

# Industrial Property

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**WORLD INTELLECTUAL PROPERTY ORGANIZATION**

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**WIPO Convention****Accession****UNITED ARAB EMIRATES**

The Government of the United Arab Emirates deposited on June 24, 1974, its instrument of accession to the Convention Establishing the World Intellectual Property Organization (WIPO).

The United Arab Emirates, which is a member of the United Nations, has fulfilled the conditions set forth in Article 5(2)(i) of the WIPO Convention.

Pursuant to Article 11(4)(b) of the WIPO Convention, the United Arab Emirates has expressed the wish to belong to Class B.

Pursuant to Article 15(2), the WIPO Convention will enter into force with respect to the United Arab Emirates on September 24, 1974.

WIPO Notification No. 54, of July 2, 1974.

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**INTERNATIONAL UNIONS**

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**Strasbourg Agreement****Ratification****AUSTRIA**

The Government of Austria deposited on July 3, 1974, its instrument of ratification of the Strasbourg Agreement Concerning the International Patent Classification of March 24, 1971.

A separate notification will be made of the entry into force of the Strasbourg Agreement, when the required number of ratifications or accessions is reached.

Strasbourg Notification No. 13, of July 5, 1974.

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# WIPO MEETINGS

## *Administrative Bodies*

### **World Intellectual Property Organization**

#### **Coordination Committee**

Sixth Session (2<sup>nd</sup> extraordinary)

(Geneva, June 25 to 28, 1974)

#### **Note \***

Twenty-eight of the thirty-three member States of the Coordination Committee were represented. *Ordinary members:* Argentina, Australia, Brazil, Cameroon, Canada, Egypt, France, German Democratic Republic, Germany (Federal Republic of), Hungary, India, Italy, Japan, Mexico, Netherlands, Romania, Senegal, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America, Yugoslavia (24). *Associate members:* Algeria, Philippines, Poland, Sri Lanka (4). Israel, Kenya and Morocco, ordinary members, and Iran and Nigeria, associate members, were not represented at the session.

The following States took part in the discussions in an observer capacity: Austria, Belgium, Bulgaria, Cuba, Gabon, Norway, Portugal, Turkey. Several intergovernmental organizations had delegated observers.

A list of participants follows this Note.

The session was opened and presided over by the Chairman of the Coordination Committee, Dr. h. c. Albrecht Krieger (Federal Republic of Germany).

In accordance with the decisions taken by the competent administrative bodies of WIPO and the Unions at their sessions in November 1973, the Coordination Committee was convened in extraordinary session in order to consider the preliminary draft program and budget for the year 1975 prepared by the Director General and to make comments on this preliminary draft program and budget.

The Coordination Committee reviewed the various chapters of the preliminary draft program and budget and heard the explanations given by the Director General. Several delegations expressed their concern at the rate of increase in the expenditure budgeted for 1975 compared with that budgeted for 1974. It was the general feeling of the Coordination Committee that savings in expenditure should be made in 1975 and that the revised draft budget to be presented to the Executive Committees of the Paris and Berne Unions and to the Coordination Committee at their ordinary sessions in September 1974 should reflect such savings. However, the Coordination Committee maintained all the activities proposed, including those under the legal-technical assistance program for the benefit of developing countries, whose

importance and priority were stressed by a number of delegations.

The draft program and budget for 1975 will be drawn up in the light of the observations, remarks and suggestions made during the discussions of the Coordination Committee.

### **List of Participants \***

#### **I. Member States**

Algeria: S. Bouzidi; L. Zehdji (Miss); G. Sellali (Mrs.). Argentina: L. A. Olivieri; C. A. Passalacqua. Australia: G. Henshilwood; R. M. Peek. Brazil: E. Ferreira de Carvalho. Cameroon: J. Ekedji-Samnik. Canada: A. Garipey. Egypt: A. Elshahed; S. A. Abou-Ali; M. Tallawy. France: J. Fernand-Laurent; R. Lahry; P. Fressonnet; R. Leclerc; S. Balous (Mrs.); E. de Dampierre (Miss). German Democratic Republic: W. Krutzsch; D. Schack; M. Förster (Mrs.). Germany (Federal Republic of): A. Krieger; F. J. Kurtenhach; W. Koschorreck; R. von Schleussner (Mrs.); G. Ullrich; S. Schumm. Hungary: Z. Szilvássy; G. Pálos. India: S. Alikhan; S. I. Balakrishnan; H. Sukhdev; A. Parthasarathi. Italy: G. Trotta; L. Vannuccini; G. Catalini. Japan: H. Saito; K. Takami; T. Hotta. Mexico: V. C. García Moreno. Netherlands: W. M. J. C. Phaf; E. van Weel. Philippines: C. V. Espejo. Poland: R. Farfal; H. Wasilewska (Mrs.); B. Rokicki. Romania: E. Vrabie; V. Tudor. Senegal: P. Crespin; N'D. N'Diaye. Soviet Union: E. Artemiev; A. S. Zaitsev. Spain: A. Fernández-Mazarambroz; C. González-Palacios; I. Fonseca-Ruiz (Miss). Sri Lanka: A. Pathmarajah. Sweden: G. Borggård; C. Ugglå; O. Ohlson. Switzerland: W. Stamm; P. Braendli. United Kingdom: E. Armitage; I. J. G. Davis; J. J. D. Ashdown; O. M. O'Brien. United States of America: C. M. Dann; H. J. Winter; H. D. Hoinkes; E. W. Lawrence. Yugoslavia: D. Čemalović.

#### **II. Observer States**

Austria: T. Lorenz. Belgium: R. Philippart de Foy. Bulgaria: T. Sourgov; I. Petrov. Cuba: F. Ortiz Rodríguez; A. Rivero Rosario. Gabon: A.-M. Bissielo-Bi-Mhwal. Norway: S. H. Røer. Portugal: R. Serrão; L.-F. Rebello. Turkey: N. Yosmaoğlu; A. Erman.

#### **III. Intergovernmental Organizations**

United Nations (UN): K. K. S. Dadzie; P. Casson. United Nations Educational, Scientific and Cultural Organization (Unesco): M. C. Dock (Miss). United Nations Conference on Trade and Development (UNCTAD): C. Greenhill. African and Malagasy Industrial Property Office (OAMPI): D. Ekani. Benelux Trademark Office: W. L. van der Lans.

#### **IV. Officers**

*Chairman:* A. Krieger (Federal Republic of Germany); *Vice-Chairman:* E. Artemiev (Soviet Union); *Secretary:* C. Masouyé (WIPO).

#### **V. WIPO**

A. Bogsch (*Director General*); B. A. Armstrong (*Senior Counsellor, Director, Administrative Division*); C. Masouyé (*Senior Counsellor, Director, Office of the Director General*); K. Pfanner (*Senior Counsellor, Director, Industrial Property Division*); L. Egger (*Counsellor, Head, International Registrations Division*); T. S. Krishnamurti (*Counsellor, Head, Copyright Division*); R. Harben (*Counsellor, Acting Head, External and Public Relations Division*).

\* A list containing the titles and functions of the participants may be obtained from the International Bureau.

\* This Note has been prepared by the International Bureau.

## Other Meetings

### Nice Union

#### Committee of Experts for the International Classification of Goods and Services

Seventh Ordinary Session  
(Geneva, June 10 to 14, 1974)

#### Note\*

The Committee of Experts set up under Article 3 of the Nice Agreement for the International Classification of Goods and Services for the Purposes of the Registration of Marks held its seventh ordinary session<sup>1</sup> at the headquarters of WIPO.

The following countries party to the Nice Agreement were represented: Algeria, Australia, Austria, Belgium, Denmark, Finland, France, Germany (Federal Republic of), Italy, Netherlands, Poland, Portugal, Spain, Sweden, Switzerland, United Kingdom, United States of America (17).

The following countries not party to the Nice Agreement were represented by observers: Indonesia, Philippines, Syrian Arab Republic (3).

The following intergovernmental and international non-governmental organizations were represented by observers: Benelux Trademark Office, Union of European Patent Agents (UNEPA), Union of Industries of the European Community (UNICE).

A list of participants follows this Note.

The Committee decided to adopt a number of changes in the Alphabetical List of Goods and Services and in the Explanatory Notes relating to Classes 1 and 28. These decisions have been notified to the competent Offices of the countries of the Nice Union in accordance with Article 4(1) of the Nice Agreement and have also been communicated to the Offices of the other Paris Union countries. They are published in the June 1974 issue of the review *Les Marques internationales* and will also be published in the form of a supplement to the second (1971) original French-language edition of the International Classification of Goods and Services for the Purposes of the Registration of Marks, and in supplements to the editions of the official translations that have been established.

The Committee had a discussion on the desirability of a general revision of the International Classification. While several delegations were against a general revision, arguing that the existing Classification was satisfactory, other delegations were in favor of such a revision in view of the inconsistencies in the present Classification and the need for a simplification of the system.

It was agreed that no decision could be taken at this stage of the discussions with respect to the question whether

\* This Note has been prepared by the International Bureau.

<sup>1</sup> A Note on the sixth ordinary session was published in *Industrial Property*, 1973, p. 323.

a general revision of the Classification should be undertaken, or a systematic review of the Classification for the purpose of preparing a decision with respect to such a general revision. The International Bureau was asked to continue a study of the matter on the basis of the results of a further survey among all countries members of the Nice Union or the Madrid Union to discover whether, and, if so, under what conditions and by what procedure, they could agree to a systematic review of the Classification in order to determine whether and to what extent a revision of the Classification was needed. In pursuing its study, the International Bureau would analyze the results obtained from the survey and would in due course formulate new proposals.

The Committee set up two working groups: a Temporary Working Group, and a Preparatory Working Group established on a permanent basis.

The Temporary Working Group will carry out a review of the Alphabetical List of Goods and Services and of the Explanatory Notes, within the framework of the existing List of Classes.

The Preparatory Working Group will in future prepare the documentation on the basis of which the Committee of Experts itself will take its decisions concerning the proposals received for changes to be made in the International Classification.

At the request of a number of delegations, the International Bureau was invited to study the possibility of proposing the revision of Article 3(3) of the Nice Agreement to the effect that the requirement of unanimous consent under that provision would be replaced by the requirement of a simple or qualified majority, with a view to facilitating the adaptation of the Classification to the development of technology and trade.

### List of Participants\*

#### I. Countries Party to the Nice Agreement

Algeria: G. Sellali (Mrs.); F. Ait Djebbara (Mrs.). Australia: G. Hensbilwood. Austria: E. Dudeschek. Belgium: C. G. Tas. Denmark: R. Carlsen (Mrs.); I. Sander (Miss). Finland: B. Norring. France: M. Bierry; P. Bassard. Germany (Federal Republic of): M. Auz Castro (Mrs.); G. Jehle. Italy: U. Posta. Netherlands: C. G. Tas. Poland: P. Matuszewski. Portugal: J. Van-Zeller Garin. Spain: J. Ruiz del Arbol; M. T. Yeste Lopez (Mrs.). Sweden: B. Lundberg; G. Deijenberg. Switzerland: F. Balleys; J. Weber. United Kingdom: M. P. Eggleston (Miss); J. A. Cooper. United States of America: D. B. Allen; R. G. Bowie (Mrs.).

#### II. Observers

##### Countries Not Party to the Nice Agreement:

Indonesia: E. Soeprapto. Philippines: C. V. Espejo. Syrian Arab Republic: M. Sheikh Fadli (Miss).

##### Intergovernmental Organization:

Benelux Trademark Office: S. de Hoop.

##### International Non-Governmental Organizations:

Union of European Patent Agents (UNEPA): G. E. Kirker. Union of Industries of the European Community (UNICE): W. Mak; H. G. Leicher.

\* A list containing the titles and functions of the participants may be obtained from the International Bureau.

### III. Officers

*Chairman:* G. Deijenberg (Sweden); *Vice-Chairmen:* P. Matuszewski (Poland); D. B. Allen (United States of America); *Secretary:* C. Werkman (WIPO).

### IV. WIPO

K. Pfanner (*Director, Industrial Property Division*); L. Egger (*Counsellor, Head, International Registrations Division*); C. Werkman (*Counsellor, Head, International Trademarks Section, International Registrations Division*); F. Carrier (*Principal Examiner, International Trademarks Section*).

## ICIREPAT

### Technical Coordination Committee

#### Twelfth Session

(Geneva, June 26 to 28, 1974)

#### Note \*

The twelfth session of the Technical Coordination Committee of ICIREPAT<sup>1</sup> was chaired by Mr. G. Borggård, Director General of the Swedish Patent Office.

A list of participants follows this Note.

**Suggestions of the Technical Committees.** The Committee adopted a revised version of Recommendation SI. 5, "Standard Procedure for Revising and Updating Packs of 80-column Cards," prepared by the Technical Committee for Search Systems and a set of Guidelines for Searching ICIREPAT and Other Mechanized Files, formulated by the same Technical Committee.

The Committee also adopted amendments, prepared by the Technical Committee for Standardization, to Standard ST. 7/A, "8-up Aperture Card Microform," and to the recommendation for a Standardized Method of Identifying Roll Microfilm Files of Patent and Patent-Related Documents.

The Committee amended and adopted a revised version of Standard ST. 8, "Standard Recording of Int. Cl. Symbols on Machine-Readable Records," prepared by the Technical Committee for Computerization.

**The Role of ICIREPAT in Facilitating the Relations of Participating Countries with INPADOC and INSPEC.** The Committee considered what role, if any, ICIREPAT could play in facilitating the relations of participating countries with INPADOC and concluded that its role should be confined to matters within its present competence.

The Committee also considered what role, if any, ICIREPAT could play in facilitating the relations of participating countries with INSPEC in respect of its PAL (Patent Associated Literature) service. The Committee decided that the competence for INSPEC matters should be kept in the PCT Interim Committee for Technical Cooperation, since the PAL service was being tailored to fit the minimum non-

patent literature requirements of PCT and it was therefore essential that a PCT committee decide on what the coverage of this service should be.

**Long-Term Program for Development of an Integrated System for Patent Search.** The Committee, in continuing its study of the comprehensive proposal of the Soviet Union concerning a long-term program for development of an integrated system for patent search, decided that a step-by-step approach to the study of the proposal should be made, with the first step being a clear delineation of the tasks involved. The Committee requested the representatives of the Federal Republic of Germany, the Soviet Union and the International Bureau to outline in a joint effort the first and basic part of the program encompassing the short-term and medium-term tasks to be carried out in the first step of the study.

**Annual Technical Reports from Participating Countries.** The Committee noted the annual technical reports received from Canada, Denmark, Finland, German Democratic Republic, Germany (Federal Republic of), Israel, Japan, Netherlands, Norway, Soviet Union, Sweden, Switzerland, United Kingdom, United States of America and the International Patent Institute and decided to invite all participating Offices to study these reports and to send a list of the items they considered required study within ICIREPAT, with their comments, if any, and indications of the Technical Committees they believed to be most concerned, for discussion at its next session.

**ICIREPAT Program for 1975.** The Committee prepared a draft ICIREPAT program for 1975 based on comments received from various Offices and the proposals formulated by the Plenary Committee of ICIREPAT at its fifth (1973) session.

### List of Participants \*

#### I. States

Austria: G. Mautner-Markhof; G. Quarda. France: D. Cuvelot; M. Verderosa. Germany (Federal Republic of): W. Weiss. Soviet Union: E. Artemiev. Sweden: G. Borggård; L. G. Björklund. United Kingdom: D. G. Gay. United States of America: R. A. Spencer.

#### II. Organization

International Patent Institute (IIB): J. A. H. van Voorthuizen; G. Putz.

#### III. Chairman of Technical Committee

*Chairman of the Technical Committee for Search Systems:* D. G. Gay.

#### IV. Officers

*Chairman:* G. Borggård; *Vice-Chairman:* J. A. H. van Voorthuizen; *Secretary:* P. H. Claus.

#### V. WIPO

P. H. Claus (*Technical Counsellor, Head, ICIREPAT Section, Industrial Property Division*); K. J. Dood (*Technical Counsellor, ICIREPAT Section*); D. Bouchez (*Technical Officer, ICIREPAT Section*); V. N. Evgeniev (*Technical Officer, ICIREPAT Section*).

\* This Note has been prepared by the International Bureau.

<sup>1</sup> A Note on the eleventh session of the Technical Coordination Committee was published in *Industrial Property*, 1974, p. 136.

\* A list containing the titles and functions of the participants may be obtained from the International Bureau.



(c) those which have been made in the performance of projects jointly financed by Contracting Parties, if this is provided for in the treaties or agreements concerning such projects. The rights over such inventions, industrial designs and utility models shall belong to the countries participating in the projects or to the relevant organizations of such countries, to the extent that this is permitted by national law.

(3) The rights over joint inventions, industrial designs and utility models shall comprise:

(a) the right to grant legal protection for such inventions, designs and models and to utilize them on the national territory in accordance with national law;

(b) the right to acquire legal protection for such inventions, designs and models in countries which do not have the rights over them;

(c) the right to export products made with the aid of such inventions, designs and models;

(d) the right to transfer such inventions, designs and models to countries which do not have the rights over them. Such transfer may be made free of payment or subject to the reimbursement of part of the costs of development or under license agreements on a commercial basis.

The rights provided for in subparagraphs (b), (c) and (d) may be exercised only with the mutual consent of the competent organizations of the Contracting Parties having the rights over the joint inventions, industrial designs or utility models or in accordance with the procedure provided for in the instruments governing the activities of the competent international organizations and associations.

(4) The independent inventions, industrial designs and utility models referred to in paragraph (1) shall comprise inventions, industrial designs and utility models made, as a result of economic, scientific and technical cooperation, by citizens of a Contracting Party, with the exception of those which are recognized as joint inventions, industrial designs or utility models under paragraph (2)(b) and (c). The rights over such inventions, industrial designs and utility models shall belong to the country of which the authors are citizens or to the relevant organization of such country, to the extent that this is permitted by national law.

Other Contracting Parties may be granted the right to utilize the aforesaid inventions, industrial designs and utility models on terms to be agreed by the competent organizations of the countries concerned.

### Article 3

The collaborating organizations of Contracting Parties shall take the necessary measures to acquire legal protection for inventions, industrial designs and utility models.

The collaborating organizations shall take measures to prevent the disclosure of inventions, industrial designs and utility models until their legal protection has been acquired.

### Article 4

Applications for the protection of joint inventions, industrial designs or utility models shall be filed as promptly as possible in all the Contracting Parties having the rights over

such inventions, designs or models, in accordance with the national law of the countries concerned. In principle, the first application shall be filed in the country on whose territory the invention, design or model was made. Where, under the national law of a country, the invention, design or model is not eligible for legal protection, the first application may be filed in one of the aforesaid countries which does afford legal protection. Applications shall be filed in the other Contracting Parties within four months from the filing date of the first application, the Convention priority being preserved.

### Article 5

When Contracting Parties whose organizations are working in collaboration apply to each other for the protection of joint inventions, industrial designs or utility models, a title of protection shall be sought which grants the State, or a relevant organization, the right to utilize the invention, design or model, to the extent that this is permitted by the national law of the country from which the title of protection is sought.

Individual agreements between collaborating organizations may provide for a different form of protection for the aforesaid inventions, designs and models. Such agreements shall be subject to confirmation by the competent government agencies of the countries concerned.

### Article 6

Industrial Property Offices to which applications have been filed for the protection of joint inventions, industrial designs or utility models shall carry out an examination to determine their novelty. The results of such examination, which may be used in the consideration of applications for the protection of the same inventions, designs or models in other Contracting Parties, shall be immediately communicated to the Industrial Property Offices of such countries.

Where necessary, the Industrial Property Offices shall consult with one another during the examination of applications.

### Article 7

The collaborating organizations of Contracting Parties shall immediately inform one another of applications received, the grant of legal protection and all actions and amendments concerning the legal protection of inventions, industrial designs and utility models.

### Article 8

The competent organizations of the Contracting Parties shall jointly consider proposals for the acquisition of legal protection for joint inventions, industrial designs or utility models in countries which do not have the rights over such inventions, designs and models, agree upon the list of countries in which legal protection should be acquired and determine which of the collaborating organizations shall, in appropriate cases, act as the applicant.

