreement

(1) (a) This Agreement shall enter into force one year after instruments of ratification or accession have been deposited by:

- (i) two-thirds of the countries party to the European Convention on the date on which this Agreement is opened for signature, and

(ii) three countries party to the Paris Convention for the Protection of Industrial Property, which were not previously party to the European Convention and of which at least one is a country where, according to the most recent annual statistics published by the International Bureau on the date of deposit of its instrument of ratification or accession, more than 40,000 applications for patents or inventors' certificates have been filed.

(b) With respect to any country other than those for which this Agreement has entered into force pursuant to subparagraph (a), it shall enter into force one year after the date on which the ratification or accession of that country was notified by the Director General, unless a subsequent date has been indicated in the instrument of ratification or accession. In the latter case, this Agreement shall enter into force with respect to that country on the date thus indicated.

(c) Countries party to the European Convention which ratify this Agreement or accede to it shall be obliged to denounce the said Convention, at the latest, with effect from the day on which this Agreement enters into force with respect to those countries.

(2) Ratification or accession shall automatically entail acceptance of all the clauses and admission to all the advantages of this Agreement.

Article 14

Duration of the Agreement

This Agreement shall have the same duration as the Paris Convention for the Protection of Industrial Property.

Article 15

Denunciation

(1) Any country of the Special Union may denounce this Agreement by notification addressed to the Director General.

(2) Denunciation shall take effect one year after the day on which the Director General has received the notification.

(3) The right of denunciation provided by this Article shall not be exercised by any country before the expiration of five years from the date upon which it becomes a member of the Special Union.

Article 16

Signature, Languages, Notification, Depositary Functions

(1) (a) This Agreement shall be signed in a single original in the English and French languages, both texts being equally authentic.

(b) This Agreement shall remain open for signature at Strasbourg until September 30, 1971.

(c) The original of this Agreement, when no longer open for signature, shall be deposited with the Director General.

(2) Official texts shall be established by the Director General, after consultation with the interested Governments, in German, Japanese, Portuguese, Russian, Spanish and such other languages as the Assembly may designate.

(3) (a) The Director General shall transmit two copies, certified by him, of the signed text of this Agreement to the Governments of the countries that have signed it and, on request, to the Government of any other country. He shall also transmit a copy, certified by him, to the Secretary General of the Council of Europe.

(b) The Director General shall transmit two copies, certified by him, of any amendment to this Agreement to the Governments of all countries of the Special Union and, on request, to the Government of any other country. He shall also transmit a copy, certified by him, to the Secretary General of the Council of Europe.

(c) The Director General shall, on request, furnish the Government of any country that has signed this Agreement, or that accedes to it, with a copy of the Classification, certified by him, in the English or French language.

(4) The Director General shall register this Agreement with the Secretariat of the United Nations.

(5) The Director General shall notify the Governments of all countries party to the Paris Convention for the Protection of Industrial Property and the Secretariat General of the Council of Europe of:

- (i) signatures;**
- (ii) deposits of instruments of ratification or accession;**
- (iii) the date of entry into force of this Agreement;**
- (iv) reservations on the use of the Classification;**
- (v) acceptances of amendments to this Agreement;**
- (vi) the dates on which such amendments enter into force;**
- (vii) denunciations received.**

Article 17

Transitional Provisions

(1) During the two years following the entry into force of this Agreement, the countries party to the European Convention which are not yet members of the Special Union may enjoy, if they so wish, the same rights in the Committee of Experts as if they were members of the Special Union.

(2) During the three years following the expiration of the period referred to in paragraph (1), the countries referred to in the said paragraph may be represented by observers in the meetings of the Committee of Experts and, if the said Committee so decides, in any subcommittee or working group established by it. During the same period they may submit proposals for amendments to the Classification, in accordance with Article 5(5), and shall be notified of the decisions and recommendations of the Committee of Experts, in accordance with Article 6(1).

(3) During the five years following the entry into force of this Agreement, the countries party to the European Convention which are not yet members of the Special Union may be represented by observers in the meetings of the Assembly and, if the Assembly so decides, in any committee or working group established by it.

Recommendations adopted by the Conference

I

Recommendation Concerning the IPC Administration

The Strasbourg Diplomatic Conference on the International Patent Classification,

Referring to the decisions of the Committee of Ministers of the Council of Europe at its 178th meeting and of the Executive Committee of the Paris Union at its Fourth Session, concerning the setting up of the Joint ad hoc Committee of the Council of Europe and WIPO on the International Classification of Patents,

Considering that the signature of the Strasbourg Agreement will mark the beginning of a new phase in the administration of the International Patent Classification,

Recommends to the Secretary General of the Council of Europe and to the Director General of the World Intellectual Property Organization that they examine, where appropriate in consultation with the Committees concerned, whether it is desirable to submit new proposals to the Committee of Ministers of the Council of Europe and to the Executive Committee of the Paris Union, with a view to completing, making more specific, or adapting the decisions taken previously by the said Committee of Ministers and the said Executive Committee.

II

Recommendation Concerning the Financing of the IPC Administration

The Strasbourg Diplomatic Conference on the International Patent Classification,

Considering that the budget of the Paris Union for the Protection of Industrial Property will not cover the expenses incurred by the International Bureau of WIPO in the administration of the International Patent Classification until the Strasbourg Agreement has entered into force,

Considering that those expenses should be covered by special contributions by the various member countries of the Paris Union which are interested in the International Patent Classification,

Recommends that the Director General of WIPO prepare, with the assistance of a Working Group, proposals for this purpose and that he submit these to the Executive Committee of the Paris Union at its 1971 session.

