

RECORDS
OF THE DIPLOMATIC CONFERENCE
FOR THE CONCLUSION OF A TREATY
ON THE INTERNATIONAL RECORDING
OF SCIENTIFIC DISCOVERIES
1978



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**WORLD INTELLECTUAL PROPERTY ORGANIZATION
(WIPO)**

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**GENEVA
1981**

EDITOR'S NOTE

The Records of the Diplomatic Conference for the Conclusion of a Treaty on the International Recording of Scientific Discoveries contain the most important documents relating to that Conference, which were issued before, during and after it.

The Diplomatic Conference was held from February 27 to March 7, 1978, at the headquarters of the International Labour Organisation (ILO) in Geneva.

The final text--that is the text as adopted and signed--of the Geneva Treaty on the International Recording of Scientific Discoveries appears on the right-hand (odd-numbered) pages of the first part of this volume (up to page 37). On the opposite, left-hand (even-numbered) pages (up to page 36) appears the text of the draft Treaty as prepared by the International Bureau and presented to the Diplomatic Conference. In order to facilitate the comparison between the draft text and the final text, these pages do not contain the full text of the draft but merely indicate where the texts are identical or specify the differences that exist between the draft and the final text.

Page 41 contains the text of the Final Act adopted and signed by the Diplomatic Conference.

The Rules of Procedure of the Diplomatic Conference appear on pages 47 to 59 and 61.

The part entitled "Conference Documents" (pages 45 to 81) contains three series of documents distributed before or during the Diplomatic Conference: "DS/CD" (26 documents), "DS/CD/CR" (2 documents) and "DS/CD/INF" (9 documents). The said documents contain, in particular, all the written proposals for amendments submitted by the delegations. Such proposals are frequently referred to in the summary minutes (see below) and are indispensable for the understanding of the latter.

The part entitled "Minutes" (pages 85 to 148) contains the summary minutes of the Diplomatic Conference. These minutes were established in provisional form by the International Bureau on the basis of transcripts of the tape recordings which were made of all interventions. The transcripts are preserved in the archives of the International Bureau. The provisional summary minutes were made available to all speakers, with the invitation to make suggestions for changes where desired. The final minutes published in this volume have taken such suggestions into account.

The part entitled "Participants" (pages 151 to 162) contains the list of participants in the Diplomatic Conference and the list of officers and members of subsidiary bodies of this Conference. (The report of the Credentials Committee is reproduced on pages 66 and 67.)

The part entitled "Post-Conference Documents" (pages 165 to 168) contains the full text of a memorandum on the Geneva Treaty prepared by the International Bureau and a reference to the document which contains the provisional summary minutes referred to above.

Finally, the last part (pages 171 to 216) contains five different indexes: the first two (pages 173 to 199) relate to the subject matter of the Geneva Treaty; the third (pages 201 to 206) is an alphabetical list of States which participated in the Diplomatic Conference and/or which signed the Geneva Treaty; the fourth (page 207) is an alphabetical list of organizations which participated in the Diplomatic Conference; and finally, the fifth (pages 209 to 216) is an alphabetical list of participants in the Diplomatic Conference. Page 172 of these Records contains a detailed explanatory note concerning the use of the indexes.

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**GENEVA TREATY
ON THE INTERNATIONAL RECORDING
OF SCIENTIFIC DISCOVERIES**

**TEXT OF THE DRAFT TREATY
AS PRESENTED TO THE DIPLOMATIC CONFERENCE**

**TEXT OF THE TREATY
AS ADOPTED BY THE DIPLOMATIC CONFERENCE**

SIGNATORIES

DRAFT
TREATY ON THE INTERNATIONAL RECORDING
OF SCIENTIFIC DISCOVERIES

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GENEVA TREATY
ON THE INTERNATIONAL RECORDING
OF SCIENTIFIC DISCOVERIES

Contents*

Article 1:	Definitions
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Article 15:	Revision and Amendment of the Treaty
Article 16:	Becoming Party to the Treaty
Article 17:	Entry Into Force of the Treaty
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Article 19:	Denunciation of the Treaty
Article 20:	Signature and Languages of the Treaty
Article 21:	Depositary Functions
Article 22:	Notifications

* This Table of Contents does not appear in the original text.
It was added in order to facilitate consultation of the text.

The Contracting States,

Considering the reference to scientific discoveries in Article 2(viii) of the Convention Establishing the World Intellectual Property Organization,

Desiring to promote the progress of science through the stimulation of discoverers by instituting a system which would publicly associate their names with their discoveries,

Desiring to promote information on new scientific discoveries, for the benefit of the scientific community and the world at large, by instituting a system which would make the descriptions of such discoveries accessible to them,

Have resolved to conclude a treaty instituting, within the International Bureau of the World Intellectual Property Organization, a system for the international recording of scientific discoveries, and

Have agreed as follows:

Article 1

Definitions

For the purposes of this Treaty:

(i) *[Same as in the final text.]*

(ii) *[Same as in the final text.]*

(iii) *[Same as in the final text.]*

(iv) *[Same as in the final text.]*

(v) "applicant" means the person or persons filing the application;

[In the draft, there is no provision corresponding to Article 1(1)(vi) of the final text.]

(vi) *[Same as Article 1(1)(vii) of the final text.]*

The Contracting States,

Considering the reference to scientific discoveries in Article 2(viii) of the Convention Establishing the World Intellectual Property Organization,

Desiring to promote the progress of science through the stimulation of discoverers without discrimination by instituting a system which publicly associates their names with their scientific discoveries,

Desiring to promote information on new scientific discoveries, for the benefit of the scientific community and the world at large, by instituting a system which makes the descriptions of such scientific discoveries accessible to them,

Considering that a system for the international recording of scientific discoveries, by facilitating access to scientific information, is of interest to States and in particular developing countries,

Resolve to conclude a treaty instituting, within the framework of the World Intellectual Property Organization, a system for the international recording of scientific discoveries, and

Agree as follows:

Article 1

Definitions

(1) (Definitions) For the purposes of this Treaty:

(i) "scientific discovery" means the recognition of phenomena, properties or laws of the material universe not hitherto recognized and capable of verification;

(ii) "discoverer" means the natural person who has made a scientific discovery himself, through observation, study, experimentation or reasoning, and in a manner decisive for arriving at the recognition thereof; where, in the making of a scientific discovery, several natural persons have jointly fulfilled the said requirements, any reference to a discoverer shall be construed as a reference to all of them;

(iii) "international recording" means the act and the result of the entering, by the International Bureau, of the description and other prescribed details of a scientific discovery in the International Register of Scientific Discoveries kept by the International Bureau;

(iv) "application" means an application for international recording;

(v) "applicant" means the natural person or persons or the legal entity or entities filing the application;

(vi) "date of discovery" means the date on which the scientific discovery was, for the first time, published or communicated to the public;

(vii) "Contracting State" means a State party to this Treaty;

[Article 1, continued]

(vii) "Assembly" means the Assembly of the Contracting States;

(viii) [Same as Article 1(1)(ix) of the final text.]

(ix) [Same as Article 1(1)(x) of the final text.]

(x) [Same as Article 1(1)(xi) of the final text.]

[In the draft, there is no provision corresponding to Article 1(1)(xii) of the final text.]

[In the draft, there is no provision corresponding to Article 1(1)(xiii) of the final text.]

[In the draft, there is no provision corresponding to Article 1(2) of the final text.]

Article 2

Scope of the International Recording

The system for the international recording of scientific discoveries instituted by this Treaty shall not entail any obligation for any Contracting State to give any legal effect to the international recordings effected thereunder and, in particular, shall not oblige any Contracting State to guarantee any right in a scientific discovery or any remuneration to discoverers.

Article 3

The Application

(1) [Possibility of Filing an Application; Where to File] Any discoverer who is a national or resident of a Contracting State may request international recording by filing an application with the International Bureau. Where a scientific discovery has been made jointly by several discoverers, it shall suffice if one of the discoverers fulfills the above-mentioned requirement as to nationality or residence.

[Article 1(1), continued]

- (viii) "Assembly" means the Assembly referred to in Article 12;
- (ix) "Organization" means the World Intellectual Property Organization;
- (x) "International Bureau" means the International Bureau of the Organization;
- (xi) "Director General" means the Director General of the Organization;
- (xii) "Regulations" means the Regulations referred to in Article 14;
- (xiii) "Gazette" means the Gazette referred to in Article 7(1).

(2) (Possible Exceptions) Notwithstanding paragraph (1)(i), any Contracting State is free not to apply this Treaty to geographical, archeological and paleontological discoveries, discoveries of useful mineral deposits and discoveries in the field of social sciences.

Article 2Scope of the International Recording

The system for the international recording of scientific discoveries instituted by this Treaty:

- (i) provides for the widest possible access to the recorded scientific discoveries,
- (ii) does not affect the free use of the ideas contained in recorded scientific discoveries,
- (iii) does not affect the freedom of the Contracting States to grant or not to grant rights to discoverers of recorded scientific discoveries and, where any Contracting State grants such rights, the freedom of such State to fix the conditions for and the contents of such rights.

Article 3The Application

(1) (Possibility of Filing an Application; Where To File) (a) Any discoverer who is a national or a resident of a Contracting State may request international recording by filing an application with the International Bureau as prescribed by the Regulations.

(b) The application may, with the consent of the discoverer, be filed by a legal entity established in a Contracting State.

(c) Where a scientific discovery has been made jointly by several discoverers, it shall suffice if one of the discoverers fulfills the requirement referred to in subparagraph (a) as to nationality or residence.

[Article 3, continued]

(2) [Date; Signature; Declaration] The application shall contain a request for international recording. It shall be dated and signed by the discoverer. It shall contain a declaration by a scientific institution or government authority appointed to that effect under Article 4. The declaration shall consist of a statement to the effect that the application is presented by the said institution or authority; the declaration may also include an opinion on the merits of the scientific discovery or may certify its authenticity.

(3) [Unity; Language; Mandatory Contents] The application shall relate to only one scientific discovery, shall be in the languages specified in the Regulations referred to in Article 14 and shall contain:

- (i) *[Same as in the final text.]*
- (ii) *[Same as in the final text.]*
- (iii) *[Same as in the final text.]*
- (iv) *[Same as in the final text.]*
- (v) *[Same as in the final text.]*

[In the draft, there is no provision corresponding to Article 3(3)(vi) of the final text.]

(vi) a full description of the scientific discovery;

(vii) *[Same as Article 3(3)(viii) of the final text.]*

(viii) *[Same as Article 3(3)(ix) of the final text, except that, in the draft, the words "the content of" do not appear.]*

(ix) *[Same as Article 3(3)(x) of the final text.]*

[In the draft, there is no provision corresponding to Article 3(3)(xi) of the final text.]

(4) [Possible Additional Elements in Description] The description referred to in paragraph (3)(vi) may describe the phenomena or contain the reasoning proving the reality of the scientific discovery. It may include a statement mentioning the place where and the date on which the discovery was made.

(5) [Optional Contents] The application may contain:

- (i) *[Same as Article 3(4)(i) of the final text.]*
- (ii) the name and address of his employer at the time the scientific discovery was made;
- (iii) a statement that the scientific discovery was made in the course of duties performed for an employer and the name and address of such employer;
- (iv) such other elements as may be specified by the Regulations referred to in Article 14.

[In the draft, there is no provision corresponding to Article 3(5) of the final text.]

[Article 3, continued]

(2) (Date; Signature; Declaration) The application shall contain a request for international recording. It shall be dated and signed by the discoverer or, where it is filed by a legal entity, by the authorized representative of that entity and the discoverer. It shall contain a declaration by a scientific institution or government authority appointed to that effect under Article 4. The declaration shall consist of a statement to the effect that the subject matter of the application is a scientific discovery within the meaning of Article 1 and that the application is presented by the said institution or authority. The declaration may also include an opinion on the merits of the scientific discovery or may certify its authenticity.

(3) (Unity; Language; Mandatory Contents) The application shall relate to only one scientific discovery, shall be in one of the languages specified in the Regulations and shall contain:

- (i) the surname, given name and full address of the discoverer;
- (ii) the date and place of birth of the discoverer;
- (iii) the nationality and residence of the discoverer;
- (iv) an indication of the branch of science to which the scientific discovery pertains;
- (v) the title of the scientific discovery;
- (vi) the date of discovery;
- (vii) a full description of the scientific discovery, including a description of the phenomena, and/or indicating the reasoning and data, proving the reality of the scientific discovery and, where the scientific discovery contains an experimental part, a description of that part adequate to enable its repetition and verification;
- (viii) an abstract, not exceeding 200 words, of the said description;
- (ix) a statement by the discoverer to the effect that, to his knowledge, the content of the scientific discovery, when made by him, was not known to anyone else;
- (x) where applicable, the name of the institution, laboratory or other establishment in which the scientific discovery was made;
- (xi) where the application is filed by a legal entity, the name and address of that entity.

(4) (Optional Contents) The application may contain:

- (i) the curriculum vitae of the discoverer;
- (ii) an indication of the place where the scientific discovery was made;
- (iii) where applicable, a statement that the scientific discovery was made in the course of duties performed for an institution or employer and the name and address of that institution or employer;
- (iv) such other elements as may be specified by the Regulations.

(5) (Time Limit) Any application filed after the expiration of ten years from the date of discovery as indicated in the application shall not be receivable.

[Article 3, continued]

(6) [Recognition at National Level] Where a government authority has officially recognized the scientific discovery which is the subject of the application by complying with the request of the discoverer to record his discovery or by awarding him a prize or a diploma, or in any other manner, that fact may be indicated in the application and the supporting documents may be attached to the application. Where such official recognition occurs after the filing of the application, the said indication and documents may be furnished to the International Bureau after the filing of the application.

(7) *[Same as in the final text, except that the draft contains the words "referred to in Article 14" after the word "Regulations."]*

(8) *[Same as in the final text.]*

Article 4

Appointed Institutions and Authorities

(1) [Appointment] Each Contracting State may appoint one or more scientific institutions, whether located on or outside its territory, and/or one or more of its government authorities for the purposes referred to in Article 3(2). Additional appointments may be made at any time.

(2) [Notification of Appointment] Any appointment referred to in paragraph (1) shall be notified to the Director General by the Government of the State concerned.

(3) [Non-Involvement of Responsibility] The declaration referred to in Article 3(2) shall not involve the responsibility of the institution or authority which has made it or of the State which, under paragraph (1), has appointed the said institution or authority.

(4) [Revocation of Appointment] Any appointment may be revoked at any time by the Contracting State which made it. The revocation shall be notified to the Director General. It shall take effect after the expiration of six months from the date of its receipt by the Director General.

(5) [Competence to Make the Declaration] The declaration referred to in Article 3(2) shall be made by an institution or authority appointed by the State of which the applicant is a national or resident.

[Article 3, continued]

(6) (Recognition at National Level) Where a government authority or scientific institution has officially or publicly recognized the scientific discovery which is the subject of the application by complying with the request of the discoverer to record his scientific discovery or by awarding him a prize or a diploma, or in any other manner, it is desirable that that fact be indicated in the application or, where such recognition occurs after the filing of the application, in a communication addressed to the International Bureau by the scientific institution or government authority which made the declaration referred to in paragraph (2). Such indication or communication shall be accompanied by supporting documents.

(7) (Fee) The application shall be subject to the payment of a fee to the International Bureau. The amount of the fee shall be fixed in the Regulations.

(8) (Forms) The application shall be made on a form established, and furnished free of charge on request, by the International Bureau.

Article 4

Appointed Institutions and Authorities

(1) (Appointment) Each Contracting State shall appoint one or more scientific institutions and/or one or more of its government authorities for the purposes referred to in Article 3(2). Additional appointments may be made at any time.

(2) (Notification of Appointment) Any appointment referred to in paragraph (1) shall be notified to the Director General by the Government of the Contracting State concerned.

(3) (Revocation of Appointment) Any appointment may be revoked at any time by the Contracting State which made it. The revocation shall be notified to the Director General. It shall take effect after the expiration of three months from the date of its receipt by the Director General.

(4) (Competence To Make the Declaration) The declaration referred to in Article 3(2) shall be made by a scientific institution or government authority appointed by the Contracting State

Article 5International Recording

(1) [Same as in the final text.]

(2) [Sanction in Case of Defects; Grace Period] If, on expiration of the period referred to in paragraph (1):

(i) [Same as in the final text.]

(ii) [Same as in the final text, except that the draft does not contain the word "the" before the word "expiration" nor the words "referred to in Article 14" after the word "Regulations."]

(3) [International Recording] Where the application complies with the requirements of Article 3, the International Bureau shall effect the international recording of the scientific discovery. Such recording shall consist of:

[In the draft, there is no provision corresponding to Article 5(3)(i) of the final text.]

(i) [Same as Article 5(3)(ii) of the final text.]

(ii) [Same as Article 5(3)(iii) of the final text.]

(4) [Non-Involvement of Responsibility] International recording in no way implies certification or guarantee of the allegations made and facts asserted in the application.

(5) [Same as Article 5(4) of the final text.]

(6) [Same as Article 5(5) of the final text.]

Article 5International Recording

(1) (Defects) Where the application does not comply with the requirements of Article 3, the International Bureau shall notify the applicant accordingly and shall allow him three months to correct any defect in the application.

(2) (Sanction in Case of Defects; Grace Period) If, on expiration of the period referred to in paragraph (1):

(i) the applicant has furnished valid reasons for his failure to correct the defects in his application, he shall be given a grace period of a further three months, as from the receipt of the communication furnishing the said reasons, to correct those defects; if on the expiration of the grace period the defects have not been corrected, the recording shall be refused;

(ii) the applicant has not corrected the defects in his application, the recording shall be refused; the applicant may, however, on request submitted within two months after the expiration of the period referred to in paragraph (1) and on prior payment of an additional fee whose amount shall be fixed in the Regulations, enjoy a grace period of a further three months to correct the defects in his application; if on the expiration of the grace period the defects have not been corrected, the recording shall be refused.

(3) (International Recording) Where the application complies with the requirements of Article 3, the International Bureau shall effect the international recording of the scientific discovery. Such recording shall consist of:

(i) the recording of the name of the discoverer, of the statement referred to in Article 3(2) concerning the conformity of the subject matter of the application with the definition of scientific discovery in Article 1, of the date of discovery as indicated in the application, of the name of the scientific institution or government authority which made the declaration referred to in Article 3(2) and any other indication prescribed by the Regulations;

(ii) an indication, on the first page of the application, of the number of pages that the application contains, of the fact of international recording, of the date of such recording and of the international recording number, accompanied by the stamp of the International Bureau and the signature of an official designated to that effect by the Director General;

(iii) an indication, on all other pages of the application, of the same international recording number, accompanied by the same stamp and signature.

(4) (International Recording Date) The date of the international recording shall be the date on which the application and the fee were received by the International Bureau. Where the application has been corrected, the date of receipt of the correction shall be considered the date of receipt of the application. If the application and the fee were not received on the same date, the later date shall be the international recording date.

(5) (Records) The International Bureau shall keep in a safe place, and without limitation in time, all internationally recorded applications. Applications whose international recording is refused shall be kept for five years from the date of their receipt.

Article 6

The Certificate

(1) *[Same as in the final text, except that the draft contains the word "over" before the word "signature" and the reference is to "Article 3(3)(i) to (v) and (ix)" instead of "Article 3(3)(i) to (vi), (x) and (xi)."]*

(2) [Recipients] The certificate shall be sent by the International Bureau to the applicant. Where there are several applicants, each shall receive a certificate. A copy of the certificate shall be sent by the International Bureau to the scientific institution or government authority referred to in paragraph (1).

Article 7

Publication

(1) *[Same as in the final text, except that, in the draft, the title of this paragraph is "Gazette" instead of "Publication" and the word "Regulations" is followed by the words "referred to in Article 14."]*

(2) [Contents of Entries] The Gazette shall contain, in respect of each scientific discovery internationally recorded by the International Bureau, an entry including the elements referred to in Article 3(3)(i) to (v), (vii) and (ix), any information referred to in Article 3(6), the identity of the scientific institution or government authority having made the declaration referred to in Article 3(2) and the date and number of the international recording. The Gazette shall contain a notice in respect of each filing of observations or changes referred to in Article 8(1) or (2).

(3) *[Same as in the final text, except that the draft does not contain the words "scientific" and "government" before the words "institutions" and "authorities," respectively.]*

Article 8

Observations

(1) [Observations] Any natural person or legal entity may file with the International Bureau written observations concerning any internationally recorded scientific discovery.

(2) [Counter-Observations] The interested applicant and the interested scientific institution or government authority may file with the International Bureau written observations concerning any observation made under paragraph (1). The interested applicant may also file, together with a declaration under Article 3(2), any change in the description of the scientific discovery and/or the abstract.

Article 6The Certificate

(1) (Establishment; Contents) The International Bureau shall establish a certificate for each international recording. Such certificate shall, under the seal of the International Bureau and the signature of the Director General, certify the fact of such recording, its date and number, and indicate the elements referred to in Article 3(3)(i) to (vi), (x) and (xi) and the name of the scientific institution or government authority which made the declaration referred to in Article 3(2).

(2) (Recipients) The certificate shall be sent by the International Bureau to the discoverer or, where the applicant is a legal entity, to both the discoverer and that entity. A copy of the certificate shall be sent by the International Bureau to the scientific institution or government authority referred to in paragraph (1).

Article 7Gazette

(1) (Publication) The International Bureau shall, at intervals and in languages to be determined in the Regulations, issue a publication entitled "Gazette of Internationally Recorded Scientific Discoveries."

(2) (Entries) The Gazette shall contain, in respect of each scientific discovery internationally recorded by the International Bureau, an entry including the elements referred to in Article 3(3)(i) to (vi), (viii), (x) and (xi), any information referred to in Article 3(6), the name of the scientific institution or government authority having made the declaration referred to in Article 3(2) and the date and number of the international recording. The Gazette shall contain a notice in respect of each filing of observations, counter-observations or amendments referred to in Article 8(1) or (2) and a notice in respect of each cancellation under Article 10(2) and each withdrawal of a declaration under Article 10(3).

(3) (Further Information) The Gazette shall contain an updated list of the Contracting States and of the scientific institutions and government authorities appointed under Article 4 and information alerting the public to the right to file observations and counter-observations under Article 8(1) and (2).

Article 8Observations

(1) (Observations) Any natural person or legal entity may at any time file with the International Bureau written observations concerning any internationally recorded scientific discovery.

(2) (Counter-Observations) The interested discoverer and, where the application was filed by a legal entity, that entity, as well as the interested scientific institution or government authority, may file with the International Bureau written observations ("counter-observations") concerning any observation made under paragraph (1). Any counter-observation may be accompanied by amendments to the description of the scientific discovery or the abstract; the requirements of Article 3(2) relating to applications shall apply to counter-observations accompanied by an amendment.

[Article 8, continued]

(3) [Identity of Filer; Signature] Any observation or change filed under paragraph (1) or (2) shall show the surname, given name and address of the filer and shall be signed by him.

(4) [Fee] The filing of any observation or change under paragraph (1) or (2) shall be subject to the payment of a fee to the International Bureau. The amount of the fee shall be fixed in the Regulations referred to in Article 14.

(5) [Recording] Any observation or change filed under paragraph (1) or (2) shall be recorded and kept by the International Bureau. Article 5 shall apply, mutatis mutandis.

(6) [Communications] A copy of any observation filed under paragraph (1) and recorded shall be sent by the International Bureau to the interested applicant and to the interested scientific institution or government authority. A copy of any observation or change filed under paragraph (2) and recorded shall be sent by the International Bureau to the interested natural person or legal entity referred to in paragraph (1).

(7) [Publication] Where any change in the abstract is filed, the International Bureau shall publish the change with a reference to the original publication.

Article 9

Publicity of the International Register

(1) [Consultation of the Register] The International Bureau shall, on request and against payment of a fee whose amount shall be fixed by the Director General, allow any person to consult, at the headquarters of the International Bureau, any recorded application and any recorded observation or change.

(2) [Copies] The International Bureau shall, on request and against payment of a fee whose amount shall be fixed by the Director General, furnish to any person copies of any recorded application and any recorded observation or change, and of any part thereof.

Article 10

Withdrawal of the Declaration

(1) [Withdrawal of the Declaration] The declaration referred to in Article 3(2) may, at any time, be withdrawn by the institution or authority which made it. The effect of the withdrawal shall be such that the application of the international recording, as the case may be, is considered not to have been made. Otherwise, the discoverer shall have no right to withdraw his application or to ask for the cancellation of the international recording.

(2) [Procedure] The withdrawal referred to in paragraph (1) shall be notified to the International Bureau. The International Bureau shall cease the processing of the application or cancel the recording, as the case may be. The cancellation shall be published in the Gazette referred to in Article 7(1).

(3) (Identity of Filer; Signature) Any observation, counter-observation or amendment filed under paragraph (1) or (2) shall show the name and address of, and shall be signed by, the filer.

(4) (Fee) The filing of any observation, counter-observation or amendment under paragraph (1) or (2) shall be subject to the payment of a fee to the International Bureau. The amount of the fee shall be fixed in the Regulations.

(5) (Recording) Any observation, counter-observation and amendment filed under paragraphs (1) and (2) shall be recorded and kept by the International Bureau. Article 5 shall apply mutatis mutandis.

(6) (Communications) A copy of any observation filed under paragraph (1) and recorded shall be sent by the International Bureau to the interested discoverer and, where the application was filed by a legal entity, to that entity, as well as to the interested scientific institution or government authority. A copy of any counter-observation or amendment filed under paragraph (2) and recorded shall be sent by the International Bureau to the interested natural person or legal entity referred to in paragraph (1).

(7) (Publication) Where any amendment to the abstract is filed, the International Bureau shall publish the amendment with a reference to the original publication of the abstract.

Article 9

Access to Information Contained in the International Register

(1) (Consultation of the Register) The International Bureau shall, on request and against payment of a fee whose amount shall be fixed in the Regulations, allow any person to consult, at the headquarters of the International Bureau, any recorded application and any recorded observation, counter-observation and amendment.

(2) (Copies) The International Bureau shall, on request and against payment of a fee whose amount shall be fixed in the Regulations, furnish to any person copies of any recorded application and any recorded observation, counter-observation and amendment, and of any part thereof.

Article 10

Withdrawal of the Application; Cancellation of the International Recording; Withdrawal of the Declaration

(1) (Withdrawal of the Application) The applicant may withdraw the application before the international recording of the scientific discovery. Where the applicant is a legal entity, the withdrawal of the application shall require the consent of the discoverer.

(2) (Cancellation of the International Recording) After the international recording of the scientific discovery, the applicant may request that the international recording be cancelled. Where the applicant is a legal entity, the request for cancellation shall require the consent of the discoverer. The International Bureau shall thereupon cancel the international recording and shall publish a corresponding notice in the Gazette.

Article 11Classification

[Same as in the final text, except that, in the draft the word "Regulations" is followed by the words "referred to in Article 14."]

Article 12Assembly

(1)(a) [Same as in the final text.]

(b) [Same as in the final text, except that the words corresponding to "Each Contracting State" read, in the draft, as follows: "The Government of each Contracting State."]

(2) [Functions] The Assembly shall:

(i) [Same as in the final text, except that the draft does not contain the words "or assigned to it" after the words "conferred upon it."]

[In the draft, there is no provision corresponding to Article 12(2)(ii) of the final text.]

(ii) [Same as Article 12(2)(iii) of the final text.]

(iii) pronounce on the accounts rendered under Article 13(3);

(iv) [Same as Article 12(2)(v) of the final text.]

(3) [Same as in the final text.]

(4) [Same as in the final text.]

(5)(a) [Same as in the final text.]

(b) [Same as in the final text, except that the draft contains, after the words "the Regulations," the words "referred to in Article 14."]

(3) (Withdrawal of the Declaration) The declaration referred to in Article 3(2) may be withdrawn by the scientific institution or government authority which made it. Where the declaration is withdrawn before the international recording, the application shall be considered withdrawn. Where the declaration is withdrawn after the international recording, the International Bureau shall record the withdrawal of the declaration and shall publish a corresponding notice in the Gazette.

Article 11

Classification

On the proposal of the Director General, the Assembly shall adopt, for the purposes of this Treaty, a classification system which may be revised periodically by the Assembly and the details in respect of the application of which shall be fixed in the Regulations.

Article 12

Assembly

(1) (Composition) (a) The Assembly shall consist of the Contracting States.

(b) Each Contracting State shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(2) (Functions) The Assembly shall:

(i) exercise such rights and perform such tasks as are specifically conferred upon it or assigned to it under this Treaty;

(ii) review and approve the reports and activities of the Director General concerning the administration of this Treaty;

(iii) give directions to the Director General concerning the preparation of revision conferences;

(iv) approve the accounts referred to in Article 13(2);

(v) take any other appropriate action designed to further the objectives of this Treaty.

(3) (Representation) A delegate may represent, and vote in the name of, one State only.

(4) (Voting) Each Contracting State shall have one vote.

(5) (Quorum) (a) One-half of the Contracting States shall constitute a quorum.

(b) 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 quorum and the required majority are attained through voting by correspondence as provided in the Regulations.

[Article 12, continued]

(6) [Same as in the final text, except that, in the draft, the reference is to "Articles ... 15(3)" instead of "Articles ... 15(2)(c)."]

(7)(a) [Same as in the final text.]

(b) [Same as in the final text.]

(8) [Same as in the final text.]

Article 13

Finances

(1) [Self-supporting Financing] The amount of the fees and the selling price of the Gazette referred to in this Treaty shall be fixed at a level which allows the total revenue of the International Bureau derived from such fees and the sale of the Gazette to cover all the costs of the International Bureau arising from the administration of this Treaty. The amount of the fees shall be reviewed at least once a year.

(2) [Financial Implication] The operation of the international recording system shall have no financial implications, either direct or indirect, for States not participating in the system.

(3) [Rendering of Accounts] The Director General shall report to each ordinary session of the Assembly on the revenue and expenditure connected with the administration of this Treaty.

Article 14

Regulations

(1) [Same as in the final text, except the first sentence, which reads, in the draft, as follows: "The Regulations shall be adopted by the Assembly in its first session."]

(2) [Same as in the final text, except that the words corresponding to "by a decision requiring" read, in the draft, as follows: "and such amendment shall require."]

(3) [Same as in the final text.]

[Article 12, continued]

(6) (Majority) Subject to Articles 14(1) and (2) and 15(2)(c), the decisions of the Assembly shall require a majority of the votes cast.

(7) (Sessions) (a) The Assembly shall meet once in every year in ordinary session upon convocation by the Director General, preferably during the same period and at the same place as the Coordination Committee of the Organization.

(b) The Assembly shall meet in extraordinary session upon convocation by the Director General, either on his own initiative or at the request of one-fourth of the Contracting States.

(8) (Rules of Procedure) The Assembly shall adopt its own rules of procedure.

Article 13

Finances

(1) (Self-supporting Financing) The fees to be paid to the International Bureau and the selling price of the Gazette shall be fixed at a level which allows the total revenue of the International Bureau derived from the said fees and the sale of the Gazette to cover all the costs of the International Bureau arising from the administration of this Treaty. Should any financial year close with a deficit, the Contracting States shall pay contributions to cover such deficit.

(2) (Accounts) The Director General shall report to each ordinary session of the Assembly on the revenue and expenditure connected with the administration of this Treaty and shall submit the corresponding accounts to the Assembly for approval.

Article 14

Regulations

(1) (Adoption of the Regulations) Details in respect of the implementation of the provisions of this Treaty shall be provided in the Regulations adopted by the Assembly at its first session. Adoption shall require a majority of two-thirds of the votes cast.

(2) (Amendment of the Regulations) The Assembly may amend the Regulations by a decision requiring a majority of two-thirds of the votes cast.

(3) (Conflict Between the Treaty and the Regulations) In the case of conflict between the provisions of this Treaty and those of the Regulations, the provisions of this Treaty shall prevail.

Article 15Amendment of the Treaty

(1) [Periodical Amendment] This Treaty may be amended from time to time by the Assembly, with the exception of Article 2, which may be amended only by a conference of the Contracting States.

(2) [Amendment Proposals] Proposals for the amendment of this Treaty may be initiated by any Contracting State or by the Director General. Such proposals shall be communicated by the Director General to the Contracting States at least six months in advance of their consideration by the Assembly.

(3) [Adoption] Adoption of amendments to this Treaty shall require a majority of two-thirds of the votes of the members of the Assembly.

(4) [Entry Into Force] Any amendment to this Treaty shall enter into force one month after written notifications of acceptance have been received by the Director General from three-fourths of the Contracting States members of the Assembly at the time the Assembly adopted the amendment.

(5) [Effect of Acceptance] Any amendment which has been accepted and which has entered into force shall bind all Contracting States which were Contracting States at the time the Assembly adopted the amendment and all States which become Contracting States after the date on which the amendment was adopted by the Assembly.

Article 16Becoming Party to the Treaty

(1) [*Same as in the final text.*]

(2) [*Same as in the final text.*]

Article 17Entry Into Force of the Treaty

(1) [*Same as in the final text, except that, in the draft, the words corresponding to "ten States" are "three States."*]

Article 15Revision and Amendment of the Treaty

(1) (Revision) This Treaty may be revised in conferences of the Contracting States.

(2) (Amendment) (a) Article 3(2) to (8), Articles 4 to 7, Article 8(3) to (7) and Articles 9 to 12 and 14 may be amended by the Assembly.

(b) Proposals for the amendment of the provisions referred to in subparagraph (a) may be initiated by any Contracting State or by the Director General. Such proposals shall be communicated by the Director General to the Contracting States at least six months in advance of their consideration by the Assembly.

(c) Adoption of amendments to the said provisions shall require a majority of two-thirds of the votes of the members of the Assembly.

(d) Any amendment to the said provisions shall enter into force one month after written notifications of acceptance have been received by the Director General from three-fourths of the Contracting States members of the Assembly at the time the Assembly adopted the amendment.

(e) Any amendment to the said provisions which has been accepted and which has entered into force shall bind all the Contracting States which were Contracting States at the time the Assembly adopted the amendment and all the States which become Contracting States after the date on which the amendment was adopted by the Assembly.

Article 16Becoming Party to the Treaty

(1) (Ratification; Accession) Any State Member of the Organization may become party to this Treaty by:

(i) signature followed by the deposit of an instrument of ratification, or

(ii) deposit of an instrument of accession.

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

Article 17Entry Into Force of the Treaty

(1) (Initial Entry Into Force) This Treaty shall enter into force three months after ten States have deposited their instruments of ratification or accession.

[Article 17, continued]

- (2) [*Same as in the final text.*]

Article 18Reservations to the Treaty

[*Same as in the final text.*]

Article 19Denunciation of the Treaty

- (1) [*Same as in the final text.*]

- (2) [*Same as in the final text.*]

Article 20Signature and Languages of the Treaty

(1) [*Same as in the final text, except that the draft contains the words "in the English and French languages, both texts" instead of the words "in the English, French, Russian and Spanish languages, all texts."*]

(2) [Official Texts] Official texts shall be established by the Director General, after consultation with the interested Governments, in the [...] languages, and such other languages as the Assembly may designate.

(3) [Time Limit for Signature] This Treaty shall remain open for signature at Geneva until [...].

[Article 17, continued]

(2) (States to Which the Initial Entry Into Force Does Not Apply) Any State which is not among those referred to in paragraph (1) shall become bound by this Treaty one month after the date on which it has deposited its instrument of ratification or accession.

Article 18

Reservations to the Treaty

No reservations to this Treaty are permitted.

Article 19

Denunciation of the Treaty

(1) (Notification) Any Contracting State may denounce this Treaty by notification addressed to the Director General.

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

Article 20

Signature and Languages of the Treaty

(1) (Original Texts) This Treaty shall be signed in a single original in the English, French, Russian and Spanish languages, all texts being equally authentic.

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

(3) (Time Limit for Signature) This Treaty shall remain open for signature at Geneva until December 31, 1978.

Article 21Depositary Functions

- (1) *[Same as in the final text, except that the draft contains in addition the words ", when no longer open for signature," after the word "Treaty."]*
- (2) *[Same as in the final text, except that the draft contains, before the words "all the States Members" and "any other State," the words "the Governments of" and "the Government of," respectively.]*
- (3) *[Same as in the final text.]*
- (4) *[Same as in the final text, except that the draft contains, before the words "the Contracting States" and "any other State," the words "the Governments of" and "the Government of," respectively.]*

Article 22Notifications

The Director General shall notify the Governments of the Contracting States of:

- (i) deposits of instruments of ratification or accession under Article 16(2);
- (ii) the date of entry into force of this Treaty under Article 17(1) and of any amendment under Article 15(5);
- (iii) any denunciation notified under Article 19;
- (iv) any appointment under Article 4(1) and any revocation of an appointment under Article 4(4).

Article 21Depositary Functions

(1) (Deposit of the Original Texts) The original of this Treaty shall be deposited with the Director General.

(2) (Certified Copies) The Director General shall transmit two copies, certified by him, of this Treaty to all the States Members of the Organization and, on request, to any other State.

(3) (Registration of the Treaty) The Director General shall register this Treaty with the Secretariat of the United Nations.

(4) (Amendments) The Director General shall transmit two copies, certified by him, of any amendment to this Treaty to the Contracting States and, on request, to any other State.

