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Contents

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International Unions

Paris Convention

Accession

GUINEA

The Government of Guinea deposited, on October 30, 1981, its instrument of accession to the Paris Convention for the Protection of Industrial Property of March 20, 1983, as revised at Stockholm on July 14, 1967.

Guinea will belong to Class VII for the purpose of establishing its contribution towards the budget of the Paris Union.

The said Convention as revised will enter into force, with respect to Guinea, on February 5, 1982.

Paris Notification No. 102, of November 5, 1981.

Vienna Agreement (Type Faces) and Protocol

Ratification of the Agreement and Accession to the Protocol

GERMANY (FEDERAL REPUBLIC OF)

The Government of the Federal Republic of Germany deposited, on November 9, 1981, its instrument of ratification of the Vienna Agreement for the Protection of Type Faces and their International Deposit, done at Vienna on June 12, 1973, and its instrument of accession to the Protocol Concerning the Term of Protection under that Agreement.

At the time of depositing its instrument of ratification of the said Agreement, the Government of the Federal Republic of Germany made, with reference to Article 34 of the said Agreement, the following declaration:

"The Federal Republic of Germany grants protection for novel and original type faces in accordance with the provisions of the Law regarding Copyright in Designs and Models (Industrial Design Law) subject to the conditions resulting from the Law of July 6, 1981, concerning the Vienna Agreement of June 12, 1973, for the Protection of Type Faces and their International Deposit (Type Faces Law) (Federal Law Gazette 1981, part II, p. 382)." (Translation)

The said instrument of ratification and the said instrument of accession were accompanied by declarations that the said Agreement and the said Protocol shall also apply to Berlin (West) with effect from the date on which the said Agreement and the said Protocol enter into force for the Federal Republic of Germany.

The date of entry into force of the said Agreement and of the said Protocol will be notified when the required number of ratifications or accessions is reached.

Vienna (Type Faces) Notification No. 3, of November 11, 1981.

Plant Varieties

International Convention for the Protection of New Varieties of Plants

I. Ratifications of the 1978 Act

SOUTH AFRICA

The Government of South Africa deposited, on July 21, 1981, its instrument of ratification of the Act of October 23, 1978, of the International Convention for the Protection of New Varieties of Plants (UPOV) of December 2, 1961, as revised at Geneva on November 10, 1972.

The date of entry into force of the said International Convention will be notified when the required number of ratifications, acceptances, approvals or accessions is reached in accordance with Article 33(1) of the said International Convention.

UPOV Notification No. 20, of July 23, 1981.

DENMARK

The Government of Denmark deposited, on October 8, 1981, its instrument of ratification of the Act of October 23, 1978, of the International Convention for the Protection of New Varieties of Plants (UPOV).

The date of entry into force of the said International Convention is the subject of a separate notification (UPOV Notification No. 22, below).

UPOV Notification No. 21, of October 30, 1981.

II. Entry Into Force of the 1978 Act

The International Convention for the Protection of New Varieties of Plants of December 2, 1961, as revised at Geneva on November 10, 1972, and on October 23, 1978 (hereinafter referred to as "the 1978 Act"), will enter into force on

November 8, 1981,

that is, one month after the deposit of the required number of instruments of ratification, acceptance, approval or accession, in respect of the 1978 Act.

In this connection, it is recalled that instruments of ratification or acceptance in respect of the 1978 Act were deposited

- on November 3, 1980, by New Zealand,
- on November 12, 1980, by the United States of America,
- on May 19, 1981, by Ireland,
- on June 17, 1981, by Switzerland,
- on July 21, 1981, by South Africa,
- on October 8, 1981, by Denmark.

Since the number of instruments deposited is more than the required minimum of five instruments and since three of the said instruments were deposited—as required—by States party to the International Convention for the Protection of New Varieties of Plants of December 2, 1961 (that is, Denmark, South Africa and Switzerland), the conditions set forth in Article 33(1) of the 1978 Act for its entry into force have been fulfilled.

Consequently, and in accordance with the provisions of its Article 33(1), the 1978 Act will enter into force on November 8, 1981, with respect to the six States referred to above.

UPOV Notification No. 22, of October 30, 1981.

WIPO Meetings

Paris Union

Diplomatic Conference on the Revision of the Paris Convention

Second Session
(Nairobi, September 28 to October 24, 1981)

NOTE*

The second session of the Diplomatic Conference on the Revision of the Paris Convention was held in Nairobi from September 28 to October 24, 1981.[1]

It is recalled that the session was held in Nairobi on the invitation of the Government of Kenya, which, free of charge, put the Kenyatta Conference Centre at the disposal of WIPO for the purposes of the Conference and provided staff and transportation facilities for the same purposes.

The arrangements made by the Kenyan Government were excellent, and the Conference, on the last day of its meetings, adopted a motion expressing the deep gratitude of the Conference for the generous hospitality offered by the Government and people of the Republic of Kenya.

The Director General of WIPO, in the name of WIPO, expressed similar sentiments to the high officials of the Government of Kenya who supervised and arranged the services rendered by that Government to the Conference.

The said second session was attended by representatives of 68 countries, 58 of which are members of the Paris Union.

The countries members of the Paris Union which were represented at the session are the following: Algeria, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Congo, Czechoslovakia, Denmark, Egypt, Finland, France, German Democratic Republic, Germany (Federal Republic of), Ghana, Greece, Hungary, Indonesia, Iraq, Ireland, Israel, Italy, Ivory Coast, Japan, Kenya, Liechtenstein, Luxembourg, Mexico, Morocco, Monaco, Netherlands, New Zealand, Nigeria, Norway, Philippines, Poland, Portugal, Republic of Korea, Romania, Senegal, Soviet Union, Spain, Sri Lanka, Sweden, Switzerland, Tanzania, Trinidad and Tobago, Tunisia, Turkey, Uganda, United Kingdom, United States of America, Uruguay, Yugoslavia, Zaire, Zambia.

The countries not members of the Paris Union but members of WIPO which were represented are the following: Chile, China, Colombia, Costa Rica, India, Pakistan, Sudan.

The countries which are members neither of the Paris Union nor of WIPO which were represented are the following: Bangladesh, Lesotho, Rwanda.

The following main officers of the Conference, elected during the first session, were present in Nairobi and continued in their functions during the second session: the President of the Conference, Ambassador A. Sène (Senegal); the Chairman of Main Committee I, Ambassador F. Jiménez Dávila (Argentina); and the Chairman of the Drafting Committee, Mr. G. Vianès (France).

The Chairman of Main Committee II, Mr. J. Szomański (Poland), was in Nairobi only during the first week of the second session. After his departure, he was replaced by Mr. G. Pusztai (Hungary), who was duly elected to this post by the Plenary of the Conference.

The Plenary of the Conference also elected a new Chairman for Main Committee III, in the person of Ambassador W. Schuyler, Jr. (United States of America).

The Credentials Committee elected a new Chairman in the person of Mr. D. J. Coward (Kenya).

The list of participants follows this Note.

The Plenary of the Conference held three meetings, Main Committee I eleven meetings, Main Committee II five meetings, Main Committee III one meeting, the Credentials Committee one meeting, and the Drafting Committee one meeting.

Each of the so-called three Regional Groups held one or more meetings on almost every one of the 21 working days of the second session. The following delegates were the spokesmen of the three Groups: of the Group of Developing Countries, Mr. E.-O. Vanderpuye (Ghana); of Group B (industrialized market economy countries), Mr. P. Braendli (Switzerland); of Group D (industrialized Socialist countries), Mr. I. Nayashkov (Soviet Union).

Main Committee I considered the proposed amendments to Article 5A of the Paris Convention. On the last day of its meetings, agreement was reached on the most controversial questions among the representatives of the Group of Developing Countries, of the majority of Group B, and of Group D. In connection with one of those questions—namely the possibility provided for developing countries to grant, under certain circumstances, an exclusive non-voluntary license to exploit

* Prepared by the International Bureau.

[1] For the Note on the first session, see *Industrial Property*, 1980, p. 144.

the patented invention—the Delegation of the United States of America declared that it could not accept a treaty providing for such a possibility, while, on the same occasion, the Delegations of Australia and New Zealand declared their profound disappointment that the said agreement did not provide for the possibility of all or certain countries other than developing countries having the same possibilities as would be available to developing countries under the said agreement. The Chairman of Main Committee I, in his report to the Plenary of the Conference, said that, because of the results achieved in Main Committee I, the Nairobi session signified enormous progress on the road to the desired revision of the Paris Convention and that the advance achieved in that session should be of particular usefulness to developing countries.

Main Committee II considered the proposed amendments to Article 1 of the Paris Convention, whereas Main Committee III had a preliminary discussion on some of the final clauses. No agreements were reached or decisions made by either of those Main Committees.

In its closing meeting of the second session, the Plenary of the Diplomatic Conference adopted the following decision:

"The Diplomatic Conference...,

"Considering the encouraging progress made in its second session,

"Considering, however, that it was not possible to complete its agenda during the second session,

"Noting that, consequently, it is necessary to continue its work,

"Requests the Assembly of the International Union for the Protection of Industrial Property at its forthcoming session in November 1981 to take the measures necessary for the continuation of the Diplomatic Conference at the earliest possible date and to give the appropriate directions to the International Bureau of Intellectual Property."

LIST OF PARTICIPANTS

I. States

ALGERIA[1]

Head of the Delegation
D. Hadj-Sadok, Directeur général, Institut algérien de normalisation et de propriété industrielle, Alger

Deputy Head of the Delegation
O. Benchehida, Chargé d'affaires, Ambassade d'Algérie, Nairobi

Delegates
L. Zebdji, Chef du Département des inventions, Institut algérien de normalisation et de propriété industrielle, Alger
F. Bouzid, Chef du Département des marques, des dessins et modèles, et des appellations d'origine, Institut algérien de normalisation et de propriété industrielle, Alger
A. Baali, Chef du Bureau des conventions, Ministère des affaires étrangères, Alger
A. Driss, Attaché, Ambassade d'Algérie, Nairobi

ARGENTINA[1]

Head of the Delegation
F. Jiménez Dávila, Embajador, Misión Permanente, Ginebra

Delegates
L. Molina Zuviría, Jefe, Departamento de Patentes de Invención, Secretaría de Desarrollo Industrial, Buenos Aires
J. Pereira, Secretario de Embajada, Misión Permanente, Ginebra
M. A. Fernández, Secretario de Embajada, Embajada de Argentina, Nairobi

AUSTRALIA[1]

Head of the Delegation
C. H. Friemann, Deputy Commissioner of Patents, Deputy Registrar of Trade Marks, Patent, Trade Marks and Designs Office, Canberra

Alternate Head of the Delegation
P. A. D. Smith, Senior Assistant Commissioner (Policy), Patent, Trade Marks and Designs Office, Canberra

Delegates
R. G. Crick, First Secretary, High Commission for Australia, Nairobi
D. K. Johnstone, Second Secretary, High Commission for Australia, Nairobi

AUSTRIA[1]

Head of the Delegation
O. Leberl, President of the Austrian Patent Office, Director General of the Industrial Property Department, Federal Ministry of Trade, Commerce and Industry, Vienna

Alternate Heads of the Delegation
G. Woschnagg, Ambassador, Embassy of Austria, Nairobi
G. Mayer-Dolliner, Superior Counsellor, Industrial Property Department, Federal Ministry of Trade, Commerce and Industry, Vienna

Delegate
M. Breisky, Minister-Counsellor, Embassy of Austria, Nairobi

BANGLADESH

Head of the Delegation
A. N. Hamidullah, High Commissioner, High Commission for Bangladesh, Nairobi

BELGIUM[1]

Head of the Delegation
Vicomte G. Vilain XIIII, Ambassadeur, Ambassade de Belgique, Nairobi

Deputy Head of the Delegation
J. Degavre, Conseiller adjoint, Ministère des affaires économiques, Bruxelles

Delegate
F. Gevers, Président du Conseil supérieur de la propriété industrielle, Bruxelles

BRAZIL[1]

Head of the Delegation
A. Gurgel de Alencar, Minister Counsellor, Deputy Permanent Representative, Permanent Mission, Geneva

Alternate Head of the Delegation
J. A. Marcondes de Carvalho, Assistant to the Head of the Economic Department, Ministry of Foreign Relations, Brasilia

Advisors
C. R. Treiguer, Assistant to the President, National Institute of Industrial Property, Rio de Janeiro
M. F. Cruz Filho, Advisor to the President, National Institute of Industrial Property, Rio de Janeiro

[1] Member of the Paris Union.
[2] Member of WIPO but not of the Paris Union.

BULGARIA[1]

Delegate
K. Iliev, Directeur général, Institut des inventions et des rationalisations, Sofia

CANADA[1]

Head of the Delegation
F. Hay, Director, Research and International Affairs, Department of Consumer and Corporate Affairs, Ottawa

Alternate Head of the Delegation
M. Vujnovich, Commercial Counsellor, High Commission for Canada, Nairobi

Delegates
M. Leir, Economic and Treaty Law Division, Department of External Affairs, Ottawa
R. Thèberge, Research and International Affairs, Department of Consumer and Corporate Affairs, Ottawa
J. Butler, Research and International Affairs, Department of Consumer and Corporate Affairs, Ottawa
M. Johnston, Attorney-at-Law, Malcolm Johnston & Associates, Toronto

CHILE[2]

Delegate
J. Becker Marshall, Secretario de Embajada, Embajada de Chile, Nairobi

CHINA[2]

Head of the Delegation
Tang Zongshun, Director, Legal Affairs Department, Chinese Patent Office, Beijing

Delegates
Guo Shoukang, Associate Professor of Law, Chinese People's University, Beijing
Huang Renxun, Expert, Trademark Bureau, General Administration for Industry and Commeree, Beijing
Wang Zhengfa, Deputy Chief, Patent Agency, Legal Affairs Department, China Council for the Promotion of International Trade, Beijing
Zhou Guoyong, Third Secretary, Embassy of China, Nairobi

COLOMBIA[2]

Head of the Delegation
G. Nannetti Concha, Embajador, Embajador de Colombia, Nairobi

Deputy Head of the Delegation
R. Alzate de Wilches, Superintendente, Superintendencia de Industria y Comereio, Bogotá

CONGO[1]

Head of the Delegation
A. Gabou, Procureur général près la Cour suprême, Conseiller technique, Ministère de la coopération, Brazzaville

Delegates
F. Dibas, Conseiller, Ministère de l'industrie et de la pêche, Brazzaville
J. P. Berri, Directeur des affaires administratives et financières, Ministère de la jeunesse et des sports, Brazzaville
S. Nkakou née Moundziala, Inspectrice d'éducation pbysique et sportive, Directeur administratif du Comité olympique congolais, Brazzaville
D. Ngassaki, Chef de l'antenne nationale de la propriété industrielle, Ministère de l'industrie et du tourisme, Brazzaville
S. Bayalama, Chef de la Section des questions juridiques, Ministère des affaires étrangères, Brazzaville

COSTA RICA[2]

Delegate
O. Cabo, Secretaria, Consulado General de Costa Rica, Nairobi

CZECHOSLOVAKIA[1]

Head of the Delegation
V. Vaniš, Vice-President, Office for Inventions and Discoveries, Prague

Delegates
J. Prošek, Head of Department, Office for Inventions and Discoveries, Prague
V. Špaček, First Secretary, Embassy of Czechoslovakia. Nairobi

DENMARK[1]

Head of the Delegation
K. Skjødt, Director, Patent and Trade Mark Office, Copenhagen

Alternate Head of the Delegation
D. Simonsen, Head of Office, Patent and Trade Mark Office, Copenhagen

EGYPT[1]

Head of the Delegation
M. N. Askalani, Ambassador, Embassy of Egypt, Nairobi

Alternate Head of the Delegation
F. El Ibrashi, Minister Plenipotentiary, Ministry of Foreign Affairs, Cairo

Delegates
M. Abd El Naby, Counsellor, Embassy of Egypt, Nairobi
F. M. Baraka, Counsellor, Embassy of Egypt, Nairobi
T. O. Dinana, First Secretary, Ministry of Foreign Affairs, Cairo

FINLAND[1]

Head of the Delegation
O. Lares, Ambassador, Director for Legal Affairs, Ministry for Foreign Affairs, Helsinki

Deputy Head of the Delegation
T. Kivi-Koskinen, Director General, National Board of Patents and Registration, Helsinki

Delegates
E. Wuori, Deputy Director General, National Board of Patents and Registration, Helsinki
A.-R. Ketokoski, Counsellor, Ministry for Foreign Affairs, Helsinki
M. Huhta, Second Secretary, Ministry for Foreign Affairs, Helsinki

Advisors
V. Vainio, Director, Confederation of Finnish Industries, Helsinki
S. Henriksson, Legal Adviser, Confederation of Finnish Industries, Helsinki

FRANCE[1]

Head of the Delegation
R. Duzer, Ambassadeur extraordinaire et plénipotentiaire, Ambassade de France, Nairobi

Alternate Head of the Delegation
G. Vianès, Chef du Service de la propriété industrielle, Directeur de l'Institut national de la propriété industrielle, Ministère de l'industrie, Paris

Delegates
M. Hiance, Conseiller juridique, Institut national de la propriété industrielle, Paris
L. Nicodème, Secrétaire-adjoint principal des affaires étrangères, Direction des affaires économiques et financières, Ministère des relations extérieures, Paris
R. Tinlot, Inspecteur général, Ministère de la consommation, Paris

Advisors
A. Françon, Professeur à l'Université de Paris II, Paris
P. Macé, Conseiller économique et commercial, Ambassade de France, Nairobi
P. Rouyrre, Membre du Conseil supérieur de la propriété industrielle, Paris

GERMAN DEMOCRATIC REPUBLIC[1]

Head of the Delegation
D. Schack, Head, International Cooperation Department, Office for Inventions and Patents, Berlin

Delegates
F. Jonkisch, Head, Legal Main Department, Office for Inventions and Patents, Berlin
M. Förster, Interpreter, Office for Inventions and Patents, Berlin

GERMANY (FEDERAL REPUBLIC DF)[1]

Head of the Delegation
A. Kühn, Ambassador, Embassy of the Federal Republic of Germany, Nairobi

Alternate Head of the Delegation
E. Steup, Head of Section, Federal Ministry of Justice, Bonn

Delegates
K.-P. Klaiber, Counsellor, Embassy of the Federal Republic of Germany, Nairobi
M. Aúz Castro, Counsellor, German Patent Office, Munich

Advisors
G. Albrechtskirchinger, Lawyer, Frankfurt
H. Bezzenberger, Frankfurt
E. Fischer, Lawyer, Frankfurt
K.-J. Heimbach, Leverkusen
H. P. Kunz-Hallstein, Lawyer, Max Planck Institute for Foreign and International Patent, Copyright and Competition Law, Munich

GHANA[1]

Head of the Delegation
E. Y. Agorsor, Acting High Commissioner, High Commission for Ghana, Nairobi