In the case of applications for joint inventions, industrial designs or utility models in countries which do not have the rights over such inventions, designs and models, one or more

collaborating organizations shall, to the extent that this is permitted by the law of the country in which the application is being filed, act as the applicant, naming the authors. The author (or authors) shall act as the applicant in countries which require applications to be filed by the author (or authors).

The international organizations and associations established by the Contracting Parties shall consider questions relating to the legal protection of joint inventions, designs and models in accordance with the procedure provided for in the instruments governing the activities of such organizations or associations.

If a competent organization of one of the Contracting Parties having the rights over joint inventions, designs and models declares that it is not interested in acquiring legal protection therefor in countries which do not have the rights over such inventions, designs and models, other collaborating countries may independently take measures for the legal protection of such inventions, designs and models.

In such a case, questions concerning the distribution of the receipts obtained from the transfer of joint inventions, industrial designs or utility models, the export of products manufactured with the aid of such inventions, designs and models and the procedure for the remuneration of the authors of inventions, designs and models, as well as other questions relating to the exercise of the rights over such inventions, designs and models, shall be regulated by a special agreement between the competent organizations of all the countries having the rights over such joint inventions, designs and models.

#### Article 9

The expenses connected with the legal protection of joint inventions, industrial designs and utility models shall be distributed among the collaborating organizations of the Contracting Parties in the following manner:

(a) each collaborating organization shall bear its own expenses relating to the legal protection of inventions, industrial designs and utility models in its own country, regardless of the way in which the projects resulting in such inventions, designs or models were financed;

(b) the expenses connected with the legal protection of inventions, industrial designs and utility models in countries which do not have the rights over such inventions, designs and models shall be borne by the collaborating organizations of the countries which have such rights in proportion to their contributions to the financing of the projects resulting in such inventions, designs or models or in any other way established by agreement between the competent organizations of the collaborating countries.

#### Article 10

Where joint inventions, industrial designs or utility models are transferred, on a commercial basis or subject to the reimbursement of part of the costs of development, to countries which do not have the rights over such inventions, designs or models, the receipts from such transactions shall be distributed among the competent organizations of the countries which

have such rights, in proportion to their contributions to the financing of the projects resulting in the inventions, designs or models. The receipts may be distributed in any other way, by agreement between the competent organizations, empowered to effect foreign trade transactions, of the collaborating countries.

#### Article 11

The contributions for the expenses referred to in Article 9(b) of this Agreement shall be made in the currency in which such expenses were paid.

The receipts referred to in Article 10 of this Agreement shall be distributed in the currency in which they were obtained.

In special cases, by agreement between the collaborating organizations of the Contracting Parties concerned, the transfer of corresponding sums in another currency may be provided for.

#### Article 12

The authors of inventions, industrial designs or utility models shall be entitled to remuneration where such inventions, designs or models are utilized on the territory of the countries having the rights over them and also where the inventions, designs or models are transferred to other countries.

#### Article 13

Where joint inventions, industrial designs or utility models are utilized on the territory of one or more Contracting Parties having the rights over such inventions, designs or models, the remuneration for the author (or authors) shall be paid by the relevant organizations of the countries utilizing the inventions, designs or models. The amount of the remuneration shall be established in accordance with the law of the country utilizing the inventions, designs or models.

The remuneration due to authors who are citizens of other countries shall be transferred to the competent organizations of the countries of the authors' permanent residence. Such organizations shall pay the remuneration to the authors in accordance with their national law.

Authors' remuneration shall be transferred between the countries in accordance with the agreements in force relating to the settlement of non-commercial transactions.

#### Article 14

(1) Where joint inventions, industrial designs or utility models are transferred, free of payment, to countries which do not have the rights over such inventions, designs or models, questions relating to the payment of authors' remuneration shall be settled by agreement between the competent organizations of the transferor country (or countries) and those of the recipient country (or countries).

(2) Where joint inventions, industrial designs or utility models are transferred, subject to the reimbursement of part of the costs of development or under license agreements on a commercial basis, to countries which do not have the rights

over such inventions, designs or models, the competent organizations of the transferor countries shall pay, from their share of the receipts, remuneration to the authors of such inventions, designs and models in accordance with their national law.

#### Article 15

Where inventions, industrial designs or utility models which are made independently are transferred, subject to the reimbursement of part of the costs of development or under license agreements on a commercial basis, by one Contracting Party to another, the authors' remuneration shall be paid in accordance with the rule established in Article 14(2) of this Agreement.

Where technical documentation containing inventions, industrial designs or utility models is transferred, free of payment, by one Contracting Party to another, the authors' remuneration shall be determined and paid in accordance with Article 13 of this Agreement. If an invention, design or model is eligible for protection only in the transferor country, the author's remuneration therefor shall be paid on the basis of an agreement between the transferor and recipient organizations.

#### Article 16

Questions relating to the selection, utilization and legal protection of trademarks used to designate products made as a result of economic, scientific and technical cooperation between the Contracting Parties shall be governed by the treaties relating to the implementation of research and development and technical and experimental projects, as well as by the agreements and treaties relating to specialization and cooperation in production.

#### Article 17

Questions relating to the application of this Agreement and to the strengthening of cooperation between the Contracting Parties shall be considered by the competent authorities of such countries.

Disputes between collaborating organizations, in connection with the legal protection and utilization of inventions, industrial designs, utility models and trademarks, which arise in the course of economic, scientific and technical cooperation shall be resolved in accordance with the Convention on the Settlement by Arbitration of Civil-Law Disputes arising from Economic, Scientific and Technical Cooperation of May 26, 1972. Contracting Parties which are not parties to that Convention may settle such disputes by any other procedure agreed by the countries concerned.

Disputes which, under a national law in force at the time when this Agreement is signed or under an international agreement, are within the exclusive competence of the appropriate authorities of the Contracting Parties shall be settled by such authorities.

#### Article 18

This Agreement is open for signature — subject to the authorization of the Governments set forth in the Preamble — until June 1, 1973.

#### Article 19

When signing this Agreement, any country may make a reservation concerning its subsequent ratification in accordance with its national law.

Notices of ratification of this Agreement shall be transmitted to the Secretariat of the Council for Mutual Economic Assistance, which shall be the depositary of this Agreement.

#### Article 20

This Agreement shall enter into force, with respect to Contracting Parties which have signed it without making a reservation concerning its subsequent ratification, 90 days after the date of their signature.

With respect to Contracting Parties which have signed this Agreement with a reservation concerning its subsequent ratification, it shall enter into force 90 days after they have notified the depositary of their ratification.

#### Article 21

After its entry into force, any other country may, with the consent of the Contracting Parties, accede to this Agreement by transmitting its instrument of accession to the depositary. The accession shall take effect 90 days after the receipt by the depositary of the final notice of accession.

#### Article 22

This Agreement is concluded for a period of five years counted from the date of its entry into force. Upon the expiration of this period, the Agreement shall be automatically renewed for further periods, each of five years. Any Contracting Party may denounce this Agreement six months before the expiration of the current period of the Agreement by notifying the depositary in writing to this effect.

Where this Agreement is terminated, its provisions shall continue to apply to the legal protection of inventions, industrial designs, utility models and trademarks which come within its scope and were made while it was in force.

#### Article 23

This Agreement may be amended only with the consent of all the Contracting Parties. Proposals for amendment may be made by any Contracting Party. Such proposals shall be transmitted to the depositary.

#### Article 24

The depositary of this Agreement shall take the necessary steps for its registration with the Secretariat of the United Nations, in accordance with the United Nations Charter.

#### Article 25

The depositary shall send certified copies of this Agreement to all the Contracting Parties and shall notify them of the date of its entry into force and the receipt of notices of ratification, accession and denunciation and the like.

Done at Moscow on April 12, 1973 in a single original in the Russian language.

# LEGISLATION

## SOVIET UNION

### Statute on Discoveries, Inventions and Rationalization Proposals

(promulgated by Decree of the USSR Council of Ministers,  
No. 584 of August 21, 1973) \*

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\* The Statute entered into force on January 1, 1974.

\*\* This table of contents does not form part of the Law.

Note: This translation has been prepared in collaboration with the State Committee for Inventions and Discoveries of the USSR Council of Ministers.

## Part I. General Provisions

1. — This Statute regulates organization, property, personal non-property and labor relations arising in connection with discoveries, inventions and rationalization proposals.

2. — Rights over discoveries, inventions and rationalization proposals shall be protected by the State and shall be certified by diplomas in the case of discoveries, inventors' certificates or patents in the case of inventions and certificates in the case of rationalization proposals.

Standard forms, adopted by the State Committee for Inventions and Discoveries of the USSR Council of Ministers, shall be used for the grant of diplomas for discoveries, inventors' certificates and patents for inventions, and certificates for rationalization proposals.

3. — A right of authorship of a discovery, invention or rationalization proposal shall be recognized, in the manner prescribed by this Statute, as belonging to citizens who through their creative work have made a discovery, invention or rationalization proposal.

4. — The right of authorship of a discovery, invention or rationalization proposal made through the joint creative work of two or more citizens shall belong to them jointly as coauthors.

Persons who have provided the author of a discovery, invention or rationalization proposal with technical assistance only (by preparing drawings or models, making calculations, carrying out experiments or drawing up documents, for example) shall not be considered as coauthors.

The manner under which the joint rights of coauthors are exercised shall be determined by agreement between the coauthors.

5. — The author of a discovery, invention or rationalization proposal shall enjoy the rights provided by this Statute as well as by other legislative instruments of the Soviet Union and the Union Republics.

The rights provided in Part VIII of this Statute shall not extend to authors of inventions for which patents — and not inventors' certificates — have been granted.

6. — The right to obtain a diploma for a discovery, an inventor's certificate or a patent for an invention or a certificate for a rationalization proposal and the right to remuneration for a discovery, invention or rationalization proposal as well as the exclusive right to an invention under a patent, shall be transmitted by succession in accordance with the law in force.

7. — Foreign nationals who are the authors of inventions and rationalization proposals as well as their successors in title

(including legal entities) shall enjoy the rights provided in this Statute and other legislative instruments of the Soviet Union and the Union Republics on the same terms as citizens (or legal entities) of the USSR.

Foreign nationals who are the authors of discoveries and their heirs shall enjoy the rights provided in this Statute and other legislative instruments of the Soviet Union and the Union Republics on the same terms as citizens of the USSR where a discovery is made in coauthorship with a Soviet citizen or in the course of work in an enterprise, organization or institution situated on the territory of the USSR.

In the case of foreign nationals living abroad and legal entities permanently located abroad, matters relating to the grant of inventors' certificates or patents for inventions as well as to the maintenance in force of patents shall be dealt with through the USSR Chamber of Commerce and Industry.

8. — Anyone who usurps authorship or who compels another to include him as coauthor or who compels another to deny his own authorship or to refrain from filing an application concerning a discovery, invention or rationalization proposal or who, in violation of the prescribed procedure, makes a disclosure — including disclosure without the author's consent — of the essence of an alleged discovery or invention before the application has been filed, shall incur the liability determined under the law in force.

Any official who is guilty of exercising bureaucratic methods and red tape in the examination or utilization of inventions or rationalization proposals or of deliberately infringing the rights of an inventor or rationalizer to remuneration shall incur the liability prescribed for such officials under the law in force.

9. — In matters relating to the grant of a diploma for a discovery, an inventor's certificate for an invention and a certificate for a rationalization proposal, no fees shall be charged.

In matters relating to the patenting of inventions, patent fees shall be charged, the fee-scale and manner of payment being determined by the USSR Council of Ministers.

## Part II. Discoveries

10. — By "discovery," in this Statute, is recognized the determination of hitherto unknown objective laws, properties or phenomena of the material world, bringing about fundamental changes in the standard of knowledge.

This Statute shall not apply to geographical, archaeological and paleontological discoveries, discoveries of useful mineral deposits and discoveries in the field of the social sciences.

11. — The diploma for a discovery shall be granted in the name of the author and shall certify that the revealed laws, properties or phenomena of the material world are recognized as a discovery and shall also certify the priority and the authorship of the discovery. In the case of coauthorship, the diploma for the discovery shall be granted to each of the coauthors and shall contain the names of the other coauthors.

12. — Applications for a diploma for a discovery shall be filed with the State Committee for Inventions and Discoveries of the USSR Council of Ministers.

The application shall be filed by the author himself (or the coauthors) or his heirs or the enterprise, organization or institution authorized by the author for that purpose.

An application for a diploma for a discovery made in the performance of assigned tasks shall be drawn up by the enterprise, organization or institution jointly with the author (or coauthors) and shall be filed, together with the necessary explanations, by the enterprise, organization or institution within one month from the date of the author's submission of a proposal with a view to the filing of such application.

If the application is not filed by the enterprise, organization or institution within the prescribed time limit, the author may file the application himself directly with the State Committee for Inventions and Discoveries of the USSR Council of Ministers, stating that the discovery was made in the performance of assigned tasks and that the enterprise, organization or institution has not drawn up the application within the prescribed time limit.

13. — Applications for a diploma for a discovery shall relate to one discovery only and must include the following documents:

- a request for the grant of a diploma for a discovery;
- a description of the alleged discovery;
- material illustrating the discovery (if necessary);
- documents substantiating the priority of the discovery.

The application shall be filed in triplicate.

The request for the grant of a diploma for a discovery must contain the family name, first name and patronymic of the author (or coauthors), his residence and place of employment and nationality (in the case of a foreigner), and the title of the alleged discovery.

The description of the alleged discovery must contain theoretical or experimental proofs of the authenticity of the revealed laws, properties or phenomena of the material world and must include the formula of the discovery, concisely, clearly and comprehensively expressing the essence of the claimed discovery.

Any drawings, diagrams, photographs and like documents shall be submitted as material illustrating the discovery.

14. — The priority of the discovery shall be determined by the date when the concept claimed to be a discovery was first formulated or by the date of publication of the said concept in print or by the date of its disclosure to third persons in any other way.

Where the application for a diploma for a discovery does not contain the particulars officially substantiating the date of priority as determined in the prescribed manner, the priority of the discovery shall be established by reference to the date when the application was received by the State Committee for Inventions and Discoveries of the USSR Council of Ministers.

15. — Within three months from the receipt of the application for a diploma for a discovery, the State Committee for Inventions and Discoveries of the USSR Council of Ministers shall carry out a preliminary examination of the application and shall issue a certificate to the applicant stating that the application has been accepted for examination or shall invite

the applicant to file any necessary corrections or additions to the material submitted but, in the case of a discrepancy between the claimed concept and the requirements laid down for a discovery by this Statute, it shall notify the applicant of the refusal to accept the application for the purpose of examination, stating the reasons therefor.

Within two months of receiving the invitation, the applicant shall correct or supplement the application. If he fails to do so in time, the application shall be deemed not to have been filed.

16. — For the purpose of establishing the existence of a discovery, an application for a diploma for a discovery that has been accepted for examination shall, depending on the nature of the alleged discovery, be referred to the USSR Academy of Sciences, the Academies of Sciences of the Union Republics, the academies for the fields concerned, universities or the leading scientific research organizations or educational institutes of Ministries or Departments.

The institutions referred to shall, within three months, furnish the State Committee for Inventions and Discoveries of the USSR Council of Ministers with reports, which shall set out their findings concerning the existence of a discovery (together with the recommended formula of the discovery), assessing its importance and recommending ways in which it could be utilized or shall set out their findings concerning the absence of any discovery, specifying the reasons in support thereof.

Where necessary, the State Committee for Inventions and Discoveries of the USSR Council of Ministers may, in the manner prescribed by Section 56 of this Statute, invite the author of the discovery to take part in the examination of his application.

17. — The State Committee for Inventions and Discoveries of the USSR Council of Ministers shall, upon receipt of the reports concerning an application for a diploma for a discovery, decide whether to recognize the claimed concept as a discovery or to refuse such recognition. Any decision to recognize the claimed concept as a discovery shall be taken by the Committee in agreement with the USSR Academy of Sciences. Where the claimed concept is recognized as a discovery, the Committee in agreement with the author (or coauthors) shall confirm the formula of the discovery, establish the date of its priority and record the discovery in the USSR State Register of Discoveries.

A notice concerning the registered discovery (including the confirmed formula of the discovery) shall be published in the Official Bulletin of the State Committee for Inventions and Discoveries of the USSR Council of Ministers and the description of the discovery shall be published in the appropriate academic journals.

The Committee may, in the interests of the State, postpone the publication or refrain from any publication concerning a registered discovery.

The State Committee for Inventions and Discoveries of the USSR Council of Ministers shall inform the Ministries and Departments concerned of registered discoveries, for the purpose of their large-scale utilization in the national economy.

In respect of discoveries which are capable of being applied in science and technology<sup>1</sup>, the State Committee for Inventions and Discoveries of the USSR Council of Ministers — together with, depending on each case, the USSR Academy of Sciences, the Academies of Sciences of the Union Republics, the academies for the fields concerned or the Ministries or Departments concerned — shall furnish the State Committee for Science and Technology of the USSR Council of Ministers with recommendations concerning the utilization of the discoveries; the latter State Committee shall examine the recommendations within three months and shall establish a plan for the utilization of the recommended discoveries in the national economy.

18. — If the applicant disagrees with a decision to refuse to accept for examination an application for a discovery or to refuse to recognize a claimed concept as a discovery, he may within two months of receiving the decision submit to the State Committee for Inventions and Discoveries of the USSR Council of Ministers an objection, together with his reasons, which shall be considered by the Committee within two months. If the application has been filed by an enterprise, organization or institution, the objection referred to may also be submitted by the author (or coauthors).

Where necessary, the application may be sent by the Committee, for a second report, to the institutions mentioned in Section 16 of this Statute.

19. — If, within one year from the date of the publication concerning a registered discovery in the Official Bulletin of the State Committee for Inventions and Discoveries of the USSR Council of Ministers or from the date of recordal of the discovery in the USSR State Register of Discoveries (where no publication has been made), the registration is not challenged in the prescribed manner (Sections 143 and 144 of this Statute), the State Committee for Inventions and Discoveries of the USSR Council of Ministers shall grant a diploma for the discovery and shall pay the remuneration to the author (or coauthors).

If the registration of the discovery is challenged within the said period, the State Committee for Inventions and Discoveries of the USSR Council of Ministers shall postpone the grant of a diploma for the discovery until a decision on the challenge has been taken.

20. — For a discovery made in the performance of assigned tasks, an enterprise, organization or institution shall be granted a certificate attesting that the discovery was made in such enterprise, organization or institution. The certificate shall be in the form established by the State Committee for Inventions and Discoveries of the USSR Council of Ministers.

### Part III. Inventions

#### *Concept of Invention*

21. — By "invention" is recognized any new technical solution of a problem, in any field of the national economy,

<sup>1</sup> имеющим прикладное значение.

social and cultural activity or national defense, where the solution is distinguished by new essential elements and achieves a useful result.

A solution shall be recognized as new if, before the priority date of the application, the essence of that solution or an identical solution has not been disclosed in the USSR or abroad to an indefinite circle of persons in such a way as to enable the solution to be realized.

A solution shall be recognized as being distinguished by new essential elements if, on comparison with other solutions known in science and technology at the priority date of the application, it is characterized by a new combination of features.

The following may be the subject of an invention: a new device, process or substance as well as a novel application of previously known devices, processes or substances.

New strains of microorganisms shall also be recognized as inventions.

The following in particular shall not be recognized as inventions:

— methods and systems of economic organization or management (such as planning, financing, supply or accounting);

— conventional signs (such as traffic signs or itineraries), timetables and rules (such as rules of games or traffic regulations);

— projects and schemes of construction layouts, buildings and territories (such as settlements, agricultural lands or parks);

— methods and systems of education, teaching and training and grammatical systems of languages, and the like;

— proposals concerning the external appearance only (shape or style) of manufactured articles protected under industrial design law.

Solutions contrary to the public interests or to the principles of humanity or socialist morality and obviously useless solutions shall not be recognized as inventions.

**22.** — Inventors' certificates shall be granted for new varieties and hybrids of agricultural crops and other cultivated plants, new breeds of farm animals and poultry — their highly productive stock, crossbreds and descending lines —, new breeds of fur-bearing animals and new species of mulberry silkworms.