Article 22Notifications

The Director General shall notify the States Members of the Organization of:

- (i) signatures under Article 20;
- (ii) deposits of instruments of ratification or accession under Article 16(2);
- (iii) the date of the entry into force of this Treaty under Article 17(1);
- (iv) the Regulations adopted under Article 14(1);
- (v) acceptance of amendments to this Treaty under Article 15(2);
- (vi) any amendment of the Regulations under Article 14(2);
- (vii) the dates on which amendments to this Treaty or the Regulations enter into force;
- (viii) any appointment under Article 4(1) and any revocation of an appointment under Article 4(3);
- (ix) any denunciation notified under Article 19.

IN WITNESS WHEREOF, the undersigned being duly authorized thereto, have signed this Treaty.

DONE at Geneva, this seventh day of March, one thousand nine hundred and seventy-eight.*

BULGARIA (B. Todorov, K. Iliev); CZECHOSLOVAKIA (V. Vaniš); HUNGARY (December 29, 1978) (E. Tasnádi, György Szénási); MOROCCO (December 7, 1978) (Ali Skalli); SOVIET UNION (December 29, 1978) (Z. Mironova).

* Editor's Note: The signatures were affixed on March 7, 1978, unless otherwise indicated.

FINAL ACT

**TEXT OF THE FINAL ACT
AS ADOPTED BY THE DIPLOMATIC CONFERENCE**

SIGNATORIES

FINAL ACT
of the
DIPLOMATIC CONFERENCE
FOR THE CONCLUSION OF A TREATY ON THE
INTERNATIONAL RECORDING OF SCIENTIFIC DISCOVERIES

In accordance with the decision of the General Assembly of the World Intellectual Property Organization (WIPO) taken at its session in September/October 1976, following preparations by the WIPO Working Group on Scientific Discoveries and by the International Bureau of WIPO, the Diplomatic Conference for the Conclusion of a Treaty on the International Recording of Scientific Discoveries was held from February 27 to March 7, 1978, at Geneva.

The Diplomatic Conference adopted the Geneva Treaty on the International Recording of Scientific Discoveries.

The said Treaty was opened for signature at Geneva on March 7, 1978.

IN WITNESS WHEREOF, the undersigned, being Delegates of the States Members of the World Intellectual Property Organization participating in the Diplomatic Conference for the Conclusion of a Treaty on the International Recording of Scientific Discoveries, have signed this Act.

DONE at Geneva, this seventh day of March, one thousand nine hundred and seventy-eight.

AUSTRALIA (Helen Freeman); AUSTRIA (Dr. Otto Leberl); BULGARIA (B. Todorov, K. Iliev); BYELORUSSIAN SSR (V. Jouk); CAMEROON (D. Ekani); CANADA (P. Thibault); CZECHOSLOVAKIA (V. Vaniš); FINLAND (Erkki Wuori); FRANCE (A. Françon); GERMAN DEMOCRATIC REPUBLIC (J. Hemmerling); GERMANY (FEDERAL REPUBLIC OF) (Otto Baron von Stempel); HUNGARY (E. Tasnádi); ITALY (Nicola Faiel Dattilo); MEXICO (Ofelia Reyes Retana); NORWAY (Harald Høstmark); POLAND (R. Farfał); PORTUGAL (Adriano de Carvalho); QATAR (A. Zainal); SENEGAL (Y. Barro); SPAIN (Julio Delicado); SOVIET UNION (L. Komarov); SWEDEN (Lars Grundberg); SWITZERLAND (M. Jeanrenaud); UKRAINIAN SSR (Y. Egorov); UNITED KINGDOM (D.H. Cecil); UNITED STATES OF AMERICA (B.L. Grossman).

CONFERENCE DOCUMENTS

CONFERENCE DOCUMENTS "DS/CD"

(DS/CD/1 to DS/CD/26)

List of Documents

<u>Document Number</u>	<u>Submitted by</u>	<u>Subject</u>
1.	The Director General of WIPO	Provisional Agenda
2.	The International Bureau of WIPO	Provisional Rules of Procedure of the Diplomatic Conference
3.	The International Bureau of WIPO	Draft Treaty on the International Recording of Scientific Discoveries
4.	Spain and Mexico	Proposal concerning the draft Treaty (Article 20(1))
5.	The Diplomatic Conference	Rules of Procedure of the Diplomatic Conference
6.	Italy	Proposal concerning the draft Treaty (Article 2)
7.	Soviet Union	Proposal concerning the draft Treaty (Article 1)
8.	Soviet Union	Proposal concerning the draft Treaty (Article 2)
9.	Soviet Union	Proposal concerning the draft Treaty (Article 3)
10.	Bulgaria	Proposal concerning the draft Treaty (Article 3(2))
11.	Soviet Union	Proposal concerning the draft Treaty (Article 5)
12.	Soviet Union	Proposal concerning the draft Treaty (Article 10)
13.	United States of America	Proposal concerning the draft Treaty (Article 13)
14.	United States of America	Proposal concerning the draft Treaty (Articles 12 and 15)
15.	The Contact Group	Proposals concerning the draft Treaty (Articles 2, 4(3), 5(4) and 17(1)) and the agreed statements to be included in the Records of the Diplomatic Con- ference
16.	The Credentials Committee	Credentials Committee (Report pre- pared by the Secretariat)
17.	The Contact Group	Proposals concerning the draft Treaty (Articles 1, 2 and 15) and an agreed statement to be included in the Rec- ords of the Diplomatic Conference
18.	France	Article 3(3)(vii)
19.	The Drafting Committee	Draft Treaty on the International Recording of Scientific Discoveries
20.	The Drafting Committee	Draft agreed statements adopted by the Diplomatic Conference to be included in the Records of the Diplomatic Con- ference

<u>Document Number</u>	<u>Submitted by</u>	<u>Subject</u>
21.	The Diplomatic Conference	Agreed statements to be included in the Records of the Diplomatic Conference, adopted on March 3, 1978, by the Diplomatic Conference
22.	The Diplomatic Conference	Geneva Treaty on the International Recording of Scientific Discoveries adopted in English and French on March 3, 1978, by the Diplomatic Conference
23.	The Diplomatic Conference	Final Act adopted in English and French on March 3, 1978, by the Diplomatic Conference
23.Rev.	The Secretariat of the Diplomatic Conference	Final Act adopted in English and French on March 3, 1978, by the Diplomatic Conference (revised document)
24.	The Diplomatic Conference	Geneva Treaty on the International Recording of Scientific Discoveries adopted in English, French, Russian and Spanish, on March 7, 1978, by the Diplomatic Conference (Note)
25.	The Diplomatic Conference	Final Act adopted in English, French, Russian and Spanish, on March 7, 1978, by the Diplomatic Conference (Note)
26.	The Secretariat of the Diplomatic Conference	Signatures. Memorandum by the Secretariat

Text of Documents

DS/CD/1

October 14, 1977 (Original: English)

THE DIRECTOR GENERAL OF WIPO

Provisional Agenda

1. Opening of the Conference by the Director General of WIPO
2. Adoption of the Rules of Procedure (see document DS/CD/2)
3. Election of the President of the Conference
4. Adoption of the agenda (see the present document)
5. Election of the Vice-Presidents of the Conference
6. Election of the members of the Credentials Committee
7. Election of the members of the Drafting Committee
8. Consideration of the first report of the Credentials Committee
9. Consideration of the draft Treaty contained in document DS/CD/3
10. Consideration of the second report of the Credentials Committee

11. Consideration of the draft Treaty submitted by the Drafting Committee and adoption of the Treaty
12. Closing of the Conference by the President*

* Immediately after the closing of the Conference, the Treaty will be open for signature.

DS/CD/2

November 30, 1977 (Original: English)

THE INTERNATIONAL BUREAU OF WIPO

Provisional Rules of Procedure of the Diplomatic Conference

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CHAPTER I: OBJECTIVE, COMPETENCE, COMPOSITION, SECRETARIAT

Rule 1: Objective and Competence

(1) The objective of the Diplomatic Conference for the Conclusion of a Treaty on the International Recording of Scientific Discoveries meeting in Geneva from February 27 to March 7, 1978 (hereinafter referred to as "the Conference") is to negotiate and adopt, on the basis of the draft contained in document DS/CD/3 a Treaty on the International Recording of Scientific Discoveries (hereinafter referred to as "the Treaty").

(2) The Conference, meeting in Plenary, shall be competent to:

(i) adopt and amend these Rules of Procedure (hereinafter referred to as "these Rules");

(ii) decide on credentials, full powers, letters or other documents presented in accordance with Rules 6, 7 and 8 of these Rules;

(iii) establish such committees and working groups as are provided for in these Rules;

(iv) adopt the Treaty;

(v) adopt any recommendation or resolution whose subject matter is germane to the Treaty;

(vi) adopt any agreed statements to be included in the Records of the Conference;

(vii) adopt any final act of the Conference;

(viii) deal with all other matters referred to it by these Rules or appearing on its agenda.

Rule 2: Composition

(1) The Conference shall consist of:

(i) delegations of the member States of the World Intellectual Property Organization (hereinafter referred to as "WIPO") invited by the Director General of WIPO to the Conference.

(ii) delegations of States other than those referred to in (i) above, which are members of the United Nations or of any of the specialized agencies of the United Nations system or Organizations invited by the Director General of WIPO to the Conference.

(iii) representatives of intergovernmental and international non-governmental organizations invited by the Director General of WIPO to the Conference.

(2) Hereinafter, delegations referred to in paragraph (1)(i) are called "Member Delegations," delegations referred to in paragraph (1)(ii) are called "Observer Delegations," and representatives of organizations referred to in paragraph (1)(iii) are called "representatives of Observer Organizations." The term "Delegations," as hereinafter used, shall, unless otherwise expressly indicated, include Member Delegations and Observer Delegations. The term "Delegations," does not include the representatives of Observer Organizations.

(3) The Conference may invite to one or more of its meetings any person whose technical advice it may consider useful for its work.

Rule 3: Secretariat

(1) The Conference shall have a Secretariat provided by the International Bureau of WIPO.

(2) The Director General of WIPO and any other official of the International Bureau of WIPO designated by the Director General of WIPO may participate in the discussions of the Conference, meeting in Plenary, as well as in any committee or working group thereof and may, at any time, make oral or written statements, observations or suggestions to the Conference, meeting in Plenary, and any committee or working group thereof concerning any question under consideration.

CHAPTER II: REPRESENTATION

Rule 4: Representation of Governments

(1) Each Delegation shall consist of one or more delegates and may include alternate delegates and advisors. Each Delegation shall have a Head of Delegation and may have an Alternate or Deputy Head of Delegation.

(2) The term "delegate" or "delegates," as hereinafter used, shall, unless otherwise expressly indicated, include both member delegates and observer delegates. The term does not include representatives of Observer Organizations.

(3) An alternate delegate or an advisor may act as a delegate upon designation by the Head of his Delegation.

Rule 5: Representation of Observer Organizations

An Observer Organization may be represented by one or more representatives.

Rule 6: Credentials and Full Powers

(1) Each Delegation shall present credentials.

(2) Full powers shall be required for signing the Treaty. Such powers may be included in the credentials.

(3) Credentials and full powers shall be issued by the Head of the State or Government, or by the Minister responsible for external affairs.

Rule 7: Letters of Appointment

The representatives of Observer Organizations shall present a letter or other document appointing them. Such letter or document shall be signed by the Head (Director General, Secretary General, or President) of the Organization.

Rule 8: Presentation of Credentials, etc.

The credentials and full powers referred to in Rule 6 and the letters or other documents referred to in Rule 7 shall be presented to the Secretary General of the Conference (see Rule 19(1)), if possible, not later than twenty-four hours after the opening of the Conference.

Rule 9: Examination of Credentials, etc.

(1) The Credentials Committee referred to in Rule 11 shall examine the credentials, full powers, letters or other documents referred to in Rules 6 and 7 respectively and shall report to the Conference, meeting in Plenary.

(2) The final decision on the said credentials, full powers, letters or other documents shall be within the competence of the Conference, meeting in Plenary. Such decision shall be made as soon as possible and in any case before the vote on the adoption of the Treaty.

Rule 10: Provisional Participation

Pending a decision upon their credentials, letters or other documents of appointment, Delegations and representatives of Observer Organizations shall be entitled to participate provisionally in the deliberations of the Conference as provided in these Rules.

CHAPTER III: COMMITTEES AND WORKING GROUPS

Rule 11: Credentials Committee

(1) The Conference shall have a Credentials Committee.

(2) The Credentials Committee shall consist of five members elected by the Conference, meeting in Plenary, from among the Member Delegations.

(3) The officers of the Credentials Committee shall be elected by, and from among, its members.

Rule 12: Drafting Committee

(1) The Conference shall have a Drafting Committee.

(2) The Drafting Committee shall consist of five members elected by the Conference, meeting in Plenary, from among the Member Delegations.

(3) The officers of the Drafting Committee shall be elected by, and from among, its members.

(4) The Drafting Committee shall prepare drafts and give advice on drafting as requested by the Conference, meeting in Plenary. The Drafting Committee shall not alter the substance of texts submitted to it, but shall coordinate and review the drafting of all texts provisionally adopted by the Conference, meeting in Plenary, and shall submit the texts so reviewed for final adoption by the Conference, meeting in Plenary.

Rule 13: Working Groups, Other Committees

(1) The Conference may establish such working groups or committees (other than the Credentials Committee and Drafting Committee) as it deems useful.

(2) The number of the members of any working group or committee (other than the Credentials Committee and Drafting Committee) shall be decided by the Conference, meeting in Plenary, which shall elect them from among the Member Delegations.

(3) The officers of any working group or committee established under this Rule shall be elected by, and from among, its members.

Rule 14: Steering Committee

(1) The Steering Committee of the Conference shall consist of the President of the Conference, the Chairman of the Credentials Committee and the Chairman of the Drafting Committee.

(2) If the President of the Conference or the Chairman of the Credentials Committee or the Chairman of the Drafting Committee finds it necessary to be absent during a meeting of the Steering Committee, one of the Vice-Presidents of the Conference or of the Vice-Chairmen of the Credentials Committee or of the Vice-Chairmen of the Drafting Committee, as the case may be, in the order of precedence indicated in Rule 15(3), shall sit and vote in the Steering Committee.

(3) The Steering Committee shall meet from time to time to review the progress of the Conference and to make decisions for furthering such progress, including in particular decisions on the coordinating of the meetings of the Plenary, the committees and the working groups.

(4) The Steering Committee shall propose for adoption by the Conference, meeting in Plenary, the text of any final act of the Conference.

CHAPTER IV: OFFICERS**Rule 15: Officers**

(1) The Conference, meeting in Plenary and presided over by the Director General of WIPO, shall elect its President, and, presided over by its President, elect two Vice-Presidents.

(2) The Credentials Committee and the Drafting Committee shall each have a Chairman and two Vice-Chairmen.

(3) Precedence among the Vice-Presidents and Vice-Chairmen shall depend on the place occupied by the name of the State of each of them in the list of Member Delegations established in the French alphabetical order.

(4) All officers must be delegates of Member Delegations.

Rule 16: Acting President or Acting Chairman

(1) If the President of the Conference or any Chairman is absent from any meeting of the body to be chaired by him (the Conference, meeting in Plenary, committee or working group), such meeting shall be presided over, as Acting President or Acting Chairman, by that Vice-President or Vice-Chairman of that body who, among the Vice-Presidents or Vice-Chairmen present, has precedence over the other.

(2) If both the President and the Vice-Presidents or both the Chairman and the Vice-Chairmen are absent from any meeting of the body in which they hold a function (the Conference, meeting in Plenary, committee or working group), an Acting President or Acting Chairman as the case may be, shall be elected by that body.

Rule 17: Replacement of President or Chairman

If the President or any Chairman is, for the rest of the duration of the Conference, unable to perform his functions, a new President or Chairman shall be elected by the body concerned (the Conference, meeting in Plenary, committee or working group).

Rule 18: Presiding Officer Not Entitled To Vote

No President or Chairman, whether elected as such or Acting (hereinafter referred to as "the Presiding Officer"), shall vote. Another member of his Delegation may vote in the name of his State.

CHAPTER V: SECRETARIAT

Rule 19: Secretariat

(1) The Director General of WIPO shall, from among the staff of WIPO, designate the Secretary General of the Conference, the Assistant Secretary General of the Conference, the Secretary of the Credentials Committee, the Secretary of the Drafting Committee, the Secretary of the Steering Committee and a Secretary for each other committee and for each working group.

(2) The Secretary General of the Conference shall direct the staff required by the Conference.

(3) The Secretariat shall provide for the receiving, translation, reproduction and distribution of the required documents; the interpretation of oral interventions; and the performance of all other secretarial work required for the Conference.

(4) The Director General of WIPO shall be responsible for the custody and preservation in the archives of WIPO of all documents of the Conference; the publication of the summary minutes (see Rule 44) of the Conference after the Conference; and the distribution of the final documents of the Conference to the participating Governments.

CHAPTER VI: CONDUCT OF BUSINESS

Rule 20: Quorum

(1) One-half of the Member Delegations whose credentials were accepted by the Credentials Committee shall constitute the required quorum in the Conference, when meeting in Plenary.

Rule 21: General Powers of the Presiding Officer

(1) In addition to exercising the powers conferred upon him elsewhere by these Rules, the Presiding Officer shall declare the opening and closing of the meetings, direct the discussions, accord the right to speak, put questions to the vote, and announce decisions. He shall rule on points of order and, subject to these Rules, shall have complete control of the proceedings at any meeting and over the maintenance of order thereat.

(2) The Presiding Officer may propose to the meeting the limiting of time to be allowed to speakers, the limitation of the number of times each Delegation may speak on any question, the closure of the list of speakers, or the closure of the debate. He may also propose the suspension or the adjournment of the meeting, or the adjournment of the debate on the question under discussion. Such proposals of the Presiding Officer shall be considered as adopted unless immediately rejected by the majority of the Member Delegations present and voting.

Rule 22: Speeches

(1) No person may speak without having previously obtained the permission of the Presiding Officer. Subject to Rules 23 and 24, the Presiding Officer shall call upon speakers in the order in which they signify their desire to speak.

(2) The Presiding Officer may call a speaker to order if his remarks are not relevant to the subject under discussion.

Rule 23: Precedence

(1) Member Delegations asking for the floor may be accorded precedence over Observer Delegations asking for the floor, and either may be accorded precedence over representatives of Observer Organizations.

(2) The Chairman of a committee or working group may be accorded precedence for the purpose of explaining the conclusions arrived at by his committee or working group.

(3) The Director General of WIPO or his representative may be accorded precedence for making statements, observations or suggestions relevant to the subject under discussion.

Rule 24: Points of Order

(1) During the discussion of any matter, any participant may rise to a point of order, and the point of order shall be immediately decided by the Presiding Officer in accordance with these Rules. Any Member Delegation may appeal against the ruling of the Presiding Officer. The appeal shall be immediately put to the vote, and the Presiding Officer's ruling shall stand unless overruled by a majority of the Member Delegations present and voting.

(2) Any participant rising to a point of order may not speak on the substance of the matter under discussion.

Rule 25: Limit on Speeches

In any meeting, the Member Delegations may decide to limit the time to be allowed to each speaker and the number of times each Delegation or representative of an Observer Organization may speak on any question. When the debate is limited and a Delegation or Observer Organization has used up its allotted time, the Presiding Officer shall call it to order without delay.

Rule 26: Closing of List of Speakers

During the discussion of any given question, the Presiding Officer may announce the list of participants who have signified their wish to speak and, with the consent of the Member Delegations, declare the list closed as to that question. The Presiding Officer may nevertheless accord the right of reply to any speaker if a speech, delivered after he has declared the list of speakers closed, makes it desirable.

Rule 27: Adjournment or Closure of Debate

Any Member Delegation may at any time move the adjournment or closure of the debate on the question under discussion, whether or not any other participant has signified his wish to speak. In addition to the proposer of the motion to adjourn

or close the debate, permission to speak on that motion shall be accorded to one Member Delegation supporting and two Member Delegations opposing it, after which the motion shall immediately be put to the vote. The Presiding Officer may limit the time allowed to speakers under this Rule.

Rule 28: Suspension or Adjournment of the Meeting

During the discussion of any matter, any Member Delegation may move the suspension or the adjournment of the meeting. Such motions shall not be debated, but shall immediately be put to the vote.

Rule 29: Order of Procedural Motions; Content of Interventions on Such Motions

(1) Subject to Rule 24, the following motions shall have precedence in the following order over all other proposals or motions before the meeting:

- (i) to suspend the meeting;
- (ii) to adjourn the meeting;
- (iii) to adjourn the debate on the question under discussion;
- (iv) to close the debate on the question under discussion.

(2) Any speaker who has been given the floor on a procedural motion may not speak on the substance of the matter under discussion.

Rule 30: Basic Proposal and Proposals for Amendments

(1) Document DS/CD/3 shall constitute the basis of the discussions in the Conference ("basic proposal").

(2) Any Member Delegation may propose amendments.

(3) Proposals for amendments shall, as a rule, be submitted in writing and handed to the Secretary of the competent body (the Conference, meeting in Plenary, committee or working group). The Secretariat shall distribute copies to the Delegations and Observer Organizations represented in the body concerned. As a general rule, no proposal for amendment shall be discussed or put to the vote in any meeting unless copies of it have been made available not later than three hours before it is called up for discussion. The Presiding Officer may, however, permit the discussion and consideration of a proposal for amendment even though copies have not been distributed or have been made available less than three hours before it is called up for discussion.

Rule 31: Decisions on Competence

Subject to Rule 24, any motion calling for a decision on the competence of the Conference to discuss any matter or to adopt a proposal or an amendment submitted to it shall be put to the vote before the matter is discussed or a vote is taken on the proposal or the amendment in question.

Rule 32: Withdrawal of Procedural Motions and Proposals for Amendments

Any procedural motion and any proposal for amendment may be withdrawn by the Member Delegation which has made it, at any time before voting on it has commenced, provided that no amendment to that motion or proposal has been proposed by another Delegation. Any motion or proposal which has thus been withdrawn may be reintroduced by any other Member Delegation.

Rule 33: Reconsideration of Matters Decided

When any matter has been decided by a body (the Conference, meeting in Plenary, committee or working group), it may not be reconsidered by that body, unless so decided by a two-thirds majority of the Member Delegations present and voting. In addition to the proposer of the motion to reconsider, permission to speak on that motion shall be accorded only to one Member Delegation seconding and two Member Delegations opposing the motion, after which the question of reconsideration shall immediately be put to the vote.

CHAPTER VII: VOTING

Rule 34: Voting Rights

Each Member Delegation shall have the right to vote in the Conference, meeting in Plenary, and in each committee or working group of which it is a member. A Member Delegation shall have one vote and shall represent and vote in the name of its own Government only.

Rule 35: Required Majorities

(1) Adoption of the Treaty shall require a majority of two-thirds of the Member Delegations present and voting in the final vote of the Conference, meeting in Plenary.

(2) Subject to Rules 33 and 49(3), any other decision of the Conference, meeting in Plenary, and all decisions in any committee or working group shall require a simple majority of the Member Delegations present and voting.

(3) For the purpose of these Rules, references to Member Delegations "present and voting" shall be construed as references to Member Delegations present and casting an affirmative or negative vote. Express abstention, non-voting or absence during the vote shall not be considered as votes cast.

Rule 36: Requirement of Seconding; Method of Voting

(1) Any proposal for amendment made by a Member Delegation shall be put to a vote only if it is seconded by at least one other Member Delegation.

(2) Voting on any question shall be by show of hands unless any Member Delegation requests a roll-call, in which case it shall be by roll-call. The roll shall be called in the French alphabetical order of the names of the States, beginning with the Member Delegation whose name is drawn by lot by the Presiding Officer.

Rule 37: Conduct During Voting

(1) After the Presiding Officer has announced the beginning of voting, the voting shall not be interrupted except on a point of order concerning the actual conduct of the voting.

(2) The Presiding Officer may permit Member Delegations to explain their votes, either before or after the voting.

Rule 38: Division of Proposals

Any Member Delegation may move that parts of the basic proposal or of proposals for amendments be voted upon separately. If objection is made to the request for division, the motion for division shall be put to a vote. In addition to the proposer of the motion for division, permission to speak on that motion shall be given only to one Member Delegation in favor and two Member Delegations against. If the motion for division is carried, all parts separately approved shall again be put to the vote, together, as a whole. If all operative parts of the basic proposal or of the proposal for amendment have been rejected, the basic proposal or the proposal for amendment shall be considered to have been rejected as a whole.

Rule 39: Voting on Proposals for Amendments

Any proposal for amendment shall be voted upon before voting upon the text to which it relates. Proposals for amendments relating to the same text shall be put to a vote in the order in which their substance is removed from the said

text, the furthest removed being put to a vote first and the least removed being put to a vote last. If, however, the adoption of any proposal for amendment necessarily implies the rejection of any other proposal for amendment or of the original text, such proposal or text shall not be put to the vote. If one or more proposals for amendment relating to the same text are adopted, the text as amended shall be put to a vote. Any proposal to add to, or delete from, a text shall be considered a proposal for amendment.

Rule 40: Voting on Proposals on the Same Question

Subject to Rule 39, where two or more proposals relate to the same question, the body (the Conference, meeting in Plenary, committee or working group) concerned shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted. The body may, after each vote on a proposal, decide whether to vote on the next proposal.

Rule 41: Elections on the Basis of Proposals Made by the President of the Conference

The President of the Conference may propose a list of candidates for any position which is to be filled by vote of the Conference and is not yet filled through election by the Conference, meeting in Plenary.

Rule 42: Equally Divided Votes

(1) If a vote is equally divided on matters other than elections of officers, the proposal shall be regarded as rejected.

(2) If a vote is equally divided on a proposal for electing a given person as an officer, the vote shall be repeated if the nomination is maintained until either that nomination is adopted or rejected or another person is elected for the position in question.

CHAPTER VIII: LANGUAGES AND MINUTES

Rule 43: Languages of Oral Interventions

(1) Subject to paragraph (2), oral interventions made in the meetings of any body (the Conference, meeting in Plenary, committee or working group) shall be in English, French, Russian or Spanish, and interpretation shall be provided by the Secretariat into the other three languages.

(2) Any Delegation may make oral interventions in another language provided its own interpreter simultaneously interprets the intervention into English, French, Russian or Spanish. Interpretation into the other of the said languages by the interpreters of the Secretariat may be based on the interpretation given in one of the said languages.

(3) Any committee or working group may, if none of its members objects, decide to waive interpretation or to limit it to fewer than the languages referred to in paragraphs (1) and (2).

Rule 44: Summary Minutes

(1) Provisional summary minutes of the Plenary meetings of the Conference shall be drawn up by the International Bureau of WIPO and shall be made available as soon as possible, after the closing of the Conference to all speakers, who shall, within two months after the making available of such minutes, inform the International Bureau of WIPO of any suggestions for changes in the minutes of their own interventions.

(2) The final summary minutes shall be published in due course by the International Bureau of WIPO.

Rule 45: Languages of Documents and Minutes

(1) Any written proposal shall be presented to the Secretariat in English French.

(2) Subject to paragraph (3), all documents distributed during or after the Conference shall be made available in English and French.

(3)(a) Provisional summary minutes shall be drawn up in the language used by the speaker if the speaker has used English or French; if the speaker has used another language, his intervention shall be rendered in English or French as may be decided by the International Bureau of WIPO.

(b) The final summary minutes shall be made available in English and French.

(c) The text of the Treaty and of any recommendation or resolution or final act adopted by the Conference shall be made available in the languages in which it is adopted.

CHAPTER IX: OPEN AND CLOSED MEETINGS**Rule 46: Meetings of the Conference**

The Plenary meetings of the Conference shall be open to the public unless the Conference, meeting in Plenary, decides otherwise.

Rule 47: Meetings of Committees and of Working Groups

The meetings of any committee or working group shall be open only to the members of that committee or working group and the Secretariat.

CHAPTER X: OBSERVERS

Rule 48: Observers

- (1) Observer Delegations and Observer Organizations may participate in the deliberations of the Conference, meeting in Plenary, as provided in these Rules.
- (2) Representatives of any Observer Organization may, upon the invitation of the Presiding Officer, make oral statements in the Conference, meeting in Plenary, on questions within the scope of their activities.
- (3) Observer Delegations and Observer Organizations shall not have the right to vote.

CHAPTER XI: ADOPTION OF AND AMENDMENTS TO THE RULES OF PROCEDURE

Rule 49: Adoption of and Amendments to the Rules of Procedure

- (1) The Rules of Procedure, based on Provisional Rules of Procedure prepared by the International Bureau of WIPO, shall be adopted by the Conference, meeting in Plenary. Adoption shall require a simple majority of the votes cast by the Member Delegations present and voting.
- (2) With the exception of Rule 35(1) and the present Rule, the Conference, meeting in Plenary, may amend these Rules.
- (3) The adoption of any amendment shall require a majority of two-thirds of the votes cast by the Member Delegations present and voting.

CHAPTER XII: FINAL ACT

Rule 50: Final Act

If a final act is adopted, it shall be open for signature by any Member Delegation.

DS/CD/3

October 14, 1977 (Original: English)

THE INTERNATIONAL BUREAU OF WIPO

Draft Treaty on the International Recording of Scientific Discoveries

Editor's Note: The text of the draft Treaty as appearing in this document is reproduced on the even-numbered pages from 10 to 36 of these Records. The preliminary observations which accompanied the text of the draft Treaty are reproduced hereafter.

Preliminary Observations on the Draft Treaty

1. Scientific discoveries are generally considered the basis on which any technological progress is founded. Technical inventions differ from scientific discoveries in that the former, unlike the latter, are directly applicable in industry.
2. The definition of "intellectual property" contained in Article 2(viii) of the Convention Establishing the World Intellectual Property Organization comprises "rights relating to scientific discoveries." Such rights exist in some Member States of the World Intellectual Property Organization (WIPO) in the form of a right to obtain recognition as the author of a scientific discovery through the official recording of such authorship; in addition to such recording, a discoverer may also obtain recognition by other means and in the form of remuneration.
3. At the international level, there is as yet no system for the recording of the authorship of scientific discoveries. The draft Treaty contained in this document, once it has been adopted and has entered into force, will establish such a system. The Treaty will provide for the international recording of scientific discoveries by the International Bureau of WIPO upon the filing of an application by the author of a scientific discovery. Each application will have to be sponsored by a scientific institution appointed for that purpose by a Contracting State. Once the scientific discovery has been recorded by the International Bureau, a certificate will be issued to the applicant and the recording will be published. Any person may file observations concerning the recorded scientific discovery, and any such observations will also be recorded and brought to the attention of the discoverer whose discovery was recorded and the sponsoring scientific institution. The international recording of a scientific discovery will not entail the obligation for a Contracting State to give any legal effect to such recording. The system of international recording will be financed from fees to be paid by the applicants and from the sale of publications.
4. The draft Treaty contained in this document is the result of the deliberations of the WIPO Working Group on Scientific Discoveries. The Working Group held four sessions and completed its task in 1976 by presenting two alternative texts: a draft Resolution to be adopted by the General Assembly of WIPO and a draft Treaty to be adopted by a Diplomatic Conference. In its third ordinary session in September-October 1976, the General Assembly of WIPO decided that the draft Treaty should be submitted to a Diplomatic Conference for its adoption.

DS/CD/4

February 27, 1978 (Original: French)

SPAIN AND MEXICO

Proposal concerning the draft Treaty (Article 20(1))

Article 20(1) of the draft Treaty should read as follows:

"This Treaty shall be signed in a single original in the English, French, and Spanish languages, the three texts being equally authentic."

DS/CD/5

February 27, 1978 (Original: English/French)

THE DIPLOMATIC CONFERENCE

Rules of Procedure of the Diplomatic Conference

The Rules of Procedure adopted by the Diplomatic Conference are those set forth in document DS/CD/2, with the following amendments:

1. Rule 1: Objective and Competence

(The amendment affects only the French text. The English text remains unchanged.)

2. Rule 14: Steering Committee

Paragraph (1) shall read as follows:

"The Steering Committee of the Conference shall consist of the President of the Conference, the two Vice-Presidents of the Conference, the Chairman of the Credentials Committee and the Chairman of the Drafting Committee."

DS/CD/6

February 28, 1978 (Original: French)

ITALY

Proposal concerning the draft Treaty (Article 2)

Add at the end of Article 2 of the Draft Treaty the following:

"... or to prevent, limit or condition in any manner whatsoever the freedom of any person to utilize the scientific discovery."

DS/CD/7

February 28, 1978 (Original: French)

SOVIET UNION

Proposal concerning the draft Treaty (Article 1)1. Item (v) should have the following wording:

"'applicant' means the person or persons, including legal entities, filing the application specifically identifying the true authors of the scientific discovery."

2. An additional item should be inserted after item (v), with the following wording:

"'priority date' means the date of making acquainted third parties with a provision claimed as a scientific discovery."

DS/CD/8

February 28, 1978 (Original: English)

SOVIET UNION

Proposal concerning the draft Treaty (Article 2)Article 2 should read as follows:"Article 2Scope of the International Recording

(1) [Legal effects] The system for the international recording of scientific discoveries instituted by this Treaty presumes that a Contracting State, in respect of a discoverer, who is a national or a resident of that State, shall guarantee the rights in a scientific discovery, including a right to a remuneration, in accordance with the national legislation of the State, as well as the possibility of receiving a declaration in accordance with Article 3(2).

(2) [Time limits] A scientific discovery may be filed for the international recording not later than [ten] years from its priority date.

(3) [Exceptions] The provisions of this Treaty shall not apply to geographical, archaeological and paleontological discoveries, discoveries of useful mineral deposits and discoveries in the field of the social sciences."

DS/CD/9

February 28, 1978 (Original: English)

SOVIET UNION

Proposal concerning the draft Treaty (Article 3)Article 3 should read as follows:"Article 3The Application

(1) [Possibility of Filing an Application; Where to File] Any discoverer who is a national or a resident of a Contracting State may request international recording by filing an application with the International Bureau in the manner established by the Regulations referred to in Article 14. The application may be filed by a legal entity, the discoverer being indicated therein.

(2) [Date; Signature; Declaration] The application shall contain a request for international recording. It shall be dated and signed by the discoverer. The application for international recording of a scientific discovery shall be filed only together with a recommendation letter of a scientific institution or government authority appointed to that effect under Article 4. The declaration shall contain a statement to the effect that the application is presented by the said institution or authority; the declaration shall contain an opinion (statement) to the effect that the subject of the application corresponds to the definition of a scientific discovery under Article 1(1).

(3) ...

(v**bis**) the priority date of the scientific discovery;

...

(4) [Elements in Description] The description referred to in paragraph (3)(vi) describes the phenomena and contains the reasoning and data proving the reality of the scientific discovery. It may include an indication of the place where the scientific discovery was made.

(5) ...

(6) [Recognition at National Level] Where a government authority has officially recognized the scientific discovery which is the subject of the application by complying with the request of the discoverer to record his discovery or by awarding him a prize or a diploma, or in any other manner, that fact shall be indicated in the application and supporting documents shall be attached to the application. Where such official recognition occurs after the filing of the application, the said indication and documents shall be furnished to the International Bureau after the filing of the application."

DS/CD/10

February 28, 1978 (Original: English)

BULGARIA

Proposal concerning the draft Treaty (Article 3(2))

The last sentence of Article 3(2) should read as follows:

"The declaration shall consist of a statement to the effect that the application is presented by the said institution or authority; the declaration shall also include an opinion on the merits and on the authenticity of the scientific discovery."

DS/CD/11

March 1, 1978 (Original: English)

SOVIET UNION

Proposal concerning the draft Treaty (Article 5)

1. Delete paragraph (4) of Article 5 of the draft Treaty (the existing paragraphs (5) and (6) become paragraphs (4) and (5)).

2. Add as a new item (i) in paragraph (3) of Article 5 of the draft Treaty the following and renumber the existing items (i) and (ii) as items (ii) and (iii):

"(i) the establishment of the fact of the recognition of the scientific discovery, the establishment of the authorship of the discovery and the establishment of the priority of the discoverer;"

DS/CD/12

March 1, 1978 (Original: English)

SOVIET UNION

Proposal concerning the draft Treaty (Article 10)

Replace the existing text of the title of Article 10 and of paragraph (1) of the said Article by the following:

"Article 10Withdrawal of the Declaration and the Application;
Cancellation of the International Recording

(1) [Withdrawal] (a) The declaration referred to in Article 3(2) may, at any time, be withdrawn by the institution or authority which made it. The application may be withdrawn by the applicant at any time before the international recording of the scientific discovery. Where the applicant is a legal entity, the withdrawal of the application shall be made with the consent of the discoverer. Where the withdrawal of the declaration is made before the international recording, the application shall be considered not to have been made. Where the withdrawal of the declaration is made after the international recording, that recording shall be considered as null and void.

(b) The discoverer may ask for the cancellation of the international recording in accordance with the Regulations referred to in Article 14."

DS/CD/13

March 1, 1978 (Original: English)

UNITED STATES OF AMERICA

Proposal concerning the draft Treaty (Article 13)

Add at the end of Article 13 of the draft Treaty a new paragraph as follows:

"(4) Should any financial year close with a deficit, the Contracting States shall pay contributions to cover such deficit."