Alternate Head of the Delegation
D. M. Mills, Registrar-General, Registrar-General's Department, Ministry of Justice, Accra

Deputy Head of the Delegation
E.-D. Vanderpuye, Counsellor, Permanent Mission, Geneva

GREECE[1]

Head of the Delegation
A. Afenduli, Ambassador, Embassy of Greece, Nairobi

Delegate
D. Hadjimichalis, Special Legal Adviser, Ministry of Commerce, Athens

Advisor
A. Argyriadis, Professor of Law, University of Athens, Chairman, Legislative Committee for Industrial Property, Athens

HUNGARY[1]

Head of the Delegation
G. Pusztai, Président, Office national des inventions, Budapest

Delegates
J. Bobrovszky, Chef de Département, Office national des inventions, Budapest
G. Bánrévy, Chef adjoint de Département, Ministère du commerce extérieur, Budapest
L. Mohácsy, Chef adjoint de Département, Comité national pour le développement technique, Budapest
G. Szénási, Deuxième Secrétaire, Ministère des affaires étrangères, Budapest

INDIA[2]

Head of the Delegation
S. M. Ghosh, Secretary, Department of Industrial Development, New Delhi

Delegates
S. D. Jha, Joint Secretary, Ministry of Law, New Delhi
A. Malhotra, Second Secretary, High Commission for India, Nairobi

INDONESIA[1]

Head of the Delegation
M. Sidik, Minister Counsellor, Permanent Mission, Geneva

Alternate Head of the Delegation
W. Martosewojo, Director, Directorate of Patent and Copyright, Department of Justice, Jakarta

Delegates
H. Reksodiputro, Third Secretary, Permanent Mission, Geneva
S. Sikar, Official of the Directorate of Treaties and Legal Affairs, Department of Foreign Affairs, Jakarta

IRAQ[1]

Head of the Delegation
Z. Haidar, Ambassador, Embassy of Iraq, Nairobi

Delegates
A. S. Ahmed, Commercial Counsellor, Embassy of Iraq, Nairobi
H. M. Amin, First Secretary, Embassy of Iraq, Nairobi
A. H. Sarhan, Administrative Officer, Embassy of Iraq, Nairobi

IRELAND[1]

Head of the Delegation
M. J. Quinn, Controller of Patents, Designs and Trade Marks, Patents Office, Dublin

Alternate Head of the Delegation
F. McCarthy, Legal Advisor, Office of the Attorney General, Dublin

Delegate
B. Lyons, First Secretary, Embassy of Ireland, Nairobi

ISRAEL[1]

Delegates
Y. Tsur, Commissioner of Patents, Designs and Trade Marks, Patent Office, Ministry of Justice, Jerusalem
M. Yedid, Permanent Representative, Permanent Mission of Israel to the UNEP and Habitat, Nairobi

ITALY[1]

Head of the Delegation
A. V. de Mohr Sunnegg Morberg, Premier Conseiller, Mission permanente, Genève

Delegate
R. Boros, Direction générale, Programmation et développement, Ministère des participations d'Etat, Rome

Advisor
C. Fiammenghi, Avocat, Expert du Collège italien des consultants en propriété industrielle et du Groupe italien de l'Association internationale pour la protection de la propriété industrielle (AIPPI), Rome

IVORY COAST[1]

Head of the Delegation
B. T. Aka, Responsable du Service de la technologie et de l'information industrielle, Ministère du plan et de l'industrie, Abidjan

Alternate Head of the Delegation
K. F. Ekra, Conseiller, Mission permanente, Genève

JAPAN[1]

Head of the Delegation
T. Kosugi, Ambassador Extraordinary and Plenipotentiary, Embassy of Japan, Nairobi

Alternate Head of the Delegation
H. Shimada, Director-General, Patent Office, Tokyo

Alternate Delegates
I. Shamoto, Director-General, Department of Appeal, Patent Office, Tokyo
S. Sato, Official, International Conventions Division, Treaties Bureau, Ministry of Foreign Affairs, Tokyo
S. Uemura, First Secretary, Permanent Mission, Geneva

Advisors
M. Fujioka, Deputy Director, General Administration Division, General Administration Department, Patent Office, Tokyo
M. Hayama, Second Secretary, Embassy of Japan, Nairobi
Y. Numazawa, Official, Specialized Agencies Division, United Nations Bureau, Ministry of Foreign Affairs, Tokyo
S. Imai, Second Secretary, Embassy of Japan, Nairobi
K. Ishimaru, Director, Japan Trade Center, Düsseldorf

KENYA[1]

Head of the Delegation
J. K. Kamere, Attorney General, Attorney General's Chambers, Nairobi

Alternate Head of the Delegation
D. J. Coward, Registrar-General, Registrar-General's Department, Nairobi

Delegate
J. N. King'Arui, Deputy Registrar-General, Registrar-General's Department, Nairobi

LESOTHO

Delegate
H. S. Nyankale, Part-time Lecturer, National University of Lesotho, Maseru

LIECHTENSTEIN[1]

Head of the Delegation
A. Ritz, Collaborateur diplomatique, Vaduz

LUXEMBOURG[1]

Head of the Delegation
J. P. Kleiweg de Zwaan, Conseiller, Ambassade des Pays-Bas, Nairobi

MEXICO[1]

Head of the Delegation
G. Zárate Tristain, Director General de Invenciones y Marcas, Secretaría de Patrimonio y Fomento Industrial, México

Alternate Delegates
J. M. Terán Contreras, Director General del Derecho de Autor, Secretaría de Educación Pública, México
J. Cordero Rossell, Consejero, Embajada de México, Nairobi

Advisors
A. Cantoral Tellaecbe, Subdirector de Operaciones, Dirección General de Invenciones y Marcas, Secretaría de Patrimonio y Fomento Industrial, México
V. C. García Moreno, Asesor de Asuntos Internacionales de Derecho de Autor, Secretaría de Educación Pública, México
J. A. Flores Cano, Asesor Jurídico de Derecho de Autor, Secretaría de Educación Pública, México
V. J. Blanco Labra, Asesor Jurídico, México

MONACO[1]

Head of the Delegation
E. R. Franzi, Chargé de mission, Département des finances et de l'économie, Monaco

MOROCCO[1]

Head of the Delegation
A. Skalli, Ambassadeur, Mission permanente, Genève

Alternate Heads of the Delegation
M. S. Abderrazik, Directeur, Office marocain de la propriété industrielle, Casablanca
T. Rhoufrani, Chargé d'affaires, Ambassade du Maroc, Nairobi

Delegate
A. Bojji, Deuxième Secrétaire, Mission permanente, Genève

NETHERLANDS[1]

Head of the Delegation
E. Tydeman, Ambassador Extraordinary and Plenipotentiary, Embassy of the Netherlands, Nairobi

Deputy Head of the Delegation
J. Dekker, President, Patent Office, Rijswijk

Delegates
W. Neervoort, Member, Patent Office, Rijswijk
H. J. G. Pieters, Advisor on Industrial Property Matters, Legislation and Other Legal Affairs Department, Ministry of Economic Affairs, The Hague
E. L. M. Kalshoven van Tijen, Treaties Preparation Section, Ministry of Foreign Affairs, The Hague
F. E. R. Rhodius, First Secretary, Embassy of the Netherlands, Nairobi

Advisor
D. Hijmans, Patent Agent, Rijswijk

NEW ZEALAND[1]

Head of the Delegation
R. M. Richards, Deputy Permanent Representative, Permanent Mission, Geneva

NIGERIA[1]

Head of the Delegation
I. A. Owoyele, Principal Assistant Registrar, Trade Marks, Patents, Designs & Copyright Division, Federal Ministry of Commerce, Lagos

NORWAY[1]

Head of the Delegation
A. G. Gerhardsen, Director General, Norwegian Patent Office, Oslo

Alternate Head of the Delegation
T. Alfsen, Head of Division, Ministry of Industry, Oslo

Advisors
J. Smith, Deputy Director General, Norwegian Patent Office, Oslo
B. Bye, Counsellor, Ministry of Foreign Affairs, Oslo

PAKISTAN[2]

Head of the Delegation
M. A. Khan, Chargé d'affaires, a.i., Embassy of Pakistan, Nairobi

Delegate
P. Nighat, Commercial Attaché, Embassy of Pakistan, Nairobi

PHILIPPINES[1]

Head of the Delegation
F. F. Santos, First Secretary, Permanent Mission, Geneva

Delegate
Z. M. Alberto, Second Secretary and Consul, Embassy of the Phillippines, Nairobi

POLAND[1]

Head of the Delegation
J. Witek, Ambassadeur extraordinaire et plénipotentiaire, Ambassade de Pologne, Nairobi

Deputy Head of the Delegation
J. Szomański, Président, Office des brevets, Varsovie

Delegate
B. Rokicki, Chef de la Section de la coopération internationale, Office des brevets, Varsovie

PORTUGAL[1]

Head of the Delegation
J. Pereira Bastos, Ambassadeur, Ambassade du Portugal, New Delhi

Alternate Head of the Delegation
J. Mota Maia, Directeur général, Institut national de la propriété industrielle, Lisbonne

Delegates
R. Morais Serrão, Directeur, Service des marques, Institut national de la propriété industrielle, Lisbonne
J. Van-Zeller Garin, Conseiller juridique, Institut national de la propriété industrielle, Lisbonne
J. Pereira da Cruz, Agent officiel de la propriété industrielle, Lisbonne

REPUBLIC OF KOREA[1]

Head of the Delegation
Sang Sub Lee, Administrator, Office of Patents Administration, Seoul

Alternate Head of the Delegation
Suk-Jae Kang, Ambassador Extraordinary and Plenipotentiary, Embassy of the Republic of Korea, Nairobi

Delegates
Dae-Hwa Choi, Counsellor, Embassy of the Republic of Korea, Nairobi

Boo-Hong Hwang, Director, Treaties Division II, Ministry of Foreign Affairs, Seoul
Kwang-Sun Chung, Officer of Legal Affairs, Office of Patents Administration, Seoul

ROMANIA [1]

Head of the Delegation
N. Neagos, Premier Secrétaire, Ambassade de Roumanie, Khartoum

Alternate Head of the Delegation
M. N. Velicescu, Chef de la Représentation économique de la Roumanie, Nairobi

RWANDA

Head of the Delegation
I. Munyeshyaka, Ambassadeur, Ambassade du Rwanda, Nairobi

Delegate
S. Ndimubanzi, Premier Conseiller, Ambassade du Rwanda, Nairobi

SENEGAL [1]

Head of the Delegation
A. Sène, Ambassadeur, Représentant permanent, Mission permanente, Genève

Delegate
A. M. Dieng, Ingénieur chargé de la propriété industrielle, Direction de l'industrie, Ministère du développement industriel, Dakar

SOVIET UNION [1]

Head of the Delegation
I. Nayashkov, Chairman, USSR State Committee for Inventions and Discoveries, Moscow

Deputy Head of the Delegation
V. Zubarev, Director, External Relations Department, USSR State Committee for Inventions and Discoveries, Moscow

Delegates
V. Rochtchine, Counsellor, USSR Council of Ministers, Moscow
L. Kostikov, Assistant to the Chairman, USSR State Committee for Inventions and Discoveries, Moscow
I. Gyrdymov, Deputy Director, External Relations Department, USSR State Committee for Inventions and Discoveries, Moscow
M. Boguslavsky, Professor, State and Law Institute, USSR Academy of Sciences, Moscow
A. I. Korchma, Attaché, Ministry of Foreign Affairs, Moscow

Advisors
Y. Smirnov, Head, Licensing Department, USSR State Committee for Inventions and Discoveries, Moscow
R. Shabanov, Head, Department of Trademarks and Industrial Designs, USSR State Committee for Inventions and Discoveries, Moscow
V. Dolmatov, First Secretary, USSR Permanent Mission to International Organizations, Nairobi
L. Safonov, First Secretary, Embassy of the Soviet Union, Nairobi

SPAIN [1]

Head of the Delegation
J. Fernández de Ybarra Moreno, Director General, Registro de la Propiedad Industrial, Madrid

Alternate Head of the Delegation
J. Delicado Montero-Rios, Director, Departamento de Estudios y Relaciones Internacionales, Registro de la Propiedad Industrial, Madrid

Delegates
S. Jessel, Directora, Departamento de Patentes y Modelos, Registro de la Propiedad Industrial, Madrid
A. Casado Cerviño, Jefe, Servicio de Relaciones Internacionales, Registro de la Propiedad Industrial, Madrid

Advisor
A. Bercovitz, Catedrático de Derecho Mercantil, Universidad Nacional de Educación a Distancia, Ciudad Universitaria, Madrid

SRI LANKA [1]

Head of the Delegation
S. Poologasingam, Acting High Commissioner, High Commission for Sri Lanka, Nairobi

SUDAN [2]

Head of the Delegation
A.M.O. Yassin, Registrar-General, Commerical Registrar General Office (Administration of Companies), Attorney General's Chambers, Khartoum

Delegate
T.F. Estafanos, Registrar of Trade Marks, Commercial Registrar General Office (Administration of Companies), Attorney General's Chambers, Khartoum

SWEDEN [1]

Head of the Delegation
G. Borggård, Director General, Royal Patent and Registration Office, Ministry of Commerce, Stockholm

Deputy Head of the Delegation
S. Norberg, Under-Secretary for Legal Affairs and Administration, Ministry of Commerce, Stockholm

Delegates
C. Uggla, President, Court of Patent Appeals, Stockholm
M. Jacobsson, Legal Adviser, Ministry of Justice, Stockholm
M. Wilkens, Counsellor, Embassy of Sweden, Nairobi

Advisors
L. Körner, Director, Federation of Swedish Industries, Stockholm
T. Hård, Secretary, Federation of Swedish Industries, Stockholm

SWITZERLAND [1]

Head of the Delegation
P. Braendli, Directeur, Office fédéral de la propriété intellectuelle, Berne

Alternate Heads of the Delegation
R. Kämpf, Chef de la Section du droit des brevets et des dessins et modèles, Office fédéral de la propriété intellectuelle, Berne
F. Balleys, Chef de la Section des marques, Office fédéral de la propriété intellectuelle, Berne

Delegates
J.-M. Salamolard, Adjoint scientifique, Office fédéral de la propriété intellectuelle, Berne
H. K. Züst, Attaché, Ambassade de Suisse, Nairobi
M. Kummer, Secrétaire du Directoire de l'Union suisse du commerce et de l'industrie, Zurich

TANZANIA [1]

Head of the Delegation
G. B. Liundi, Minister Counsellor, Permanent Mission, Geneva

Delegate
L. T. Kalunga, Principal State Attorney, Ministry of Justice, Dar es Salaam

TRINIDAD AND TOBAGO [1]

Head of the Delegation
W. S. Naimool, Ambassador, Permanent Representative, Permanent Mission, Geneva

Alternate Head of the Delegation
V. Lasse, Counsellor, Permanent Mission, Geneva

TUNISIA [1]

Head of the Delegation
A. Miladi, Directeur, Ministère de l'économie nationale, Tunis

TURKEY [1]

Head of the Delegation
N. Karaköylü, Ambassador, Embassy of Turkey, Nairobi

Deputy Head of the Delegation
N. Yosmaoğlu, Director of Section, General Directorate of Industrial Property, Ministry of Industry and Technology, Ankara

UGANDA[1]

Head of the Delegation
G. A. M. Ndagije, Acting Registrar General, Ministry of Justice, Kampala

Delegate
A. E. Kaboggoza-Musoke, Assistant Registrar General, Ministry of Justice, Kampala

UNITED KINGDOM[1]

Head of the Delegation
I. J. G. Davis, Comptroller General of Patents, Designs and Trade Marks, The Patent Office, London

Deputy Head of the Delegation
V. Tarnofsky, Assistant Comptroller, The Patent Office, London

Delegates
L. Lewis, Senior Examiner, The Patent Office, London
J. W. B. Richards, First Secretary, Permanent Mission, Geneva
R. K. Gardiner, Assistant Legal Adviser, Foreign & Commonwealth Office, London

Advisors
J. M. Aubrey, Courtaulds Limited, London
E. R. Wenman, Imperial Chemical Industries Limited, London
C. G. Wickham, Chairman, Industrial Property Panel, Confederation of British Industry, London

UNITED STATES OF AMERICA[1]

Head of the Delegation
W. E. Schuyler, Jr., Ambassador, Department of State, Washington, D. C.

Alternate Heads of the Delegation
M. K. Kirk, Director, Office of Legislation and International Affairs, Patent and Trademark Office, Department of Commerce, Washington, D. C.
H. J. Winter, Director, Office of Business Practices, Bureau of Economic and Business Affairs, Department of State, Washington, D. C.