III

Recommendation Concerning the Exchange of Lists of Patent Documents Reclassified According to the International Patent Classification

The Strasbourg Diplomatic Conference on the International Patent Classification,

Considering the importance of reinforcing international cooperation in the patent field to foster the development of technology,

Taking into account the importance of a modern documentation of technology in order to meet the needs of Patent Offices as well as those of scientific research and of industry,

Having regard to the Strasbourg Agreement Concerning the International Patent Classification, adopted by the Diplomatic Conference,

Having regard to the importance of uniformity in any reclassification which may be made of patent documents according to the said Classification for international cooperation in the patent field, in particular in the framework of the Patent Cooperation Treaty (PCT),

Taking into consideration the necessity to avoid, as much as possible, a duplication of effort in the work of reclassification of patent documents,

***Recommends* to the countries of the Paris Union for the Protection of Industrial Property to exchange, upon request, existing lists of patent documents, either national or also foreign, established by their Offices, resulting from the reclassification of their search files according to the International Classification, whether these lists comprise patents, inventors' certificates, utility models, utility certificates or applications for the said kinds of protection,**

***Invites* the International Bureau of WIPO to cooperate with national Offices in an effort to facilitate such exchanges, if requested.**

General Report

I. Introduction

1. Over 400,000 patents for invention and other equivalent documents are granted and published annually by the different Patent Offices all over the world. Moreover, there are many Offices which also provide for publication at the stage of application for the patent. It is essential that this vast quantity of documentation be classified, for in order that the novelty of each invention may be judged, previous publications on the same subject must be readily accessible. Furthermore, collections of documents describing inventions are an invaluable source of technical information for industry and Administration alike.

2. Several countries have introduced their own classifications. Dispersal of this kind has a number of drawbacks, however. In particular, it obliges each Office to reclassify, according to its own system, documents classified by other Offices in different languages. This is a colossal task, and one which is fraught in particular with insuperable linguistic problems.

3. A much more rational solution would be to introduce a universal classification on the basis of which Offices would classify their own documents before exchanging them with other Offices. Such international cooperation would bring about a considerable saving in work and would, to a large extent, simplify the establishment in each country of a fully-classified collection of documents, regardless of the languages in which those documents were published. This would be parti-

cularly useful for developing countries, which generally find it very difficult to build up, on their own, a readily-accessible system of technical documentation.

4. The first significant steps in this direction were taken by the member countries of the Council of Europe, within the framework of which the European Convention on the International Classification of Patents for Invention (hereinafter referred to as the "European Convention") was signed in 1954.

5. On the basis of this Convention a complete system of classification was elaborated, comprising 8 sections, 115 classes, 607 subclasses and over 46,000 groups and subgroups. This Classification (hereinafter referred to as the "International Classification") was adopted in November 1967 by the competent body, the Committee of Experts on Patents of the Council of Europe. It was officially published and entered into force on September 1, 1968.

6. The International Classification has been adopted not only by the majority of the members of the Council of Europe, but also by a number of other countries. It is currently applied, fully or in part, by at least 38 national Offices and by the African and Malagasy Industrial Property Office, which includes thirteen countries.

II. Preparation of the Work of the Strasbourg Diplomatic Conference

7. The wide application of the International Classification was sufficient evidence of its universal value, and of the fact that, in the general interest, it should be applied by an ever-greater number of countries throughout the world. To do this it was necessary to give all countries which adopted the International Classification the right to participate, on an equal footing, in decisions relating to it, and particularly in those concerning amendments. This is not possible under the European Convention which, although open to all countries of the

Paris Union for the Protection of Industrial Property, gives the power of decision in matters affecting the International Classification to the member countries of the Council of Europe alone.

8. It is for that reason that the Committee of Experts on Patents of the Council of Europe expressed the view, at its session in November 1967, that it was necessary to give the International Classification a more universal character in order to facilitate its adoption on a world-wide basis, that all contracting countries should have equal rights and that the Secretariat General of the Council of Europe should collaborate with the World Intellectual Property Organization (WIPO)¹ in studying the measures which would allow these objectives to be attained. The Conference of Representatives of the Paris Union took a similar decision in December 1967.

9. These negotiations led to conclusions which were approved by the competent bodies of the Council of Europe and WIPO. According to these conclusions, the European Convention should be revised by a Diplomatic Conference to be convened jointly in Strasbourg by the Council of Europe and WIPO. In addition, in accordance with the same conclusions, a Joint ad hoc Committee of the Council of Europe and WIPO on the International Classification of Patents (hereinafter referred to as the "Joint ad hoc Committee") was set up, composed of five member countries and five non-member countries of the Council of Europe, which was entrusted, in particular, with the task of preparing the revision of the International Classification.

10. After having elaborated guiding principles for the purposes of the preparation of a new instrument, which were submitted to the Executive Committee of the Paris Union and

¹ In the interests of simplicity, this report speaks of the World Intellectual Property Organization (WIPO) even when referring to a period in which only the United International Bureaux for the Protection of Intellectual Property (BIRPI) existed.

to the Committee of Experts on Patents and then to the Committee of Ministers of the Council of Europe, the two Organizations established a first Draft Agreement, which was approved, subject to some observations, by the Joint ad hoc Committee.

