

# Industrial Property

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**INDUSTRIAL PROPERTY LAWS AND TREATIES  
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Editor's Note

**DENMARK**

Patents Act (Patents Act No. 479 of December 20, 1967, as last amended by Act No. 368 of June 7, 1989) (*This text replaces the one previously published under the same code number*) ..... Text 2-001

Secret Patents Act (Consolidated Act No. 547 of October 25, 1978, as amended by Act No. 369 of June 7, 1989) (*This text replaces the one previously published under the same code number*) ..... Text 2-002

**LATVIA**

Announcement on the Provisional Order of Inventions, Industrial Designs and Trademarks Protection in the Republic of Latvia (of May 21, 1992) ..... Text 1-001

**UNITED STATES OF AMERICA**

United States Code, Title 35—Patents (as last amended by Public Law 101-580 of November 16, 1990) (*Replacement sheets*) ..... Text 2-001

## Notifications Concerning Treaties Administered by WIPO in the Field of Industrial Property

### Hague Agreement

#### New Member of the Hague Union

##### DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

The Government of the Democratic People's Republic of Korea deposited, on April 15, 1992, its instrument of accession to the Hague Agreement Concerning the International Deposit of Industrial Designs of November 6, 1925, as revised at The Hague on November 28, 1960 ("the Hague Act (1960)"), and supplemented at Stockholm on July 14, 1967 ("Stockholm (Complementary) Act (1967)") and amended on October 2, 1979.

The Democratic People's Republic of Korea has not heretofore been a member of the Union for the International Deposit of Industrial Designs ("Hague Union"), founded by the Hague Agreement.

The Hague Act (1960) will enter into force, in respect of the Democratic People's Republic of Korea, on May 27, 1992. On that same date, the Democratic People's Republic of Korea will become bound by Articles 1 to 7 of the Stockholm (Complementary) Act (1967) and will become a member of the Hague Union.

mentary) Act (1967) and will become a member of the Hague Union.

*The Hague Notification No. 32, of April 27, 1992.*

### Patent Cooperation Treaty (PCT)

#### New Member of the PCT Union

##### IRELAND

The Government of Ireland deposited, on May 1, 1992, its instrument of ratification of the Patent Cooperation Treaty (PCT), done at Washington on June 19, 1970, amended on October 2, 1979, and modified on February 3, 1984.

The said Treaty will enter into force, with respect to Ireland, on August 1, 1992.

*PCT Notification No. 67, of May 4, 1992.*

## Normative Activities of WIPO in the Field of Industrial Property

### Permanent Committee on Industrial Property Information (PCIPI)

#### PCIPI ad hoc Working Group on Optical Storage (PCIPI/OS)

Seventh Session  
(Geneva, March 9 to 13, 1992)

The PCIPI/OS held its seventh session in Geneva from March 9 to 13, 1992.

The Working Group took note of the discussions on the decision of the PCIPI taken at its third session

in September 1991 regarding the downloadability of information on CD-ROMs. The question arose whether downloading from a CD-ROM by an end user at a patent library for personal use fell within the meaning of "internal use of Offices" as contemplated by the PCIPI. The Working Group decided that the matter should be referred to the PCIPI Executive Coordination Committee for further clarification.

The Working Group noted the status reports on the development of optical storage within offices. It was noted that six offices (of France, Germany, Spain, the United Kingdom, the United States of America and the European Patent Office (EPO)) were issuing patent documents on image-mode CD-ROM and six offices (of Denmark, Hungary, the Netherlands, the Russian Federation, Sweden and Switzerland) would issue patent documents on image-mode CD-ROM shortly.

The Working Group took note of the specifications for mixed-mode CD-ROMs elaborated by the Japanese Patent Office. The Working Group was also informed that within the Trilateral Cooperation among the Japanese Patent Office, the United States Patent and Trademark Office and the EPO, the functional requirements for mixed-mode CD-ROM software had been elaborated and tenders had been sought, and that the said software was initially intended for use with the "first page" mixed-mode CD-ROM.

The Working Group requested that the International Bureau:

(i) identify (proposed) standards or testing methods related to the physical characteristics of CD-ROMs that might be appropriate for archival storage;

(ii) prepare a checklist of important considerations for the handling and storage of discs that will promote their longevity; and

(iii) prepare a discussion paper concerning the policy issues that intellectual property offices which produce or use CD-ROMs should consider when contracting for CD-ROM production, when providing users with discs, or when obtaining discs from producers.

The Working Group reviewed the draft of WIPO Standard ST.40—Recommendation concerning making facsimile images of patent documents available on CD-ROM—which was formulated by the Working Group at its last session. The Working Group finally agreed to recommend to the PCIPI Executive Coordination Committee at its next session in May 1992 the adoption of the final draft of WIPO Standard ST.40.

## International Patent Classification (IPC) Union

### Committee of Experts

Twentieth Session  
(Geneva, March 2 to 5, 1992)

The Committee of Experts of the International Patent Classification (IPC) Union held its twentieth session in Geneva from March 2 to 5, 1992. Fifteen States, members of the Committee of Experts—Austria, Denmark, Finland, France, Germany, Japan, Netherlands, Norway, Portugal, Russian Federation, Spain, Sweden, Switzerland, United Kingdom, United States of America—and the European Patent Office (EPO) were represented at the session. The list of participants follows.

This session was the third of a series of sessions of the Committee of Experts that will lead to the adoption of the sixth edition of the IPC (to be published in 1994).

The Committee of Experts approved amendments (to both the English and the French versions of the IPC) submitted to it by the Working Group on Search Information of the WIPO Permanent Committee on Industrial Property Information (PCIPI). Those amendments affect one class and 53 subclasses of the IPC.

The Committee of Experts discussed the question of whether to recommend to the Assembly of the

IPC Union that the application of the IPC indexing codes be made obligatory and decided that this matter should be further considered, possibly at an extraordinary session of the Committee, which might be convened in order to discuss the future of the IPC.

### LIST OF PARTICIPANTS\*

#### I. Member States

**Austria:** J. Tschöllitsch. **Denmark:** S. Simonsen; I.-M. Wollny. **Finland:** H. Lommi. **France:** M. Lyon. **Germany:** B. Geyer. **Japan:** Y. Takagi. **Netherlands:** S. de Vries. **Norway:** J. Sveinungsen. **Portugal:** A. Bandeira; A. Queiros Ferreira. **Russian Federation:** V. Belov. **Spain:** D. Vila Robert; R. Gaiteiro. **Sweden:** J. von Döbeln. **Switzerland:** J. Borloz. **United Kingdom:** D. Barford. **United States of America:** D. Rooney.

#### II. International Organization

**European Patent Office (EPO):** J.-M. Moreau.

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

### III. Officers

*Chairman:* S. de Vreis (Netherlands). *Vice-Chairmen:* A. Bandeira (Portugal); S. Simonsen (Denmark). *Secretary:* B. Hansson (WIPO).

### IV. International Bureau of WIPO

F. Curchod (*Deputy Director General*); B. Hansson (*Director, International Classifications Division*); A. Sagarminaga (*Head, International Patent Classification Section, International Classifi-*

*cations Division*); M. Makarov, (*Senior Patent Classification Officer, International Patent Classification Section*).

In March 1992, a WIPO official attended a meeting of the Working Group "IMPACT of Patent Laws on Documentation" of the Patent Documentation Group (PDG) (an international non-governmental organization having observer status in the PCIPI) in London. He gave a presentation on WIPO's activities in the field, as well as information on the IPC:CLASS CD-ROM.

## Registration Systems Administered by WIPO

### Patent Cooperation Treaty (PCT)

#### Meetings

*Meeting of International Authorities under the PCT.* The Meeting of International Authorities under the PCT held its second session in Geneva from March 9 to 13, 1992. The following eight International Authorities were represented at the session: the Australian Patent Office, the Austrian Patent Office, the Committee for Patents and Trademarks of the Russian Federation, the European Patent Office (EPO), the Japanese Patent Office (JPO), the Swedish Patent Office and the United States Patent and Trademark Office (USPTO) in their capacities as both International Searching and International Preliminary Examining Authorities under the PCT, and the United Kingdom Patent Office in its capacity as an International Preliminary Examining Authority under the PCT.

During that session, all the International Searching and International Preliminary Examining Authorities agreed to modifications to the PCT Search Guidelines and the PCT Preliminary Examination Guidelines. The International Authorities also considered proposed modifications to the Administrative Instructions under the PCT and to the forms relating to the procedure before the International Searching Authorities and before the Preliminary Examining Authorities.

On March 27, 1992, an *informal meeting* was held in Geneva of representatives of the private sector from seven PCT Contracting States (Australia, Canada, Denmark, Germany, Japan, Netherlands, United States of America) and 13 international non-governmental organizations (Chartered Institute of Patent Agents [CIPA], Committee of National Institutes of Patent Agents [CNIPA], European Federation of Agents of Industry in Industrial Property [FEMIP], Institute of Professional Representatives Before the European Patent Office [EPI], Intellectual Property Owners, Inc. [IPO], International Association for the Protection of Industrial Property [AIPPI], International Chamber of Commerce [ICC], International Federation of Industrial Property Attorneys [FICPI], International Federation of Inventors' Associations [IFIA], Japan Patent Association [JPA], Licensing Executives Society (International) [LES], Patent and Trademark Institute of Canada [PTIC], Union of European Practitioners in Industrial Property [UEPIP]). The meeting considered the possibility of adding new features to the PCT system in order to make the international search report and the international preliminary examination report so reliable that supplemental search and examination during the national phase of the PCT procedure would not be regarded as necessary for the overwhelming majority of applications.

### PCT Seminar

In March 1992, a WIPO official conducted a seminar on the PCT organized by a private company in Munich for some 30 paralegal staff members from industry and law firms.

### Training and Assistance

In March 1992, two officials from the National Board of Patents and Registration of Finland visited the PCT Administration Division and the PCT Legal Division and received training with respect to the PCT.

## Computerization Activities Under the Patent Cooperation Treaty (PCT) and the Madrid Agreement (Marks)

### CD-ROM Products of the World Intellectual Property Organization (WIPO)

#### *Introduction*

WIPO has embarked on a program to distribute and disseminate industrial property information relating to its own activities, on optical storage media, more particularly on CD-ROMs. The purpose of the present note is to describe that program.

#### *Operational CD-ROM Series*

##### *ESPACE-WORLD*

A first CD-ROM series, which is presently produced in cooperation with the European Patent Office (EPO), in Munich, is called "ESPACE-WORLD" and contains bibliographic data and the complete facsimile images of the international patent applications published by the International Bureau under the PCT. The project was started in 1990 and the 1992 series of ESPACE-WORLD will consist of approximately 46 CD-ROMs containing 23,000 published PCT applications. Publication is fortnightly.

Although an ESPACE-WORLD series subscription costs DM 2,500 per annum, any PCT member State which waives its right to receive paper copies of all the PCT international applications receives, free of charge, the ESPACE-WORLD CD-ROM series, together with a standard CD-ROM workstation with which the CD-ROMs may be read and printouts may be obtained of the published international applications stored on them.

As of May 15, 1992, Austria, Barbados, Brazil, Bulgaria, Canada, Czechoslovakia, the Democratic People's Republic of Korea, Denmark, France, Greece, Hungary, Italy, Luxembourg, Malawi, Monaco, Mongolia, Poland, the Republic of Korea, Romania, the Russian Federation, Sri Lanka, Sweden, the United States of America, the EPO and the African Intellectual Property Organization

(OAPI) have opted for the alternative of receiving the published PCT international applications on CD-ROM. These countries have received a CD-ROM workstation, free of charge, from WIPO.

WIPO will, in 1992 and 1993, publish the whole backfile (1978-89) of the 66,700 published PCT international applications, which will fill approximately 140 CD-ROMs.