Advisors
L. Schroeder, Industrial Property Specialist, Office of Legislation and International Affairs, Patent and Trademark Office, Department of Commerce, Washington, D.C.
G. R. Clark, Sunbeam Corporation, Oak Brook, Illinois
J. A. DeGrandi, Beveridge, DeGrandi, Kline and Lunsford, Washington, D.C.
L. W. Evans, Standard Oil Company, Cleveland, Ohio
B. Pattishall, Pattishall, McAuliffe and Hofstetter, Chicago, Illinois
A. S. Cooper, Schuyler, Banner, Birch, McKie and Beckett, Washington, D.C.
R. C. Witte, Procter and Gamble, Cincinnati, Ohio
D. R. Dunner, Finnegan, Henderson, Farabow, Garrett and Dunner, Washington, D.C.
T. E. Smith, Lee, Smith and Jager, Chicago, Illinois

URUGUAY[1]

Delegate
J. C. Speranza, Asesor Letrado de la Dirección de la Propiedad Industrial, Ministerio de Industria y Energía, Montevideo

YUGOSLAVIA[1]

Head of the Delegation
D. Bošković, Director, Federal Patent Office, Belgrade

Alternate Head of the Delegation
R. Terzić, Ambassador, Embassy of Yugoslavia, Nairobi

Delegates
D. Ćemalović, Senior Adviser, Federal Patent Office, Belgrade
Z. Baštić, First Secretary, Embassy of Yugoslavia, Nairobi

ZAIRE[1]

Head of the Delegation
M. Ndeze, Ambassadeur, Ambassade du Zaïre, Nairobi

Delegates
B. Boloto-Byongo, Conseiller du Premier Commissaire d'Etat chargé des questions économiques et de gestion des entreprises publiques, Kinshasa
K. Kivuath Kaj, Conseiller principal au Conseil législatif, Kinshasa

ZAMBIA[1]

Head of the Delegation
J. M. Chimba, High Commissioner, High Commission for Zambia, Nairobi

Deputy Head of the Delegation
A. R. Zikonda, Registrar of Patents, Trade Marks, Companies and Business Names, Ministry of Commerce and Industry, Lusaka

Delegate
M. C. J. Kunkuta, Deputy Registrar of Patents, Trade Marks, Companies and Business Names, Ministry of Commerce and Industry, Lusaka

II. Intergovernmental Organizations

United Nations: United Nations Industrial Development Organization (UNIDO)
R. Kloepzig, Senior Industrial Development Officer, Unido Technology Programme, Vienna
G. Bekele, Senior Industrial Development Field Adviser, Nairobi
P. K. F. Herrmann, Junior Professional Officer, Nairobi

United Nations: Office of the United Nations High Commissioner for Refugees (UNHCR)
I. Ngandu, UNHCR Representative, Nairobi
M. den Hond, Legal Protection Officer, Nairobi

African Intellectual Property Organization (OAPI)
K. A. Johnson, Chef du Service des marques, des dessins et modèles industriels et des appellations d'origine, Yaoundé

European Communities
B. Harris, Chef de la Division de la propriété intellectuelle, Direction générale du marché intérieur et des affaires industrielles, Commission des Communautés européennes, Bruxelles
B. Schwab, Administrateur principal, Direction générale du marché intérieur et des affaires industrielles, Commission des Communautés européennes, Bruxelles
U. Brühann, Administrateur, Direction générale du marché intérieur et des affaires industrielles, Commission des Communautés européennes, Bruxelles
A. McClellan, Conseiller juridique, Service juridique, Commission des Communautés européennes, Bruxelles
J. Bourgeois, Conseiller juridique, Service juridique, Commission des Communautés européennes, Bruxelles
E. Boullez, Administrateur, Direction générale de l'agriculture, Commission des Communautés européennes, Bruxelles
L. Salzmann, Economic Adviser, Delegation of the Commission of the European Communities, Nairobi

European Patent Organisation (EPO)
J. C. A. Staehelin, Vice-President, Directorate General 5, Legal Affairs and International Relations, Munich
U. J. Schatz, Principal Director, International Affairs, Munich

European Space Agency (ESA)
R. Oosterlinck, Chef du Service de la propriété intellectuelle, Paris

Industrial Property Organization for English-Speaking Africa (ESARIPO)
J. H. Ntabgoba, Director, Nairobi
E. Lartey, Chief Technical Adviser, Nairobi

Secretariat of the Interim Committee for the Community Patent
V. Scordamaglia, Head of Division, Brussels
J.-F. Faure, Administrator, Brussels
J. Huber, Administrator, Brussels
K. Mellor, Administrator, Brussels

III. Non-Governmental International Organizations

Asian Patent Attorneys Association (APAA)
K. Asamura, Patent Attorney, Tokyo
N. Kato, Patent Attorney, Tokyo
F. Ohtsuka, Patent Attorney, Tokyo
Y. Uchida, Patent Attorney, Tokyo

International Association for the Protection of Industrial Property (IAPIP)
G. Gaultier, Rapporteur général de l'AIPPI, Paris
M. Chome, Vice-président de l'AIPPI, Bruxelles

International Chamber of Commerce (ICC)
G. Gansser, Directeur adjoint, Ciba-Geigy, Bâle
B. J. Kish, International Patent Counsel, Merck and Co., Inc., Rahway, New Jersey

International Federation of Inventors' Associations (IFIA)
F. Burmester, Deutscher Erfinderverband e.v. (DEV), Nürnberg
S.-E. Angeri, Djursholm

Licensing Executives Society (International) (LES)
P. N. Mandros, Burns, Doane, Swecker and Mathis, Alexandria, Virginia

Pacific Industrial Property Association (PIPA)
K. Dno, President of the Japanese Group of PIPA, General Manager, Patent Department, Kyowa Hakko Kogyo Co., Ltd., Tokyo
K. F. Jorda, Corporate Patent Counsel, Ciba-Geigy Corporation, Ardsley, New York
A. D. Lourie, Vice-President, Smith Kline Corporation, Philadelphia, Pennsylvania

Union of Industries of the European Community (UNICE)
G. Gansser, Directeur adjoint, Ciba-Geigy, Bâle

United States Trademark Association (USTA)
G. W. Cooper, Attorney-at-Law, New York

IV. Officers and Committee

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President: A. Sène (Senegal)
Vice-Presidents: F. Hay (Canada); F. El Ibrashi (Egypt); T. Kosugi (Japan); G. Zárate Tristain (Mexico); J. Dekker (Netherlands); J. Hemmerling (German Democratic Republic); I. Nayashkov (Soviet Union); J. Speranza (Uruguay); D. Bošković (Yugoslavia)
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Credentials Committee
Chairman: D. J. Coward (Kenya)
Vice-Chairmen: J. Bobrovszky (Hungary); R. Boros (Italy)
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Members: Austria, Bulgaria, German Democratic Republic, Hungary, Indonesia, Italy, Kenya, Switzerland, Uruguay

Main Committee I
Chairman: F. Jiménez Dávila (Argentina)
Vice-Chairmen: G. Pusztai (Hungary); C. Uggla (Sweden)
Secretary: L. Baeumer (WIPO)

Main Committee II
Chairman: J. Szomański (Poland) (until October 15, 1981), G. Pusztai (Hungary) (as from October 15, 1981)
Vice-Chairmen: P. A. Smith (Australia); S.-J. Kang (Republic of Korea)
Secretary: V. Moujjevlev (WIPD)

Main Committee III
Chairman: W. Schulyer, Jr. (United States of America)
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Vice-Chairmen: D. Hadj-Sadok (Algeria); J. Delicado Montero-Rios (Spain); D. Schack (German Democratic Republic)
Secretary: F. Curchod (WIPO)

Members: Algeria, Czechoslovakia, France, German Democratic Republic, Germany (Federal Republic of), Poland, Soviet Union, Spain, Tanzania, Trinidad and Tobago, United Kingdom, Yugoslavia.

Ex officio Chairman of Main Committee I: F. Jiménez-Dávila (Argentina); Chairman of Main Committee II: J. Szomański (Poland) (until October 15, 1981), G. Pusztai (Hungary) (as from October 15, 1981); Chairman of Main Committee III: W. Schuyler, Jr. (United States of America).

Steering Committee
President of the Conference: A. Sène (Senegal)
Chairman of the Credentials Committee: D. J. Coward (Kenya)
Chairman of Main Committee I: F. Jiménez-Dávila (Argentina)
Chairman of Main Committee II: J. Szomański (Poland) (until October 15, 1981); G. Pusztai (Hungary) (as from October 15, 1981)
Chairman of Main Committee III: W. Schuyler, Jr. (United States of America)
Chairman of the Drafting Committee: G. Vianès (France)
Secretary: K. Pfanner (WIPO)

V. International Bureau of the World Intellectual Property Organization (WIPO)

A. Bogsch, Director General
K. Pfanner, Deputy Director General
M. Porzio, Deputy Director General
L. Baeumer, Director, Industrial Property Division
G. Ledakis, Legal Counsel
I. Thiam, Director, External Relations Division
F. Curchod, Head, Industrial Property Law Section, Industrial Property Division
V. Moujjevlev, Translator-Reviser, Languages Section
I. Pike-Wanigasekara, Senior Assistant, Office of the Director General
M. Qayoom, Head, Conferences and Common Services Section
J. Quashie-Idun, Senior Program Officer, Development Cooperation Division
H. Rossier, Head, Mail and Documents Section
F. Simon, Legal Officer, Developing Countries Section, Industrial Property Division
I. Perez-Fernández, Translator, Languages Section

Protection of the Olympic Symbol

Diplomatic Conference for the Adoption of a Treaty on the Protection of the Olympic Symbol

(Nairobi, September 24 to 26, 1981)

NOTE*

On the invitation of the Government of Kenya, WIPO organized in Nairobi the Diplomatic Conference for the Adoption of a Treaty on the Protection of the Olympic Symbol. The Conference took place from September 24 to 26, 1981, at the Kenyatta Conference Centre in Nairobi.

Sixty-three States were represented by some 200 delegates. The International Olympic Committee was also represented.

The President of the Conference was the Honorable J.K. Kamere, Attorney-General of Kenya, assisted, as Vice-President, by Mr. D.J. Coward, Registrar-General of Kenya. The list of participants follows this Note.

The Diplomatic Conference adopted a multilateral treaty entitled "Nairobi Treaty on the Protection of the Olympic Symbol." The adoption took place on September 26, 1981.

The Treaty contains ten Articles. It is reproduced in this month's *Industrial Property Laws and Treaties* (see MULTILATERAL TREATIES—Text 1-007).

All States which are party to the Treaty are under the obligation to protect the Olympic symbol—five interlaced rings—against use for commercial purposes (in advertisements, on goods, etc.) without the authorization of the International Olympic Committee, which is proprietor of the Olympic symbol.

The Treaty also provides that, whenever a license fee is paid to the International Olympic Committee for its authorization to use the Olympic symbol for commercial purposes, part of the revenue must go to the interested national Olympic committees.

Thus, the Treaty should create a new and very important source of revenue for the national Olympic committees—particularly for the national committees in developing countries—for the purposes of establishing new sports facilities, such as arenas and swimming pools, and of paying the expenses of athletes of developing countries connected with their travel and participation in the Olympic Games.

The text of the Nairobi Treaty on the Protection of the Olympic Symbol was signed in Nairobi on behalf of the following 21 States: Argentina, Austria, Chile, Congo, Ghana, Greece, Hungary, Indonesia, Israel, Ivory Coast, Kenya, Mexico, Poland, Portugal, Romania, Senegal, Soviet Union, Spain, Sri Lanka, Switzerland, Trinidad and Tobago. The text remains open for signature at Nairobi until December 31, 1982, and thereafter at Geneva until June 30, 1983.

The Treaty may be signed by any country member of WIPO or the Paris Union. However, any country member of the United Nations or any of the Specialized Agencies brought into relationship with the United Nations (even if it could not or did not sign the Treaty) may become a party to it.

The instruments of ratification, acceptance, approval or accession are to be deposited with the Director General of WIPO.

* Prepared by the International Bureau.

LIST OF PARTICIPANTS

I. States

ALGERIA

Head of the Delegation

O. Benchehida, Chargé d'affaires, Ambassade d'Algérie, Nairobi

Delegate

A. Driss, Attaché, Ambassade d'Algérie, Nairobi

ARGENTINA

Head of the Delegation

F. Jiménez Dávila, Embajador, Misión Permanente, Ginebra

Delegates

L. Molina Zuviría, Jefe, Departamento de Patentes de Invención, Secretaría de Desarrollo Industrial, Buenos Aires

J. Pereira, Secretario de Embajada, Misión Permanente, Ginebra

M. A. Fernández, Secretario de Embajada, Embajada de Argentina, Nairobi

AUSTRALIA

Head of the Delegation

C. H. Friemann, Deputy Commissioner of Patents, Deputy Registrar of Trade Marks, Patent, Trade Marks and Designs Office, Canberra

Alternate Head of the Delegation

P. A. D. Smith, Senior Assistant Commissioner (Policy), Patent, Trade Marks and Designs Office, Canberra

Delegates

R. G. Crick, First Secretary, High Commission for Australia, Nairobi

D. K. Johnstone, Second Secretary, High Commission for Australia, Nairobi

AUSTRIA

Head of the Delegation

G. Mayer-Dolliner, Superior Counsellor, Industrial Property Department, Federal Ministry of Trade, Commerce and Industry, Vienna

Delegate

M. Breisky, Minister-Counsellor, Embassy of Austria, Nairobi

BANGLADESH

Head of the Delegation

A. N. Hamidullah, High Commissioner, High Commission for Bangladesh, Nairobi

CANADA

Head of the Delegation

F. Hay, Directeur, Recherche et affaires internationales, Ministère de la consommation et des corporations, Ottawa

Deputy Head of the Delegation

M. Vujnovich, Conseiller (Affaires commerciales), Haut-Commissariat du Canada, Nairobi

Delegates

M. Leir, Direction du droit économique et des traités, Ministère des affaires extérieures, Ottawa

R. Thèberge, Recherche et affaires internationales, Ministère de la consommation et des corporations, Ottawa

J. Butler, Recherche et affaires internationales, Ministère de la consommation et des corporations, Ottawa

CHILE

Delegate

J. Becker Marshall, Secretario de Embajada, Embajada de Chile, Nairobi

CHINA

Head of the Delegation

Tang Zongshun, Director, Legal Affairs Department, Chinese Patent Office, Beijing

Delegates

Guo Shoukang, Associate Professor of Law, Chinese People's University, Beijing

Huang Renxun, Expert, Trademark Bureau, General Administration for Industry and Commerce, Beijing

Wang Zhengfa, Deputy Chief, Patent Agency, Legal Affairs Department, China Council for the Promotion of International Trade, Beijing

Zhou Guoyong, Third Secretary, Embassy of China, Nairobi

COLOMBIA

Head of the Delegation

G. Nannetti Concha, Embajador, Embajada de Colombia, Nairobi

Deputy Head of the Delegation

R. Alzate de Wilches, Superintendente, Superintendencia de Industria y Comercio, Bogotá

CONGO

Head of the Delegation

A. Gabou, Procureur général près la Cour suprême, Conseiller technique, Ministère de la coopération, Brazzaville

Delegates

F. Dibas, Conseiller, Ministère de l'industrie et de la pêche, Brazzaville

J. P. Berri, Directeur des affaires administratives et financières, Ministère de la jeunesse et des sports, Brazzaville

S. Nkakou née Moundziala, Inspectrice d'éducation physique et sportive, Directeur administratif du Comité olympique congolais, Brazzaville

D. Ngassaki, Chef de l'antenne nationale de la propriété industrielle, Ministère de l'industrie et du tourisme, Brazzaville

S. Bayalama, Chef de la Section des questions juridiques, Ministère des affaires étrangères, Brazzaville

COSTA RICA

Delegate

O. Cabo, Secretaria, Consulado General de Costa Rica, Nairobi

CZECHOSLOVAKIA

Head of the Delegation

V. Vaniš, Vice-President, Office for Inventions and Discoveries, Prague

Delegates

J. Prošek, Head of Department, Office for Inventions and Discoveries, Prague

V. Špaček, First Secretary, Embassy of Czechoslovakia, Nairobi

EGYPT

Head of the Delegation

M. N. Askalani, Ambassador, Embassy of Egypt, Nairobi

Alternate Head of the Delegation

M. Abd El Naby, Counsellor, Embassy of Egypt, Nairobi

Delegates

F. M. Baraka, Counsellor, Embassy of Egypt, Nairobi

T. O. Dinana, First Secretary, Ministry of Foreign Affairs, Cairo

FINLAND

Head of the Delegation

O. Lares, Ambassador, Director for Legal Affairs, Ministry for Foreign Affairs, Helsinki

Delegates

A.-R. Ketokoski, Counsellor, Ministry for Foreign Affairs, Helsinki

M. Huhta, Second Secretary, Ministry for Foreign Affairs, Helsinki

Advisor

V. Vainio, Director, Confederation of Finnish Industries, Helsinki

FRANCE

Head of the Delegation

R. Duzer, Ambassadeur extraordinaire et plènipotentiaire, Ambassade de France, Nairobi

Alternate Heads of the Delegation

G. Vianès, Chef du Service de la propriété industrielle, Directeur de l'Institut national de la propriété industrielle, Ministère de l'industrie, Paris

L. Nicodème, Secrétaire-adjoint principal des affaires étrangères, Direction des affaires économiques et financières, Ministère des relations extérieures, Paris

GERMAN DEMOCRATIC REPUBLIC

Head of the Delegation

D. Schack, Head, International Cooperation Department, Office for Inventions and Patents, Berlin

Delegates

F. Jonkisch, Head, Legal Main Department, Office for Inventions and Patents, Berlin

M. Förster, Interpreter, Office for Inventions and Patents, Berlin

GERMANY (FEDERAL REPUBLIC OF)

Head of the Delegation

E. Steup, Head of Section, Federal Ministry of Justice, Bonn

Alternate Head of the Delegation

K.-P. Klaiber, Counsellor, Embassy of the Federal Republic of Germany, Nairobi

Delegate

M. Aúz Castro, Counsellor, German Patent Office, Munich

GHANA

Head of the Delegation
E. Y. Agorsor, Acting High Commissioner, High Commission for Ghana, Nairobi

Alternate Head of the Delegation
D. M. Mills, Registrar-General, Registrar-General's Department, Ministry of Justice, Accra

Deputy Head of the Delegation
E.-O. Vanderpuye, Counsellor, Permanent Mission, Geneva

GREECE

Head of the Delegation
A. Afenduli, Ambassador, Embassy of Greece, Nairobi

Delegate
D. Hadjimichalis, Special Legal Adviser, Ministry of Commerce, Athens

Advisor
A. Argyriadis, Professor of Law, University of Athens, Chairman, Legislative Committee for Industrial Property, Athens

HUNGARY

Head of the Delegation
G. Pusztai, Président, Office national des inventions, Budapest

Delegates
J. Bobrovszky, Chef de Département, Office national des inventions, Budapest
G. Bánrévy, Chef adjoint de Département, Ministère du commerce extérieur, Budapest,
L. Mohácsy, Chef adjoint de Département, Comité national pour le développement technique, Budapest
G. Szénási, Deuxième Secrétaire, Ministère des affaires étrangères, Budapest

INDONESIA

Head of the Delegation
M. Sidik, Minister Counsellor, Permanent Mission, Geneva

Alternate Head of the Delegation
W. Martosewojo, Director, Directorate of Patent and Copyright, Department of Justice, Jakarta

Delegates
H. Reksodiputro, Third Secretary, Permanent Mission, Geneva
S. Sikar, Official of the Directorate of Treaties and Legal Affairs, Department of Foreign Affairs, Jakarta

IRELAND

Head of the Delegation
M. J. Quinn, Controller of Patents, Designs and Trade Marks, Patents Office, Dublin

Alternate Head of the Delegation
F. McCarthy, Legal Advisor, Office of the Attorney General, Dublin

Delegate
B. Lyons, First Secretary, Embassy of Ireland, Nairobi

ISRAEL

Delegates
Y. Tsur, Commissioner of Patents, Designs and Trade Marks, Patent Office, Ministry of Justice, Jerusalem
M. Yedid, Permanent Representative, Permanent Mission of Israel to the UNEP and Habitat, Nairobi

ITALY

Head of the Delegation
M. Serafini, Ambassador, Embassy of Italy, Nairobi

Delegate
G. Cameli, Head of the Olympic Preparation Department, Rome

IVORY COAST

Head of the Delegation
B. T. Aka, Responsable du Service de la technologie et de l'information industrielle, Ministère du plan et de l'industrie, Abidjan

Alternate Head of the Delegation
K. F. Ekra, Conseiller, Mission permanente, Genève

JAPAN

Head of the Delegation
T. Kosugi, Ambassador Extraordinary and Plenipotentiary, Embassy of Japan, Nairobi

Alternate Head of the Delegation
H. Shimada, Director-General, Patent Office, Tokyo

Alternate Delegates
I. Shamoto, Director-General, Department of Appeal, Patent Office, Tokyo
S. Sato, Official, International Conventions Division, Treaties Bureau, Ministry of Foreign Affairs, Tokyo
S. Uemura, First Secretary, Permanent Mission, Geneva

Advisors
M. Fujioka, Deputy Director, General Administration Division, General Administration Department, Patent Office, Tokyo
M. Hayama, Second Secretary, Embassy of Japan, Nairobi
Y. Numazawa, Official, Specialized Agencies Division, United Nations Bureau, Ministry of Foreign Affairs, Tokyo
S. Imai, Second Secretary, Embassy of Japan, Nairobi
K. Ishimaru, Director, Japan Trade Center, Düsseldorf

KENYA

Head of the Delegation
J. K. Kamere, Attorney General, Attorney General's Chambers, Nairobi

Alternate Head of the Delegation
D. J. Coward, Registrar-General, Registrar-General's Department, Nairobi

Delegate
J. N. King'Arui, Deputy Registrar-General, Registrar-General's Department, Nairobi

LIECHTENSTEIN

Head of the Delegation
A. Ritz, Collaborateur diplomatique, Vaduz

MALAWI

Delegate
P. A. Msiska, Registrar of Patents, Trade Marks and Designs, Department of the Registrar General, Ministry of Justice, Blantyre

MEXICO

Head of the Delegation
G. Zárate Tristain, Director General de Invenciones y Marcas, Secretaría de Patrimonio y Fomento Industrial, México

Alternate Delegates
J. M. Terán Contreras, Director General del Derecho de Autor, Secretaría de Educación Pública, México
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A. Casado Cerviño, Jefe, Servicio de Relaciones Internacionales, Registro de la Propiedad Industrial, Madrid

Advisor

A. Bercovitz, Catedrático de Derecho Mercantil, Universidad Nacional de Educación a Distancia, Ciudad Universitaria, Madrid

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D. V. Mabuza, Examiner of Trade Marks, Patents & Designs, Mbabane

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T. Hård, Secretary, Federation of Swedish Industries, Stockholm

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F. Balleys, Chef de la Section des marques, Office fédéral de la propriété intellectuelle, Berne

Delegates

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A. E. Kaboggoza-Musoke, Assistant Registrar General, Ministry of Justice, Kampala

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Advisor

L. Schroeder, Industrial Property Specialist, Office of Legislation and International Affairs, Patent and Trademark Office, Department of Commerce, Washington, D.C.