These results achieved through selection shall be treated in the same way as inventions as far as their legal protection is concerned. Improvements in varieties of agricultural crops and other cultivated plants, in breeds of farm animals and poultry, in breeds of fur-bearing animals and in species of mulberry silkworms shall be the subject of certificates.

The grant of the inventors' certificates and the certificates to the breeders (or selectors) and the enterprises, organizations and institutions in which the said results of selection were obtained shall be made by the USSR Ministry of Agriculture, but inventors' certificates shall be granted only after the results have been registered with the State Committee for Inventions and Discoveries of the USSR Council of Ministers.

The USSR Ministry of Agriculture shall, in the prescribed manner, determine the novelty and usefulness of the said

results, examine objections and appeals concerning the grant of inventors' certificates and certificates for such results, decide questions of the utilization of these results, assess the remuneration and pay such remuneration from the fund especially allocated for these purposes in accordance with regulations to be adopted by the USSR Ministry of Agriculture in agreement with the State Committee for Inventions and Discoveries of the USSR Council of Ministers and with the USSR Ministry of Finance.

#### *Legal Protection of Inventions*

**23.** — An inventor may, at his option, request:

— either recognition of his authorship of the invention and the grant of the rights and privileges provided by the law in force, the exclusive right to the invention being transferred to the State;

— or recognition of his authorship of the invention and the grant of the exclusive right to it.

In the first case, an inventor's certificate shall be granted; in the second, a patent shall be granted.

The owner of the exclusive right to an invention shall enjoy the right to utilize the invention and to deal with it in any other way.

**24.** — An inventor's certificate shall be granted where an invention is made in connection with the inventor's work in a State, cooperative or social enterprise, organization or institution or in the fulfillment of a commission therefrom or where the inventor has received pecuniary or other material assistance from a State, cooperative or social enterprise, organization or institution.

**25.** — An inventor's certificate shall be granted where the subject of an invention is any of the following:

— substances obtained through chemical processes;

— substances obtained by nuclear fission and devices or processes connected with the production or utilization of nuclear energy;

— pharmaceutical, flavoring or food substances, cosmetic products and methods of prophylaxis, diagnosis or treatment of human or animal diseases, approved under the law in force;

— strains of microorganisms.

Inventions that have been recognized as secret in the prescribed manner and supplementary inventions in the cases provided for in Section 37 of this Statute may only be the subject of inventors' certificates.

#### *Inventors' Certificates*

**26.** — The inventor's certificate shall be granted in the name of the inventor and shall certify that the subject matter of a proposal is recognized as an invention and shall also certify the priority and authorship of the invention and the exclusive right of the State to it.

The inventor's certificate shall be of permanent duration, taking effect on the date when the application was filed with the State Committee for Inventions and Discoveries of the USSR Council of Ministers.

In the case of coauthorship, the inventor's certificate shall be granted to each of the joint inventors and shall contain the names of the other joint inventors.

27. — Inventions protected by inventors' certificates may be utilized — without any need for special authorization — by the Soviet State, cooperative and social enterprises, organizations and institutions taking into account the interests of the State and their own interests.

The commercial utilization of such inventions by other institutions and persons shall require the authorization of the State Committee for Inventions and Discoveries of the USSR Council of Ministers.

28. — The following shall not be considered to be infringements of the exclusive right of the State to an invention under an inventor's certificate:

(i) the use of devices forming the subject matter of an invention protected by an inventor's certificate on board sea and river vessels, in the body of the vessel, in the machinery, tackle, gear and other accessories, when such vessels temporarily or accidentally enter the waters of the USSR, provided that such devices are used exclusively for the needs of the vessel;

(ii) the use of devices forming the subject matter of an invention protected by an inventor's certificate in the construction or operation of aircraft or land vehicles or of accessories of such aircraft or land vehicles, when those aircraft or land vehicles temporarily or accidentally enter the territory of the USSR.

The acts referred to above shall not be considered to be infringements of the exclusive right of the State where the sea or river vessels, aircraft or land vehicles are owned by nationals or institutions of countries which grant the same rights to Soviet citizens and institutions.

29. — The inventor's rights under an inventor's certificate shall not be effective against an enterprise, organization or institution which is utilizing a proposal of another person whose subject matter is identical to his own invention and which was submitted to the enterprise, organization or institution concerned before the priority date of the invention.

#### *Patents*

30. — The patent shall certify that the subject matter of a proposal is recognized as an invention and shall also certify the priority and authorship of the invention and the exclusive right of the patentee to it.

The patent shall be granted to the inventor or his successor in title and shall contain the family name, first name and patronymic of the inventor.

The right to obtain a patent for an invention as well as the exclusive right to an invention under a patent may be transferred in the manner prescribed by the law.

An invention for which a patent has been granted may not be utilized without the patentee's consent.

A patentee may authorize the utilization of his invention (a license) or assign the whole of the patent rights for consideration or otherwise. The consideration for the license or

assignment of the patent rights shall be determined by agreement between the parties. The contract or other instrument for the license or assignment of the patent rights must be registered with the State Committee for Inventions and Discoveries of the USSR Council of Ministers. Failure to register shall render the license or assignment contract or other instrument invalid.

Anyone who infringes the exclusive right of the patentee to utilize an invention protected by a patent shall compensate the damage in the manner provided for by the civil law of the Soviet Union and the Union Republics.

31. — The patent shall be granted for a term of 15 years beginning on the date when the application was filed with the State Committee for Inventions and Discoveries of the USSR Council of Ministers.

A patent shall prematurely lapse:

— on failure to pay an annual patent fee within the prescribed time limit;

— on the patentee's request filed with the State Committee for Inventions and Discoveries of the USSR Council of Ministers.

32. — An inventor's certificate may be substituted for a patent in force by the State Committee for Inventions and Discoveries of the USSR Council of Ministers on the request of the inventor where he is the patentee or on the joint request of the inventor and the patentee.

The procedure and conditions for the substitution of patents by inventors' certificates shall be determined by the State Committee for Inventions and Discoveries of the USSR Council of Ministers.

33. — Where, prior to the filing of the patent application (or to the Convention priority date in the case of foreign Convention applications), an enterprise, organization or institution was utilizing, on the territory of the USSR and independently of the inventor, a proposal of another person which is identical to the invention, or had made all the necessary preparations for such utilization, the enterprise, organization or institution shall retain the right to utilize the said proposal, free of payment (the right of prior use).

34. — The acts mentioned in Section 28 of this Statute shall not be considered to infringe the exclusive right of a patentee.

35. — Where an invention is of special importance to the State and no agreement is reached with the patentee as to the licensing or assignment of the patent rights, the USSR Council of Ministers may order the compulsory purchase of the patent by the State or may authorize an appropriate organization to utilize the invention, and fix the amount of remuneration for the patentee.

#### *Supplementary Inventions and Their Protection*

36. — An invention shall be recognized as a supplementary invention where it constitutes an improvement upon another invention (the main invention) for which an inventor's certificate has already been granted, or which is the subject of

a patent in force, and cannot be utilized without the main invention.

Where an application for an inventor's certificate for a supplementary invention is filed by the inventor of the main invention, protected by an inventor's certificate, within six months from the date of issue of the Official Bulletin of the State Committee for Inventions and Discoveries of the USSR Council of Ministers in which the notice on the main invention was published or, if the main invention is not to be published in the Bulletin, from the date of its recordal in the USSR State Register of Inventions, such an application shall have priority over an application for the same invention filed by another person.

**37.** — An inventor's certificate of addition or patent of addition shall be granted for a supplementary invention.

Where an inventor's certificate has been granted for the main invention, only an inventor's certificate of addition — and not a patent of addition — may be granted for the supplementary invention.

Where a patent has been granted for the main invention, an inventor's certificate of addition or patent of addition may, at the applicant's option, be obtained. In such cases, the utilization of the supplementary invention shall require the consent of the owner of the main patent.

**38.** — Section 31 of this Statute shall apply to the term of a patent for a supplementary invention.

Where the inventor's certificate or patent for the main invention is declared null and void for reasons not affecting the supplementary invention or where the term of the patent for the main invention expires, the inventor's certificate or patent for the supplementary invention shall be considered as independent.

After 15 years from the filing date of the application for an inventor's certificate for the main invention or upon the expiration of the term of the patent therefor, an independent inventor's certificate or patent shall be granted for an invention constituting an improvement on the main invention.

#### *Drawing Up and Filing of Applications*

**39.** — Applications for an inventor's certificate or patent for an invention shall be filed with the State Committee for Inventions and Discoveries of the USSR Council of Ministers, except in the cases specified in Sections 22 and 79 of this Statute.

**40.** — Applications for an inventor's certificate shall be filed by the inventor (or joint inventors) or his heirs.

Applications for an inventor's certificate for an invention made in the performance of assigned tasks shall be drawn up with the participation of the inventor (or joint inventors) and filed by the enterprise, organization or institution.

If such an application is not filed by the enterprise, organization or institution within the time limit prescribed in Section 41 of this Statute, the inventor may file the application himself directly with the State Committee for Inventions and Discoveries of the USSR Council of Ministers, stating that the invention was made in the performance of assigned tasks and

that the enterprise, organization or institution has not drawn up the application within the prescribed time limit.

Applications for a patent shall be filed by the inventor or his successor in title and shall state the name of the true inventor.

Applications for an inventor's certificate filed by the inventor's heir and applications for a patent filed by the inventor's successor in title shall be accompanied by a document certifying the succession to the rights.

Applications filed through the representative of the inventor or of his successor in title shall be accompanied by a document certifying the powers of the representative.

**41.** — Enterprises, organizations and institutions shall identify, without delay, inventions made in the performance of assigned tasks and shall draw up and file in the prescribed manner the applications for inventors' certificates for such inventions.

The engineering and technical personnel shall inform the administration of the enterprise, organization or institution of technical solutions elaborated by them or by their subordinates in the performance of assigned tasks where such solutions may, in their opinion, be recognized as inventions.

The enterprise, organization or institution shall notify the inventor that an application is to be drawn up and shall enlist his assistance in this task.

All rights granted to the applicant in the course of the examination of the application shall belong both to the enterprise, organization or institution which filed the application and to the inventor (or joint inventors).

The enterprise, organization or institution shall attach to the application its opinion on the novelty of the technical solution (including information on the patent searches performed), indicating the possible fields in which it could be utilized in the national economy and its expected technical, economic or any other effects.

The application shall be filed by the enterprise, organization or institution within one month from the date when the technical solution was identified or from the date when the inventor submitted his proposal if the application is being filed upon his initiative.

**42.** — Where an inventor employed in an enterprise, organization or institution makes the invention otherwise than in the performance of assigned tasks, he may file an application for an inventor's certificate through the intermediary of the enterprise, organization or institution.

The enterprise, organization or institution shall assist the inventor in drawing up the application, carry out the novelty search relating to the alleged invention on the basis of the data available to it and file, in proper form, the application for an inventor's certificate with the State Committee for Inventions and Discoveries of the USSR Council of Ministers within one month from the date of the inventor's request for such assistance; the application shall be accompanied by the findings as to novelty (including information on the patent searches performed), indicating the possible fields in which the invention could be utilized in the national economy (if it

relates to the kind of activity carried out by the enterprise, organization or institution).

An inventor may also file the application for an inventor's certificate through the local branch of the All-Union Society of Inventors and Rationalizers, which shall assist him in drawing up the application and shall file, in proper form, the application for an inventor's certificate with the State Committee for Inventions and Discoveries of the USSR Council of Ministers within one month from the date of the inventor's request for such assistance.

43. — Information disclosing the essence of new technical solutions which have been elaborated in the enterprises, organizations or institutions of the USSR and may be recognized as inventions shall not be published, prior to the filing of an application for an inventor's certificate, in any publications accessible to an indefinite circle of persons.

Taking into account the need for a prompt utilization of claimed technical solutions in the appropriate branches of the national economy, the State Committee for Inventions and Discoveries of the USSR Council of Ministers shall, in the prescribed manner, inform the Ministries, Departments, enterprises, organizations and institutions of the claimed technical solutions in applications accepted for examination and relating to inventions of considerable interest to the national economy.

After the application has been filed, other organizations and persons may publish, in the prescribed manner and with the consent of the State Committee for Inventions and Discoveries of the USSR Council of Ministers, information on applications accepted for examination.

44. — Applications for an inventor's certificate or a patent must include the following documents:

- a request for the grant of an inventor's certificate or a patent;
- a description of the invention together with the claims;
- drawings, diagrams, reports on trials and other material illustrating the alleged invention, if necessary;
- a certificate attesting the creative participation of each of the joint inventors in the elaboration of the invention.

The application shall be filed in triplicate.

The request for the grant of an inventor's certificate or patent must contain: the title of the invention, the family name, first name and patronymic of the inventor (or joint inventors), his residence and place of employment, and nationality (in the case of a foreigner), and a declaration that the person (or persons) requesting the inventor's certificate or patent is the true inventor (or joint inventors) of the invention and that therefore no other persons will be included as joint inventors after the acceptance of the application for examination. Where the invention was made in the performance of assigned tasks, the request must identify the enterprise, organization or institution in which the invention was elaborated.

The description of the invention must state the purpose of the invention and must describe the invention in detail, including its distinctive features; it shall also contain data on the technical and economic effectiveness of the utilization of the invention, the fields of technology to which the invention

relates and where the invention can be utilized, and the claims of the invention.

The invention must be disclosed in the description, drawings, diagrams and other graphic material with sufficient comprehensiveness and clarity as to show its novelty and essential distinctive features and to make it possible to utilize the invention.

The description of a substance produced by a chemical process must also contain data on its chemical structure and physical and chemical properties, disclose the method (or methods) of producing it and indicate its field of application.

The description of the invention must end with its claims, which shall be the only criteria for defining the scope of the invention and shall be in the form of a briefly-worded statement indicating the essence of the invention from a technical viewpoint. In the claims, a device shall be characterized by reference to the features of its design, a process — by reference to a certain sequence of actions (methods, and operations with the help of material objects), and a substance — by reference to its ingredients and their quantitative ratios.

45. — Applications for an inventor's certificate or a patent shall relate to one invention only.

An application may comprise two or more inventions relating to different categories (device, process and substance) provided that the inventions serve a single purpose and may only be utilized jointly.

#### *Examination of Applications*

46. — The State Committee for Inventions and Discoveries of the USSR Council of Ministers shall check that applications for an inventor's certificate or a patent:

- (i) comply with the requirements for applications (the preliminary examination);
- (ii) comply with the requirements for inventions (the State scientific and technical examination of inventions).

In the case of an application for an inventor's certificate, the Committee may, where necessary, request competent enterprises, organizations and institutions to report on the possibility of utilizing the invention. The report shall be submitted free of charge within two months from their receipt of the request.

47. — The preliminary examination shall be carried out within 15 days from the date on which the application for an inventor's certificate or a patent was received by the State Committee for Inventions and Discoveries of the USSR Council of Ministers.

After the preliminary examination, the applicant shall either be informed that his application has been accepted for examination or has not been accepted, the reasons for such refusal being stated, or be invited to make the necessary corrections or additions. Where his application has been accepted for examination, the applicant shall be given a certificate to this effect.

The refusal to accept for examination an application shall be permitted only where it does not meet the requirements prescribed for applications by this Statute. Moreover, in the case of an application for an inventor's certificate, such

refusal shall be permitted only where the non-compliance with the said requirements precludes the examination of the application.

Where the defects of an application are not sufficient ground for a refusal to accept it for examination, the applicant shall be invited to correct or supplement it. If he does so within two months of receiving such invitation and the essence of the application is not changed thereby, the priority of the application shall date from the time of its original filing. If the application is not corrected or supplemented within the prescribed time limit, it shall be deemed not to have been filed.

48. — The State scientific and technical examination of inventions shall be carried out within six months from the date on which the application was received by the State Committee for Inventions and Discoveries of the USSR Council of Ministers. Within that period, the applicant shall be sent the decision to grant the inventor's certificate or patent or shall be notified of the refusal to grant an inventor's certificate or patent, together with the reasons for refusal.

Where additional material has been requested from the applicant or where he has furnished additional material in accordance with Sections 54 and 55 of this Statute, the period referred to above shall be extended accordingly.

The applicant shall be notified of any extension of the examination period in accordance with this Statute and of any suspension of the examination.

49. — Where, during the examination of the application, the proposals contained in the application material are found to constitute the subject matter of two or more inventions, the organ carrying out the State scientific and technical examination shall:

— in the case of an application for an inventor's certificate, examine the application as if it were two or more separate applications and, if it is not possible to adopt this procedure without the applicant's participation, invite the applicant to divide the application;

— in the case of an application for a patent, invite the applicant to divide the application within two months of receiving such an invitation. If, within the prescribed time limit, the applicant fails to file divisional applications, either the application for a patent shall be rejected or the patent shall be granted only for one of the inventions comprised in the application.

50. — In the State scientific and technical examination of inventions, applications for an inventor's certificate or a patent shall be considered anticipated by any of the following:

— inventor's certificates and patents issued in the USSR: as from their date of priority;

— Soviet publications: as from the date that they were signed for printing;

— foreign publications: as from the date of issue, or as from the last day of the month or as from December 31 of the year indicated in the issue if the date thereof is indicated respectively as a month or a year;

— anything exhibited to the public, subject to Section 53 of this Statute: as from the date of public display in the pavilions or stands of the exhibition;

— foreign patents, inventors' certificates and published applications: as from the date of publication;

— disclosures on the public utilization of the invention: as from the date when such utilization began. The public utilization of the invention shall not be considered a bar to novelty where the inventor files an application for an inventor's certificate within four months from the date of commencement of the utilization of the invention;

— any other disclosure of the invention falling under Section 21 of this Statute: as from the date determined by the State Committee for Inventions and Discoveries of the USSR Council of Ministers.

51. — The priority of an invention shall be determined by the date when the application was filed with the State Committee for Inventions and Discoveries of the USSR Council of Ministers or with the Ministries and Departments referred to in Section 79 of this Statute and, in the case of dispute, by the date when the application was mailed or when the material was registered with the enterprise, organization or institution or the local branch of the All-Union Society of Inventors and Rationalizers.

Where applications have the same priority date, all the inventors mentioned in such applications shall be considered joint inventors.

52. — A person who wishes to enjoy the right of priority under an earlier filing on the basis of an international treaty or agreement to which the USSR is a party shall, at the time of filing his application with the State Committee for Inventions and Discoveries of the USSR Council of Ministers, submit a request specifying the country where legal protection for the invention was first applied for and the date when the application was filed in that country.

In the absence of a relevant provision in an international treaty or agreement, the Committee shall determine the documents that are to be submitted by the applicant to substantiate the date of priority of the invention, and the time when such documents are to be submitted.

53. — The public display of an invention at official or officially recognized international exhibitions organized on the territory of the USSR shall not be considered a bar to the novelty of the invention if the application is filed by the inventor or his successor in title with the State Committee for Inventions and Discoveries of the USSR Council of Ministers, in accordance with the requirements of this Statute, within six months from the date when the article concerned was put on display.

The list of supplementary documents to be attached to the application in such a case shall be determined by the Committee.

54. — When examining an application for an inventor's certificate or a patent, the organ carrying out the State scientific and technical examination may request additional material from the applicant specifying the essence of the invention,

where such material is indispensable for the examination of the application. The applicant must furnish this material within one month of receiving the request.

If the applicant fails to do so in time, the examination of the application shall be suspended, but for not more than six months, after which time the application shall be considered rejected.

55. — Within two months from the date when his application for an inventor's certificate or a patent is accepted for examination, the applicant may supplement or correct the application documents. Any supplementary material must be submitted in triplicate.

If the supplementary material changes the essence of the claimed invention, it must be submitted by the applicant as a separate application.

The applicant may amend the claims of an invention at any stage of the examination of the application: in the case of an application for an inventor's certificate, such amendments may tend to enlarge or restrict the claims but, in the case of an application for a patent, only amendments restricting the claims shall be permissible.