##### *ESPACE-FIRST*

A second CD-ROM series is called "ESPACE-FIRST" and it is also a joint project with the EPO. ESPACE-FIRST CD-ROMs contain bibliographic data and complete facsimile images of the first page of published PCT international applications and of published European patent applications. Publication is bimonthly, i.e., six CD-ROMs per year.

This CD-ROM series was started in 1988 and the yearly subscription price is DM 450 (not including postage). It is provided free of charge to all member States of the PCT.

##### *IPC:CLASS*

The "IPC:CLASS" (*IPC Cumulative and Linguistic Advanced Search System*) CD-ROM is produced by WIPO in cooperation with the German Patent Office and the Spanish Registry of Industrial Property. The software for IPC:CLASS was developed by Arcanum B.t., Budapest, Hungary.

The IPC:CLASS CD-ROM contains the third to fifth editions of the International Patent Classification (IPC) in English and French, the fourth and fifth editions in German, the fifth edition in Hungarian and Spanish, Catchword Indexes in English, French and Spanish, a bilingual (German/English) catchword index [*Stich- und Schlagwörterverzeichnis*], revision concordance data relating to the second to fifth editions of the IPC and the IPC valid symbols data.

The main purpose of producing the IPC:CLASS CD-ROM is to offer a simple IPC search tool that makes it possible, even for the searcher who is not

very familiar with the IPC, to identify the relevant places in different editions of the IPC, without having to resort to a multitude of printed publications.

The retrieval software, containing built-in hyper-text-like features, is provided separately on a floppy disc. This software enables the user to search with the use of keywords and/or IPC symbols in any of the data files on the IPC:CLASS CD-ROM and to easily switch between language versions and different editions, with simultaneous display of two data files on the screen.

One copy of the IPC:CLASS CD-ROM is distributed free of charge to the industrial property offices of the States members of the IPC Union and its special observers. They may purchase further copies at the price of 200 Swiss francs per copy, whereas other industrial property offices and inter-governmental organizations may buy them at 300 Swiss francs per copy. For other users the price is 500 Swiss francs per copy.

### ROMARIN

The "ROMARIN" CD-ROM (*Read-Only-Memory of Madrid Actualized Registry Information*) contains all the relevant data of each international mark registered in the International Trademark Register maintained by WIPO under the Madrid Agreement Concerning the International Registration of Marks, together with the figurative elements of the marks, if any. A ROMARIN CD-ROM is issued every month starting from May 1992 and, in each case, constitutes the totality of the data in the International Trademark Register.

The ROMARIN CD-ROMs are provided free of charge to the member States of the Madrid Agreement (more particularly, their trademark administration offices), which have also received, free of charge, a specially configured ROMARIN CD-ROM workstation.

The following information regarding each international registration is recorded on the ROMARIN CD-ROM:

- serial number of international registration;
- date of international registration;
- duration of protection;
- the mark itself (if a word mark);
- transliteration or translation of the mark (if a word mark);
- name of owner;
- address of owner;
- name of the most recent previous owner, if any;
- effective date of international registration;
- details of the mark, including indications of colors, if claimed;
- data of national registration in country of origin;
- priority data;

- related mark numbers;
- countries designated at date of international registration;
- any later designations and/or renunciations;
- class or classes according to the International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Classification);
- list of goods and/or services;
- classification symbol(s) according to the International Classification of the Figurative Elements of Marks (Vienna Classification);
- data concerning refusals and/or limitations.

The CD-ROM further contains the texts of the Nice and Vienna Classifications in English and in French. These texts can be perused in each language or searched for relevant class(es) and classification symbol(s).

The majority of the bibliographic data stored on the ROMARIN CD-ROM are also available on the disc in the form of indexes and, therefore, can be searched using various parameters, including Boolean logic operators. As regards the list of goods and services, the individual words are searchable in French.

Monthly ROMARIN production discs have been available since May 1992 on a subscription basis. They will contain each month the complete international mark file plus the "black and white" images of the current month. The *complete* image file, i.e., all images (black and white, gray-scale and colors) will be delivered in a second disc to all subscribers at the end of the first production year, i.e., in 1993.

### Planned CD-ROM Series

The "PraCTis" CD-ROM series (*PCT Retrieval and Consulting Tool for Information Scientists*) contains, in coded form, the basic bibliographic data, including a title and an abstract in English and French, of each published international application. It is planned that PraCTis will be issued as a cumulative file every two months on one or two CD-ROMs starting in September 1992.

In the area of the PCT, another CD-ROM product is planned that will contain the texts of the PCT and its Regulations, the PCT Administrative Instructions, the *PCT Applicant's Guide* and the Guidelines established under the PCT.

A further possible CD-ROM, which would contain the texts of international treaties and national laws in the field of intellectual property, is under consideration by the International Bureau.

*Software*

All operational and planned CD-ROM series of WIPO use, or will use, with the exception of IPC:CLASS, the same software platform, i.e., GTI by Jouve S.I., Paris, France, which the EPO also uses, and which guarantees to users of industrial property information throughout the world that they have identical software for similar products.

The ROMARIN CD-ROMs work on an upgraded version of the GTI software, i.e., with the Windows 3.0 facility.

*Conclusion*

Access to patent information and documentation has always been considered vital to the industrial development of nations, whereas trademark information is vital for market strategies and other questions relating to international trade.

With its free-of-charge supply of CD-ROM series and its free-of-charge CD-ROM hardware supply program, WIPO has elaborated a strategy to promote actively the dissemination and use of patent and trademark information following the latest available technological developments.

## Hague Union

### Committee of Experts on the Development of the Hague Agreement Concerning the International Deposit of Industrial Designs

Second Session  
(Geneva, April 27 to 30, 1992)

#### NOTE

#### Introduction

The Committee of Experts on the Development of the Hague Agreement Concerning the International Deposit of Industrial Designs (hereinafter referred to as "the Committee of Experts") held its second session in Geneva from April 27 to 30, 1992.<sup>1</sup>

The following States members of the Hague Union were represented: Democratic People's Republic of Korea, France, Germany, Indonesia, Italy, Monaco, Morocco, Netherlands, Spain, Switzerland, Tunisia (11).

The following States members of the Paris Union were represented by observers: Algeria, Bulgaria, China, Côte d'Ivoire, Denmark, Iran (Islamic Republic of), Ireland, Japan, Libya, Mexico, Norway, Portugal, Republic of Korea, Romania, Sweden, Turkey, United Kingdom, United States of America, Viet Nam (19). A representative of Namibia participated in an observer capacity.

Representatives of the Benelux Designs Office (BBDM) and the Commission of the European

Communities (CEC) took part in the session in an observer capacity.

Representatives of the following non-governmental organizations took part in the session in an observer capacity: American Bar Association (ABA), American Intellectual Property Law Association (AIPLA), Coordination Committee for the Textile Industries in the European Economic Community (COMITEXIL), European Association of Industries of Branded Products (AIM), Federal Chamber of Patent Agents (FCPA), International Association for the Protection of Industrial Property (AIPPI), International Chamber of Commerce (ICC), International Council of Societies of Industrial Design (ICSID), International Federation of Industrial Property Attorneys (FICPI), International Federation of Inventors' Associations (IFIA), International Liaison Committee for Embroideries, Curtains and Laces (CELIBRIDE), International Literary and Artistic Association (ALAI), Japan Design Protection Association (JDPA), Max Planck Institute for Foreign and International Patent, Copyright and Competition Law (MPI), Trade Marks, Patents and Designs Federation (TMPDF), Union of European Practitioners in Industrial Property (UEPIP), Union of Industrial and Employers' Confederations of Europe (UNICE), Union of Manufacturers for the International Protection of Industrial and Artistic Property (UNIFAB) (18). The list of participants follows this Note.

The discussions were based on the following document drawn up by the International Bureau of WIPO: "Draft Treaty on the International Registration of Industrial Designs" (document H/CE/II/2), hereinafter referred to as "the draft Treaty."

In the present Note, any references to the "Hague Agreement" are to the Hague Agreement Concerning the International Deposit of Industrial Designs, and

<sup>1</sup> For the Note on the first session, see *Industrial Property*, 1991, pp. 246 to 256.



any references to the "1934 Act" or to the "1960 Act" are to the London Act of 1934 or to the Hague Act of 1960 of the Hague Agreement, respectively.

### General Observations

The following general observations were made:

"The Secretariat said that it was pleased to inform the Committee of Experts that the Democratic People's Republic of Korea had on April 15, 1992, deposited its instrument of accession to the 1960 Act of the Hague Agreement. The Committee of Experts agreed that the Democratic People's Republic of Korea should as of that moment be considered a member State of the Hague Union, even though the instrument of accession had not yet produced its effects.

The Delegation of Germany considered that the draft Treaty presented by WIPO was an interesting and clear document. It said that the draft had the merit of being less complex than the Hague Agreement with its various Acts. In any event, it was necessary either to improve the Acts in force or to create a new instrument, the ideal solution being no doubt to substitute a single instrument for those various Acts. The Delegation expressed surprise that the draft Treaty did not contain any provision on the deferment of publication. It recalled that, at the first session of the Committee of Experts, the majority of delegations had spoken not only in favor of the principle of maintaining deferment, but also in favor of the period of deferment being extended from 12 to 18 months. Consequently, in order to accede to the wishes of industrial circles, it would be necessary to reintroduce in the draft Treaty a provision under which the publication of an industrial design could be deferred. In that connection, the Delegation of Germany pointed out that deferment was of interest not only to industries whose products had a short life cycle, such as the textile industry, but also to industries whose products had a longer life expectancy and a broader span of production, such as the automobile industry. It further pointed out that the possibility of protection for unregistered industrial designs and a grace period could not be substituted for the possibility of deferring publication. The Delegation of Germany considered moreover that the starting point for the protection of an international design registration should not be the publication date, as proposed in the draft Treaty, but rather the filing date of the international application, as was provided for in the 1960 Act of the Hague Agreement. With regard to the question of fees, it mentioned that users considered the level of those applied in connection with the Hague Agreement

to be too high, and that specific proposals in that respect should be made by WIPO. Finally the Delegation of Germany repeated the wish, expressed at the previous session of the Committee of Experts, that the possibility be considered of providing, against payment of lower fees, an initial protection period shorter than the five years proposed.

The Delegation of the Democratic People's Republic of Korea indicated that its country was happy to have been able to accede to the 1960 Act of the Hague Agreement. It informed the Committee of Experts of some important elements contained in its Industrial Design Law which had been adopted in 1968 and revised in 1983. It added that its country would further revise its Industrial Design Law and Regulations and would appreciate receiving WIPO's assistance in that respect. The Delegation further stated that, even if its country had joined the Hague Agreement at a time when discussions had started in respect of its development, it seemed that, for its country, some problems existed, such as the term of six months to notify a refusal of protection to the International Bureau which appeared to be too short.

The Delegation of Switzerland recalled that its country had on several occasions since 1984 proposed the improvement of the Hague Agreement. It noted that the draft Treaty did not reflect all the proposals made at the first session of the Committee of Experts with a view to solving the difficulties encountered by users. It declared itself aware of the fact that the Hague Agreement had to allow for current developments within the European Communities, and that it was necessary, to ensure the future of the Agreement, that the circle of member States be broadened as far as possible to include other States, and especially non-European States. In that connection, it considered that the proposed prolongation to 18 months of the maximum period during which the refusal of protection had to be notified was likely to lessen substantially the misgivings of a certain number of States wishing to join a system of international registration. It also welcomed the improvements concerning multiple deposits, and in particular the removal of an upper limit on the number of designs contained in a multiple deposit, as well as the new way of calculating fees for the additional designs forming part of one and the same deposit.