DS/CD/14

March 1, 1978 (Original: English)

UNITED STATES OF AMERICA

Proposal concerning the draft Treaty (Articles 12 and 15)

1. Add to Article 12(2) of the draft Treaty the following function:

"(iii**bis**) adopt amendments to Articles"

2. Article 15 of the draft Treaty should read as follows:

"Article 15

Amendment of the Treaty

(1) This Treaty may be amended either in conferences of revision consisting of the Contracting States or, within the limits referred to in paragraphs (2) to (5) of this Article, by the Assembly.

(2) The Assembly may amend Articles

(3)(a) Proposals under this Article for the amendment by the Assembly of Articles ... may be initiated by any Contracting State or by the Director General.

(b) Such proposals shall be communicated by the Director General to the Contracting States at least six months in advance of their consideration by the Assembly.

(4)(a) Amendments to the Articles referred to in paragraph (2) shall be adopted by the Assembly.

(b) Adoption of any amendment to Article 12 shall require four-fifths of the votes cast.

(5)(a) Any amendment to the Articles referred to in paragraph (2) 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 Contracting States members of the Assembly at the time the Assembly adopted the amendment.

(b) Any amendment to the said Articles thus accepted shall bind all the Contracting States which were Contracting States at the time the amendment was adopted by the Assembly, provided that any amendment creating financial obligations for the said Contracting States or increasing such obligations shall bind only those Contracting States which have notified their acceptance of such amendment.

(c) Any amendment which has been accepted and which has entered into force in accordance with subparagraph (a) shall bind all States which become Contracting States after the date on which the amendment was adopted by the Assembly."

DS/CD/15

March 2, 1978 (Original: English)

THE CONTACT GROUP

Proposals concerning the draft Treaty (Articles 2, 4(3), 5(4) and 17(1)) and the agreed statements to be included in the Records of the Diplomatic Conference

1. Article 2 should read as follows:

"Article 2

Scope of the International Recording

The system for the international recording of scientific discoveries instituted by this Treaty

(i) provides for the widest possible access to the scientific discoveries,

(ii) does not affect the free use of the ideas contained in scientific discoveries,

(iii) does not affect the freedom of the Contracting States to grant or not to grant rights to discoverers and, where any Contracting State grants such rights, the freedom of such State to fix the conditions for and the contents of such rights."

2. Articles 4(3) and 5(4) of the draft Treaty contained in document DS/CD/3 should be deleted.

3. The following agreed statements should be included in the Records of the Diplomatic Conference:

(a) "In connection with Article 4, the Diplomatic Conference noted that the national law of any Contracting State was free to determine whether or not the responsibility of the designated scientific institution or government authority is involved when it makes a declaration under Article 3(2)."

(b) "In connection with Article 5, the Diplomatic Conference noted that international recording in no way implied certification or guarantee of the allegations made and facts asserted in the application."

4. In Article 17(1) the words "three States" should be replaced by "ten States."

DS/CD/16

March 3, 1978 (Original: English)

THE CREDENTIALS COMMITTEE

Report prepared by the Secretariat

1. The Credentials Committee (hereinafter referred to as "the Committee"), established by the Diplomatic Conference for the Conclusion of a Treaty on the International Recording of Scientific Discoveries (hereinafter referred to as "the Conference"), on February 27, 1978, met twice, on February 28, 1978, and March 2, 1978.

Composition

2. The delegations of the following States members of the Committee attended both meetings: German Democratic Republic, India, Poland, Switzerland and United Kingdom.

Opening of the Meetings

3. The Director General of WIPO, Dr. Arpad Bogsch, opened the first meeting, at which the officers were elected. The Chairman of the Committee opened and presided at the second meeting.

Officers

4. The Committee unanimously elected Mr. K. Swaminathan (India) as Chairman and Mr. D. Schack (German Democratic Republic) and Mr. M. Jeanrenaud (Switzerland) as Vice-Chairmen.

Examination of Credentials, etc.

5. In accordance with Rule 9(1) of the Rules of Procedure adopted by the Conference on February 27, 1978, (hereinafter referred to as "the Rules of Procedure"), the Committee examined at its second meeting the credentials, full powers, letters or other documents presented for the purposes of Rules 6 and 7 by the Member Delegations, the Observer Delegations and the representatives of the Observer Organizations.

Member Delegations

6. The Committee found in due form, in accordance with Rule 6 of the Rules of Procedure, the credentials and full powers presented by the Member Delegations of the following States members of the World Intellectual Property Organization (hereinafter referred to as "WIPO"): Byelorussian SSR, Bulgaria, Cameroon, Czechoslovakia, Finland, France, German Democratic Republic, Hungary, Poland, Portugal, Soviet Union, Spain, Ukrainian SSR, Zaire.

7. (a) The Committee found in due form, in accordance with Rule 6 of the Rules of Procedure, the credentials presented by the Member Delegations of the following States members of WIPO: Australia, Austria, Canada, Germany (Federal Republic of), Ireland, Sweden, Switzerland, United Kingdom, United States of America.

(b) The Committee noted that, in accordance with established practices, powers of representation in principle implied, in the absence of any express reservation, the right of signature, and that it should be left to each Member Delegation to interpret the scope of its credentials.

8. The Committee noted that communications had been received from the Permanent Representatives in Geneva of Greece and Italy informing the Secretariat that the credentials of the Delegations of these respective States had been sent by their Governments and that they should arrive before the close of the Conference.

Observer Organizations

9. The Committee found in due form, in accordance with Rule 7 of the Rules of Procedure, the letters or documents of appointment presented by the representatives of the following intergovernmental and international non-governmental organizations, invited to participate in the Conference as observers: (a) International Telecommunication Union (ITU); (b) International Association for the Protection of Industrial Property (AIPPI).

Further Procedure

10. The Committee expressed the wish that the Secretariat should bring Rule 6 ("Credentials and Full Powers") and 10 ("Provisional Participation") of the Rules of Procedure to the attention of delegations not having presented credentials.

Report

11. The Committee authorized the Secretariat to prepare the report of the Committee for submission to the Conference, and authorized the Chairman to examine and to report to the Conference upon any further credentials and full powers, letters and other documents which might be presented by delegations after the close of its meeting.

DS/CD/17

March 3, 1978 (Original: English/French)

THE CONTACT GROUP

Proposals concerning the draft Treaty (Articles 1, 2 and 15) and an agreed statement to be included in the Records of the Diplomatic Conference1. Article 1 should read as follows:"Article 1Definitions(1) (Definitions) For the purposes of this Treaty:

(i) "scientific discovery" means the recognition of phenomena, properties or laws of the material universe not hitherto recognized and capable of verification;

(ii) "discoverer" means the natural person who has made a scientific discovery himself, through observation, study, experimentation or reasoning, and in a manner decisive for arriving at the recognition thereof; where, in the making of a scientific discovery, several natural persons have jointly fulfilled the said requirements, any reference to a discoverer shall be construed as a reference to all of them;

(iii) "international recording" means the act and the result of the entering, by the International Bureau, of the description and other prescribed details of a scientific discovery in the International Register of Scientific Discoveries kept by the International Bureau;

(iv) "application" means an application for international recording;

(v) "applicant" means the natural person or persons or the legal entity or entities filing the application;

(vi) "Contracting State" means a State party to this Treaty;

(vii) "Assembly" means the Assembly referred to in Article 12;

(viii) "Organization" means the World Intellectual Property Organization;

(ix) "International Bureau" means the International Bureau of the Organization;

(x) "Director General" means the Director General of the Organization;

(xi) "Regulations" means the Regulations referred to in Article 14;

(xii) "Gazette" means the Gazette referred to in Article 7(1).

(2) (Possible Exception) Notwithstanding paragraph (1)(i), any Contracting State is free not to apply this Treaty to geographical, archeological and paleontological discoveries, discoveries of useful mineral deposits and discoveries in the field of social sciences."

2. Article 2 should read as follows:"Article 2Scope of the International Recording

The system for the international recording of scientific discoveries instituted by this Treaty:

(i) provides for the widest possible access to the recorded scientific discoveries,

(ii) does not affect the free use of the ideas contained in recorded scientific discoveries,

(iii) does not affect the freedom of the Contracting States to grant or not to grant rights to discoverers of recorded scientific discoveries and, where any Contracting State grants such rights, the freedom of such State to fix the conditions for and the contents of such rights."

3. Article 15 should read as follows:

"Article 15

Revision and Amendment of the Treaty

(1) (Revision) This Treaty may be revised in conferences of the Contracting States.

(2) (Amendment) (a) Article 3(2) to (8), Articles 4 to 7, Article 8(3) to (7) and Articles 9 to 12 and 14 may be amended by the Assembly.

(b) Proposals for the amendment of the provisions referred to in subparagraph (a) may be initiated by any Contracting State or by the Director General. Such proposals shall be communicated by the Director General to the Contracting States at least six months in advance of their consideration by the Assembly.

(c) Adoption of amendments to the said provisions shall require a majority of two-thirds of the votes of the members of the Assembly.

(d) Any amendment to the said provisions shall enter into force one month after written notifications of acceptance have been received by the Director General from three-fourths of the Contracting States members of the Assembly at the time the Assembly adopted the amendment.

(e) Any amendment to the said provisions which has been accepted and which has entered into force shall bind all the Contracting States which were Contracting States at the time the Assembly adopted the amendment and all the States which become Contracting States after the date on which the amendment was adopted by the Assembly."

4. The following agreed statement should be included in the Records of the Diplomatic Conference:

"In connection with Article 2(iii), the Diplomatic Conference noted that the rights referred to in the said provision may include in particular the discoverer's right to be recognized as the author of the scientific discovery made by him and the discoverer's right to a remuneration as a recompense for the scientific discovery which he has made."

DS/CD/18

March 3, 1978 (Original: French)

FRANCE

Proposal concerning the draft Treaty (Article 3(3)(vii))

Add to the text of Article 3(3)(vii) the following words:

"and, where the scientific discovery contains an experimental part, a description of that part adequate to enable its repetition and verification;"

DS/CD/19

March 3, 1978 (Original: English/French)

THE DRAFTING COMMITTEE

Draft Treaty on the International Recording of Scientific Discoveries

Editor's Note: This document contains the draft Treaty prepared by the Drafting Committee. It is not reproduced in this volume. In the following, only the differences between the text of this draft and that adopted by the Diplomatic Conference (see the odd-numbered pages from 11 to 37 of these Records) are indicated.

1. Article 1(1). In this draft, there is no provision corresponding to Article 1(1)(vi) of the final text. Article 1(1)(vi) to (xii) of this draft corresponds to Article 1(1)(vii) to (xiii) of the final text.

2. Article 3(1) and (2). The wording of this Article reads, in this draft, as follows:

"(1) (Possibility of Filing an Application; Where to File) (a) Any discoverer who is a national or a resident of a Contracting State may request international recording by filing an application with the International Bureau as prescribed by the Regulations. Where a scientific discovery has been made jointly by several discoverers, it shall suffice if one of the discoverers fulfills the above-mentioned requirement as to nationality or residence.

(b) The application may, with the consent of the discoverer, be filed by a legal entity established in a Contracting State.

(2) (Date; Signature; Declaration) The application shall contain a request for international recording. It shall be dated and signed by the discoverer or, where it is filed by a legal entity, by the authorized representative of that entity and the discoverer. It shall contain a declaration by a scientific institution or government authority designated to that effect under Article 4. The declaration shall consist of a statement to the effect that the application is presented by the said institution or authority; the declaration may also include an opinion on the merits of the scientific discovery or may certify its authenticity."

3. Article 3(3)(vi), (vii) and (ix). The wording of this Article reads, in this draft, as follows:

"(vi) an indication of the date on which or the dates between which the scientific discovery was made;

(vii) a full description of the scientific discovery, including a description of the phenomena, or indicating the reasoning and data, proving the reality of the scientific discovery;

...

(ix) a statement by the discoverer to the effect that, to his knowledge, the scientific discovery, when made by him, was not known to anyone else;"

4. Article 3(5). The wording of this Article reads, in this draft, as follows:

"(5) (Time Limit) Any application filed after the expiration of ten years from the date that is indicated in the application as the date on which the scientific discovery was made shall not be receivable. Where the application indicates two dates between which the scientific discovery was made, the said ten-year period shall be computed from the later of the two dates."

5. Article 5(3)(i) and (ii). The wording of this Article reads, in this draft, as follows:

"(i) the recording of the name of the discoverer, of the date on which or the dates between which, as indicated in the application, the scientific discovery was made, of the name of the scientific institution or government authority which made the declaration referred to in Article 3(2) and of any other indication prescribed by the Regulations;

(ii) an indication, on the first page of the application of the number of pages that the application contains, the fact of international recording, the date of such recording and the international recording number, accompanied by the stamp of the International Bureau and the signature of an official designated to that effect by the Director General;"

6. Article 7(2). In this draft, the last sentence of this Article does not contain the word "a" before the words "declaration under Article 10(3)."

7. Article 8(3). The wording of this Article reads, in the draft, as follows:

"(3) (Identity of Filer; Signature) Any observation, counter-observation or amendment filed under paragraph (1) and (2) shall show the surname, given name and address of the filer and shall be signed by him."

DS/CD/20

March 3, 1978 (Original: English/French)

THE DRAFTING COMMITTEE

Draft agreed statements adopted by the Diplomatic Conference to be included in the Records of the Diplomatic Conference

"1. In connection with Article 2(iii), the Diplomatic Conference noted that the rights referred to in the said provision may include in particular the discoverer's right to be recognized as the author of the scientific discovery made by him and the discoverer's right to a remuneration as a recompense for the scientific discovery which he has made.

2. In connection with Article 4, the Diplomatic Conference noted that the national law of any Contracting State is free to determine whether or not the responsibility of the designated scientific institution or government authority is involved when it makes a declaration under Article 3(2).

3. In connection with Article 4(1), the Diplomatic Conference noted that a Contracting State may designate a scientific institution which is located on or outside its territory.

4. In connection with Article 5, the Diplomatic Conference noted that international recording in no way implied certification or guarantee of the allegations made and facts asserted in the application."

DS/CD/21

March 7, 1978 (Original: English/French)

THE DIPLOMATIC CONFERENCE

Agreed statements to be included in the Records of the Diplomatic Conference, adopted on March 3, 1978, by the Diplomatic Conference

In respect of the Geneva Treaty on the International Recording of Scientific Discoveries, the Diplomatic Conference adopted the following agreed statements:

1. In connection with Article 2(iii), the Diplomatic Conference noted that the rights referred to in the said provision may include in particular the discoverer's

right to be recognized as the author of the scientific discovery made by him and the discoverer's right to a remuneration as a recompense for the scientific discovery which he has made.

2. In connection with Article 5, the Diplomatic Conference noted that international recording in no way implied certification or guarantee of the allegations made and facts asserted in the application.

DS/CD/22

March 7, 1978 (Original: English/French/
Russian/Spanish)

THE DIPLOMATIC CONFERENCE

Geneva Treaty on the International Recording of Scientific Discoveries
adopted in English and French on March 3, 1978, by the Diplomatic
Conference

Editor's Note: This document contains the text of the Treaty as adopted in English and French on March 3, 1978, by the Diplomatic Conference. It is reproduced on the odd-numbered pages from 11 to 37 of these Records.

DS/CD/23

March 7, 1978 (Original: English/French
Russian/Spanish)

THE DIPLOMATIC CONFERENCE

Final Act adopted in English and French on March 3, 1978, by the Diplomatic
Conference

Editor's Note: This document contains the text of the Final Act adopted by the Diplomatic Conference and reproduced on page 41 of these Records. Only the note which appears on the first page of this document is reproduced hereafter.

The Final Act may be signed by the delegations of the following States: Australia, Austria, Bulgaria, Byelorussian SSR, Cameroon, Canada, Czechoslovakia, Democratic People's Republic of Korea, Denmark, Egypt, Finland, France, German Democratic Republic, Germany (Federal Republic of), Greece, Hungary, India, Iraq, Ireland, Italy, Japan, Mexico, Norway, Poland, Portugal, Qatar, Senegal, Soviet Union, Spain, Sweden, Switzerland, Ukrainian SSR, United Kingdom, United States of America, Zaire, and any other State member of the World Intellectual Property Organization invited by the Director General of WIPO to the Diplomatic Conference and participating therein.

DS/CD/23.Rev.

March 7, 1978 (Original: English/French/
Russian/Spanish)

THE SECRETARIAT OF THE DIPLOMATIC CONFERENCE

Final Act adopted in English and French on March 3, 1978, by the Diplomatic Conference (revised document)

Editor's Note: This document contains the text of the Final Act adopted by the Diplomatic Conference and reproduced on page 41 of these Records. Only the note which appears on the first page of the document is reproduced hereafter.

The Final Act may be signed by the delegation of any State member of the World Intellectual Property Organization invited by the Director General of WIPO to the Diplomatic Conference and participating therein.

DS/CD/24

March 7, 1978

THE DIPLOMATIC CONFERENCE

Geneva Treaty on the International Recording of Scientific Discoveries adopted in English, French, Russian and Spanish, on March 7, 1978, by the Diplomatic Conference (Note)

The text of this Treaty is the same as that appearing in document DS/CD/22 except that in the English text, in Article 3(3)(vii), the word "or" is replaced by the words "and/or."

For the changes in the French, Russian and Spanish texts, see the corresponding version of this document.

DS/CD/25

March 7, 1978

THE DIPLOMATIC CONFERENCE

Final Act adopted in English, French, Russian and Spanish on March 7, 1978, by the Diplomatic Conference (Note)

Editor's Note: This document contains the text of the Final Act adopted by the Diplomatic Conference and is reproduced on page 41 of these Records.

DS/CD/26

March 7, 1978 (Original: English/French)

THE SECRETARIAT OF THE DIPLOMATIC CONFERENCE

Signatures. Memorandum by the Secretariat

The following States signed, on March 7, 1978, the following instruments adopted at the Diplomatic Conference for the Conclusion of a Treaty on the International Recording of Scientific Discoveries:

1. GENEVA TREATY ON THE INTERNATIONAL RECORDING OF SCIENTIFIC DISCOVERIES

Bulgaria, Czechoslovakia.

2. FINAL ACT

Australia, Austria, Bulgaria, Byelorussian SSR, Cameroon, Canada, Czechoslovakia, Finland, France, German Democratic Republic, Germany (Federal Republic of), Hungary, Italy, Mexico, Norway, Poland, Portugal, Qatar, Senegal, Soviet Union, Spain, Sweden, Switzerland, Ukrainian SSR, United Kingdom, United States of America.

CONFERENCE DOCUMENTS "DS/CD/CR"
(DS/CD/CR/1 and DS/CD/CR/2)

List of Documents

<u>Document Number</u>	<u>Submitted by</u>	<u>Subject</u>
1.	The Secretariat of the Diplomatic Conference	Draft Treaty on the International Recording of Scientific Discoveries submitted to the Drafting Committee by the Secretariat
2.	The Secretariat of the Diplomatic Conference	Draft agreed statements adopted by the Diplomatic Conference to be in- cluded in the Records of the Dip- lomatic Conference, submitted to the Drafting Committee by the Sec- retariat

Text of Documents

DS/CD/CR/1

March 3, 1978 (Original: English/French)

THE SECRETARIAT OF THE DIPLOMATIC CONFERENCE

Draft Treaty on the International Recording of Scientific Discoveries
submitted to the Drafting Committee by the Secretariat

Editor's Note: This document contains the full text of the draft Treaty submitted to the Drafting Committee by the Secretariat of the Conference. It is not reproduced here. Only the differences between the text of this draft and that adopted by the Diplomatic Conference are reproduced on the odd-numbered pages from 11 to 37 of these Records.

1. Preamble. Same as in the final text, except that the words corresponding to "Considering that a system" and "within the framework" read, in this draft, respectively, as follows: "Recognizing that a system" and "within the International Bureau."

2. Article 1(1). Same as in the final text, except that, in this draft, there is no provision corresponding to Article 1(1)(vi) of the final text and the provisions corresponding to items (vii) to (xiii) of the final text are, in this draft, respectively: (vi) to (xii).

3. Article 3(1). The wording of this Article reads, in this draft, as follows:

"(1) (Possibility of Filing an Application; Where To File) (a) Any discoverer who is a national or a resident of a Contracting State may request international recording by filing an application with the International Bureau [as prescribed by the Regulations]. Where a scientific discovery has been made jointly by several discoverers, it shall suffice if one of the discoverers fulfills the above-mentioned requirement as to nationality or residence.

(b) The application may, with the consent of the discoverer, be filed by a legal entity established in a Contracting State."

4. Article 3(2). The wording of this Article reads, in this draft, as follows:

"(2) (Date; Signature; Declaration) The application shall contain a request for international recording. It shall be dated and signed by the discoverer or, where it is filed by a legal entity, by the authorized representative of that entity and the discoverer. It shall contain a declaration by a scientific institution or government authority designated to that effect under Article 4. The declaration shall consist of a statement to the effect that the application is presented by the said institution or authority; the declaration may also include an opinion on the merits of the scientific discovery or may certify its authenticity."

5. Article 3(3). Same as in the final text, except items (vi), (vii) and (ix).

"(vi) an indication of the date on which or the dates between which the scientific discovery was made;

(vii) a full description of the scientific discovery, including a description of the phenomena, or indicating the reasoning and data, proving the reality of the scientific discovery."

...

"(ix) a statement by the discoverer to the effect that, to his knowledge, the scientific discovery, when made by him, was not known to anyone else;"

6. Article 3(4). Same as in the final text, except item (iii).

"(iii) where applicable, a statement that the scientific discovery was made in the course of duties performed for an employer and the name and address of that employer;"

7. Article 3(5). The wording of this Article reads, in this draft, as follows:

"(5) (Time Limit) Any application filed after the expiration of ten years from the date that is indicated in the application as the date on which the scientific discovery was made shall not be receivable. Where the application indicates two dates between which the scientific discovery was made, the said ten-year period shall be computed from the later of the two dates."

8. Article 4(4). The wording of this Article reads, in this draft, as follows:

"(4) (Competence To Make the Declaration) The declaration referred to in Article 3(2) shall be made by a scientific institution or government authority designated by the Contracting State of which the applicant is a national or resident where the applicant is a natural person, or in which the legal entity is established where the applicant is a legal entity."

9. Article 5(3)(i) and (ii). The wording of this Article reads, in this draft, as follows:

"(i) the recording of the name of the discoverer, of the date on which or the dates between which, as indicated in the application, the scientific discovery was made, of the name of the scientific institution or government authority which made the declaration referred to in Article 3(2) and of any other indication prescribed by the Regulations;

(ii) an indication, on the first page of the application of the number of pages that the application contains, the fact of international recording, the date of such recording and the international recording number, accompanied by the stamp of the International Bureau and the signature of an official designated to that effect by the Director General;"

10. Article 7(2). Same as in the final text, except that this draft does not contain the word "a" before the words "declaration under Article 10(3)."

11. Article 8(3). The wording of this Article reads, in this draft, as follows:

"(3) (Identity of Filer; Signature) Any observation, counter-observation or amendment filed under paragraph (1) and (2) shall show the surname, given name and address of the filer and shall be signed by him."

12. Article 15(2)(a). The wording of this Article reads, in this draft, as follows:

"(2) (Amendment) (a) Articles 3(2) to (8), 4 to 7, 8(3) to (7), 9 to 12 and 14 may be amended by the Assembly."

13. Article 15(2)(b). Same as in the final text, except that the words corresponding to "of the provisions referred to in subparagraph (a)" read, in this draft, as follows: "of this Treaty."

14. Article 15(2)(c) and (d). Same as in the final text, except that the words corresponding to "to the said provisions" read, in this draft, as follows: "to this Treaty."

15. Article 15(2)(e). Same as in the final text, except that the words corresponding to "Any amendment to the said provisions which" read, in this draft, as follows: "Any amendment which."

DS/CD/CR/2

March 3, 1978 (Original: English/French)

THE SECRETARIAT OF THE DIPLOMATIC CONFERENCE

Draft agreed statements adopted by the Diplomatic Conference to be included in the Records of the Diplomatic Conference, submitted to the Drafting Committee by the Secretariat

Editor's Note: This document contains the text of the draft agreed statements which is the same as the text of the draft agreed statements prepared by the Drafting Committee (see document DS/CD/20 on page 71 of these Records).

CONFERENCE DOCUMENTS "DS/CD/INF"
(DS/CD/INF/1 to DS/CD/INF/9)

List of Documents

<u>Document Number</u>	<u>Submitted by</u>	<u>Subject</u>
1.	The Secretariat of the Diplomatic Conference	Composition of the Secretariat
2.	The Secretariat of the Diplomatic Conference	Officers and Committees
3.	The Secretariat of the Diplomatic Conference	First provisional list of participants
4.	The Secretariat of the Diplomatic Conference	Officers
5.	The Secretariat of the Diplomatic Conference	Documents of the Diplomatic Conference for the Conclusion of a Treaty on the International Recording of Scientific Discoveries (issued until March 1, 1978)
6.	The Secretariat of the Diplomatic Conference	Second provisional list of participants
7.	The Director General of WIPO	Opening address
8.	The Secretariat of the Diplomatic Conference	List of participants
9.	The Secretariat of the Diplomatic Conference	Final list of documents of the Diplomatic Conference for the Conclusion of a Treaty on the International Recording of Scientific Discoveries

Text of Documents

DS/CD/INF/1

February 27, 1978 (Original: English/French)

THE SECRETARIAT OF THE DIPLOMATIC CONFERENCE

Composition of the Secretariat

Editor's Note: This document contains a list of the members of the Secretariat. It is not reproduced here. For the composition of the Secretariat, see page 162 of these Records.

DS/CD/INF/2

February 27, 1978 (Original: English/French)

THE SECRETARIAT OF THE DIPLOMATIC CONFERENCE

Officers and Committees

Editor's Note: This document contains the list of the officers of the Conference and of the members of the Committees. It is not reproduced here. For the final list of officers and members of the Committees, see page 162 of these Records.

DS/CD/INF/3

February 28, 1978 (Original: English/French)

THE SECRETARIAT OF THE DIPLOMATIC CONFERENCE

First provisional list of participants

Editor's Note: This document contains the first provisional list of participants. It is not reproduced here. For the final list of participants in the Conference, see pages 151 to 161 of these Records.

DS/CD/INF/4

March 1, 1978 (Original: English/French)

THE SECRETARIAT OF THE DIPLOMATIC CONFERENCE

Officers

Editor's Note: This document contains the final list of the officers of the Conference, the Credentials Committee and the Drafting Committee. It is not reproduced here. For the final list of officers, see page 162 of these Records.

DS/CD/INF/5

March 18, 1978 (Original: English/French)

THE SECRETARIAT OF THE DIPLOMATIC CONFERENCE

Documents of the Diplomatic Conference for the Conclusion of a Treaty on the International Recording of Scientific Discoveries (issued until March 1, 1978)

Editor's Note: This document contains the list of the Conference documents issued until March 1, 1978. It is not reproduced here. For the final lists of the Conference documents, see pages 45, 46, 75 and 78 of these Records.

DS/CD/INF/6

March 7, 1978 (Original: English/French)

THE SECRETARIAT OF THE DIPLOMATIC CONFERENCE

Second provisional list of participants

Editor's Note: This document contains the second provisional list of participants. It is not reproduced here. For the final list of participants in the Conference, see pages 151 to 161 of these Records.

DS/CD/INF/7

March 7, 1978 (Original: English)

THE DIRECTOR GENERAL OF WIPO

Opening Address

Honorable Delegates,
Your Excellencies,
Ladies and Gentlemen,

I have the honor to open the Diplomatic Conference for the Conclusion of a Treaty on the International Recording of Scientific Discoveries.

The holding of a diplomatic conference for the purposes of concluding the said treaty was decided by the 1976 session of the General Assembly of the World Intellectual Property Organization (WIPO). The details concerning the preparations for the present Conference were decided by the 1977 session of the Coordination Committee of WIPO.

The charter of WIPO--that is, the Convention of 1967 establishing WIPO which was adopted in Stockholm--provides that one of the objectives of WIPO is "to promote the protection of intellectual property throughout the world through cooperation among States," and that the notion of intellectual property includes scientific discoveries.

The inclusion of scientific discoveries among the subjects of intellectual property was, at that time, proposed mainly by the Soviet Union and was accepted by the Stockholm Diplomatic Conference only after some hesitation on the part of a number of countries. The reason for this hesitation was that, whereas in most countries one is used to the protection of inventions and literary and artistic works, few countries provide for the protection of scientific discoveries.

It is because the majority of the countries provide for no legal protection of scientific discoveries that during the preparatory work for the present Diplomatic Conference--preparatory work which has lasted for some five years--it was difficult to arrive at an agreement.

Fortunately, however, such an agreement was finally reached and it is based on three main principles. These are the following. First, that a treaty should be concluded on the matter because then only those States will be bound by the new ideas reflected in it which so desire to be bound since in order to become bound a free and voluntary act is required by each State, namely the ratification of or accession to the Treaty. Second, that the Treaty should provide for the possibility of the voluntary recording of scientific discoveries without any legal effect, in particular without any obligation to guarantee any right in a scientific discovery or any remuneration to discoverers. Third, that the cost of maintaining the recording system is to be totally covered by the fees that WIPO will charge for recording and by the sale of the Gazette in which it will publish the registrations, and that the operation of the international recording system will have no financial implications, either direct or indirect, for States not participating in the system.

These principles are embodied in the draft Treaty which will serve as the basis of the discussions of this Diplomatic Conference.

It is indispensable that these principles and, indeed, even the details of the draft Treaty be left unchanged by this Diplomatic Conference since it was on this understanding that the delegations which did not favor the conclusion of a treaty on the matter agreed, in the General Assembly of WIPO in 1976, to the holding of this Diplomatic Conference.

It is sincerely hoped that the spirit of compromise which prevailed in 1976 will continue to prevail in this Conference and that, consequently, those States desiring to have an international recording system for scientific discoveries will be able to institute such a system and will not be prevented from doing so.

This would mean that the present Diplomatic Conference should be successful. May I conclude by expressing the hope and the wish that it will be successful.

DS/CD/INF/8

March 7, 1978 (Original: English/French)

THE SECRETARIAT OF THE DIPLOMATIC CONFERENCE

List of participants

Editor's Note: This document contains the final list of participants in the Conference. It is not reproduced here. For the final list of participants in the Conference, see pages 151 to 161 of these Records.

DS/CD/INF/9

March 7, 1978 (Original: English/French)

THE SECRETARIAT OF THE DIPLOMATIC CONFERENCE

Final list of documents of the Diplomatic Conference for the Conclusion of a Treaty on the International Recording of Scientific Discoveries

Editor's Note: This document contains the final list of the Conference documents. It is not reproduced here. For the final lists of the Conference documents, see pages 45, 46, 75 and 78 of these Records.

MINUTES

DIPLOMATIC CONFERENCE
FOR THE CONCLUSION OF A TREATY ON
THE INTERNATIONAL RECORDING OF SCIENTIFIC DISCOVERIES

President: Mr. O. LEBERL (Austria)

Vice-Presidents: Mr. B. TODOROV (Bulgaria)
Mrs. O. REYES-RETANA (Mexico)

Secretary General: Mr. L. BAEUMER (WIPO)

Assistant Secretary General: Mrs. D. JANUSZKIEWICZ (WIPO)

First Meeting

Monday, February 27, 1978

Morning

Opening of the Conference and Adoption of the Rules of Procedure

1.1 Mr. BOGSCH (Director General of WIPO) opened the Diplomatic Conference for the Conclusion of a Treaty on the International Recording of Scientific Discoveries, and gave an opening address.*

1.2 He then drew attention to the fact that item 2 of the provisional agenda provided for the adoption of the Rules of Procedure. He proposed that the text of the Provisional Rules of Procedure appearing in document DS/CD/2 be considered rule by rule, and asked Delegates to present their comments. He noted that Rules 1 to 13 gave rise to no comment and were therefore adopted.

2. Mr. SZWAJA (Poland) submitted a proposal concerning Rule 14. The Delegation of Poland considered it desirable to enlarge the Steering Committee of the Conference by the inclusion of the two Vice-Presidents of the Conference.

3. Mr. JOUK (Byelorussian SSR) supported the proposal of the Delegation of Poland.

4. Mr. WINTER (United States of America), while pointing out that his Delegation had no objection to the proposal, said that it was unusual to have the Vice-Presidents of the Conference on the Steering Committee.

5.1 Mr. BOGSCH (Director General of WIPO) noted that there was no objection to the proposal by the Delegation of Poland, and that Rule 14 was adopted as amended.

5.2 He noted that Rules 15 to 50, which gave rise to no comments, were adopted.

6. Mr. EKANI (Cameroon), apologizing for reverting to an earlier provision, said that he was not satisfied with the form of Rule 1. In order that all ambiguity might be removed, he proposed deleting, in the French text of paragraph (2), the word "peut" from the sentence "La Conférence, en séance plénière, peut...", and saying quite simply: "La Conférence, en séance plénière,

"(1) adopte le présent Règlement intérieur et peut le modifier...."

* Editor's note: the text of the opening address was published in document DS/CD/INF/7.

7.1 Mr. BOGSCH (Director General of WIPO) agreed that the French translation did not render the exact meaning of the English text, which said that "the Conference, meeting in Plenary, shall be competent to...." He suggested changing the French text of Rule 1 without altering the English text.

7.2 He noted that the suggestion was adopted.

8. The Rules of Procedure, as amended in the course of the discussions, were adopted in their entirety.

Election of the President of the Conference

9. Mr. BOGSCH (Director General of WIPO) proceeded to item 3 of the provisional agenda, which provided for the election of the President of the Conference. He asked the Delegates to propose candidates.

10. Mr. KOMAROV (Soviet Union) proposed the candidature of Mr. Otto Leberl, President of the Austrian Patent Office.

11. Mr. EKANI (Cameroon) supported Mr. Leberl's candidature.

12. Mr. WINTER (United States of America) also favored Mr. Leberl's candidature.

13. Mr. SERRÃO (Portugal) supported Mr. Leberl's candidature.

14. Mr. KÄMPF (Switzerland) also spoke in favor of Mr. Leberl's candidature.

15. Mr. TASNÁDI (Hungary) said that he was very pleased to be able to support Mr. Leberl's candidature.

16. Mr. DELICADO MONTERO-RÍOS (Spain) also supported Mr. Leberl's candidature.

17. Mr. RINGL (Czechoslovakia) also supported Mr. Leberl's candidature.

18. Mr. BOGSCH (Director General of WIPO) said that Mr. Otto Leberl was unanimously elected President of the Diplomatic Conference, and asked him to take the President's chair.

19. Mr. LEBERL (Austria), speaking as President of the Conference, thanked the Delegates for having elected him. He proposed that the meeting should be suspended for half an hour in order that the election of the Vice-Presidents of the Conference and of the members of the various bodies of the Conference might be prepared.

[Suspension]

Adoption of the Agenda

20. The PRESIDENT reopened the meeting and proposed the adoption of the agenda of the Conference (document DS/CD/1).

21. The Agenda of the Conference was adopted.

Address by the President

22.1 The PRESIDENT said that the Diplomatic Conference was to be seen as part of the effort of the whole international community to bring about a solution to the problems of development through increased international cooperation, particularly within the United Nations system. He mentioned that under Article 2(viii) of the Convention Establishing WIPO the expression "intellectual property" included rights relating to scientific discoveries. On the initiative of the Soviet Union a Working Group on Scientific Discoveries had been created and had held four sessions. Its work had resulted in the writing of the draft Treaty that was before the Diplomatic Conference. Scientific discoveries needed to be recognized by society, and discoverers were owed remuneration. One of the problems to be solved was that

of ascertaining the exact moment that determined the priority of a scientific discovery. Another was the dissemination and screening of the information contained in innumerable scientific periodicals. It could therefore be hoped that the international recording of scientific discoveries would stimulate discoverers, ensure the rapid dissemination of information and allow disputes concerning the priority of discoveries to be avoided. In spite of the fact that throughout the world, especially the Western world, the authorship of scientific discoveries was recognized by the scientific community on the basis of mere publication in scientific journals, and that recognition of the authorship of a scientific discovery therefore presented no problem in many countries, the international recording proposed in the draft Treaty offered advantages such as better-organized dissemination of information, which could be particularly important to developing countries. As the system of international recording of scientific discoveries would not, according to Article 2 of the draft Treaty, entail any obligation on Contracting States to give any legal effect to international recordings, the main objective of the Treaty could only be that of improving the means of disseminating information, which was an objective that all should support.

22.2 The PRESIDENT thanked the Director General of WIPO and his staff for having prepared the Conference, and expressed his best wishes to all Delegations for the complete success of the Conference.

[The meeting was closed]

Second Meeting

Monday, February 27, 1978

Afternoon

Election of the Vice-Presidents of the Conference and Members of the Bodies of the Conference

23. The PRESIDENT opened the second meeting and proceeded to item 5 of the agenda, namely the election of the Vice-Presidents of the Conference. He announced the proposal that a member of the Delegation of Bulgaria be elected to the post of first Vice-President of the Diplomatic Conference and that a member of the Delegation of Mexico be elected to the post of second Vice-President.