56. — Where necessary, the State Committee for Inventions and Discoveries of the USSR Council of Ministers may invite the inventor to take part in the examination of the application for an inventor's certificate or a patent. In such a case, where the application is for an inventor's certificate the inventor shall retain his average salary at his place of employment and shall, in the prescribed manner, be sent on mission by, and at the expense of, the enterprise, organization or institution employing him; the mission shall, in principle, be financed from the funds allocated for inventive activity and rationalization.

57. — On the basis of the results of the examination of the application, the organ carrying out the State scientific and technical examination shall decide either to grant or to refuse an inventor's certificate or a patent.

A decision to grant an inventor's certificate or a patent shall state the claims of the invention and the date of its priority; a decision of refusal shall state the reasons therefor.

The claims of the invention in the decision to grant an inventor's certificate shall be established by the organ carrying out the State scientific and technical examination.

The decision to grant a patent shall state the claims of the invention as drafted in the application. The organ carrying out the State scientific and technical examination shall, where it disagrees with the claims of the invention, invite the applicant to amend them. If the applicant declines this invitation, the organ may take a decision to refuse the patent.

58. — The applicant may inspect the material which was the basis for the decision on his application, as well as the findings of the organ carrying out the State scientific and technical examination of inventions, and may, within three months of receiving the decision, demand copies of the material cited as anticipation of his application (with the exception of secret material and material not to be published).

Copies of patent documents cited as anticipation of an application for an inventor's certificate shall be sent free of charge.

59. — If the applicant disagrees with a decision to refuse an inventor's certificate or a patent or with the wording of the claims established in a decision to grant an inventor's certificate, he may, within two months of receiving the decision or the copies of the material cited as anticipation, submit an objection, together with his reasons, to the State Committee for Inventions and Discoveries of the USSR Council of Ministers.

An objection to the refusal of an inventor's certificate on the grounds of the evident uselessness of the proposal contained in the application may be submitted by the applicant even after the expiration of the time limit prescribed in this Section if documents evidencing the usefulness of the proposal are submitted.

The objection shall be considered by the organ carrying out the State scientific and technical examination, within two months.

60. — A decision to grant an inventor's certificate or a patent may be revoked (in whole or in part) or reconsidered in the light of the filing of an application claiming an earlier priority on the basis of an international treaty or agreement to which the USSR is a party.

The applicant shall be informed of the revocation or reconsideration of the decision and may file an objection in the manner prescribed in Section 59 of this Statute.

61. — On the basis of a decision to grant an inventor's certificate or a patent, the State Committee for Inventions and Discoveries of the USSR Council of Ministers shall record the invention in the USSR State Register of Inventions, shall publish a notice concerning the invention in its Official Bulletin, shall print the specification of the invention, which shall include the claims, and shall issue the inventor's certificate or patent.

The State Committee for Inventions and Discoveries of the USSR Council of Ministers may, in the interests of the State, postpone the publication or refrain from publication of the notice on the invention.

62. — For an invention made in the performance of assigned tasks, an enterprise, organization or institution shall be granted a certificate attesting that the invention was made in such enterprise, organization or institution. The certificate shall be in the form established by the State Committee for Inventions and Discoveries of the USSR Council of Ministers.

#### Part IV. Rationalization Proposals

63. — By "rationalization proposal" is recognized any technical solution which is new and useful to the enterprise, organization or institution with which it is filed and which provides for a change in the construction of manufactured articles, in manufacturing processes or existing technology, or in the composition of material.

The provisions of this Statute shall not extend to proposals (other than inventions) made by the engineering and technical staff of research, project, design or technical organizations, or of analogous divisions of enterprises which deal with the projects, designs and technical processes being developed by such persons.

64. — A proposal shall be recognized as new to the enterprise, organization or institution with which it is filed unless, before the request was filed in proper form, the technical solution or an identical solution was:

(i) utilized in the enterprise, organization or institution, except where the technical solution was utilized on the author's initiative and not more than three months before the date when the proposal was filed;

(ii) provided for in the orders or instructions of the administration or developed by the technical services of the enterprise, organization or institution or claimed by another person having priority in accordance with Section 74 of this Statute;

(iii) recommended by a higher organization or published in information bulletins for the dissemination of information on advanced methods in a given field;

(iv) provided for in the compulsory regulations of the enterprise, organization or institution (such as standards, rules and technical specifications).

65. — A proposal shall be recognized as useful where its utilization in the enterprise, organization or institution, in the existing or planned conditions, would yield an economic, technical or other useful result.

Proposals which may give rise to a decrease in the reliability, durability or other quality characteristics of products shall not be recognized as rationalization proposals.

66. — The State, cooperative and social enterprises, organizations or institutions may utilize rationalization proposals relating to their fields of activity without any need for special authorization from any body or person irrespective of who made the proposal or where it was filed.

67. — In order to obtain recognition of his proposal as a rationalization proposal, the author shall file a request in writing with a description of the essence of the proposal. Drawings, diagrams or sketches shall be attached, if necessary. The material filed must contain sufficient data to enable the proposal to be put into practice.

The form of requests and other documents relating to rationalization proposals shall be established by the State Committee for Inventions and Discoveries of the USSR Council of Ministers.

68. — The request for recognition of a rationalization proposal shall be filed with the enterprise, organization or institution to whose activities the proposal relates, whether or not the author is in fact employed by that enterprise, organization or institution.

Where a rationalization proposal may be utilized in different enterprises, organizations or institutions, the author may

file the request with the Ministry or Department responsible for such enterprises, organizations or institutions. In such a case, the novelty of the rationalization proposal shall be determined in accordance with Section 64 of this Statute in the context of the enterprises, organizations and institutions, under the Ministry or Department concerned, in which the rationalization proposal may be utilized.

Where an enterprise, organization or institution considers that a rationalization proposal which it has accepted for utilization may be relevant to other enterprises, organizations or institutions, it shall send the material relating to the proposal to the appropriate higher authorities within three months.

69. — Where a request for recognition of a rationalization proposal has been accepted for consideration, the enterprise, organization, institution, Ministry or Department concerned shall register it and, on the author's demand, shall issue or send him, within five days from his demand, a certificate acknowledging receipt of the request and stating the date when it was filed.

70. — After the registration of a request for recognition of a rationalization proposal but before the decision to recognize or to refuse to recognize the proposal as a rationalization proposal, the author may supplement or amend the description, drawings, diagrams or sketches without changing the essence of the proposal. Where the essence of a proposal is changed, a new proposal shall be deemed to have been filed.

71. — The request for recognition of a rationalization proposal shall be considered and the decision on it shall be taken by the enterprise, organization or institution within 15 days from the filing date and by a Ministry or Department within one month and a half from the filing date. During the period referred to, the author shall be informed either that his proposal has been recognized as a rationalization proposal and has been accepted for utilization, or that the proposal is being tested or that the proposal has been rejected and of the reasons for the rejection.

Where a proposal is being tested, the author shall be informed of the decision within 15 days from the termination of the trials.

72. — The decision that a proposal is to be recognized as a rationalization proposal and accepted for utilization or that it is to be tested or rejected shall be taken by the head of the enterprise, organization or institution or by the head of an appropriate division who has been entrusted to deal with such matters under an order issued at the enterprise, organization or institution.

The decision on the recognition of a rationalization proposal filed by the head, deputy head, chief engineer or deputy chief engineer of an enterprise, organization or institution with the same or a subordinate enterprise, organization or institution shall be taken by the head of a higher organization. The same procedure shall apply where a proposal is filed by the officials referred to above in coauthorship with other persons.

The decision on a proposal filed by the author with a Ministry or Department or transmitted thereto by an enterprise, organization or institution shall be taken by the head of the Ministry or Department or by the official authorized for that purpose.

73. — Where a proposal entails changes in established standards and technical documentation (projects, standards, technical specifications and other normative and technical documentation), the decision to recognize it as a rationalization proposal and to accept it for utilization shall require the authorization of the organization which approved the corresponding standard or documentation. In such a case, the time limits referred to in Section 71 of this Statute shall be extended by the time necessary for obtaining such authorization.

74. — The priority of a rationalization proposal shall be determined by the date when it was filed with the enterprise, organization or institution or, if it was filed with a Ministry or Department, by the date when it was so filed.

Priority shall be recognized in favor of the author who was the first to file a proposal in the prescribed manner even if the proposal had originally been rejected without sufficient grounds and the author had not appealed against the rejection.

75. — After the decision has been taken to recognize a proposal as a rationalization proposal and to accept it for utilization, a certificate shall be issued for the rationalization proposal, attesting that the proposal has been recognized as a rationalization proposal and certifying the filing date and the authorship of the rationalization proposal.

In the case of coauthorship, the certificate for the rationalization proposal shall be issued to each of the coauthors and shall contain the names of the other coauthors.

The certificate shall be issued by the enterprise, organization, institution, Ministry or Department which took the said decision.

Where a Ministry or Department issues a certificate for a rationalization proposal to a person who has already been issued a certificate for the same rationalization proposal by an enterprise, organization or institution for which it is responsible, the earlier certificate shall become invalid.

76. — The rights of the author based upon a certificate for a rationalization proposal shall be valid within the framework of the enterprise, organization or institution which issued the certificate. If the certificate is issued by a Ministry or Department, the rights of the author shall be valid in enterprises, organizations and institutions for which that Ministry or Department is responsible.

The author's rights based upon the certificate shall extend to any enterprise, organization or institution which has obtained the rationalization proposal from the enterprise, organization or institution which issued the certificate, on the basis of a contract for the transfer of technology or for the grant of assistance in the use of advanced methods. The recipient of such technology or assistance shall be informed by the transferor enterprise, organization or institution of rationali-

zation proposals utilized in the scientific and technical documentation and in the samples of new technology, and the like, transferred under the contract.

#### Part V. Secret Discoveries, Inventions and Rationalization Proposals

77. — Where an author considers that his discovery, invention or rationalization proposal constitutes a State secret, he shall ensure, by all means in his power, that his proposal is not made available to the public and shall hand all the material over to the enterprise, organization or institution employing him or to another State enterprise, organization or institution.

The enterprise, organization or institution to which the author has submitted his proposal shall assist him in drawing up the material relating thereto in accordance with a prescribed procedure and send the material to the competent authorities.

78. — When drawing up an application concerning a discovery or an invention, the enterprise, organization or institution as well as the local branches of the All-Union Society of Inventors and Rationalizers shall, in each case, check whether the material in the application contains any elements constituting a State secret. If a claimed discovery or invention is recognized as secret or highly secret, the application shall be drawn up in accordance with the procedure provided for in this Part of the Statute and the author shall be notified accordingly.

The same verification shall be made in respect of applications filed with the State Committee for Inventions and Discoveries of the USSR Council of Ministers. If the claimed discovery or invention is recognized as secret or highly secret, the author and the applicant shall be immediately notified accordingly for the purpose of taking the necessary steps to safeguard the State secret.

79. — Applications for an inventor's certificate for highly secret inventions relating to new means of armament, military technology and their tactical use shall be received and examined, in the manner prescribed in this Statute, by the Ministries and Departments entrusted by the USSR Council of Ministers. Such authorities shall also deal with objections against decisions on matters connected with the grant of inventors' certificates.

The registration of such inventions and the grant of inventors' certificates therefor shall be effected by the State Committee for Inventions and Discoveries of the USSR Council of Ministers on the basis of notifications from the competent Ministries and Departments, which shall not transmit the material relating to such inventions. The Chairman of the State Committee for Inventions and Discoveries of the USSR Council of Ministers or his First Deputy may verify the grounds of the decisions of Ministries and Departments concerning the grant of inventors' certificates.

80. — The State Committee for Inventions and Discoveries of the USSR Council of Ministers, and the Ministries and Departments specified in accordance with Section 79 of this

Statute, may enlist the services of the necessary specialists from other Ministries and Departments for the examination of applications concerning particularly complicated secret or highly secret discoveries and inventions. In such cases, the heads of Ministries and Departments shall provide the said specialists.

81. — Rationalization proposals constituting a State secret shall be received and considered in accordance with the requirements as to secrecy and in the manner prescribed in Part IV of this Statute, Sections 77, 78 and 79 of this Statute applying *mutatis mutandis*.

#### Part VI. Organization of Inventive Activity and Rationalization and Utilization of Inventions and Rationalization Proposals

##### *Direction of the Development of Inventive Activity and Rationalization*

82. — The general direction of inventive activity and rationalization in the country shall be the responsibility of the State Committee for Inventions and Discoveries of the USSR Council of Ministers.

83. — The Ministries and Departments shall direct the development of inventive activity and rationalization in the enterprises, organizations and institutions for which they are responsible.

In the context of the tasks entrusted to them and of their functions in the field of science and technology, the Ministries and Departments shall:

- devise measures for the development of inventive activity and rationalization in the enterprises, organizations and institutions for which they are responsible and supervise their work in this field;

- draw up prospective and current plans on inventive activity and rationalization and supervise their implementation;

- organize the utilization of inventions and rationalization proposals without delay and supervise such utilization;

- prepare proposals on the patenting of inventions abroad and on the granting and taking of licenses and carry out the obligations, coming within their competence, under license agreements;

- study, synthesize and disseminate experience on inventive activity and rationalization;

- ensure the mass involvement of workers in inventive activity and rationalization;

- organize competitions, contests and displays on inventive activity and rationalization and conferences of inventors and rationalizers;

- organize work relating to the enhancement of the qualifications of specialists in the field of inventive activity and rationalization;

- pay in the prescribed manner remuneration for inventions and rationalization proposals utilized in several enterprises, organizations and institutions and rewards for the promotion of inventive activity and rationalization;

- consider objections and appeals in the field of inventive activity and rationalization within their competence;

- publish information on inventions and rationalization proposals that have been utilized.

84. — In the field of inventive activity and rationalization, enterprises, organizations and institutions shall:

- organize work on inventive activity and rationalization, draw up, in cooperation with the trade-union groups and the branches of the All-Union Society of Inventors and Rationalizers, prospective and current plans on priority subjects and supervise the implementation of such plans;

- ensure the large-scale utilization of domestic and foreign science and technology, including the achievements described in patent literature, when developing new technology and modernizing existing technology, identify discoveries and inventions made in the course of research and development and, in the manner prescribed by this Statute, take measures for their protection by diplomas and inventor's certificates and any necessary measures for the legal protection of inventions abroad, and consider rationalization proposals without delay;

- utilize as promptly as possible inventions and rationalization proposals relating to their activity;

- pay, in the prescribed manner, remuneration to inventors and rationalizers and rewards for the promotion of inventive activity and rationalization;

- help and encourage inventors and rationalizers, in particular by assisting them in elaborating and drawing up proposals, in proper form, for inventions and rationalizations, and organize competitions, contests, displays and similar public activities relating to inventive activity and rationalization;

- ensure the enhancement of the qualifications of specialists in the field of inventive activity and rationalization;

- carry out any other functions entrusted to them by this Statute.

85. — The central organs of cooperative and social organizations shall, in the manner prescribed for Ministries and Departments, direct the development of inventive activity and rationalization in the enterprises, organizations and institutions for which they are responsible.

86. — The All-Union Society of Inventors and Rationalizers, the trade-union groups and other social organizations should play an important part in all work relating to the large-scale development of inventive activity and rationalization.

The All-Union Society of Inventors and Rationalizers shall ensure the observance of the law in the field of inventive activity and rationalization, shall render all possible assistance to inventors and rationalizers in their work and in the protection of their rights and shall promote inventive activity and rationalization and the utilization of inventions and rationalization proposals in the national economy.

87. — The Ministries and Departments, the executive committees of the Soviets of Workers' Deputies, the central organs of cooperative and social organizations, the enterprises, organizations and institutions and the All-Union Society of

Inventors and Rationalizers shall render all necessary assistance to citizens in their work relating to discoveries, inventions and rationalization proposals, helping them to draw up applications for diplomas for discoveries and inventors' certificates for inventions as well as rationalization proposals and giving assistance concerning the utilization of discoveries, inventions and rationalization proposals.

88. — Inventive activity and rationalization in agriculture shall be directed in accordance with this Statute and the Regulations on the Development of Inventive Activity and Rationalization in Agriculture, to be adopted by the USSR Ministry of Agriculture in agreement with the State Committee for Inventions and Discoveries of the USSR Council of Ministers and with the All-Union Central Council of Trade Unions.

*Planning of Inventive Activity and Rationalization.  
Utilization of Inventions and Rationalization Proposals*

89. — Inventive activity and rationalization shall be planned in such a way as to direct the creative work of inventors and rationalizers to the fulfillment of first-priority tasks for the improvement of social production, to ensure without delay the large-scale utilization, in production, of advantageous inventions and rationalization proposals, to develop the technical creativity of the workers and to involve them actively in inventive activity and rationalization.

The planning of inventive activity and rationalization shall be preceded by a study of the main trends in the development of science and technology, a study of domestic and foreign inventions and advanced technical methods, and an identification of scientific and technical problems whose solution may result in the increased efficiency of social production.

90. — The way in which inventive activity and rationalization is to be planned for the enterprises, organizations, institutions and Ministries and Departments shall be determined by the State Committee for Inventions and Discoveries of the USSR Council of Ministers in agreement with the State Planning Commission and the State Committee for Science and Technology of the USSR Council of Ministers.

91. — An invention or rationalization proposal shall be recognized as utilized regardless of the field of national economy, culture, health or defense in which it is used.

An invention or rationalization proposal relating to a method (or technique) of production or other activity shall be recognized as utilized from the date when it began to be used in the production process. An invention or rationalization proposal relating to a device (or construction) or to a substance (or material) shall be recognized as utilized from the date when it began to be applied in the manufacture of products or in the use of existing products including experimental models brought into operation. An invention or rationalization proposal shall not be recognized as utilized during its trials, the manufacture or testing of an experimental model or the preparation of production.

An invention protected by an inventor's certificate shall also be recognized as utilized where it has been transferred abroad in the prescribed manner.

92. — The utilization of inventions and rationalization proposals shall, depending upon their importance and significance, be included in the prospective and annual plans for the development of the national economy of the USSR and the Union Republics, in the plans of Ministries, Departments, enterprises, organizations and institutions or in the plans relating to the organizational and technical arrangements of enterprises, organizations and institutions.

Inventions and rationalization proposals accepted for utilization during the financial year shall be added to the appropriate plans in the prescribed manner.

93. — Proposals concerning the utilization of inventions relevant to one or several fields and of importance for the national economy shall be elaborated by the Ministries and Departments and the State Committee for Inventions and Discoveries of the USSR Council of Ministers and submitted simultaneously to the State Planning Commission and the State Committee for Science and Technology of the USSR Council of Ministers or to the Councils of Ministers of the Union Republics with a view to a decision on the inclusion of such inventions in the draft plans for the development of the national economy of the USSR or the Union Republics.

94. — In order to ensure the large-scale utilization without delay of inventions in the national economy, the State Committee for Inventions and Discoveries of the USSR Council of Ministers shall, in the prescribed manner, transmit proposals to the Ministries, Departments, enterprises, organizations and institutions concerning the utilization of inventions relating to their fields of activity, together with descriptions of the inventions and the material, available to the Committee, concerning the technical and economic data on such inventions.

Proposals of this nature concerning highly secret inventions relating to new means of armament, military technology and their tactical use shall be transmitted in the prescribed manner to interested organizations by the Ministries and Departments examining applications concerning such inventions.

95. — On the basis of the material issued by the State Committee for Inventions and Discoveries of the USSR Council of Ministers, the All-Union offices for scientific and technical information and the offices for scientific and technical information in individual fields, and on the basis of other information (including patent material), the Ministries, Departments, enterprises, organizations and institutions shall make a selection of inventions and rationalization proposals and decide on their utilization in accordance with the plans.

The Ministries and Departments shall inform the Committee of inventions accepted for utilization in the fields in which they are responsible.

96. — The serial numbers of inventors' certificates shall be indicated in the prospective and annual plans for the development of the national economy of the USSR and the Union Republics, in the plans of Ministries, Departments, enterprises,

organizations and institutions, which provide for the utilization of inventions, and in the technical documentation and prospectuses for new articles and manufacturing processes developed on the basis of the inventions.

97. — The enterprises, organizations and institutions shall inform the author of the commencement of utilization of his invention or rationalization proposal within one month from the date when such utilization began.