Nevertheless, the Delegation of Switzerland considered the removal of any possibility of deferring publication to be a serious shortcoming. It was of the opinion that most national systems either provided a system of deferment of publication, or did not publish a representation of the protected design, or again proceeded with publication only on completion of a substantive examina-

tion which took some time (and in effect constituted deferment). What was more, it was not only the textile and fashion industry that greatly needed deferment of publication: every sector in which marketing was based on the shape of the product or its packaging had an interest in such a deferment possibility, examples being car makers, the electrical household goods sector, and the food industry. The same was true indeed of sectors in which prototypes were deposited which required further development before being launched on the market. The Delegation of Switzerland considered, however, that the idea of protecting an unregistered design was an excellent new way of dealing with the concerns of the textile industry, which made a great many deposits over a relatively short period. And yet that system could not provide for the need of certain industries to have the benefit of a period of secrecy, as it required disclosure for protection to be effective. Similarly, as with the question of the grace period, a system of protection without registration could not be introduced by an international convention concerned with the international registration of designs.

The Delegation of Switzerland wondered whether the proposal not to provide for any deferment of publication was the most likely to encourage new States to accede to the Hague Agreement or to an instrument of the same type. It suggested that the International Bureau should undertake a survey to reply to that question, and try to establish which of the States that would be willing to accede to the Hague Agreement would consider the deferment of publication an obstacle. If such a study were indeed to reveal that the deferment of publication was an obstacle to the accession of new States, solutions should then be sought which would be likely to reconcile the interests of States that could not accept deferment with the desire to broaden the circle of States party to the Hague Agreement. With that in mind, it would perhaps be possible to consider a system in which deposit and publication took place at an international level, but in which the period of deferment would be variable, to be fixed according to the time specified in the national legislation of the States designated by the applicant. There could then be provision for a maximum period (for instance, 30 months) while at the same time member States could be allowed to provide for a shorter period in their national legislation. In that case, publication would always take place according to the rules of the designated country providing for the shortest period. By way of example, a case involving three States was mentioned: State A did not authorize deferment, while State B provided for a 12-month period of deferment and State C a 30-month period. If the

applicant designated States A, B and C, there could not be any deferment. If it designated only B and C, deferment would be possible up to a maximum of 12 months, and if it designated only C, deferment would be possible up to a maximum of 30 months. The Delegation of Switzerland said that the solution given to the deferment problem would have a bearing on the other questions dependent on it, such as the possibility of depositing a specimen of the design instead of a graphic representation, or the structure to be given to the fee system.

The Delegation of Switzerland concluded by saying that the work on the revision and improvement of the Hague Agreement should go ahead without there having to be, for the moment, a discussion on the legal form to be adopted.

The Delegation of Spain considered that the importance of industrial designs was growing in the national economy, but unfortunately this was not reflected in corresponding growth in the number of deposits, either national or international. It declared itself pleased to be taking part in the Committee of Experts' work on the improvement of the international registration system to permit new States to accede to the Hague Agreement. It mentioned that the fact of its country not yet being bound by the 1960 Act was above all due to the six-month period which was considered too short for the notification of refusal of protection. It noted that the period had been considerably lengthened for the purposes of the draft Treaty, which would make the provisions of the Hague Agreement consistent with the requirements of its national legislation. It did, however, consider that the adaptation of the system should also take account of the wishes expressed by its users, and in that respect it declared its support for the improvement of the system by the development of a low-cost procedure whereby protection could be rapidly secured, which would provide for the particular circumstances of certain sectors such as the textile industry. A new system should, among other things, allow firms in those sectors to make multiple deposits and to have the benefit of a grace period sufficient for the testing of their products before they contemplated the filing of an application for international registration.

The Delegation of France first underlined the complexity of the present Hague Agreement system, with its various Acts, and wished that the present exercise would lead to a simplification of that Agreement. It further noted that proposals had emerged from the first session of the Committee of Experts that were simpler for users, more attractive to the non-member States of the Hague Union, and which all had been approved by a majority of delegations. The Delegation was

therefore surprised that the draft Treaty submitted to the second session of the Committee of Experts no longer contained, in particular, the possibility of requesting deferred publication, despite the fact that it existed in the draft that had been prepared at European Community level and that such deferment was a necessity for certain branches of industry. It therefore wished that the principle of deferred publication be reinserted into a new version of the draft Treaty and, in any event, the introduction of a period of grace could not replace deferred publication. The Delegation of France further wondered why it was not possible to accept deposit 'in kind' in certain cases and why the split payment of fees had not been provided for. Finally, it said that the calculation of the term of protection should start on the date of filing and not on the date of international registration as provided for in the draft Treaty.

The Delegation of Tunisia stated that the draft Treaty presented by the International Bureau constituted a rich, precise and extremely useful document. It felt that the current system under the Hague Agreement was too complex to meet in a simple way the various problems that arose with respect to the international protection of industrial designs and that the aim of the discussions in the Committee of Experts was to arrive at a draft Treaty that was simpler and acceptable to the greatest possible number of countries. However, if that was to be the case, the provisions in the draft Treaty should not run counter to the provisions in the national laws.

The Delegation of the Netherlands declared that, in general, it welcomed the draft Treaty presented by the International Bureau. It wondered, however, why that draft Treaty did not contain any provision on the deferment of publication, which was of importance to governments and interested circles. It also felt concerned by the fact that the registration date was the starting point of the duration of an international registration. Finally, it stated that, under the Benelux system, a multiple deposit could cover industrial designs belonging to several classes of the Locarno Classification.

The Delegation of Italy supported the principle of revising the Hague Agreement system with the aim to simplify the provisions of the various current Acts and to enable new States to become party to a system of international registration for industrial designs. As far as the draft Treaty was concerned, it felt, as did other delegations that had spoken before it, that the principle of deferred publication should be reintroduced since it was needed by the industrial circles. It further confirmed that its country gave the possibility of making an international deposit of industrial designs through its national office; it nevertheless

explained that very little use was made of that faculty and that it could in fact accept a draft Treaty that gave only the possibility of direct filing with the International Bureau.

The Delegation of Romania expressed its country's interest in participating in the discussion of the Committee of Experts, particularly since Romania is in the process of drafting national legislation on industrial designs and preparing the necessary formalities for its accession to the Hague Agreement. It stated that it was appreciative of the draft Treaty drawn up by the International Bureau and hoped that the solutions chosen would be flexible enough to enable a large number of countries to accede.

The Delegation of the United States of America declared that it was pleased to have the opportunity to observe the deliberations of the Committee of Experts as it continued to consider the advisability and possibility of revising the Hague Agreement, or of concluding a new agreement concerning the international registration of industrial designs. It indicated that the Government of its country recognized the importance of effective design protection in a competitive international economy. There was presently pending in Congress a bill to provide a new form of protection of industrial designs. If enacted, industrial designs could be registered for 10 years, thus providing protection against the manufacturer or importer of an article whose design was copied from the protected design without the authorization of the design registrant. Numerous design protection bills had been considered by Congress since as early as 1914, thus it was impossible to predict the fate of the pending bill. Therefore, its country should consider any proposal for an international design registration system in the context of the existing regimes for protection of designs in the United States of America. Several of the proposals contained in the draft Treaty, such as those extending the time for a Contracting Party to refuse the effects of an international registration, eliminating deferment of publication of an industrial design, and permitting a Contracting Party with an examination system to choose the individual designation fee system, represented positive steps towards improving the system of international registration of industrial designs. Since the existing and proposed systems for design protection in its country did not permit deferment of publication, an international agreement that permitted deferment of publication would not find support in the United States of America. While there had been some expression of interest in an international industrial design registration system from some quarters in the United States of America, that interest was not at a level that would allow one to make any predic-

tions. The Delegation further stated, however, that this minimum level of interest would only have a chance of increasing if the draft Treaty was improved. Thus, the United States of America planned to actively participate in the discussions with the goal of obtaining an agreement that might both facilitate and engender the interest of industrial circles of its country in an international system for the registration of industrial designs.

The Delegation of Portugal pointed out that its country was not a member of the Hague Union by reason of the fact, *inter alia*, that the period of time for notifying a refusal of protection under the Hague Agreement was too short. It wondered why, in that respect, the draft Treaty had not adopted a solution identical with that drawn up under the Madrid Protocol. The Delegation of Portugal, expressing the opinion of the experts of the Delegations of European Community Member States and speaking as the representative of the country currently holding the Presidency of the European Economic Community, referred to the existence of a Green Paper on industrial designs containing a draft Community Regulation in that field. That draft was to be revised now that the suggestions and comments of the interested circles and the government experts of the Member States had been heard. It concluded by explaining that the three items in the draft Treaty prepared by the International Bureau that worried its Delegation and the above-mentioned experts were the loss of the possibility of deferring publication of the design, the matter of the maximum number of designs that could be comprised in a multiple application, and the starting point for the term of protection which should be the filing date of the international application.

The Delegation of Japan stated that it appreciated the efforts of the International Bureau in preparing the draft Treaty, which should serve as a good basis for further consideration. It understood that draft Treaty as an attempt to explore the possibility of establishing a new instrument to which more States than those which had acceded to the Hague Agreement could accede. It recalled that, at the first session of the Committee of Experts, some of the non-member States of the Hague Union had indicated various reasons why they had not acceded to the Hague Agreement. A new instrument would not be successful in a true sense unless such difficulties were eliminated. Among those difficulties, it wished to draw attention to the fact that the Hague Agreement was less compatible with the national systems which provided for a substantive examination of industrial designs, such as the one which existed under the law of Japan. The Delegation of Japan considered that the philosophy behind the draft Treaty was based on a system of registration without

substantive examination. The industrial design law of Japan provided the right holder with exclusive rights, like the patent rights, to prevent others from manufacturing, selling or importing the articles embodying the subject matter protected by the registered design right. This right was granted after substantive examination. It further stated that the law of its country required absolute and worldwide novelty as a condition of protection of industrial designs and that, in that respect, examiners searched all prior designs published all over the world. The Delegation of Japan concluded that the draft Treaty contained some provisions which were not satisfactory for its country. Firstly, the period of 18 months for notifying a refusal seemed still too short; secondly, protection should not start before the outcome of the substantive examination was known; thirdly, the possibility of multiple applications did not necessarily save time or costs but rather, in most cases, would make the task of prior designs search more complicated; in Japan, such a possibility did not exist, and each design had to be the subject of a separate application; fourthly, the possibility of deferment of publication should be rediscussed.

The Delegation of the United Kingdom expressed satisfaction with the document submitted by the International Bureau in terms of clarity but declared that it had some reservations on its content. Firstly, it indicated that it had been much surprised to note that the draft Treaty did not provide for the possibility of deferment of publication, although in the first session of the Committee of Experts there had seemed to be an agreement on that matter. It further stated that, in its country, the system of protection of industrial designs operated with provisions on deferment of publication, unregistered design rights and a grace period. As regards multiple applications, it acknowledged with satisfaction the proposed new fee system, although it expressed some concern about the removal of the upper limit of the number of designs which could be included in a multiple application. It agreed on the new term of refusal of 18 months and, finally, considered as a real step forward the possibility for a Contracting Party to choose a system of individual designation fees.

The Delegation of Sweden considered the draft Treaty presented by the International Bureau most interesting. In view of the growing interest in industrial designs, it was important to have a simple international system. It declared that its country had a positive attitude towards the proposed new system of international registration of industrial designs. The Delegation indicated that it could accept the principle of direct filing. As regards the question of deferment of publication, it had an open mind, although it considered

that secrecy in the field of industrial designs was sometimes needed. In any case, it felt reluctant to accept a deferment period of more than 12 months. It further stated that, in respect of multiple applications, the draft Treaty was probably too liberal. As regards the term for notifying a refusal, it considered the proposal of 18 months very interesting, although it was possible that in its country, where an *ex officio* search and an opposition proceeding occurred prior to registration, a term of 18 months might be insufficient in respect of opposition. The Delegation of Sweden concluded that, in any case, the conclusion of a new Act to the Hague Agreement appeared, in its opinion, to be too complicated and that an international registration system for industrial designs should be as homogeneous as possible.