11. In the light of these observations, the Secretariat General of the Council of Europe and the International Bureau of WIPO amended the first draft and established the Draft Agreement which is included in document IPC/DC/2, together with a commentary.

12. The Draft was subsequently amended to bring it into line with the corresponding provisions of the Patent Cooperation Treaty, adopted at Washington on June 19, 1970. These amendments are contained in document IPC/DC/6 (the word "Draft" hereinafter denotes the text of the Draft Agreement as amended by document IPC/DC/6).

III. Organization of the Strasbourg Diplomatic Conference

13. The Diplomatic Conference, which was convened by the Secretary General of the Council of Europe and the Director General of WIPO, was held in the Maison de l'Europe in Strasbourg from March 15 to 24, 1971.

14. Thirty-eight countries members of the Paris Union were represented at the Conference. In addition, two countries non members of the Paris Union sent observers, as did four intergovernmental organizations and seven international non-governmental organizations.

15. After having been opened by the Secretary General of the Council of Europe, the Conference elected Mr. F. Savignon (France) as its Chairman, and, as its Vice-Chairmen, Mr. P. Cabral de Mello (Brazil), Mr. Y. Abe (Japan), Mr. L. Marinete (Romania), Mr. E. Bonete (Togo), Mr. E. Armitage (United Kingdom) and Mr. P. Trezise (United States). It also appointed Mr. J. Voyame (WIPO) Rapporteur General, and Mr. R. Muller

(Secretariat General of the Council of Europe) Secretary General.

16. The Conference met in Main Committee on March 15, 16, 17, 18 and 22, 1971, under the chairmanship of Mr. F. Savignon.

17. The Conference also set up a Credentials Committee composed of representatives of the following countries: Argentina, Australia, Austria, Denmark, Finland, Iran, Italy, Nigeria, Philippines, Spain, Tunisia, Yugoslavia. This Committee met on March 16 and 22, 1971, under the chairmanship of Mr. M. Naraghi (Iran).

18. The Conference furthermore set up a Drafting Committee composed of representatives of the following countries: Algeria, Belgium, Canada, France, Germany (Federal Republic), Japan, Netherlands, Sweden, Switzerland, United Kingdom, United States of America. This Committee met on March 19, 1971, under the chairmanship of Mr. R. von Keller (Germany (Federal Republic)).

19. Finally, the Conference formed two Working Groups. Working Group I, composed of representatives of Argentina, Brazil, France, Germany (Federal Republic), Japan, the Netherlands, Switzerland and the United Kingdom, was given the task of examining the question of the status of observers. It met on March 17, 1971, under the chairmanship of Mr. E. Armitage (United Kingdom) and submitted a report to the Main Committee. Working Group II, composed of representatives of Algeria, Argentina, Brazil, Germany (Federal Republic), Japan, the Netherlands, Spain, the United Kingdom and the United States, was entrusted with studying the question of the translation and publication of the International Classification in languages other than English and French. It met on March 17, 1971, under the chairmanship of Mr. L. Laurelli (Argentina), and also submitted a report to the Main Committee.

IV. General Remarks on the Agreement

20. The new Agreement is inspired by the European Convention, the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, and the Locarno Agreement Establishing an International Classification for Industrial Designs.

21. After a preamble stressing the importance of the adoption, on a world-wide basis, of a uniform system for the classification of patents, and paying tribute to the prominent part played by the Council of Europe in the elaboration of the International Classification, the Agreement establishes a Special Union within the framework of the Paris Union for the Protection of Industrial Property. The members of that Special Union adopt a common classification for patents and similar documents (Article 1). That classification is the one currently in force under the European Convention, subject to such amendments as may be made to it (Article 2).

22. The Agreement imposes on members of the Special Union the obligation to apply the International Classification, in particular by including the symbols of that Classification in patents and similar documents issued by their Administrations (Article 4).

23. The Agreement establishes a Committee of Experts which is competent to develop the International Classification, in particular by adopting amendments dictated by the progress of technology, to facilitate its use and promote its uniform application, in order to encourage international cooperation in the reclassification of documentation used in the examination of inventions, and to take appropriate measures to assist developing countries in the application of the International Classification (Articles 5 and 6).

24. Finally, the Agreement contains administrative provisions and final clauses similar to those contained in the other Conventions and Agreements administered by WIPO (Articles 7 to 16). The provisions governing the entry into force (Arti-

cle 13) and the transitional provisions (Article 17) are conceived in such a way as to ensure a smooth changeover from the system of the European Convention to that of the new Agreement.

V. General Discussion

25. The Conference devoted the general discussion first to the new Agreement considered as a whole.

26. The Delegations of Australia, Austria, Brazil, Denmark (speaking on behalf of the Scandinavian countries), France, Germany (Federal Republic), Iran, Ireland, Japan, the Netherlands, Romania, Spain, Switzerland, the United Kingdom and the United States stressed the great importance of the International Classification, which is an essential prerequisite of any increase in international cooperation in the field of patents. They also pointed out the advantages of adopting, in a spirit of universality, a new Agreement which would enable all countries of the Paris Union to apply the International Classification on an equal basis. A large number of delegations paid an emphatic tribute to the member countries of the Council of Europe and to the Secretariat General of that Organization for having taken the initiative of introducing the International Classification and then having accepted to transfer their work to all the countries of the Paris Union.