24. No objection having been raised, the Delegates of Bulgaria and Mexico were elected Vice-Presidents of the Conference.

25. The PRESIDENT proceeded to item 6 of the agenda, namely the election of the members of the Credentials Committee. He announced the proposal that the Delegations of the following States be elected: German Democratic Republic, India, Poland, Switzerland, United Kingdom.

26. The proposal for the composition of the Credentials Committee was adopted.

27. The PRESIDENT proceeded to item 7 of the agenda, namely the election of the members of the Drafting Committee. He announced the proposal that the Delegations of the following States be elected: Czechoslovakia, France, Iraq, Soviet Union, United States of America.

28. The proposal for the composition of the Drafting Committee was adopted.

Consideration of the Draft Treaty (document DS/CD/3)

General Debate

29. The PRESIDENT invited the Delegations to submit comments of a general character on the draft Treaty contained in document DS/CD/3.

30. Mr. EKANI (Cameroon) recalled that, at the preparation stage of the draft, member countries of the Group of Developing Countries had shown certain misgivings, particularly with regard to the effects of the international recording of scientific discoveries; in general, those countries had won satisfaction by way of the compromise reached on that point, but the compromise had yet to be made more specific. The financial system of the proposed instrument was another important question for developing countries; according to the wishes of those countries, it had been agreed that the system should function autonomously, without any effect on the financial circumstances of non-member States. However, the Delegate of Cameroon felt that the philosophy that should be written into the Treaty was perhaps still not completely clear, and that the Preamble should therefore be improved upon if possible. It should be mentioned in it, on the one hand, that cooperation had to rest on the principle of absolute equality between States and between individuals and, on the other hand, that the centralization of information on scientific discoveries was of particular interest to developing countries.

31.1 Mr. KOMAROV (Soviet Union) noted that the presence of a considerable number of Delegations and representatives of international organizations testified to the great interest aroused among States and in the scientific community by the introduction of a system for the international recording of scientific discoveries. He recalled that the broadening of international cooperation in science and technology was one of the important objectives referred to in the Final Act of the Helsinki Conference on Security and Co-operation in Europe, and that extensive international cooperation within the framework of peaceful coexistence was one of the basic principles of the foreign policy of the Soviet Union, being moreover expressly stated in the new Constitution recently adopted by that country. The Soviet Union Delegation welcomed proposals for new forms of international cooperation in the specific field of scientific discoveries, their purpose being greater stimulation of scientific and technological progress and the encouragement of discoverers. In order to speed up the development of their national economies, countries wished to have at their disposal sure information on the results achieved throughout the world in the field of science and technology. The fact that research on specific problems was carried out in parallel in different countries resulted in unwarranted expense and made it necessary to look for new forms of information interchange and also the recognition of the merits of persons who had been first to formulate new scientific proposals of major importance and to prove their validity. The existing system for the encouragement of the authors of scientific discoveries was far from attaining that goal. The various prizes awarded by private funds or the forms of encouragement by the State were only partial solutions to the problem, above all because they did not rule out a certain subjective element. Moreover, publications which reported on scientific discoveries varied greatly in form and language. All that made for great difficulties in the evaluation of discoveries with a view to the award of prizes, and in bringing the subject matter of the discoveries to the notice of the scientific communities of all countries. Developing countries encountered particular difficulties in keeping abreast of developments in science and technology, whereas developed countries had specialized abstracting services. For almost a century, a variety of attempts had been made to record and protect scientific discoveries at the international level. Those attempts had not met with success owing to the absence, in many countries, of legislative provisions on the recording and protection of scientific discoveries. After 20 years of experience in the implementation of such legislation in various Socialist countries, real prospects did exist for the settlement of the question at the international level.

31.2 The Soviet Union Delegate recalled that Article 2 of the Convention Establishing WIPO, adopted at Stockholm in 1967, included scientific discoveries within the subject matter of intellectual property. On the basis of that provision, the Soviet Union had proposed in 1971 that a study be made of that area. A Working Group had held four sessions and had devised a system for the international recording of scientific discoveries, which had been submitted to the General Assembly of WIPO in September 1976. There had been divergent opinions on the manner in which such a system should be established. The Socialist countries had considered that the appropriate means was the adoption of a resolution authorizing the International Bureau of WIPO to take the necessary steps for the preparation for the entry into force of the system. The Soviet Union Delegation continued to consider that method to be the most effective and appropriate, particularly because it would give it a genuinely international character in that the possibility of

recording scientific discoveries would be available to the scientists of all countries and not only to the nationals of States party to a treaty. However, in order to satisfy a large number of countries that had argued in favor of the establishment of the system by means of a treaty, the Soviet Union Delegation had agreed to consider that other solution, provided that it remained possible to achieve the main purposes of the system, namely: active promotion of progress in science and technology at the international level, improvement of information concerning new scientific discoveries for the benefit of scientific communities all over the world, stimulation of scientific discoveries and encouragement of discoverers, assurance, by means of appropriate guarantees, of the greatest reliability possible of data concerning scientific discoveries.

31.3 The Soviet Union Delegate said that the system provided for in the draft Treaty would not have genuinely international character as it deprived the scientists of many countries of the possibility of having their discoveries recorded. Moreover, in the proposed text of the Treaty, a certain number of important questions remained problematic, for instance the validity of the scientific discovery, its priority, the conditions under which the proposed system was to function, or the minimum number of ratifications or accessions required for the Treaty to enter into force.

32. Mr. SALMAN (Iraq) supported the proposals submitted by the Delegate of Cameroon on behalf of the Group of Developing Countries concerning the second and third paragraphs of the Preamble, and emphasized the great importance to developing countries, from two standpoints, of the problem of access to scientific information. From a financial standpoint, it was important on the one hand that the envisaged system should not burden the WIPO budget and, on the other hand, that certain financial facilities should be granted to the scientists and organizations of developing countries for the obtaining of that information. From a linguistic standpoint, the information should ideally be published in languages accessible to developing countries. The Preamble should make a mention of preferential treatment for access of developing countries to scientific information.

33.1 Mr. ILIEV (Bulgaria) mentioned that the legislation of his country provided legal protection for scientific discoveries. It provided solutions to the problems of the priority of the scientific discovery and its authorship. The authenticity of the discovery was certified by the competent research institute of the Bulgarian Academy of Science. On the basis of the conclusions of the Academy of Science, the National Institute of Inventions awarded a diploma to the discoverer and a prize whose amount could be as high as 5,000 dollars. The discoverer enjoyed a certain number of other advantages and incentives.

33.2 The Delegate of Bulgaria then spoke on the draft Treaty on the International Recording of Scientific Discoveries. The purpose and spirit of the Preamble seemed quite acceptable. Certain amendments and additions did need to be made in the text of certain articles, however, specifically on the following points. First, the fact that the recording of scientific discoveries had no legal effects should under no circumstances restrict such rights as were or would be established by national legislations. Secondly, the responsibility of the designated institutions and authorities referred to in Article 4 of the draft for the authenticity and merits of the scientific discovery would have to be increased. Thirdly, the designation of an institution or authority for the purposes of the application of the Treaty should be mandatory for every country subscribing to the Treaty and not optional. Fourthly, instruments of ratification or accession should be deposited by more than three countries, for instance by eight countries, for the Treaty to enter into force. The Delegation of Bulgaria, a country in which a Slav language was spoken, wished to have the Treaty signed also in an authentic Russian text.

34. Mr. SCHACK (German Democratic Republic) said that the present Diplomatic Conference was an important step towards the implementation of the tasks specified in Articles 2, 3 and 4 of the Convention Establishing WIPO. He emphasized the special merits of the Soviet Union, which had proposed the conclusion of a treaty on the international recording of scientific discoveries, and had taken an active part in the work of preparing the Diplomatic Conference and writing the draft. In conclusion, he expressed his wish that the Conference might take place in a spirit of profitable cooperation and be completed successfully.

35. Mr. WINTER (United States of America) mentioned that the Delegates of his country had already expressed their doubts as to whether technological progress would be significantly improved by a system of international recording of scientific discoveries, regardless of the form that the system might take. In the Western world, the scientific community recognized scientific discoveries primarily on a non-governmental basis, as it was through publications that discoverers generally made their discoveries known to the world and thereby secured the recognition they deserved. However, the United States of America had no objection to the conclusion of the Treaty, provided that the fundamental principles embodied in the draft were maintained. Finally, the Government of the United States of America expressed firm support for the WIPO technical assistance programs for developing countries and would continue to do so.

36. Mr. DELICADO MONTERO-RÍOS (Spain) pointed out that the conclusion of a legal instrument on the international recording of scientific discoveries was in line with the wishes of many countries. The envisaged Treaty should facilitate the access of developing countries to scientific discoveries; for that reason, the more the Treaty was improved from that point of view, the more useful it would be. Moreover, the Delegate of Spain mentioned that his Delegation and that of Mexico had submitted a proposal to the Secretariat to the effect that the text of the Treaty should also be signed in Spanish in addition to the languages already provided for in Article 20.

37. Mr. KÄMPF (Switzerland) recalled that his Delegation had been sceptical at the outset as to the usefulness and desirability of an international system for the recording of scientific discoveries, but that the profitable exchanges and the conciliatory spirit that had presided over the successive preparatory meetings had led it to realize that such a system could be in the interests of certain countries. The proposed Treaty would provide States so desiring with a legal framework capable of meeting the needs of their nationals, while at the same time respecting the wishes of States which, for the time being at least, did not find it necessary to introduce a system for the recording of scientific discoveries. The Delegate of Switzerland concluded with the hope that the draft Treaty contained in document DS/CD/3 would not undergo fundamental amendment.

38. Mr. RINGL (Czechoslovakia), emphasizing that scientific discoveries were a factor of prime importance in the development of science and technology, notably because most of them provided the basis for new technological solutions in the form of inventions, and also in international cooperation in those areas, mentioned that the legislation of his country had provided for the protection of scientific discoveries as early as in 1957. Discoverers were awarded a diploma which gave the character of discovery to the subject matter of the application and confirmed the authorship of the discovery and the right of priority. The award of the diploma gave the discoverer the right to the remuneration and advantages specified by law. The remuneration was paid by the Office for Inventions and Discoveries. For all those reasons, the proposal submitted in 1971 by the Soviet Union, namely that consideration of the question of scientific discoveries be included in the WIPO program, had been welcomed in Czechoslovakia. The draft Treaty was a first step towards the international protection of scientific discoveries. It had yet to be more thoroughly worked out, however, and certain subjective rights of discoverers, notably the right of priority and the protection of authorship, had to be guaranteed.

39. Mrs. REYES-RETANA (Mexico) pointed out that it was important for the Treaty to be signed in Spanish also, in view of the fact that several of the developing countries likely to sign it were Spanish-speaking.

40. Mr. EGOROV (Ukrainian SSR) said that the system for the international recording of scientific discoveries had to encompass as many States as possible and involve the greatest possible number of scientists from all countries of the world. The very fact that the system had been devised testified to the progressive trend of modern international relations and was a new step forward towards peaceful international cooperation between States and the development of the process of détente. The Delegate of the Ukrainian SSR then recalled that the Delegation of the Ukrainian SSR, in a statement made in 1976 to the session of the General Assembly of WIPO

that had decided to submit a draft Treaty on the International Recording of Scientific Discoveries for consideration by a Diplomatic Conference, had drawn attention to the fact that the prospects were favorable for the completion of the WIPO program of action. The Delegate of the Ukrainian SSR pointed out that it was impossible not to take into account the social and economic changes that had occurred in the world and the advent of a new era in the development and consolidation of the principle of peaceful coexistence and cooperation between States with different social structures, that era having been inaugurated at the Helsinki Conference. He was quite convinced that the struggle to bring lasting peace and détente to the international scene, which was being carried on unceasingly by the Soviet Union and the States of the Socialist community, was in line with the fundamental interests of the peoples of all countries of the world, regardless of their social structures or levels of development. He pointed out that the Soviet Union's devotion to the cause of peace had been strikingly confirmed in its new Constitution, adopted in October 1977 which was the first to reflect all ten of the principles for mutual relations between States that were specified in the Final Act of the Helsinki Conference. It was only through practical implementation of the high principles of maintaining international peace and security, which were stated in the United Nations Charter, that programs of international cooperation, including the program of action of WIPO, a specialized agency of the United Nations, could ever be carried out successfully.

41. Mr. SWAMINATHAN (India) mentioned the important role that scientific information had to play in the modern world, and noted that the time gap between the making of a scientific discovery and its utilization in technology was becoming ever shorter, particularly owing to the speed with which the information was disseminated. The economic and social development of developing countries depended to a large extent on their access to information concerning scientific discoveries. The effect that science could have on the lives of millions of people who lived far from urban centers, as in India, was enormous. The Delegate of India would regard any action that made for faster access to information as being very useful, and he was pleased to note that the international recording of scientific discoveries could help make a step forward in that direction.

42. Mr. BOROS (Italy) said that his country had been interested from the outset in the drafting of provisions to regulate the international recording of scientific discoveries. He placed emphasis on the need to preserve the principles of free access to and free use of scientific discoveries by everyone, without any conditions or limitations.

43. Mr. FRANÇON (France) said that France was not entirely convinced of the need to introduce a system for the international recording of scientific discoveries, as scientific discoveries were already very widely publicized in France. The Delegation of France was, however, aware that the problem might well present itself differently in other countries. It was therefore in a spirit of international cooperation that France had resolved from the start to involve itself in the work on the preparation of the draft. Its participation in the Diplomatic Conference bore witness to the interest it had in the development of the system. It was also, however, very attached to the compromise solutions embodied in the draft, and in that respect it endorsed the statements made by the Delegate of Switzerland.

44. Mr. VAN-ZELLER GARIN (Portugal) said that he recognized the scientific, technological and even moral arguments for a treaty such as the one submitted to the Conference.

45. Mr. TASNÁDI (Hungary) recalled that the legislation of his country did not provide for the recording of scientific discoveries or their protection. The State assisted scientific researchers in their work by creating and guaranteeing the conditions under which scientific research might be carried on. It also offered them awards and remuneration, thereby encouraging them with moral and material recognition. However, the fact that Hungary did not provide for the recording of scientific discoveries did not prevent the Hungarian Delegation from supporting the adoption of a treaty on the international recording of scientific discoveries, in view of the fact that science was a very active and increasingly influential factor in economic development. The setting up of a system for the international recording of scientific discoveries was an important step forward in two respects. The first was the information advantage it offered, as information on discoveries would be concentrated in one place at a time of exponential growth in the number of scientific publications. The second aspect was the moral stimulation given to scientific researchers, as international recording would assure them of priority and an international reputation. The Delegate of Hungary concluded by saying that the adoption of the Treaty would represent the fulfillment

46. Mr. KOMAROV (Soviet Union) gave his impression of what he had gathered from the general discussion. The situation was not a simple one. Some countries considered that it was essential to make substantive changes to the draft Treaty while others, mainly developing countries, favored less fundamental changes, relating mainly to the improvement of the system of access to information on scientific discoveries; a third group of countries considered it possible to adopt the draft Treaty, but on condition that all its basic principles were retained. Under those circumstances, the Soviet Union Delegate proposed that discussion be confined to the basic principles of the international recording of scientific discoveries, and that the consideration of organizational problems associated with the introduction of recording, and also drafting questions, be postponed to a later stage.

47. The PRESIDENT pointed out that the proposal presented by the Soviet Union Delegate was at variance with the agenda of the Conference, which had been adopted. Moreover, Rule 1 of the Rules of Procedure of the Conference specified that the purpose of the Diplomatic Conference was to negotiate and adopt a treaty on the basis of the draft contained in document DS/CD/3.

48. Mr. WINTER (United States of America) said that the principles on which the draft was based had been under discussion within the Working Group for several years. The Diplomatic Conference should proceed with the discussion of the draft Treaty article by article, and discuss basic principles in the context of the corresponding articles.

49. Mr. KOMAROV (Soviet Union) said that he had not been aware of the seriousness of the differences of opinion either when the agenda or when the Rules of Procedure were adopted. The sole purpose of his proposal had been to find a way towards a really effective solution to the problem. However, if his proposal was not supported by the majority, he was prepared to approach the question in a different way.

50. The PRESIDENT noted that no Delegation supported the proposal of the Soviet Union Delegation.

Preamble

51. The PRESIDENT moved on to the detailed discussion of the draft Treaty. He opened the discussion on the Preamble.

52. Mr. SCHACK (German Democratic Republic) proposed the replacement, in the third paragraph of the Preamble, of the words "for the benefit of the scientific community and the world at large" by the words "for the mutual benefit of the States concerned." He justified the proposal by the fact that the parties to the Treaty would be States, and that the scientists who made the discoveries or worked with the information on new discoveries were nationals of States who lived and worked in specific States, so that the creation and use of discoveries was in all cases connected with a State.

53. Mr. EKANI (Cameroon) considered that the proposal by the Delegate of the German Democratic Republic should be completed with an emphasis on the special interests of developing countries. Moreover, the words "without discrimination" should be inserted between the words "stimulation of discoverers" and the words "by instituting...."

54. Mr. WINTER (United States of America) said that the text of the draft was in his opinion more "philanthropic" than that proposed by the Delegate of the German Democratic Republic.

55. Mr. FRANÇON (France), addressing the Delegate of Cameroon, asked whether the phrase "without discrimination" which he proposed to add to the second paragraph was not at variance with the proposed amendment to the third paragraph, which would contain a specific mention of developing countries.

56. Mr. EKANI (Cameroon) did not feel that there was any contradiction, because the third paragraph would not provide for special treatment for the benefit of developing countries, but merely emphasize the special interest they had in the centralization of information. As for the proposed formulation of the second paragraph, it would make it possible to avoid the discrimination that would use a number of pretexts, including the racial pretext, to exclude certain scientists from the benefit of recording.
57. Mr. FRANÇON (France) did not think that the contradiction had been completely removed.
58. Mr. BOGSCH (Director General of WIPO) considered it desirable to say in the second paragraph that discoverers would be protected without discrimination. As for the third paragraph, he was of the opinion that, if States were to be spoken of, it would be preferable to insert a new paragraph recognizing the interest that a system for the international recording of scientific discoveries had for States, especially developing countries.
59. Mr. EKANI (Cameroon) declared himself willing to accept the suggestion of the Director General of WIPO, which seemed very constructive.
60. Mr. KOMAROV (Soviet Union) considered that, while the draft Preamble reflected correctly the direction in which the efforts of the States party to the Treaty should be made, that did not preclude the making of certain amendments that were not substantive in character, such as that proposed by the Delegation of the German Democratic Republic. The Soviet Union Delegate suggested that the amendment should be adopted in principle and the task of deciding on its wording left to the Drafting Committee.
61. The PRESIDENT noted that the proposal of the Delegation of Cameroon, for the insertion in the second paragraph of the Preamble of the words "without discrimination," gave rise to no opposition.
62. The proposal of the Delegation of Cameroon was adopted.
63. The PRESIDENT proceeded to the proposal of the Delegation of the German Democratic Republic.
64. Mr. WINTER (United States of America) said that the proposal of the German Democratic Republic had to be considered at the same time as the suggestion by the Director General of WIPO concerning a new paragraph, which had been accepted by the Delegate of Cameroon.
65. Mr. BOGSCH (Director General of WIPO) said that his suggestion was that the third paragraph should be left as it was and that a new paragraph should be added in which the wishes of both the Delegation of the German Democratic Republic and the Delegation of Cameroon would be expressed. The new paragraph could have the following wording: "Recognizing the interest that States, and in particular developing countries, have in such a system of recording scientific discoveries."
66. Mr. SCHACK (German Democratic Republic) agreed to the suggestion of the Director General of WIPO.
67. Mr. SALMAN (Iraq) wished to have the Preamble mention developing countries' interest in access to scientific information rather than just in the system of recording.
68. Mr. BOGSCH (Director General of WIPO) considered that the paragraph in question could then be worded in the following way: "Recognizing the interest which States and in particular developing countries have in a system of recording scientific discoveries as it contributes to the facilitation of access to scientific information."
69. The PRESIDENT asked the Delegation of Iraq whether it agreed with the drafting suggestion made by the Director General of WIPO.

70. Mr. SALMAN (Iraq) replied that he agreed to the principle, and suggested that the text should be submitted to the Drafting Committee.

71. The PRESIDENT noted that there were no further observations on the Preamble.

72. The Preamble was adopted as amended during the debate. (Continuation: see paragraph 478.)

Article 1

73. The PRESIDENT opened the discussion on Article 1.

74. Mr. KOMAROV (Soviet Union) proposed two amendments which in his opinion did not affect the substance but were nevertheless essential. The first proposal concerned subparagraph (v) of Article 1, which should read in the following way: "applicant means the person or persons, including legal entities, filing the application." The second proposal was intended to complete the definitions by the addition of a new subparagraph (vi) which would read in the following way: "'priority date' means the date on which the provisions announced as discoveries are communicated to third parties."

75. Mr. WINTER (United States of America) considered that the proposal of the Soviet Union Delegation for the addition to Article 1 of a new subparagraph (vi) referring to a priority date would cause the United States of America some serious problems. Priority in the context of WIPO and the industrial property conventions generally meant the right of priority. The Delegate of the United States of America did not want any confusion to arise between the terms "priority date" and "right of priority."

76. Mr. BOGSCH (Director General of WIPO) pointed out that Article 1 contained definitions of words that were used in other articles of the Treaty, and that the term "priority date" was not used in the draft. It was therefore difficult to discuss, at that stage of the debate, the definition of a term that was not used in the draft. It would be advisable to reserve the whole question and revert to it when it arose in connection with the discussion of another article.

77. The PRESIDENT asked Delegations to comment on the first proposal of the Soviet Union Delegation, which concerned subparagraph (v).

78. Mr. FRANÇON (France) was reluctant to endorse the proposal by the Soviet Union Delegation, as it was not clear, if one referred to Article 3(1), that the applicant could be a legal entity.

79. Mr. BOGSCH (Director General of WIPO) drew the attention of Delegations to Article 3(1), according to which "any discoverer who is a national or a resident of a Contracting State may request international recording by filing an application with the International Bureau," which seemed almost to constitute a definition of the applicant. If one compared that provision with Article 1(ii), which defined the "discoverer" as a natural person, and took into account the fact that the Soviet Union Delegation was not proposing an amendment to Article 1(ii), one wondered whether the Soviet Union Delegation wished to allow a person other than the discoverer to file an application, for instance a scientific institution.

80.1 Mr. KOMAROV (Soviet Union) considered that a distinction had to be made between the "applicant" and the "discoverer." To him it seemed logical to mention legal entities in the definition of the term "applicant" which appeared in Article 1(v), perhaps adding the words "with the identification of the discoverer." He also said that precedents existed in his country, and mentioned the case in which the application was an organization but where the discoverer retained his rights.

80.2 The Soviet Union Delegate agreed with the statement by the Director General of WIPO according to which the question of the priority date should be reserved until the discussion concerned a corresponding article of the Treaty.

81. The PRESIDENT considered that, if the words "including legal entities" were added in Article 1(v), the provision would contradict Article 3, according to which only the discoverer might file an application for international recording. The President wondered whether, as a consequence of the proposal by the Soviet Union Delegation, Article 3 should not also be amended.

82. Mr. WINTER (United States of America) expressed approval of the President's statement.

83. Mr. BOGSCH (Director General of WIPO) felt that it would be best to reserve discussion until Article 3 was considered, as Article 3(2) provided that the application should be dated and signed by the discoverer. The Soviet Union Delegation would have to propose an amendment to that provision if it wanted someone other than the discoverer to be allowed to file and sign the application. Then would be the time to revert to the definition.

84. Mr. FRANÇON (France) added that there was another passage where the underlying idea was that the applicant was a natural person. Article 4(5) specified that "the declaration ... shall be made by a scientific institution or government authority designated by the Contracting State of which the applicant is a national or resident." It was doubtful that a legal entity, while it might be a resident, could actually be a national of a country.

85. Mr. TODOROV (Bulgaria) considered that the whole of Article 1 had best be left to one side, as it was possible that new definitions might yet come up during the consideration of other articles. The Delegate of Bulgaria emphasized that that had been the practice at other conferences.

86. The PRESIDENT asked the Soviet Union Delegation if it agreed to the above suggestion.

87. Mr. KOMAROV (Soviet Union) accepted the suggestion.

88. The PRESIDENT declared that Article 1 could be completed if new definitions presented themselves during the consideration of the draft Treaty. For the time being he proposed that the discussion of Article 1 be suspended.

89. It was so decided. (Continuation: see paragraph 275.)

[The meeting was closed]

Third Meeting

Tuesday, February 28, 1978

Morning

Organization of the Work of the Conference

90.1 The PRESIDENT opened the third meeting and started by thanking the Director General of WIPO and Mrs. Bogsch on behalf of the whole Conference for the magnificent reception at WIPO Headquarters the previous evening.

90.2 The President then drew the attention of Delegations to Rule 30.3 of the Rules of Procedure of the Conference, according to which, in principle, only amendment proposals submitted in writing could be discussed. He announced his intention to depart from that Rule only for amendment proposals of a drafting nature.

90.3 The President finally announced that, in the course of a discussion that had taken place before the opening of the meeting, the heads of the Delegations of the Soviet Union and the United States of America had proposed the creation of a Contact Group for the discussion of proposals that would alter the substance of the draft Treaty. The Contact Group would consist of two or three members of each of the groups of countries. The President considered that the idea was an excellent one and proposed its acceptance. He noted that there were no objections to the proposal.

91. The proposal for the creation of the Contact Group was adopted.

92. The PRESIDENT asked each of the three groups of countries to designate two or three of its members to attend the Contact Group.

Article 2

93. The PRESIDENT opened the discussion on Article 2.

94. Mr. KOMAROV (Soviet Union) said that Article 2 was worded negatively, which was not appropriate. If the Treaty did not provide that the system entailed obligations and guarantees, it did not seem necessary to state the fact. Moreover, the contents of Article 2 did not seem to correspond to its title, or at least not fully. The Soviet Union Delegate therefore proposed another wording for Article 2.*

95. The PRESIDENT considered that the proposal could not be discussed until it had been submitted in writing, and asked the Soviet Union Delegate to hand the text to the Secretariat.

96. Mr. KOMAROV (Soviet Union) replied to the President that he would hand in the text of his proposal after the midday break. For the time being he wanted the Conference to discuss whether it was appropriate for Article 2 to be drafted in a negative form.

97. Mr. BOROS (Italy) proposed postponement of the whole discussion on Article 2 until the proposal of the Soviet Union Delegation had been circulated in writing.

98. Mr. WINTER (United States of America) supported the proposal of the Delegate of Italy.

99. Mr. KOMAROV (Soviet Union) did not insist on the discussion of Article 2 at that time.

100. The PRESIDENT proposed postponement of the debate on Article 2 until the proposal of the Soviet Union Delegation had been circulated.

101. It was so decided. (Continuation: see paragraph 195.)

Article 3

102. The PRESIDENT opened the discussion on Article 3.

103. Mr. SCHACK (German Democratic Republic) proposed the replacement, in Article 3(5)(ii) of the word "employer" by the words "institution in which the discovery was made." Account had to be taken of the fact that the word "employer" appeared neither in the national laws of a certain number of WIPO Member States nor in the Paris Convention for the Protection of Industrial Property.

* Editor's note: this proposal was subsequently circulated as document DS/CD/8.

104. Mr. BOGSCH (Director General of WIPO) recognized that the word "employer" did not appear in the Paris Convention, but added that the expression proposed by the Delegate of the German Democratic Republic did not appear in it either. The best solution would perhaps be to adopt both expressions, as there were two possible situations. Where the discoverers were not employed but worked in an institution, the appropriate expression would be "the institution in which the discovery was made," whereas, if the discovery was made in a commercial institution or enterprise in which the discoverers actually were employed, the word "employer" would be appropriate.

105. Mr. WINTER (United States of America) supported the suggestion of the Director General of WIPO.

106. Mr. SCHACK (German Democratic Republic) accepted the suggestion of the Director General of WIPO.

107. Mr. PFANNER (WIPO) read out Article 3(5)(ii) as amended, which was to have the following wording subject to drafting improvements: "the name and address of his employer or the institution in which the discovery was made at the time the scientific discovery was made." He added that Article 3(5)(iii), and perhaps other provisions too, would have to be amended accordingly.

108. Mr. BOGSCH (Director General of WIPO) suggested reversing the terms, mentioning first the institution and then the employer.

109. The PRESIDENT proposed that the formulation of the provision should be left to the Drafting Committee.

110. It was so decided.

111. The PRESIDENT asked whether there were other comments on Article 3.

112. Mr. KOMAROV (Soviet Union) proposed the insertion at the end of the first sentence of Article 3(1) of the words "as prescribed by the Regulations referred to in Article 14." The reason for the proposal was that, if there were no control over procedure, each applicant would adopt a procedure of his own, which would lead to great complications. Some unification in that area was therefore necessary.

113. Mr. BOGSCH (Director General of WIPO) said that he agreed with the substance of the proposal of the Soviet Union Delegation, but suggested passing the question on to the Drafting Committee. There was indeed reason to wonder whether it would not be preferable to add a paragraph at the end of Article 3, providing that the procedure for the application of Article 3 would be specified in the Regulations referred to in Article 14.

114. The PRESIDENT pointed out that the "Regulations referred to in Article 14" were also mentioned in Article 3(3), and proposed that the question should be passed on to the Drafting Committee.

115. It was so decided.

116. Mr. KOMAROV (Soviet Union) presented another proposal concerning Article 3(1) which corresponded to that presented the previous day on the subject of Article 1(v). He suggested allowing the application to be filed by a legal entity provided that the discoverers were identified. The Soviet Union Delegate explained that a discovery could be made possible by the assistance, material, financial or other, of an institution, enterprise or organization, in other words a legal entity, which therefore had to be able to file the application itself. It was essential, however, that all the discoverers should be mentioned in the application, and that they should enjoy the advantages provided by national legislation or the Treaty under discussion.

117. The PRESIDENT asked the Soviet Union Delegate to submit the text of his proposal to the Secretariat for distribution.

118. Mr. BINDEL (France) recognized that most modern scientists worked with means made available to them by institutions or employers. It was well known, however, that scientists had scruples when it came to publishing the results of their research, as not all the testing was necessarily complete when they reached the stage of wanting to publish the results; moreover, a certain number of discoveries had a long history, and years afterwards it might still not be proved that they were really discoveries, which was why scientists generally took endless precautions before publishing anything at all. Care should therefore be taken to ensure that Article 3 retained the spirit in which scientific publications were generally made. For an application to be filed by an institution, the presumed discoverer should in any case give his authorization, in order that what in practice corresponded to a moral right of the discoverer might be safeguarded.

119. Mr. WINTER (United States of America) stressed the importance of the provisions of Article 3. He considered that, if the Soviet Union Delegation wished to make a number of proposals for the amendment of that Article, it should really submit all the proposals to the Secretariat in order that the Conference might consider them as a whole.

120. Mr. KOMAROV (Soviet Union) replied that he would submit all his proposals for the amendment of Article 3 to the Secretariat.

121.1 The PRESIDENT asked any other Delegations that might have proposals for the amendment of Article 3 to submit them to the Secretariat in writing during the midday break.

121.2 He proposed that the discussion of Article 3 should be postponed until all the written proposals concerning it were available.

122. It was so decided. (Continuation: see paragraph 213.)

123. The PRESIDENT invited the Drafting Committee and the Credentials Committee to meet for the election of their officers.

[The meeting was closed]

<u>Fourth Meeting</u>
<u>Tuesday, February 28, 1978</u>
<u>Afternoon</u>

Organization of the Work of the Conference

124. The PRESIDENT opened the fourth meeting and asked the Secretary General of the Conference to announce the election of the Chairmen and Vice-Chairmen of the Drafting and Credentials Committees.

125. Mr. BAEUMER (WIPO) announced that the chairmanship of the Credentials Committee had been entrusted to the Delegation of India and the vice-chairmanship to the Delegations of the German Democratic Republic and Switzerland. The chairmanship of the Drafting Committee had been entrusted to the Soviet Union Delegation and the vice-chairmanship to the Delegations of France and Iraq.

126. The PRESIDENT announced that he had received the proposals of the three groups of countries for the composition of the Contact Group. Group D proposed the Soviet Union, Bulgaria and the German Democratic Republic; Group B proposed the United States of America, France and Switzerland and the Group of Developing Countries proposed Cameroon and Iraq. The PRESIDENT noted that there were no observations.

127. The proposals for the composition of the Contact Group were adopted.

Article 4

128. The PRESIDENT opened the discussion on Article 4.

129. Mr. SCHACK (German Democratic Republic) proposed the deletion from Article 4(1) of the words "whether located on or outside its territory." If a State appointed an institution situated on the territory of another State, there would have to be an agreement between those States, and there was therefore no need to settle the question in the Treaty.

130. Mr. KOMAROV (Soviet Union) supported the proposal of the Delegation of the German Democratic Republic.

131. Mr. EKANI (Cameroon) thought that the fact of saying in Article 4(1) that the scientific institution appointed by a State could be situated on or outside its territory did not preclude the existence, if appropriate, of an agreement between the two countries concerned, but that, if the words were deleted, that would mean that a country could not appoint an institution situated in another State.

132. Mr. WINTER (United States of America) considered the observations of the Delegate of Cameroon very relevant. If the words were deleted, it would be difficult for developing countries that had a regional institution to designate it.

133. Mr. BOGSCH (Director General of WIPO) suggested explaining, in the Records of the Diplomatic Conference, that the scientific institutions referred to in Article 4(1) could be situated either on or outside the territory of the Contracting State that appointed them, and could have either regional or national character.

134. Mr. KÄMPF (Switzerland) said that he was prepared to accept the proposal by the Delegation of the German Democratic Republic with the explanations suggested by the Director General of WIPO.

135. Mr. SCHACK (German Democratic Republic) agreed with the suggestion of the Director General of WIPO.

136. The proposal of the Delegation of the German Democratic Republic and the suggestion of the Director General of WIPO were adopted.

137. Mr. KOMAROV (Soviet Union) wondered whether the term "designated" used in the title of Article 4 meant that the institutions and authorities concerned were "competent."

138. Mr. PFANNER (WIPO) explained that the word "designated" was used in the title as a reference to the "designation" referred to in paragraph (1).

139. Mr. BOGSCH (Director General of WIPO) suggested passing the question on to the Drafting Committee.

140.1 Mr. KOMAROV (Soviet Union) accepted the suggestion of the Director General of WIPO.

140.2 The Soviet Union Delegate then proposed the replacement of the words "may designate" by the words "shall designate" in Article 4(1).

141. Mr. ILIEV (Bulgaria) supported the proposal of the Soviet Union Delegate.

142. Mr. VANIŠ (Czechoslovakia) also supported the proposal of the Soviet Union Delegate.

143. The Proposal of the Soviet Union Delegation concerning the wording of Article 4(1) was adopted.

144. Mr. KOMAROV (Soviet Union) proposed deletion of the provision appearing in Article 4(3), pointing out that the Treaty did not impose any particular responsibility.

145. Mr. KÄMPF (Switzerland) did not offer any formal opposition, but warned that the adoption of the last proposal might have the effect of delaying Switzerland's accession to the Treaty for an indeterminate time, for constitutional reasons that were entirely peculiar to Switzerland.

146. Mr. KOMAROV (Soviet Union) suggested that the question should be settled by a majority decision or be considered by the Contact Group.

147. It was decided that the task of considering the desirability of deleting Article 4(3) should be entrusted to the Contact Group.

148. Mr. SWAMINATHAN (India) felt that the period of six months provided for in Article 4(4) of the draft was too long, and proposed replacing it by a three-month period.

149. The proposal of the Delegation of India was adopted.

150. Article 4 was adopted as amended in the course of the debate, subject to the decision referred to in paragraph 147. (Continuation; see paragraph 451.)

Article 5

151. The PRESIDENT opened the discussion on Article 5.

152. Mr. KOMAROV (Soviet Union) proposed deletion of paragraph (4) and the addition of a new item to paragraph (3).

153. The PRESIDENT asked the Soviet Union Delegate to submit the proposal in writing and proposed suspension of the discussion on Article 5.

154. It was so decided. (Continuation; see paragraph 283.)

Article 6

155. The PRESIDENT opened the discussion on Article 6. He noted that there were no comments.

156. Article 6 was adopted. (Continuation; see paragraph 565.)

Article 7

157. The PRESIDENT opened the discussion on Article 7.

158. Mr. SWAMINATHAN (India) felt that the title of Article 7 was not very clear.

159. Mr. BOGSCH (Director General of WIPO) suggested replacing the title by "Gazette."

160. It was so decided.

161. Article 7 was adopted as amended. (Continuation; see paragraph 570.)

Article 8

162. The PRESIDENT opened the discussion on Article 8.

163. Mr. BOROS (Italy) proposed the insertion in paragraph (1) of the words "at any time" between "may" and "file." He pointed out that observations could be useful even long after the recording of the scientific discovery.

164. The proposal of the Delegation of Italy was adopted.

165. Article 8 was adopted as amended. (Continuation; see paragraph 576.)

Article 9

166. The PRESIDENT opened the discussion on Article 9.

167. Mr. KOMAROV (Soviet Union) felt that the words "whose amount shall be fixed by the Director General," which appeared in Article 9(1) and (2), would be appropriate if the system of international recording of scientific discoveries was established by a resolution of the General Assembly of WIPO. As, however, a draft Treaty was being considered, he proposed their replacement by the words "whose amount shall be fixed in the Regulations referred to in Article 14."