The Delegation of Norway indicated that the Hague Agreement, in its present form, was not suitable to its country since, in view of the fact that a search for novelty was carried out prior to registration, the term of six months for notifying a refusal was too short. Furthermore, its country had problems with the low level of designation fees. It therefore favorably acknowledged the proposals made by the International Bureau mainly in Articles 8 and 9 of the draft Treaty.

The Delegation of Denmark welcomed the draft for a new or revised Treaty and considered that, in general, its content would facilitate the setting up of an international system on the international registration of industrial designs which would be acceptable to more countries than in the case of the Hague Agreement. It further stated that its country had a positive attitude in respect of the draft Treaty. The latter had increased the interest of Denmark to join a new system of international registration of industrial designs. It considered that such a system should be compatible with the envisaged European Community industrial design registration system, and that a link should be established between the two, as had been foreseen in the field of marks by means of the Madrid Protocol.

The Delegation of Bulgaria explained that its country was currently preparing new legislation on industrial designs. It further stated that the possibility afforded to its country to participate as an observer in the Committee of Experts would facilitate examination of Bulgaria's position with regard to the Hague Union.

The Representative of the Commission of the European Communities stated that the users of the future Community design protection system had underlined the need to provide for the necessary link between the future Community system and the existing or future international registration system, and further emphasized the need to provide for a truly international registration

system, to which a large number of countries could adhere. He considered that, while the necessary link between the future international registration system and the Community protection system was in theory, from a technical point of view, fairly easy to establish, it was highly desirable that the future treaty providing for international registration be compatible with the basic principles of the Community protection system. The Delegation representing the State which currently had the presidency of the Community and Community Member States had already drawn attention to some specific questions where the complete compatibility between the two systems was not self-evident. He noted that such issues might not be easy to settle within the framework of a treaty dealing with registration only, since possible incompatibilities might stem from provisions of substantive law. To the extent that this was the case it might be necessary to engage in a discussion on issues of substantive law to enable participants to understand the underlying concerns in respect of provisions on registration procedures.

The Representative of ICSID indicated that the organization he represented grouped the industrial designers of 57 countries. He declared that he agreed with the delegations which had emphasized the need for a cheap, effective and simple protection of industrial designs within an international system applicable to as many countries as possible.

The Representative of FICPI declared that he welcomed favorably the draft Treaty submitted by the International Bureau. He considered, however, that the possibility of indirect filing of international applications through national offices might have to be maintained, mainly for political reasons, including reasons of national security, and would also be of interest for small enterprises and individual applicants.

The Representative of ABA and AIPLA declared that, as regards ABA, that organization had no position on the Hague Agreement nor on the present draft Treaty. As regards AIPLA, that organization had a design committee which was examining the draft Treaty. He considered that, with a view to reaching a simple treaty on the international registration of industrial designs, a great deal could be learned from the Patent Cooperation Treaty. He concluded by considering that matters of substance should not form part of a registration treaty.

The Representative of CELIBRIDE stated that the textile industry was in favor of an international system for registering industrial designs that covered the greatest possible number of countries. He felt that the draft Treaty by the International Bureau, although it went in the right

direction, should not be drawn up to the detriment of certain industries, particularly the textile industry. He had noted, in particular, that account had not been taken of the solutions that had been envisaged at the first session of the Committee of Experts, particularly with regard to the deferment of publication and related questions such as the dividing up of the fees in respect of the period of deferment, as also the possibility of filing a specimen of the industrial design. As for the idea of protection without formalities, although it was a good idea, it would not help to resolve the present problems since it did not yet exist, or at least only in one country and it was uncertain if and when this form of protection would be introduced in various countries. Since deferment of publication was one of the main questions, the compromise solution advocated by the Delegation of Switzerland deserved support.

The Representative of TMPDF welcomed the work of the Committee of Experts and indicated that, in the United Kingdom, there was growing interest in the system of the Hague Agreement. He considered, however, that, without the possibility of deferment of publication, the industry would not use a new system of international registration of industrial designs.

The Representative of AIPPI stated that there was a growing interest in industrial designs as marketing tools. It was therefore important to have a simplified system for international registration. She declared that the Hague system was too complicated and that the 1960 Act of the Hague Agreement was too expensive for applicants. The new approach contained in the draft Treaty went in the right direction. Finally, AIPPI was in favor of a new treaty rather than a revised Act of the Hague Agreement.

The Representative of AIM shared the views of the representatives of industrial designers. However, the wish to have numerous countries accede to a new system should not result in the adoption of compromises, as a result of which, designers from certain countries would not use that new system. The question of the deferment of publication constituted a good example. As regards that question, he declared that he was in favor of the compromise solution proposed by the Delegation of Switzerland.

The Representative of IFIA agreed with the view that a new system of international registration of industrial designs should be cheap, simple and effective. It should also be in harmony with the proposed European Community design system. He considered, however, that, in the draft Treaty, the naming of the designer in the international application should be made obligatory. He also considered that direct filing was only acceptable if it were possible to file applications by

modern means of communication, such as telefax. He finally considered that the questions relating to unregistered design protection and to the grace period should be left to national laws.

The Representative of COMITEXTIL stated that the textile and clothing industry was in favor of effective protection at worldwide level, particularly in order to fight against counterfeiting. She added that a new Treaty should permit deferred publication during a period exceeding 18 months, filing of specimens and multiple filings, as well as a fee system which met the needs of the textile industry.

In reply to various matters raised in the general observations, the Secretariat noted, in particular, that a clear majority of delegations were favorable to the introduction in a forthcoming version of the draft Treaty of a provision on deferred publication and that interest had been expressed in the compromise solution suggested by the Delegation of Switzerland; consequently, the International Bureau would look favorably upon the advisability of inserting such a provision in the draft Treaty on the basis of that compromise solution. Furthermore, the Secretariat said that the International Bureau was willing to assist the Democratic People's Republic of Korea in modernizing its industrial designs legislation."

### Discussions on the Provisions of the Draft Treaty

#### *Draft Article 1: Abbreviated Expressions*

Draft Article 1 of the draft Treaty as submitted by the International Bureau read as follows:

*"For the purposes of this Treaty*

*(i) 'international registration' means international registration of an industrial design effected according to this Treaty;*

*(ii) 'multiple international registration' means an international registration that covers two or more industrial designs;*

*(iii) 'international application' means an application for international registration;*

*(iv) 'multiple international application' means an international application for a multiple international registration;*

*(v) 'International Register' means the official collection of data concerning international registrations maintained by the International Bureau, which data the Treaty or the Regulations referred to in item (xv) require or permit to be recorded, regardless of the medium which contains such data;*

(vi) 'applicant' means the natural person or legal entity which files an international application;

(vii) 'holder' means the natural person or legal entity in whose name an international registration has been effected;

(viii) 'Contracting Parties' means States and intergovernmental organizations party to this Treaty;

(ix) 'designation' means a request that the international registration shall have effect in a Contracting Party;

(x) 'designated Contracting Party' means a Contracting Party in respect of which a designation has been made;

(xi) 'Office' means the Office of a Contracting Party in charge of the registration of industrial designs;

(xii) 'Organization' means the World Intellectual Property Organization;

(xiii) 'International Bureau' means the International Bureau of the Organization;

(xiv) 'Assembly' means the Assembly of the Contracting Parties;

(xv) 'Regulations' means the Regulations adopted by the Assembly;

(xvi) 'prescribed' means prescribed in the Regulations;

(xvii) 'Paris Convention' means the Paris Convention for the Protection of Industrial Property, signed at Paris on March 20, 1883, and last revised at Stockholm on July 14, 1967, and as amended on October 2, 1979;

(xviii) 'International Classification' means the classification established under the Locarno Agreement Establishing an International Classification for Industrial Designs."

The portion of the report of the Committee of Experts concerning the discussion of draft Article 1 reads as follows:

"This draft Article was approved as proposed. It was agreed that there was no need for a definition of the term 'territory,' it being understood that the said term would be explained in the Explanatory Notes."

#### *Draft Article 2: Entitlement to File International Application*

Draft Article 2 of the draft Treaty as submitted by the International Bureau read as follows:

"The following shall be entitled to file an international application:

(i) any natural person who is a national of a Contracting Party, or who is domiciled, has his habitual residence or has a real and effective

industrial or commercial establishment in the territory of a Contracting Party;

(ii) any legal entity which is organized under the laws of, or has a real and effective industrial or commercial establishment in the territory of, a Contracting Party."

The portion of the report of the Committee of Experts concerning the discussion of draft Article 2 reads as follows:

"It was agreed that the two items (i) and (ii) contained in the draft Article would be replaced by a single text which could be the following: 'any person or entity that is a national of a Contracting Party or has a domicile, a habitual residence or a real and effective establishment in the territory of a Contracting Party.'

It was explained that the new wording was intended to avoid, as was the case in item (ii) of the draft Article, reference to the notion of 'nationality' of a legal entity in referring to a criterion that was not unanimously recognized and also not to restrict application of that provision to legal entities having an industrial or commercial establishment.

In reply to a comment on the criterion of 'habitual residence,' it was explained that it was used in the Berne Convention for the Protection of Literary and Artistic Works and could usefully supplement the notion of 'domicile' in view of the differences that existed in those concepts between the various States."

#### *Draft Article 3: International Application*

Draft Article 3 of the draft Treaty as submitted by the International Bureau read as follows:

"(1) [Filing of International Application] *The international application shall be filed direct with the International Bureau.*

(2) [Mandatory Contents] *The international application shall be in the prescribed language and contain or be accompanied by*

(i) *an indication that it is filed under this Treaty;*

(ii) *indications concerning the applicant's identity, address and entitlement to file an international application;*

(iii) *one or more representations of the industrial design;*

(iv) *an indication of the product or products in which the industrial design is intended to be incorporated;*

(v) *the identification of the designated Contracting Parties;*

(vi) *the prescribed fees and any other prescribed particulars.*

(3) [Optional Contents] *The international application may also contain*

(i) *a short description of the characteristic features of the industrial design;*

(ii) *the name of the creator of the industrial design.*

(4) [Multiple International Application] *Two or more industrial designs may be the subject of the same application (multiple international application), provided that they relate to the same class of the International Classification."*

The portion of the report of the Committee of Experts concerning the discussion of draft Article 3 reads as follows:

*"Paragraph (1). Several delegations and representatives of observer organizations spoke in favor of the provision since it constituted a simplification. It was noted in that respect that the possibility of indirect filing of an industrial design through a national office, given in Article 4(1) of the 1960 Act of the Hague Agreement, was almost never used in practice.*

On the other hand, other delegations, particularly those of States that were not party to the Hague Agreement, as also representatives of observer organizations, considered that the user should have freedom of choice between direct filing with the International Bureau and indirect filing through a national or regional office since indirect filing seemed more suitable for small-sized enterprises with little experience of international filing procedures and in view of the fact that users in countries located far from the headquarters of the International Bureau could have more security in passing through the national office. Some delegations even felt it necessary to maintain the possibility, given in Article 4(2) of the Hague Act, for national legislation to make indirect filing through the national office compulsory in view of the fact that, in some countries, nationals were required for reasons of State security to first have their filings examined by their government authorities.

In response to those concerns, it was explained that it could be the duty of the applicant to ensure, before making a filing with the International Bureau, that the requirements related to State security had been met. The attention of the Committee of Experts was further drawn to the fact that, in the event of indirect filing, the filing date of the international application remained the date of receipt by the International Bureau and did not have retroactive effect to the date of receipt of the application by the national office through which it had been made. If the possibility of making an indirect filing was reintroduced into the draft Treaty, that principle would not be

changed since, if such were the case, a much heavier and therefore more expensive system would have to be set up by introducing the notion of receiving office as it existed under the PCT. It was finally stated that the draft Regulations under the Treaty would contain a provision enabling an international application to be filed by all modern communication means, including telefax.