An enterprise, organization or institution shall, where necessary, request the address of an author from the State Committee for Inventions and Discoveries of the USSR Council of Ministers; the State Committee shall send this information to the enterprise, organization or institution within one month.

98. — In their work relating to inventive activity and rationalization, the Ministries, Departments, enterprises, organizations and institutions shall use, and where necessary organize, the services set up for the conduct of trials.

#### *Financing Inventive Activity and Rationalization*

99. — The expenses of the Ministries, Departments, enterprises, organizations and institutions in the field of inventive activity and rationalization shall be financed in accordance with the special estimates from the funds specified in Sections 100 and 101 of this Statute.

100. — The expenses of Ministries and Departments included in the estimate of expenditure for inventive activity and rationalization shall be covered by budget allocations or appropriate centralized funds.

The expenses of State enterprises, organizations and institutions included in the estimate of expenditure for inventive activity and rationalization shall be covered by:

— the funds provided for in the estimates of production of self-supporting enterprises and organizations or in the estimates for the maintenance of organizations and institutions which are financed from the State budget or otherwise;

— special funds set up in enterprises and organizations;

— the savings, with regard to the original estimates for construction, which have been obtained without prejudicing the solidity and the operational facilities of buildings and have been left at the disposal of the organizations working in the field of construction.

101. — The expenses for inventive activity and rationalization in collective farms, associated collective farms and other cooperative and social organizations shall be covered by their own funds.

102. — The estimates of expenses for inventive activity and rationalization may include the following items:

(i) the manufacture and testing of models and samples made on the basis of inventions and rationalization proposals;

(ii) the organization and maintenance of the services set up for trials with a view to the elaboration and testing of inventions and rationalization proposals (excluding building expenses and expenses for the acquisition of equipment);

(iii) the payment for the work of inventors, rationalizers, designers, project officers and technicians in drawing up

technical documentation, manufacturing and testing models and samples and organizing production (excluding work done in the performance of assigned tasks);

(iv) the payment of remuneration to authors of inventions and rationalization proposals;

(v) the payment of rewards for the promotion of inventive activity and rationalization;

(vi) the payment for work connected with examinations, consultations and the preparation of reports concerning discoveries, inventions and rationalization proposals;

(vii) the payment for work connected with the preparation of material relating to discoveries, inventions and rationalization proposals (excluding work done in the performance of assigned tasks);

(viii) the payment for work connected with the preparation of material for patenting inventions abroad and for granting or taking licenses;

(ix) the acquisition of material for the patent search files and the processing of such files and the publication and acquisition of information contained in patent documents and in technical documentation and of literature on inventive activity;

(x) the payment for missions of authors, examiners and other specialists on the invitation of the Ministries or Departments or the State Committee for Inventions and Discoveries of the USSR Council of Ministers, where such missions concern the consideration of material in applications or requests or other questions of inventive activity and rationalization;

(xi) the organization of exhibitions, competitions, contests and similar activities relating to inventive activity and rationalization, the payment for the work of the persons engaged for such activities and the payment of prizes relating thereto.

The payment for work connected with inventive activity and rationalization shall be effected within the limits of the fund allocated for wages and salaries; the necessary funds shall be provided for in the relevant estimates of expenditure for inventive activity and rationalization.

#### **Part VII. Legal Protection and Commercialization of Inventions Abroad**

103. — In order to protect the economic interests of the USSR abroad in the field of inventions and to accelerate technical progress in the country, the Ministries, Departments, enterprises, organizations and institutions shall:

— apply for patents (or other legal protection) for Soviet inventions abroad;

— license Soviet inventions and technology and seek licenses for foreign inventions and technology;

— perform patent clearance searches for Soviet products;

— study and make use of patent information at all stages in the planning and creation of new products and technical processes.

104. — An application concerning an invention made in the USSR or by a Soviet citizen in a foreign State may be filed abroad only after a corresponding application has been filed in the USSR. This provision shall also apply where, in accordance

with this Statute, a proposal is not recognized as an invention in the USSR but is eligible for a patent or an inventor's certificate abroad.

Where necessary, the State Committee for Inventions and Discoveries of the USSR Council of Ministers may grant permission for a patent to be applied for abroad before an application concerning the invention is filed in the USSR.

**105.** — At the time of filing an application with the State Committee for Inventions and Discoveries of the USSR Council of Ministers, the enterprises, organizations and institutions shall make proposals to the Ministries and Departments concerning the patenting of selected inventions abroad.

The inventors themselves may submit proposals to the appropriate Ministries or Departments concerning the patenting of their inventions abroad.

The Ministries and Departments shall consider such proposals and, within one month, submit to the State Committee for Inventions and Discoveries of the USSR Council of Ministers their proposals, including the reasons therefor, concerning the patenting of the inventions and the countries in which legal protection should be sought.

The decision on the patenting of inventions abroad shall be made by the Committee within one month of receiving the proposals from the Ministries and Departments.

Where an invention is made by a Soviet citizen jointly with a foreign national, the decision of the Committee shall not be required for the filing of an application in the country of which the foreign joint inventor is a national. Such a decision shall again not be necessary where an invention is made in an international organization in which the USSR or Soviet organizations participate and legal protection is sought in accordance with the instruments constituting the international organization.

**106.** — Work relating to the acquisition of legal protection for inventions abroad shall be carried out, in the prescribed manner, by the enterprise, organization or institution designated in accordance with a decision of the State Committee for Inventions and Discoveries of the USSR Council of Ministers or by the inventor in agreement with such enterprise, organization or institution.

The enterprise, organization or institution seeking legal protection abroad shall be responsible for the preparation of the material relating to the invention concerned. The State Committee for Inventions and Discoveries of the USSR Council of Ministers shall assist it in drawing up applications to be filed abroad and shall ensure the protection of the interests of the Soviet State relating to such applications.

**107.** — Decisions on the withdrawal of applications for the legal protection of inventions abroad and the surrender of patents for Soviet inventions granted abroad shall be taken by the State Committee for Inventions and Discoveries of the USSR Council of Ministers on the proposal of the Ministries or Departments or on its own initiative, taking into account the views of the interested organizations working in the field of foreign trade.

## Part VIII. Right to Remuneration and Other Rights and Privileges of Authors of Discoveries, Inventions and Rationalization Proposals

### *Right to Remuneration*

**108.** — The author of a discovery who has been granted a diploma, the author of an invention who has been granted an inventor's certificate and the author of a rationalization proposal who has received a certificate shall have a right to remuneration.

The remuneration shall be paid in accordance with this Statute and also with the Regulations on the Remuneration for Discoveries, Inventions and Rationalization Proposals and the Regulations on the Determination of the Amount of Remuneration for Inventions and Rationalization Proposals which do not Result in Savings, to be adopted by the State Committee for Inventions and Discoveries of the USSR Council of Ministers in agreement with the State Planning Commission of the USSR, the State Committee for Science and Technology of the USSR Council of Ministers, the State Committee for Labor and Wages of the USSR Council of Ministers, the USSR Ministry of Finance and the All-Union Central Council of Trade Unions. The savings which result from the utilization of inventions and rationalization proposals shall be determined in accordance with the rules for determining the economic effectiveness of the utilization of new technology, inventions and rationalization proposals in the national economy, to be adopted in the prescribed manner.

**109.** — The remuneration for a discovery shall be fixed by the State Committee for Inventions and Discoveries of the USSR Council of Ministers up to a maximum of 5000 roubles and shall be paid to the author by the Committee at the time when the diploma for the discovery is granted.

**110.** — At the time of the grant of inventors' certificates for inventions made in the performance of assigned tasks (in accordance with the plans for research and development or for the elaboration and introduction of new technology, for example) and in non-profit organizations (design and technical bureaux, laboratories and teams, for example), the inventors shall receive a lump-sum payment, as an incentive, ranging from 20 to 200 roubles for one invention, but not more than 50 roubles to one inventor.

Such promotional remuneration shall be paid:

— by the Ministries and Departments for inventions made in the performance of assigned tasks;

— by the State Committee for Inventions and Discoveries of the USSR Council of Ministers for inventions made in the non-profit organizations.

The promotional payment shall be taken into account when subsequent remuneration is paid.

**111.** — Remuneration for the utilization of an invention shall be paid to the inventor (or joint inventors) if the invention is:

(i) utilized in the national economy of the USSR, including the case where it is utilized in a product in use which has been imported from abroad;

(ii) utilized in documentation transferred to other countries in the context of economic, scientific and technical cooperation;

(iii) utilized abroad in units set up by USSR enterprises and organizations rendering technical assistance to foreign countries;

(iv) licensed in foreign countries. In such a case, remuneration shall be paid if the invention is protected by an inventor's certificate in the USSR and by a patent abroad or only by an inventor's certificate in the USSR or only by a patent abroad.

**112.** — The remuneration for the utilization of an invention shall be calculated and paid in the following manner:

(i) where the invention is utilized in one enterprise, organization or institution, the remuneration shall be calculated and paid by that enterprise, organization or institution;

(ii) where the invention is utilized in several enterprises, organizations or institutions under the same Ministry or Department, the remuneration shall be calculated and paid by that Ministry or Department;

(iii) where the invention is utilized in enterprises, organizations or institutions under different Ministries and Departments, the remuneration shall be calculated and paid by the Ministry or Department responsible for the enterprises, organizations or institutions which first utilized the invention; such Ministry or Department shall subsequently receive appropriate payments in reimbursement from other Ministries or Departments responsible for enterprises, organizations or institutions which have also utilized the invention. Any dispute concerning which Ministries or Departments are liable to pay remuneration for the utilization of an invention shall be decided by the State Committee for Inventions and Discoveries of the USSR Council of Ministers.

The remuneration for an invention utilized in documentation transferred to other countries in the context of economic, scientific and technical cooperation shall be calculated and paid by the Ministry or Department responsible for the enterprises, organizations or institutions which transferred the documentation abroad unless otherwise provided in an international agreement or contract.

The remuneration for an invention utilized in units being set up by USSR enterprises or organizations abroad rendering technical assistance to foreign countries shall be calculated and paid by the Ministry or Department responsible for the enterprises, organizations or institutions carrying out the construction work abroad.

The remuneration for Soviet inventions licensed abroad shall be a maximum of three percent of the royalties received and shall be paid by the State Committee for Inventions and Discoveries of the USSR Council of Ministers from the funds allocated to the Committee in the prescribed manner.

**113.** — The remuneration for the utilization of an invention resulting in savings for the national economy of the USSR shall be paid to the inventor (or joint inventors) during the five years following the commencement of the utilization of the invention by the enterprise, organization or institution which was the first to utilize it, regardless of the time that has

elapsed since the grant of the inventor's certificate; the amount of the remuneration shall be two percent of the total savings obtained each calendar year of the utilization of the invention in the USSR.

The remuneration for the utilization of an invention not resulting in savings shall be in the form of one lump-sum payment whose amount shall depend on the actual value of the invention taking into account the technical or other useful results of the invention and the extent that it is utilized. The head of an enterprise, organization, institution, Ministry or Department may increase the remuneration where the extent of the utilization of an invention is increased during the succeeding four years, within the limits of the prescribed maximum amounts of remuneration.

For the determination of the five-year period referred to, inventions which began to be utilized in the first half of a year shall be deemed to have been utilized as from January 1 of that year and inventions which began to be utilized in the second half of a year shall be deemed to have been utilized as from January 1 of the following year.

Where an invention is utilized in the manner referred to in Section 111(ii) and (iii) of this Statute, the remuneration shall be in the form of a lump-sum payment whose amount shall depend on the actual value of the invention (taking into account the technical and other useful results of the invention and the extent that it is utilized).

The remuneration for the utilization of an invention shall be calculated separately on the basis of each heading provided for in Section 111 of this Statute. The maximum amount paid under all those headings for the utilization of a single invention shall not exceed 20,000 roubles.

**114.** — The head of a Ministry or Department may allow an increase in the amount of remuneration of up to 20,000 roubles, but not more than three times the original sum, for inventions whose utilization has led to the creation of new kinds of production or to valuable devices or substances and also for inventions of great economic importance to the State which cannot be commercialized on a large scale.

**115.** — The remuneration for the utilization of inventions and rationalization proposals shall be determined on the basis of the following:

— the document providing for the acceptance of an invention or rationalization proposal for utilization or an equivalent document;

— the calculation of an annual saving resulting from the utilization of an invention or rationalization proposal;

— the decision on the actual value of a proposal not resulting in savings which has been taken by the head of an enterprise, organization, institution, Ministry or Department.

**116.** — The remuneration for the utilization of inventions shall be paid by the enterprises, organizations, institutions, Ministries and Departments within two months from the end of a calendar year in which the invention is utilized or within two months from the date of the decision to transfer the technical documentation to other countries in the context of

economic, scientific and technical cooperation or from the date of transfer, in the prescribed manner, of a royalty under a license.

117. — When necessary, the State Committee for Inventions and Discoveries of the USSR Council of Ministers may, ex officio or at the request of an inventor, inspect in the prescribed manner any document in an enterprise, organization, institution, Ministry or Department, where such document is needed in order to ascertain whether and to what extent an invention is being utilized or to check calculations of savings resulting from the utilization of inventions or to check information necessary for the calculation of remuneration on the basis of the actual value of an invention; such inspection shall be carried out with the assistance of the local branches of the All-Union Society of Inventors and Rationalizers.

118. — Where a Ministry or Department recognizes that a deserving invention which is not being utilized is suitable for a future utilization in the enterprises, organizations or institutions for which it is responsible, it may pay a reward to the inventor from the fund referred to in Section 164 of this Statute.

119. — The remuneration for a rationalization proposal shall be calculated and paid by the enterprise, organization, institution, Ministry or Department which issued a certificate for the proposal to the author. Where remuneration is paid in the cases specified in the fourth subsection of Section 75 of this Statute, account shall be taken of the amounts received by the author on the basis of the invalidated certificate.

Where a certificate has been issued by one enterprise, organization or institution and the savings or other useful results of the utilization of the rationalization proposal take place in another enterprise, organization or institution, the remuneration shall be calculated and paid by the Ministry or Department responsible for the enterprise, organization or institution which issued the certificate to the author.

Any dispute concerning which organization is liable to pay remuneration shall be decided by the State Committee for Inventions and Discoveries of the USSR Council of Ministers.

120. — The amount of remuneration for a rationalization proposal shall be based on the total annual savings obtained during the first year of utilization of the proposal and shall be determined in accordance with the following scale:

Amount of Annual Savings (in roubles)	Remuneration for Rationalization Proposal
Up to 100	17 % of the savings, hut not less than 10 roubles
100 to 500	7 % plus 10 roubles
500 to 1,000	5 % plus 20 roubles
1,000 to 5,000	3 % plus 40 roubles
5,000 to 50,000	2 % plus 90 roubles
50,000 to 100,000	1 % plus 590 roubles
Over 100,000	0.5 % plus 1,090 roubles, hut not more than 5,000 roubles

The amount of remuneration for a rationalization proposal not resulting in savings shall be determined on the basis of its actual value, taking into account its technical and other useful results and the extent that it is utilized, hut such remuneration shall not be less than 10 roubles nor more than 5,000 roubles for a single rationalization proposal.

121. — Remuneration not exceeding 200 roubles, or 25 percent (hut not less than 200 roubles) of any remuneration exceeding 200 roubles, shall be paid to the author within one month from the commencement of the utilization of his rationalization proposal. The rest of the remuneration shall be paid within two months from the end of the first year of utilization, or from the termination of utilization if the proposal is utilized for less than one year.

122. — Where, during the second year, the extent of utilization of a rationalization proposal is increased, additional remuneration shall be paid up to a maximum of 5,000 roubles depending on the extent of utilization during that year. The additional remuneration shall be paid within two months from the end of the second year of utilization.

This provision shall apply whether or not the rationalization proposal results in savings. Where no savings are realized, the enhancement of the useful results during the second year of utilization may be taken into account for the payment of the additional remuneration.

123. — A Ministry or Department may, at the request of an enterprise, organization or institution, increase the remuneration to a maximum of 5,000 roubles in the case of a rationalization proposal which may be of great economic importance but which cannot be commercialized on a large scale. Such remuneration may not however exceed three times the amount of remuneration determined in accordance with Section 120 of this Statute.

124. — After the grant of an inventor's certificate for a proposal which was originally claimed and utilized as a rationalization proposal and is subsequently recognized as an invention, account shall be taken of the amounts already received for the rationalization proposal, when the remuneration for the utilization of the invention in the national economy of the USSR is calculated and paid to the inventor.

125. — Remuneration shall be paid to the authors of discoveries, inventions and rationalization proposals regardless of any rewards applicable under this Statute or prescribed by the law in force.

126. — The remuneration for a discovery, invention or rationalization proposal which does not exceed 1,000 roubles shall be exempt from income tax.

Where the remuneration exceeds 1,000 roubles, income tax shall be assessed, separately for each discovery, invention or rationalization proposal, on the basis of the total amount of remuneration for each of them less 1,000 roubles.

*Rights in the Field of Labor*

127. — Inventors and rationalizers shall actively assist in the utilization and further improvement of their inventions and rationalization proposals.

Inventors and rationalizers shall have the right to take part in the preparations for the utilization of their inventions and rationalization proposals (drawing up technical documentation, manufacturing and testing experimental models and organizing production).

An appeal by an inventor or rationalizer who considers that this right has not been respected shall be heard and decided by the head of a higher organization.

128. — With a view to his participation in the preparations for the utilization of an invention or rationalization proposal in his regular place of employment, the author thereof may be temporarily released from the whole or part of his main duties, receiving a salary which shall not be less than his average salary for his main duties. Where, due to the conditions of production, it is not expedient to release the author from his main duties, his work relating to the preparations for the utilization of his invention or rationalization proposal may be performed outside his working hours, the payment to be fixed by agreement.

129. — A contract of employment may be concluded with an author for his participation in the preparations for the utilization of an invention or rationalization proposal outside his regular place of employment for the whole of the period of the preparations for the utilization of his invention or rationalization proposal or for a fixed period. The author shall be released from his main duties except where he is taking part in the preparations referred to outside his working hours.

Where an author participating in the preparations for the utilization of his invention or rationalization proposal has been released from his main duties, the payment for his work shall not be less than his average salary in his regular place of employment. Where the author is participating outside his working hours, the payment shall be fixed by agreement between the parties.

130. — Where an author has been released from his main duties with a view to his participation in the preparations for the utilization of his invention or rationalization proposal, his position, rights of leave and all the other rights and privileges in his regular place of employment shall be reserved for him and the whole of the period of his participation in the preparations referred to shall be entered in his record of service, which shall be deemed to have continued uninterrupted in his regular place of employment.

The author shall be entitled to paid leave in the other enterprise, organization or institution where his work there has continued for not less than eleven months.

131. — Where an author who is not a worker or employee has been engaged to take part in the preparations for the utilization of his invention or rationalization proposal, a contract

of employment may be concluded with him for the whole of the period of such work or for a fixed period, the payment being fixed by reference to his qualifications and the complexity of the work and in accordance with the salary scales in force.

132. — Where an author is engaged to take part in the preparations for the utilization of his invention or rationalization proposal outside his permanent residence, the enterprise, organization or institution which has concluded a contract of employment with him shall give him an indemnity for his travel expenses and rent and a daily allowance in accordance with the law in force relating to missions.

133. — An enterprise, organization or institution which has accepted an invention or rationalization proposal for utilization may make use of any technical documentation or models prepared by the author or request the author to do such work. If the author performs such work beyond the limits of his assigned tasks, the enterprise, organization or institution shall conclude a contract with him, providing for payment and the reimbursement of his expenses for the preparation of the documentation and models, in accordance with the standards and fee scales in force. The amounts specified in such a contract shall be paid to the author regardless of the remuneration for the utilization of his invention or rationalization proposal.

134. — If new standards and fee scales are adopted in the enterprise, organization or institution as a result of the utilization of the invention or rationalization proposal, the payment for the work of the author and the other persons participating in the preparations for the utilization of the invention or rationalization proposal concerned shall be effected in accordance with the procedure prescribed by the labor laws of the Union Republics.