168. Mr. WINTER (United States of America) opposed the proposal of the Soviet Union Delegation, as the text of the draft seemed to give more guarantees of the system's absence of financial implications for States not party to the Treaty.

169. Mr. KOMAROV (Soviet Union) pointed out that, in view of Article 13 of the draft, the proposal submitted by his Delegation would not have any financial implications for States not participating in the system.

170. Mr. VANIŠ (Czechoslovakia) supported the proposal of the Soviet Union Delegation.

171. Mr. BOGSCH (Director General of WIPO) pointed out that the Director General of WIPO could not impose fees otherwise than in agreement with the Contracting States.

172. Mr. SALMAN (Iraq) emphasized the importance to developing countries of access to information. Consequently, he proposed that special procedures should be provided for the payment of fees by developing countries.

173. Mr. SWAMINATHAN (India) considered that the title of Article 9 was not adequate.

174. Mr. BOGSCH (Director General of WIPO) agreed that the title could be improved, as the emphasis should be placed on access to information contained in the International Register rather than on the Register's public character. He suggested passing the question on to the Drafting Committee.

175. It was so decided.

176. Mr. ILIEV (Bulgaria) considered the proposal submitted by the Soviet Union Delegate very pertinent. He added that the Regulations could provide for a preferential system for developing countries.

177. Mr. BOGSCH (Director General of WIPO) mentioned that three types of fee were involved, namely; the fee payable on filing an application (Article 3(7)), the fee for an observation (Article 8(4)) and finally the fees payable for certain types of information (Article 4(1) and (2)).

178. Mr. WINTER (United States of America) said that, if it was agreed that Article 13 should be maintained, he would withdraw his objection.

179. The proposal of the Soviet Union Delegation was adopted.

180. Article 9 was adopted as amended in the course of the debate. (Continuation: see paragraph 582.)

Article 10

181. The PRESIDENT opened the discussion on Article 10.

182. Mr. BOROS (Italy) pointed out that the declaration referred to in Article 3(2), which was also mentioned in Article 10, had the character of mere moral approval, and he thought that its withdrawal should not be allowed. Such withdrawal would be prejudicial to the discoverer, who did not have the equivalent right to withdraw his application.

183. Mr. BOGSCH (Director General of WIPO) agreed that there was a certain lack of balance, which had to be put right. He suggested providing that the discoverer could withdraw his application or apply for the cancellation of the international recording.

184. Mr. BOROS (Italy) felt that the institution or authority that had made the declaration should not be able to withdraw it without the consent of the discoverer. With that reservation, he shared the opinion of the Director General of WIPO.

185. Mr. BOGSCH (Director General of WIPO) thought that it would be logical for the authority to have the right to withdraw the declaration in the event of error, as it did have the right not to grant the declaration.

186. Mr. EKANI (Cameroon) shared the view expressed by the Delegate of Italy.

187. Mr. BINDEL (France) said that he agreed with the Director General of WIPO. The discoverer should have the right to withdraw the application on his own initiative.

188. Mr. SWAMINATHAN (India) considered that only the person who had made the declaration should have the right to withdraw it.

189. Mr. KOMAROV (Soviet Union) said that it was a question of the competence and honesty of the scientists and of the institution, and added that he agreed with the Delegate of France. A right of withdrawal should be granted both to the institution and to the scientist. Consequently, Article 10(1) should be amended as follows: "the declaration referred to in Article 3(2) may be withdrawn by the institution or authority that made it at any time prior to the international recording of the scientific discovery. The effect of such withdrawal shall be that the application is regarded as not having been filed. Alternatively, the institution or authority that has made the declaration and the discoverer may, for the withdrawal of the declaration or cancellation of the international recording, follow the procedure laid down in the Regulations referred to in Article 14."

190. Mr. BOGSCH (Director General of WIPO) asked whether the institution and the discoverer had always to act jointly, or whether each could act independently.

191. The PRESIDENT asked the Soviet Union Delegate to submit his proposal in writing.

192. Mr. PETER (Switzerland) pointed out that many scientific discoveries were made by groups of scientists. The question then arose whether withdrawal could be effected by any one of the discoverers or whether they all had to withdraw it together. In the latter case, provision would have to be made for the eventuality of the death of one of the discoverers.

193. The PRESIDENT proposed suspending the discussion of Article 10 and resuming it on the following day on the basis of a written proposal from the Soviet Union Delegation.

194. It was so decided. (Continuation; see paragraph 297.)

[The meeting was closed]

Fifth Meeting

Wednesday, March 1, 1978

Morning

Article 2 (continued from paragraph 101)

195. The PRESIDENT opened the fifth meeting and announced that the Delegations of Italy and the Soviet Union had submitted proposals concerning Article 2 (documents DS/CD/6 and DS/CD/8, respectively).

196. Mr. BOROS (Italy) pointed out that the purpose of his Delegation's proposal (document DS/CD/6) was to ensure that all people were free to make use of the scientific discovery.

197. Mr. EKANI (Cameroon) supported the proposal of the Delegation of Italy, which came close to something that was a matter of constant concern to developing countries.

198. Mr. BOGSCH (Director General of WIPO) noted that the amendment proposed by the Delegation of Italy affected the freedom of Contracting States to determine the contents of their domestic laws, which was contrary to the spirit of the draft.

199. Mr. BOROS (Italy) explained that it followed from his Delegation's proposal that every country could, under its national laws, regulate the recognition of authorship of a scientific discovery, the grant to the discoverer of decorations or awards, etc., but that it could never prevent, limit or condition the use of scientific discoveries by any person. The Delegate of Italy considered that the principle, which was recognized throughout the world, including in the legislation of the Soviet Union, had not been clearly emphasized in the draft, and it was even possible to draw contradictory conclusions from the wording of Article 2.

200. Mr. WINTER (United States of America) preferred to have the text of Article 2 remain unchanged, although he did recognize the interest of the proposal of the Delegation of Italy for developing countries. In any case it had to be clear that national law was completely free regarding the legal effect of the international recording.

201. The PRESIDENT preferred to consider the proposal submitted by the Soviet Union Delegation (document DS/CD/8) before continuing the discussion on the proposal of the Delegation of Italy (document DS/CD/6), in order that the meaning of the Soviet Union proposal might be better understood.

202.1 Mr. KOMAROV (Soviet Union) said that the wording of Article 2 was unnecessarily negative in the draft. The general content of the Article could be retained, but it would have to be drafted in a more positive spirit. Apart from that, the text of Article 2 did not seem to correspond to its title.

202.2 The Soviet Union Delegate proposed that Article 2 deal first, in the opening paragraph, with the legal effects of international recording, adding that the underlying idea of his Delegation's proposal was the following; if the national legislation of a Contracting State gave rights to the discoverer, including the right to remuneration, the Treaty should also guarantee those rights. Apart from that, the indication of the possibility of receiving a declaration such as that mentioned in Article 3(2) would be in conformity with the provisions of the draft in which such a declaration was referred to.

202.3 The Soviet Union Delegate announced that his Delegation was proposing a second paragraph, because it considered it necessary to set time limits on the application for international recording. The length of the period proposed could be discussed, but there had to be some period.

202.4 As for the proposed third paragraph, the Soviet Union Delegate said, basing his information on the experience of Soviet legislation and its practical application to any discoveries that might have been made in geography, archeology, paleontology, the mining of useful minerals and the social sciences, that those discoveries were very difficult to verify and evaluate by the methods officially accepted in the Soviet Union and unofficially applied in other countries; apart from that, in the majority of cases the discoveries did not correspond exactly to the concept of intellectual property or to that of the product of intellectual activity, and they had no connection with technology.

203. Mr. VANIŠ (Czechoslovakia) supported the proposal of the Soviet Union Delegation.

204. Mr. WINTER (United States of America) said that Article 2 as proposed by the Soviet Union Delegation would have exactly the opposite effect of the present draft Article 2, which had been agreed to as a compromise solution at the preparatory meetings that had taken place over a three-year period, and had finally been accepted as one of the basic principles of the draft Treaty at the last preparatory work meeting in 1976. The ultimate aim of the proposal of the Soviet Union Delegation was to give legal effect to the international recording, whereas the draft provided clearly for the establishment of a system of international recording, without that recording having any legal effect. The Delegate of the United States of America added that the proposal of the Soviet Union Delegation had been discussed at length by the countries of Group B that morning, and that their opposition to the proposal was unanimous.

205. Mr. EKANI (Cameroon) said that the proposal of the Soviet Union Delegation raised serious problems for developing countries, which did not wish to see provisions in an international convention that recognized rights in relation to scientific discoveries.

206. The PRESIDENT noted that there were two proposals for the amendment of Article 2 that were totally contradictory, and thought that the problem should be put to the Contact Group.

207. Mr. KOMAROV (Soviet Union) said that his Delegation was prepared to discuss the matter within the Contact Group; he nevertheless wished to make it clear that the proposal did not place anyone under any obligation, as it referred to national legislation.

208. The PRESIDENT asked the Delegate of the United States of America if he was able to withdraw his objections in the light of the additional explanation provided by the Soviet Union Delegate.

209. Mr. WINTER (United States of America) replied that the aspect of the problem mentioned by the Soviet Union Delegate had already been taken into consideration, but that he still preferred the text of the draft Treaty and could not withdraw his objection.

210.1 Mr. BOGSCH (Director General of WIPO) said that he was taking the floor to point out that the Records of the Conference would reflect only the discussions that took place in the Plenary and not those of the Contact Group. He considered that an analysis should be made of the proposal of the Soviet Union Delegation, which consisted of three completely different items. The Director General of WIPO proposed that they should be dealt with in the reverse order of their appearance in the proposal.

210.2 Paragraph (3), which was entitled "Exceptions," was in fact complementary to the definition of the scientific discovery. The Director General of WIPO reminded Delegates that the question had been discussed at length during the preparatory meetings. He expressed the opinion that, if a country did not wish to regard those types of "discoveries" as discoveries, the institution or authority designated by that country would not provide the required declaration, which would prevent the recording of the "discoveries" of that type coming from the country in question.

210.3 As for paragraph (2), which proposed a time limit, the Director General of WIPO considered it a useful proposal, except for the words "priority date." The latter concept had a very precise connotation in intellectual property, which was not applicable to scientific discoveries. It would be preferable to say that the discoverer could not file an application for international recording more than ten years after the date on which he asserted that he had made the discovery. Such a provision did not belong in Article 2, moreover, as it had nothing to do with the scope of the international recording, but it could perhaps be made one of the elements of the application.

210.4 The most important point was the one emphasized by the Soviet Union Delegate in his previous intervention, namely that no right would be guaranteed by the Treaty, such rights existing only in those States that gave them. Worded as it was, however, the proposal of the Soviet Union Delegation seemed to go further. A wording should be found that stated clearly that each Contracting State was entirely free to grant or not to grant rights.

211. The PRESIDENT, noting that no one else wished to speak, moved that the proposals submitted by the Delegations of Italy (DS/CD/6) and the Soviet Union (DS/CD/8) be passed on to the Contact Group.

212. It was so decided. (Continuation: see paragraph 451.)

Article 3 (continued from paragraph 122)

213. The PRESIDENT reopened the discussion on Article 3, and mentioned that proposals for the amendment of that Article had been submitted by the Delegations of the Soviet Union (document DS/CD/9) and Bulgaria (document DS/CD/10). After having compared the proposal of the Soviet Union Delegation with the text of the draft, he invited the Soviet Union Delegation to explain its proposed amendments to paragraph (1).

214. Mr. KOMAROV (Soviet Union) pointed out first that his Delegation had not intended to delete paragraphs (7) and (8) of Article 3. On the subject of paragraph (1), he explained that a reference to the Regulations was added to the first sentence in order to standardize procedure, which would save the International Bureau difficulties in the application of the Treaty. It was then proposed that a statement be included to the effect that the application could also be filed by a legal entity, but with a mention of the discoverer. There could indeed be cases in which it was appropriate, for one reason or another, for the application to be filed by a legal entity. The Soviet Union Delegate could agree to have the text specify that such a filing had to be made with the consent of the discoverer, although to do so seemed unnecessary as the application had to be signed by the discoverer, which rather suggested that he had consented to the filing.

215. Mr. SZWAJA (Poland) gave his Delegation's support to the proposal of the Soviet Union Delegation concerning paragraph (1), with the proviso that the discoverer had to give his consent, and retaining the last sentence of paragraph (1) of the draft, namely the following: "Where a scientific discovery has been made jointly by several discoverers, it shall suffice if one of the discoverers fulfills the above requirement as to nationality or residence."

216. Mr. KOMAROV (Soviet Union) said that he had no objection to the above sentence being retained in the text of Article 3(1).

217. Mr. FRANÇON (France) wished to have two additions made to the text of the Soviet Union Delegation's proposal for paragraph (1). The first addition was that of the word "also" after the words "the application may" in the last sentence, in order to make it quite clear that the normal situation was for the application to be filed by the discoverer, and that a right of the same kind could be given to a legal entity only as a subsidiary arrangement, so to speak. The second addition would make it clear that a legal entity could only file an application if it was itself established under the laws of a Contracting State or domiciled on the territory of such a State.

218. Mr. BOROS (Italy) felt that Article 3(1) should also say that the legal entity could only file the application with the agreement of the discoverer.

219. Mr. KOMAROV (Soviet Union) said that he had no objection either to the first proposal of the Delegation of France or to the proposal of the Delegation of Italy. He could also accept the second proposal of the Delegation of France, with reservations as to its drafting.

220. Mr. MÜHLEN (Federal Republic of Germany) wished to make sure that the last sentence of paragraph (1) of the draft, which had been reinserted in the text on a proposal by the Delegation of Poland, would in fact remain the last sentence.

221. The PRESIDENT replied in the affirmative.

222. The set of proposals on Article 3(1) was adopted.

223. The PRESIDENT invited the Soviet Union Delegate to present his proposal for the amendment of Article 3(2).

224. Mr. KOMAROV (Soviet Union) mentioned that, according to the amendments proposed by his Delegation to paragraph (2) of Article 3, the application could only be filed together with a recommendation letter, and that the declaration contained in it had to (rather than could) contain an opinion or statement to the effect that subject matter of the application corresponded to the definition of a scientific discovery according to Article 1(1). The purpose of the two proposals was to strengthen the guarantees that only genuine scientific discoveries would be the subject of international recording.

225. The PRESIDENT asked for clarification of the term "recommendation letter."

226. Mr. KOMAROV (Soviet Union) replied that the word "recommendation letter" should be replaced in his proposal by the word "declaration."

227. Mr. SCHACK (German Democratic Republic) supported the proposal of the Soviet Union Delegation concerning Article 3(2).

228. Mr. WINTER (United States of America) had no basic objection to the proposal of the Soviet Union Delegation. However, Group B preferred to keep the term "may" as in the draft, rather than "shall."

229. Mr. SALMAN (Iraq) also favored the optional form written into the draft, as it would be difficult for a developing country to comply with the obligation proposed by the Soviet Union Delegation.

230. Mr. BOGSCH (Director General of WIPO) pointed out that the proposal of the Soviet Union Delegation contained a difference in relation to the draft that no one had yet mentioned. According to the draft, the declaration could contain an opinion on the merits of a scientific discovery or certify its authenticity, whereas, according to the proposal of the Soviet Union Delegation, the declaration contained the statement that the scientific discovery actually was one. The latter point seemed unnecessary as, if the scientific discovery was not one in the opinion of the institution or authority, it would have nothing to certify; on the other hand, if it submitted the application, that alone implied that it considered it to be a scientific discovery, which then would not need to be stated. Looked at in another way, what was lacking in the proposal of the Soviet Union Delegation was the possibility for the institution of authority to express an opinion on the merits of the scientific discovery and certify its authenticity. The Director General of WIPO wished to know whether the omission was intentional.

231. Mr. KOMAROV (Soviet Union) replied that the idea of his proposal was that the opinion on the merits of the scientific discovery and the certification of its authenticity were contained in the statement that a scientific discovery had been made. However, the text of the draft was not very clear on the opinion and certification, and indeed the question was perhaps one of drafting. On the other hand, what was important was that it should be mandatory to state that a scientific discovery had in fact been made.

232. Mr. WINTER (United States of America) pointed out that the wording contained in the proposal of the Delegation of Bulgaria (document DS/CD/10) was closer to the text of the draft. The optional form should be retained in both proposals, however.

233. Mr. BOGSCH (Director General of WIPO) noted that the Delegates were very close to agreeing and was gratified that the Soviet Union Delegation did not oppose the proposal that the idea of having the possibility of submitting an opinion on the merits of the scientific discovery be retained. As for whether the mandatory or the optional form should be used, he considered that the mandatory form would be justified if it were necessary for the declaration to state that the subject matter of the application was a scientific discovery. That was not necessary, however, as the mandatory requirement that the subject matter of the application be a scientific discovery was implicit, for if the subject matter was not a scientific discovery, the institution or authority would not file the application. As for the opinion on the merits of the scientific discovery, the Director General of WIPO felt that it had to remain optional, as it would be too much to expect the institutions and authorities to accept the obligation to make an analysis of the merits of the scientific discovery in every case. They would do so only where they considered it justified.

234. Mr. KOMAROV (Soviet Union) said that he agreed to the opinion on the merits of the scientific discovery being optional, but that it was important that the statement to the effect that the subject matter of the application corresponded to the definition of a scientific discovery be mandatory, as the Treaty had to do with scientific discoveries and not presumed scientific discoveries.

235. Mr. EKANI (Cameroon) wondered whether Article 3(3)(iv) of the draft, which required specification of the branch of science to which the scientific discovery pertained, did not correspond, at any rate not fully, to the concern of the Soviet Union Delegate.

236. Mr. BOGSCH (Director General of WIPO), noting that the Conference agreed with the Soviet Union Delegate in the sense that no declaration should be made if the subject matter of the application was not a scientific discovery, suggested saying merely, either in the Treaty or in an agreed declaration to be included in the Records of the Conference, that it was understood that when the institution or authority considered the subject matter of the application not to be a scientific discovery, it would refuse to make the declaration.

237. Mr. KOMAROV (Soviet Union) considered that further efforts should be made to find a wording that expressed clearly that the purpose of the declaration was to assert that the subject matter of the application corresponded to the scientific discovery concept according to the Treaty.

238. The PRESIDENT suggested submitting the problem to the Contact Group, so that the whole question could be reconsidered.

239. Mr. WINTER (United States of America) felt that there had first to be basic agreement in the Plenary. If the Soviet Union Delegation would agree to the opinion on the merits of the scientific discovery being optional, it would be possible to accept a formulation according to which the declaration had to convey in one way or another that the subject matter of the application was a scientific discovery.

240. Mr. KOMAROV (Soviet Union) said that he agreed to the opinion on the merits of the scientific discovery being optional: what would be mandatory, on the other hand, was the statement that the subject matter of the application was a scientific discovery.

241. Mr. TODOROV (Bulgaria) considered that it was no longer necessary to pass the question on to the Contact Group or to discuss the proposal of his own Delegation, which he withdrew.

242. The PRESIDENT noted that there were no further substantive problems and proposed that the Drafting Committee should be entrusted with deciding on the wording of Article 3(2).

243. It was so decided.

244. The PRESIDENT moved on to the amendment to Article 3(3) proposed by the Soviet Union Delegation, which consisted in the insertion of a subparagraph (v)bis worded in the following way: "(v)bis the priority date of the scientific discovery." He asked the Soviet Union Delegate to explain the proposal.

245. Mr. KOMAROV (Soviet Union) said that it was essential to specify the date on which the scientific discovery was made, as the filing date of the application was not sufficient. It was important to avoid several persons being able to claim authorship of the same scientific discovery, which would be possible if authorship could be claimed without reference to the date on which the discovery was made.

246. Mr. BOGSCH (Director General of WIPO) saw no objection to the application indicating the date on which the discoverer believed he had made the scientific discovery, provided that there was no mention of a "priority date" and that it was clear that only a claim without any legal effect was involved.

247. Mr. KOMAROV (Soviet Union) pointed out that, according to Article 3(3)(viii) of the draft, the application contained a statement by the discoverer to the effect that, to his knowledge, the scientific discovery, when made by him, was not known to anyone else; if the application was not to be completely abstract, a date had to be mentioned. Moreover there was also a reference to the date of the discovery also in Article 3(4), and that clearly was the date on which the discoverer claimed to have made the discovery and not the date of recording.

248. Mr. WINTER (United States of America) said that, if the Soviet Union Delegation could accept the statement made by the Director General of WIPO, he had no objection to its proposal, subject to the use of an expression other than "priority date," which was unacceptable to the Delegations of the Group B countries.

249. The PRESIDENT asked the Soviet Union Delegation whether it was prepared to replace the expression "the priority date of the scientific discovery" by an expression referring to the date on which the author claimed to have made the discovery.

250. Mr. KOMAROV (Soviet Union) said that, as far as the substance of the question was concerned, the interpretation given by the Director General of WIPO corresponded to his Delegation's intention, adding that, although Soviet Union legislation called that date the "priority date," he could consider the use of other terms.

251. Mr. BINDEL (France) pointed out that some scientific discoveries could be given a definite date and others could not, as a scientific discovery was often a continuous creation. He would prefer to use a formula such as "if appropriate, the date on which the discoverer believes he made his discovery," as the mention of the date should be optional.

252. Mr. BOGSCH (Director General of WIPO) felt that the mention of the date did not necessarily have to include an exact mention of a year, a month and a day, and that the Regulations could allow some latitude in that respect.

253. Mr. BOROS (Italy) pointed out that the expression "in the languages" at the beginning of paragraph (3) should be replaced by the words "in one of the languages."

254. The PRESIDENT proposed that Article 3(3) as amended in the course of the debate be adopted and passed on to the Drafting Committee.

255. It was so decided.

256. The PRESIDENT moved on to Article 3(4) and asked the Soviet Union Delegation to explain its proposal for that provision (document DS/CD/9).

257. Mr. KOMAROV (Soviet Union) said that his Delegation's proposal on paragraph (4) of Article 3 was intended to give mandatory character to the description of the scientific discovery and to the specification of the data that proved its authenticity. Consequently, paragraph (4) should be entitled "Elements in Description" and be drafted in such a way as to stress the mandatory character mentioned.

258. Mr. BINDEL (France) supported the proposal of the Soviet Union Delegation.

259. Mrs. REYES-RETANA (Mexico) also supported the proposal of the Soviet Union Delegation.

260. Mr. EKANI (Cameroon) supported the proposal of the Soviet Union Delegation, as it was a question not of "additional" elements but of an essential element that enabled developing countries to be informed.

261. The PRESIDENT noted that there was no objection to the proposal for the amendment of Article 3(4) submitted by the Soviet Union Delegation.

262. The proposal submitted by the Soviet Union Delegation for the amendment of Article 3(4) was adopted.

263. The PRESIDENT said that the text of Article 3(5) was unchanged, and proceeded to the proposal submitted by the Soviet Union Delegation for the amendment of Article 3(6) (document DS/CD/9). He asked the Soviet Union Delegation to present its proposal.

264. Mr. KOMAROV (Soviet Union) explained that information concerning the official recognition of a scientific discovery made the discovery more attractive, confirmed its authenticity and facilitated its recording. That was why it was proposed that the provision of such information and supporting documents should be made mandatory instead of optional.

265. Mr. MÜHLEN (Federal Republic of Germany) considered that the wording proposed by the Soviet Union Delegation was liable to impose obligations on States that in fact should be reserved for national legislation.

266. Mr. BINDEL (France) shared the opinion of the Delegate of the Federal Republic of Germany. He mentioned that there were certain cases in which there might be good reasons for not publicizing the awards or diplomas granted. Moreover, in Western countries, the merits of a scientific discovery were not recognized by governmental authorities but by scientific institutions such as the "Académie des sciences" in France; for that reason the Delegate of France proposed that Article 3(6) should begin with the words: "Where a government authority or scientific institution has officially recognized...."

267. The PRESIDENT pointed out that if the words "or scientific institution" were inserted in Article 3(6), the text would have to be changed accordingly, as he was of the opinion that a scientific institution was not in a position to recognize a scientific discovery officially.

268. Mr. BOGSCH (Director General of WIPO) pointed out that, first, there was no question of an obligation on the State even if Article 3(6) were drafted as proposed by the Soviet Union Delegation; it would rather be an obligation on the applicant. Second, it would be a lex imperfecta, as there was no provision for sanctions; the scientific discovery would be recorded in all cases and the recording could not be cancelled. It was not very important, therefore, whether or not the provision was given mandatory character. What was proposed by the Delegate of France, on the other hand, was more important as certain prizes, such as the Nobel Prize, would not come either under the provision in the draft or under that proposed by the Soviet Union Delegation.

269. Mr. BOROS (Italy) considered the matter to be one of formulation rather than substance.

270. Mr. KOMAROV (Soviet Union) said that he could accept the proposal of the Delegation of France. Moreover, he said that he was prepared to forgo the mandatory character of the provision, but that one might introduce the idea of it being desirable to provide the information concerned.

271. The PRESIDENT thanked the Soviet Union Delegate for his spirit of understanding, and proposed that the problem should be passed on to the Drafting Committee.

272. It was so decided.

273. The PRESIDENT said that paragraphs (7) and (8) of Article 3 would remain as in the draft (document DS/CD/3). He proposed that Article 3 should be considered adopted in substance and passed on to the Drafting Committee.

274. It was so decided. (Continuation: see paragraph 472.)

Article 1 (continued from paragraph 89)

275. The PRESIDENT came back to Article 1, and referred to document DS/CD/7, in which the Soviet Union Delegation proposed amendment of the definition of the term "applicant" and the addition of a definition for the expression "priority date."

276. Mr. BOGSCH (Director General of WIPO) mentioned that the Soviet Union Delegation had declared its agreement to the use in Article 3(3) of an expression other than "priority date." He considered that it was for the Drafting Committee to decide on the necessity, if any, of including a definition of that other expression in Article 1. As for the other matter, it had mainly to be established whether the agreement of the discoverer was necessary for the application to be filed by a legal entity.

277. Mr. KOMAROV (Soviet Union) said that he was prepared to add a provision requiring the consent of the true discoverer when the application was filed by a legal entity.

278. Mr. FRANÇON (France) preferred to have "presumed discoverers" spoken of in the definition rather than "true discoverers," as there could only ever be presumptions in that area.

279. Mr. KOMAROV (Soviet Union) had no objection to the use of the expression "presumed discoverers."

280. The PRESIDENT proposed that the proposals of the Soviet Union Delegation, as amended in the course of the debate, should be considered adopted with respect to their principle and be passed on to the Drafting Committee.

281. It was so decided.

282. Article 1 was adopted as amended. (Continuation: see paragraph 467.)

Article 5 (continued from paragraph 154)

283. The PRESIDENT reopened the discussion on Article 5, on the subject of which the Soviet Union Delegation proposed amendments in document DS/CD/11. He asked that Delegation to explain its proposal.

284. Mr. KOMAROV (Soviet Union) said that his Delegation was proposing the deletion of Article 5(4) because it was a negative provision. The fact of excluding any guarantee of the claims made and facts asserted in the application weakened the responsibility for those claims and facts, which did not benefit the substance of the system, and still less its information value. Moreover, it was proposed that a new subparagraph be included in Article 5(3) according to which recording consisted in establishing the fact of the recognition of the scientific discovery, the authorship of the scientific discovery and the priority of the discoverer.

285. Mr. JOUK (Byelorussian SSR) supported the proposal of the Soviet Union Delegation.

286. Mr. WINTER (United States of America) said that his Delegation and the Delegations of the countries of Group B had the same objections to the proposed amendment of Article 5 presented by the Soviet Union Delegation as to that Delegation's proposed amendment to Article 2. The proposal for the amendment of Article 5 would undermine one of the basic principles on which agreement had been reached before the Diplomatic Conference, namely the question of legal effect. Article 5(4) should not be deleted, therefore. Moreover, the expression "the priority of the discoverer" should not be used.

287. The PRESIDENT was of the opinion that the consideration of Articles 2 and 5 was one and the same problem and should be entrusted to the Contact Group.

288. Mr. BOGSCH (Director General of WIPO) pointed out that the proposal of the Soviet Union Delegation could be read in two ways, owing to the use of the word "establishment." He drew attention to the fact that the international recording referred to in Article 5(3) was nothing other than the stamping of the application. Consequently, the entire contents of the application, including the date on which the discoverer claimed to have made the scientific discovery and the name of the discoverer, became part of the international recording. If that was indeed the way in which the proposal of the Soviet Union Delegation was to be understood, the Director General of WIPO considered that the question could be "dedramatized" considerably.

289. The PRESIDENT asked the Delegate of the United States of America whether, in the light of the above explanations, he felt that the matter could be passed on to the Drafting Committee.

290. Mr. WINTER (United States of America) replied in the affirmative. He said that the word "establishment" was giving difficulties. Moreover, the Soviet Union Delegation had already agreed to the substitution of another term for "priority." As for the deletion of Article 5(4), it would be unfortunate but could perhaps also be discussed within the Drafting Committee.

291. Mr. KOMAROV (Soviet Union) confirmed the interpretation of the word "establishment" given by the Director General of WIPO. As for the term "priority of the discoverer," it would have to be replaced according to the agreement reached earlier.

292. Mr. FRANÇON (France) said that the matter of deleting or not deleting Article 5(4) could not be settled by the Drafting Committee alone but should be referred to the Contact Group.

293. Mr. KOMAROV (Soviet Union) considered that, if the Treaty did not contain provisions according to which international recording constituted a guarantee of the facts set forth in the application, there was no need to say that recording did not constitute such a guarantee. He wished to delete paragraph (4) because it had the effect of removing all responsibility, even moral responsibility, from the applicant with regard to the claims made and facts asserted in the application, whereas a maximum guarantee had to be given, even if it were only moral, as to the authenticity of the facts stated in the application.

294. Mr. WINTER (United States of America) said that he agreed with the Delegate of France, as the question was a very important substantive question for the United States of America and other countries of Group B.

295. The PRESIDENT proposed that the substantive problem should be referred to the Contact Group and that the rest of Article 5, with the exception of the wording of the new subparagraph of paragraph (3), should be regarded as adopted.

296. It was so decided. (Continuation: see paragraph 451.)

Article 10 (continued from paragraph 194)

297. The PRESIDENT opened the discussion on the proposal of the Soviet Union Delegation concerning Article 10, which was contained in document DS/CD/12. He asked the Delegation to explain its proposal.

298. Mr. KOMAROV (Soviet Union) said that his Delegation had endeavored to word the new title of Article 10 and the new text of paragraph (1) of that Article in the light of the preliminary discussions that had already taken place. The new wording gave the institution or authority that had made the declaration the right to withdraw it at any time, and it gave the applicant the possibility of withdrawing the application before recording and of requesting cancellation of the international recording in conformity with a procedure that would be laid down in the Regulations.

299. Mr. EGOROV (Ukrainian SSR) supported the proposal of the Soviet Union Delegation.

300. Mr. KÄMPF (Switzerland) said that in principle he agreed with the contents of the proposal of the Soviet Union Delegation, which he was in a position to support. He submitted a drafting proposal however, suggesting that the first two sentences of paragraph (1)(a) as appearing in the proposal of the Soviet Union Delegation should be retained and that the rest of subparagraph (a) should be transferred to the Regulations. As for paragraph (1)(b), it would be retained. The Delegate of Switzerland felt that there were certainly other problems that would have to be settled by the Regulations, for instance the one which his Delegation had raised on the previous day on the subject of two or more discoverers.

301. Mr. FRANÇON (France) said that document DS/CD/12 had been distributed at the very last minute, and asked that Delegates might be allowed time to study it.

302. The PRESIDENT proposed postponing the discussion of Article 10 to the afternoon meeting.

303. It was so decided. (Continuation: see paragraph 420.)

Article 11

304. The PRESIDENT opened the discussion on Article 11. He noted that there were no observations.

305. Article 11 was adopted. (Continuation: see paragraph 582.)

Article 12

306. The PRESIDENT opened the discussion on Article 12.

307. Mr. WINTER (United States of America) pointed out that his Delegation was going to submit a proposal for the amendment of Article 15 which would call for an addition to Article 12. Article 12 should therefore be discussed subject to that addition.

308. Mr. EKANI (Cameroon) made a drafting comment on Article 12(1)(a). It would be preferable to say that "the Contracting States shall constitute an Assembly."

309. The PRESIDENT pointed out that the wording used in the draft was that generally used in WIPO instruments. He proposed referring the question to the Drafting Committee.

310. It was so decided.

311. Mr. KOMAROV (Soviet Union) proposed adding a new subparagraph (ii) to Article 12(2) and renumbering subparagraphs (ii) to (iv) as appearing in the draft. The new subparagraph (ii) would be worded in the following way: "(ii) review and approve the accounts and activities of the Director General concerning the system of international recording of scientific discoveries."

312. Mr. ILIEV (Bulgaria) supported the proposal of the Soviet Union Delegation.

313. Mr. MÜHLEN (Federal Republic of Germany) wished to know what, according to the Soviet Union Delegate, the activities in question would be.

314. Mr. KOMAROV (Soviet Union) replied that his Delegation had in mind all activities in relation to the Treaty that were within the competence of WIPO, mainly recording, finance, publications, etc.

315. The proposal of the Soviet Union Delegation was adopted in principle and referred to the Drafting Committee.

316. Article 12 was adopted as amended during the debate, subject to the proposal to be submitted by the Delegation of the United States of America. (Continuation: see paragraph 361.)

Article 13

317. The PRESIDENT opened the discussion on Article 13.

318. Mr. WINTER (United States of America) announced that he was going to submit a proposal to the Secretariat for the amendment of Article 13, which would consist in adding a new paragraph at the end.

319. The PRESIDENT asked whether there were any comments on the existing three paragraphs of Article 13.

320. Mr. KOMAROV (Soviet Union) proposed replacing the last sentence of paragraph (1) ("The amount of the fees shall be reviewed at least once a year.") by the following sentence: "The amount of these fees shall be fixed and reviewed by the Assembly," and giving the paragraph a more appropriate title in Russian.

321. Mr. ILIEV (Bulgaria) proposed to the Delegate of the United States of America that he present his proposal orally, which would allow time for it to be considered before it was distributed in writing.

322. The PRESIDENT asked the Delegates to speak first on the proposal of the Soviet Union Delegation.

323. Mr. FRANÇON (France) did not understand how the Assembly, which met once a year according to Article 12(7), could both fix and review the amount of the fees. It seemed that that twofold task would require the Assembly to meet several times a year.

324. Mr. BOGSCH (Director General of WIPO) pointed out that Article 3(7) provided that the amount of the fee was fixed in the Regulations referred to in Article 14: as the Regulations were adopted by the Assembly, there was already a provision according to which the fees were fixed by the Assembly. Moreover, Article 12(7) provided that the Assembly met once a year. The last sentence of Article 13(1) could therefore be deleted in view of the fact that the question of fees would appear on the agenda of each session.

325. Mr. KOMAROV (Soviet Union) reserved the right to return to the question, as his Delegation was not in a position to take a decision for the time being.

326. The PRESIDENT proposed adjourning the discussion of the question and resuming it at the afternoon meeting.

327. It was so decided.

328. Mr. KOMAROV (Soviet Union) proposed deleting Article 13(2), which concerned States not party to the Treaty. The provision was unnecessary as paragraph (1) stated the principle of financial autonomy. Moreover, there was no precedent for it in comparable treaties.

329.1 Mr. WINTER (United States of America) wished to have the discussion on the proposal of the Soviet Union Delegation postponed to the afternoon meeting.

329.2 In reply to a request from the Delegate of Bulgaria, the Delegate of the United States of America read out the (new) Article 13(4) proposed by his Delegation which would be worded in the following way: "(4) Should any financial year close with a deficit, the Contracting States shall pay contributions to cover such deficit." The Delegate of the United States of America explained that the provision was taken from Article 57 of the Patent Cooperation Treaty (PCT), which was also financed by fees. It would be in the nature of an insurance that the Treaty would have financial autonomy.

330. The PRESIDENT proposed continuing the discussion of the Article at the afternoon meeting.

331. It was so decided. (Continuation: see paragraph 332.1.)

[The meeting was closed]

Sixth MeetingWednesday, March 1, 1978AfternoonArticle 13 (continued from paragraph 331)

332.1 The PRESIDENT opened the sixth meeting and informed the participants that two documents submitted by the Delegation of the United States of America, DS/CD/13 and DS/CD/14, had been distributed by the Secretariat.

332.2 He reminded them that during the preceding meeting the Soviet Union Delegation had asked for time to consider the possible deletion of the last sentence of Article 13(1).

333. Mr. KOMAROV (Soviet Union) stated that his Delegation had reached the conclusion that the last sentence of Article 13(1) could be deleted.

334. The last sentence of Article 13(1) was deleted.

335. The PRESIDENT moved on to Article 13(2). Noting that that provision and the (new) Article 13(4) proposed by the Delegation of the United States of America in document DS/CD/13 were linked, he invited that Delegation to explain its proposal.