In conclusion, it was agreed that draft Article 3(1) would be maintained as proposed, subject to possible deletion of the word 'direct,' since that could suggest that filing through a representative was excluded, but that the matter of indirect filing would be set out in detail in the notes to permit its reexamination at the following session of the Committee of Experts.

*Paragraph (2).* In reply to a question put by a delegation in relation to the languages in which an international application could be filed, it was stated that the matter, as had already been the case for the PCT and the Madrid Agreement, would be governed by the Regulations under the Treaty.

*Item (i).* It was suggested that the provision be drafted as follows: 'reference to the Treaty under which the international application is filed.'

*Item (ii).* The provision was approved as proposed, subject to the addition after the words 'an international application' of the words 'under Article 2.'

*Item (iii).* Various delegations felt that the word 'representations' was not sufficiently clear and could even be interpreted as also comprising specimens of the industrial design.

In reply to a delegation that had explained that its national law laid down the number of differing views of each industrial design, particularly in the case of a three-dimensional design, that the applicant had to supply, the Secretariat explained that the question of the number of reproductions to be provided by the applicant would be dealt with in the Regulations and clarified in item (iii). Likewise, the Regulations would set out the conditions (clarity, etc.) that a representation of an industrial design would have to satisfy to be suitable for publication.

A number of delegations and representatives of observer organizations were of the opinion that the applicant had to have the possibility, in the case of a two-dimensional industrial design, of providing a specimen instead of a representation of the industrial design, while one delegation pointed out that it was important, for search purposes, to have a representation available in all cases.

The Secretariat pointed out that, in its opinion, the advantage of being able to make the deposit 'in kind'—by providing a specimen of the indus-



trial design instead of a representation—was tied up with the possibility of deferment of publication, which allowed the applicant to provide representations only for those industrial designs that he intended to keep in his application at the time of the publication of the designs.

The Secretariat further expressed the opinion that deposit of specimens should be possible only for two-dimensional designs, as such an application to three-dimensional designs would cause storage costs that would eventually have an effect on the level of fees.

In conclusion, it was agreed that the International Bureau would review the question of deposits of specimens, particularly in view of the possible provision for deferment of publication.

*Items (iv), (v) and (vi).* These items were approved as proposed.

*Paragraph (3).* The majority of delegations that spoke were of the opinion that the provision of the information mentioned under (i) and (ii) should remain optional.

One delegation nevertheless considered that the name of the creator of the industrial design should not appear in the application, even optionally, as the matter of the naming of the creator of the industrial design was in its opinion a matter for the harmonization of national legislation.

One delegation said that, in the opinion of interested groups in its country, the naming of the creator of the industrial design should be mandatory. That view was likewise expressed by the representative of an observer organization, which added that the International Bureau should inform the creator of the fact that he had been named in the international application.

One delegation stated that its national law contained additional application requirements, which it would have to be able to continue to require for its examination of an international registration designating its country. It proposed further consideration of a provision permitting imposition of additional requirements existing under national law.

*Paragraph (4).* The possibility of filing multiple international applications met with the approval of a large majority of the delegations that spoke.

Two delegations representing States not party to the Hague Agreement did, however, mention that the possibility in question was not provided in their national legislation, and that the provision in question would be liable to prevent their States from acceding. One of the delegations added that a solution might be to allow the division of the international application to be demanded where the legislation of a designated Contracting Party did not allow multiple applications.

The condition according to which two or more industrial designs could be included in the same application (multiple international application) only if they belonged to the same class of the International Classification was considered by several delegations and representatives of observer organizations to be too restrictive, whereas the Secretariat pointed out that, insofar as there was provision for the publication of a representation of the industrial design, that condition was in the interest of users and national offices, as it made searches in the review *Les dessins et modèles internationaux* easier.

Other delegations and representatives of observer organizations, on the other hand, declared themselves in favor of the proposed text, some of them being even of the opinion that the condition should be stricter, and that the designs should be required to belong to the same subclass of the International Classification.

The representative of an observer organization expressed the wish that a multiple application be possible in the case of one and the same design being susceptible of application to various products (for instance, dishes, knives, household linen) which belonged to different classes.

In conclusion, it was agreed that in the next draft Treaty draft paragraph (4) should be retained as proposed."

#### *Draft Article 4: Priority*

Draft Article 4 of the draft Treaty as submitted by the International Bureau read as follows:

"(1) [Claiming of Priority] *The international application may contain a declaration claiming, under Article 4 of the Paris Convention, the priority of one or more earlier applications filed in or for any country party to that Convention.*

(2) [International Application Serving as a Basis for Claiming Priority] *The international application shall, as from its filing date, be equivalent to a regular filing within the meaning of Article 4 of the Paris Convention.*"

The portion of the report of the Committee of Experts concerning the discussion of draft Article 4 reads as follows:

"This draft Article was approved as proposed."

#### *Draft Article 5: Filing Date; Irregularities in International Application*

Draft Article 5 of the draft Treaty as submitted by the International Bureau read as follows:

"(1) [Filing Date] *The International Bureau shall accord as the filing date the date of receipt*

of the international application, provided that, at the time of receipt:

(i) the applicant does not obviously lack the entitlement to file an international application under Article 2;

(ii) the international application is in the prescribed language;

(iii) the international application contains at least the following elements:

(a) an indication that it is filed under this Treaty;

(b) indications allowing the identity of the applicant to be established;

(c) a representation of each industrial design included in the international application;

(d) an indication of the product or products in which each industrial design included in the international application is intended to be incorporated;

(e) the designation of at least one Contracting Party.

(2) [Irregularities in International Application]

(a) If the International Bureau finds that the international application did not, at the time of receipt, fulfill the requirements listed in Article 3(2), it shall invite the applicant to make the required correction.

(b) If the applicant complies with the invitation, the International Bureau shall accord as filing date:

(i) where the correction relates to any of the requirements referred to in paragraph (1) of this Article, the date of receipt of the required correction;

(ii) where the correction only relates to requirements other than those referred to in paragraph (1) of this Article, the date of receipt of the international application.

(c) If the applicant does not comply with the invitation, the International Bureau shall reject the international application."

The portion of the report of the Committee of Experts concerning the discussion of draft Article 5 reads as follows:

"Paragraph (1). Item (i). In response to a question raised in respect of the use of the term 'obviously,' it was indicated that the Regulations under the Treaty would provide that, where the filing date of an international application had been refused following an obviously erroneous indication of the applicant, such as the indication of a former address in a non-member State, the filing date would be reinstated, notwithstanding the provision of paragraph (2)(b)(i).

Item (ii). This provision was approved as proposed.

Item (iii). This provision was approved as proposed subject, on the one hand, to account being taken, under (c), of the possibility of a specimen of the industrial design being filed under certain circumstances and, on the other hand, to (d) being removed as a condition for the securing of a date of application.

Paragraph (2). This paragraph was approved as proposed, subject to the possibility of the phrase 'within the prescribed time' being added to its three subparagraphs."

#### Draft Article 6: International Registration and Publication

Draft Article 6 of the draft Treaty as submitted by the International Bureau read as follows:

"(1) [International Registration and Publication] Where the international application complies with all applicable requirements, the International Bureau shall promptly effect the international registration and publish the said international registration.

(2) [Date of International Registration] The date of international registration shall be the date of the publication of the international registration.

(3) [Content of Publication] The publication shall contain a reproduction of each of the representations referred to in Article 3(2)(iii), together with other prescribed particulars."

The portion of the report of the Committee of Experts concerning the discussion of draft Article 6 reads as follows:

"General and paragraph (1). The Secretariat said that if the possibility of deferment was introduced into the draft Treaty, the provisions of the Article would have to be revised.

It further asked the Committee of Experts to give its opinion on whether, in the event of an applicant requesting deferment of publication, the International Bureau should withhold all publication up to the end of the deferment period (as was presently the case under the Hague Agreement) or whether the bibliographic data of the international registration should be published at the time of registration, with the representation of the designs covered by the international registration not being published until the end of the deferment period.

The views expressed on that matter were divided. Various delegations and representatives of some observer organizations spoke in favor of publication of the bibliographic data of the international registration at the time of registration to ensure that third parties were informed that a given person was seeking to protect a design in a specific field. One delegation observed that the

national legislation of its country provided for such partial publication for secret design registrations once the substantive examination had been carried out.

Several delegations and representatives of observer organizations felt, on the other hand, that it would be premature to take a decision on that matter since it warranted reflection and the interested circles needed to be consulted. It was noted that points of view could differ in that respect depending on the reason for choosing deferred publication (practical reasons, in order to lower the registration costs by paying only one publication fee for all designs or the wish to maintain secrecy prior to marketing of the product).

Some representatives of observer organizations expressed their fear that if the bibliographic data were published in the event of deferment and that publication was followed by publication at the end of the deferment period of a representation of the filed article, that could increase the cost for applicants if a new fee was established. The Secretariat said that publication of simple bibliographic data would not lead to any sizable additional costs; however, publication of a representation of the design did lead to relatively high costs.

In conclusion, it was agreed that the possibility of a two-phase publication should be set out in the working document submitted to the following session of the Committee of Experts, either in the actual text of the draft Treaty (possibly as an alternative) or in the Notes.

*Paragraph (2).* In reply to several delegations that would have liked the term of the international registration to be calculated as from the international application date, the Secretariat explained that the matter of the starting point for the term of the international registration had been dealt with under Article 10(1) and should therefore be resolved as part of that Article. Paragraph (2) of Article 6, on the other hand, dealt with determining the international registration date which was taken into consideration in Article 7(2) in order to determine the effects of the international registration.

The Committee of Experts having taken note of those comments, paragraph (2) was approved as proposed, subject to any changes that could prove necessary if possible deferment of publication was introduced.

*Paragraph (3).* This paragraph was approved as proposed, subject to the same reservation."

*Draft Article 7: Effect of the International Application; Effect of the International Registration*

Draft Article 7 of the draft Treaty as submitted by the International Bureau read as follows:

"(1) [Effect of the International Application] *The international application shall in each designated Contracting Party have, as from its filing date, the same effect as if a national or regional application had been filed with the Office of that Contracting Party.*

(2) [Effect of the International Registration] *The international registration shall in each designated Contracting Party have, as from its date of international registration, the same effect as if a national or regional registration had been effected by the Office of that Contracting Party, unless a refusal is notified according to Article 8 and is not withdrawn."*

The portion of the report of the Committee of Experts concerning the discussion of draft Article 7 reads as follows:

"*General.* The Secretariat pointed out that two quite separate items had been dealt with in the Article, firstly, the principle that an international application and an international registration were equivalent to a national or regional application and a national or regional registration, respectively, and, secondly, determination of the date as from which that equivalent effect became operative for an international application or an international registration. The following version of the draft Treaty would have to express that second aspect more clearly.

The Secretariat further explained that the possible introduction of deferred publication would require the wording of the Article to be reviewed. One possibility would be to provide that, in cases of deferred publication, Contracting Parties would have the faculty of delaying the date as from which protection deriving from an international registration could be claimed on its territory to the date of full publication of the international registration comprising a representation of the design.

*Paragraph (1).* The paragraph was adopted as proposed, subject to the comments made under paragraph 83,<sup>2</sup> above.

*Paragraph (2).* Discussions in the Committee of Experts showed that the provision contained in the paragraph was difficult to accept for certain countries that carried out a substantive examination including a novelty examination. As a result of that provision, the international registration effect became retroactive to the date of the international registration in the absence of notification of refusal or following acceptance subsequent to a

<sup>2</sup> In the report of the Committee of Experts relating to draft Article 7, this paragraph corresponds to the first paragraph of the part entitled 'General.'

notification of refusal. Thus, a Contracting Party would not be authorized to have the international registration effect begin at the effective date of acceptance of the registration by its responsible authorities. However, in some countries that carried out a substantive examination including a novelty examination, the international registration effect could not occur until the date on which examination was completed, i.e., at a date that was necessarily well after the date of international registration.