In such cases, additional payments under the new fee scales shall be made from the salary fund on the basis of supplementary accounts.

135. — Discoveries for which diplomas have been granted and inventions and rationalization proposals which have been utilized, as well as the remuneration paid therefor, shall be entered in the author's record of service.

*Other Rights, Privileges and State Incentives*

136. — The author of a discovery or an invention may require that the discovery or invention be named after him or be given a special title.

The request for the designation of the author's name or a special title for a discovery or invention may be filed by the author with the State Committee for Inventions and Discoveries of the USSR Council of Ministers at the time of filing the application or afterwards, but not later than two months from the date when the decision to grant a diploma or an inventor's certificate was taken.

If this is justified, the Committee may comply with such a request where it has been filed by the author after the said time limit.

The authors' name or the special title assigned to a discovery or an invention shall be mentioned in the diploma for the discovery or the inventor's certificate and also in the technical documentation and on manufactured articles and their packaging.

137. — The honorary titles "Honored Inventor of the Republic" and "Honored Rationalizer of the Republic" may be conferred on inventors and rationalizers in accordance with the law in force.

138. — The authors of inventions used in production and persons who hold the title of Honored Rationalizer of the Republic shall have the right to be admitted, without taking part in any competition, to institutions of higher education in accordance with the rules prescribed by the USSR Ministry of Higher and Special Secondary Education.

139. — The authors of discoveries and inventions which are of great importance to the national economy shall have the right to present, in the prescribed manner, such discoveries and inventions as theses to be defended for the degree of *kandidat* or doctor of sciences. Persons who do not hold the degree of *kandidat* of sciences may be allowed to defend their theses for a doctor's degree where they have become well-known through their discoveries or inventions.

The authors of discoveries and the inventors of outstanding inventions may, by way of exception, be awarded the degree of *kandidat* or doctor of sciences without any need for them to defend theses.

140. — When selecting specialists to be sent on missions to other enterprises, organizations or institutions or to specialized exhibitions, for the study of advanced methods, the administration of an enterprise, organization or institution shall, all other conditions being equal, give preference to the authors of discoveries, inventions or rationalization proposals.

141. — The authors of inventions and rationalization proposals who hold the honorary title of Honored Inventor of the Republic or Honored Rationalizer of the Republic, the authors of discoveries and the authors of inventions and rationalization proposals of great importance to the national economy shall be entitled to additional dwelling space on equal terms with scientific workers.

142. — For the purpose of the implementation of the rights referred to in Sections 139 and 141 of this Statute, the Ministries, Departments, enterprises, organizations and institutions shall, at the demand of the authors of inventions and rationalization proposals or of the enterprises, organizations or institutions concerned, prepare reports on the importance to the national economy of inventions and rationalization proposals that they are utilizing.

#### Part IX. Protection of Rights over Discoveries, Inventions and Rationalization Proposals

143. — Any citizen or any enterprise, organization or institution may challenge a registration of a discovery, a diploma for a discovery, an inventor's certificate or a patent for an invention, or a certificate for a rationalization proposal.

144. — The registration of a discovery and a diploma for a discovery may be challenged, and recognized as invalid in whole or in part, at any time after the date of publication of a notice on the registered discovery or — if it has not been published — after the date of recordal of the discovery in the USSR State Register of Discoveries or after the date of grant of the diploma, on the following grounds:

- (i) the requirements under this Statute for the recognition of a scientific concept as a discovery have not been complied with;
- (ii) the author (or the coauthors) of the discovery has been incorrectly designated.

145. — An inventor's certificate for an invention may be challenged, and recognized as invalid in whole or in part, on the following grounds:

- (i) the requirements under this Statute for the recognition of a proposal as an invention have not been complied with (challenges on this ground shall be made within one year from the date of publication of the invention or — if it has not been published — from the date of recordal of the invention in the USSR State Register of Inventions; the Chairman of the State Committee for Inventions and Discoveries of the USSR Council of Ministers or his deputy may extend such period in exceptional cases);
- (ii) the inventor (or joint inventors) has been incorrectly designated (challenges on this ground may be made at any time after the grant of the inventor's certificate).

146. — A patent for an invention may be challenged, and recognized as invalid in whole or in part, at any time during its term on the following grounds:

- (i) the requirements under this Statute for the recognition of a proposal as an invention have not been complied with;
- (ii) the inventor (or joint inventors) has been incorrectly designated;
- (iii) the patentee had no right to obtain the patent;
- (iv) the patent has been granted for an invention which may only be the subject of an inventor's certificate.

147. — A certificate for a rationalization proposal may be challenged, and recognized as invalid in whole or in part, on the following grounds:

- (i) the requirements under this Statute for the recognition of a proposal as a rationalization proposal have not been complied with (challenges on this ground shall be made within one year from the date of the decision to recognize the proposal as a rationalization proposal or from the date when the proposal began to be utilized, whichever date is the later);
- (ii) the certificate has been issued to a person who does not have priority with respect to the rationalization proposal, or the author (or coauthors) has been incorrectly designated (challenges on these grounds shall be made within three years from the date of issue of the certificate).

In exceptional cases, a certificate for a rationalization proposal may be recognized as invalid in whole or in part by the head of a Ministry or Department or his deputy, on the ground

specified in paragraph (i) of this Section, even after the expiration of the one-year time limit.

**148.** — Appeals by applicants against decisions taken on objections made in accordance with Sections 59 and 60 of this Statute, and challenges to decisions recognizing inventor's certificates or patents as invalid on the grounds specified in Sections 145(i) and 146(i) and (iv) of this Statute shall be considered by the Board of Appeal for the Scientific and Technical Examination of the State Committee for Inventions and Discoveries of the USSR Council of Ministers. The Chairman of the Committee or his deputy may refer other questions connected with the examination of applications concerning inventions to the said Board of Appeal.

When considering cases submitted to it, the Board of Appeal for the Scientific and Technical Examination shall sit as a collegial body consisting of at least three Board members. The procedure for the examination of the cases before the Board of Appeal shall be determined by the statute of the Board of Appeal.

The decisions of the Board of Appeal shall be final and not subject to appeal. The Board of Appeal may reconsider its decision on the basis of a challenge made by the Chairman of the State Committee for Inventions and Discoveries of the USSR Council of Ministers on the ground that the decision is contrary to the law in force or that new circumstances have come to light.

**149.** — Appeals by applicants against decisions of the State Committee for Inventions and Discoveries of the USSR Council of Ministers taken on objections made during the examination of applications concerning a discovery (Section 18 of this Statute), and challenges to a decision on the registration of a discovery or to the grant of a diploma for a discovery which are made on the ground specified in Section 144(i) of this Statute shall be considered by the Chairman of the State Committee for Inventions and Discoveries of the USSR Council of Ministers, whose decision shall be final.

**150.** — The State Committee for Inventions and Discoveries of the USSR Council of Ministers shall, on the basis of a decision which has entered into force ordering the cancellation or correction of a notice concerning the registration of a discovery or the cancellation of a diploma for a discovery or of an inventor's certificate or patent for an invention, publish a corresponding notice in its Official Bulletin.

**151.** — An author who does not agree with a decision to refuse to recognize his proposal as a rationalization proposal or to refuse to accept it for utilization may, within three months of receiving the decision, appeal to the head of the enterprise, organization, institution, Ministry or Department who took such decision.

The appeal shall be considered within one month from the date of its submission. An appeal in the enterprise, organization or institution employing the author shall be considered by the head thereof jointly with the trade-union group or, if the trade-union group so indicates, with the local branch of the

All-Union Society of Inventors and Rationalizers. The author shall be invited to take part in the consideration.

Where the author contests the decision on his appeal or where no decision on the appeal is reached for lack of agreement between the head of the enterprise, organization or institution and the trade-union group concerned, the author may appeal to the higher authority, which shall inform the author of its decision and the reasons therefor within two months from the date when the appeal was lodged.

The decision of the head of a Ministry or Department or his deputy shall be final.

**152.** — Decisions to recognize a proposal as a rationalization proposal and decisions to accept a rationalization proposal for utilization may be cancelled by the higher authority on the ground and within the time limit specified in Section 147(i) of this Statute.

Appeals by an author against the cancellation of a decision to recognize his proposal as a rationalization proposal or to accept it for utilization shall be considered in accordance with the procedure specified in the third and fourth subsections of Section 151 of this Statute.

**153.** — Disputes concerning the priority of a rationalization proposal shall be considered by the head of the enterprise, organization, institution, Ministry or Department within 15 days from the submission of the dispute. Disputes in an enterprise, organization or institution shall be considered jointly with the trade-union group or, if the trade-union group so indicates, with the local branch of the All-Union Society of Inventors and Rationalizers; the parties shall be invited to take part in the consideration of the dispute. A party who does not agree with a decision may appeal to the courts.

**154.** — Appeals by inventors or rationalizers concerning the correctness of the calculation of savings, or the amount, method of calculation or time of payment of remuneration for inventions or rationalization proposals, or concerning the question whether or not a proposal has been utilized, shall be considered by the head of the enterprise, organization, institution, Ministry or Department within 15 days. Appeals in an enterprise, organization or institution shall be considered jointly with the trade-union group or, if the trade-union group so indicates, with the local branch of the All-Union Society of Inventors and Rationalizers.

Where the author contests the decision on his appeal or does not receive any reply within the prescribed time limit, he may appeal against the decision to the head of the higher authority or to the courts.

**155.** — In accordance with the Fundamentals of the Civil Legislation of the USSR and the Union Republics, the following disputes shall be heard by the courts:

(i) disputes concerning the authorship (or coauthorship) of a discovery, invention or rationalization proposal;

(ii) disputes concerning the amount, method of calculation and time of the payment of remuneration for an invention or

rationalization proposal and the question whether or not it has been utilized, where they have not been settled in the manner prescribed in Section 154 of this Statute;

(iii) disputes between coauthors concerning the distribution of the remuneration for a discovery, invention or rationalization proposal;

(iv) disputes concerning rights of prior use and the infringement of the patentee's exclusive right to utilize an invention and also demands to have a patent recognized as invalid on the grounds specified in Section 146(ii) and (iii) of this Statute;

(v) disputes concerning the priority of a rationalization proposal, where they have not been settled in the manner prescribed in Section 153 of this Statute.

156. — Disputes concerning the authorship (or coauthorship) of a discovery or invention may be submitted to the courts after the State Committee for Inventions and Discoveries of the USSR Council of Ministers has taken a decision to recognize the claimed concept as a discovery or to grant an inventor's certificate or patent for the invention.

Disputes concerning the authorship (or coauthorship) of a rationalization proposal may be submitted to the courts after the proposal has been recognized as a rationalization proposal and has been accepted for utilization.

157. — On the basis of a court decision which has entered into force relating to a dispute concerning the authorship of a discovery or an invention or to the recognition of a patent as invalid, the State Committee for Inventions and Discoveries of the USSR Council of Ministers shall correct the notice concerning the recorded discovery or invention, shall publish a notice in its Official Bulletin concerning the cancellation of the former diploma for a discovery or inventor's certificate or patent for an invention, and the grant of a new diploma, inventor's certificate or patent, and shall issue such titles in accordance with the court's decision.

158. — In accordance with Article 16 of the Fundamentals of the Civil Legislation of the USSR and the Union Republics governing disputes concerning the recovery of remuneration, the three-year limitation period shall apply. Time shall begin to run on the date when the author was notified of the commencement of the utilization of his invention or rationalization proposal.

159. — Disputes arising in connection with the author's participation in the preparations for the utilization of his invention or rationalization proposal shall be settled in the manner prescribed for the settlement of labor disputes.

160. — The time limits provided for in this Statute for producing material connected with the examination of applications for the grant of a diploma for a discovery or an inventor's certificate for an invention and the time limits for lodging appeals, objections or challenges may, where justified, be extended by the State Committee for Inventions and Discoveries of the USSR Council of Ministers.

## Part X. Rewards for Promotion of Inventive Activity and Rationalization

161. — The following shall be entitled to rewards for the promotion of inventive activity and rationalization:

(i) persons who have assisted in the elaboration or identification of technical solutions recognized as inventions or in drawing up and prosecuting applications for inventors' certificates;

(ii) persons who have assisted in the utilization of inventions and rationalization proposals;

(iii) persons on whose initiative utilization is being made of inventions and rationalization proposals used in other enterprises, organizations or institutions or of inventions and rationalization proposals that have been published in print.

Where a person who has assisted in the creation and utilization of an invention or rationalization proposal is thereby entitled to two rewards — one for the creation and introduction of new technology and the other for the promotion of inventive activity and rationalization —, account shall be taken of the earlier reward when the later reward is paid.

162. — Rewards for the promotion of inventive activity and rationalization may be paid whether or not the beneficiaries are on the staff of the enterprises, organizations or institutions in which the invention or rationalization proposal was made or utilized.

163. — Rewards for the promotion of inventive activity and rationalization shall be made by the head of the enterprise, organization or institution in which the invention or rationalization proposal was made or utilized, in agreement with the trade-union group or, if the trade-union group so indicates, with the local branch of the All-Union Society of Inventors and Rationalizers. (BRIE)

Rewards to the executives of enterprises, organizations or institutions and to the staff of higher organizations shall be made in the manner prescribed in the statute to be adopted under Section 165 of this Statute. Rewards to the staff of higher organizations shall be at the cost of such organizations and may not be charged to the funds of the enterprises, organizations or institutions for which they are responsible.

164. — In the enterprises, organizations, institutions, Ministries and Departments, the following amounts may be allocated to the funds for rewards for the promotion of inventive activity and rationalization:

(i) in the enterprises, organizations and institutions — 1.5 percent of the total savings made during the first year of utilization of inventions and rationalization proposals and 35 percent of the remuneration paid for the utilization of inventions and rationalization proposals not resulting in savings;

(ii) in the Ministries and Departments — 0.4 percent of the total savings made during the first year of utilization of inventions and rationalization proposals in the enterprises, organizations and institutions for which they are responsible.

Any part of the fund for rewards for the promotion of inventive activity and rationalization which was not used

during the previous year shall remain at the disposal of the enterprise, organization, institution, Ministry or Department and shall be applied for the same purposes.

**165.** — The procedure governing rewards for the promotion of inventive activity and rationalization and the use of funds allocated for these purposes shall be determined by a statute to be adopted by the State Committee for Labor and Wages of the USSR Council of Ministers in agreement with the State Committee for Inventions and Discoveries of the USSR Council of Ministers, the USSR Ministry of Finance and the All-Union Central Council of Trade Unions.

**166.** — Employees in enterprises, organizations, institutions, Ministries and Departments who take an active part in obtaining legal protection for Soviet inventions abroad and in preparing proposals for licensing Soviet inventions abroad and in the commercialization of such licenses shall be paid rewards from the fund allocated for these purposes; such fund shall

consist of the prescribed amounts allocated in the prescribed manner from the royalties received from licenses granted abroad.

Rewards to such employees shall be made in accordance with regulations to be adopted by the State Committee for Inventions and Discoveries of the USSR Council of Ministers in agreement with the State Committee for Labor and Wages of the USSR Council of Ministers, the State Committee for Foreign Economic Relations of the USSR Council of Ministers, the USSR Ministry of Foreign Trade and the USSR Ministry of Finance.

**167.** — Rewards under this Statute shall be paid regardless of rewards of any other kind. However, the amount of rewards paid during a year for the promotion of inventive activity and rationalization together with rewards for the creation and introduction of new technology shall not, for an individual employee, exceed the limits prescribed by the law in force.

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## The New Soviet Law on Inventive Activity

By E. ARTEMIEV \*

The new Statute on Discoveries, Inventions and Rationalization Proposals<sup>1</sup> entered into force in the Soviet Union on January 1, 1974. This legislative act introduces a number of important innovations in the field of organization, property, personal non-property and labor relations, arising in connection with discoveries, inventions and rationalization proposals.

As scientific and technical progress continues at an increasing rate of acceleration, it becomes more and more necessary to improve the whole system for identifying, protecting and utilizing inventions and rationalization proposals and to perfect the system of material and moral incentives for the creators of new technology.

In the decade and a half that has elapsed since the promulgation of the last Statute on Discoveries, Inventions and Rationalization Proposals, a large number of decrees have been adopted in the field of inventive activity. At a certain stage the need arose to unite them in a single legislative instrument which would include all the legal rules in the field of inventive activity and rationalization and would provide rules in full conformity with the priority objectives in the field of the development of creative activity in science and technology.

These requirements have been fulfilled in the new Statute on Discoveries, Inventions and Rationalization Proposals, which further develops the basic principles of socialist law in the field of inventive activity that were established by the Decree of the Soviet Government signed by Lenin on June 30, 1919. Among these principles, that of the legal protection of inventions by inventors' certificates plays an important role. The principle underlying this new form of protection for inventions is different from that of a patent. The essence of this difference can be seen in the following: under an inventor's certificate the right to use an invention in the framework of the socialist State belongs to the State and not to the individual. All enterprises and organizations are entitled to use the invention provided that they do so in the interests of the socialist State. At the same time, the moral and material rights linked with the invention are guaranteed to the actual inventor, whose interests are thus fully safeguarded. The inventor, moreover, is relieved of the burden of having to construct or carry out the invention and to put it into practical use. These tasks are taken care of by the State,

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<sup>1</sup> See p. 298 above.

with a view to ensuring the optimum utilization of inventions in the interest of Society as a whole.

In the socialist planned economy the inventor's certificate represents the most advantageous form of legal protection for inventions, enabling the interests of society to be combined with those of the individual.

In practice, the inventor's certificate is the basic form of protection of the rights over an invention in the Soviet Union, but it is not the only form. In addition, the protection of inventions by patents has been maintained. The inventor has the choice between both forms of protection. As a rule, Soviet inventors decide in favor of inventors' certificates. In the last twenty years, for instance, only twenty patents have been granted to nationals of the Soviet Union, whereas hundreds of thousands of inventors' certificates have been issued during this period.

The provision enabling patents to be sought, as an alternative form of legal protection for inventions in the Soviet Union, is thus clearly not dictated by domestic needs. The coexistence of the two forms of legal protection is based on the desire of this country for practical cooperation in the field of science and technology with countries having different social and economic systems.

As was the case under the former law, the new Soviet legislation gives foreign inventors the same rights as nationals of the Soviet Union (Section 7). This means that they have the option of applying either for an inventor's certificate, which recognizes their authorship of the invention, entitles them to certain rights and privileges provided by the law in force and entails the transfer to the State of the exclusive right to the invention, or for a patent, which certifies their authorship of the invention and grants them the exclusive right to it.

Foreign nationals living abroad and legal entities permanently located abroad must act through the USSR Chamber of Commerce and Industry when applying for inventors' certificates or patents for inventions in the Soviet Union or for the maintenance in force of patents (Section 7).

The patenting of inventions in the Soviet Union offers real and significant advantages to the patentee. These advantages are mainly expressed in the form of a prohibition rather than in a positive way. This prohibitive character of the patent and its legal consequences are clearly indicated in Section 30 of the new Statute:

"An invention for which a patent has been granted may not be utilized without the patentee's consent.

"A patentee may authorize the utilization of his invention (a license) or assign the whole of the patent rights for consideration or otherwise."

Soviet organizations and enterprises interested in utilizing a patent may do so only with the patentee's authorization — in other words, only if a license has been obtained.

Since it is a basic principle of Soviet law on inventive activity that inventions should be utilized in the interests of the socialist society, the Statute (Section 35) provides that:

"Where an invention is of special importance to the State and no agreement is reached with the patentee as to the licensing or assignment of the patent rights, the USSR Council of Ministers may order the compulsory purchase of the patent by the State or may authorize an appropriate organization to utilize the invention, and fix the amount of remuneration for the patentee."

This is an exceptional provision. It will apply only where the need arises to prevent the abuse of patent rights which are being used to hamper the development of technology in a field of special importance to the State.

It is now proposed to outline the main features of the new law on inventive activity, pointing out its many innovations, which were prompted by the requirements of the revolution in science and technology, including the need to modernize the legal protection of the results of technical creative activity.

### Discoveries

First of all, it was necessary to give a precise definition to the concept of "discovery" (and, as will be seen, to that of "invention" and "rationalization proposal"). In other words, there was a need for a clear statement of what conditions have to be fulfilled if a claimed discovery is to be recognized as an object of protection.