27. The representatives of the United Nations Conference on Trade and Development (UNCTAD), the International Patent Institute (IIB) and the African and Malagasy Industrial Property Office (OAMPI) endorsed these declarations, as did the representatives of the International Chamber of Commerce (ICC), the International Federation of Patent Agents (FICPI), the Pacific Industrial Property Association (PIPA) and the Union of Industries of the European Community (UNICE).

VI. Discussion of Detail

Preamble

28. The Preamble contained in the Draft was amended in one respect only. On a proposal by the Delegations of Argentina

and Brazil, it was amplified in order to stress the importance of the International Classification for developing countries, in that it gives them easier access to modern technology, which is constantly growing in volume.

Article 1

29. This provision establishes, within the framework of the Paris Union, a Special Union whose member countries adopt a uniform classification for patents for invention, inventors' certificates, utility models, utility certificates, and similar documents.

30. On proposals by the Delegations of the United Kingdom and Norway, the Conference decided that it was preferable to speak of a "*common* classification" rather than a "*single* classification." This made it clearer, especially in the English text, that the countries of the Union were not obliged to apply only the International Classification, but that they might also use it in conjunction with one or several other classification systems.

31. A long discussion ensued on the name of the International Classification, since some delegations considered it preferable to speak of an "International Classification of Inventions." The Conference preferred, however, to retain the expression "International Classification of Patents," which is customary. It considered that, strictly speaking, this expression was indeed too narrow, since it was intended that the International Classification should apply also to inventors' certificates, utility models, utility certificates and similar documents; however, it was always difficult to find a title defining exactly the subject-matter covered; by the same token, the "Patent Cooperation Treaty" (PCT), which was adopted recently, nevertheless applies also to other titles of protection (see Article 2(ii) of that Treaty); moreover, the scope of the Agreement was indicated with sufficient preciseness in Article 1, which lists the documents to be classified other than patents in the strict sense of the word; in any

event, even the expression "International Classification of Inventions" would not be adequate: it would be too broad for some, who attributed to the term "invention" a meaning which went beyond the field of technology, and too narrow for others, who considered that the classification should include all the technical subject-matter disclosed by the title of protection; finally, the question of the name was all the less important since, in practice, an abbreviation would be used.

Article 2

32. This provision defines the International Classification which is the subject of the Agreement.

33. With regard to Article 2(1)(a)(ii) and (iii) and 2(2)(b) and (c), the Conference considered, following a proposal by the Delegation of the United States of America, that the words "amendments" and "additions" should not be used together, since the latter term was already included in the former. It therefore deleted the words "and additions" from those provisions. It was understood that the remaining word "amendments" should be understood in its broadest sense, which covered all changes which might be made to the International Classification, and in particular additions, deletions, transfers from one subdivision to another and changes in designation.

Article 3

34. In the Draft, this Article, which concerns the languages of the Classification, provided that the Classification was established in the English and French languages and that the International Bureau of WIPO would, after consultation with the interested Governments, establish official texts in other languages designated by the Assembly of the Special Union. The Delegations of Argentina and Brazil proposed to provide, in the Agreement itself, that such texts should be established, in particular, in German, Japanese, Portuguese, Russian and Spanish. After the question had been submitted to Work-

ing Group II, and on a proposal by that body, the Conference accepted the insertion, in Article 3 of the Agreement, of the list of languages in question, at the same time leaving the Assembly to decide on translation into other, additional languages. It was nevertheless aware, however, that the translation of the International Classification entailed an immense amount of work and called for the cooperation, for all branches of technology, of specialists who, in addition, had to know several languages. It is evident that such an operation cannot be undertaken by the staff of the International Bureau of WIPO. Furthermore, the employment of ad hoc staff would be extremely expensive and also very difficult. A task of this kind is easier for the interested Patent Offices, many of which have the necessary specialists at their disposal. The Conference decided, therefore, on a proposal by Working Group II, that such translations would be established, in consultation with interested Governments, either on the basis of texts proposed by those Governments, or by any other means which would not have financial implications for the Special Union or WIPO. It is understood that this provision is applicable even when there is only one interested Government. Furthermore, in so far as translations are made for the benefit of developing countries, the International Bureau could, for instance, seek to enter into agreements with international financing organizations and intergovernmental organizations, as is provided, in another context, in Article 51(4) of the Patent Cooperation Treaty.

Article 4

35. This is a very important Article which deals with the scope of the International Classification and the obligation assumed by the countries of the Special Union to apply it.

36. Paragraph (1) of the Draft provided that the International Classification itself was solely of an administrative character and that, in particular, it did not bind the countries of the Special Union as regards the nature and scope of the

protection afforded, each country being free to attribute to it the legal scope which it considered appropriate. This text was taken from the corresponding provisions of the Nice and Locarno Agreements. The Conference considered, however, that the situation was different with inventions. In its opinion, it was hardly conceivable that the nature and scope of protection afforded to an invention should be determined by the classification of the title of protection relating to it. Therefore the Conference decided, on a proposal by the Delegation of Norway, to delete the last two sentences of paragraph (1) and to retain only the first, according to which the Classification is solely of an administrative character. However, the provision as amended naturally does not prevent any country of the Special Union from giving the International Classification a legal scope which goes beyond the mere administrative character which it has in terms of the Agreement itself.