It was therefore agreed that the paragraph should be revised in order to take into account the existence of differing national systems. Account would also have to be taken of the more flexible provisions to be found in Articles 7 and 8 of the 1960 Act of the Hague Agreement and of the comments made in paragraphs 83 and 84,<sup>3</sup> above.”

<sup>3</sup> In the report of the Committee of Experts relating to draft Article 7, these paragraphs correspond to the two paragraphs of the part entitled ‘General.’

*Draft Article 8: Refusal of Effect; Remedies Against Refusals and Invalidation; Additional Requirements*

Draft Article 8 of the draft Treaty as submitted by the International Bureau read as follows:

“(1) [Refusal of Effect] *The Office of any designated Contracting Party shall have the right to declare in a notification of refusal addressed to the International Bureau (‘notification of refusal’) that the effect of the international registration is, under the applicable provisions of the legislation of that Contracting Party, refused in the said Contracting Party in respect of certain or all of the industrial designs covered by that international registration.*

(2) [Notification of Refusal] *Any notification of refusal shall state all the grounds on which the refusal is based. Such notification shall be made within the period provided for by the law applicable to that Office and, at the latest, before the expiry of a time limit of 18 months from the date of international registration.*

(3) [Modification of Time Limit] *Upon the expiry of a period of 10 years from the entry into force of this Treaty, the time limit referred to in paragraph (2) may be modified by a unanimous decision of the Assembly.*

(4) [Transmission of Notification of Refusal; Remedies] (a) *The International Bureau shall, without delay, transmit a copy of the notification of refusal to the holder. The holder shall have the*

*same remedies as if the industrial design had been the subject of a national or regional application filed with the Office which has notified the refusal.*

(b) *The remedies referred to in subparagraph (a) shall at least consist of the possibility of requesting a re-examination of the refusal or filing an appeal against the said refusal.*

(5) [Invalidation] *Invalidation, by the competent authorities of a designated Contracting Party, of the effect, in the territory of that Contracting Party, of an international registration may not be pronounced without the holder having, in good time, been afforded the opportunity of defending his rights. Invalidation shall be notified to the International Bureau.”*

The portion of the report of the Committee of Experts concerning the discussion of draft Article 8 reads as follows:

“Paragraph (1). The paragraph was approved as proposed.

Paragraph (2). The Secretariat invited the Committee of Experts to give its opinion on the length of the period during which a notification of refusal had to be made, on the understanding that, if possible deferment of publication was introduced, the text of the draft submitted to the following session would be reviewed with regard to the starting point of that time limit in the event of deferred publication.

In reply to a question from one delegation, the Secretariat explained that the notice of refusal which had to be issued during the prescribed time limit should contain all the grounds of refusal but did not have to be the final decision of the Office.

Several delegations spoke in favor of the 18-month time limit given in the draft. However, in view of the fact that the holder of the international registration had to be informed within a reasonable time of what was happening with his international registration, other delegations and representatives of observer organizations felt that the time limit should not exceed 12 months. Some representatives of observer organizations wished to emphasize in that context that the lifetime of an industrial design was generally short (particularly in the textile industry) and that the legal system should take into account that economic reality. For instance, where the examination procedure was too long, it was possible that registration would be granted when the design was no longer of commercial interest.

Some delegations and representatives of observer organizations were of the opinion that, in any event, a longer period could be provided for refusal based on opposition and that a system

similar to that under Article 5 of the Protocol relating to the Madrid Agreement could be envisaged.

Two delegations of countries not party to the Hague Agreement and the representative of one observer organization were of the opinion that the 18-month time limit was not enough for countries with a novelty examination system. One of those delegations proposed that the Treaty should not lay down a maximum time limit for issuing a refusal. It was also said that the examination system in force in one of those countries would require that additional reasons for refusal had to be invocable at any time during the procedure.

In conclusion, it transpired that the single time limit proposed in the draft Treaty could not be maintained. The Secretariat said that the following draft could be based on the system provided for in Article 5 of the Protocol relating to the Madrid Agreement and that the following approach could possibly be adopted:

- a relatively short basic time limit of six or 12 months;
- possibility for a Contracting Party to opt, possibly subject to certain conditions, for a longer time limit, to be determined, of 18 months, for example;
- possibility for a Contracting Party whose legislation contained an opposition procedure to opt for a system which would make it possible, where refusal was based on opposition, to extend the time limit for refusals applicable to it (whether that period be six or 12 or 18 months);
- search for solutions to meet the needs of certain potential Contracting Parties who possessed a particularly lengthy examination procedure.

*Paragraphs (3), (4) and (5).* The paragraphs were approved as proposed. In reply to a delegation that suggested it be specified in paragraph (4)(a) that the copy of the notification of refusal would be sent to the representative in those cases where the representative was entered in the International Register, the Secretariat explained that all matters relating to representatives would be dealt with in the Regulations.”

#### *Draft Article 9: Fees for International Application*

Draft Article 9 of the draft Treaty as submitted by the International Bureau read as follows:

“(1) [Fees for International Application] *An international application shall be accompanied by the following fees:*

(i) *an international registration fee corresponding to*

- (a) *a basic registration fee;*
- (b) *where the international registration is made for more than one industrial design, an additional registration fee corresponding to a percentage of the basic registration fee for each additional industrial design;*

(ii) *a publication fee;*

(iii) *subject to paragraph (2)(a), a designation fee to be paid for each designated Contracting Party which shall be supplemented, where the international registration is made for more than one industrial design, by an additional designation fee corresponding to a percentage of the designation fee for each additional industrial design.*

(2) [Individual Designation Fee] (a) *Any Contracting Party may declare that, in connection with any international application in which it is designated, and in connection with the renewal of any international registration resulting from such an international application, the designation fee referred to in paragraph (1)(iii) shall be replaced by a fee (hereinafter referred to as ‘the individual designation fee’) whose amount shall be indicated in the declaration and can be changed in further declarations; the said amount shall not be higher than the equivalent of the amount which the Office of that Contracting Party would be entitled to receive from an applicant for a five-year registration of the same number of industrial designs, or from a holder for a five-year renewal of such a registration, that amount being diminished by the savings resulting from the international procedure.*

(b) *Any declaration under subparagraph (a) may be made in the instruments referred to in Article ...,<sup>4</sup> and the effective date of the declaration shall be the same as the date of entry into force of this Treaty with respect to the Contracting Party having made the declaration. Any such declaration may also be made later, in which case the declaration shall have effect three months after its receipt by the Director General, or at any later date indicated in the declaration, in respect of any international registration whose date is the same or is later than the effective date of the declaration.*

(3) [Payment of Fees] *The fees referred to in paragraphs (1) and (2) shall be payable to the International Bureau.*

<sup>4</sup> This will be the Article on the deposit of instruments of ratification.

(4) [Transfer of Designation Fees] *The designation fees referred to in paragraphs (1)(iii) and (2)(a) paid by the applicant to the International Bureau shall be transferred by the International Bureau to the Contracting Parties for the designation of which those fees were paid.*"

The portion of the report of the Committee of Experts concerning the discussion of draft Article 9 reads as follows:

"The Secretariat explained that the structure of the fees as proposed in the Article aimed not only at making the international registration system more attractive for users, particularly with respect to multiple applications, but also at introducing the possibility of choosing the system of individual designation fees that had been designed to meet the special needs of certain States that would be interested in participating in the international registration system set up by the Treaty. It also explained that, when drafting the following version of the draft Treaty, and in the event of the possibility of deferred publication being inserted in that version, the possibility of splitting payment of the international fee when deferred publication was requested would be looked into.

Those delegations and representatives of observer organizations that spoke stressed the value of both the fee structure that was proposed and the relative amount of the various fees given in the schedule, particularly for multiple applications. The possibility of a Contracting Party opting for the individual designation fee system was also considered a constructive proposal that would make it easier for new countries to accede. It was explained, in that respect, that application of the system of individual designation fees to multiple applications would be studied in more detail to take account, in particular, of the fact that the possibility of making multiple applications was excluded in some countries or was subject to conditions stricter than those proposed in the draft Treaty."

#### *Draft Article 10: Term and Renewal of International Registration*

Draft Article 10 of the draft Treaty as submitted by the International Bureau read as follows:

(1) [Term of International Registration] *The term of an international registration shall be five years counted from the date of international registration.*

(2) [Renewal of International Registration] *An international registration may be renewed for additional terms of five years.*

(3) [Minimum and Maximum Term in Designated Contracting Parties] *Provided that the international registration is renewed,*

(i) *the minimum term shall be, in each of the designated Contracting Parties, 10 years counted from the date of international registration;*

(ii) *in any designated Contracting Party whose law allows a maximum term of more than 10 years for the national or regional registration of an industrial design, the maximum term shall be a period equivalent to that maximum term.*

(4) [Limited Renewal] *The renewal of an international registration may be effected for some only of the designated Contracting Parties and may be limited to some only of the industrial designs covered by a multiple international registration.*

(5) [Procedure of Renewal] (a) *Six months before the relevant five-year term referred to in paragraph (1) expires, the International Bureau shall, by sending an unofficial notice, remind the holder of the date of expiration.*

(b) *The renewal of an international registration shall be effected by the mere payment of the same kind of fees as those which are to be paid for an international application in accordance with Article 9, with the exception of the publication fee referred to in Article 9(1)(ii).*

(c) *Subject to the payment of a surcharge fixed by the Regulations, a period of grace of six months shall be allowed for the payment of the fees referred to in subparagraph (b).*

(6) [Recordal and Publication of Renewal] *The International Bureau shall record renewals in the International Register and publish a notice to that effect."*

The portion of the report of the Committee of Experts concerning the discussion of draft Article 10 reads as follows:

"Paragraph (1). The words 'counted from the date of international registration' were replaced by the words 'counted from the date of international application.'

Some delegations wished to have the possibility, even in the absence of deferred publication, of an initial term of protection that was shorter and for which lower fees would be payable.

Paragraph (2). The paragraph was approved as proposed. In reply to the representative of an observer organization, the Secretariat explained that the renewal of the registration by five-year periods was not incompatible with national legislation laying down a single 14-year period counted from the grant of a design patent.

*Paragraph (3).* After the representatives of two observer organizations had expressed their wish for the minimum term in each designated Contracting Party to be extended from 10 years to 15 years, the paragraph was approved as proposed, subject to replacing in item (i) the words 'of international registration' by the words 'of international application' and possible modification of item (ii) in order to clarify the starting point for the 10-year period referred to therein.

*Paragraph (4).* The paragraph was approved as proposed.

*Paragraph (5).* The paragraph was approved as proposed. In reply to a question by one delegation, the Secretariat explained that the notice referred to in subparagraph (a) was qualified as 'unofficial' in order to make it clear that the fact of such a notification not having been sent or not having been received could have no legal consequences and, in particular, could not be invoked by the holder to request extension of the renewal time limit after expiry of the applicable limit.

*Paragraph (6).* The paragraph was approved as proposed."