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M. C. J. Kunkuta, Deputy Registrar of Patents, Trade Marks, Companies and Business Names, Ministry of Commerce and Industry, Lusaka

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European Communities

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L. Salzmann, Economic Adviser, Commission of the European Communities, Nairobi

Industrial Property Organization for English-Speaking Africa (ESARIPO)

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E. Lartey, Chief Technical Adviser, Nairobi

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J. Huber, Administrator, Brussels

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H. Rossier, Head, Mail and Documents Section

F. Simon, Legal Officer, Developing Countries Section, Industrial Property Division

General Studies

The First Three Years of the European Patent Granting Procedure*

K. HAERTEL** and R. SINGER***

I. Introduction

The European Patent Office (EPO) was established on October 7, 1977, with the coming into force of the European Patent Convention (EPC) (Article 4). The EPO is therefore now more than three and a half years old.[1] Since the EPO did not begin its actual work of receiving and examining patent applications until June 1, 1978, the information in this article applies to the three years subsequent to that date, that is to say the period from June 1, 1978, to May 31, 1981. However, for better understanding, reference has to be made in some cases to the time at which the EPO was established.

II. The EPC Contracting States

On the day the EPC entered into force, October 7, 1977, the Contracting States numbered seven, namely Belgium, France, Germany (Federal Republic of), Luxembourg, the Netherlands, Switzerland and the United Kingdom. A further four States have since become party thereafter: Sweden (May 1, 1978), Italy (December 1, 1978), Austria (May 1, 1979) and Liechtenstein (April 1, 1980).

Of these eleven States, Austria alone has availed itself of the possibility of making reservations under Article 167, paragraph 2(a) and (d), of the EPC. Thus in Austria, it is presently impossible to obtain protection for chemical, pharmaceutical or food products as such either under a European patent or an Austrian patent. Further, the Protocol on Jurisdiction and the Recognition of Decisions in Respect of the Right to the Grant of a European Patent (Protocol on Recognition) is not binding for Austria. In view of the reservation under Article 167, paragraph 2(a), of the EPC, the EPO permits, *mutatis mutandis*, under Rule 87 of the Implementing Regulations to the EPC, differing claims relating to the process of manufacture to be applied for Austria without requiring payment of the claims fees under Rule 31 of the EPC Implementing Regulations.[2]

As a result of the Treaty on Patent Protection concluded between Switzerland and Liechtenstein on December 22, 1978, the two countries form a unified territory of protection for the purposes of patent law. This Treaty constitutes a special agreement within the meaning of Article 142 of the EPC. Pursuant to Article 149 of the EPC, a European patent for Switzerland and Liechtenstein may only be obtained by joint designation. Designation of one of these two States constitutes designation of both States.[3] The designation of Liechtenstein incurs no additional cost for the applicant since only one fee is to be paid for the joint designation of Switzerland and Liechtenstein.[4] It is noteworthy that, although the EPC provisions on a unitary European patent were drafted by the fathers of the Convention with, in fact, only the Common Market and the Community patent in mind, they have been made use of by two States outside the Common Market that have thus concretized the unitary European patent even before the realization of the Community patent. This shows that the basic idea behind Part IX of the EPC was right and is capable of further application. Perhaps with the accession of all Scandinavian States to the EPC, these provisions may assist in resuscitating the idea of a Nordic patent in the shape of a unitary European patent for the Scandinavian States.[5]

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* This article is based on a paper by the same authors published in German under the title "*Zwei Jahre Europäisches Patentamt und europäisches Patentrecht*" in *Gewerblicher Rechtsschutz und Urheberrecht, Internationaler Teil (GRUR Int.)*, 1980, p. 709, and in English under the title "Two Years of the European Patent Office and European Patent Law" in *IIC*, vol. 12, no. 3/1981, p. 277.

** Former President of the German Patent Office, Honorary Chairman of the Administrative Council of the European Patent Organisation.

*** Chairman of the Legal Board of Appeal of the European Patent Office.

[1] This paper was completed in July 1981.

[2] *Official Journal of the European Patent Office* (hereinafter cited as *EPO Official Journal*), no. 6-7/1979, pp. 289 and 292.

[3] The Treaty between the Swiss Confederation and the Principality of Liechtenstein on Patent Protection (Patent Treaty) is reproduced in *Industrial Property Laws and Treaties*, BILATERAL TREATIES—Text 2-001. See also on this subject the EPO communication in *EPO Official Journal*, no. 2/1980, pp. 36 and 37.

[4] Article 2.3a of the EPO Rules relating to Fees, incorporated by decision of the Administrative Council of the European Patent Organisation on November 30, 1979, *EPO Official Journal*, no. 2/1980, p. 34. The new fees applicable as from November 1, 1981, are published in the supplement to *EPO Official Journal*, no. 7/1981, pp. 201 to 204.

[5] As regards the efforts to set up a Nordic patent, see Godenhielm, "The Scandinavian Patent Community," *Industrial Property*, 1965, p. 10; *id.*, "Letter from Scandinavia," *Industrial Property*, 1967, p. 317; 1969, p. 281; 1971, p. 253; Borggård, "The New Nordic Patent Legislation," *Industrial Property*, 1968, p. 189. As regards the reasons for the failure of these efforts, see Lewin, "The Swedish Patents Act Following the 1978 Revision," *Industrial Property*, 1979, p. 22.

III. The Structure of the European Patent Office

1. The Organizational Structure

To study the organization of the EPO, a distinction must be made between its administrative aspect and that concerning the patent-granting procedure.

The administrative structure is divided into five Directorates General, each headed by a Vice-President, under the overall responsibility of the President of the Office. This structure was set up at the first meeting of the Administrative Council and has only been changed in detail since then. The current organization chart may be found in the *Official Journal of the European Patent Office* (No. 8/1981, pp. 269-275).

The structure of the EPO as regards the patent-granting procedure, that is to say the organs involved in the procedure, is laid down in the EPC (Article 15). Of the seven departments referred to in the Convention, six have already been completely or partly set up, namely:

the Receiving Section and
the Search Divisions in The Hague;
the Examining Divisions,
the Opposition Divisions,
the Legal Division and
six Boards of Appeal in Munich.

In addition, an EPO sub-office has been set up in Berlin, subordinate to the Branch in The Hague.

The only department not yet established, since it has not yet been needed, is the Enlarged Board of Appeal.

2. The Organization of Substantive Examination

If the organizational structure of the EPO represents, so to speak, the framework or skeleton, it was the development of substantive examination which gave the Office its flesh and blood. This development was planned from the very beginning to take place in stages with substantive examination being limited to specific areas of technology in view of the fact that the EPO was beginning from scratch. Originally, five two-year stages were planned to cover a ten-year period of development. Subsequently, the development phase was reduced to five years, particularly as a result of the integration of the International Patent Institute (IIB) in The Hague, thanks to which EPO searching activities were able to be assured from the outset. In fact, the EPO required only four stages and a total of one and a half years to develop a substantive examination system and the resultant procedural sequences. On December 1, 1979, the final stage was initiated meaning that the substantive examination and further processing in all areas of technology could be carried out without restriction for all European patent applications received after that date.[6] This unexpected but all the more welcome result was attributable in no small measure to the fact that the number of European patent applications received during the initial period was smaller than had been forecast.

3. The EPO Building

The construction of the EPO building did not progress quite so satisfactorily. Instead of being available to the EPO at the time it began work, the "colossus on the Isar," as it became known in the Munich press, could not be occupied until March 1980 and the opening ceremony was not held until September 18, 1980, accompanied by many eloquent speeches given by prominent personalities.[7]

IV. Composition of the Staff

1. The Number of Staff

The development of the EPO depended essentially on the necessary staff being available at the appropriate time, with technical qualifications and capable of meeting the special linguistic requirements of the EPO. The EPO would appear to have succeeded in this.

The staff of the EPO currently numbers some 1,530. This staff is broken down as follows:

550 in Munich,
850 in The Hague,
130 in Berlin.

One-half of the staff are examiners, of which 480 search examiners are to be found in The Hague and 60 in Berlin (thus a total of 540), and 210 substantive examiners are employed in Munich.

The large number of search examiners is explained by the fact that the EPO Branch in The Hague not only carries out searches for European patent applications but also for national applications from the former Member States of the International Patent Institute (IIB) under the Protocol on Centralisation. In 1980, the Branch in The Hague, together with its sub-office in Berlin, carried out some 49,000 searches of which 60% were for national applications and only 40% for European applications. This situation led to an excess work load for the Hague Branch which could not be altogether compensated by the Berlin sub-office. For this reason, *inter alia*, the EPO has begun to have European searches

[6] Cf. Article 2 of the Administrative Council's decision of December 21, 1978, *EPO Official Journal*, no. 1/1979, p. 7;, and the EPO communication in *EPO Official Journal*, no. 10/1979, p. 443.

[7] See the report in *EPO Official Journal*, no. 11-12/1980, p. 399.

carried out by the Austrian Patent Office under a co-operation agreement.[8]

2. Geographic Distribution

The staffing policy of an international authority is characterized by the fact that not only training and performance enter into account for recruitment but also the nationality of the applicant, which constitutes an important factor. The term used in this context is geographic distribution, which means that each Member State has a right to provide a percentage of staff for the EPO proportional to its contribution.

The largest percentage of staff—25%—is provided by the Federal Republic of Germany. This is followed by the United Kingdom with 22% and France with 17%. The actual distribution of staff as of June 1981 breaks down as follows:

State	Number of Staff	Percentage
Austria	28	1.8
Belgium	251	16.4
Switzerland	31	2.0
Germany (Federal Republic of)	371	24.2
France	198	12.9
United Kingdom	143	9.3
Italy	78	5.1
Luxembourg	44	2.9
Netherlands	335	21.9
Sweden	21	1.4
Other	32	2.1
	1,532	100.0

This table shows that the Federal Republic of Germany has practically exhausted its staffing quota, whereas France and the United Kingdom are still under-represented. On the other hand, Belgium, Luxembourg and the Netherlands are over-represented as a result of the integration of the IIB as a Branch of the EPO.

It will require many more years before the aim of achieving an equal distribution of nationalities can be reached. It can, however, already be said that the widespread fear of the European Patent Office becoming Germanized has already proved baseless.

The nationals of the various States work very well together. All have a basically positive approach to their activities and are well aware of the fact that they form part of a European avant-garde and therefore have the obligation to achieve.

3. The Qualifications of the Examiners

The qualifications of the examiners are most important. They are mostly qualified national examiners who have already received lengthy linguistic and technical preparation in their Offices. The French staff, for example, is made up of well-trained, mostly young, highly qualified technicians who underwent a two-year preparation for their work as examiners in the EPO at the cost of the French State as part of the "Formex" program; others are searchers from The Hague who have considerable searching experience and, in addition, have received special schooling for their activities as substantive examiners.

Currently, some 40 to 50 examiners are recruited every six months or so, depending on work load; they receive approximately six weeks' joint training in European patent law as a final preparation for their examination activities in the three official languages. This is followed by the examiners working together in the Examining Divisions, which is important for harmonizing their viewpoints. Approximately half the examiners deal with applications not drawn up in their mother tongue. This is of course always the case for the Italians, Swedes and Dutch, but also applies, for example, for a number of English examiners. In these cases, the responsible examiner draws up the notifications and decisions in the language of the proceedings and then seeks the assistance of his colleagues with superior linguistic knowledge for the final version.

The principle is that the technical quality of the notifications and decisions is more important than a linguistically polished and highly refined version.

It should be emphasized in this connection that the language arrangements for the EPO, as laid down in Article 14 of the EPC and in Rules 1 to 7, have proved their value, at least in the internal operations of the EPO. Comprehension between staff creates no problems since each person uses the official language with which he is most familiar. The Language Service is basically concerned with producing translations for the Administrative Council and its subordinate bodies and translations of internal administrative instructions. As yet, interpretation has only been needed for the meetings of the Administrative Council and its bodies and use has been made exclusively of freelance interpreters.[9] The EPO language arrangements were decided on exclusively technical grounds, not for political reasons, and were modeled on those of the Swiss Federal Office of Intellectual Property. They have proven both practica-

[8] See the EPO communication on the Agreement on Cooperation between the European Patent Organisation and the Austrian Patent Office in *EPO Official Journal*, no. 6-7/1979, p. 249. In 1980, the Austrian Patent Office carried out 1,500 searches on European patent applications. This figure is to be added to the above-mentioned figure of some 49,000 searches, meaning that in all 50,500 searches have been carried out by the EPO.

[9] See "Annual Report of the European Patent Office — 1980," *EPO Official Journal*, no. 8/1981, pp.249, 266. The Language Service of the EPO currently comprises the head and 18 translators and revisers, i.e., a total of 19 persons.

ble and financially feasible. Although experience is still lacking in oral proceedings between parties, there is every reason to be optimistic in view of the flexibility of the language arrangements for such proceedings (c.f. Rule 2). Be that as it may, the skeptical statement by one of the authors of this paper, used on a different occasion, is still true: "It remains to be seen whether the solution of the language issue was an isolated lucky hit or whether it will go down in European history as a model for other European bodies of this type."[10]

V. Progression in the Number of European Patent Applications

1. The Number of European Applications

During the three-year period since the EPO opened to receive European patent applications, that is to say the period from June 1, 1978, to May 31, 1981, a total of 40,263 European applications have been received, excluding the so-called "Euro-PCT" applications. Counting the Euro-PCT applications, the total number of European patent applications amounts to some 45,000.

A more interesting figure is the number of applications received each month (without Euro-PCT applications), which averaged 550 in 1978, 1,080 in 1979, more than 1,500 in 1980 and 1,700 in the first five months of 1981, whereby of course a noticeable increase took place each time a new technical area was opened for examination. Since substantive examination for the remaining technical areas began on December 1, 1979, no further sudden increases are to be expected in future.

The actual number of applications received has remained below the forecasts made by the Interim Committee of the European Patent Organisation. At first sight, this failure of the actual number of applications to match the forecast could appear, at least to begin with, as a partial failure for the EPO. In reality, this difference has proven to be to the EPO's advantage. The lower number of applications has permitted the EPO to considerably advance in time the beginning of full substantive examination and to spread the recruitment of the necessary examiners over a longer period, which was of great significance for the difficult staffing policy of the EPO.

If one analyzes the total of 40,263 European patent applications received so far according to country of origin, designated States, languages used, technical areas and other criteria, the following picture emerges.

[10] Haertel, "The New European Patent System, Its Present Situation and Significance," *IIC*, vol. 9, no. 6/1978, p. 505.

2. Countries of Origin

65% of all applications—not counting Euro-PCT applications—originate from the EPO Member States and 35% from non-member States, the USA representing the largest proportion among the non-member States with 24%, preceding Japan with 9%. The remaining 2% are distributed among 30 European and non-European States.

The breakdown by country of origin among EPO Member States is as follows:

State	Reporting Period (June 1, 1978-May 31, 1981)	January-May 1981
Germany (Federal Republic of)	30%	29%
France	11%	11%
United Kingdom	9%	8%
Switzerland and Liechtenstein	6%	5%
Netherlands	3%	4%
Italy	2%	3%
Belgium	1%	1%
Sweden	1%	2%
Austria	1%	1%
Luxembourg	0.25%	0.17%

Mention should also be made of the fact that among the Socialist States, Bulgaria, the German Democratic Republic, Yugoslavia, Poland, Romania, Czechoslovakia and Hungary are to be found among the countries of origin; however, no European patent application has been received as yet from the Soviet Union despite the fact that in the years 1979 and 1980 it was the country of origin of 855 German patent applications filed with the German Patent Office and that the Soviet Union assumed tenth place among foreign applicants. Only the future will tell whether the lack of Soviet patent applications is attributable to political reasons or to a wait-and-see attitude towards a new patent system.[11]

The fact that the EPO Member States have above average representation among the countries of origin when compared with numbers of applications filed with national patent offices is probably attributable to the fact that the applicants from EPO member countries are rather more familiar with European patent law, as a result of the years of preparatory work in which the interested circles of those countries have participated, than applicants from non-member States for whom the European patent system is largely unexplored territory.

[11] A Euro-PCT application from the Soviet Union was received in 1979. This has so far remained the one and only such application.

3. Number of Designated States

The number of designated States for each European patent application averages 6.5. The lead is taken by the United Kingdom with 91%, i.e., the United Kingdom is designated in 91 out of 100 European applications, closely followed by the Federal Republic of Germany and France with 88% each. Last place is occupied by Luxembourg with 27%. The designation of Member States during the reporting period is shown in the table below, which also gives the proportion of so-called "self-designations," i.e., designation of the Member State in which the applicant has his residence or principal place of business;[12] this table shows the tendency that has emerged during the first five months of 1981.