336. Mr. WINTER (United States of America) explained that the United States of America and the other Group B countries had accepted the wish of some States to have a system of international recording of scientific discoveries, but that it had been a major concern that the system should have no financial implications for non-participating States. The Delegations of the Group B countries were concerned about that problem since the States interested in the proposed Treaty were, at least at that time, few in number. The proposed paragraph (4) was intended to allay the fears of the Governments of the Group B countries. It was based on a similar provision in the Patent Cooperation Treaty (PCT).

337. The PRESIDENT noted that the Delegate of the United States of America had spoken on behalf of the Group B countries. His proposal therefore had sufficient support.

338. Mr. SWAMINATHAN (India) asked for an estimate of expected expenditure. If expenditure was to be considerable, he would agree with such a provision. On the other hand, he did not see the point of it if expenditure was to be small.

339. Mr. PFANNER (WIPO) replied that it was difficult to give an exact estimate under present circumstances, since everything depended on the number of States party to the Treaty and on the number of scientific discoveries that would be internationally recorded.

340. Mr. SWAMINATHAN (India) felt that the proposal of the Delegation of the United States of America was the best that could be formulated under the circumstances.

341. Mr. KOMAROV (Soviet Union) observed that paragraphs (2) and (3) should be discussed first.

342. Mr. EKANI (Cameroon) felt that paragraph (2) of the draft and the paragraph (4) proposed by the Delegation of the United States of America were linked inasmuch as, if paragraph (4) were adopted, he would be able to accept the deletion of paragraph (2) as requested by the Soviet Union Delegation. The Delegate of Cameroon then observed that paragraph (4) was based on Article 57 of the PCT. That Article made a reservation in respect of common expenditure however. It was therefore necessary to know whether the Delegation of the United States of America had intentionally omitted inclusion of a reference to common expenditure. The Delegate of Cameroon explained that he was able to accept paragraph (4) with or without the reference to common expenditure.

343. The PRESIDENT remarked that he had mentioned that subparagraphs (2) and (4) were linked. By that he had meant that if paragraph (4) were adopted, paragraph (2) could be deleted.

344. Mr. WINTER (United States of America) agreed that paragraph (2) could be deleted if paragraph (4) were adopted. As far as Article 57(5) of the PCT was concerned, certain of its provisions had not been taken up by the Delegation of the United States of America since it had felt that they were not necessary in view of the fact that the Treaty on the International Recording of Scientific Discoveries would be less complex than the PCT. However, the Delegate of the United States of America would go along with the judgment of the Director General of WIPO in that matter.

345. Mr. BOGSCH (Director General of WIPO), referring to the preceding statement by the Delegate of the United States of America, felt that either solution was good. There was less likelihood of large sums being involved than with the PCT. If the Assembly had to take a decision on a deficit, it would probably decide, as had been done under the PCT, to take account of the extent to which each Contracting State made use of the recording system. As far as common expenditure was concerned, it would of course exist whether or not the fact was mentioned in the Treaty.

346. The PRESIDENT repeated that the Delegation of the United States of America and a number of other Delegations were willing to delete paragraph (2) if paragraph (4) were accepted, and asked for the views of the Soviet Union Delegation.

347. Mr. KOMAROV (Soviet Union) was willing to examine paragraphs (2) and (4) of Article 13 together, although he was not convinced that that was the best way of proceeding. Paragraph (4) proposed by the Delegation of the United States of America would be logical if account were not taken of the fact that paragraph (1) referred specifically to self-supporting finances. If reference was made to the PCT, it should be pointed out that the latter contained no provision, as far as he could remember, corresponding to the present paragraph (1). The Soviet Union Delegate was raising the point simply to make sure that everyone understood that the Contracting States did not intend to ask other States for funds to cover any deficit under the Treaty. In any case, it appeared that the majority of delegations felt that paragraph (2) should be deleted.

348. Mr. PFANNER (WIPO) observed that Article 57(4) of the PCT contained a provision resembling that of Article 13(1) of the draft.

349. The PRESIDENT asked the Soviet Union Delegation whether it was able to accept the paragraph (4) proposed by the Delegation of the United States of America, in view of the fact that the latter was willing to accept the deletion of paragraph (2), requested by the Soviet Union Delegation.

350. Mr. KOMAROV (Soviet Union) wished to hear the views of the other delegations.

351. The PRESIDENT remarked that two Delegations, those of India and Cameroon, had already spoken in favor of the proposal of the Delegation of the United States of America.

352. Mr. KÄMPF (Switzerland) stated that his Delegation was in agreement with the deletion of paragraph (2) as long as the paragraph (4) proposed by the Delegation of the United States of America was adopted.

353. The PRESIDENT noted that no further delegation wished to take the floor and requested the Soviet Union Delegation to give its views.

354. Mr. KOMAROV (Soviet Union), noting that a majority of delegations was in favor of deleting paragraph (2) and adopting paragraph (4), stated that his Delegation had no objection to that solution.

355. The PRESIDENT thanked the Soviet Union Delegate for his understanding. He proposed that Article 13 be adopted in its new form and forwarded to the Drafting Committee.

356. It was so decided. (Continuation: see paragraph 584.)

Article 14

357. The PRESIDENT opened the discussion on Article 14.

358. Mr. BOROS (Italy) observed that in the French version of Article 14(3) the word "prévalent" should be used in place of "font foi."

359. The PRESIDENT stated that the question was of an editorial nature and would be examined by the Drafting Committee.

360. Article 14 was adopted. (Continuation: see paragraph 588.)

Articles 12 and 15 (Article 12 continued from paragraph 316)

361. The PRESIDENT moved on to Article 15 and announced that the Delegation of the United States of America proposed, in document DS/CD/14, a new wording for Article 15 and an addition to Article 12. He requested that Delegation to explain its proposal.

362. Mr. WINTER (United States of America) stated that, in accordance with established practice within WIPO, certain key articles of a treaty could be revised only by revision conferences whereas other, less important articles could be amended by the Assembly of Contracting States. The Treaty on Scientific Discoveries should conform to those precedents, particularly that of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purpose of Patent Procedure, which was the most recent of the treaties concluded within WIPO. Consequently, the Delegation of the United States of America and the Delegations of numerous other Group B countries proposed that Article 15 should list the articles that could be amended by the Assembly. The articles that were not listed could then only be revised by a revision conference of the Contracting States. The Delegate of the United States of America explained that the articles concerned were not yet listed in the proposal, since it was first necessary to know the exact content of all the articles of the Treaty.

363. The PRESIDENT noted that the Delegate of the United States of America had spoken on behalf of a large number of Group B countries. The proposal therefore had sufficient support.

364. Mr. KOMAROV (Soviet Union) stated that his Delegation had no objection at first sight, but wished to have more time to examine the proposal.

365. Mr. EKANI (Cameroon), on behalf of the Delegations of the Group of Developing Countries, made the same request as the Soviet Union Delegation.

366. The PRESIDENT proposed that discussions on the proposal by the Delegation of the United States of America be suspended and then resumed after the coffee break, during which delegations would have the opportunity to examine the proposal in more detail.

367. It was so decided. (Continuation: see paragraph 437.)

Article 16

368. The PRESIDENT opened the discussion on Article 16. He noted that no comments were forthcoming.

369. Article 16 was adopted. (Continuation: see paragraph 593.)

Article 17

370. The PRESIDENT opened the discussion on Article 17.

371. Mr. FRANÇON (France) felt that the number of ratification or accession instruments that had to be deposited for the Treaty to enter into force should be more than three. He proposed that the number be eight.

372. Mr. TODOROV (Bulgaria) had a different suggestion to make in respect of Articles 16 and 17, to the effect that signature followed by the deposit of an instrument of ratification should be envisaged. Numerous recent precedents had shown that it was not always necessary to adopt the formal ratification procedure. The Delegate of Bulgaria felt that it might be a good thing to allow for a different possibility, namely signature followed by government approval or by ratification.

373. Mr. EKANI (Cameroon) agreed with the Delegate of France that the envisaged number of deposits of ratification or accession instruments was too low. Referring to Article 63 of the Patent Cooperation Treaty (PCT), he wondered whether the number chosen should not be qualified in some way or another in order to take into account the importance of individual countries in the field of scientific discoveries. He suggested that the question should be referred to the Contact Group.

374. Mr. SALMAN (Iraq) supported the proposal of the Delegation of France.

375. Mr. KOMAROV (Soviet Union) shared the concern of the Delegations of France, Cameroon and Iraq. He felt that the application of an international recording system should not be limited to those countries that currently possessed legislation on the legal protection of scientific discoveries. Consequently, the Soviet Union Delegate supported the proposal of the Delegation of France, with an amendment which it was felt would enable agreement to be reached without having to refer Article 17 to the Contact Group. He proposed that Article 17(1) have the following wording: "[initial entry into force.] This Treaty shall enter into force three months after ten States at least, including at least five industrially developed States, have deposited their instruments of ratification or accession."

376. Mr. THIAM (Senegal) supported the suggestion made by the Delegate of Cameroon.

377. Mr. BOGSCH (Director General of WIPO) felt that the matter should be given further thought. He observed that a large number of States usually wished to see from the outside how a new treaty worked before ratifying or acceding to it and therefore the initial entry into force should not be subject to requirements that were too stringent.

378. Mr. WINTER (United States of America) felt that the Delegate of France had raised an important point. Three was too small a number. Whether eight or ten was too large a number was another matter. The formulation proposed by the Soviet Union Delegation, which required "ten States at least, including at least five industrially developed States," would impose a very heavy burden on the Director General of WIPO, who would then have to determine which States were industrially developed and which were not.

379. The PRESIDENT proposed that the matter be referred to the Contact Group as had been suggested by the Delegate of Cameroon.

380. It was so decided. (Continuation: see paragraph 451.)

Article 18

381. The PRESIDENT opened discussions on Article 18. He noted that no comments were forthcoming.

382. Article 18 was adopted. (Continuation: see paragraph 593.)

Article 19

383. The PRESIDENT opened discussions on Article 19. He noted that no comments were forthcoming.

384. Article 19 was adopted. (Continuation: see paragraph 593.)

Article 20

385. The PRESIDENT moved on to Article 20. He observed that the Soviet Union had proposed prior to the Conference that provision be made for Russian in that Article. He also reminded the Conference of the proposals by the Delegations of Spain and Mexico (document DS/CD/4) that Spanish be added to French and English.

386. Mr. BOGSCH (Director General of WIPO) noted that no delegation had asked for the floor and stated that the International Bureau would find it logical if the four languages were used, since the Treaty was being concluded under the aegis of WIPO and not within the framework of the Paris Convention for the Protection of Industrial Property or the Berne Convention for the Protection of Literary and Artistic Works. He pointed out that the Convention Establishing WIPO had been signed in Stockholm in 1967 in English, French, Spanish and Russian, and stated that the Secretariat was physically ready for the Treaty to be presented for signature in those four languages.

387. Mr. FRANÇON (France) stated that the Delegation of France was willing to accept the inclusion of Spanish and Russian among the languages in which equally authentic documents were to be drawn up but attached importance to the Conference minutes stating that the solution only appeared acceptable to him in view of the special nature of the present Treaty.

388. Mr. VAN-ZELLER GARIN (Portugal) had no objection to the inclusion of Spanish and Russian and added that if the feeling of the Conference was in favor of adding further languages he would ask for one of those to be Portuguese. In any event, an official text of the Treaty should be established in Portuguese, as had been done with other treaties.

389. Mr. WINTER (United States of America) was willing to accept Russian and Spanish as further authentic languages for the present Treaty in view of the fact that the four authentic languages for the Convention Establishing WIPO were English, French, Russian and Spanish. He asked for the Records of the Conference to record the fact that the present Treaty was not being concluded under the aegis of either the Paris Convention or the Berne Convention.

390. Mr. KÄMPF (Switzerland) stated that the Delegation of Switzerland supported the declaration made by the Delegation of the United States of America.

391. The PRESIDENT repeated the proposal by the Delegation of Portugal in respect of Portuguese.

392. Mr. BOGSCH (Director General of WIPO) said that it was the International Bureau's intention to include Portuguese in Article 20(2), which dealt with official texts, in the same manner as German, Arabic and Italian.

393. Mr. VAN-ZELLER GARIN (Portugal) thanked the Director General of WIPO for his declaration.

394. The PRESIDENT noted that everyone agreed to include Spanish and Russian in paragraph (1) of Article 20 and moved on to the other two paragraphs of that Article.

395. Mr. FRANÇON (France) proposed that for reasons of economy and good management the languages in which official texts were to be established be determined by the Assembly only. Article 20(2) would therefore say that official texts would be established by the Director General, after consultation with the governments concerned, in such other languages that the Assembly might designate.

396. Mr. EKANI (Cameroon) supported the proposal by the Delegate of France, but wished to know already in which languages it was intended that official texts of the Treaty should be established.

397. Mr. DELICADO MONTERO-RÍOS (Spain) expressed the satisfaction and gratitude of his Delegation at the inclusion of Spanish in Article 20(1).

398. Mr. BOGSCH (Director General of WIPO) explained that immediate decision on certain languages in which official texts would be produced were a well-established tradition in WIPO, and that they facilitated ratification of the Treaty for some countries. He suggested that the languages concerned should be Arabic, German, Italian and Portuguese. Had Japan been represented at the Conference, he would have also mentioned Japanese since that was one of the languages generally taken into account. Since Japan was not represented, it would be for the Assembly to take a decision on that language if necessary, as it would for other languages.

399. Mr. EKANI (Cameroon) was surprised that Japanese should have been mentioned by the Director General of WIPO since it was not an official language of WIPO.

400. Mr. BOGSCH (Director General of WIPO) replied that, with the exception of English and French, the status of the various languages within WIPO differed from case to case. For example, it could not be said that Russian and Spanish were official WIPO languages. They were used in some meetings but not in others, as was Arabic. The Director General of WIPO explained that Article 20(2) did not concern the official languages of WIPO but the official texts of a treaty, which was a different matter.

401. Mr. WINTER (United States of America) observed that it was customary in WIPO to attempt to reach agreement on the official texts during the Diplomatic Conference itself, based on the interest shown by certain countries and their attendance at the Conference. As far as Japanese was concerned, the Delegate of the United States of America explained that at the most recent Diplomatic Conference, the Budapest Conference, Japanese had been included amongst the languages in which official texts of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure were to be established, in addition to Arabic, German, Italian and Portuguese, because Japan had attended the Conference and was very interested in the question of microorganisms and in the Budapest Treaty.

402. The PRESIDENT pointed out that Article 69 of the PCT contained a provision of the same kind.

403. Mr. FRANÇON (France) did not press his proposal and trusted in the wisdom of the Conference.

404. Mr. BOROS (Italy) asked which languages would be referred to in Article 20(2).

405. Mr. SALMAN (Iraq) observed that he had intended putting the same question as the Delegate of Italy.

406. Mr. BOGSCH (Director General of WIPO) replied that four languages would be referred to in Article 20(1), English, French, Russian and Spanish and four languages in Article 20(2), Arabic, German, Italian and Portuguese.

407. Mr. EKANI (Cameroon) considered that the phrase at the end of paragraph (2) should be maintained to enable the Assembly subsequently to designate further languages.

408. The PRESIDENT replied that the phrase had not been deleted. He then asked whether there were any comments on paragraph (3) of Article 20.

409. Mr. BOGSCH (Director General of WIPO) remarked that a date had to be set in paragraph (3). He suggested that the Treaty remain open for signature for six months, in other words until September 7, or until the end of the year.

410. Mr. TODOROV (Bulgaria) proposed the end of the year.

411. Mr. KOMAROV (Soviet Union) supported the proposal by the Delegation of Bulgaria.

412. Mr. EKANI (Cameroon) likewise supported that proposal.

413. The PRESIDENT noted that the proposal by the Delegation of Bulgaria was adopted.

414. Article 20 was adopted as amended during the debate. (Continuation: see paragraph 593.)

[Suspension]

Article 21

415. The PRESIDENT resumed the meeting and opened the discussion on Article 21. He noted that no comments were forthcoming.

416. Article 21 was adopted. (Continuation: see paragraph 593.)

Article 22

417. The PRESIDENT opened discussions on Article 22.

418. Mr. BOGSCH (Director General of WIPO) suggested that Article 22 should be amended by replacing the words "Contracting States" in the first line by the words "States members of the Organization," the latter word referring to WIPO.

419. Article 22 was adopted as amended. (Continuation: see paragraph 593.)

Article 10 (continued from paragraph 303)

420. The PRESIDENT reminded the Conference that the Soviet Union Delegation had submitted a proposal, in document DS/CD/12, to amend Article 10 and that discussion of the proposal had been adjourned at the request of the Delegate of France. He asked the Delegation of France to state its position on the proposal by the Soviet Union Delegation.

421. Mr. FRANÇON (France) stated that it was rather difficult for his Delegation to accept the proposal by the Soviet Union Delegation, mainly for reasons of form. The problem to be dealt with in Article 10 had not been resolved with the necessary clarity, and it was a complex one. A first source of complexity was the fact that there were two things that could be withdrawn, the application and the declaration. A further source was that there were two periods which followed each other, one prior to and the other after recording. Thus there were four possible cases to be looked into, and the proposal under discussion did not seem to settle those difficulties in a satisfactory manner. The Delegate of France was willing to draw up a counter-proposal based on the principle of withdrawal being possible for either the application or the declaration as long as recording had not taken place. On the other hand, once recording had taken place, there should only be room for observations.

422. The PRESIDENT asked whether, in the light of the explanations given by the Delegate of France, the Soviet Union Delegation was prepared to reword its proposal.

423. Mr. KOMAROV (Soviet Union) did not understand the misgivings expressed by the Delegate of France. The situation was the following. As proposed by his Delegation, Article 10 gave the institution or authority that had furnished the declaration the right to withdraw it at any time. If withdrawal took place prior to recording, the application was deemed not to have been made and the applicant would have to reword his application to meet the requirements of the institution or the authority or find a different institution or authority. If the declaration was withdrawn after recording the recording would be considered null and void, since the Treaty required a declaration before the recording could be made. As far as the applicant was concerned, he could withdraw the application prior to recording, and in that case the recording would not be made. After recording, however, the applicant could no longer withdraw his application, since the recording would already have been made. The only thing he could do in that case was request cancellation of the international recording.

424. Mr. BOGSCH (Director General of WIPO) felt that the problem should be divided into two phases. The first phase was the period prior to recording. That phase was probably not worth regulating in the Treaty and could be referred to the Regulations, since only a few days would elapse between the filing of the application and recording by the International Bureau. However that might be, if during those few days the application was withdrawn by the applicant or the

declaration withdrawn by its originator, the recording would not be made since it it could not be made without there being both an application and a declaration. The second phase was the period following recording. For that phase, the Director General made the following suggestion: if the declaration was withdrawn, even without the consent of the discoverer, the withdrawal would not mean that the recording was cancelled; the fact would merely be entered in the International Register and a corresponding notice published. The discoverer could even be permitted to submit comments. As far as the applicant was concerned, he could request cancellation of the recording at any time during that second phase and the recording would then be cancelled.

425. Mr. BINDEL (France) endorsed the suggestion made by the Director General of WIPO, which was in line with the concerns of the Delegation of France. There nevertheless remained certain practical matters to be settled. As had been mentioned by the Delegate of Switzerland, account had to be taken of the case of several discoverers where only some of them agreed to the withdrawal of the application, or where some might even be deceased. Such practical problems should be solved by the Regulations rather than by the Treaty.

426. Mr. KÄMPF (Switzerland) was quite able to accept the solution suggested by the Director General of WIPO but felt that one should avoid speaking of cancellation. It would be preferable to provide only for observations to be entered in the Register, which moreover would solve the several authors' problem since, in that case, one of the authors could enter an observation that he no longer considered himself as one of the makers of the scientific discovery concerned.

427. Mr. BOGSCH (Director General of WIPO) saw no problem in using the notion of cancellation, which was frequently used in connection with patents and trademarks for example. In the case of several discoverers, the problem could be resolved in the following manner: where there was more than one discoverer, all of them would have to request cancellation for it to be effected. If all of the discoverers did not request cancellation, an observation would be entered in the Register to the effect that the person concerned had requested that he be no longer considered a discoverer.

428. Mr. SWAMINATHAN (India) wished to know what the implications of cancellation would be and particularly whether, after cancellation of a recording, it would still be possible to obtain copies of it. He wondered whether it was really necessary to provide for cancellation of the recording, especially in view of the fact that there would be no renewal fees to be paid as in the case of patents.

429. Mr. BOGSCH (Director General of WIPO) assured the Delegate of India that copies of a cancelled recording would always be obtainable. The possibility of requesting cancellation was intended to permit scientists, who were known for their many scruples, to announce to the world at large that they had been mistaken in believing they had made a scientific discovery.

430. Mr. KOMAROV (Soviet Union) proposed that the Secretariat prepare a new text of Article 10 taking into account all the comments made by the Director General of WIPO during the discussion of that Article. The Soviet Union Delegate felt that the Director General of WIPO had presented the most complete solution, which moreover made allowance for all the opinions, observations and reservations expressed in respect of the Article.

431. Mr. EKANI (Cameroon) thought the Drafting Committee could finalize the wording of Article 10 on the basis of the proposal of the Soviet Union Delegation, which seemed to his Delegation to be altogether acceptable, subject only to a change, as suggested by the Delegation of France, to cover the case of where there was more than one discoverer.

432. The PRESIDENT thought the simplest way would be to refer the matter to the Drafting Committee, which would draw up a text that took all the observations that had been made into account.

433. Mr. BINDEL (France) agreed to the solution of requesting the Director General of WIPO to prepare a new text for Article 10. The only matter that was still somewhat unclear to him was what happened when the application was withdrawn after recording. He wondered whether the International Bureau should forward all elements relating to the purported scientific discovery to anyone so requesting, in view of the fact that the scientists would not want too much publicity made of their discoveries after realizing that they contained errors.

434. Mr. BOGSCH (Director General of WIPO) was willing to prepare a text for the Drafting Committee.

435. The PRESIDENT proposed that Article 10 be adopted in principle, subject to being put into its final form by the Drafting Committee.

436. It was so decided. (Continuation: see paragraph 582.)

Articles 12 and 15 (continued from paragraph 367)

437. The PRESIDENT moved on to Article 15. He reminded the Conference that the Delegation of the United States of America had submitted a proposal in document DS/CD/14 for the amendment of that Article, with a corresponding amendment to Article 12, and that discussion on the proposal had been suspended.

438. Mr. KOMAROV (Soviet Union) wished to know the motives of the Delegation of the United States of America in making its amendment proposals.

439. Mr. ILIEV (Bulgaria) asked the Delegate of the United States of America to give, if possible, the numbers of the articles he had in mind, to replace the dots in Article 15.

440. Mr. WINTER (United States of America) stated that, in the view of the United States of America and of other Group B countries, a number of the provisions should be revised, when revision was necessary, by a revision conference and not just by the Assembly. The proposal under discussion in no way attempted to place an obstacle in the way of revisions, since revision conferences would be held between the Contracting States. However, revision conferences were much more carefully prepared and were the subject of discussions in the appropriate bodies of WIPO. As far as the dots in Article 15 were concerned, the Delegate of the United States of America replied to the Delegate of Bulgaria that he was unable, for the moment, to fill in the gaps since there were still a number of key articles on which agreement had not yet been reached and which were due to be discussed the next day in the Contact Group. However, the Delegate of the United States of America quoted Articles 4, 6, 7, 9 and 12 to 14 as preliminary examples of articles whose amendment could be undertaken by the Assembly.

441. Mr. BOGSCH (Director General of WIPO) noted that the proposal of the Delegation of the United States of America on Article 15 contained two differences in relation to the draft Treaty. The first was the fact that it was more clearly emphasized that there were two ways of revising the Treaty, namely by the Assembly and by a revision conference. That difference, however, was more of a formal one since the draft in fact said the same thing. The second difference was much more important. According to what the Delegate of the United States of America had said, it was not only Article 2 for which only a conference of the Contracting States would be competent. It was very difficult, however, to discuss the proposal of the Delegate of the United States of America as long as the other articles which could only be revised by a diplomatic conference were not known. Consequently, the Director General felt that the conclusions of the Contact Group would have to be awaited.

442. The PRESIDENT proposed that the matter be referred to the Contact Group.

443. Mr. WINTER (United States of America) accepted the President's proposal.

444. Mr. TODOROV (Bulgaria) felt it would be simpler to hold a discussion on the basis of the draft Treaty since it would then suffice for the Delegation of the United States of America to state which articles it wished to add to Article 15(1) of the draft.

445. The PRESIDENT pointed out that the discussion could be continued in the Plenary, although he feared that there would not be enough time left at the current meeting, or that alternatively the matter could be referred to the Contact Group. He asked the spokesmen of the other groups of countries whether they were able to agree to the matter being referred to the Contact Group.

446. Mr. EKANI (Cameroon) said that the proposal by the Delegation of the United States of America seemed judicious to him in its principle, and that he was willing to continue the discussion in the Contact Group.

447. Mr. KOMAROV (Soviet Union) stated that, if the majority agreed to refer the matter to the Contact Group, he would have no objection, although he doubted whether the Contact Group could achieve anything on a question whose essence was not clear to the Conference.

448. The PRESIDENT asked whether there were any objections to the matter being referred to the Contact Group. He noted that no objections were forthcoming.

449. It was decided that the proposal of the Delegation of the United States of America concerning Articles 12 and 15, contained in document DS/CD/14, would be referred to the Contact Group. (Continuation: see paragraph 451.)

450. The PRESIDENT noted that the Conference had completed its first debate on the draft Treaty. He thanked all Delegations for their understanding and open-minded cooperation. The most difficult questions had been referred to the Contact Group, which had thus been given a heavy responsibility. He thanked all the members of the Contact Group in advance.

[The meeting was closed]

Seventh Meeting

Thursday, March 2, 1978

Afternoon

Articles 2, 4, 5, 12, 15 and 17 (Article 2 continued from paragraph 212, Article 4 from paragraph 150, Article 5 from paragraph 296, Articles 12 and 15 from paragraph 449 and Article 17 from paragraph 380)

451. The PRESIDENT opened the seventh meeting. He announced that the first meeting of the Contact Group, chaired by Mr. Ekani, had been held that morning. He invited Mr. Ekani to report on the first meeting.

452.1 Mr. EKANI (Cameroon), taking the floor as Chairman of the Contact Group, explained that the Group's agenda had contained a number of articles referred to it by the Plenary, namely Articles 2, 4(3), 5(4), 17(1) and 15, the latter affecting Article 12.

452.2 With regard to Article 2, the Contact Group had not achieved a final result but had agreed on three basic notions to be incorporated in that Article, namely that the Treaty was to facilitate access to scientific discoveries, that it should not affect the use of ideas contained in the scientific discoveries and that it should not affect the liberty of the States to grant or not to grant rights in scientific discoveries. Having reached agreement as to the content, the Contact Group invited the Director General of WIPO to submit to it a new wording for Article 2.* It remained for the Contact Group to study the wording and to adopt or amend it before submitting it to the Plenary. (Continuation: see paragraph 467.)

* Editor's note: The new text appears in document DS/CD/15.

452.3 With regard to the problem of the responsibility of the designated institution and authorities not being involved, which was covered by Article 4(3) of the draft, the Contact Group had felt that, for reasons of credibility, such a provision should not be included in the Treaty. It was therefore proposed that Article 4(3) be deleted but that the Records of the Conference reproduce the content of that provision as being an agreement reached between the Contracting States. The wording of such an agreed statement, which was given in document DS/CD/15 and was submitted to the Plenary for approval, would be the following: "In connection with Article 4, the Diplomatic Conference noted that the national law of any Contracting State was free to determine whether or not the responsibility of the designated scientific institution or government authority was involved when it made a declaration under Article 3(2)." (Continuation: see paragraph 455.)

452.4 With regard to Article 5(4), which spoke of non-involvement of responsibility for the claims made and facts asserted in the application, there again, for the same reasons of credibility, the Contact Group proposed that the provision be deleted and that an agreed statement be included in the Records of the Conference. The wording of the statement, given in document DS/CD/15 and submitted to the Plenary for its approval, would be the following: "In connection with Article 5, the Diplomatic Conference noted that international recording in no way implied certification or guarantee of the allegations made and facts asserted in the application." (Continuation: see paragraph 457.)

452.5 With regard to Article 17(1), dealing with the initial entry into force of the Treaty, the Contact Group recommended, as recorded in document DS/CD/15, that the required number of instruments of ratification or accession be set at ten in order that the Treaty might have a degree of effect and substance as soon as it entered into force. The Contact Group had not considered it necessary to qualify the composition of such States in view of the principle of sovereign equality of States. (Continuation: see paragraph 459.)

452.6 With regard to Article 15, dealing with the procedure for revising and amending the Treaty, as proposed by the Delegation of the United States of America, which also affected Article 12, the Contact Group had not had time to complete its discussions on that question, which therefore remained pending. (Continuation: see paragraph 467.)

452.7 In conclusion, the Chairman of the Contact Group requested the Plenary to prolong the Contact Group's terms of reference to enable it to complete its work, namely the examination of Article 2 and of Article 15 in relation to Article 12.

453. The PRESIDENT proposed to the Conference that it prolong the terms of reference of the Contact Group.

454. It was so decided.

Article 4 (continued from paragraph 452.3)

455. The PRESIDENT repeated that the Contact Group proposed the deletion of Article 4(3) and the inclusion in the Records of the Diplomatic Conference of the agreed statement shown in paragraph 3(a) of document DS/CD/15. He noted that no delegation had any objection.

456. Article 4(3) was deleted. The agreed statement shown in paragraph 3(a) of document DS/CD/15 was adopted. (Continuation: see paragraph 537.)

Article 5 (continued from paragraph 452.4)

457. The PRESIDENT repeated that the Contact Group proposed the deletion of Article 5(4) and the inclusion in the Records of the Diplomatic Conference of the agreed statement shown in paragraph 3(b) of document DS/CD/15. He noted that no delegation had any objection.

458. Article 5(4) was deleted. The agreed statement shown in paragraph 3(b) of document DS/CD/15 was adopted. (Continuation: see paragraph 540.)

Article 17 (continued from paragraph 452.5)

459. The PRESIDENT repeated that the Contact Group proposed replacing, in Article 17(1), the words "three States" by "ten States." He noted that no delegation had any objection.

460. Article 17 was adopted as amended.

461. Mr. KOMAROV (Soviet Union) asked that the minutes of the Conference record the opinion of his Delegation on the desirability of inserting in Article 17(1) the requirement that a certain number of deposits come from industrially developed countries.

462. The PRESIDENT replied that such would be the case. (Continuation: see paragraph 593.)

[The meeting was closed]

Eighth MeetingFriday, March 3, 1978AfternoonConsideration of the First Report of the Credentials Committee

463. The PRESIDENT opened the eighth meeting. He announced that the second meeting of the Contact Group and the first meeting of the Credentials Committee had been held the previous day and that the Drafting Committee had met that same morning. He gave the floor to the Chairman of the Credentials Committee.

464. Mr. SWAMINATHAN (India), speaking as Chairman of the Credentials Committee, presented the first report of that Committee as appearing in document DS/CD/16. He pointed out that the name of Finland should appear in paragraph 7(a) and not in paragraph 6 of the document. He added that the following communications had been received in the meantime: the credentials of one Member Delegation, Norway, and of two Observer Delegations, Madagascar and Mozambique, as also a letter of appointment from the International Literary and Artistic Association.

465. The PRESIDENT noted that no delegation wished to submit any comment and proposed that the first report of the Credentials Committee be adopted.

466. It was so decided.

Articles 1, 2, 12 and 15 (Article 1 continued from paragraph 282, Article 2 from paragraph 452.2 and Articles 12 and 15 from paragraph 452.6)

467. The PRESIDENT gave the floor to the Chairman of the Contact Group and requested him to report on the Group's further discussions.

468.1 Mr. EKANI (Cameroon), speaking as Chairman of the Contact Group, thanked the Delegates for having decided to prolong the terms of reference of his Group and thus having enabled it to complete its work and to submit its proposals, which it had done in document DS/CD/17.

468.2 He reminded the Conference that, with regard to Article 2, the Contact Group had reached agreement on the substance of the provision and had still to examine the wording prepared by the Director General of WIPO and given in document DS/CD/15. That wording had been accepted by the Contact Group, which had simply proposed that in three places in the text it be stated clearly that the scientific discoveries referred to were recorded scientific discoveries.

468.3 The Chairman of the Contact Group went on to explain that, with regard to Article 15 in relation to Article 12, the basic question that had arisen was that of identifying the provisions that had to be amended by the Assembly and those that had to be amended by a diplomatic conference. The Contact Group had come to the conclusion that certain of the provisions, listed in paragraph (2) of Article 15 as proposed by the Contact Group in document DS/CD/17, could be amended by either the Assembly or a revision conference and that other provisions could be amended by a revision conference only. In addition, the Contact Group proposed that Article 12 should not be amended.

468.4 The Contact Group had further examined the proposal presented by the Soviet Union Delegation in document DS/CD/8 in relation with Article 2 concerning possible exceptions in respect of scientific discoveries. The Contact Group proposed that Article 2 should not be amended but that a (new) paragraph (2) be added to Article 1 allowing Contracting States the option of not applying the Treaty to geographical, archaeological and palaeontological discoveries, discoveries of useful mineral deposits and discoveries in the field of the social sciences.

468.5 In conclusion, the Chairman of the Contact Group said that his Group felt that it had fulfilled its terms of reference and submitted the result of its work to the judgment of the Plenary.

469. The PRESIDENT thanked the Chairman and members of the Contact Group for the agreement they had achieved. He also thanked the Director General of WIPO, who had once more proved his ability to find the right solution at the right time to situations that seemed inextricable.

470. The proposals made by the Contact Group in respect of Articles 1, 2, 12 and 15 were adopted. (Continuation of Article 1: see paragraph 488; continuation of Article 2: see paragraph 504; continuation of Article 12: see paragraph 582; continuation of Article 15: see paragraph 593.)

Consideration of the Draft Treaty Prepared by the Drafting Committee

471. The PRESIDENT opened discussions on the draft Treaty prepared by the Drafting Committee and set out in document DS/CD/19.

Article 3 (continued from paragraph 274)

472. Mr. MÜHLEN (Federal Republic of Germany) wondered whether there was not a slight deviation from that which had been accepted for Article 3(1). He would prefer the sentence in paragraph (1)(b) to be placed between the two sentences which made up paragraph (1)(a), as had been agreed in the Plenary, in order to make it quite clear that the discoverer had to be a national of a Contracting State or domiciled on the territory of such State.

473. Mr. PFANNER (WIPO) confirmed that the original intention had been to locate the sentence concerned in the place mentioned by the Delegate of the Federal Republic of Germany. It had seemed preferable, however, to have a separate subparagraph for the question of applications filed by a legal entity with the consent of the discoverer.

474. Mr. MÜHLEN (Federal Republic of Germany) proposed as a compromise that paragraph (1)(b) should be left as it was and that the second sentence of paragraph (1)(a) should become a new paragraph (1)(c).

475.1 Mr. BOGSCH (Director General of WIPO) felt that the proposal of the Delegation of the Federal Republic of Germany was an improvement. (Continuation: see paragraph 506.)

475.2 He then asked whether the draft was to be examined article by article. He pointed out that the Secretariat had discovered a number of minor errors in the draft which it would like to correct orally.

476. The PRESIDENT proposed that the draft Treaty be examined article by article.

477. It was so decided.

Preamble (continued from paragraph 72)

478. The PRESIDENT opened the discussion on the Preamble.

479. Mr. BOGSCH (Director General of WIPO), referring to the English version of the text, pointed out a correction to be made to the fourth paragraph of the Preamble in which the words "system of international recording" should be replaced by "system for the international recording."

480. Mr. KOMAROV (Soviet Union) proposed that the term "without discrimination" be deleted from the second paragraph, being pointless: there was nothing in the Treaty to suggest the slightest intention of practising discrimination. Furthermore, it was not clear what kind of discrimination could be involved.

481. The PRESIDENT referred to the content of Rule 33 of the Rules of Procedure, which dealt with the reconsideration of matters decided and stated that he intended to proceed in conformity with that Rule.

482. Mr. EKANI (Cameroon) pointed out that he had proposed, on behalf of the Group of Developing Countries, that it be spelled out in the text that the encouragement given to discoverers should be made on the basis of complete equality, in other words without any discrimination between persons. For reasons of courtesy, he had not wished to specify the type of discrimination involved and had not requested that the principle be incorporated in the substantive provisions, being content for it to be referred to in the Preamble. The Delegate of Cameroon appealed to the Soviet Union Delegate not to question needlessly things that had been unanimously agreed in the Plenary.

483. Mr. KOMAROV (Soviet Union) stated that it had not been his intention to infringe the Rules of Procedure of the Conference and that he was willing to go along with the majority of the delegations. He explained that he had raised the matter because, to his knowledge, such a reference was without precedent in international instruments of that kind, because it was an editorial matter and, finally, because he did not understand what was implied by that type of formulation.

484. The PRESIDENT asked the Soviet Union Delegation whether it wished a vote to be held.

485. Mr. KOMAROV (Soviet Union) replied that he was not asking for a vote. At most he would like his intervention to be entered in the minutes of the Conference.