Under the new Statute not every determination of hitherto unknown laws, properties and phenomena of the material world constitutes a discovery, but only those which bring about fundamental changes in the standard of knowledge (Section 10).

The Statute is not applicable in respect of geographical, archaeological and paleontological discoveries, discoveries of useful mineral deposits and discoveries in the field of the social sciences.

An application for the issue of a diploma for a discovery must be filed by the author himself (or the coauthors) or his heirs or the enterprise, organization or institution authorized by the author for that purpose.

Under a new procedure, where a discovery is made in the performance of assigned tasks, the application is drawn up by the enterprise, organization or institution jointly with the author (or the coauthors) and is filed, together with the necessary explanations, by the enterprise, organization or institution within one month from the date of a proposal for the filing of such an application (Section 12).

Applications relating to a discovery now have to undergo a preliminary examination before they are accepted for consideration. This examination is carried out by the State Committee for Inventions and Discoveries of the USSR Council of Ministers (hereinafter referred to as the "Committee"), within three months from the receipt of the application. The Committee must either accept the application for further examination, in which case the applicant will be issued a certificate to this effect, or invite the applicant to submit any necessary corrections or additions to the application as filed; in the case of discrepancy between the claimed concept and the requirements laid down for a discovery by the Statute, the applicant

must be notified of the refusal to accept the application for the purposes of examination and be given the reasons for the refusal (Section 15).

The preliminary examination is necessary as a filter to eliminate applications which do not comply with the requirements prescribed by the Statute.

The Committee decides whether to recognize a claimed concept as a discovery on the basis of findings by the USSR Academy of Sciences, the Academies of Sciences of the Union Republics, the academies for the fields concerned, universities and the leading scientific research organizations and educational institutes of Ministries.

For the assessment of the scientific value of a discovery, the principal role is played by the USSR Academy of Sciences. The Statute contains a new provision under which the decision to recognize a claimed concept as a discovery is to be taken by the Committee in agreement with the USSR Academy of Sciences (Section 17). This procedure enables a thorough and objective examination to be carried out with respect to complicated scientific concepts and to restrict protection to discoveries which really bring about fundamental changes in the standard of knowledge.

The new Statute places great emphasis on the utilization of discoveries which are capable of being applied directly or which can be indirectly utilized by means of inventions made on the basis of the laws, properties and phenomena of the material world that have been brought to light. The new Statute thus provides for the publication of the description of discoveries in academic journals and requires the Ministries and Departments concerned to be kept informed about registered discoveries so as to ensure their large-scale utilization in the national economy (Section 17).

### Inventions

The new Statute contains a more precise definition of invention. By "invention" is recognized any new technical solution of a problem, in any field of the national economy, social and cultural activity or national defense, where the solution is distinguished by new essential elements and achieves a useful result (Section 21).

A solution is recognized as new if, before the priority date of the application, the essence of that solution or an identical solution has not been disclosed in the Soviet Union or abroad to an indefinite circle of persons in such a way as to enable the solution to be realized.

The solution is recognized as being distinguished by new essential elements if, on comparison with other solutions known in science and technology at the priority date of the application, it is characterized by a new combination of features.

"Useful results" mean the new and enhanced benefits that society gains through the utilization of the invention in comparison with those which had been obtained by using what existed before the invention.

The useful results may, for example, take the form of a rise in productivity, an increase in the efficiency of machinery, savings in material used, an improvement in quality, a decrease in the costs of production, an acceleration of the

production processes or an improvement in working conditions and safety measures.

The new Statute has extended the range of subject matter eligible for legal protection. In particular, among the technical solutions protected as inventions, the Statute includes substances obtained through chemical processes (Section 25). The introduction of legal protection for such substances will direct the attention of enterprises, organizations and institutions to devising more advanced and useful technical solutions, to seeing how the most modern technical solutions can be used to the greatest advantage in industry and to achieving the highest technical and economic standards in production. It will also help to stimulate the creative activity of specialists and to increase their moral and material benefits.

The Statute gives a list of the kind of proposals which are not recognized as inventions. This list will prevent inventors from spending time, labor and resources on the development of proposals which are not eligible for protection and on drawing up and filing the corresponding applications (Section 21).

The decisive stage in the system of protection of inventions is the examination: its quality and standard are all-important. With the constant increase in the number of inventions being made and in the number of applications, and the improvement in quality of their subject matter, it is essential to perfect the various aspects of the State's evaluation of applications filed with the Committee.

The new Statute provides for a number of measures for improving the examination system with a view to ensuring promptness and accuracy in the scientific, technical and legal determination that an invention has in fact been created.

For this purpose stricter requirements for the drafting of applications have been introduced (Section 44); the obligations on enterprises, organizations and institutions with respect to the prompt filing of applications relating to inventions made in the performance of assigned tasks have been clearly specified (Section 41); there is a six-month time limit for the examination of all applications concerning inventions (Section 48).

One of the important innovations is the establishment of a two-stage examination for applications, the tasks and requirements during each of the two stages being clearly delimited (Section 46).

The first stage comprises a verification for compliance with the requirements for applications (the preliminary examination). This examination is carried out within 15 days from the date on which the application for an inventor's certificate or a patent has been received by the Committee. At the end of the preliminary examination, there are three alternative courses of action:

(1) The applicant may be informed that his application has been accepted for examination, in which case he will be given a certificate to this effect.

(2) The applicant may be notified of the rejection of the application and be informed of the reasons. Such a rejection is permissible only where the application does not meet the requirements prescribed for applications by the Statute.

It should be noted that in the case of an application for an inventor's certificate, the refusal to accept it for examination is permitted only where the non-compliance with the above requirements precludes the examination of the application.

(3) The applicant may be invited to correct or supplement the application. This may be done during the two months following receipt of such an invitation and the essence of the application must not be changed as a result of the corrections or additions. If the application is not corrected or supplemented in time, it will be deemed not to have been filed.

The second stage comprises a verification for compliance with the requirements for inventions (the State scientific and technical examination of inventions). The main objective of the examination at this stage is to come to a conclusion, on the basis of a thorough study of the application as filed, as to whether the alleged invention complies with the novelty requirements and as to the possible ways in which it could be utilized in the national economy. Where the results of this examination are positive, a decision is taken to grant an inventor's certificate or a patent; if they are negative, a decision is taken to refuse the title of protection, the reasons for refusal being stated.

A basic feature of the new Statute consists in the principle that the decision on applications concerning inventions is to be taken by the organ carrying out the scientific and technical examination (Section 57). The fact that decisions on the grant or refusal of inventors' certificates or patents are to be taken by the examining organ itself must increase its responsibility in the examination of applications concerning inventions and lead to a higher standard in the scientific and technical examination. The organ carrying out the examination also has the task of examining objections by applicants in the case of a decision to refuse an inventor's certificate or patent or where an applicant disagrees with the wording of the claims established in a decision to grant an inventor's certificate; it takes decisions on these objections. Objections must be considered by the organ carrying out the examination within two months from the date of their receipt by the Committee (Section 59).

The new Statute has established an entirely different procedure for the consideration of appeals against decisions taken on objections, and of challenges to decisions declaring an inventor's certificate or a patent to be invalid. For this purpose a body which is independent of the examining organ will be set up. Its title is the Board of Appeal for the Scientific and Technical Examination of the State Committee for Inventions and Discoveries of the USSR Council of Ministers (Section 148).

The fact that the Board of Appeal will sit as a collegial body when considering appeals and challenges and will hold its hearings in public will bring about the maximum of objectivity in its decisions. Highly qualified specialists, with a legal and technical background, will take part in the Board's activities. Their participation will provide an additional guarantee of the authority and correctness of the Board's decisions, which in turn will lead to a higher standard in the scientific and technical examination.

The establishment of such a body will also serve the interests of inventors by safeguarding their rights and stimulating their creative activity; it will ensure conformity with the law in relations between inventors and the State institutions carrying out the examination of applications concerning inventions and, finally, it will increase the safeguards in the protection of inventors' rights.

The decisions of the Board of Appeal are final and not subject to appeal. The Board may reconsider a decision on the basis of a challenge made by the Chairman of the Committee on the ground that the decision is contrary to the law in force or that new circumstances have come to light.

### Rationalization Proposals

Rationalization is a form of technical creative activity in which large numbers of people are involved in the Soviet Union. In view of this fact and of experience with the implementation of previous legislation, the legal rules governing the protection of rationalization proposals have also been developed.

The Statute for the first time gives a definition of rationalization proposal. By "rationalization proposal" is recognized any technical solution which is new and useful to the enterprise, organization or institution with which it is filed and which provides for a change in the construction of manufactured articles, in manufacturing processes or existing technology, or in the composition of material (Section 63).

In addition to providing a definition, the new Statute precisely specifies what will constitute an anticipation of a rationalization proposal (Section 64). It defines the idea of usefulness: the utilization of a proposal must yield an economic, technical or other useful result (Section 65). Proposals which may give rise to a decrease in the reliability, durability or other quality characteristics of products are not recognized as rationalization proposals. These clearly-worded principles will enable the heads of enterprises, organizations and institutions both to take correct decisions on the recognition of proposals as rationalization proposals and to reject obviously useless proposals.

In order to protect the authors' rights based on certificates for rationalization proposals, the new Statute fixes the limits of their validity. The certificate is valid within the enterprise, organization or institution which issued it. The author's rights extend to any enterprise, organization or institution which has obtained the rationalization proposal from the enterprise, organization or institution which issued the certificate, on the basis of a contract for the transfer of technology or for the grant of assistance in the use of advanced methods. If more extensive protection is sought for a proposal which can be used by several enterprises, organizations or institutions, it must be filed with an appropriate Ministry or Department. The certificate issued by a Ministry or Department protects the author's rights in the enterprises, organizations or institutions supervised by the Ministry or Department (Section 76).

The new Statute provides an important guarantee of the rights of a rationalizer by fixing the time limits within which a certificate may be challenged and recognized as invalid in whole or in part (Section 147). The absence of such

time limits in the former Statute led to abuse on the part of some managers, who after a long period of time declared a certificate for a rationalization proposal to be invalid, when the proposal had been used on a large scale and remuneration should have been paid to the rationalizer.

### ★ Remuneration and Other Rights and Privileges

Important changes were introduced in the system of remuneration for inventions. There is now a basically new system of material incentives for inventors. The essence of the system is the following: the remuneration for an invention utilized in the national economy and resulting in savings is payable to an inventor during the five years following the commencement of the utilization of the invention. Under the former Statute, remuneration was payable only for the first year of utilization of the invention, with the possibility of additional payment in the course of the following four years provided that there had been an increase in savings as compared with the first year of utilization. Under the new system, an inventor will be able to earn remuneration amounting to two percent of the total savings obtained from the utilization of the invention in the Soviet Union for each calendar year but for not longer than five years.

The establishment of a fixed percentage not only simplifies the calculation of remuneration for an invention but, above all, greatly contributes to the improvement of incentives for those who develop the most effective and economic inventions used in the national economy over a long period of time.

The bases for payment of remuneration for inventions have been extended. Unlike the former Statute, the new law (Section 111) provides for payment where an invention has been:

- utilized in documentation transferred to other countries in the context of economic, scientific and technical cooperation;
- utilized abroad in units set up by Soviet organizations and enterprises rendering technical assistance to foreign countries;
- utilized in products used in the Soviet Union but imported from abroad.

The remuneration for the utilization of an invention is calculated separately in respect of each of the bases mentioned above. The maximum amount paid under those headings and other bases for the utilization of a single invention may not exceed 20,000 roubles. The decision to introduce payment in the cases mentioned above is of great importance since these forms of utilization of inventions have become very usual in the Soviet Union today.

The development of pioneering inventions revolutionizing machinery and industrial processes and introducing fundamental changes in this field are of special importance in this era of scientific and technical revolution. Such inventions are, as a rule, prospective inventions — that is, technical solutions which cannot be utilized at the time of their development due to the lack of the necessary technical and economic conditions.

The absence in the former legislation of incentives for inventors of prospective inventions deprived scientists, engineers and technicians of any interest in developing such inventions and could only lead to a lower standard in the technical solutions developed. The new Statute empowers Ministries and Departments to pay to the authors of prospective inventions that are not being utilized a reward from the fund for the promotion of inventive activity and rationalization (Section 118).

The new Statute provides for a number of other rights and privileges of a material and moral character for inventors and rationalizers. An enterprise, organization or institution which has accepted an invention or rationalization proposal for utilization may make use of any technical documentation or models prepared by the inventor himself, but it is obliged to reimburse his expenses in accordance with the standards and fee scales in force. The amounts specified in such cases are paid to the author regardless of the remuneration for the utilization of his invention or rationalization proposal (Section 133).

The privilege under which, during a six-month period, inventors and rationalizers are paid on the basis of the former standards and fee scales which have been changed as a result of the utilization of their proposal becomes operative not on the date of introduction of the invention or rationalization proposal, as was provided for in the former legislation, but on the date of introduction of the new standards and fee scales. This will allow an inventor or rationalizer to benefit from the privilege in all cases where he performs the tasks in relation to which the standards and fee scales had been changed. It should be noted that the earlier standards and fee scales will apply even in cases where the author of the invention or rationalization proposal had not previously been performing the particular task, but had been transferred to the work after filing his proposal (Section 134).

The authors of inventions used in production and persons who hold the title of Honored Rationalizer of the Republic have the right to be admitted, without taking part in any competition, to institutions of higher education. The rules for admission of such persons to institutions of higher education are prescribed by the USSR Ministry of Higher and Special Secondary Education (Section 138).

The authors of inventions which are of great importance to the national economy have the right to present, in the prescribed manner, such inventions as theses to be defended for the academic degree of *kandidat* or doctor of sciences. Persons who do not hold the degree of *kandidat* of sciences may be allowed to defend their doctors' theses where they have become well-known through their inventions. The authors of outstanding inventions may, by way of exception, be awarded the academic degree of *kandidat* or doctor of sciences without any need for them to defend theses (Section 139).

The Committee confers the decoration "Inventor of the USSR" on an inventor who is receiving an inventor's certificate for the first time, provided his invention is utilized.

When selecting specialists to be sent on missions to other enterprises, organizations or institutions or to specialized exhibitions, for the study of advanced methods, preference is

given, all other conditions being equal, to the authors of inventions or rationalization proposals (Section 140).

In addition, inventors and rationalizers continue to have the following rights and privileges: the right to take part in the preparations for the utilization of their inventions and rationalization proposals (Section 127); the right to have their position in their regular place of employment reserved for the whole period of their participation in the preparations for the utilization of their proposals, and the right to paid leave and all the other rights and privileges provided for in their regular place of employment (Section 130); the entry in their record of service of the whole period of their participation in the preparations for the utilization of the invention or rationalization proposal, the service being deemed to have continued uninterrupted in their regular place of employment (Section 130); the right to have their inventions named after them or given a special title (Section 136); the right to the honorary titles "Honored Inventor of the Republic" and "Honored Rationalizer of the Republic" (Section 137); the right to additional dwelling space in the case of inventors and rationalizers who hold the titles of Honored Inventor or Rationalizer of the Republic or whose proposals are of great importance to the national economy (Section 141); privileges concerning the costs of legal proceedings (Article 23 of the Fundamentals of the Civil Legislation of the USSR and the Union Republics), and other rights and privileges.

### Protection of Rights

The new Statute places great emphasis on the protection of rights over discoveries, inventions and rationalization proposals, devoting a new part (Part IX) to this subject. The provisions of this part deal with the problems relating to the consideration of appeals and challenges with respect to the recognition or refusal to recognize a claimed concept as a discovery and to the recognition or refusal to recognize a technical solution as an invention or rationalization proposal; they also relate to the grounds for challenging and declaring invalid the registration of a discovery and the corresponding diploma, an inventor's certificate or patent for an invention or a certificate for a rationalization proposal. This part clearly delimits the matters which are to be settled by the courts and those to be settled through administrative procedures.

The following disputes are heard by the courts (Section 155):

— disputes concerning the authorship (or coauthorship) of a discovery, invention or rationalization proposal;

— disputes concerning the amount, method of calculation and time of payment of remuneration for an invention or rationalization proposal and the question of its utilization, where they have not been settled under the administrative procedure;

— disputes between coauthors concerning the distribution of the remuneration for a discovery, invention or rationalization proposal;

— disputes concerning rights of prior use and the infringement of the patentee's exclusive right to utilize an invention and also demands to have a patent recognized as

invalid on the ground that the inventor (or joint inventor) has been incorrectly designated in a patent or that the patentee had no right to obtain the patent;

— disputes concerning the priority of a rationalization proposal, where they have not been settled under the administrative procedure.

It should be noted that disputes concerning the authorship (or coauthorship) of a discovery or invention may be submitted to the courts after the Committee has taken in the prescribed manner a decision to recognize the claimed concept as a discovery or to grant an inventor's certificate or patent for the invention (Section 156).

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The new Statute on Discoveries, Inventions and Rationalization Proposals not only takes into account the need to

encourage inventive activity in the Soviet Union and to guarantee the rights of Soviet inventors, in the context of the scientific and technical revolution, but also provides the necessary conditions for the protection in the Soviet Union of inventions coming from abroad. Indeed, foreign nationals are becoming more and more convinced of the desirability of seeking patent protection in the Soviet Union. The number of patents granted to foreigners in this country is steadily growing. On January 1, 1973, the number of patents in force in the Soviet Union was 32 times higher than in 1966. The clear regulation of the rights of foreign patentees in the Soviet Union which is provided in the new Statute will certainly constitute further encouragement for foreigners to apply for patent protection in this country. This will in turn provide a solid basis for strengthening and developing international cooperation in the field of science and technology.

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## ACTIVITIES OF OTHER ORGANIZATIONS

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### **Council for Mutual Economic Assistance (CMEA)**

#### **Report by the Secretariat of the CMEA on the Basic Trends in the CMEA's Activities in the field of Industrial Property**

The main objective of the Council for Mutual Economic Assistance (CMEA), created in 1949, is to promote the balanced development of the national economy of its member countries, to accelerate their economic and technological progress, to enhance the industrialization of the countries whose industries are less developed and to ensure a systematic growth in the productivity of the member countries and a continuous improvement in the welfare of their peoples. The countries are to achieve this objective by uniting or coordinating their efforts.

The principle of the sovereign equality of all the Council's member countries underlies its entire activity. The cooperation between the member countries is carried out in accordance with the principles of full equality, the respect for sovereignty and national interests, the reciprocal grant of benefits and comradely mutual assistance.

Membership of the Council is open to other countries provided they share its objectives.

The CMEA member countries are characterized by a high rate of industrial development. During 1971 and 1972, the industrial production of the member countries as a whole increased by more than 15 %. From 1950 to 1972, their share in the world's industrial production rose from 18 % to 33 %. The CMEA member countries now have a highly developed production capacity, a diversified industrial structure in their national economy and a higher technological level in production.

For some years now, the rate of growth in the national income of the member countries has been surpassing that of a number of other industrially developed countries. The rapidly growing national income of the member countries has brought about a considerably higher level of welfare and culture to their populations.

The economic cooperation of the CMEA member countries is based on a number of international instruments jointly elaborated and adopted by the competent authorities of the participating countries.

Particularly significant for the development of collaboration between the CMEA member countries and for their integration is the Comprehensive Program adopted at the 25<sup>th</sup> session of the Council in 1971. The long-term implementation of this Program, covering 15 to 20 years, will lead to a

steadily increasing collaboration between the member countries. The Program sets out the ways in which cooperation is to be carried out — and the timing of its various phases — with a view to solving major economic problems, such as the supply of fuel, raw materials and modern equipment to the national economies and the satisfaction of the needs of the public in the field of consumer goods and foodstuffs.

During the past few years, the economic, scientific and technical cooperation of the CMEA member countries has been centered on the implementation of the Comprehensive Program. The Council, at its 27<sup>th</sup> session at Prague in June 1973, assessed the results of the Program's implementation and noted that the CMEA member countries were taking all necessary steps towards the closer unity of socialist States and the consolidation of fraternal links between them. The Council also noted with satisfaction that the policies adopted by the member countries and the initiatives taken by them for the implementation of the principles of peaceful coexistence in international relations were conducive to the further extension of mutually beneficial economic, scientific and technical cooperation with States having different social and economic systems.