Contracting States	During Reporting Period (June 1, 1978 - May 31, 1981)		January - May 1981
	Designations as percentage of applications	Percentage of self-designations	Designations as percentage of applications
United Kingdom	91	70	91
Germany (Federal Republic of)	88	65	90
France	88	29	90
Netherlands	72	87	70
Italy (since 1.12.78)	71	16	78
Belgium	62	65	62
Switzerland and Liechtenstein	60	74	58
Sweden	57	32	57
Austria (since 1.5.79)	36	14	46
Luxembourg	27	37	29

In view of the average designation of 6.5 States per application, the obvious question arises whether the so-called three-State theory proposed by the governmental delegations has been proven wrong and the opposing theory put forward by Patent Attorney Reinländer has been proven correct since he calculated that a European patent application did not become economically advantageous, compared with a corresponding number of national applications, until six States were designated.[13] The figures so far would seem to support Reinländer's theory.

However, we do not feel that this conclusion is as yet definite. To begin with, we are still of the opinion that a European patent application already has economic advantages if only the three large Member States of the EPO are designated, at least if the work saved by the applicant in the procedures is taken into account: *one* application, *one* language, *one* opposition instead of several. It should also be borne in mind that the comparatively low designation fee of DM 225 (increased on November 1, 1981, to DM 260), when compared with the other European fees, probably causes the applicant to begin by adding a number of countries to a European patent application which he would not have bothered to include in national applications for the granting of a patent.

4. Languages of European Patent Applications

The Interim Committee of the EPO had forecast that 60% of the European applications would be filed in English, 25% in German and 15% in French. In fact, the first six months following the opening of the European Patent Office presented quite a different linguistic picture. German was in first place with 44% followed by English with 42% and French with 11%. Since then, however, the ratio of languages has been modified. The picture emerging from the reporting period is, in round figures, as follows: English dominates with 47%, followed by German with 40% and French with 13%. The tendency is for the proportion in English to continue to increase as the figures for the first five months of 1981 have shown. Thus 50% of the European applications have been formulated in English, 36% in German and once more 13% in French. Only some 1% of applications are in official languages of the Member States which are not also official languages of the EPO. The emerging trend suggests that the ratio of languages in future will approach the forecasts of the Interim Committee.

5. The Technical Areas

If the European patent applications received are broken down by technical area, the result obtained is 36% for mechanical engineering, 26% for electrical engineering and physics and 38% for chemistry. This distribution by technical area should certainly not be seen as definitive. The abnormally excessive proportion for chemistry, compared with national patent offices (German Patent Office: 17%), which was originally even much higher, namely 55%, is in the process of shrinking

[12] As regards doubts to the admissability of self-designations under German law, see the decision of the Federal Patent Court of October 27, 1980, *Gewerblicher Rechtsschutz und Urheberrecht (Internationaler Teil) (GRUR Int.)*, 1981, p. 326; *per contra*, van Empel, *Granting of European Patents*, A.W. Sijthoff, Leyden, 1975, marginal notes 597 to 599. An appeal was entered against the Federal Patent Court's decision. By decision of the Federal Court of Justice of October 20, 1981, the decision of the Federal Patent Court was set aside. This decision will be published in the *EPO Official Journal*.

[13] Reinländer, *"Zur Drei-Länder Theorie des Europapatents," Mitt.*, 1978/6, p. 101. As regards the three-country theory, see Greif, *"Zur voraussichtlichen Inanspruchnahme des Europa-Patents durch deutsche Anmelder," GRUR Int.*, 1977, p. 379.

and we shall have to wait to see what ratio will emerge in time between the various technical areas.

6. The Number of Published European Applications

Of the 40,263 European patent applications filed so far, some 30,500, i.e., more than three-quarters, had been published up to May 31 of this year. The European Patent Convention requires that the European search report be published in principle at the same time as the European patent application (Article 93). This has not been possible in all cases. Nevertheless, of the 30,500 European applications published, 79% were published with the search report and only 21% without. This delay in publishing the search report for one-fifth of the European applications is attributable to the heavy work load of the Search Divisions in The Hague which, as already mentioned, must search not only the European applications but also the national applications of the former Member States of the IIB, in particular France, the Netherlands and Switzerland. It is not impossible that the number of "separate" publications will grow even further in the near future and that it will take some years before the search procedure has reached as steady a state for European applications as for national applications.

The reactions of the applicants to the search reports is also of interest. For some 16% of applications, the applicants have omitted to file an examination request and the applications have thus been deemed withdrawn. In some 11% of the cases, the applicants who have filed an examination request have reacted to the search report by filing amendments to their applications and in a further 3% simply by filing comments. It is therefore to be assumed that the majority of applicants prefer to wait for the communication from the Examining Division before responding to the documents listed in the search report.

7. The Number of Examination Requests

By the end of May 1981, some 20,500 examination requests had been filed in respect of published and searched European patent applications. The proportion of examination requests as against European applications filed currently amounts to some 84% and is thus considerably in excess of the 72% forecast by the Interim Committee.

8. The Number of European Patents Granted

Up to the end of the reporting period, a total of 1,695 European patents have been granted, the first of which were, as is well known, issued in January 1980.

This of course raises the question of how many European patent applications have in fact been rejected. So far, decisions to reject have been made in only 97 cases. This should not, however, lead to the premature conclusion that the EPO acts as a simple granting office. This striking result is in fact attributable to two factors. Firstly, where rejection is intended, the procedure is more lengthy since the applicant is first required to submit comments on the objections put forward by the Examining Division and, in most cases, the procedure had not been completed by the end of the reporting period. Secondly, when no response is received to the examination report, the application is deemed to have been withdrawn and consequently there is no rejection.

It is interesting in this context to observe the number of applications withdrawn or deemed to have been withdrawn. Between June 1, 1978, and April 30, 1981, there were 2,874 such withdrawals, which represents 7% of the 41,100 patent applications (including Euro-PCT applications) received during the same period.

By and large, these figures appear advantageous to the applicant. It would certainly be premature, however, to conclude that the European route for obtaining a patent is easier for the applicant than the national route. The relatively favorable proportion of grantings for European patent applications is probably attributable in the main to the fact that, contrary to national applications, 94% of European applications are subsequent applications and in addition most of them are probably selected with special care.

9. The Number of Appeals

For obvious procedural reasons, the Boards of Appeal, a second-instance department of the EPO, are still in the initial phase. This is shown by the growing number of appeals. Whereas only two appeals had been made to the five Technical Boards of Appeal by the close of May of last year, there are now some 28 appeals, of which four have been so far decided and are soon to be published in the Official Journal of the EPO.[14] In the case of the Legal Board of Appeal, which essentially hears appeals from decisions of the Receiving Section and the Legal Division, 19 appeals had been lodged by the end of May last year whereas at the same time this year 38 appeals had been filed. Of those 38 appeals, 16 have been decided and most of them published in the Official Journal of the EPO.[15]

10. The Opposition Procedure

Opposition to granted European patents may be lodged within nine months of the announcement of the mention of the grant of a patent (Article 99, paragraph 1,

[14] As regards the competence of the various Technical Boards of Appeal, see *EPO Official Journal*, no. 6/1981, pp. 174, 175; no. 8/1981, p. 273.

[15] *EPO Official Journal*, no. 6-7/1979, p. 283; no. 2/1980, p. 34; no. 4/1980, p. 92; no. 7/1980, p. 225; no. 9/1980, p. 289 and 293; no. 10/1980, p. 351; no. 3/1981, p. 65; no. 4/1981, p. 101; no. 5/1981, pp. 137, 141 and 143.

EPC). The opposition period for the first 13 European patents granted in January 1980 only finished, therefore, in October 1980. The opposition period for the great majority of European patents granted so far is still running.

(a) As far as the *number* of opposition procedures is concerned, the lengthy opposition period that was decided out of consideration for those States that require a translation of the European patent specification under Article 65 of the EPC and which publish the translation or at least make it available for inspection,[16] has given cause for concern that the number of oppositions will be very high both in relation to the number of granted European patents and also in respect of each individual European patent.

One year ago, the authors of this article still assumed that, in view of the significance of the European patent for the patentee's competitors and on account of the larger territorial scope of protection of the European patent, both the number of oppositions in relation to the number of granted European patents and also the number of oppositions in relation to each individual European patent would be necessarily higher than the corresponding figures for comparable national patent offices[17] and therefore estimated that some 30% of European patents would be the subject of opposition.

These expectations have not as yet been confirmed. Of the 295 European patents for which the opposition period ended prior to the close of the reporting period, 35 were subjected to opposition, that is to say 11.86%. 96% of the oppositions are from Member States and only 4% from non-member States. On the whole this result is encouraging but does not in fact give a reliable indication for the future in view of the very small number of European patents taken into consideration.

(b) A further reason for concern was the foreseeable *length* of the opposition proceedings. The EPO, after discussions with representatives of European industry and European patent agents, plans to introduce a streamlined opposition procedure that would be completed in a little under two years after the grant of a patent.[18]

(c) The opposition proceedings are a twofold touchstone of the European procedure. Firstly, the opposition proceedings will constitute a yardstick for the quality of the European search report and, secondly, they will show whether the system of separating searching and examination, which was adopted for political reasons due to the necessity of incorporating the IIB in the European procedure and whose utility is still disputed by the experts, has fulfilled the expectations placed on it.

11. The Berlin Sub-Office of the EPO

A section of the Berlin Office of the German Patent Office was incorporated on June 1, 1978, into Directorate General 1 of the EPO as its Berlin sub-office. This new Berlin sub-office of the EPO currently carries out searches both for the EPO and also for the German Patent Office. In 1980, the number of searches for European applications was 3,000 as opposed to 1,500 searches for German applications. For 1981, the ratio should be reduced to 4,000 to 1,000. In view of the excess work load of the Search Divisions in The Hague, searches for German applications are to be suspended in 1982 so that from then onwards the Berlin sub-office will carry out some 5,000 searches each year for European patent applications.

The Berlin sub-office of the EPO began in 1978 with an exclusively German staff. Its establishment compensated for the fact that the Federal Republic of Germany had agreed not to submit the candidature of the German Patent Office to act as an International Searching Authority under the PCT. In the meantime a start has been made on Europeanizing the staff of the Berlin sub-office; currently, there are already four British, three French, five Italian and two Luxembourg nationals working as search examiners in Berlin.

VI. The EPO and the PCT

1. The Relationship Between EPC and PCT

The EPC and the PCT (Patent Cooperation Treaty) have been harmonized one with the other. The EPC devotes the whole of Part X, containing nine articles (Articles 150 to 158), to the PCT. In the PCT, the notions of a regional patent and a regional patent office as well as Article 45, inserted on a French initiative, take into account EPC interests. The fact that harmonization was to go so far that European applications and PCT applications could be filed as of the very same day, June 1, 1978, was not foreseeable, however. June 1, 1978, thus became the day on which the patent scene throughout the world was profoundly changed and in fact was given a fully new countenance. The number of routes and of combinations for obtaining patent protection that has existed since that day is so varied that it will take quite some time before applicants and their agents become familiar with their various pros and cons.

[16] The Contracting States that require a translation of the European patent specification, the time limit laid down for filing the translation and the way in which the translation is made available to the public can be seen from the EPO survey in *EPO Official Journal*, no. 4/1981, p. 114.

[17] The number of oppositions in comparison with patents granted or published patent applications amounts to 2.6% in Denmark, 4.6% in Austria, 5% in the Netherlands, 12% in Japan and over 20% in the Federal Republic of Germany. For each published patent application opposed, an average of 1.6 oppositions was filed with the German Patent Office.

[18] See communications of the European Patent Office concerning the opposition procedure in *EPO Official Journal*, no. 3/1981, p. 74.

2. The Functions of the EPO Under the PCT

It was, however, always expected that the EPO would play an important part in the PCT system. It is therefore no surprise that the EPO has already become active in all functions provided for by the PCT.

The EPO acts as a receiving Office,[19] a designated Office, an elected Office and, on the basis of an agreement with the International Bureau of the World Intellectual Property Organization (WIPO) dated April 11, 1978,[20] as an International Searching and International Preliminary Examining Authority.[21] As far as the last two functions are concerned, the EPO is currently the authority acting for the largest number of States within the framework of the PCT, but this does not mean that the EPO carries out the most extensive activities in this capacity.

3. Trends in PCT Applications

As far as the number of Contracting States is concerned, the PCT, as was to be expected from its worldwide nature, has surpassed the EPC. As of December 14, 1981, the PCT numbered 31 member States.[22]

The number of PCT applications, on the other hand, has remained lower than that of European applications. During the reporting period, from June 1, 1978, to May 31, 1981, some 8,400 PCT applications were received by the International Bureau in Geneva and approximately 9,000 were filed with the receiving Offices. Compared with the first year, in which 1,287 were received, the number of PCT applications has tripled in its third year.

The languages in which PCT applications were filed during the reporting period may be broken down on a percentage basis as follows:

English	58.0%
German	12.5
Japanese	9.5
French	7.7
Swedish	5.6
Russian	4.8
Other languages (Danish, Finnish, Dutch, Norwegian)	1.9
	100.0%

Where do all these PCT applications come from? As was to be expected, most of the applications, namely 40.72%, originate in the USA. The others come essentially from:

Sweden	10.28%
Japan	9.52
United Kingdom	7.01
Germany (Federal Republic of)	5.38
Switzerland and Liechtenstein	5.25
France	5.20
Soviet Union	4.79
Australia	2.06
EPO	3.87
Other States	5.82
	100.00%

In view of the basically hesitant attitude of European industry towards the PCT, it is surprising to note that some 39% of PCT applications originated in EPC States.

4. Euro-PCT Applications

The number of published Euro-PCT applications, i.e., PCT applications for which the EPO is either the designated Office or the elected Office, amounted to 3,684 during the reporting period, that is to say some two-thirds of the total of published PCT applications (5,586). This ratio shows that the combination of the PCT route and the European route has been recognized by applicants as advantageous and is being made use of.

The number of designations of States is somewhat greater in the case of Euro-PCT applications as compared with purely European applications, namely 7.4.

How are these designations distributed over the EPC Contracting States? Of the Euro-PCT applications published by WIPO during the reporting period, the percentage distribution of designations for EPC Contracting States was as follows:

[19] Receiving Office for nationals of Austria, Belgium, France, Germany (Federal Republic of), Liechtenstein, Luxembourg, the Netherlands, Sweden, Switzerland and the United Kingdom and for persons with their place of business or residence in those States. The EPO is therefore receiving Office for all EPC Contracting States with the exception of Italy, which has not yet ratified the PCT.

[20] The Agreement of April 11 is reproduced in *EPO Official Journal*, no. 4/1978, p. 249, and the supplement of February 22, 1979, in *EPO Official Journal*, no. 4/1979, p. 139.

[21] The EPO is an International Searching Authority, either alone or with other authorities, for Austria, Belgium, Brazil, Denmark, Finland, France, Germany (Federal Republic of), Liechtenstein, Luxembourg, Madagascar, Malawi, Monaco, the Netherlands, Norway, Romania, Sweden, Switzerland and the United Kingdom and for the International Bureau of WIPO, which in turn is receiving Office for the following member States of the African Intellectual Property Organization (OAPI): Cameroon, Central African Republic, Chad, Congo, Senegal, Togo. In addition, the EPO is of course the International Searching Authority for PCT applications filed with the EPO as receiving Office.

The EPO is the International Preliminary Examining Authority, either alone or with other authorities, for Austria, Belgium, Brazil, France, Germany (Federal Republic of), Liechtenstein, Monaco, the Netherlands, Romania, Sweden, the International Bureau of WIPO and for the EPO itself.

[22] PCT member States are: Australia, Austria, Belgium, Brazil, Cameroon, Central African Republic, Chad, Congo, Democratic People's Republic of Korea, Denmark, Finland, France, Gabon, Germany (Federal Republic of), Hungary, Japan, Liechtenstein, Luxembourg, Madagascar, Malawi, Monaco, Netherlands, Norway, Romania, Senegal, Soviet Union, Sweden, Switzerland, Togo, United Kingdom, United States of America.

France	94%
Germany (Federal Republic of)	74
United Kingdom	72
Sweden	48
Switzerland and Liechtenstein	46
Netherlands	39
Austria	27
Luxembourg	25

It is striking that, contrary to the table under V.3, above, it is no longer the United Kingdom but France that is to be found in the lead as far as designations are concerned, with a considerable advance over the Federal Republic of Germany and the United Kingdom. This contrast is explained by the fact that France is—besides the new Contracting State, Belgium—the only EPC Contracting State so far to have availed itself of the possibility under Article 45(2) of the PCT to make the grant of a patent in France under the PCT route obtainable only by means of a European patent.

It is less easy to explain the difference that emerges in Euro-PCT applications compared with European applications in respect of the technical areas. Whereas the European patent applications break down by technical area in the order of chemistry, mechanical engineering, and electrical engineering and physics (see above at V.5), the following order applies to the Euro-PCT applications published so far:

Mechanical engineering	48%
Electrical engineering and physics	27%
Chemistry	25%

5. Conclusion

Although three years are not enough to permit final judgment to be made on the EPC and the PCT, it is nevertheless already obvious that the fear expressed on a number of occasions that the EPC could make the PCT superfluous has not proved to be true. Certainly, the EPC has lessened the interest in the use of the PCT route for Europeans only wishing to obtain protection within Europe. But the lower number of PCT applications compared with European applications is probably attributable primarily to the relative complexity and the formal stringency of the PCT procedure.

The PCT offers the advantage of a more extensive effect, going beyond Europe and the EPC Contracting States. In addition, the PCT is advantageous for non-EPC Contracting States since via the PCT route they can file foreign applications at the last moment in their own language. Finally, PCT—and this applies to all applicants—ensures liberal treatment of PCT applications in all non-European States, particularly in Japan and the United States of America, as regards the formal requirements and the assessment of unity of invention.

From the foregoing, we would like to draw the prudent conclusion that applicants will show an even stronger interest in the PCT route if it proves possible to simplify some of the complicated procedures.[23]

VII. The Development of European Representatives

1. Number and Composition of Professional Representatives

The last area of dry figures to be dealt with is that of the professional representatives before the EPO, not only because the EPC contains relevant provisions but also, primarily, because they constitute an important link in the proceedings before the EPO and are particularly affected by the creation of a European procedure.

The EPC makes a distinction between European representatives admitted during a transitional period in respect of whom certain less stringent provisions apply (Article 163, EPC) and those admitted on the basis of the statutory provisions, including taking a European qualifying examination (Article 134, EPC).[24] The transitional period ended on October 7, 1981.[25]

The first European qualifying examination was held in November 1979. Of the 44 candidates, only 16 passed the examination, thus showing that the European qualifying examination is no simple matter of form. The largest number of candidates failed the legal questions.[26] The second European qualifying examination was held in May 1981.[27]

As of May 31, 1981, 4,560 representatives were entered on the list of professional representatives. 29% of the representatives (1,351) are from the Federal Republic of Germany, followed by the United Kingdom with 24% (1,139) and France with 14% (671).