*Draft Article 11: Recordal of Change in the Ownership and Certain Other Matters Concerning an International Registration*

Draft Article 11 of the draft Treaty as submitted by the International Bureau read as follows:

"(1) [Recordal of Change in the Ownership]  
(a) *At the request of the holder or his successor in title, the International Bureau shall record in the International Register and publish any change in the ownership of the international registration, in respect of all or some of the designated Contracting Parties and/or, as the case may be, in respect of all or some of the industrial designs included in the international registration, provided that the new holder is entitled to file an international application under Article 2.*

(b) *The recordal referred to in subparagraph (a) shall have the same effect as if it had been recorded in the Register of the Office of each of the designated Contracting Parties concerned.*

(2) [Recordal of Other Matters] *The International Bureau shall record in the International Register*

(i) *any change in the name or address of the holder,*

(ii) *any appointment of a representative of the applicant or holder and any other relevant facts concerning such representative,*

(iii) *any renunciation to the international registration, in respect of certain or all of the designated Contracting Parties and of some or all of the industrial designs covered by that registration,*

(iv) *any cancellation or invalidation of the international registration, in respect of certain or all of the designated Contracting Parties and of some or all of the industrial designs covered by that registration,*

(v) *any other relevant fact, identified in the Regulations, concerning the rights in an industrial design that is the subject of an international registration.*

(3) [Fees] *Any recordal made under paragraph (1) or (2) may be subject to payment of the prescribed fee.*

(4) [Publication] *The International Bureau shall publish any recordal made according to paragraph (1) or (2)."*

The portion of the report of the Committee of Experts concerning the discussion of draft Article 11 reads as follows:

*"Paragraph (1).* This paragraph was approved as proposed, after it had been explained that it was not incompatible with Article 2(2) of the Paris Convention for the Protection of Industrial Property. The Secretariat declared that it had always been accepted that an international registration system be accessible only to applicants from Contracting Parties of the treaty establishing the system.

*Paragraph (2).* This paragraph was approved as proposed.

*Paragraph (3).* This paragraph was approved as proposed, after it had been clarified that the Regulations under the Treaty might prescribe fees for some of the recordals made under paragraph (1) or (2) and exempt other recordals from the payment of fees.

*Paragraph (4).* This paragraph was approved as proposed."

*Draft Article 12: Information Concerning International Registrations*

Draft Article 12 of the draft Treaty as submitted by the International Bureau read as follows:

"(1) [Information Concerning International Registrations] *The International Bureau shall issue to any person applying therefor, upon the payment of the prescribed fee, information on or copies of the International Register in respect of an international registration.*

(2) [Legalization] *No Contracting Party may require the legalization of copies of entries in the International Register issued by the International Bureau.*"

The portion of the report of the Committee of Experts concerning the discussion of draft Article 12 reads as follows:

"The Article was approved as proposed."

### Future Work

The portion of the report of the Committee of Experts concerning the discussion of future work reads as follows:

"The Secretariat declared that, for the next session of the Committee of Experts, a revised version of the draft Treaty would be prepared, taking into account the conclusions of the current session."

## LIST OF PARTICIPANTS\*

### I. Members

**Democratic People's Republic of Korea:** Pak Chang Rim. **France:** L. Guenot. **Germany:** P. Mühlens; C. Rudloff-Schäffer; U. Kruppa. **Indonesia:** E. Husin. **Italy:** P. Iannantuono; G. Cordici. **Monaco:** J. L'Herbon de Lussats. **Morocco:** F. Baroudi. **Netherlands:** H.R. Furstner; R. Meijer. **Spain:** M. Hidalgo Llamas. **Switzerland:** C. Mettraux. **Tunisia:** H. Tebourbi.

### II. Observer States

**Algeria:** H. Yahia-Cherif. **Bulgaria:** E. Novakova. **China:** Wu Zhenxiang. **Côte d'Ivoire:** A. Touré. **Denmark:** J.E. Carstad; A.R. Jørgensen. **Iran (Islamic Republic of):** N. Dousti; M. Zargar-Elahi. **Ireland:** M. Aird. **Japan:** M. Mizuno; Y. Takagi. **Libya:** S. Shaheen. **Mexico:** A. García-Guerra. **Namibia:** E.T. Kamboua. **Norway:** A. Guldhav; H.J. Pettersen. **Portugal:** J. Mota Maia. **I. Afonso;** F. Bustorff; A. Queiros Ferreira. **Republic of Korea:** S.W. Rhee; D.K. Woo; J.-K. Kim. **Romania:** G. Bucsa; C. Moraru. **Sweden:** T. Norström; K. Sundström. **Turkey:** E. Karaahmet. **United Kingdom:** B. Simpson. **United**

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

**States of America:** C. Walters; M. Kretsinger. **Viet Nam:** Thanh Long Nguyen.

### III. Intergovernmental Organizations

**Benelux Designs Office (BBDM):** P. Clement. **Commission of the European Communities (CEC):** B. Posner; S. Lieber.

### IV. Non-Governmental Organizations

**American Bar Association (ABA):** W.T. Fryer, III. **American Intellectual Property Law Association (AIPLA):** W.T. Fryer, III. **Coordination Committee for the Textile Industries in the European Economic Community (COMITEXIL):** P. Ghyoros. **European Association of Industries of Branded Products (AIM):** G. Kunze. **Federal Chamber of Patent Agents (FCPA):** R. Zellent. **International Association for the Protection of Industrial Property (AIPPI):** M. Levin. **International Chamber of Commerce (ICC):** A. Kolster. **International Council of Societies of Industrial Design (ICSID):** G. Adams. **International Liaison Committee for Embroideries, Curtains and Laces (CELIBRIDE):** T.S. Pataky. **International Literary and Artistic Association (ALAI):** W. Duchemin. **International Federation of Industrial Property Attorneys (FICPI):** A. Hansmann. **International Federation of Inventors' Associations (IFIA):** B.-G. Wallin. **Japan Design Protection Association (JDPA):** K. Takizawa; K. Sato. **Max Planck Institute for Foreign and International Patent, Copyright and Competition Law (MPI):** A. Kur. **Trade Marks, Patents and Designs Federation (TMPDF):** P. Orton. **Union of European Practitioners in Industrial Property (UEPIP):** C. Madeuf. **Union of Industrial and Employers' Confederations of Europe (UNICE):** M.J.M. van Kaam; S.J. Petersen; C. Sautory. **Union of Manufacturers for the International Protection of Industrial and Artistic Property (UNIFAB):** L. Lapeyre.

### V. Officers

**Chairman:** H.R. Furstner (Netherlands). **Vice-Chairmen:** C. Mettraux (Switzerland); H. Tebourbi (Tunisia). **Secretary:** P. Mangué (WIPO).

### VI. International Bureau of WIPO

**F. Curchod** (*Deputy Director General*); **L. Baeumer** (*Director, Industrial Property Division*); **S. Di Palma** (*Head, International Trademark and Industrial Design Registries*); **P. Mangué** (*Head, Trademark and Industrial Design Law Section, Industrial Property Division*); **B. Ibos** (*Senior Legal Officer, Trademark and Industrial Design Law Section*); **M. Kaufmann** (*Head, International Industrial Design Registry, International Trademark and Industrial Design Registries*).



## Activities of WIPO in the Field of Industrial Property Specially Designed for Developing Countries

### Africa

#### Assistance With Legislation and Modernization of Administration

*Botswana.* See under Lesotho.

*Equatorial Guinea.* In March 1992, WIPO sent to the Government of Equatorial Guinea, at its request, a draft industrial property law, with commentaries, in Spanish.

*Guinea-Bissau.* In March 1992, a WIPO official visited Bissau and held discussions with government officials on the preparation of an industrial property seminar to be organized by WIPO in Bissau for the Portuguese-speaking countries of Africa, and on industrial property legal questions in Guinea-Bissau.

*Lesotho.* A WIPO consultant from Sweden undertook a mission to Maseru in March 1992 to examine the computer programs prepared and to be installed in the industrial property offices of Botswana, Lesotho and Swaziland, in order to automate their administrative procedures for the processing of industrial property rights.

*Mozambique.* In March 1992, WIPO sent to the Government of Mozambique, at its request, a draft industrial property law, with commentaries, in Portuguese.

*Swaziland.* See under Lesotho.

### Arab Countries

#### Conference

*Oman.* Two WIPO officials participated, on March 1 and 2, 1992, in the National Technology Transfer Conference organized in Muscat by Sultan Qaboos University, with the support of the Ministry of Commerce and Industry of Oman. They also made presentations on the economic importance of the protection of industrial property in the contemporary world economy. Present at this event were some 400 participants, mainly government officials,

university professors, researchers, industrialists, private entrepreneurs and private lawyers.

#### Assistance With Legislation and Modernization of Administration

*Syria.* A government official from Syria held discussions with WIPO officials in Geneva in March 1992 on matters of mutual interest.

### Asia and the Pacific

#### Workshop

*WIPO Regional Workshop on Trademark Searching and Examination (Canberra).* From March 9 to 13, 1992, a Regional Workshop on Trademark Searching and Examination was organized by WIPO in Canberra, in cooperation with the Patent, Trade Marks and Designs Offices of Australia and with the assistance of the Japanese Patent Office (JPO). The objective of the Workshop was to provide informa-

tion and training on developments in computerized trademark administration. The Workshop was attended by 18 government officials from Bangladesh, China, Fiji, India, Malaysia, Mongolia, the Philippines, the Republic of Korea, Singapore, Sri Lanka, Thailand and Viet Nam. Presentations and demonstrations of computerized systems for trademark administration were made by five WIPO consultants from Japan, the United Kingdom and the United States of America, four officials from the

Australian Patent, Trade Marks and Designs Offices, a patent attorney from the Institute of Patent Attorneys of Australia and a WIPO official.

#### **Assistance With Legislation and Modernization of Administration**

*China.* In March 1992, a WIPO official undertook a mission to the Chinese Patent Office in Beijing for discussions and to give training on the Patent Cooperation Treaty (PCT) and its administration to 25 officials of the Chinese Patent Office and 10 representatives from some leading patent agencies in China.

*Iran (Islamic Republic of).* A government official from Iran held discussions at WIPO headquarters in

March 1992 on the proposed UNDP-financed country project on strengthening the industrial property office and on other matters of mutual interest.

*Malaysia.* A WIPO official visited Kuala Lumpur in March 1992 to discuss with government and UNDP officials the possible establishment of a UNDP-funded preparatory assistance country project. He also had discussions with patent and trademark attorneys and representatives of the Malaysian Inventions and Designs Society (MIDS) on cooperation between the Malaysian private sector institutions concerned and WIPO.

*Hong Kong.* In March 1992, a WIPO official gave a presentation on WIPO and its activities to government officials from Hong Kong on a study tour of the United Nations specialized agencies.

## **Latin America and the Caribbean**

#### **Assistance With Legislation and Modernization of Administration**

*Joint Project of WIPO, the Registry of Industrial Property of Spain and the European Patent Office (EPO), to Issue a Test CD-ROM Product Containing the First Pages of Latin American Patents and Patent Applications (DOPALES PRIMERAS).* In March 1992, the first CD-ROM prototype of the above product was made. The disc contains information on a sample of the first pages of approximately 2,500 patent documents (patent applications published and patents granted in 1990) of 18 Latin American countries. The information recorded on the CD-ROM consists of the basic bibliographic data of each patent document and the first page of the application/patent in image form, as well as in the form of indexes. The prototype disc was distributed to all Latin American industrial property offices and to other interested institutions in order to test the suitability of this product as a means to promote better use of patent documentation and information by end users in Latin American countries.

*Central America.* On March 17, 1992, the Director General had discussions at WIPO with the Permanent Representatives in Geneva of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama on the industrial property situation in their respective countries, their possible accession to treaties administered by WIPO and joint activities to be carried out in 1992.

*Colombia.* In March 1992, a WIPO official participated as a speaker in the Second National Congress on Industrial Property organized in Santa Fe de Bogotá by the Colombian Association of Industrial Property. The aim of the Congress was to review industrial property in the context of economic development and of Decision 313 of the Commission of the Cartagena Agreement, setting out a common regime on industrial property for the Andean Pact countries.

Also in March 1992, the WIPO official who attended the Congress held discussions on cooperation between WIPO and Colombia with government officials in charge of industrial property.