The Comprehensive Program lays great stress on the enhancement of cooperation in the field of science and technology, in view of the growing impact of the scientific and technological revolution on the development of the national economies of the CMEA member countries. In developing scientific and technical cooperation, the member countries are acting on the basis that science and technology have become the decisive factor in determining the goals of development and in bringing about a higher overall economic effectiveness.

The scientific and technical cooperation between the CMEA member countries is effected in a number of inter-related ways. These include consultations on the direction of scientific and technical development, collaboration in planning and implementing scientific and technical research, the establishment of international scientific research institutes and the exchange of scientific and technical achievements and know-how. In 1972 alone, over one hundred joint scientific research projects were completed. Over forty agreements on cooperation in the joint solution of scientific and technical problems have been signed since the Comprehensive Program was adopted.

The Program provides for the further study and elaboration of various questions in the field of the legal protection of inventions, trademarks and industrial designs, with a view to promoting the development of science and technology.

In order to enhance the cooperation between the CMEA member countries in the field of inventions and their legal protection, the Conference of Heads of Industrial Property Offices of the CMEA member countries was instituted as a specialized body of the Council, by a decision taken, on the basis of the Comprehensive Program, during the Council's 25<sup>th</sup> session. This specialized body of the Council became operational in September 1971 (from 1959 to 1971, the Conference had been active outside the framework of the Council).

The Conference seeks to further promote, improve and expand economic, scientific and technical cooperation and to contribute to the development of socialist integration in the economies of the CMEA member countries, through the study, elaboration and systematic solution of problems relating to the legal protection and utilization of scientific discoveries, inventions, rationalization proposals, trademarks, industrial designs, utility models and appellations of origin.

The transformation of the Conference into a body of the Council and the implementation of the measures provided for in the Comprehensive Program are conducive to the improvement of collaboration in the field of inventions and contribute to the more effective solution of outstanding problems of development in that field.

During its existence, particularly over the past few years, the Conference has done a considerable amount of work to improve collaboration in the field of the legal protection of industrial property. The Conference is particularly interested in perfecting the industrial property systems in the CMEA member countries. An Agreement on the Legal Protection of Inventions, Industrial Designs, Utility Models and Trademarks in the framework of Economic, Scientific and Technical Cooperation<sup>1</sup>, elaborated by the Conference and signed by the government representatives of the CMEA member countries in April 1973, is a significant contribution in this field.

The Agreement applies to inventions, industrial designs and utility models made by citizens of contracting countries as a result of economic, scientific and technical cooperation between them and in the course of such cooperation. It is particularly relevant to the joint research and development projects carried out in international scientific research institutes established under the Comprehensive Program. The Agreement inter alia defines the concept of a joint invention, the rights over such inventions and the procedure for filing applications relating to joint inventions, provides for the legal protection of such inventions, regulates the distribution of expenses incurred and receipts obtained as a result of the legal protection of joint inventions, guarantees the right of authors to remuneration and determines the manner in which joint inventions may be transferred to third countries. The Agreement thus solves a whole range of questions relating to the legal protection of the various forms of industrial property in the context of economic, scientific and technical cooperation. Now that the Agreement is in force, other countries may, with the consent of the contracting countries, adhere to it by transmitting their instruments of accession to the Secretariat of the Council.

The Conference is also paying great attention to the question of the mutual recognition by the CMEA member countries of legal safeguards based on socialist principles. This work has been reflected in a draft agreement which is now under study.

Proposals are now being prepared with a view to establishing common criteria for the remuneration of authors of discoveries, inventions, rationalization proposals and industrial

<sup>1</sup> See p. 294 above.

designs, and provisions are being drafted concerning the forms of legal protection for algorithms and computer programs, etc.

In order to increase the efficiency of the procedure for the examination of applications relating to inventions, work is being done within the framework of the Conference to harmonize and unify the requirements for the drafting, filing and examination of applications for inventors' certificates in the CMEA member countries. Proposals are being elaborated with a view to unifying the criteria governing the patentability of inventions as well as the requirements relating to the unity of inventions. Unified standards are being worked out for the bibliographic data to be mentioned in the official publications of the Industrial Property Offices in the CMEA member countries, and publications are exchanged on the methods of carrying out the examination of applications.

Detailed studies have been carried out, within the framework of the Conference, concerning the legal aspects of trademarks, industrial designs and appellations of origin. The activity of the Conference in these fields is aimed, above all, at the elaboration of common legal standards and methodological principles and concepts.

The Conference has considered and adopted a number of jointly-elaborated concepts and definitions. It has thus made a substantial contribution to the unification of legal standards relating to trademarks and industrial designs. These principles and concepts are elaborated on the basis of the conditions of the socialist economy, but they also fully take account of the provisions of international agreements and the trends in international law concerning trademarks and industrial designs.

In this field, a draft model law on industrial designs and a draft model law on the legal protection of appellations of origin have recently been prepared and work has started on the draft of a multilateral agreement on the legal protection of appellations of origin. In addition, a number of papers have been prepared concerning the methods of carrying out the examination relating to trademarks and industrial designs.

The use of trademarks, industrial designs and appellations of origin in the CMEA member countries has fully confirmed their viability and justified the existence of these categories of industrial property in the conditions of a socialist economy.

The development of cooperation in the field of patent information and documentation is another aspect of the activity of the Conference. Preparations for the establishment of an International System of Patent Information, as part of the International Information System of Science and Technology of the CMEA member countries, are an especially significant development in this field. This system is intended to enable the needs of the participating countries to be more fully satisfied in the field of patent information, to eliminate duplication in processing patent information, through a wider use of the international division of labor, and to stimulate the development of national patent information systems, helping to raise their overall technical level. Through the use of

mechanical and automatic data processing, this patent information system will provide a practical and comprehensive reference and information service.

Intensive work is now under way in the field of processing the bibliographic data in patent documents, with the aid of an International Automated Processing System for bibliographic data in newly-issued patent documents, for the benefit of CMEA member countries. Designed for the comprehensive automated processing of patent data, this system will ensure a more effective information service for the enterprises and Industrial Property Offices of the CMEA member countries.

A considerable amount of work is being done in the member countries for the training and retraining of specialists working in the field of inventors' certificates and patents. Also within the framework of the Conference, curricula, syllabi, textbooks and manuals are exchanged and common training programs are prepared for the different kinds of specialists.

In its future work, the Conference will focus its attention on a closer and broader cooperation among the CMEA member countries in the legal protection of industrial property and, above all, in the implementation of the measures provided for in the Comprehensive Program.

While developing economic, scientific and technical cooperation among themselves, the CMEA member countries look upon the international socialist division of labor as part of the world division of labor. Industrial property and its legal protection can actively contribute to the development of economic links between all countries and will play an important role in world trade.

In this connection, the CMEA member countries attach great importance to international cooperation within the framework of the World Intellectual Property Organization. Most of them are members of WIPO and also parties to the special agreements on industrial property. They are moreover actively participating in the activities of WIPO. An example of such cooperation can be seen in the participation of the delegations of CMEA member countries, as well as of the Secretariat itself, in the Vienna Diplomatic Conference on Industrial Property, 1973.

The development of cooperation between the CMEA member countries in this field has enhanced the value of industrial property for their own economies and has promoted the development of cooperation between all the countries in the world, in conditions which are mutually beneficial. In accordance with the WIPO Convention, the CMEA member countries are thus contributing to better understanding and cooperation among States and the promotion of the protection of intellectual property throughout the world. The growth of the economic potential of the CMEA member countries provides a solid foundation for the development of economic links with all countries for their mutual benefit and on the basis of respect for their equality. The Council for Mutual Economic Assistance thus attaches great importance to the development of international cooperation within the framework of the World Intellectual Property Organization.



translation. Indeed it was as a translator of legal texts that, on January 1, 1913, he joined the United International Bureaux, to which, climbing from rung to rung of the hierarchy, he devoted forty years of his life, with the exception of a short appointment with the Federal Department of the Interior as Private Secretary to Federal Councillor Gustave Ador, who later became President of the Swiss Confederation.

In 1921 he was appointed Secretary — or Counsellor, to use the terminology eventually adopted — of the International Bureaux, and he remained in this post until his promotion in 1932 to the Deputy Directorship, which he occupied until 1938.

During this seventeen-year period Mentha quietly and efficiently carried out an important task under the working conditions of the International Bureaux as they then were. It should be remembered that, at this time, the Bureaux prepared on their own the Conferences for the revision of the Conventions and Agreements for which they were responsible, the only assistance being provided by the Host State. They had no committees of governmental experts to help them and, with few exceptions, the only meetings in which their Director took part were those of private international organizations. Mentha's expert contribution to the preparation of the Revision Conferences held in these conditions under the Directorships of Röthlisberger and Ostertag was considerable. More especially in the copyright field, to which he was drawn by his personal preferences and in which he rapidly became an expert, he played a leading role in the preparation of the Rome Conference, which was held in 1928 and which made substantial improvements to the Berne Convention, and also, some years later, in the preparation of the Brussels Conference, which had to be postponed, however, owing to political developments and the Second World War. More of an intellectual than a man of action, Mentha carried on his specialized work in a simple fashion, far from the public, in the silence conducive to undisturbed reflection of his quiet office on the Helvetiastrasse in Berne, and generally remaining anonymous. Yet it is easy to distinguish his style in many an unsigned study, and even in the French texts, published in *La Propriété industrielle* and *Le Droit d'Auteur*, of articles originally written in German by Directors Röthlisberger and Ostertag.

It was in 1938, when Director Ostertag reached the age of retirement, that the Federal Council showed its confidence in Mentha by calling him to the succession. Rising thus to the Directorship of the International Bureaux at a time when disaster threatened, Mentha faced his new responsibilities with determination. While the storm clouds were already gathering on the horizon, he set about solving the problems raised in the international industrial property and copyright fields by the events in Austria and Czechoslovakia. Still intent on believing that the worst would not happen, he went ahead with the preparation of the Brussels Conference, and submitted to a meeting convened in Samaden from July 29 to 31, 1939, by the Rome International Institute for the Unification of Private Law preliminary drafts, written by himself, of Conventions, in relation with the Berne Convention, for the

protection of certain rights neighboring on copyright. Yet all this work was swept away by the Second World War, which set Europe and the whole world on fire. During the war he endeavored, in the spirit of intellectual solidarity which was the guiding principle of the Paris and Berne Conventions, to propose his good offices to the warring parties, in an attempt to prevent the infliction of irreparable damage on the two Conventions. His efforts were by no means vain.

No sooner had the turmoil died down than Mentha took the initiative of convening an International Conference in Neuchâtel in 1947, attended by the representatives of 26 States, to which he proposed a draft Convention prepared by himself and intended to bring about the reinstatement of intellectual property rights which had not escaped the ravages of the war. The draft was adopted practically without amendment.

The Brussels Conference was finally held the following year, in 1948, and it was the last Conference to be prepared according to the methods which had become traditional in the International Intellectual Property Unions. It is no exaggeration to say that it marked the beginning of a new era in the history of the Unions.

For while the International Bureaux had weathered the storm, their star seemed to have paled. They were no longer, as they had long been, the only international center of attraction in the intellectual property field. All round them, other international organizations were springing up which brought together representatives of States that could not meet in the Helvetiastrasse building. The newly-created United Nations Organization was already taking an interest in the problems of international trade; the Council of Europe was drafting, in meetings of governmental experts, special agreements within the Paris Convention framework, a task which ought to have fallen within the province of the International Bureaux, which administered the Convention; another body which grew up independently of the Bureaux was the International Patent Institute, while Unesco, with the aid of various committees of experts, was laying the foundations of a Universal Copyright Convention, to which States allergic to the Berne Convention might accede. In order to remain true to their purpose, the International Bureaux had to adapt to the new world which was coming into being, by modernizing their working methods and their structure, and by involving the representatives of States in their work. Mentha had the wisdom not to oppose this trend. And yet he could have done so when, at the Brussels Conference, the Italian Delegation proposed, with a view to ensuring an ever more satisfactory development of the International Union for the Protection of Literary and Artistic Works, the creation at the Bureau of the Union, to assist it in its work, of a Committee of twelve members, belonging to twelve countries of the Union, chosen with due regard to an equitable representation of the various parts of the world. The French and Polish Delegations stated that they could not accept this proposal unless it had the prior approval of Director Mentha. Mentha gave his approval, not without reluctance, as he secretly preferred the working methods which he had been applying for many years and

which at the time had proved satisfactory, but he did so after careful consideration and in the knowledge that the very future of the International Unions was at stake. Indeed, some months later, in an article published in *Le Droit d'Auteur* in October 1948, he welcomed the creation of a new organ of the International Union for the Protection of Literary and Artistic Works which, under its self-given name of Permanent Committee, was to become, *nomen, numen*, the center of gravity of the Union until the administrative transformation which the latter underwent later. Mentha gave the Committee able and devoted support, collaborating with its members in the drafting of the famous Berne Convention safeguard clauses which were to be incorporated in the Universal Convention, and successfully organizing the various sessions both of the Committee itself and of its sub-committees. Finally — and this was one of his last works as Director of the International Bureaux — he himself wrote the preliminary draft International Convention which was submitted to the Joint Committee of Experts for the protection of certain rights neighboring on copyright, when it met in Rome in November 1951.

In the industrial property field, where no organ comparable to the Permanent Copyright Committee had been created, although such an organ would have been highly desirable, it is all to Mentha's credit that he authorized, on his own personal responsibility, the unofficial convening in Berne of a Committee composed of Directors of national Industrial Property Offices. Unfortunately this Committee could not meet until May 5, 1953, five days after the effective date of Director Mentha's retirement, which took place on April 30. This last measure of his, the benefits of which were reaped by his successor, was the saving of the Madrid Agreement concerning the International Registration of Marks, which, after many meetings of the Committee, was eventually revised at Nice in 1957 in such a way as to avert the denunciations which for a time had been feared by the countries party to the Agreement.

The time had come for Mentha to retire. Having been at the turning point between two eras, he was now going to watch from outside the new start of the International Unions which he had made possible. On his departure he wrote to his colleagues at the International Bureaux: "Officially I am leaving you, but I shall be with you in spirit as you set out on a broader path to work in the best interests of the Organization which you continue to serve."

Looking back on his career, Mentha had some reason to be proud. He had done much for the cause of industrial property

and copyright. His work in these specialized fields had been honored by the Universities of Göttingen and Neuchâtel, both of which had awarded him honorary doctorates. He had received the Richard Strauss prize from GEMA. Was he now going to stop for a period of reflection before his final departure? Not so. It is when men of his calibre retire from the world of administration and thus escape a multitude of constraints that they are able to give the best of themselves.

Thus it was that Mentha, in the course of a retirement of more than twenty years, continued to serve the cause of intellectual property as he had done while actively working for the United International Bureaux, but no doubt with more mental detachment, and the volume of his production of learned works was probably greater than ever before.

During his membership of the Swiss National Research Committee, from 1953 to 1963, he submitted to the Federal Council, at the latter's request, significant reports on matters to be given priority with a view to the complete revision of the 1922 Copyright Act, which had already been partly revised in 1925; he also submitted suggestions on the working methods to be adopted. His findings were accepted by the Swiss Government.

Most of his hours of study, however, were devoted to the legal contributions which he submitted regularly, from 1958 onwards, to the Review of the European Broadcasting Union. With the exception of certain articles of an unnecessarily controversial nature, he applied his alert and very readable style to the analysis in depth of all the major problems of copyright, and occasionally ventured, albeit very cautiously, to propose for those problems solutions of his own which he immediately affected, with a smile, to be not unduly attached to, yet implying all the while that he was right. His exchanges with Ulmer on the subject of certain provisions of the Berne Convention as revised at Stockholm are quite amusing in this context (*EBU Review*, Nos. 110 B and 115 B). It is to be hoped that all or at least most of these writings, the last of which appeared a few days before his death, will one day be made into a collection so that they will be more accessible to readers in search of enlightenment and entertainment.

Through them, even more clearly than the lawyer and copyright specialist, it is the man who is revealed, the man as he lived and spoke: a pleasurable reunion for those who knew him and wish to preserve his memory.

At the time of parting, this is what counts.

Ch.-L. M.



- September 22 and 23, 1975 (Geneva) — Trademark Registration Treaty (TRT) — Interim Advisory Committee
- September 23 to 30, 1975 (Geneva) — WIPO Coordination Committee and Executive Committees of the Paris and Berne Unions — Ordinary Sessions
- October 1 to 3, 1975 (Geneva) — Scientific Discoveries — Committee of Experts
- October 13 to 17, 1975 (Geneva) — ICIREPAT — Technical Committee for Search Systems (TCSS)
- October 20 to 25, 1975 (Geneva) — ICIREPAT — Technical Committee for Standardization (TCST)
- October 27 to November 3, 1975 (Geneva) — PCT — Interim Committees
- November 3 to 14, 1975 (Berne) — International Patent Classification (IPC) — Working Group II of the Joint ad hoc Committee
- November 17 to 21, 1975 (Geneva) — International Patent Classification (IPC) — Bureau
- November 24 to 28, 1975 (Geneva) — International Patent Classification (IPC) — Joint ad hoc Committee
- December 1 to 12, 1975 (Munich) — International Patent Classification (IPC) — Working Group III of the Joint ad hoc Committee
- December 8, 9 and 16, 1975 (Geneva) — International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations — Intergovernmental Committee — Ordinary Session (jointly organized with the International Labour Organisation and Unesco)
- December 10 to 12, 1975 (Geneva) — ICIREPAT — Technical Coordination Committee (TCC)
- December 10 to 16, 1975 (Geneva) — Executive Committee of the Berne Union (Extraordinary Session)
- December 15 to 19, 1975 (Geneva) — International Classification of the Figurative Elements of Marks — Provisional Committee of Experts

## UPOV Meetings

- October 21 to 23, 1974 (Geneva) — Meeting of Member and Non-Member States
- October 23, 1974 (Geneva) — Consultative Working Committee
- October 24 to 26, 1974 (Geneva) — Council
- November 5 and 6, 1974 (Geneva) — Technical Steering Committee
- November 7, 1974 (Geneva) — Working Group on Centralized Examination
- January 14 to 17, 1975 (Geneva) — Committee of Experts on Centralization of Examination
- February 25 to 28, 1975 (Geneva) — Committee of Experts for the Revision of the Convention
- March 4 to 6, 1975 (Geneva) — Consultative Working Committee
- March 18 to 20, 1975 (Geneva) — Technical Steering Committee
- April 15 to 18, 1975 (Geneva) — Committee of Experts on Centralization of Examination
- July 2 to 5, 1975 (Geneva) — Committee of Experts on Centralization of Examination
- October 6 and 10, 1975 (Geneva) — Consultative Working Committee
- October 7 to 10, 1975 (Geneva) — Council
- November 5 to 7, 1975 (Geneva) — Technical Steering Committee
- November 25 to 29, 1975 (Geneva) — Committee of Experts on Centralization of Examination
- December 2 to 6, 1975 (Geneva) — Committee of Experts for the Revision of the Convention

## Meetings of Other International Organizations concerned with Intellectual Property

- September 11 to 13, 1974 (Brussels) — International Patent Institute — Administrative Board
- October 3 and 4, 1974 (Madrid) — International Confederation of Societies of Authors and Composers — Legal and Legislative Commission
- October 6 to 10, 1974 (Rome) — International League Against Unfair Competition — Congress
- October 21 to 23, 1974 (Rijswijk) — International Patent Institute — Administrative Board
- November 11 to 16, 1974 (Santiago) — Inter-American Association of Industrial Property — Congress
- December 6 to 10, 1974 (Yaoundé) — African and Malagasy Industrial Property Office — Executive Board
- December 9 to 11, 1974 (Rijswijk) — International Patent Institute — Administrative Board
- April 21 to 25, 1975 (Hamburg) — International Confederation of Societies of Authors and Composers — Congress
- May 3 to 10, 1975 (San Francisco) — International Association for the Protection of Industrial Property — Congress