37. While providing, in paragraph (1), that the Classification was solely of an administrative character, the Draft made a reservation, at the beginning of that paragraph, in respect of obligations imposed by the Agreement. The Conference deleted this reservation, considering it superfluous.

38. The Draft provided, in Article 4(3), that the competent authorities of the countries of the Special Union should, in particular, include the complete symbols of the classification in patents, inventors' certificates, utility models and utility certificates issued by them, and in applications relating thereto published by them. In accordance with the interpretation provided by Rule 34.1(f) of the Regulations under the Patent Cooperation Treaty, the Conference considered that the words "published applications" did not cover applications which were only laid open for public inspection. It was of the opinion, however, that it would be very useful if such applications were also classified, in particular to enable industries to inform themselves on the applications which concerned them and even to subscribe to applications relating to given

subdivisions of the International Classification. Therefore, on a proposal by the Delegation of the United States of America, it decided to impose such an obligation on countries which laid applications open for inspection, which would also extend to notices by which the Administrations notified the publication of those documents. However, since the obligation in question was one which for certain Administrations might entail considerable extra work, the Conference decided, also on a proposal by the Delegation of the United States of America, to ease the work of the countries of the Special Union by giving them the possibility, by means of a reservation, of not including the symbols relating to the groups and subgroups of the International Classification in applications which were only laid open for public inspection, and in notices relating thereto.

39. It was understood, furthermore, that each country of the Special Union assumed such obligations only in respect of documents published or laid open after it was bound by the Agreement. It will not be obliged, therefore, to reclassify, according to the system of the International Classification, documents published or laid open previously.

40. In terms of Article 4(3) of the Agreement, the competent authorities of the countries of the Special Union must include, in the various documents listed in that provision, the complete symbols of the classification applied to the invention. Some delegations wondered whether the latter term was not too narrow. In their opinion, all the technical disclosure contained in the title of protection should be subject to classification, even if it was not embodied in the invention itself. On the other hand, several delegations pointed out that, in their view, the classification concerned only the essence of the invention, and that in any event the obligation imposed by Article 4(3) was a minimum requirement, which meant that the countries of the Special Union were at liberty to include the complete symbols of the classification for the entire dis-

closure contained in the titles of protection. The Conference considered that it was possible in those conditions to speak of the "complete symbols of the Classification applied to the invention."

41. Briefly, Article 4(5) provides that the symbols of the Classification, preceded by the words "International Patent Classification," or an abbreviation determined by the Committee of Experts, should be printed in the heading of each document in which they are to be included. It was understood, in this connection, that the abbreviation adopted by the Committee of Experts need not necessarily include parts of all the words of the title "International Patent Classification." Therefore, if it considers it appropriate, that body may adopt, by way of abbreviation, the indication "International Classification" provided for in Article 3(3) of the European Convention. It may also prescribe the abbreviation "Int. Cl.," which is recommended by the competent bodies of the Council of Europe and widely used by Offices which apply the International Classification, or any other abbreviation which it considers suitable.

42. In addition, the Conference considered that the symbols of the Classification need not necessarily be "printed" by typographical means, but might be affixed in any other manner, provided that they are clearly visible.

43. The Delegation of the Netherlands proposed, in addition, the insertion of a new paragraph in Article 4 to determine the obligations of regional Patent Offices. Having noted that the Draft was indeed incomplete in this respect, the Conference adopted this proposal and added a paragraph (6) to Article 4 to deal with the question. As it was not possible to impose obligations directly on intergovernmental organizations which were not party to the Agreement, it provided that, if a country of the Special Union entrusted the grant of patents to an intergovernmental authority, it should take all measures in its power to ensure that this authority applies

the Classification in accordance with Article 4 of the Agreement. The fact that such an intergovernmental authority applies the International Classification means that it has, for the purposes of that Classification, the same status as a national authority. In particular it may also benefit from the two reservations provided for in Article 4(4). It was understood, in this connection, that the term "patents" should be interpreted in the broad sense and should cover all the titles of protection referred to in Article 1 of the Agreement.

Article 5

44. This provision establishes the Committee of Experts and determines its composition, functions and procedure.

45. Paragraph (1) provides that each country of the Special Union is represented in the Committee of Experts. The expression "represented" naturally means that each country has the right to be represented in the Committee of Experts. The meaning is different in Article 5(6) in which, in connection with voting, the words "countries represented" imply representation by one or several delegates who are actually present in person.

46. The Conference examined with particular care the status of observers, which is dealt with in paragraphs (2) and (4) of Article 5.

47. The Draft provided that the Secretary General of the Council of Europe and intergovernmental organizations specialized in the field of patents might be represented by observers at the meetings of the Committee of Experts. The Delegation of Algeria proposed the deletion of any mention of a particular organization; it acknowledged the great merits of the Council of Europe in having elaborated the International Patent Classification and the debt of gratitude owed to it by non-member countries of that Organization for having placed such a valuable working document at their disposal; however, it added that a special mention was superfluous in

the context of Article 5, since the Secretary General of the Council of Europe had in any case to be invited to send observers to the sessions of the Committee of Experts in terms of the general provision of Article 5(2)(a). The Conference accepted this argument and acknowledged that, for the purposes of Article 5(2)(a), the Council of Europe, in view of the leading rôle played by it in the establishment and administration of the International Classification, should be assimilated to the intergovernmental organizations specialized in the field of patents, and consequently that the Secretary General of the Council of Europe should, in accordance with this general provision, be invited to be represented by observers at the meetings of the Committee of Experts.