At the close of the reporting period there were 32 national representatives not possessing the nationality of an EPC Contracting State who had been entered on the list following exemption granted by the President of

[23] For the efforts to simplify the PCT route, see the amendments to the PCT Regulations decided by the PCT Assembly in June and September 1980, and in July 1981, reproduced in *Industrial Property Laws and Treaties*, MULTILATERAL TREATIES—Text 2-007.

[24] For details of the European qualifying examination and the examination procedure see the provisions on the European qualifying examination for professional representatives before the European Patent Office set by the EPO Administrative Council, of October 21, 1977, *EPO Official Journal*, no. 2/1978, p. 101, and communications in *EPO Official Journal*, no. 1/1979, p. 27; no. 3/1979, p. 95; no. 6-7/1979, p. 298; no. 7/1980, p. 218; no. 5/1981, p. 147.

[25] Decision by the EPO Administrative Council of July 6, 1978, *EPO Official Journal*, no. 6/1978, p. 327. In the event of new States acceding, a new provisional period of one year begins for those persons with a place of business or employment in such States (Article 163, paragraph 6, EPC).

[26] For the results of the first European qualifying examination, see *EPO Official Journal*, no. 7/1980, p. 219.

[27] At the time this paper was written, the results of the qualifying examination were not known.

the EPO under Article 163, paragraph 4(b), of the EPC (in five cases) and under Article 163, paragraph 5 (in 27 cases).[28] More than half of these "foreigners" have their place of business or employment in Switzerland and the remainder in Sweden, France, the United Kingdom and Luxembourg.

2. Establishment of a Place of Business in Other Contracting States

Following the quite heated debate at the Munich Diplomatic Conference provoked by the possibility provided by Article 134, paragraph 5, of the EPC for professional representatives to establish a place of business in any Contracting State in which a procedure or part of a procedure under the EPC is carried out, it is not without interest to now ascertain how many professional representatives have in fact made use of this possibility.[29] The possibility of establishing a place of business now also applies to the Netherlands, the United Kingdom and more recently Austria, in addition to the Federal Republic of Germany. According to the EPO, this possibility has only been taken up in the Federal Republic of Germany, and in fact only in Munich. A total of 52 places of business have been established by foreigners in Munich, of which 34 have been set up by representatives from the United Kingdom, 11 by representatives from France, three each by representatives from the Netherlands and Switzerland and one by a representative from Sweden.

VIII. The Legislative Activity of the Administrative Council

Under the EPC, the Administrative Council of the European Patent Organisation is both the legislative body and the supervisory body for the European Patent Office. It has held eleven meetings to date.[30] Its activities have been particularly marked in its capacity as a legislative body. It has amended or supplemented the EPC in one case, the Implementing Regulations in 41 cases and the Rules relating to Fees in seven cases.[31] The large number of amendments to the Implementing Regulations within a short period of three years tends to suggest that the Regulations did not constitute a brilliant piece of drafting. This is, however, not the case. The amendments and additions were practically all in favor of applicants, which proved to be necessary in the light of practical experience. The drafters of the EPC had expected this to happen from the very beginning and had therefore empowered the Administrative Council to amend the Implementing Regulations to ensure that they could be flexibly and rapidly adapted to the needs of practice. The same development is to be observed in the case of the PCT where a large number of proposed amendments to the Regulations have already been decided by the PCT Union Assembly or are under discussion.[32]

As far as the Administrative Council of the EPO is concerned, it is to be expected that the hectic period of amending activity is now finished and that in future only isolated amendments will be made to the EPC, its Implementing Regulations or to the Rules relating to Fees.

IX. Effects of European Patent Law on National Patent Laws and the National Patent Offices of the Contracting States

1. Effects of European Patent Law on National Patent Laws

The EPC contains no provision requiring the Contracting States to adapt their national laws to the EPC provisions. Furthermore, no resolution on the adjustment of national law was adopted at the Munich Diplomatic Conference as was done at the Luxembourg Conference on the Community patent by the Member States of the European Economic Community.[33]

Nevertheless, a considerable degree of harmonization of national patent laws with the provisions of the EPC has taken place not only in the Contracting States that are Member States of the European Economic Community but also in others which are not members. Harmonization has primarily concerned substantive patent law under Articles 52 to 57 of the EPC without, however, being limited to that area. France, Germany (Federal Republic of), Italy, the Netherlands, Sweden, Switzerland—Liechtenstein being included with Switzerland in

[28] The nationality of these 32 representatives is as follows: 10 Czechoslovaks, 8 Americans, 6 Norwegians, 2 Irishmen, 2 Canadians, 1 Finn, 1 Yugoslav, 1 Peruvian and 1 Hungarian.

[29] For the comments at the Munich Diplomatic Conference, see minutes of the Munich Diplomatic Conference on the Introduction of a European Patent Granting Procedure, published by the Government of the Federal Republic of Germany, M/RP/I, marginal notes 773, 774 and 781 to 802.

[30] The ninth session of the Administrative Council was held on September 19, 1980, on the occasion of the official opening of the EPO headquarters. Representatives of non-contracting States and of international organizations were invited to this meeting. See the report in *EPO Official Journal*, no. 11-12/1980, p. 393.

[31] A list of the amendments decided by the Administrative Council up to its seventh meeting on November 27 to 30, 1979, is to be found in *EPO Official Journal*, no. 1/1980, p. 7. At its eighth meeting on June 2 to 6, 1980, and its ninth session on September 19, 1980, the Council made no amendments to the Implementing Regulations or to the Rules relating to Fees. For the decisions of the Administrative Council at its tenth session on December 9 to 11, 1980, see *EPO Official Journal*, no. 1/1981, pp. 2 to 4; for the decisions of the Administrative Council at its eleventh session on June 1 to 5, 1981, see *EPO Official Journal*, no. 7/1981, pp. 197 to 205.

[32] See WIPO documents PCT/A/V/17 and PCT/A/VII/15.

[33] Resolution on the Adjustment of National Patent Law, *Official Journal of the European Communities*, no. L 17, p. 41.

this harmonization—and the United Kingdom have thus adapted the conditions for patentability in their own legislation more or less completely, and in some cases word for word, to the provisions of the EPC.[34] No harmonization has as yet been carried out in Austria, Belgium and Luxembourg but appropriate preparations for adjusting the national patent laws are nevertheless under way.

The harmonization of national laws extends even further, however. Some of the Contracting States have also adapted their national law to the substantive patent law contained in Articles 29 to 31 of the Community Patent Convention (CPC), despite the fact that this Convention has not yet entered into force. As regards the effects of national patents, this is the case for France, Germany (Federal Republic of), Italy, Sweden and the United Kingdom.[35]

The repercussions of European patent law extend, however, even beyond the current EPC Contracting States. For instance, as part of the unification of Nordic law, Denmark, Finland and Norway have adapted their national patent law to both the EPC and the CPC.[36]

To summarize, therefore, it may be said that national patent law has already been harmonized with European patent law in the following eleven European States: Denmark, Finland, France, Germany (Federal Republic of), Italy, Liechtenstein.[37] Netherlands, Norway, Sweden, Switzerland, United Kingdom. Moreover, harmonization is to be expected in a further six States: Austria, Belgium, Ireland, Luxembourg, Portugal and Spain.

As expected, the EPC and the resultant harmonization of national patent laws have had a positive effect on the entry into force of the 1963 Strasbourg Convention on the Unification of Certain Points of Substantive Law on Patents for Invention[38] that deals, contrary to the EPC, with the unification of national patent legislation. The Federal Republic of Germany was the eighth State to deposit its instrument of ratification and the Convention therefore entered into force on August 1, 1980.[39]

The Strasbourg Convention has also been signed by two further European States which may accede to it at any time and are fully expected to do so.[40] In addition, the Committee of Ministers of the Council of Europe may invite any member of the Paris Convention that is not a member of the Council of Europe to accede to the Strasbourg Convention. Whether the Committee of Ministers of the Council of Europe will make use of this possibility and whether a resultant harmonization of substantive patent law beyond the bounds of Europe will emerge remains to be seen. Be that as it may, the EPC, by provoking through its entry into force the ratification of the Strasbourg Convention, has partly repaid its debt to the Council of Europe as the initiator of European patent law.[41]

2. *Effects of the European Patent Granting Procedure on National Patent Offices*

The effects of the European patent granting procedure on national patent offices are twofold.

(a) The effects concern firstly the *filings with the national offices*. As a result of the establishment of the EPO and the resultant possibility of obtaining national patents—or to be more exact European patents with the same effect as national patents—the number of national filings fell off. This was forecast, particularly in the area of foreign filings.

[34] **France**: Law on the Application of the Convention on the Grant of European Patents (No. 77-683 of June 30, 1977), see *Industrial Property Laws and Treaties*, FRANCE—Text 2-003; Patent Law (as last amended in 1978), see *Industrial Property Laws and Treaties*, FRANCE—Text 2-001.

Germany (Federal Republic of): Law on International Patent Treaties (of June 21, 1976), see *Industrial Property Laws and Treaties*, GERMANY, FEDERAL REPUBLIC OF—Text 2-001; Patent Law (Text of December 16, 1980), see *Industrial Property Laws and Treaties*, GERMANY, FEDERAL REPUBIC OF—Text 2-002.

Italy: Law on Patents for Inventions (as last amended in 1979), see *Industrial Property Laws and Treaties*, ITALY—Text 2-001.

Netherlands: Patents Act of the Kingdom (as last amended in 1978), see *Industrial Property Laws and Treaties*, NETHERLANDS—Text 2-001.

Sweden: Patents Act (as amended in 1980), see *Industrial Property Laws and Treaties*, SWEDEN—Text 2-001.

Switzerland: Federal Law on Patents for Inventions (as revised in 1976), see *Industrial Property Laws and Treaties*, SWITZERLAND—Text 2-001. For Liechtenstein, see footnote 5, above, and footnote 37, below.

United Kingdom: Patents Act 1977, see *Industrial Property Laws and Treaties*, UNITED KINGDOM—Text 2-001.

[35] For France, Italy, Sweden and the United Kingdom, see the legislation mentioned in footnote 34, above.

[36] **Denmark**: Consolidated Patents Act (1978 text), see *Industrial Property Laws and Treaties*, DENMARK—Text 2-001.

Finland: Patents Act of May 6, 1980: publication foreseen in *Industrial Property Laws and Treaties*.

Norway: Patents Act (amended in 1980): publication foreseen in *Industrial Property Laws and Treaties*.

In view of its accession to the European Communities, **Greece** has prepared a draft to amend its patent law under which the provisions on substantive patent law from both the EPC and the CPC are to be adopted. Cf. Minoudis, *"Die europäischen Patentkonventionen und die griechische Patentrechtsreform," GRUR Int.*, 1980, p. 585.

In **Ireland**, a draft for a patent law (Patents Bill 1981) was submitted to Parliament at the beginning of April 1980; this draft also adapts the domestic patent law to the provisions of the EPC and the CPC.

[37] As a result of the Treaty between the Swiss Confederation and the Principality of Liechtenstein on Patent Protection (see footnote 3, above), Switzerland and Liechtenstein form a unified territory of protection for patents. This territory is governed by Swiss patent law (Article 5 of the Treaty).

[38] See *Industrial Property*, 1964, p. 13.

[39] Following entry into force, Italy acceded to the Convention as its ninth member State. The current Contracting States to the Strasbourg Convention are: France, Germany (Federal Republic of), Ireland, Italy, Liechtenstein, Luxembourg, Sweden, Switzerland, United Kingdom.

[40] These two other signatory States are Belgium and the Netherlands. The Danish Government has been empowered by Section 5 of the Law of June 8, 1978, to ratify the Strasbourg Convention.

[41] It may be recalled that the French Senator Longchambon submitted his plan for the establishment of a European patent office to the Parliamentary Assembly of the Council of Europe on September 6, 1949; this constituted the start of work on European patent law.

The starting point for determining this effect was taken to be 1977 since that was the last year in which each national patent office was the sole receiving office for the territory of its State. The following table reveals the change in numbers of national patent applications for the years 1977, 1979 and 1980 and demonstrates the exactitude of the forecast.

Trends in National Patent Applications

1	2			3			4			5	
States	1977 Domestic	1977 Foreign	1977 Total	1979 Domestic	1979 Foreign	1979 Total	1980 Domestic	1980 Foreign	1980 Total	Decrease in Foreign Applications	%
Austria	2,385	7,066	9,451	2,446	5,770	8,216	2,327	4,050	6,377	3,016	43
Belgium	1,073	11,453	12,526	853	6,864	7,717	857	5,112	5,969	6,341	55
Switzerland and Liechtenstein	5,542	10,801	16,343	4,441	7,099	11,540	4,029	5,426	9,455	5,375	50
Germany (Federal Republic of)	30,590	29,811	60,401	31,434	23,750	55,184	30,807	20,538	51,345	9,273	31
France	11,811	28,167	39,978	11,303	20,871	32,174	11,000	16,989	27,989	11,178	40
United Kingdom	21,114	33,309	54,423	20,055	24,611	44,666	19,605	22,035	41,640	11,274	34
Italy	—	—	24,199	—	—	19,169	—	—	16,000	—	—
Luxembourg	86	2,209	2,295	87	1,212	1,299	97	897	994	1,312	59
Netherlands	1,960	12,669	14,629	2,049	7,384	9,433	1,825	5,303	7,128	7,366	58
Sweden	4,503	10,476	14,979	4,116	6,625	10,741	4,106	5,086	9,192	5,390	51
	79,064	145,961	249,224	76,784	104,186	200,139	74,653	85,436	176,089	60,525	

It may be seen from the table that the total number of applications filed with the national patent offices in the Contracting States fell from 249,224 to 176,089, i.e., a decrease of 73,135 (including Italy). Although the diminution is insignificant for domestic applications, totaling a drop of approximately 4,000, the reduction in foreign applications amounts to a total of approximately 60,000 (excluding Italy).

It may also be seen from the table that the shrinking process observed at the national patent offices began in the way in which it was expected but has been less than expected. The process varies from office to office. Its effect also varies since it depends significantly on the ratio of foreign applications to domestic applications. This ratio in 1977 was 50 to 50 at the German Patent Office whereas at some other patent offices in the Contracting States the proportion of foreign filings was considerably higher.

The number of designations of Contracting States made in European patent applications during the same period of time not only compensates for the drop in applications at national patent offices but exceeds it in all Contracting States. To draw the conclusion that the European patent granting procedure will lead to a considerable increase in the number of patents in the Contracting States is, however, inappropriate. To begin with, all those designations deriving from applications by domestic nationals that have filed both a national application and a European application with the designation, *inter alia,* of their home country, i.e., so-called self-designations, must be deducted from the total. The percentage of self-designations averages 67% and in some States considerably exceeds the average (see table above at V.3). It should also be remembered that the designation of a Contracting State in an application neither means that the designation fee that subsequently becomes due will be paid nor, above all, that the not inconsiderable translation costs and other national fees will be paid after the grant of the European patent.

The shrinking process at the national patent offices resulting from the European patent granting procedure will result in the restructuring of those offices. The main activity of national patent offices will shift from the procedure for granting patents to providing information on the state of the art. This type of restructuring is in no way unusual these days. It has been experienced in industry as a result of the development of computers

and of competition from cut-price countries. Furthermore, state-of-the-art information is becoming ever more significant, particularly for small and medium-sized companies that frequently have insufficient information on the state of the art and are not aware of the importance of patent documentation nor capable of understanding it. This task should be taken up by the national patent offices since the European Patent Office has no desire and no intention to assume it.

(b) The second aspect is the effect of the European patent granting procedure on *procedures before national patent offices.* The national procedure is not influenced by the EPC itself but is, however, by the existence of the EPO. Until now, the national patent offices had a monopoly on the granting of national patents. For the first time in the history of patent law in Europe, or even in the world, an applicant has the possibility of choosing between two routes in order to obtain a patent, i.e., the national or the European route. Thus a competitive-type situation has arisen between the national offices and the European Office, a situation that becomes even more obvious as the national offices and the EPO apply the same substantive patent law. It would certainly be a regrettable development if the situation were to lead to the national offices and the EPO vying with each other grant patents to applicants. This type of policy would certainly founder at the national courts, which have to decide on the validity of national as well as European patents. Such competition would be welcome, however, if restricted to the rapidity and flexibility of the procedure. In such case, the activities of the EPO could serve to loosen up the rigidity of time-honored national procedures.

X. Some Critical Comments on the Development of European Patent Law and of the EPO

It is not easy for the authors, who have participated in the work on European patent law from its very beginnings, to take a critical look at the outcome of that work. However, the objectivity which a jurist should possess demands that we point out possible weak points in the EPC.

1. Time Limits Under the EPC

One of the weak points in the EPC, which has already become obvious, is the stringent provisions on time limits that in some cases lead to an irrevocable loss of the application in a number of States. The provisions were born of the experience of national patent offices that whatever the time limits, however long they are, applicants normally take advantage of them up to the very last day. Since the success of the European patent granting procedure depends on it being carried out with rapidity and any superfluous extra work load for the EPO through the granting of additional time was to be avoided, the chosen solution was relatively short limits and stringent sanctions. In so doing, two factors were overlooked. Firstly, the applicant and his representative still had to become familiar with a new procedure that was not altogether uncomplicated, in order not to commit errors. Thus less rigorous provisions should have been adopted, at least for a lengthy transitional period. Additionally, but this was not foreseeable, the simultaneous opening of the PCT route further increased the problems for the applicant. Secondly, postal transmission and the remittance of money from one State to another, even within Europe, can result in delays which do not normally occur within one and the same State. These difficulties have now been recognized by both the EPO and by the Administrative Council. The EPO has introduced administrative measures and the Administrative Council has amended the Implementing Regulations in order to find a solution to these problems. Their efforts seem to have been successful. The new Rules 85a and 85d incorporated into the Implementing Regulations to the EPC by the Administrative Council are likely to have resolved the major difficulties.[42]

2. The Provisions for Non-Prejudicial Disclosures

A further EPC provision that has given rise to criticism is Article 55, which considerably limits prior disclosure and prior use of the invention by the inventor himself compared with the previous legal situation in a number of States, particularly in the Federal Republic of Germany.[43] The authors share the view of the critics that Article 55 of the EPC is not a very felicitous solution and that in the interests of individual inventors and scientists and of small and medium-sized undertakings not generally experienced in patent law, a grace period of novelty protection of at least six months should be afforded.

The problem, however, is that of determining the conditions for such a grace period to be incorporated into European patent law. The ideal solution would be to wait for a binding regulation for all Paris Convention States but this is a thing of the distant future since the question of the period of novelty protection is not included in the program for the Diplomatic Conference on the Revision of the Paris Convention. There remains therefore only the possibility explained in the report of

[42] For Rule 85a, see the decision of the Administrative Council of November 30, 1979, *EPO Official Journal,* no. 11-12/1979, p. 450; for Rule 85b, see decision of the Administrative Council of June 4, 1981, *EPO Official Journal,* no. 7/1981, pp. 199 and 200.