486.1 The PRESIDENT assured the Soviet Union Delegate that the Secretariat had taken note of his wish.

486.2 The President noted that no other delegation had any comment to make.

487. The Preamble was adopted. (Continuation: see paragraph 644.)

Article 1 (continued from paragraph 470)

488. The PRESIDENT moved on to Article 1.

489. Mr. KOMAROV (Soviet Union) proposed that a reference to the date on which the scientific discovery had been made should be included, since that date was mentioned in a number of articles of the Treaty.

490. Mr. BOGSCH (Director General of WIPO) thought that to insert a definition of the concept of the date of the scientific discovery into Article 1 might well simplify the text of the Treaty. Taking the example of copyright legislation, the date of a scientific discovery could be defined as the date on which the discovery was first published or communicated to the public. The Director General of WIPO added that it constituted simply a claim by the applicant, and its truth would have to be proved where necessary.

491. Mr. EKANI (Cameroon) agreed with the suggestion made by the Director General of WIPO since the proposed definition contained an objective element for assessing the date.

492. Mr. KOMAROV (Soviet Union) supported the suggestion made by the Director General of WIPO, which resolved the substance of the problem. He pointed, however, to a problem of interpretation that could arise for his country since, in Soviet legislation, the date concerned was referred as the "priority date." He wondered whether it would not be possible to lay down that, should an expression other than "date of discovery" be used in national legislation, the two terms would have the same meaning.

493. Mr. BOGSCH (Director General of WIPO) suggested that the Soviet Union Delegation make a statement to be included in the Records of the Conference to the effect that "priority date" in Soviet legislation was equivalent to "date of discovery" as defined in the Treaty. It would then be possible to refer to that statement when interpreting national legislation.

494. Mr. KOMAROV (Soviet Union) stated that, since no one showed much enthusiasm for his proposal, and although the question was an essential one for the Soviet Union, he saw no alternative but to accept the suggestion made by the Director General of WIPO.

495. Mr. FRANÇON (France) asked how the inclusion of the definition of the date of discovery in Article 1 was to be coordinated with Article 3, which referred to a number of possible dates in paragraphs (3)(vi) and (5).

496. Mr. BOGSCH (Director General of WIPO) replied that if Article 1 were to be modified as he had suggested, that would have an effect on the other articles. The idea of a period during which the scientific discovery had been made should be dropped, since it was no longer a matter of the moment at which the discovery had been made or of the period during which it had been made but of an instantaneous event, that was to say the publication of the discovery.

497. Mr. KÄMPF (Switzerland) drew the delegates' attention to the fact that the suggestion made by the Director General of WIPO had the advantage of encouraging scientists to publish their discoveries as rapidly as possibly, a factor which was of advantage to the world in general and to developing countries in particular.

498. Mr. EKANI (Cameroon) asked how the solution to the problem of the "priority date" and the "date of discovery" was to be worded.

499. Mr. BOGSCH (Director General of WIPO) referred to his suggestion that the Soviet Union Delegation make a unilateral statement that the definition of the date of the scientific discovery given in the Treaty corresponded to the priority date concept used in Soviet legislation.

500. Mr. ILIEV (Bulgaria) wished to associate himself with such a statement, since the legislation of Bulgaria also used the concept of the priority date of a scientific discovery.

501. Mr. VANIŠ (Czechoslovakia) also wished to associate himself with such a statement, since the legislation of Czechoslovakia likewise used the same concept.

502. The PRESIDENT noted that no other delegation had comments to make.

503. Article 1 was adopted.

Article 2 (continued from paragraph 470)

504. The PRESIDENT moved on to Article 2 and noted that no delegation wished to make any comment.

505. Article 2 was adopted. (Continuation: see paragraph 598.)

Article 3 (continued from paragraph 475.1)

506. The PRESIDENT moved on to Article 3.

507. Mr. FRANÇON (France) stated that his Delegation was submitting a proposal in document DS/CD/18 for the amendment of Article 3(3)(vii), which consisted in adding to the provision the words "and, where the scientific discovery contains an experimental part, a description of that part adequate to enable its repetition and verification." The Delegate of France explained that the reason behind the request for an addition was to improve and supplement the description to which Article 3(3)(vii) referred, in view of the fact that, as emerged from the Preamble to the Treaty, it was desirable to promote information and set up a system giving access to descriptions of the discoveries. The Delegate of France realized that it could be felt that such a proposal came under Rule 33 of the Rules of Procedure. However, he wondered whether the matter could really be considered to have been discussed at the time Article 3 was adopted in the Plenary.

508. The PRESIDENT was of the opinion that the amendment was one of substance and advised the Delegate of France that, should he maintain his proposal, Rule 33 of the Rules of Procedure would have to be applied.

509. Mr. FRANÇON (France) wished to know whether it would be possible, should the Delegation of France desist, for the content of its proposal to be recorded in another document, for instance in the Regulations.

510. Mr. BOGSCH (Director General of WIPO) felt that the proposed provision could not simply appear in the Regulations since it was a very important substantive matter. The aim of the proposal was to introduce a provision having an affinity with the patent requirement that the description of the invention had always to state the way in which the invention could be executed in practice.

511. Mr. FRANÇON (France) explained that he had proposed the Regulations as a compromise. Since it did not appear acceptable, he asked that the proposal given in document DS/CD/18 be submitted to the Conference in accordance with the procedure laid down by Rule 33 of the Rules of Procedure.

512. The PRESIDENT pointed out that under Rule 33 the motion proposed by the Delegation of France had to be seconded by one other delegation.

513. Mrs. REYES-RETANA (Mexico) seconded the motion proposed by the Delegation of France.

514. The PRESIDENT noted that no delegation was opposed to opening a discussion on the proposal of the Delegation of France contained in document DS/CD/18. He therefore opened the debate on that proposal.

515. Mr. KOMAROV (Soviet Union) stated that, subject to it being clear that the proposal supplemented the description of the discovery and did not restrict it, the Soviet Union Delegation supported the proposal made by the Delegation of France, since it would increase the information value of the documentation on discoveries.

516. Mr. KÄMPF (Switzerland) stated that, for the same reasons as those given by the Soviet Union Delegation, his Delegation also supported the proposal submitted by the Delegation of France.

517. Mr. PAPINI (Italy) stated that his Delegation accepted the amendment proposed by the Delegation of France for the same reasons.

518. The PRESIDENT noted that no further comments were forthcoming.

519. The proposal by the Delegation of France contained in document DS/CD/18 was adopted.

520. Mr. TSHINKELA (Zaire) pointed out that there were plans to make provision in the Paris Convention for the Protection of Industrial Property for preferential fees for developing countries, and proposed that Article 3(7) be worded in the following way: "The application shall be subject to the payment of a fee to the International Bureau. The amount of the fee shall be fixed in the Regulations. However, the fee may be reduced in the case of a national of a developing country."

521. The PRESIDENT pointed out that the question had already been discussed. Article 3(7) laid down that the fee concerned would be fixed in the Regulations. Since the Regulations were adopted and amended by the Assembly, the latter would be free to regulate that question.

522. Mr. BOGSCH (Director General of WIPO) mentioned that two amendments would have to be made as a result of incorporating the definition of the date of discovery in Article 1. Article 3(3)(vi) would have to be worded "the date of discovery" and Article 3(5) would have to read: "(Time limit) Any application filed after the expiration of ten years from the date of discovery indicated in the application."

523. The PRESIDENT noted that no delegation had any objection to make.

524. Mr. KOMAROV (Soviet Union) asked for some clarification concerning Article 3(2) and Article 4. He remarked that the word "appointed" had been replaced by "designated" in the English text.

525. Mr. BOGSCH (Director General of WIPO) acknowledged that a considerable difference in meaning could exist between the Russian terms corresponding to the English "appointment" and "designation" ("naznachenie" and "ukazanie" respectively). The English-speaking participants preferred the English version to use the word "designate" corresponding to the French "désigné." As for the Russian term, it was for the Soviet Union Delegation to decide.

526. Mr. KOMAROV (Soviet Union) explained that the difference in meaning between the two Russian words was not without importance since the term "naznachenie," which corresponded to the English word "appointment," implied that the person concerned by the "naznachenie" had to carry out certain tasks, but such was not the case of a person concerned by an "ukazanie." The correct word was therefore "naznachenie" and it was preferable that the English version should not use a word whose equivalent in Russian would have a quite different meaning.

527. The PRESIDENT proposed that the word "designated" be replaced by "appointed" in the English text.

528. Mr. BOGSCH (Director General of WIPO), referring to the explanation given by the Soviet Union Delegate, presumed that in fact the proposed Russian word corresponded more with the French word "mandaté" or the English "entrusted." Having made this remark, he stated that the Secretariat would leave it to the Delegations to decide on the words to be used in English.

529. Mr. WINTER (United States of America) explained that he had given his preference in the Drafting Committee for the use in the English text of the word "designated," which had also been used in other Conventions administered by WIPO, and particularly in the Patent Cooperation Treaty (PCT). However, he did not wish to have a confrontation on the words "designated" and "appointed" and therefore did not insist that "designated" be used in the English text.

530. The PRESIDENT noted that the problem had been solved.

531. Mr. FRANÇON (France), referring to what the Director General had said concerning amendments to be made to Article 3(3)(vi) and to Article 3(5) as a result of adopting the concept of the date of discovery, asked the Director General of WIPO whether he felt that Article 3(3)(ix) could remain without amendment since it contained a notion of time in that it referred to the moment at which the discovery was made.

532. Mr. BOGSCH (Director General of WIPO) felt there was no need to amend the provision since it did not concern the moment at which the scientific discovery was published but the moment at which the discoverer made his discovery.

533. Mr. FRANÇON (France) agreed with the point of view expressed by the Director General of WIPO.

534. Mr. KOMAROV (Soviet Union) thought the problem could be solved by a minor editorial change consisting in replacing the words "the scientific discovery, when made by him, was not known" by the words "the content of the scientific discovery, when made by him, was not known" in Article 3(3)(ix).

535. The PRESIDENT noted that there were no objections to the wording proposed by the Soviet Union Delegation for Article 3(3)(ix).

536. Article 3 was adopted as amended during the debate. (Continuation: see paragraph 540.)

Article 4 (continued from paragraph 456)

537. The PRESIDENT moved on to Article 4.

538. Mr. BOGSCH (Director General of WIPO) confirmed that the word "designated" would be replaced by the word "appointed" wherever it appeared in the English text, in Article 4 and elsewhere, following the decision taken in respect of Article 3(2). He further announced a small correction to be made to Article 4(4), in the English version, where the word "a" was to be inserted between the words "is a national or" and "resident."

539. Article 4 was adopted as amended. (Continuation: see paragraph 607.)

Article 5 and Article 3 (Article 5 continued from paragraph 458 and Article 3 continued from paragraph 536)

540. The PRESIDENT moved on to Article 5.

541. Mr. BOGSCH (Director General of WIPO) proposed three minor corrections of an editorial nature. Firstly, in subparagraph (2)(ii), it was necessary to insert in the English text the word "the" between "after" and "expiration." After that, in subparagraph (3)(i), the words "of the date on which or the dates between which, as indicated in the application, the scientific discovery was made" by the words "of the date of discovery as indicated in the application." Finally, in subparagraph (3)(ii) of the English text, a comma was to be added in front of the words "of the number" and the word "of" was to be added three times, before the words "the fact," "the date" and "the international recording number."

542. Mr. KOMAROV (Soviet Union) felt that Article 5(3)(i) did not altogether reflect the meaning of the agreement that had been reached. He proposed that the words "of the certification of the conformity of the recorded discovery with the definition of the notion of scientific discovery as contained in Article 1" be added after the words "of the name of the discoverer."

543. Mr. BOGSCH (Director General of WIPO) felt it went without saying that the appointed institution or authority would not submit an application whose subject did not correspond to the definition of a scientific discovery and stated that the Secretariat had no objection to the proposal made by the Soviet Union Delegation. Consequently, the final sentence of Article 3(2) should be amended by adding the words "and a certification that it conforms to the definition of Article 1" after the words "a statement to the effect that the application is presented by the said institution or authority."

544. Mr. FRANÇON (France) was not certain what the certificate concerned would look like. The matter would be very different depending on whether the certificate was to be issued by a national authority or by the International Bureau.

545. Mr. BOGSCH (Director General of WIPO) explained that it was precisely to meet that concern that he had suggested the reference to certification in the final sentence of Article 3(2), since there was no doubt that the declaration referred to in that provision originated with the appointed institution or authority and not with the International Bureau.

546. The PRESIDENT noted that the Delegate of France was satisfied with the explanations given by the Director General of WIPO.

547. Mr. KOMAROV (Soviet Union) said that it was indeed the appointed institution or authority that made the declaration but that the purpose of his proposal was to say that the fact of registration certified that the scientific discovery was in conformity with the definition given in Article 1.

548. Mr. BOGSCH (Director General of WIPO) observed that he had used the word "certification" and not "certificate." It was therefore a certification contained in the declaration made by the appointed institution or authority and not a separate document.

549. Mr. MÜHLEN (Federal Republic of Germany) feared that the proposal once more completely changed the system since it seemed to give substantive effect to an act performed by the International Bureau.

550. Mr. BOGSCH (Director General of WIPO) explained that it was the appointed institution or authority which said, in the declaration contained in the application it was submitting, that the scientific discovery was in conformity with the definition of scientific discovery given in Article 1. As far as the International Bureau was concerned, it would simply note in the Register that the declaration had been received and it would make no comment on its validity.

551. The PRESIDENT noted that the Delegate of the Federal Republic of Germany was satisfied with the explanations given by the Director General of WIPO.

552. Mr. WINTER (United States of America) felt that the proposal made by the Soviet Union Delegation concerned matters of substance. Since there was some confusion as to the meaning and effects of the proposal, he proposed that the meeting should be suspended for five minutes to enable the delegations concerned to discuss the matter.

553. Mr. KAMPF (Switzerland) was a little surprised by the proposal made by the Soviet Union Delegation. If the appointed authority certified, for example, that the subject of the application constituted the recognition of a phenomenon not recognized until then, that would be tantamount to setting up a kind of novelty examination and would change the Treaty quite considerably.

554. Mr. WINTER (United States of America) added to his previous intervention by stating that he had quite understood the explanations given by the Director General of WIPO but that he feared that the wording of Article 5(3)(i) could be misinterpreted by some people and that they could assume that certification would come from the International Bureau, which was a thing he certainly wished to avoid.

555. Mr. BOGSCH (Director General of WIPO) replied that it was for that reason that he had proposed that Article 3(2) be amended first, to make it clear that what was involved was certification forming part of the declaration by the institution or authority submitting the application, and that the International Register would simply reflect that declaration.

556. Mr. KOMAROV (Soviet Union) wished to confirm that what his Delegation had in mind was exactly as the Director General of WIPO had explained.

557. Mr. FRANÇON (France) observed that it might be possible to find a solution more easily if Article 5 simply referred to the declaration mentioned in Article 3, without giving further details.

558. The PRESIDENT suspended the meeting for five minutes.

[Suspension]

559. The PRESIDENT resumed the meeting and announced that, following the consultations held during the suspension, it seemed that a compromise could be found that would satisfy everyone. He asked the Director General of WIPO to read out the new wording of Articles 3(2) and 5(3)(i).

560. Mr. BOGSCH (Director General of WIPO) suggested that the words "that the subject matter of the application is a scientific discovery within the meaning of Article 1 and" be inserted between the words "to the effect" and the words "that the application" in the last sentence of Article 3(2). He further suggested that the words "of the statement referred to in Article 3(2) concerning the conformity of the subject matter of the application with the definition of scientific discovery in Article 1" be inserted in Article 5(3)(i) after the words "the recording of the name of the discoverer."

561. The PRESIDENT asked whether there were any objections to the amendments suggested by the Director General of WIPO.

562. Mr. FRANÇON (France) pointed out that, in a spirit of compromise, the Delegation of France was not asking for Rule 33 of the Rules of Procedure to be applied.

563.1 The PRESIDENT noted the statement of the Delegate of France, explaining that in his view the procedure under Rule 33 of the Rules of Procedure applied only to amendments concerning matters of substance, which was not the case.

563.2 He noted that the amendments to Article 3(2) and 5(3)(i) were adopted.

564. Articles 3 and 5 were adopted as amended. (Continuation of Article 5: see paragraph 627.)

Article 6 (continued from paragraph 156)

565. The PRESIDENT moved on to Article 6.

566. Mr. TSHINKELA (Zaire), referring to Article 6(2), which stipulated that "the certificate shall be sent by the International Bureau to the discoverer," and to Article 3(1), which spoke of scientific discoveries made jointly by several discoverers, asked whether, in those cases where a discovery was made jointly, a certificate would be sent to each discoverer separately or whether their names would be entered on a single certificate.

567. Mr. BOGSCH (Director General of WIPO) felt that the question put by the Delegation of Zaire was very pertinent. After having referred to Article 1(1)(ii), which mentioned the case of scientific discoveries made jointly by several persons, he stated that the certificate would be drawn up in as many copies as there were co-discoverers and that each of the co-discoverers would receive the same certificate mentioning all discoverers. The Regulations would have to provide for details of that kind.

568. The PRESIDENT noted that there were no further comments on Article 6.

569. Article 6 was adopted.

Article 7 (continued from paragraph 161)

570. The PRESIDENT moved on to Article 7.

571. Mr. FRANÇON (France) observed that, whereas the end of Article 7(2) referred to annulment under Article 10(2), Article 10 spoke only of cancellation and no longer of annulment, and that therefore the wording of Article 7(2) would have to be harmonized with that of Article 10.

572. It was so decided.

573. Mr. BOGSCH (Director General of WIPO) had a comment to make concerning the English text exclusively. At the end of Article 7(2), the word "a" was to be inserted before the word "declaration."

574. It was so decided.

575. Article 7 was adopted as amended.

Article 8 (continued from paragraph 165)

576. The PRESIDENT moved on to Article 8.

577. Mr. BOGSCH (Director General of WIPO) suggested that the English version of Article 8 be amended slightly in order to achieve some uniformity. The words "amendments of" in paragraph (2) and "amendment in" in paragraph 7 would have to be replaced by the words "amendment to." Furthermore, since the person filing the observations could now be a legal entity, paragraph (3) should read in the following way: "Any observation, counter-observation or amendment filed under paragraph (1) or (2) shall show the name and address of, and shall be signed by, the filer."

578. Mr. TSHINKELA (Zaire) asked why a person filing an observation was required to pay a fee.

579. Mr. BOGSCH (Director General of WIPO) replied that it was to cover the cost to the International Bureau of filing the observation.

580. The PRESIDENT noted that no further comments on Article 8 were forthcoming.

581. Article 8 was adopted as amended.

Articles 9 to 12 (Article 9 continued from paragraph 180, Article 10 from paragraph 436, Article 11 from paragraph 305 and Article 12 from paragraph 470)

582. The PRESIDENT moved on to Articles 9 to 12 in succession and noted that no delegation wished to make any comments on those Articles.

583. Articles 9 to 12 were adopted. (Continuation of Article 9: see paragraph 667.)

Article 13 (continued from paragraph 356)

584. The PRESIDENT moved on to Article 13.

585. Mr. BOGSCH (Director General of WIPO) pointed out an amendment to be made to the English wording of Article 13(2), consisting in the reversal of the order of the phrases "to the Assembly" and "the corresponding accounts."

586. The PRESIDENT noted that there were no further comments on Article 13.

587. Article 13 was adopted as amended.

Article 14 (continued from paragraph 360)

588. The PRESIDENT moved on to Article 14.

589. Mr. BOGSCH (Director General of WIPO) pointed out two amendments to be made to the English wording of the first sentence of Article 14(1), consisting in the replacement of the word "for" in the first line by the expression "in respect of" and to delete the word "for" in the second line.

590. Mr. FRANÇON (France) proposed that the French version of the second sentence of Article 14(1) should begin with the words "son adoption" rather than with "l'adoption."

591. The PRESIDENT noted that no objections were forthcoming.

592. Article 14 was adopted as amended.

Articles 15 to 22 (Article 15 continued from paragraph 470, Article 16 from paragraph 369, Article 17 from paragraph 462, Article 18 from paragraph 382, Article 19 from paragraph 384, Article 20 from paragraph 414, Article 21 from paragraph 416 and Article 22 from paragraph 419)

593. The PRESIDENT moved on to Articles 15 to 22 in succession and noted that no delegation wished to make comments on those Articles.

594. Articles 15 to 22 were adopted.

Consideration of the Draft Agreed Statements to be Included in the Records of the Conference, Prepared by the Drafting Committee

595. The PRESIDENT opened the discussion on document DS/CD/20 containing the draft Agreed Statements to be included in the Records of the Conference, prepared by the Drafting Committee.

596. Mr. TODOROV (Bulgaria) had a comment to make on the title of the document, concerning the words "to be included in the Records of the Diplomatic Conference." He had understood during the discussion of the Statements that they were to be reflected in the Final Act of the Conference.

597. Mr. BOGSCH (Director General of WIPO) replied that the Rules of Procedure laid down in Rule 1(2)(vi) that the Plenary of the Conference could "adopt any agreed statements to be included in the Records of the Diplomatic Conference" and that those being dealt with were such statements.

Article 2 (continued from paragraph 505)

598. The PRESIDENT opened the discussion on paragraph 1 of document DS/CD/20.

599. Mr. PAPINI (Italy) pointed to the proposal by the Delegation of Italy, contained in document DS/CD/6, whose purpose it was to ensure that everyone had the greatest freedom to make use of scientific discoveries, and observed that the reference to remuneration in paragraph 1 of document DS/CD/20 could lead in future to a restriction of the freedom to make use of discoveries. Consequently, he proposed that the words "remuneration as a" be deleted and that the close of paragraph 1 should therefore read: "...and the discoverer's right to a recompense for the scientific discovery which he has made."

600. Mr. BOGSCH (Director General of WIPO) felt that the proposal made by the Delegate of Italy did not affect a matter of substance since it did not exclude a recompense in the form of money, but the possibility was not placed so much in the foreground as in the Drafting Committee's version.

601. Mr. EKANI (Cameroon) stated that the question was of interest to the developing countries and that the latter felt they had obtained satisfaction by means of Article 2(2) and paragraph 1 of the document containing the Agreed Statements, taken in conjunction. Indeed, remuneration as a recompense in no way affected the use of the scientific discovery, since it was linked to the fact of the discovery having been made and not to its use.

602. Mr. TODOROV (Bulgaria) was entirely in agreement with the interpretation given by the Delegate of Cameroon.

603. Mr. KAMPF (Switzerland) likewise agreed with the interpretation given by the Delegate of Cameroon.

604. The PRESIDENT noted that the proposal by the Delegation of Italy had not been seconded. Consequently, paragraph 1 of document DS/CD/20 remained unchanged.

605. Mr. PAPINI (Italy) announced that his Delegation would prepare a statement for inclusion in the minutes of the Conference.

606. The PRESIDENT requested the Delegate of Italy to prepare the statement and to communicate it to the Secretariat.*

Article 4 (continued from paragraph 539)

607. The PRESIDENT moved on to paragraph 2 of document DS/CD/20.

608. Mr. KOMAROV (Soviet Union) stated that if an Agreed Statement were to be adopted under which a Contracting State was not obliged to make the appointed institution assume responsibility, the appointment of such an institution would lose its meaning since the institution could then do as it pleased. The Soviet Union Delegate felt that a few words should be added to the existing wording to give them more force and announced that he had prepared in writing and distributed a new wording for paragraph 2 of document DS/CD/20.

609. Mr. WINTER (United States of America) had received the new wording and he understood that the Soviet Union Delegation should have attempted to adapt the wording of paragraph 2 to its national laws. However, paragraph 2 had been adopted in Plenary. The text adopted in Plenary session used the words "is free to determine whether or not" whereas the text proposed by the Soviet Union Delegation was much more positive. It would be difficult for the Delegation of the United States of America, and probably for the Delegations of the other Group B countries also, to accept the proposal made by the Soviet Union Delegation. The Delegate of the United States of America felt that application of Rule 33 of the Rules of Procedure had to be considered.

610. Mr. FRANÇON (France) pointed out that he had not received the text of the proposal of the Soviet Union Delegation, but that he fully supported the statement made by the Delegate of the United States of America.

611. Mr. EKANI (Cameroon) felt that the Statement contained in paragraph 2 could be improved by making a small effort of comprehension vis-à-vis the Soviet Union Delegation, at the same time maintaining the principle of leaving the question of responsibility to national legislation. He saw no objection to accepting discussion of the matter if the majority of delegates felt the same way.

612. The PRESIDENT asked whether any delegation wished to second the proposal presented by the Soviet Union Delegation.

613. Mr. ILIEV (Bulgaria) seconded the proposal made by the Soviet Union Delegation.

614. The PRESIDENT asked whether any delegation wished to oppose the proposal made by the Soviet Union Delegation.

615. Mr. WINTER (United States of America) stated that the Delegation of the United States of America could not accept a substantive amendment to a text that had been adopted in Plenary, and which moreover fully satisfied the needs of the Soviet Union since it permitted national legislation to require the assumption of responsibility.

* Editor's note: The wording of the statement is as follows: "The Italian Delegation, having heard the explanations given in the meeting of the Plenary Assembly on the afternoon of March 3, 1978, as regards the interpretation of the words "a remuneration as a recompense for the scientific discovery," contained in paragraph 1 of document DS/CD/20, withdraws the proposal it has made in document DS/CD/6, in the conviction that, in accordance with generally followed international practice, any person will remain free to use scientific discoveries without having to pay compensation to any person whatsoever."

616. Mr. MÜHLEN (Federal Republic of Germany) stated that, for reasons of principle, he shared the views expressed by the Delegate of the United States of America.

617. The PRESIDENT pointed out that there were two ways of settling the problem. Either a vote could be held, which he wished to avoid, or a compromise could be found between the two positions. He proposed that the meeting be suspended for five minutes to give the Delegates of the United States of America and of the Soviet Union the possibility of reconsidering the matter.

618. It was so decided.

[Suspension]

619. The PRESIDENT resumed the meeting.

620. Mr. BOGSCH (Director General of WIPO) announced that the following solution had been arrived at: the Statement contained in paragraph 2 of document DS/CD/20 would be deleted and the minutes of the meeting would reflect the statements made by each delegation in that respect.

621. Mr. WINTER (United States of America) accepted that solution on condition that the minutes of the Conference showed that it had originally been decided that Article 4(3) be deleted and an Agreed Statement included in the Records of the Conference.

622.1 The PRESIDENT noted that no delegation opposed the solution announced by the Director General of WIPO.

622.2 He moved on to paragraph 3 of document DS/CD/20.

623. Mr. SCHACK (German Democratic Republic) proposed that paragraph 3 be deleted since he had no recollection of the Plenary having decided to include the item concerned in the Records of the Conference as an Agreed Statement.

624. Mr. BOGSCH (Director General of WIPO) had no objection to the paragraph being deleted, since it was not sure that it had been decided in the Plenary to include the item in the Records of the Conference as an Agreed Statement.

625. Mr. EKANI (Cameroon) was not opposed to deleting the paragraph, on condition that it was understood that each State could exercise its sovereignty by entrusting the task concerned to an institution located outside its territory, and that the deletion of the paragraph would not prevent a State from doing so.

626. The PRESIDENT stated that such was indeed the case.

Article 5 (continued from paragraph 564)

627. The PRESIDENT moved on to paragraph 4 of document DS/CD/20 and noted that no delegation wished to submit any comments.

Title of the Treaty

628. Mr. BOGSCH (Director General of WIPO) wished, as was the custom for all treaties administered by WIPO, to insert "Geneva" in the title of the Treaty, as the name of the city in which the Treaty was concluded.

629. The PRESIDENT suspended the meeting for five minutes to enable the Steering Committee to hold a brief meeting.

[Suspension]

Consideration of the Draft Final Act

630. The PRESIDENT resumed the meeting and announced the decisions of the Steering Committee regarding the organization of the work of the Conference. The President also mentioned that the Steering Committee had produced the draft of a Final Act of the Conference, and asked the Director General of WIPO to acquaint the Conference with it.

631. Mr. BOGSCH (Director General of WIPO) said that the text of the Final Act of the Geneva Diplomatic Conference was identical, mutatis mutandis, with the Final Act of the Budapest Diplomatic Conference. He read out the draft Final Act.

632. Mr. TODOROV (Bulgaria) asked whether the adoption of Agreed Statements should not be mentioned in the Final Act.

633. Mr. BOGSCH (Director General of WIPO) did not object to that amendment, pointing out at the same time that the Conference had adopted other texts too, for instance the Rules of Procedure.

634. Mr. WINTER (United States of America), recalling that it had been decided that the Agreed Statements would appear in the Records of the Conference, would prefer not to have the Final Act changed, in order to avoid departing from precedent. Otherwise he probably would not be in a position to sign it.

635. The PRESIDENT proposed maintaining the Final Act in the form in which it had been drawn up by the Secretariat and submitted to the Steering Committee, and noted that no delegation had any objections.

636. The Final Act was adopted.

[The meeting was closed]

Ninth Meeting

Tuesday, March 7, 1978

Morning

Consideration of the Second Report of the Credentials Committee

637. The PRESIDENT opened the ninth meeting. Proceeding to item 10 of the agenda, entitled "Consideration of the second report of the Credentials Committee," he gave the floor to the Chairman of that Committee.

638.1 Mr. SWAMINATHAN (India), speaking as Chairman of the Credentials Committee, presented the second report of that Committee. He mentioned that he had already supplemented the first written report of the Credentials Committee, which appeared in document DS/CD/16, by the announcement of the receipt of credentials for one Member Delegation, namely that of Norway, and two Observer Delegations, namely those of Madagascar and Mozambique, and the receipt of the letter of appointment of the International Literary and Artistic Association. Since then he had received a communication from the Ministry of Foreign Affairs of Mexico, announcing the credentials of the Delegation of Mexico; a communication from the Ministry of Foreign Affairs of Denmark, authorizing the Delegation of Denmark to represent Denmark and participate fully in the work of the Conference, and announcing that the authorization would be confirmed by a signed document containing full powers; full powers for the Delegation of Iraq; finally, a communication from the Permanent Mission of Senegal in Geneva announcing the imminent arrival of the full powers of the Delegation of Senegal.

638.2 The Chairman of the Credentials Committee thanked all the members of that Committee for their cooperation and the Secretariat for its assistance.

639.1 The PRESIDENT commended the Credentials Committee for its excellent work and asked the Chairman of the Committee to convey the thanks of the Conference to all its members.

639.2 The President noted that the second report of the Credentials Committee did not give rise to any objections and proposed that it be adopted.

640. It was so decided.

Adoption of the Treaty and Final Act

641. The PRESIDENT proceeded to the second part of item 11 of the agenda, namely the adoption of the Treaty.

642.1 Mr. BOGSCH (Director General of WIPO) made a comment on the subject of document DS/CD/23, which contained the Final Act. The cover page of the document would be amended by the removal of the list of States; the actual text of the Final Act would not be amended.

642.2 On the other hand, he confirmed the accuracy of the title of document DS/CD/22, which said that the Treaty had been adopted in English and French on March 3, 1978, as the Russian and Spanish texts of the Treaty had not existed on that date. The texts in question had in the meantime become available, and would be adopted with the same status as the English and French texts, so that the Records of the Conference would show clearly that the final adoption of the four texts had taken place at the same time.

643. The PRESIDENT pointed out that the Treaty had been adopted article by article. It would not therefore be reexamined article by article but finally adopted. He asked the Delegates if they had any observations to make on the Treaty.

644. Mr. KOMAROV (Soviet Union) announced that his Delegation wished to present two proposals for the improvement of the text of the Treaty. The first proposal concerned the Preamble.* The Soviet Union Delegation proposed adding to the fourth paragraph, after the words "by facilitating access to scientific information," the words "contained in those discoveries." The reason was that the system of international recording of scientific discoveries did not facilitate access to scientific information in general but, mainly, to scientific information contained in recorded scientific discoveries.

645. The PRESIDENT asked the Conference if it could regard such an amendment as being of a drafting nature or whether it affected the substance of the Treaty.

646. Mr. GROSSMAN (United States of America) considered that, unless it was absolutely necessary, one should avoid making new amendments to the text of the Treaty at that late stage.

647. Mr. HEMMERLING (German Democratic Republic) supported the proposal of the Soviet Union Delegation.

648. Mr. DELICADO MONTERO-RÍOS (Spain) shared the opinion of the Delegate of the United States of America.

649. The PRESIDENT called delegates' attention to Rule 33 of the Rules of Procedure of the Conference. A vote would have to be taken, but before that the President wished to know whether the Soviet Union Delegation intended to press its proposal.

650. Mr. KOMAROV (Soviet Union) considered that the amendment proposed by him did not change the substance of the Preamble, and still less that of the Treaty, but that it would correspond better to the scope of the Treaty and would merely be a clarification. The point was not a very important one, so that, if its proposal was not adopted, the Soviet Union Delegation would be satisfied if a clarification was reflected in the minutes of the Conference.

* Editor's note: continued from paragraph 487.

651. Mr. GROSSMAN (United States of America) thanked the Soviet Union Delegate for having agreed to have his statement merely reflected in the minutes of the Conference. He pointed out furthermore that Article 2(i), which had to do with "access to the recorded scientific discoveries," made it quite clear that the Preamble referred to access only to such information as was contained in recorded scientific discoveries.

652. The PRESIDENT said that the problem raised by the Soviet Union Delegation was solved, and that the minutes of the Conference would reflect the Delegation's remarks. He invited the Soviet Union Delegation to present its second amendment proposal.

653. Mr. KOMAROV (Soviet Union) said that his Delegation's second proposal, which concerned Article 3,* was an improvement that was perhaps more a matter of substance. He proposed the replacement in paragraph (3)(vii), after the words "including a description of the phenomena," of the word "or" by "and/or," as it was desirable that all possible information should be contained in the documentation concerning the discovery.

654. The PRESIDENT considered that the amendment in question was purely of a drafting nature.

655. Mr. BOGSCH (Director General of WIPO), referring to the English version of the text, pointed out that "or" sometimes meant "and," and that in the case in question the word "and" probably corresponded to the intention underlying the provision. Consequently, the proposal by the Soviet Union Delegation seemed justified to him.

656. Mr. FRANÇON (France) pointed out that the expression "and/or" was not very elegant, and asked whether the amendment was really necessary.

657. Mr. KOMAROV (Soviet Union) replied that there was a precedent in the text of the Treaty, namely in Article 4(1), and that his proposal had been presented not merely in order to improve the style of Article 3(3)(vii), but in order to reflect more accurately the wish expressed in the Preamble that the application should contain the maximum of information.

658. Mr. BOGSCH (Director General of WIPO) said that, when he had spoken in favor of the proposal of the Soviet Union Delegation, he had understood that it was a question of replacing "or" by "and" and not by "and/or."

659. The PRESIDENT confirmed that it was a question of replacing "or" by "and/or."

660. Mr. GROSSMAN (United States of America) had no objection to the use of both the word "and" and the word "or."

661. Mr. SWAMINATHAN (India) said that the use of "and/or" was acceptable.

662. The PRESIDENT asked whether any delegation opposed the insertion of the words "and/or." He noted that such was not the case, and consequently proposed that the Secretariat should insert those words in Article 3(3)(vii).

663. It was so decided.

664. The PRESIDENT said that the expression "March 3, 1978," which appeared on the title page of document DS/CD/22, should be replaced by the expression "March 7, 1978," as that was the date on which the Treaty would be adopted in all four languages.

665. Mr. KOMAROV (Soviet Union) pointed out two corrections that had to be made to Articles 5(3)(i) and 15(2)(b) in the Russian version of document DS/CD/22.**

* Editor's note: continued from paragraph 564.

** Editor's note: see the Russian version of document DS/CD/24, paragraphs 2 and 3.

666. The PRESIDENT said that the amendments, which were mere drafting amendments, were accepted.

667. Mr. KOMAROV (Soviet Union) referring to Article 9,* proposed adding the words "of Scientific Discoveries" to the title of that provision. He pointed out that the shortened expression "International Register" was not defined in Article 1, but that the full expression "International Register of Scientific Discoveries" was used in Article 1(1)(iii).

668. The PRESIDENT considered that it would be difficult to make amendments that were not absolutely necessary.

669. Mr. GROSSMAN (United States of America) shared the President's viewpoint and repeated that one should avoid making amendments that were not absolutely necessary at that late stage of the discussions of the Diplomatic Conference.

670. Mr. KOMAROV (Soviet Union) said that he would not press his proposal, which would merely have improved the drafting of the Treaty.

671. Mr. DELICADO MONTERO-RÍOS (Spain) mentioned some corrections that should be made to Articles 7(2), 13(1) and 15(2) in the Spanish version of document DS/CD/22.**

672.1 The PRESIDENT said that the amendments, which were mere drafting amendments, were accepted.

672.2 He noted that the delegates had no further remarks to make on the Treaty.

673. The Treaty was adopted in the four languages.

674. The PRESIDENT proceeded to the adoption of the Final Act. He mentioned that the Director General of WIPO had announced that the cover page of document DS/CD/23 would be altered by the removal of the list of States. He noted that the delegations had no objections to the text of the Final Act.