48. The Conference also considered that the intergovernmental organizations specialized in the field of patents referred to in Article 5(2)(a) should include the International Patent Institute of The Hague, and also regional patent offices such as the African and Malagasy Industrial Property Office and the envisaged European Patent Office. It goes without saying that, while these organizations have been specifically considered by the Conference, the list is not exhaustive. Any other organization specialized in the field of patents and fulfilling the other conditions of Article 5(2)(a) will, in terms of that provision, be invited to send observers to the meetings of the Committee of Experts.

49. In this respect it is evident that, for the purposes of Article 5(2)(a), the term "patent" should not be interpreted in the strict sense but should include also the other titles of protection mentioned in Article 1 of the Agreement.

50. As for intergovernmental organizations not specialized in the field of patents and international non-governmental organizations, the Draft provided that it was for the Committee of Experts to invite them to be represented by observers. On a proposal by the Delegation of Austria, the Conference considered it preferable to provide that such a decision might

also be taken by the Director General of WIPO. The latter will thus have to comply with requests to this effect addressed to him by the Committee of Experts, but he may also, on his own initiative, invite organizations to take part in discussions which are of interest to them (Article 5(2)(b)). This provision is inspired by Article 56(2)(d) of the Patent Cooperation Treaty.

51. The Conference was of the opinion that, in particular, intergovernmental organizations which carried out an important task in the transfer of technology should be invited in terms of Article 5(2)(b). In this connection the representative of UNCTAD stressed the activity of that Organization in this field pursuant to Resolution 2726 (XXV) on the transfer of technology, adopted by the United Nations General Assembly in December 1970.

52. With regard to Article 5(3)(iii), in terms of which the Committee of Experts assists in the promotion of international cooperation in the reclassification of documentation used for the examination of inventions, the Conference added, on a proposal by the Delegations of Argentina and Brazil, that in doing so it should take the needs of developing countries particularly into account; for while it is clear that the reclassification of documentation used for the examination of patents is not prescribed by the Agreement (see paragraph 39 above), it would nevertheless be very useful in facilitating the examination of patent applications and the constitution of readily-accessible documentation. However, such reclassification is an extremely arduous task and is beyond the abilities of the majority of developing countries. The Committee of Experts should therefore take the needs of those countries particularly into account.

53. Moreover, the Conference was aware of the fact that, in general, the introduction and application of the International Classification was a burden which developing countries were not always in a position to bear. Consequently it adopted, on

a proposal by the Delegations of Argentina and Togo, a provision in terms of which the Committee of Experts should take all other measures which would contribute towards facilitating the application of the International Classification by developing countries; such measures should not, however, implicate the budget of the Special Union or otherwise financially affect WIPO (Article 5(3)(iv)). In this respect the International Bureau could have recourse to the same external sources of finance as those envisaged for the preparation and publication of translations of the International Classification (see paragraph 34 above).

54. The Committee of Experts will have to adopt its Rules of Procedure, which will contain more detailed provisions on its organization and which, in particular, may determine the extent to which observers referred to in Article 5(2)(a) and (b) will be allowed to attend meetings of its subcommittees and working groups. However, in view of the important part played by the International Patent Institute in the development of the International Classification, the Conference considered, following a proposal by the Delegations of the United Kingdom, France, Switzerland, the Netherlands, Belgium and Luxembourg, which was subsequently amended by Working Group I, that the rules of procedure should in any case allow for the possibility of participation of organizations referred to in Article 5(2)(a) which could perform substantial work in the development of the International Classification, in the meetings of the subcommittees and working groups of the Committee of Experts. This is provided by Article 5(4). The Conference expressly stated, following a proposal by Working Group I, that the International Patent Institute in particular would be counted among the intergovernmental organizations qualifying under that provision. However, it raised the question whether such organizations should be able to hold officer-ship in the Committee of Experts or its subcommittees and working groups. In this connection it expressed the view, following a proposal by Working Group I, that the Committee

of Experts should settle this question itself after further study, having due regard to the provisions of Article 9 of the Organizational Rules of the Paris Union Committee for International Cooperation in Information Retrieval Among Patent Offices (ICIREPAT).

55. In order to establish a parallel with the provisions of Article 7, which deals with the Assembly of the Special Union, the Conference decided, on a proposal by the Delegation of the United States of America, to mention expressly in Article 5 that the Committee of Experts had the right to establish subcommittees and working groups (Article 5(3)(v)).

56. For the same reason, the Conference also added a rule to Article 5(6) in terms of which each member country of the Committee of Experts has one vote (Article 5(6)(a)).

57. Article 5(6) concerns the majority by which the Committee of Experts takes its decisions. The Conference decided, on proposals by the Delegations of the United States of America and the United Kingdom, to provide that abstentions would not be considered votes, thereby adopting for the Committee of Experts a rule which already applied to the Assembly (Article 7(3)(e)).

58. The same provision introduces, in subparagraph (c), a qualified majority for any decision which is regarded by one-fifth of the countries represented as giving rise to a modification in the basic structure of the Classification or as entailing a substantial work of reclassification. Some delegations were of the opinion that the terms "modification in the basic structure of the Classification" were too vague and difficult to apply. It became clear, however, that no more satisfactory solution could be found which did not involve the risk of an excessively casuistic and dangerous enumeration. The Conference therefore accepted the proposed text.