[43] See on this question, Bossung, "*Stand der Technik und eigene Vorverlautbarungen im internationalen, europäischen und nationalen Patentrecht,*" *GRUR Int.,* 1978, p. 381; Steup and Goebel, "*Stand der Technik und eigene Vorverlautbarung im internationalen europäischen und nationalen Patentrecht—Eine Erwiderung.*" *GRUR Int.,* 1979, p. 336; Report on behalf of the German National Group by Bardehle, Beier and von Pechmann on Question 75, "Publication and Prior Use by the Inventor," *IAPIP Yearbook,* 1980/II, p. 206.

the German Group of the International Association for the Protection of Industrial Property (IAPIP) to persuade the national legislatures to include corresponding provisions in their national laws. Would it not be possible for Europe to serve as the leading example along this thorny path? Would not an appropriate amendment to the EPC with its resultant harmonization effect on the current total of eleven European States represent an initial impetus which would influence not only industrial States but also a number of the developing countries?

One problem should not be overlooked however. As a result of the entry into force of the 1963 Strasbourg Convention, the current restrictive regulation for prior disclosure is now imposed under international law on the member States of the Convention. In order to launch successfully the idea of a new solution to the grace period of novelty protection in Europe, it is not only necessary to revise the EPC but also the Strasbourg Convention. This difficulty should not, however, constitute a deterrent but should, on the contrary, encourage us to take up the necessary preliminary work, which will in any event take a considerable time, with efforts being concentrated, at least to begin with, on the question of the grace period without touching the difficult problem of protection at exhibitions.

3. The Danger of Loss of Harmony

In the above comments we have frequently referred to the amazing harmonization effect of the EPC on national patent laws. This result, which was in no way obvious, should be maintained under all circumstances and not put at risk. However, it must be acknowledged that this risk exists if the Administrative Council of the EPO endeavors to develop European patent law in a progressive way as it has done with the new version of Rule 28 under the EPC by introducing the so-called "expert solution."[44] It would seem that some of the Member States are willing to adapt their national law to this new provision; however, it is already certain that some other Member States are going to maintain the old provision. Loss of harmony thus results. In the future, the old Roman principle of *"principiis obsta"* should be applied and the risk not be run of losing something which we have been fortunate to achieve.

XI. Summary and Perspectives

1. Summary

Looking back at the first three years of the European patent granting procedure, the authors cannot prevent themselves from thinking of a hurdles competition. In this comparison, the EPO has made a rapid and good start and has easily cleared the initial hurdles. But at least two hurdles still remain to be taken by the EPO: the appeals procedure and the confirmation of granted European patents in infringement and nullity proceedings before national courts.

It has already been mentioned (see item V.10, *in fine*, above) that the opposition procedure represents the touchstone of the European procedure. However, national infringement and nullity proceedings are likely to constitute a more difficult hurdle.

The danger of varying decisions being taken cannot be ignored and the construction of the EPC does not exclude them. It is only to be hoped that the national courts will be able to liberate themselves of the temptation to apply tried and tested national traditions to European law and that their decisions will be taken in a truly European spirit. If such is the case, then the EPO will also be able to clear this hurdle.[45]

2. Perspectives

(a) Despite occasional skepticism and a few cries of doom, we may be certain that the European patent granting procedure will attain its objective. The number of European and Euro-PCT applications will climb slowly but steadily. Prudent forecasts expect 23,000 applications in 1982. Whether the expected figure of 30,000 or even 40,000 applications a year will ever be reached cannot now be determined but it is also of no importance. Even with a lower number of applications, the EPO will be one of the major European patent offices and will assume a leading position because of its significance.

The function of the EPO as a searching authority for national applications will also grow. A draft Belgian patent law and a preliminary draft Greek patent law both provide, on the French model, for the statutory novelty searching of national patent applications. These searches may only be entrusted to the EPO Branch in The Hague.

(b) The number of Member States of the EPC will also increase. Denmark and Ireland are likely to accede to the EPC within the foreseeable future.[46] Greece and the candidates for accession to the European Communities, Portugal and Spain, will one day follow suit and a membership of 16 States is therefore not unrealistic, which will, in turn, enhance the attractiveness of the European patent granting procedure.

(c) In this context the Community Patent Convention should not be neglected. The CPC is taking on a key

[44] Decision of the Administrative Council of November 30, 1979, *EPO Official Journal*, no. 11-12/1979, p. 447.

[45] A first example of how European and domestic patent law can be harmonized by interpretation is given by the decision of the High Court of Justice, Patents Court, in *Smith Kline & French Laboratories v. R.D. Harbottle*, (1979) F.S.R. 555.

[46] As to the hesitation of certain circles in Ireland with respect to accession to the EPC, see the *Irish Times* of June 18, 1980.

role not only as regards the aims of the Common Market but also in relation to the development of the EPC.

For its entry into force, the CPC needs to be ratified by each of the nine EC Signatory States. Six of those States have so far completed their national ratification procedures. Denmark, Ireland and the Netherlands are still missing. The Netherlands expects to complete the ratification procedure by 1982; Ireland must settle constitutional problems and Denmark political problems.

What then is this key role of the CPC? Greece, the new Member State of the European Communities, and the two candidates for accession are or will be committed after their accession to the Treaty of Rome also to join all the agreements concluded among the original members of the Treaty of Rome, that is to say to accede to the CPC. However, they must also, on the one hand, accede to the EPC at the latest when joining the CPC (Article 95.2, CPC) and, on the other, may only accede to the CPC once it has entered into force. Thus the extension of the EPC depends on the entry into force of the CPC.

Without entry into force of the CPC there will be no Community patent. Contrary to the situation with regard to the European patent, the renewal fees for the Community patent will be kept in full by the EPO. The entry into force of the CPC thus improves the financial situation of the EPO.

The Community patent is more advantageous to the applicant than the European patent. It is financially more favorable (only approximately three designation fees for nine States; considerably lower renewal fees for the Community patent than for the sum total of nine national fees), simpler to maintain (only *one* payment in *one* currency to *one* office) and offers greater legal security in infringement and nullity proceedings (preliminary ruling by the European Court of Justice and a European nullity procedure) (Articles 73 and 56 to 63, CPC). On the latter point, however, the final word has not yet been spoken in view of the position of the United Kingdom.[47]

(d) The entry into force of the CPC is not, however, the only unresolved question that has to be mentioned when talking of the perspectives for the European patent granting procedure. The extensive harmonization of substantive patent law by the EPC and the CPC certainly constitutes one stage but not the end of the process. What has been achieved so far demands, in fact, that further harmonization measures be taken. It would seem essential that the provisions concerning the filing of PCT applications, European applications and national applications be unified as far as possible or, indeed, be made identical to ease the work of the applicants and their representatives. The European patent demands that following its grant the measures required to maintain the patent in force be harmonized, beginning with the adoption of the European file number to the simplification of the payment of the various annual fees, either by setting up a central payment office or by opening bank accounts in each EPC Member State. Finally, the examination guidelines of the Member States' national examining offices should be adapted to those of the EPO to ensure that the already harmonized substantive law be dealt with in as uniform a way as possible. A start has already been made by the EPO Administrative Council at its eleventh session in June of this year by setting up a working party, to be composed of representatives of the Contracting States, with the task of examining problems arising in the transition from the European to the national phase and to report thereon to the Administrative Council.

[47] See Resolution on Litigation of Community Patents adopted by the 1975 Luxembourg Conference on the initiative of the British Delegation, *Official Journal of the European Communities*, no. L 17, p. 40.

News from Industrial Property Offices

AUSTRALIA

The Patent, Trade Marks and Designs Office Annual Report 1979-80*

Role of the Patent, Trade Marks and Designs Office

The Australian Patent Office, as part of the Department of Productivity, exists to foster industry and commerce in Australia. It does this by performing the following functions:

- administering Australian industrial property systems for the protection of patents, trade marks and designs;
- developing and maintaining an information data base of inventions and industrial designs to facilitate the transfer and diffusion of technology;
- participating and monitoring developments in international systems for the protection of industrial property;
- advising the Minister and Secretary of the Department of Productivity on matters relating to industrial property at national and international levels and the transfer of technology through the industrial property system.

General

The year was one of intense activity for all areas of the Office. Legislation introduced in 1978/79 and that foreseen for implementation in 1979/80 was the major contributor to this increased activity. In particular, the Patent Cooperation Treaty (PCT), petty patents and trade marks for services constituted the bulk of this activity. In addition there was a continuing involvement in the Office towards technology transfer to Australian industry in conjunction with initiatives of the Department of Productivity. Increased responsibility towards developing countries, particularly those in Australia's immediate vicinity, led to the provision of training and other aids in the field of industrial property.

Structural changes implemented in the previous year provided a firm basis for coping with the additional responsibilities and work load. In December 1979 an Office Management Board was established. It is chaired by the Commissioner and membership includes all branch and section heads. The Board is responsible for setting objectives, forward planning, monitoring achievement against plans and establishing corporate priorities.

Activity Summary

The major activity of the Office continued to be the examination of patent, trade mark and design applications. The following table summarises the progress achieved in the examination of applications.

	Patents	*Trade Marks*	*Designs*
Unexamined applications at June 30, 1979	23,381	17,863	919
Add			
Applications lodged (July 1, 1979, to June 30, 1980)	11,212	13,018	3,086
Applications previously lapsed now restored	57	—	—
Deduct			
Applications examined	7,721	11,357	2,965
Applications lapsed	657	—	—
Applications withdrawn before examination	230	214	—
Unexamined applications at June 30, 1980	26,042	19,310	1,040

Patents

The operations of the Patent Office were governed by the Patents Act 1952. A major amendment to the Act, covering the PCT, occurred during the year and is discussed in detail under the heading "New Legislation."

Lodgment of applications for standard patents increased compared to the previous reporting period. A small number of petty patent applications was received

* Excerpted from the report issued under the same title.

and processing of some applications under PCT provisions began during the later part of the year.

Unexamined patent applications increased, due mainly to increased lodgments and the continuous commitment of examiners to the development of ADP systems and preparations for setting up the Office as an International Searching and Preliminary Examining Authority under the PCT. Despite intensive efforts aimed at streamlining the recruiting and training of patent examiners, the Office still experienced difficulties in obtaining staff to fill existing vacancies.

Special Examination

The Special Examination Section has now been fully staffed and operational for a year. The Section is divided into two main areas.

The Hearings and Decision Sub-Section deals mainly with opposition proceedings and ex-parte matters arising under the Act, and with sundry matters such as amendments and extension of time and restoration which involve the exercise of the Commissioner's discretion. Briefs for counsel, relating to cases on appeal from the Commissioner's decision, are also prepared. The Sub-Section trained 11 new examiners during the year. As part of the training function, research on specific areas of law is being continually conducted and consolidated into precedence files.

The Development and Classification Sub-Section played an active role in preparing for and operating under the PCT. The Progress, Planning and Development Unit investigated documentation requirements and accessing means, devised international searching techniques and conducted training seminars on PCT both within the Patent Office and in industry. The Search Quality Assurance Unit determined search strategies and co-ordinated other aspects of operations as an International Searching Authority. Other Sub-Section activities were concerned with the introduction of the Third Edition of the International Patent Classification (IPC); continuing reclassification of Australian search material to the IPC; involvement with the Permanent Committee on Patent Information (PCPI); introduction of a petty patent system; and assistance to the Thai Patent Office.

Trade Marks

The high lodgment rate of applications for registration of trade marks, following the introduction of service mark legislation, continued as expected, the average weekly rate for 1979 being 312 compared to 212 for 1978.

Because the provision for registration of trade marks for "intangible" services introduced a new concept into trade mark registration practice, care was taken in early examination of service mark applications to identify any necessary changes in the Office attitude, or to established criteria for registrability, but to date no significant changes have been necessary.

Some difficulty was experienced in classifying services in accordance with the International Classification system because applicants did not clearly specify the services for which they sought registration.

The High Court heard an appeal by the Registrar from a decision from the Victorian Supreme Court, in a case involving a consideration of the need for an overriding quality of distinctiveness to be present before a trade mark qualifies for registration and the matter of the Registrar's costs in an appeal from his decision.

The New South Wales Supreme Court reversed the Registrar's decision refusing to register the mark "Soflens" for "flexible contact lenses and accessories" in Part A or Part B of the Register, and on the additional evidence placed before it allowed the mark in Part B. The Registrar was awarded costs.

Designs

Applications for registration of designs decreased slightly over the previous year. The frequency of applications in the various classes did not change significantly, the major activity being in Class 1 (metal articles) and Class 3 (articles of wood, bone, ivory, etc.). There was, however, an increase in applications dealing with wall hangings and textiles.

Systems Development

Systems development gradually escalated, reflecting the creation and staffing of the Systems Management Section within the new Business Management Branch. Already several systems reviews have been conducted, with a view to improving clerical procedures or to increasing efficiency by using modern office machines. The level of activity is expected to be high for several years, including the development of computer-assisted systems. The major activities are highlighted in the following paragraphs.

Patent Administration Data Base

A computer-assisted system, which will facilitate the better administration of applications for patents, was implemented at the end of 1980. It includes an internal on-line inquiry component which will enable the Office to respond more rapidly and with greater accuracy to inquiries by applicants on the status of their applications.

Patent Searching

Further development was completed of the computer-assisted systems which provide an index to patent literature, commonly known as search lists. These systems help the Office meet its newly acquired responsibility to search a wider range of literature. Further development is planned, and a comprehensive "searching guide" is expected to be released for sale.

Trade Mark Searching

One of the main trade marks search aids, the Constituent Particulars Index, is now being consolidated and will be published—using the Computer Output to Microfiche (COM) technique—about every two months. This will be the first full consolidation since 1953. Another information aid, the representations of all prohibited trade marks, was published for the first time in microfiche form.

Printing Review

A major review of the style and content of the Australian Official Journal of Patents, Trade Marks and Designs was conducted with the assistance of representatives from industry and the patent attorney profession. In addition, the printing and publishing techniques are being reviewed in consultation with the Australian Government Printer and the Australian Government Publishing Service.

Word Processing

Another review, now under way, concerns the methods used to prepare reproduced textual data. This is expected to lead to the installation of a highly sophisticated word-processing facility to increase efficiency and provide a better service to users of these data.

Information Services

Australian Patent Information Service (APIS)

APIS continued its program of spreading awareness of the value of patent information for industrial research and development, and undertaking searches in support of this.

APIS was involved in a series of seminars on patents, trade marks, designs and patent information organised by the regional offices of the Department of Productivity in conjunction with the Productivity Promotion Council of Australia. These seminars were held in Melbourne, Brisbane, Hobart, Adelaide and Perth. In addition, APIS officers spoke at gatherings in regional centres including Albury, Darwin, Rockhampton, Townsville and Wagga.

In conjunction with the University of New South Wales, APIS sponsored the production of five audio lectures on intellectual property. These lectures are used by the University of New South Wales and are also available in cassette form to industry and educational institutions.

Technology Evaluation

The Technology Evaluation Unit was mainly engaged in expanding and improving its consultancy work for the Department of Productivity in respect of public-interest grant requests pursuant to Section 39 of the Industrial Research and Development Incentives Act (1976). A wide range of technologies was evaluated including:

(a) Glass-reinforced stabilised clay.
(b) Storage of thermal energy at temperatures below 200°C.
(c) Fuel metering and injection systems.
(d) Electric motor manufacture.
(e) Gasification of coal.
(f) Electronic weighing of livestock.
(g) Metal film resistors.
(h) Enamel-coated steels for printed circuit boards.
(i) Cheesemaking.
(j) Digital hearing aids.

Documentation Centre

The appointment of the Australian Patent Office as an International Searching Authority by the Assembly of the International Patent Cooperation Union required major changes in the organisation and physical arrangement of patent literature holdings in the Office.

An International Searching Authority must consult what is known as the "minimum documentation" in its search for the relevant prior art. A Documentation Centre was therefore established to service the Examination Branch by supplying, from this minimum documentation, those documents required by an examiner to carry out an international search.

The documents comprising the minimum documentation, many of which were previously relatively inaccessible, have now been brought together in the Documentation Centre, with retrieval systems designed to meet the expected demand.

Library

Despite problems arising from the establishment of the Documentation Centre, the Library continued to provide normal services to users. Assessments are being made of several commercially available computer-based on-line search systems, with a view to their incorporation in Patent Office information retrieval systems.

Resource Management

Staffing of the new Resource Management Section was completed early in the year. The Section was active

in the area of personnel management, office services and financial management. Some of the more significant activities are described in the following paragraphs.

Training Course for Developing Countries

A training course in industrial property was conducted for representatives of 11 developing countries in February/March, in conjunction with the Australian Development Assistance Bureau.

Personnel/Establishment Data

The data base covering personnel administration and organisation was improved. This included a pilot study on the use of the MANDATA computerised personnel information system.

Staff Resources

Methods of improving use of staff resources, including use of part-time trade mark examiners and the establishment of a temporary relief pool, were investigated and implemented. Closely allied to this was development of techniques for forecasting manpower requirements by staff categories.

Training of Patent Examiners

Despite streamlining of the processes involved with recruitment of patent examiners, the Office still experienced difficulties in obtaining satisfactory staff for training to fill existing vacancies. A course of training, prescribed by the current determination under Section 32 of the Public Service Act 1922, was conducted for six trainee examiners: three chemists, a physicist, an electronics engineer and a metallurgist.

Language Training

As part of the Office's new commitment to international searching, language training courses for 15 examiners began in March. Two courses were conducted by the Centre for Continuing Education, Australian National University, concentrating on the reading of technical French and German.

Industrial Property Advisory Committee

This Committee was established in June 1978 by the Minister for Productivity to advise him on matters concerning industrial property referred to it. The Committee has reported on several matters, including the Patents Amendment Bill (Petty Patents) and changes to Regulation 7B of the Patents Regulations. Matters at present before the Committee are:

(a) changes, if any, desirable to Section 103 of the Trade Marks Act;
(b) overlap between protection of service marks and that provided by company and business names legislation;
(c) a complete review of the patents system to see if it meets the needs of Australian industry.

International

World Intellectual Property Organization (WIPO)

At the meeting of the Governing Bodies of WIPO and of the Unions administered by WIPO, held in Geneva in September/October 1979, Australia was elected to the Paris Union Executive Committee and thus automatically became a member of the WIPO Coordination Committee. Australia's membership in the latter Committee was previously based on its membership in the Berne Union Executive Committee. This position was vacated at the 1979 meeting.

Aid to Other Countries

During the year a senior officer assisted in the establishment of the Papua New Guinea Trade Marks Office.

A set of published Australian patent specifications, dating from 1936, was delivered to Thailand. Advice and material, such as Australian search lists, were supplied to the Thai Office to assist it in developing its examination process.

Overseas Visits

Senior officers from the Patent Office represented Australia at the following WIPO meetings:

- Tenth series of meetings of the Governing Bodies of WIPO and the Unions Administered by WIPO—Geneva.
- Diplomatic Conference for the Revision of the Paris Convention (1st session)—Geneva.
- PCT Union Assembly (extraordinary session)—Geneva.
- Joint meeting of the WIPO Permanent Committee on Patent Information (PCPI) and the Committee for Technical Cooperation (PCT/CTC)—Geneva.
- Symposium on the Role of Patent Information in the Transfer of Technology—Varna.