675. The Final Act was adopted.

Organization of Work

676. The PRESIDENT announced that the afternoon meeting would be devoted to closing declarations, and that the signing ceremony would take place immediately after the closing of the Conference.

[The meeting was closed]

Tenth Meeting
Tuesday, March 7, 1978
Afternoon

Closing Statements

677. The PRESIDENT opened the tenth meeting. He invited delegations to present their closing statements, asking them to specify whether they intended to sign the Treaty or the Final Act.

* Editor's note: see paragraph 583.

** Editor's note: see the Spanish version of document DS/CD/24, paragraphs 2 to 6.

678.1 Mr. HEMMERLING (German Democratic Republic), considering the results of the Conference, said that the many years of effort spent on the preparation of the Diplomatic Conference had been made worth while by the good result achieved, namely the establishment of the Geneva Treaty on the International Recording of Scientific Discoveries. The fact that compromise solutions had been found on a whole series of not unessential points did not detract from the favorable evaluation of the Conference and its outcome. The Delegate of the German Democratic Republic said that the growth of international cooperation through the continued development of the process of détente and the pursuance of international economic relations on the basis of equality were the conditions that would determine the further shaping of the Treaty according to needs. With the creation of the new Treaty, WIPO had taken a step forward in the fulfillment of the task assigned to it in the Convention Establishing WIPO, namely the development of the legal protection of scientific discoveries.

678.2 The Delegate of the German Democratic Republic took the opportunity to praise the intense activity of the Soviet Union in connection with scientific discoveries. He referred to the enormous achievements of the scientists of the Soviet Union who, responding to the incentives introduced for their benefit, had succeeded during the 60 years of the existence of the first Socialist State in making historic discoveries in the natural sciences. The Delegate of the German Democratic Republic recalled that it was on the initiative of the Soviet Union that scientific discoveries had been included in the concept of intellectual property and written into the Convention Establishing WIPO, and that the Treaty on the International Recording of Scientific Discoveries had reached the adoption stage. The goodwill shown by the Soviet Union Delegation in its acceptance of compromises during the debates had contributed greatly to the success of the Diplomatic Conference.

678.3 The Delegate of the German Democratic Republic expressed his thanks to the Director General of WIPO and the Secretariat for their work in connection with the Conference. He mentioned especially the personal merit of the Director General of WIPO, who in some complicated situations had been able to make important contributions and thereby enable acceptable solutions to be worked out.

678.4 The Delegate of the German Democratic Republic also thanked all the Delegates who had acted as officers of the Conference, and the interpreters, and emphasized his appreciation of the work done by the President of the Conference, whose efforts had also contributed to its success.

678.5 The Delegate of the German Democratic Republic said that the signing of a treaty in Russian for the first time within WIPO, and therein the recognition by WIPO of the part played by the Soviet Union in international relations, was of prime importance. He considered it important that further progress should be made in the future along the path towards the incorporation of Russian, on an equal footing with other languages, in the work of WIPO.

678.6 The Delegate of the German Democratic Republic announced that his Delegation would sign the Final Act.

679.1 Mr. PAWLOY (Austria) thanked the Delegates on behalf of his Delegation for having elected the Head of the Austrian Delegation to the office of President of the Conference. That had been a great honor for his country, which had done its utmost to contribute to the success of the Conference. The Delegate of Austria expressed his gratitude to the Director General of WIPO and his staff, who had not only prepared the documents but also contributed to the successful outcome of the Conference. Whereas at times it had seemed impossible to reconcile divergent points of view, compromise solutions had been found thanks to the goodwill shown by all Delegations.

679.2 Although the Delegation of Austria accepted the contents of the Treaty without reservation, it would not be able to sign at the end of the Conference for constitutional reasons; it would sign the Final Act, however.

680.1 Mr. ILIEV (Bulgaria) said that the Diplomatic Conference was ending its work after some very lively debates which had sometimes been fraught with difficulties. All the participants could congratulate themselves on its success. The text of the Treaty that had been adopted was generally acceptable to all countries. The Conference had managed to improve it in the positive way that had been repeatedly advocated by the Soviet Union Delegation. The Delegates had achieved better mutual understanding in the course of the discussions. The Delegate of Bulgaria admitted that his Delegation was not entirely satisfied in all respects but, in the heterogeneous modern world, nothing could be done without reasonable compromises having to be made. As for the Treaty as a whole, it opened a new chapter in the history of WIPO. After its entry into force, WIPO would assume tasks in an essentially new sphere of intellectual activity, a specifically scientific and highly creative sphere.

680.2 The lofty aims of the Treaty would not be achieved unless all States worked towards achieving them. The Delegation of Bulgaria intended to set an example by signing the Treaty and by giving its contents wide publicity on its return to Bulgaria.

680.3 The Delegate of Bulgaria paid tribute to all those whose effort and work had led to the success of the Conference. He wished to make a special mention of the part played by the Soviet Union Delegation, which had had a catalyzing effect on many discussions, and also the role of the Delegates of the United States of America, France, and a number of other countries. He addressed special thanks to the President of the Conference for the meticulous, highly organized and democratic way in which he had conducted the debates. He then expressed his gratitude to the Director General of WIPO, who had followed the work of the Conference very closely, and who at each difficult moment had with great competence and flexibility found the best advice to give. He also thanked the Delegate of Cameroon, who had been brilliant in the very difficult task of presiding over the Contact Group. Finally, the Delegate of Bulgaria addressed words of appreciation to the Secretariat, which as ever had worked tirelessly, accurately and competently. In conclusion, he expressed the wish that the Treaty might be implemented rapidly.

681.1 Mr. DELICADO MONTERO-RÍOS (Spain) commended the President of the Conference on behalf of his Delegation on the brilliant way in which he had conducted the debates, and also the Director General of WIPO and his staff. The Delegate of Spain expressed pleasure that the Spanish text of the Treaty should be an authentic text, which was a matter of very great interest to the community of Spanish-speaking countries.

681.2 The Delegate of Spain said that his Delegation was not able to sign the Treaty and would confine itself to signing the Final Act. Nevertheless, it would communicate the results of the Conference to the competent Spanish authorities, which would give them very careful consideration.

682. 1 Mrs. REYES-RETANA (Mexico) said that she was very pleased with the results achieved at the Conference. As the Treaty was open for signature until the end of the year, the Government of Mexico would be able to give it careful consideration.

682.2 The Delegate of Mexico addressed her thanks to the President of the Conference, the Director General of WIPO and the staff of the Secretariat for their invaluable contribution, and to all the participants who had supported the proposal submitted jointly by the Delegations of Spain and Mexico, as a result of which the original text of the Treaty had been established also in Spanish.

683.1 Mr. RINGL (Czechoslovakia) said that his Delegation regarded the Treaty as a first step towards the protection of scientific discoveries. He spoke in favor of the amplification and extension of the legal provisions governing scientific discoveries at the international level.

683.2 The Delegate of Czechoslovakia was highly appreciative of the preparatory work done by the International Bureau and the experience and skill with which the President of the Conference had conducted the debates.

683.3 He said that his Delegation would sign the Treaty.

684.1 Mr. FRANÇON (France) congratulated the President of the Conference and addressed his Delegation's thanks to WIPO and the Secretariat for the perfect way in which they had organized the Conference, and to the interpreters for their invaluable assistance.

684.2 The Delegate of France said that his Delegation would not sign the Treaty for two reasons, the first was that the French scientific world still had some reservations as to the desirability of a treaty, and was not mentally prepared for signature, at least for the time being. The second reason was that, during the work of the Conference, some substantial amendments had been made to the initial draft, which the Delegate of France would report to the French Government so that the latter might decide on the attitude it intended to adopt in the future.

684.3 The Delegate of France said that his Delegation would, on the other hand, in a spirit of cooperation, sign the Final Act.

685.1 Mr. SALMAN (Iraq) addressed the thanks of his Delegation to the President of the Conference, the Director General of WIPO and his staff and to the interpreters.

685.2 The Delegate of Iraq said that the Treaty as adopted provided Iraq, a developing country, with a means of access to scientific information which would be an aid to that country's economic and technological development. He was pleased that there should be a mention in the Preamble that access to scientific information facilitated the development of developing countries, and expressed the hope that that philosophy would be reflected in the Regulations.

685.3 The Delegate of Iraq said that he would report to his Government on the results of the Conference, and hoped that his country would soon be able to accede to the Treaty. In conclusion, he announced that his Delegation was also unable to sign the Final Act.

686.1 Mr. GROSSMAN (United States of America) joined the earlier speakers in congratulating the President of the Conference, the Chairmen of the Contact Group and Drafting Committee and the Director General of WIPO for the skill and fairness with which the debates had been conducted. His congratulations went also to the Secretariat, which had spent many hours preparing the documents in order that they might be available in good time.

686.2 The Delegate of the United States of America said that his Delegation did not intend to sign the Treaty. It would sign the Final Act, however, as that was a mere statement of the fact that the Conference had been held, and signing it did not imply that the United States of America intended to become party to the Treaty.

686.3 The Delegate of the United States of America also wished to make clear the position of his Delegation on the subject of scientific discoveries and the manner in which it understood certain provisions of the Treaty. The Treaty had two fundamental purposes. The first was to promote the progress of science by publicly associating the names of discoverers with their scientific discoveries. The second was to promote information on scientific discoveries and facilitate access to scientific information. In most of the world those desirable goals had already been achieved. In the United States of America and many other countries, scientists and discoverers published information on their scientific discoveries on a wide scale. That information was disseminated in a number of learned journals. The information and the scientific discovery itself were available to all people, and anyone could use them freely. It was possible for other discoverers or scientists to accept the discovery, reject it or improve on it.

686.4 The United States of America had participated actively in the Diplomatic Conference and in all the earlier Working Groups in a spirit of international cooperation and also in order to ensure that the Treaty would not disrupt the free use of scientific discoveries and inhibit the dissemination of scientific information. It was also important that there be a clear statement that the acceptance of a scientific discovery for international recording was not intended to certify the merit of the scientific discovery or the validity of the statements made in the application for international recording. The Delegate of the United States of America felt that those basic principles had been preserved in the final text of the Treaty.

686.5 The Treaty did not oblige Contracting States to grant rights to the makers of scientific discoveries, neither did it prohibit the grant of such rights. That was a matter for the national law of each Contracting State. It was clear from the Treaty that, if a Contracting State did introduce rights in its national law, those rights would not restrict the free use of the scientific discovery. For instance, the rights would not create an obligation to pay remuneration to the discoverer or a State for the use of a scientific discovery.

686.6 Article 3 of the Treaty allowed a legal entity to file an application if the discoverer granted his consent. It was obvious to the Delegation of the United States of America that the discoverer who granted that consent had to be a national or resident of a Contracting State. A discoverer who was neither a national nor a resident of a Contracting State could not give his consent to a legal entity established in a Contracting State and thereby secure recording under the Treaty.

686.7 The Delegate of the United States of America mentioned that a provision had been added to Article 3(2) to the effect that the declaration by the designated scientific institution or government authority had to contain a statement that the subject matter of the application was a scientific discovery within the meaning of Article 1. According to the Delegation of the United States of America, that statement did not involve the responsibility of the scientific institution or government authority with regard to the merits or validity of the scientific discovery; it merely made explicit what was implicit in the draft Treaty, namely that, for a scientific institution or government authority to be able to file an application with the International Bureau, it had to believe that the subject matter of the application was eligible for recording under the Treaty.

686.8 The Delegate of the United States of America then mentioned that Article 4(3) of the draft Treaty had been deleted. The Diplomatic Conference had considered that the national law of any Contracting State was free to decide whether or not the responsibility of the designated institution or authority was involved when it made a declaration under Article 3(2). Article 4(3) had been deleted because it had been believed that there was nothing in the Treaty to indicate any responsibility on the part of the institution or authority, and because the provision was therefore unnecessary. The Delegation of the United States of America agreed on that point.

686.9 The Delegate of the United States of America finally mentioned that the provision on the problem of the non-involvement of responsibility appearing in Article 5(4) of the draft Treaty had been transferred complete to an Agreed Statement to be included in the Records of the Diplomatic Conference. The Conference had decided that international recording did not imply certification or guarantee of the allegations made and facts asserted in the application, but rather that international recording consisted merely in the administrative stamping of an application filed with the International Bureau.

687.1 Mr. EL IBRASHI (Egypt) wished first of all to congratulate the President of the Conference for the skill with which he had conducted the debates, and he joined the previous speakers in thanking the International Bureau and the Director General of WIPO for the efforts they had made.

687.2 The Delegate of Egypt said that his Delegation was satisfied with the results of the Diplomatic Conference. As a developing country, Egypt attached great importance to the dissemination of information and knowledge and in everything that facilitated access to scientific discoveries.

687.3 The Delegate of Egypt was pleased that the Treaty was open for signature until the end of the year, which would give his Government the opportunity to study it carefully and take the appropriate decision in good time. The Delegate of Egypt expressed the hope that the decision would be favorable.

688.1 Mr. SWAMINATHAN (India) said that his Delegation was very pleased to have been able to participate in the Conference and make its contribution to it. The Delegate of India announced that he would report to his Government on the developments that had taken place in the course of the discussions and on the conclusion of the Treaty.

688.2 The Delegate of India joined the Delegates who had spoken before him in congratulating the President of the Conference and the Director General of WIPO and his enthusiastic staff who had spared no effort at any time. Finally he mentioned that several years had been spent by the Working Group on the drafting of the text on which the Conference had based its work, and expressed his conviction that all those who had participated in the work of the Working Group would feel that their ambitions had been achieved that day.

689.1 Mr. EKANI (Cameroon) agreed with the previous speakers who had said that the Conference had been crowned with success and that certain persons, notably the President of the Conference and the Director General of WIPO, had contributed greatly to that success.

689.2 The Delegate of Cameroon, mentioning that he was from a developing country, said that the Treaty, by which he meant both the Preamble and the provisions, was fully satisfactory to his Delegation. The Preamble of the Treaty made a three-fold contribution, first by promoting the progress of science, in the interest of the human race in general, second by combating underdevelopment, which was to a large extent due to the lack of information available to developing countries, especially scientific and technological information, and third by providing for the first time an international instrument to heal one of the open wounds of modern times, namely racial discrimination. The Delegate of Cameroon considered that accession to the Treaty was incompatible with any system based on racial discrimination, which explained why he had attached such great importance to the wording of the Preamble. As for the actual provisions of the Treaty, they were satisfactory to developing countries inasmuch as they placed them under very few obligations and offered them favorable prospects. The obligations were that of contributing to any deficit that might result from the operation of the system of international recording, while in fact the rule was for the system to be completely self-financing, and that of having an authority to serve as intermediary between the scientist and the International Bureau, which moreover seemed to be actually in the interests of developing countries. The Delegate of Cameroon drew attention to the fact that, for the first time, an international treaty had recognized that the use of scientific discoveries was free, which released developing countries from the fear that the burden of industrial property protection weighing on their development might be made still heavier by the protection of scientific discoveries. As for the success of the Treaty in concrete terms, it would depend on scientists more than on States, in other words on the extent to which the makers of scientific discoveries would find the publicity given them under the Treaty interesting and sufficient, as it was to that extent that developing countries could derive a substantial benefit from the Treaty.

689.3 The Delegate of Cameroon said that he would recommend to his authorities that they sign the Treaty, but that he himself was already prepared to sign the Final Act.

690.1 Mr. KOMAROV (Soviet Union) thanked all the Delegations for the understanding that they had shown, the Delegations of Socialist countries for their close cooperation and the Delegates of the German Democratic Republic and Bulgaria for the kind words addressed to him. He also thanked the Secretariat, the Director General of WIPO and the President of the Conference, not to mention the interpreters.

690.2 The Soviet Union Delegation announced that it intended to sign the Final Act of the Conference.

690.3 It requested the inclusion of the following statement in the Records of the Conference:

"On the occasion of the adoption by the Diplomatic Conference of the Treaty on the International Recording of Scientific Discoveries, the Soviet Union Delegation declares the following. First, the omission from the Treaty of essential legal effects reduces significantly the effectiveness of the system

of international recording of scientific discoveries; one of the main functions of the Treaty should be, in particular, the establishment and confirmation, through the system of international recording of scientific discoveries, of the date on which the discovery was made, that is, the priority date of the discovery, as is already the practice in countries whose national legislation provides for the protection of scientific discoveries. Secondly, the option provided by Article 2 of the Treaty for Contracting States not to grant rights to the makers of recorded scientific discoveries does not contribute to the encouragement of discoverers or, consequently, to the progress of science throughout the world. Thirdly, the inclusion in the Preamble of the Treaty of the term "discrimination" should be clarified and accompanied by references to the Charter and relevant documents of the United Nations, due account being taken of the status of WIPO as a specialized agency of the United Nations system."

691.1 Mr. von STEMPEL (Federal Republic of Germany) said that it was very rare for a diplomatic conference to produce results in such a short space of time. The success of the present Conference was due to the good preparation of the documents by the International Bureau and to the manner in which the debates were conducted by the President.

691.2 The Delegate of the Federal Republic of Germany said that the position of his Government in relation to the Treaty was very similar to that of the Governments of France and the United States of America. His Delegation was prepared to sign the Final Act.

692. Mr. HEMMERLING (German Democratic Republic) fully supported the statement made by the Soviet Union Delegation, and asked that the Records of the Conference might mention the support given by the Delegation of the German Democratic Republic.

693.1 Mr. EGOROV (Ukrainian SSR) regarded the work of the Conference as having been positive, and noted the considerable and useful work done by the International Bureau and the President of the Conference.

693.2 He also endorsed the statement made by the Soviet Union Delegation and asked that the Records of the Conference mention the support given by the Delegation of the Ukrainian SSR.

693.3 He concluded by announcing that he was prepared to sign only the Final Act.

694.1 Mr. JOUK (Byelorussian SSR) shared the previous speaker's appreciation of the work of the Conference and the profitable work done by the President and Secretariat.

694.2 He also endorsed the statement that the Soviet Union Delegation had asked to be included in the Records of the Conference.

694.3 He concluded by announcing that he was prepared to sign only the Final Act.

695. Mr. VANIŠ (Czechoslovakia) gave his support to the statement that the Soviet Union Delegation had asked to be included in the Records of the Conference. The Delegation of Czechoslovakia, while it was in fact going to sign the Treaty, considered that the inclusion in the Treaty of the subject matter requested by the Soviet Union Delegation would have made it more effective.

696.1 The PRESIDENT noted that the Conference was coming to an end. He thanked the Delegates sincerely for the understanding and cooperativeness that they had shown, which had made for the success of the Conference's work. He then thanked the Director General of WIPO who, thanks to his supreme competence, had always been able to find a way out of the most delicate situations. He also thanked all the members of the Secretariat and the interpreters. His gratitude went also to the members of the Steering Committee, the Vice-Presidents of the Conference, the Chairman of the Credentials Committee and above all the Chairman of the Drafting Committee, who had shown a firm determination to reach agreement, and also to the Chairman of the Contact Group.

696.2 The PRESIDENT confessed to having sometimes doubted, in view of the deep rift between the points of view expressed, that a successful result might ever be achieved. He was therefore pleased to be able to thank all the Delegates for having shown themselves so determined, in all situations and in relation to all aspects of the Treaty, to find compromise solutions that were acceptable to all. He expressed his certainty that the spirit of compromise that had presided over the negotiations would be the best guarantee of the subsequent development of the principles underlying the Treaty, and that the Treaty itself was capable of promoting, for the benefit of the whole world, the progress of science and information on new discoveries.

696.3 The President reminded the Delegates that, by electing him President of the Conference, they had entrusted him with the responsibility for the success of the Conference. Now that the Conference had succeeded in concluding the Geneva Treaty on the International Recording of Scientific Discoveries, the President gave back to the Delegates what they had entrusted to him, as the responsibility for the future and the smooth operation of the Treaty thenceforth lay with them and the competent authorities of their countries.

696.4 The President closed the Diplomatic Conference for the Conclusion of a Treaty on the International Recording of Scientific Discoveries.

PARTICIPANTS

LIST OF PARTICIPANTS

I. MEMBER STATESAUSTRALIAHead of the Delegation

Mrs. H. FREEMAN, Second Secretary, Permanent Mission, Geneva

AUSTRIAHead of the Delegation

Mr. O. LEBERL, President, Austrian Patent Office, Vienna

Delegates

Mr. H. QUERNER, First Secretary, Permanent Mission, Geneva

Mr. H. PAWLOY, Patent Attorney, Vienna

BULGARIAHead of the Delegation

Mr. B. TODOROV, Minister Plenipotentiary, Ministry of Foreign Affairs,
Sofia

Delegate

Mr. K. ILIEV, Director, Institute for Inventions and Rationalizations,
Sofia

Advisor

Mr. S. TZVETKOV, Counsellor, Permanent Mission, Geneva

BYELORUSSIAN SSRHead of the Delegation

Mr. V. JOUK, Deputy Chief, Department of Foreign Affairs, State Planning Committee, Minsk

CAMEROONHead of the Delegation

Mr. D. EKANI, Director General, African Intellectual Property Organization, Yaoundé

CANADAHead of the Delegation

Mr. P. THIBAUT, First Secretary, Permanent Mission, Geneva

Delegate

Mr. J. GILLIES, Third Secretary, Permanent Mission, Geneva

CZECHOSLOVAKIAHead of the Delegation

Mr. V. VANÍŠ, Vice-President, *Office des inventions et des découvertes*, Prague

Delegates

Mr. A. RINGL, Counsellor, *Office des inventions et des découvertes*, Prague

Mr. V. PIRČ, Counsellor, Ministry of Foreign Affairs, Prague

DEMOCRATIC PEOPLE'S REPUBLIC OF KOREAHead of the Delegation

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Mrs. J. JANUSZKIEWICZ, Consultant, Industrial Property Division

Mr. Y. GYRDYMOV, Technical Counsellor, PCT Division

Mr. M. QAYOOM, Head, Conferences and Common Services Section,
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Mr. H. ROSSIER, Head, Mail and Documents Section, Administrative
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POST - CONFERENCE DOCUMENTS

POST-CONFERENCE DOCUMENTS "DS/PCD"
(DS/PCD/1 and DS/PCD/2)

List of Documents

<u>Document Number</u>	<u>Submitted by</u>	<u>Subject</u>
1.	The International Bureau of WIPO	Summary of the Geneva Treaty. Memorandum prepared by the Inter- national Bureau
2.	The International Bureau of WIPO	Provisional summary minutes of the meetings of the Diplomatic Confer- ence for the Conclusion of a Treaty on the International Recording of Scientific Discoveries

Text of Documents

DS/PCD/1

March 31, 1978 (Original: French)

THE INTERNATIONAL BUREAU OF WIPO

Summary of the Geneva Treaty. Memorandum prepared by the International Bureau

Editor's Note: The Annex to this document contains the text of the Geneva Treaty in English, French, Russian and Spanish. The English text of the Treaty is reproduced on the odd-numbered pages from 11 to 37 of these Records.

Background

1. Scientific discoveries are generally considered the basis on which any technological progress is founded. Technical inventions differ from scientific discoveries in that the former, unlike the latter, are directly applicable in industry.

2. The definition of "intellectual property" contained in Article 2(viii) of the Convention Establishing the World Intellectual Property Organization comprises "rights relating to scientific discoveries." Such rights exist in some Member States of the World Intellectual Property Organization (WIPO) in the form of a right to obtain recognition as the author of a scientific discovery through the official recording of such authorship; in addition to such recording, a discoverer may also obtain recognition by other means, including in the form of remuneration. At the international level, however, there is as yet no system for the recording of the authorship of scientific discoveries.

3. It was in view of this situation that the Soviet Union proposed in 1971 the inclusion in the program of the International Bureau for 1972 of the task of studying the question of the place of scientific discoveries in the system of protection of intellectual property. This proposal was adopted by the Executive Committee of the Paris Union for the Protection of Industrial Property at its 1971 session. The Director General then convened a Working Group on Scientific Discoveries, which held four sessions in 1973, 1974, 1975 and 1976. The Working Group completed its task by presenting two alternative texts: a draft Resolution to be adopted by the General Assembly of WIPO and a draft Treaty to be adopted by a Diplomatic Conference. At its third ordinary session in September/October 1976, the General Assembly of WIPO decided that the draft Treaty should be submitted to a Diplomatic Conference for adoption.

4. The draft Treaty was published on October 14, 1977, and it served as the basis for the deliberations of the "Diplomatic Conference for the Conclusion of a Treaty on the International Recording of Scientific Discoveries," which was convened by the Director General of WIPO and held in Geneva from February 27 to March 7, 1978.

5. Delegations from 35 Member States of WIPO took part in the Diplomatic Conference with the right to vote, namely: Australia, Austria, Bulgaria, Byelorussian SSR, Cameroon, Canada, Czechoslovakia, Democratic People's Republic of Korea, Denmark, Egypt, Finland, France, German Democratic Republic, Germany (Federal Republic of), Greece, Hungary, India, Iraq, Ireland, Italy, Japan, Mexico, Norway, Poland, Portugal, Qatar, Senegal, Soviet Union, Spain, Sweden, Switzerland, Ukrainian SSR, United Kingdom, United States of America, Zaire. Delegations from seven States not members of WIPO but members of the United Nations or other specialized agencies of the United Nations system took part in the Conference in an observer capacity, namely: Argentina, Madagascar, Mozambique, Republic of Korea, Thailand, Trinidad and Tobago, Venezuela. Finally, representatives of one intergovernmental organization, namely the International Telecommunication Union (ITU), and of two international non-governmental organizations, namely the International Association for the Protection of Industrial Property (IAPIP) and the International Literary and Artistic Association (ALAI) took part in the Conference in an observer capacity.

6. The Diplomatic Conference adopted a Treaty, consisting of 22 articles, entitled "Geneva Treaty on the International Recording of Scientific Discoveries" (hereinafter referred to as "the Treaty"). The Treaty was opened for signature on March 7, 1978. The Conference also adopted a Final Act evidencing the holding and outcome of the Conference. Finally, it approved the texts of two agreed statements to be included in the Records of the Conference.

Summary of the Treaty

7. Substantive provisions. The purpose of the Treaty, as its name suggests, is the institution of a system for the international recording of scientific discoveries within the framework of WIPO. The Preamble to the Treaty states the two main objectives of the Treaty, namely, first, to promote the progress of science through the stimulation of discoverers without discrimination by instituting a system which publicly associates their names with their scientific discoveries; second, to promote information on new scientific discoveries, for the benefit of the scientific community and the world at large, by instituting a system which makes the descriptions of such scientific discoveries accessible to them. The Preamble also mentions that a system for the international recording of scientific discoveries, by facilitating access to scientific information, is of interest to States and in particular developing countries.

8. The Treaty defines a series of expressions that occur several times in the text (Article 1(1)). These definitions include that of the scientific discovery: "the recognition of phenomena, properties or laws of the material universe not hitherto recognized and capable of verification."

9. In view of its importance, the provision setting out the scope of the international recording warrants quoting in full (Article 2): "The system for the international recording of scientific discoveries instituted by this Treaty: (i) provides for the widest possible access to the recorded scientific discoveries, (ii) does not affect the free use of the ideas contained in recorded scientific discoveries, (iii) does not affect the freedom of the Contracting States to grant or not to grant rights to discoverers of recorded scientific discoveries and, where any Contracting State grants such rights, the freedom of such State to fix the conditions for and the contents of such rights."

10. An application for international recording may be filed with the International Bureau by any discoverer who is a national or a resident of a Contracting State; provided that the discoverer gives his consent, the application may be filed by a legal entity established in a Contracting State; the discoverer's signature is required in all cases (Article 3(1) and (2)). This means that discoverers who are neither nationals nor residents of a Contracting State may not have their scientific discoveries recorded with the International Bureau. In every case, the application is also required to include a declaration by a scientific institution or government authority appointed by the Contracting State of which the applicant is a national or a resident (where the applicant is a natural person) or in which the applicant is established (where the applicant is a legal entity); the declaration consists of a statement to the effect that the subject matter of the application is a scientific discovery within the meaning of the Treaty and that the application is presented by the institution or authority concerned; the declaration may include an opinion on the merits of the scientific discovery or may certify its authenticity (Article 3(2) and Article 4). Among the mandatory contents of the application, mention may be made of the full description of the scientific discovery, an abstract of the description and the date on which the discovery was, for the first time, published or communicated to the public (Article 3(3)). It should be noted that an application is only receivable if filed within ten years of the above-mentioned date (Article 3(5)).

11. The International Bureau effects the international recording after a purely formal examination of the application (Article 5). The discoverer then receives a certificate from the International Bureau (Article 6). The latter publishes certain elements of the application, including the abstract of the description of the discovery, in the "Gazette of Internationally Recorded Scientific Discoveries" (Article 7).

12. Any natural person or legal entity (including those who are neither nationals nor residents of a Contracting State) may file with the International Bureau, without time limit, observations on an internationally recorded scientific discovery; as a result of such observations, those concerned may file counter-observations and the description of the scientific discovery or the abstract may also be amended; any amendment to an abstract is published (Article 8).

13. Anyone may on request have access to the information contained in the international register (Article 9).

14. Withdrawal and cancellation procedures are provided for primarily to prevent the international register from containing data which the discoverer subsequently considers not to correspond to reality (Article 10).

15. Finally, the Treaty provides for the setting up of a classification system (Article 11).

16. Administrative Provisions. The Treaty establishes an Assembly, consisting of the Contracting States, with the tasks, in particular, of adopting at its first session Regulations for implementing the Treaty and of amending certain provisions of the Treaty or the Regulations (Articles 12, 14 and 15).

17. The financing of the international recording system is to be fully provided by the fees to be paid to the International Bureau (for filing the application, for filing observations, counter-observations or amendments to the description or the abstract, and for access to information contained in the international register) and by the sale of the Gazette; it is also provided that, in the event of a financial year closing with a deficit, the Contracting States should pay contributions to cover the deficit (Article 13). The Treaty therefore imposes no financial commitments on States that are not Contracting States.

18. Final Clauses. It should be mentioned that the Treaty is the first international instrument concluded since the establishment of WIPO that is open to all States members of WIPO (rather than to States members of the Paris Union for the Protection of Industrial Property or of the Berne Union for the Protection of Literary and Artistic Works); to become party to the Treaty, a State that has signed it must deposit an instrument of "ratification," whereas a State that has not signed it must deposit an instrument of "accession"; these instruments must be deposited with the Director General of WIPO (Article 16). The entry into force of the Treaty requires the deposit of ten instruments of ratification or accession (Article 17). No reservations to the Treaty are permitted (Article 18). Another important feature of the Treaty is that it is signed in a single original in the English, French, Russian and Spanish languages, all texts being equally authentic; the Treaty provides for the establishment of official texts in other languages; it will remain open for signature at Geneva until December 31, 1978 (Article 20). Finally, the Treaty contains the usual provisions on denunciation, depositary functions and notifications (Articles 19, 21 and 22).

Conclusion

19. The adoption of the Geneva Treaty on the International Recording of Scientific Discoveries marks an important date in the history of WIPO and intellectual property in general. While in fact the Convention establishing WIPO refers to scientific discoveries in its Article 2(viii), it goes no further. It may thus be said that the Geneva Treaty is the first multilateral intellectual property treaty concluded in the field of pure science.

20. Although under the Treaty the international recording of a scientific discovery does not entail any obligation for Contracting States to give any legal effect to the recording, its importance should be stressed to the extent that, when it has entered into force and has become fully operational, it will facilitate access to scientific information to a considerable degree, in particular for developing countries.

DS/PCD/2

January 31, 1981 (Original: English/French)

THE INTERNATIONAL BUREAU OF WIPO

Provisional summary minutes of the meetings of the Diplomatic Conference for the Conclusion of a Treaty on the International Recording of Scientific Discoveries

Editor's Note: This document has not been reproduced here since it contains the provisional summary minutes of the Diplomatic Conference which are reproduced, with a few amendments proposed by the participants, on pages 85 to 148, above.

INDEXES

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NOTE CONCERNING THE USE
OF THE INDEXES

The first two indexes are indexes relating to the subject matter of the Geneva Treaty on the International Recording of Scientific Discoveries; they refer to the articles as they appear in the final text adopted by the Diplomatic Conference. Index A lists by number the articles of the Geneva Treaty and indicates, under each of them, the number which the Article had in the draft presented to the Diplomatic Conference, the pages where the written proposals for amendments to the Article are reproduced and, finally, the serial numbers of those paragraphs of the minutes which reflect the discussion on and the adoption of the Article; in addition to the list of these articles, Index A contains an item, "Agreed Statements," concerning the interpretation of certain articles. The second index (Index B) is a catchword (subject matter) index: it lists alphabetically the main subjects dealt with in the Geneva Treaty. After each catchword, the number of the article in which the particular subject is dealt with is indicated. By consulting Index A under the article indicated, the reader will find the references to the pages or--in the case of the minutes--the paragraph numbers which contain the discussions on that article.

The third index (Index of States) is an alphabetical list of States showing, under the name of each State, where to find the names of the members of its delegation, the written proposals for amendments submitted, the interventions made on behalf of that State and, as the case may be, details on the signature of the Geneva Treaty and/or the Final Act of the Diplomatic Conference by that State.

The fourth index (Index of Organizations) is an alphabetical list of organizations showing, under the name of each organization, where to find the names of its representatives as well as the interventions made on its behalf.

The fifth index (Index of Participants) is an alphabetical list of participants indicating, under the name of each participant, the State or organization which he represented as well as the place in these Records where his name appears as a member of his delegation, as an officer of the Diplomatic Conference or of one of its subsidiary bodies, as a speaker at the meetings of the Diplomatic Conference or as a plenipotentiary signing the Geneva Treaty and/or the Final Act of the Diplomatic Conference.

Throughout the indexes, with the exception of the Catchword Index which cites articles, all numbers refer to page numbers unless they are italicized, in which case the number refers to the paragraph number of the minutes.

INDEXES TO THE GENEVA TREATY
ON THE INTERNATIONAL RECORDING
OF SCIENTIFIC DISCOVERIES
adopted at Geneva on March 3, 1978

A. INDEX TO THE ARTICLES OF THE GENEVA TREATY*

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- Drafting Committee (DS/CD/19): 70
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Article 1: Definitions

Corresponding Article in the draft: Article 1
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- Soviet Union (DS/CD/7): 61
- Contact Group (DS/CD/17): 68
- Drafting Committee (DS/CD/19): 70
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* Numbers denote pages except when in italics. Numbers in italics denote paragraphs in the minutes appearing on pages 85 to 148, above.

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Corresponding Article in the draft: Article 2

Text of the Article in the draft: 14

Written proposals for amendment:

- Italy (DS/CD/6): 61
- Soviet Union (DS/CD/8): 62
- Contact Group (DS/CD/15): 65
- Contact Group (DS/CD/17): 68
- Drafting Committee (DS/CD/19): 70
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(See also "Agreed Statements" on page 179.)

Article 3: The Application

Corresponding Article in the draft: Article 3

Text of the Article in the draft: 14

Written proposals for amendment:

- Soviet Union (DS/CD/9): 62
- Bulgaria (DS/CD/10): 63
- France (DS/CD/18): 69
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Final text of the Article: 15

Article 4: Appointed Institutions and Authorities

Corresponding Article in the draft: Article 4

Text of the Article in the draft: 18

Written proposals for amendment:

- Contact Group (DS/CD/15): 65
- Drafting Committee (DS/CD/19): 70
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Adoption of the text of the Article: 150, 673

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Corresponding Article in the draft: Article 5

Text of the Article in the draft: 20

Written proposals for amendment:

- Soviet Union (DS/CD/11): 63
- Contact Group (DS/CD/15): 65

- Drafting Committee (DS/CD/19): 70
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686.9

Adoption of the text of the Article: 673

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Article 6: The Certificate

Corresponding Article in the draft: Article 6

Text of the Article in the draft: 22

Written proposal for amendment:

- Drafting Committee (DS/CD/19): 70

Discussion in the Conference: 155-156, 440, 565-569

Adoption of the text of the Article: 156, 673

Final text of the Article: 23

Article 7: Gazette

Corresponding Article in the draft: Article 7

Text of the Article in the draft: 22

Written proposal for amendment:

- Drafting Committee (DS/CD/19): 70

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Corresponding Article in the draft: Article 8

Text of the Article in the draft: 22

Written proposal for amendment:

- Drafting Committee (DS/CD/19): 70

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Adoption of the text of the Article: 165, 673

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Article 9: Access to Information Contained in the International Register

Corresponding Article in the draft: Article 9

Text of the Article in the draft: 24

Written proposal for amendment:

- Drafting Committee (DS/CD/19): 70

Discussion in the Conference: 166-180, 440, 582-583, 667

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Article 10: Withdrawal of the Application; Cancellation of the
International Recording; Withdrawal of the Declaration

Corresponding Article in the draft: Article 10

Text of the Article in the draft: 24

Written proposals for amendment:

- Soviet Union (DS/CD/12): 64

- Drafting Committee (DS/CD/19): 70

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Final text of the Article: 25

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Corresponding Article in the draft: Article 11

Text of the Article in the draft: 26

Written proposal for amendment:

- Drafting Committee (DS/CD/19): 70

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Corresponding Article in the draft: Article 12

Text of the Article in the draft: 26

Written proposals for amendment:

- United States of America (DS/CD/14): 64

- Drafting Committee (DS/CD/19): 70

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