59. In addition, the Conference considered that it was not advisable to introduce a quorum for the Committee of Experts, since insufficient attendance on the part of member countries

of the Special Union might occasionally prevent it from taking decisions, even on questions of minor importance.

Article 6

60. This provision, which deals with the notification, entry into force and publication of decisions of the Committee of Experts, provides, *inter alia*, that amendments enter into force six months after the date of dispatch of the notification. Some delegations pointed out that this period was short, and that certain Offices, which lacked the necessary specialists, might experience difficulty in respecting it, especially if amendments were made frequently.

61. It is evident that amendments decided by the Committee of Experts have no retroactive effect. Countries of the Special Union are therefore obliged to comply with such amendments only in respect of documents published or laid open for public inspection after their entry into force.

Article 7

62. This provision, which establishes the Assembly of the Special Union and determines its composition, functions and procedure, reproduces for the most part the terms of the corresponding provisions contained in the other Conventions and Agreements administered by WIPO.

63. Like the Nice and Locarno Agreements, the Draft provided in Article 7(4)(c) that "the agenda of each session shall be prepared by the Director General." The Conference noted that this somewhat imprecise text naturally meant that the Director General prepared a draft, since the Assembly had the final decision on its agenda.

64. On the subject of observers, the Conference decided, on a proposal by the Delegation of the United Kingdom, that all the intergovernmental organizations to which Article 5(2)(a) applied might be represented by observers at the meetings of the Assembly (Article 7(1)(c)). Since this solution included the Council of Europe, it was no longer necessary to retain the express reference contained in the Draft.

Article 8

65. This provision, which determines the tasks which the International Bureau has to perform for the Special Union, is in conformity with the terms of the corresponding provisions of the other Conventions and Agreements administered by WIPO.

Article 9

66. Article 9 concerns financial questions, which it deals with in the same manner as the other Conventions and Agreements administered by WIPO.

67. In particular, it provides that the contribution of each country to the Special Union should be established on the basis of the class to which it belongs in the Paris Union for the Protection of Industrial Property. The Conference preferred to abide by this system, which is that of the other Unions established within the framework of the Paris Union, rather than allow member countries of the Special Union to choose a class, for the purposes of that Union, independently of the choice made for the Paris Union. The Conference took this decision in order to avoid administrative complications which, in its opinion, served no useful purpose.

68. By the same token, the Conference retained the system used by the other Unions with respect to the working capital fund. Indeed, the Special Union needed such a fund in view of the fact that, while the contributions of the countries became due on the first of January of each year, they were generally not paid until later.

Article 10

69. Briefly, this Article provides that the Agreement may be revised from time to time by means of special conferences. Its text corresponds to Article 60 of the Patent Cooperation Treaty. The Conference adopted it without comment.

Article 11

70. This provision gives the Assembly the possibility of amending certain provisions of the Agreement itself on its own authority. It is essentially similar to Article 61 of the Patent Cooperation Treaty. The Conference adopted it without comment.

Article 12

71. Article 12 determines the procedure according to which countries may become party to the Agreement, reproducing the terms of Article 62 of the Patent Cooperation Treaty. It was adopted without comment by the Conference.

Article 13

72. This provision deals with the entry into force of the Agreement. Since it is intended to effect the transition from the system of the European Convention to the broader system of the Agreement, it first makes entry into force subject to the condition that two-thirds of the countries currently party to the European Convention ratify it or accede to it (Article 13(3)(a)(i)). Those countries are currently fifteen in number: Australia, Belgium, Denmark, France, Germany (Federal Republic), Ireland, Israel, Italy, Netherlands, Norway, Spain, Sweden, Switzerland, Turkey, United Kingdom. Consequently the new system will not enter into force until a substantial majority of countries has abandoned the old one. Moreover, it seemed that the change of system would not be justified unless it guaranteed an extension of the application of the International Classification. This is why Article 13 also provides that the Agreement will not enter into force until after the ratification or accession of at least three countries party to the Paris Convention but not to the European Convention, of which at least one must be a country which annually receives more than 40,000 applications for patents or inventors' certificates (Article 13(1)(a)(ii)). In adopting this provision, the Conference was conscious of two precedents: the

Hague Agreement concerning the International Deposit of Industrial Designs, as revised at The Hague in 1960 (Article 26(1)) and the Patent Cooperation Treaty (Article 63).

73. Article 13(1)(c) provides that each country party to the European Convention which ratifies the Agreement or accedes to it is obliged to denounce that Convention, at the latest with effect from the day on which the Agreement enters into force with respect to that country. The provision was designed to avoid a situation in which countries were party to the Agreement and the European Convention at the same time. However, if their instruments of ratification or accession are those to which paragraph (1)(a)(i) applies, they may declare that their denunciation of the European Convention will come into effect not a year after its notification under Article 8(2) and (3) of that Convention, but, at the earliest, one year after the deposit of the last instrument of ratification or accession required for the Agreement to enter into force. They would thus avoid the risk of being no longer party to the European Convention before the entry into force of the Agreement.

Article 14

74. In the Draft, this Article provided that the Agreement had the same force and duration as the Paris Convention. The Conference deleted the words “force and”, which it considered unnecessary.

Article 15

75. Article 15 determines the question of denunciation in a manner similar to the corresponding provisions of the other Conventions and Agreements administered by WIPO. The Conference adopted it, after having deleted the second sentence of paragraph (1), in terms of which “such denunciation shall affect only the country making it, the Agreement remaining in full force and effect as regards the other countries of the Special Union.” It considered this provision self-evident and therefore unnecessary.