Seminars

A seminar, jointly sponsored by the International Association for the Protection of Industrial Property (IAPIP), the Law Council of Australia and the Australian Patent Office, was held in Melbourne and Canberra on November 11 to 14 to consider the laws and practices relating to industrial property and particularly the pro-

tection of inventions in the countries of the ASEAN and South Pacific regions. Participants in the seminar included Dr. A. Bogsch, Director General of WIPO; Dr. K. Pfanner, Deputy Director General of WIPO; Dr. Kotaro Otani, Director, Japanese Group, AIPPI; Mr. T.M. Gault, President, New Zealand Group, AIPPI; Dr. P. Siemsen, Vice-President, Brazilian Group, AIPPI; Mr. F. Santillan, Chairman, Philippines Inventors' Commission; and Dr. J.C.A. Staehelin, Vice President, Legal and International Affairs, European Patent Office.

New Legislation

Patents Amendment (Patent Cooperation Treaty) Bill 1979

This Bill was introduced into Parliament on August 28, 1979, and the amendment came into operation on March 31, 1980. It amends the Patents Act to give effect to Australia's accession to the PCT.

Following Australia's accession to the Patent Cooperation Treaty, the Australian Patent Office was appointed an International Preliminary Examining Authority and an International Searching Authority under the Treaty.

SWITZERLAND

Swiss Intellectual Property Office

Activities Report 1980*

1. Legislation

Trademark Law

The preparatory work for the total revision of the Swiss trademark law is still in progress. As the European development of trademark law has a guiding influence on national law, it was followed closely. The work towards the establishment of a Community trademark for the European Community countries and towards a harmonization of the national legislations are of primary interest.

2. Execution of the Laws

a) Trademark Law

A special event was celebrated in the year under review: the 100th anniversary of national trademark registration. The Swiss Intellectual Property Office (SIPO) honored the centenary with the edition of a jubilee brochure and an internal celebration, highlighted by the presence of the Head of the Federal Department of Justice and Police.

b) Patent Law

The decrease in the number of patent applications was as expected in the long-term forecasts. This development is connected to the international patent systems and is commented upon in item 3, below.

In 1980, the first European patents (283) conferring protection in Switzerland and Liechtenstein were granted; henceforth these are to be administered by SIPO. The resulting practical problems were solved satisfactorily. From a legal point of view, these patents correspond to national titles and are therefore governed by Swiss law.

For the first time since the entry into force on January 1, 1978, of the revised Federal Law on Patents for Inventions,[1] the number of processed patent applications was higher than that of new applications filed.

The evaluation of the patent applications filed in 1979 and 1980, broken down into 11 subject matters, shows the following repartition and development:

Patent Applications Broken Down into Technical Fields

	1979	1980
Human necessities, agriculture	734	621
Health, sports, games	712	604
Industrial processes	2,439	2,058
Chemistry	2,556	2,154
Metallurgy	173	111
Textiles and paper	608	495
Building, mining	612	540
Mechanical engineering, lighting, heating	1,073	1,012
Weapons, explosives	95	128
Physics, nuclear physics	1,493	1,108
Electricity	1,045	831
Total	11,540	9,662

The research and development activities of any given country have an influence on the number of patents in force there. A worldwide comparison shows that Switzerland ranks eighth in that respect. If, however, the number of patents per one million inhabitants is worked out, then Switzerland (approximately 14,200 patents per million inhabitants) attains a figure which is more

* Excerpted from the report issued under the same title.

[1] See *Industrial Property Laws and Treaties*, SWITZERLAND—Text 2-001.

than four times as high as that of Japan (approximately 3,500), almost three times as high as that of the United States of America (approximately 5,000) and two times that of France (approximately 6,300).

In this context it is also interesting to note that Switzerland plays a prominent role when comparing on a country-by-country basis the number of citizens filing patent applications abroad ("patent exporting") and the number of foreigners filing applications in a given country ("patent importing"). The exporting of the patented achievements of research and development is of obvious vital significance to Switzerland as it compensates for its missing natural resources. When the total number of applications filed abroad by Swiss nationals or residents is compared to the number of inhabitants, the leading role of Switzerland as a technology provider becomes even more apparent.

3. Effects of the European Patent Convention (EPC) and the Patent Cooperation Treaty (PCT) on National Patent Applications

Mainly as a result of the availability of international patent granting procedures, the number of national patent applications dropped by 16.3%. This decrease presumably will continue in the years to come until the international patent systems finally mature. The recurrent tendency applies particularly to national applications from abroad.

The following table demonstrates the fluctuation in the number of patent applications which foreigners filed in Switzerland in 1979 and 1980:

Patent Applications Filed in Switzerland in 1979 and 1980, Originating from Abroad

	1979	1980	Variation in %
Germany (Fed. Rep. of)	2,386	1,804	−24.4
United States of America	1,390	1,139	−12
Japan	614	552	−10
France	609	407	−33.2
Italy	397	327	−17.6
United Kingdom	273	176	−35.5
Netherlands	269	154	−42.7
Austria	219	173	−21.1
Sweden	213	163	−23.5
Liechtenstein	111	116	+ 4.5
Sub Total	6,481	5,011	−22.7
Other countries (24)	618	602	− 2.6
Total	7,099	5,613	−21

The interest in seeking patent protection in Switzerland has nevertheless increased (i.e., by way of national, European and PCT applications), as the following table reveals.

Applications for Patent Protection in Switzerland

	1977[1]	1978	1979	1980
National applications of Swiss or foreign origin	16,343	13,314	11,540	△ − 16.3 9,662
European applications designating Switzerland	–	2,114	6,346	△ + 58.2 10,043
PCT applications designating Switzerland	–	107	621	△ 0 621
Euro-PCT applications designating Switzerland	–	113	820	△ + 51.8 1,245
Total	16,343	15,648	19,327	△ + 11.6 21,571

[1] Before the entry into force of the EPC and PCT, in mid-1978
△ Variation 1979/1980 in %

It was noticed that in 1980 many more applicants sought protection in Switzerland via the European procedure than in 1979; on the other hand, the country was designated in fewer PCT applications. A comparison of national applications from abroad with designations of Switzerland in European and PCT applications shows that more than 66% of all foreign applicants chose to obtain protection in Switzerland via one of the international patent granting procedures. On the other hand, only 16.5% of Swiss nationals chose an international route for obtaining patent protection in their own country.

4. International Activities

From February 4 to March 4, Switzerland participated in the Diplomatic Conference on the Revision of the Paris Convention which met in Geneva at the invitation of WIPO. The Group B spokesman was the head of the Swiss Delegation, Mr. Paul Braendli, Director of SIPO.

The 1978 Treaty on Patent Protection between Liechtenstein and Switzerland[2] entered into force during the year under review. It unites the two Contracting States in a unified territory of patent protection, which is the

[2] See *Industrial Property Laws and Treaties*, BILATERAL TREATIES—Text 2-001.

first of its kind in Europe. Patents granted by SIPO confer protection for the whole of the territory and only both the countries together, as one, can be designated in European and international patent applications.

In addition, the Treaty on the Protection of Indications of Source, Appellations of Origin and Other Geographical Denominations, concluded with Hungary, was approved by both Chambers of the Swiss Parliament.

5. Development Assistance

In 1980, SIPO welcomed trainees from Zaire, Angola and the African Intellectual Property Organization (OAPI). Their stays were arranged within the framework of the WIPO Permanent Program for Development Cooperation Related to Industrial Property.

Continuing a long-term project, two officials of SIPO worked for several weeks in the Patent Documentation and Information Department (DEDIB) of OAPI.

During 1980, the Director of SIPO participated in a mission to Hanoi. Together with an official of WIPO, he gave advice to representatives of the Vietnamese Government on establishing a patent office, and implementing an industrial property law and on the position of Viet Nam in relation to the international treaties.

6. Participation in Exhibitions

In the year under review, technical and administrative experts of SIPO participated in exhibitions of inventions in Basle and Geneva.

The Deputy Director of SIPO, Dr. Jean-Louis Comte, inaugurated the two exhibitions: The 10th Inventor's Show at the Swiss Industries Fair in Basle (from April 19 to 28, 1980), and The 9th International Exhibition of Inventions in Geneva (from November 28 to December 7, 1980).

The presence of a SIPO information stand at the fairs seemed to meet a very real need. Most of the inquiries related to technical problems, the drawing up of patent applications, the differences between national, European or international patent filing procedures and their relative cost. The public also expressed an interest in the general activities of SIPO and on intellectual property legislation.

7. Financial Situation

A characteristic of SIPO's income pattern for some considerable time has been substantial fluctuation. In 1980, a certain stability began to manifest itself. Nevertheless, the surpluses achieved in 1979 and 1980 were far from sufficient to compensate for the accumulated losses of previous years.

Since the revision of the Swiss Patent Law in 1978, any assessment of the financial position of SIPO must be made in the context of the newly established obligation that income must match expenditure. For this reason, all variations in the behavior of fee income patterns deserve close study. The fact that in the year under review, total fee receipts virtually equalled those of the previous year should not hide the reality that some categories of fees lost substantial ground. Apart from slight increases in trademark fees, and annual patent fees, the retrograde trends in other sections are unmistakable. The receipts from patent application fees decreased by 17%, the contributions to printing costs including sales of publications by 3% and the various patent fees summarized under the heading "other fees" by 16%.

Book Reviews

La protection juridique des caractères typographiques: Etude de l'Arrangement de Vienne concernant la protection des caractères typographiques et leur dépôt international, by K. Stoyanov. Librairie Droz, Genève, 1981. — 241 pages.

As the author points out in this work, type faces are more than just industrial products; they also constitute artistic creations. Their purpose is to give extrinsic form to the intrinsic value of a text, i.e., to capture and illustrate written thought. It is thus clear that type faces have a dual character and that this duality has important legal implications. While a new manufacturing process for type faces may be protected under patent law, a new type face itself should be considered independently of its manufacturing process and protected as a creation of form.

The author divides his well researched and in-depth study on the legal protection of type faces into two parts. In the first he discusses various solutions to the problem of protection as provided for in the Benelux, France, Germany (Federal Republic of), Italy, Switzerland, the United Kingdom and the United States of America. Determining that these national solutions are insufficient, the author devotes the second part of his work to an extensive analysis of the Vienna Agreement for the Protection of Type Faces and their International Deposit. This Agreement, which was signed in 1973 by 11 States and since then ratified by two (France and the Federal Republic of Germany), will enter into force following ratification or accession by three additional States.

To conclude, the author evaluates the Vienna Agreement. While criticizing it for not being sufficiently innovative and yet imposing too many legislative modifications on Contracting States, he finds that it is a surprisingly efficient and flexible instrument which juxtaposes the essential characteristics of intellectual property in such a manner that each Contracting State is free to select that which best suits its own national legal order.

In view of the renewed interest in recent years in the creation of new type faces, accompanied by inevitable infringement problems, this work is well worth studying, particularly with regard to the light it sheds on the Vienna Agreement.

JAE

Intellectual Property Management: Law — Business — Strategy (revised edition), by P. Sperber, Clark Boardman Co., Ltd., New York, 1980. — looseleaf binder;

Méthodes pour innover et se diversifier, by F. Libmann. Les éditions d'organisation, Paris, 1980. — 175 pages.

While there is a multitude of literature on the legal and business aspects of industrial property and innovation, there is a dearth of practical material on how those subjects can be profitably and successfully dealt with by enterprises. The purpose of these two works, the former in English and the latter in French, is to fill that gap. Although their approaches and treatment of the subject matter are not always parallel, both works present practical suggestions on how to obtain optimum benefits from innovation.

JAE

Patent Law Fundamentals (2nd edition), by P.D. Rosenberg. Clark Boardman Co., Ltd., New York, 1980. — looseleaf binder.

The second edition of this work, which is devoted to an analysis of American patent law, represents a major updating and expansion of the original. It includes coverage of new legislative amendments, Patent and Trademark Office Rules of Practice, court decisions and international developments.

The second edition contains analyses of the following topics: basic principles of patent protection; trade secrets, trademarks and copyrights compared and contrasted with patents; substantive requirements of patentability; completing rights; obtaining patent protection; exploiting patent rights; and international patent protection. Furthermore, the volume's looseleaf format permits updating and the incorporation of new developments.

This work is of value to all those who are interested in gaining an insight into American patent law, be they the uninitiated or seasoned professionals.

JAE

Selection of New Publications

Current Developments in Trademark Law and Unfair Competition 1980, Practising Law Institute, New York, 1980. — 288 p.

DAHMANN (G). *Patentwesen, technischer Fortschritt und Wettbewerb: Formulierung einer empirisch prüfbaren Patenttheorie und Bewährungstest am Beispiel der Rasiergeräteindustrie*, Peter D. Lang, Frankfurt am Main *et al.*, 1981. — 581 p.

Domestic and International Licensing of Technology 1980, Practising Law Institute, New York, 1980. — 688 p.

FRANÇON (D.) and LESTANC (C.). *Le coût des brevets d'invention*, étude réalisée sous la direction de J.-M. Mousseron, Centre de Droit de l'Entreprise, Montpellier, 1980. — 39 p.

GRIDEL (J.-P.). *Les inventions de salariés à l'épreuve de la Loi du 13 juillet 1978 et du Décret du 4 septembre 1979*, Librairie générale de droit et de jurisprudence, Paris, 1980. — 79 p.

HUBERT (A.). *Le contrat d'ingénierie-conseil*, Masson, Paris *et al.*, 1980. — 227 p.

IDENBURG (P.J.). *Kennes van Zaken: Aspecten von Know-How-Recht in de Europese Gemeenschap en de Verenigde Staten* (with a summary in English), Kluwer, Deventer, 1979. — 247 p.

JACOBSSON (M.), TERSMEDEN (E.) and TÖRNROTH (L.). *Patentlagstiftningen — en kommentar*, P.A. Norstedt & Söners Förlag, Stockholm, 1980. — 836 p.

KASE (F.J.). *Dictionary of Industrial Property: Legal and Related Terms* (English, French, German, Spanish), Sijthoff & Noordhoff, Alphen aan den Rijn and Germantown (Maryland), 1980. — 216 p.

KRAATZ (K.-J.). *Der Schutz geographischer Weinbezeichnungen im Recht der Europäischen Gemeinschaften*, Duncker & Humblot, Berlin, 1980. — 176 p.

McCOMAS (W.R.), DAVISON (M.R.) and GONSKI (D.M.). *The Protection of Trade Secrets: a General Guide*, Butterworths, Sydney *et al.*, 1981. — 98 p.

Protection of Geographic Denominations of Goods and Services, edited by H. Cohen Jehoram, Sijthoff & Noordhoff, Alphen aan den Rijn and Germantown (Maryland), 1980. — 206 p.

STAMPFLI-MEDZIKIJAN (L.). *Le transfert de technologie: Les efforts actuels pour une réglementation internationale*, Peter Lang, Berne *et al.*, 1980. — 481 p.

UNITED STATES TRADEMARK ASSOCIATION. *1980-81 Trademark Law Handbook*, Clark Boardman Co., Ltd., New York, 1980. — 230 p.

ZALESKI (E.) and WIENERT (H.). *Transfert de techniques entre l'Est et l'Ouest*, Organisation de coopération et de développement économiques, Paris, 1980. — 463 p.

Selection of WIPO Industrial Property Publications in 1981

Industrial Property Glossary (Chinese, English, French), no. 824 (CEF), April 1981. — 156 p. (Sw.fr. 20.—).

Patent Information and Documentation Handbook, July 1981. — looseleaf binders (Sw.fr. 120.—).

Guide to the International Deposit of Industrial Designs, no. 623 (E), August 1981. — 169 p. (Sw.fr. 20.—).

International Classification for Industrial Designs, no. 501 (E), October 1981. — 199 p. (Sw.fr. 80.—).

International Classification of Goods and Services for the Purposes of the Registration of Marks (third edition), no. 500 (E), June 1981. — 153 p. (Sw.fr. 75.—).

WIPO Legal Training Course on Patents (Beijing, October-November 1980), no. 626 (E), February 1981. — 39 lectures, 4 information documents (Sw.fr. 20.—).

WIPO Patent Agency Course (Beijing, February-March 1981), no. 627 (E), May 1981. — 20 lectures, 6 information documents and glossary (Sw.fr. 20.—).

Patent Documentation Seminar (Beijing, October 1981), no. 628 (E), November 1981. — 9 lectures, 2 information documents (Sw.fr. 20.—).

Records of the Vienna Diplomatic Conference on the International Classification of the Figurative Elements of Marks, 1973, no. 334 (E), January 1981. — 371 p. (Sw.fr. 30.—).

Records of the Diplomatic Conference on the Revision of the Nice Agreement, 1977, no. 335 (E), July 1981. — 218 p. (Sw.fr. 25.—).

Records of the Diplomatic Conference for the Conclusion of a Treaty on the International Recording of Scientific Discoveries, 1978, no. 338 (E), October 1981. — 216 p. (Sw.fr. 25.—).

Records of the Geneva Diplomatic Conference on the Revision of the International Convention for the Protection of New Varieties of Plants, 1978, no. 337 (GE), November 1981. — 316 p. (Sw.fr. 90.—).

Calendar

WIPO Meetings

(Not all WIPO meetings are listed. Dates are subject to possible change.)

1981

December 1 to 4 (Geneva) – International Patent Classification (IPC) Union – Committee of Experts

December 7 to 11 (Geneva) – Permanent Committee for Patent Information (PCPI) and PCT Committee for Technical Cooperation

1982

February 22 to 25 (Colombo) – Symposium on the Use and Usefulness of Trademarks in the Countries of the Asian and Pacific Region

September 27 to October 5 (Geneva) – Governing Bodies (WIPO Coordination Committee; Executive Committees of the Paris and Berne Unions)

UPOV Meetings

1982

April 26 and 27 (Geneva) – Administrative and Legal Committee

April 28 and 29 (Geneva) – Consultative Committee

May 11 to 13 (Salerno) – Technical Working Party for Vegetables

May 18 (Madrid) – Technical Working Party for Agricultural Crops – Subgroup

May 19 to 21 (Madrid) – Technical Working Party for Agricultural Crops

September 28 (Faversham) – Technical Working Party for Fruit Crops – Subgroup

September 29 to October 1 (Faversham) – Technical Working Party for Fruit Crops

October 5 to 7 (Cambridge) – Technical Working Party for Ornamental Plants and Forest Trees

October 12 (Geneva) – Consultative Committee

October 13 to 15 (Geneva) – Council

November 15 and 16 (Geneva) – Administrative and Legal Committee

November 17 (Geneva) – Information Meeting with International Non-Governmental Organizations

November 18 and 19 (Geneva) – Technical Committee

Meetings of Other International Organizations Concerned with Industrial Property

1981

European Patent Organisation: December 1 to 4 (Munich) – Administrative Council