*Mexico.* In March 1992, WIPO completed the final report of the preparatory assistance project for the creation of the Mexican Industrial Property Institute (IMPI). That report is based on preliminary studies by WIPO and a number of international and national (Mexican) WIPO consultants, and was prepared in close consultation with the Government of Mexico.

*Venezuela.* In March 1992, at the request of the Government of Venezuela, WIPO sent its comments on the draft rules for the application of Decision 313 of the Commission of the Cartagena Agreement which set up a common regime on industrial property for the Andean Pact countries, as well as on the draft law creating an autonomous national institute of industrial property and on the possible accession of Venezuela to industrial property treaties administered by WIPO.

## Activities of WIPO in the Field of Industrial Property Specially Designed for European Countries in Transition to Market Economy

### General

*European Free Trade Association (EFTA).* In March 1992, an EFTA official visited WIPO to discuss with WIPO officials possibilities of cooperation between EFTA and WIPO with respect to Central and Eastern European countries in the field of intellectual property.

### National Activities

*Latvia.* The Announcement on the Provisional Order of Inventions, Industrial Designs and Trademarks Protection in the Republic of Latvia (of May 21, 1992), prepared by the national authorities

in cooperation with the International Bureau of WIPO, is published in this issue's *Industrial Property Laws and Treaties*, LATVIA – Text 1-001.

*Lithuania.* In March 1992, at the request of the national authorities, the International Bureau sent comments on a draft decree on provisional measures in the field of industrial property.

*Russian Federation.* In March 1992, the Minister for Science, Higher Education and Technical Policy of the Russian Federation, accompanied by government officials, visited WIPO for discussions with the Director General and WIPO officials on the effective protection of industrial property in the Russian Federation and other matters of mutual interest.

## Contacts of the International Bureau of WIPO with Governments and International Organizations in the Field of Industrial Property

### United Nations

*United Nations Organizational Committee of the Administrative Committee on Coordination (ACC).* A WIPO official attended the meeting of this Committee, held in March 1992 in Geneva.

*United Nations Consultative Committee on Substantive Questions (Operational Activities) [CCSQ (OPS)].* Two WIPO officials attended the 1992 first regular session of this Committee, which took place in Geneva in March 1992.

*United Nations Consultative Committee on Substantive Questions (Programme Matters) [CCSQ (PROG)].* In March 1992, a WIPO official attended the meeting of this Committee, held in Geneva.

*Joint Meeting of the United Nations Consultative Committee on Administrative Questions (Financial and Budgetary Questions) [CCAQ (FB)].* In March 1992, a WIPO official attended the meeting of this Committee, held in Geneva.

*United Nations Consultative Committee on Administrative Questions (Personnel and General Administrative Questions) [CCAQ (PER)].* In March 1992, a WIPO official attended the 76th session of this Committee, held in New York.

### Other International Organizations

*International Bank for Reconstruction and Development (World Bank).* In March 1992, a WIPO official visited the World Bank in Washington, D.C., and had discussions on possible areas of cooperation between the two organizations.

### Regional Organizations

*European Bank for Reconstruction and Development (EBRD).* In March 1992, a WIPO official visited EBRD in London and had discussions on possible areas of cooperation between the two organizations.

*European Communities (EC).* In March 1992, two WIPO officials participated in Brussels in a meeting of governmental experts concerning the legal protection of industrial designs, organized by the EC Commission. The purpose of the meeting was to obtain the views of the governments of the EC Member States on a Commission proposal for a system of design protection within the EC and for a directive on the harmonization of national design laws.

*European Patent Organisation (EPO).* In March 1992, the Director General visited the EPO in Munich and had discussions with the President of the EPO on questions of mutual interest.

Also in March 1992, a WIPO official represented WIPO at a Seminar on Search and Documentation Working Methods organized by the EPO in The Hague for some 50 participants from major industries in Europe, Japan, the United States of America and patent agents from Europe.

*European Space Agency (ESA).* In March 1992, the Legal Adviser on Intellectual Property Matters of ESA visited WIPO to discuss with WIPO officials various aspects of the protection of industrial property in relation to ESA's policy in this field and WIPO's activities, in particular under the Madrid Agreement Concerning the International Registration of Marks and the Patent Cooperation Treaty (PCT).

### Other Organizations

*Foundation for Advisory Studies in International Development (FASID) (Tokyo).* In March 1992, two WIPO officials gave a presentation on WIPO and its activities to a group of Japanese civil servants of this Foundation.

*Geneva International Exhibition of Inventions, New Techniques and Products.* In March 1992, a WIPO official spoke at the Press Conference which took place on the inauguration of the Geneva International Exhibition of Inventions, New Techniques and Products. On that occasion, two WIPO medals were awarded, one to an inventor from a developing country and one to the best woman inventor.

*Institute of Trade Mark Agents (ITMA).* In March 1992, a WIPO official participated in London as a speaker in an international meeting organized by

ITMA. The meeting dealt with several aspects of the protection of trademarks, including the main features of the draft Regulations under the Protocol Relating to the Madrid Agreement.

*Max Planck Institute for Foreign and International Patent, Copyright and Competition Law (MPI).* In March 1992, the Director General attended a meeting of the *Kuratorium* of the Institute held in Munich.

*Order of St. John.* In March 1992, the President of the Alliance of the Order of St. John and the Secretary General of the German Chapter of that Order visited WIPO and discussed with a WIPO official questions relating to the protection of the emblem of the Alliance.

### National Contacts

*Japan.* In March 1992, a WIPO official visited the Japanese Patent Office (JPO) in Tokyo and discussed data bases and the availability of their contents on CD-ROM in the field of patents and trademarks. The WIPO official also gave information on the Nice and Vienna Classifications, explained the ROMARIN system and discussed possible cooperation between WIPO and the JPO in this respect; the JPO expressed its interest in further strengthening cooperation with WIPO in this area of activity.

*Netherlands.* In March 1992, 13 trainees from the Institute of Social Studies (The Hague) visited WIPO and were briefed by WIPO officials on WIPO's activities and intellectual property in general.

*Sweden.* In March 1992, an official from the Ministry of Justice of Sweden visited WIPO to study the system of international trademark registration under the Madrid Protocol in relation to a possible revision of the trademark legislation in that country.

*United States of America.* In March 1992, the Director General and a WIPO official visited Washington, D.C., to discuss with officials of the United States Patent and Trademark Office (USPTO) and with members of Congress questions relating, in particular, to the PCT, the Madrid Protocol, the Hague Agreement and other questions of mutual interest.

## Miscellaneous News

### National News

*Germany.* The Law on the Extension of Industrial Property Rights, the purpose of which is to regulate the effects of the accession of the German Democratic Republic to the Federal Republic of Germany as regards industrial property rights, entered into force on May 1, 1992.

*Hungary.* The Law on the Protection of Utility Models No. XXXVIII of 1991 and the Law on the Protection of the Topography of Microelectronic Semiconductor Products No. XXXIV of 1991 both entered into force on January 1, 1992.

*United Kingdom.* The Design Right (Semiconductor Topographies) (Amendment) Regulations

1992, No. 400 of February 27, 1992, entered into force on March 24, 1992.

The Design Right (Proceedings before the Comptroller) (Amendment) Rules 1992, No. 615 of March 10, 1992, the Patents (Fees) Rules 1992, No. 616 of March 10, 1992, and the Registered Designs (Fees) Rules 1992, No. 617 of March 10, 1992, entered into force on May 11, 1992.

*United States of America.* Public Law 101-508 of November 16, 1990, which adds a Section 105 concerning inventions in outer space to the United States Code (U.S.C.), Title 35—Patents (as last amended by Public Law 100-703 of November 19, 1988) (see this issue of *Industrial Property Laws and Treaties*, UNITED STATES OF AMERICA—Text 2-001), entered into force on November 16, 1990.

## Calendar of Meetings

### WIPO Meetings

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

#### 1992

- September 21 to 29 (Geneva)**      **Governing Bodies of WIPO and the Unions Administered by WIPO (Twenty-Third Series of Meetings)**  
 Some of the Governing Bodies will meet in ordinary session, others in extraordinary session.  
*Invitations:* As members or observers (depending on the body), States members of WIPO or the Unions and, as observers, other States and certain organizations.
- October 12 to 16 (Geneva)**      **Working Group on the Application of the Madrid Protocol of 1989 (Fifth Session)**  
 The Working Group will continue to review joint Regulations for the implementation of the Madrid Agreement Concerning the International Registration of Marks and of the Madrid Protocol, as well as draft forms to be established under those Regulations.  
*Invitations:* States members of the Madrid Union, States having signed or acceded to the Protocol, the European Communities and, as observers, other States members of the Paris Union expressing their interest in participating in the Working Group in such capacity and certain non-governmental organizations.
- November 2 to 6 (Geneva)**      **WIPO Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights (Tenth Session)**  
 The Committee will review and evaluate the activities carried out under the WIPO Permanent Program for Development Cooperation Related to Copyright and Neighboring Rights since the Committee's last session (April 1991) and make recommendations on the future orientation of the said Program.  
*Invitations:* States members of the Committee and, as observers, States members of the United Nations not members of the Committee and certain organizations.
- November 9 to 13 (Geneva)**      **WIPO Permanent Committee for Development Cooperation Related to Industrial Property (Fifteenth Session)**  
 The Committee will review and evaluate the activities carried out under the WIPO Permanent Program for Development Cooperation Related to Industrial Property since the Committee's last session (July 1991) and make recommendations on the future orientation of the said Program.  
*Invitations:* States members of the Committee and, as observers, States members of the United Nations not members of the Committee and certain organizations.

### UPOV Meetings

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

#### 1992

- October 26 and 27 (Geneva)**      **Administrative and Legal Committee**  
*Invitations:* Member States of UPOV and, as observers, certain non-member States and inter-governmental organizations.
- October 28 (Geneva)**      **Consultative Committee (Forty-Fifth Session)**  
*Invitations:* Member States of UPOV.

- October 29 (Geneva)** **Council (Twenty-Sixth Ordinary Session)**  
*Invitations:* Member States of UPOV and, as observers, certain non-member States and inter-governmental and non-governmental organizations.
- October 30 (Geneva)** **Meeting with International Organizations**  
*Invitations:* International non-governmental organizations, member States of UPOV and, as observers, certain non-member States and intergovernmental organizations.

## Other Meetings

### 1992

- September 17 and 18 (Munich) International Community of Breeders of Asexually Reproduced Ornamental and Fruit-Tree Varieties (CIOPORA): VIth International Symposium on the Protection of Plant Breeders' Rights
- September 24 and 25 (Helsinki) International Federation of Reproduction Rights Organisations (IFRRO): Annual General Meeting
- October 3 (Sitges) International Literary and Artistic Association (ALAI): Executive Committee
- October 4 to 7 (Sitges)  
*N.B. New dates* International Literary and Artistic Association (ALAI): Study Days
- October 7 to 10 (Amsterdam) International League of Competition Law (LIDC): Congress
- October 18 to 24 (Maastricht/Liège) International Confederation of Societies of Authors and Composers (CISAC): Congress
- November 15 to 21 (Buenos Aires) International Federation of Industrial Property Attorneys (FICPI): Executive Committee

### 1993

- June 7 to 11 (Vejde) International Federation of Industrial Property Attorneys (FICPI): Executive Committee
- June 26 to July 1 (Berlin) Licensing Executives Society (International) (LES): Annual Meeting
- September 20 to 24 (Antwerp) International Literary and Artistic Association (ALAI): Congress
- September 27 to 29 (Helsinki) International Association for the Protection of Industrial Property (AIPPI) (Finnish Group): Symposium

### 1994

- June 12 to 18 (Copenhagen) International Association for the Protection of Industrial Property (AIPPI): Executive Committee
- June 20 to 24 (Vienna) International Federation of Industrial Property Attorneys (FICPI): Congress