Article 16

76. This Article governs the signature of the Agreement, and the languages, notifications and depositary functions.

77. With regard to signature and deposit, the Conference adapted the Agreement, on a proposal by the Delegations of Brazil, France, Germany (Federal Republic), the United Kingdom and the United States of America, to the corresponding provisions of the Patent Cooperation Treaty (Articles 67(1) and (3) and 68(1)). The original of the Agreement, in the English and French languages, will be signed at Strasbourg, where it will remain open for signature until September 30, 1971. It will then be deposited with the Director General of WIPO.

78. As for the languages of the Agreement, the Draft left the Assembly to decide on the languages in which the official texts of the Agreement would be established. The Conference maintained this rule in principle. However, on a proposal by the Delegations of Argentina and Brazil, and inspired by Article 67(1)(b) of the Patent Cooperation Treaty, it decided that official texts would in any case be established in the German, Japanese, Portuguese, Russian and Spanish languages. The International Bureau would thus not be obliged to await the entry into force of the Agreement and the first session of the Assembly before preparing texts of the Agreement in the languages indicated.

79. As far as notification and depositary functions are concerned, Article 16 is also inspired by the corresponding provisions of the Patent Cooperation Treaty (Articles 68(2) to (4) and 69). It also provides that the Director General must, on request, transmit to the Government of any signatory or acceding country a certified copy of the International Classification.

80. With regard to the notifications to be made by the Director General in terms of Article 16(5), the Conference con-

sidered, in the light of Article 69 of the Patent Cooperation Treaty, that it was preferable to list them in itemized form; it also adopted a more logical order, and completed the list with the additional mention of reservations concerning the use of the Classification.

Article 17

81. This Article contains the transitional provisions which will enable countries party to the European Convention but not yet members of the Special Union to exercise, for a limited period, certain rights within the Assembly of the Union and the Committee of Experts. In adopting these provisions, the Conference sought to ensure a smooth changeover from the old system to the new; in particular, it took into consideration the possibility that, after the entry into force of the Agreement, some countries might for a time remain bound by the European Convention and no longer have the practical possibility of developing their International Classification; it is important, therefore, that they be able, pending their accession to the Agreement — and in so far as that accession is not delayed too much — to follow the work of the bodies of the Special Union, and even to participate, for a limited period, with full rights, in the work of the Committee of Experts and its subcommittees and working groups. In adopting the text of the Draft in this respect, the Conference drew inspiration especially from the precedent of the so-called five-year privilege, which is contained in all the Stockholm texts (see, in particular, Article 21(2)(a) of the Convention establishing WIPO and Article 30(2) of the Paris Convention).

VII. Recommendations

82. The Conference also adopted three recommendations.

83. The first concerns the collaboration between the Secretariat General of the Council of Europe and the International Bureau of WIPO until entry into force of the new Agreement.

This collaboration has already existed for more than two years, and a study should be made, in the light of past experience, of the question of whether it is advisable to amplify, adapt or make more precise the existing arrangements, especially since it is envisaged that the International Bureau of WIPO will gradually take over the entire administration of the International Classification. It is the study of this revision which the Conference, in its first recommendation, proposed to the Secretary General of the Council of Europe and the Director General of WIPO.

84. The second recommendation concerns the financing of the administration mentioned in the preceding paragraph. Until the Agreement has entered into force and the cost of work undertaken in connection with the Special Union can be covered by means of the budget of that Union, the administration of the International Classification in so far as it devolves on the International Bureau of WIPO, can only be financed by special contributions by the member countries of the Paris Union, independent of their compulsory contributions to that Union. The situation is the same as for the work undertaken in connection with the Patent Cooperation Treaty and ICIREPAT. In its second recommendation, the Conference proposed to the Director General of WIPO that he elaborate proposals to this effect, with the aid of a working group, and that he submit these to the Executive Committee of the Paris Union at its 1971 session.

85. Finally, on a proposal by the Delegation of Romania, the Conference adopted a third recommendation concerning the exchange of lists of patent documents reclassified according to the International Classification. Several Patent Offices have reclassified, or are going to reclassify, patent documents previously classified according to their national classifications. If, to do this, they draw up lists of documents indicating the symbols of the new and, where appropriate, the old classification, it is in the general interest that they should place

those lists at the disposal of the other Offices, thereby avoiding the repetition of the same work by several Administrations. The Conference therefore recommended to countries of the Paris Union which had such lists and tables at their disposal that they allow other countries to take advantage of them if asked to do so. It also considered that the International Bureau of WIPO could perform useful work as intermediary in the promotion of such exchanges, and accordingly asked it to do so on request.

VIII. Conclusion

86. The European Convention on the International Classification of Patents renders important services to the countries which have acceded to it. It provides them with a working document of unparalleled value which each of them would otherwise have to elaborate separately. Indeed it saves them an immense amount of reclassification work in their exchanges of documents. These many and great advantages are now made available to all the countries of the Paris Union by the Strasbourg Agreement Concerning the International Patent Classification. This Agreement, an essential adjunct to the important Patent Cooperation Treaty which was adopted recently, binds countries together in ever-closer cooperation in the field of industrial property for the greater benefit of them all.

The present Report was unanimously adopted by the Plenary of the Conference on March 22, 1971.

