

# Industrial Property

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**INDUSTRIAL PROPERTY LAWS AND TREATIES  
(INSERT)**

Editor's Note

**FRANCE**

Law No. 92-597 of July 1, 1992, on the Intellectual Property Code (Legislative Part) (as last amended by Law No. 92-1336 of December 16, 1992) (*This text includes and replaces, in substance, the ones previously published under code numbers 1-001, 1-002, 1-004, 2-001, 2-002, 2-003, 3-001, 3-002 and 5-001*) . . . . . Text 1-001

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

### WIPO Convention

#### Declaration

REPUBLIC OF MOLDOVA

The Government of the Republic of Moldova deposited, on June 3, 1993, a declaration that the Convention Establishing the World Intellectual Property Organization, signed at Stockholm on July 14, 1967, and amended on September 28, 1979, continues to be applicable in respect of the Republic of Moldova.

*WIPO Notification No. 167, of June 7, 1993.*

### Paris Convention

#### I. New Member of the Paris Union

LATVIA

The Government of Latvia deposited, on June 7, 1993, its instrument of accession to the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised at Stockholm on July 14, 1967, and amended on September 28, 1979.

The Paris Convention, as revised at Stockholm on July 14, 1967, and amended on September 28, 1979, will enter into force, with respect to Latvia, on September 7, 1993.

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

*Paris Notification No. 140, of June 7, 1993.*

#### II. Declaration

REPUBLIC OF MOLDOVA

The Government of the Republic of Moldova deposited, on June 3, 1993, a declaration that the

Paris Convention, as revised at Stockholm on July 14, 1967, and amended on September 28, 1979, continues to be applicable in respect of the Republic of Moldova.

The Republic of Moldova will belong to class VII for the purpose of establishing its contribution towards the budget of the Paris Union.

*Paris Notification No. 139, of June 7, 1993.*

### Patent Cooperation Treaty (PCT)

#### New Member of the PCT Union

LATVIA

The Government of Latvia deposited, on June 7, 1993, its instrument of accession to the Patent Cooperation Treaty (PCT), done at Washington on June 19, 1970.

The said Treaty will enter into force, with respect to Latvia, on September 7, 1993.

*PCT Notification No. 79, of June 7, 1993.*

### Budapest Treaty

#### I. New Member of the Budapest Union

POLAND

The Government of Poland deposited, on June 22, 1993, its instrument of accession to the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, done at Budapest on April 28, 1977.

The said Treaty, as amended on September 26, 1980, will enter into force, with respect to Poland, on September 22, 1993.

*Budapest Notification No. 115, of June 22, 1993.*

## II. Acquisition of the Status of International Depository Authority

KOREAN CELL LINE RESEARCH FOUNDATION  
(KCLRF)

(Republic of Korea)

The following written communication, addressed to the Director General of WIPO by the Government of the Republic of Korea under Article 7 of the Budapest Treaty, was received on May 18, 1993, and is published by the International Bureau of WIPO pursuant to Article 7(2)(a) of the said Treaty:

I have the honour to refer to the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure done at Budapest on April 28, 1977, and to advise that in accordance with the provisions of Article 7 of the aforesaid Treaty, the Government of the Republic of Korea nominates the Korean Cell Line Research Foundation (KCLRF) as international depository authority.

The Government of the Republic of Korea gives its assurances that the Korean Cell Line Research Foundation (KCLRF) complies with and will continue to comply with the requirements specified in Article 6(2) of the said Treaty.

### Outline of the Korean Cell Line Research Foundation

#### 1. Legal Status, Name and Address

The "Korean Cell Line Research Foundation" (abbreviated to "KCLRF") is a foundation for development, research, and depository of cell line, which is located in the Cancer Research Institute of Seoul National University College of Medicine. The KCLRF was originated from SNU Cell Line Bank of the Cancer Research Institute, Seoul National University College of Medicine in 1982. The current stock cell lines of KCLRF amount to some 200 including 110 Korean cell lines.

The address of KCLRF in the Republic of Korea is:

Cancer Research Institute  
Seoul National University College of Medicine  
28 Yungon-dong, Chongno-gu  
Seoul  
110-799 Republic of Korea  
Tel: 02-742-0020  
Fax: 02-742-0021.

#### 2. Staff

- (a) Total number of employees: 11
- (b) Ph.D.: 1

- (c) Masters: 6.

All procedures related to deposits are processed by well-trained members of KCLRF.

#### 3. Facilities

The KCLRF uses a total floor space of 300m<sup>2</sup>, and the laboratory building has its own security systems. The KCLRF laboratories are equipped with modern facilities for cell culture and long-term storage as well as equipment for handling radioactive isotopes.

### Requirements for Deposit

#### 1. Kinds of Microorganisms Accepted

The following are accepted as deposits: cell lines (animal, plant and hybridomas).

##### Exceptions:

- (a) Cell lines having properties which are or may be hazardous to the health or natural environment.
- (b) Cell lines which need special requirements for experiment.

#### 2. Technical Requirements and Procedures

##### (a) Form and Quantity

Whenever possible, cell lines submitted to the KCLRF for deposits should be in frozen and viable culture states.

All cell lines submitted to the KCLRF for deposits should be free of contaminants.

The minimal number of replicates that must be submitted by the depositor is as follows: cell lines in frozen form: 7.

##### (b) Time Required for Viability Test

The average time required for testing the viability of the cell lines accepted by the KCLRF is as follows. But in some cases, the test may take longer.

Cell lines (animal, plant and hybridomas): 14 days (or up to 28 days)

##### (c) Depositor Checks and Renewal of Stocks

The KCLRF prepares its own batches in frozen form at the deposit time by subculturing the microorganism supplied by a depositor.

New batches are prepared from these as necessary thereafter for the replenishment of diminishing stocks. The depositor is required to test for authenticity samples of all the batches of his cell lines prepared by the KCLRF.

Regardless of the methods for preparing the batches of samples for distribution, the KCLRF

stores a portion of the original material supplied by the depositor.

### 3. Administrative Requirements and Procedures

#### (a) General

(1) *Language*: Korean is the official language of the KCLRF, but correspondence may be carried out in English also.

(2) *Contract*: The KCLRF does not enter into a written contract with the depositor defining the liabilities of either party. However, by signing the KCLRF deposit form, the depositor surrenders the right to withdraw his deposit during the required storage period.

(3) *Import and/or Quarantine Regulations*: Overseas depositors must contact the KCLRF in advance for advice about the shipping of their cell lines. Certain pathogens are subject to import and/or quarantine regulations. The KCLRF advises prospective depositors of such cell lines of the procedures which must be followed to obtain the necessary permits.

#### (b) Making the Original Deposit

(1) *Requirements to Be Met by the Depositor*: Depositors are required to complete the equivalent of model form BP/1, which is used by the KCLRF as its accession form for Budapest Treaty deposits. In the event of a later indication or amendment of the scientific description and/or proposed taxonomic designation, the depositor must complete the equivalent of model form BP/7.

(2) *Official Notification to the Depositor*: The receipt and viability statement are issued in mandatory "international form" BP/4 and BP/9, respectively.

Attestation of receipt of a later indication or amendment of the scientific description and/or proposed taxonomic designation is issued in the equivalent of model form BP/S. Notification of release of a sample to a third party is issued in form BP/14. The KCLRF has its own standard forms for other official notifications.

(3) *Unofficial Notifications to the Depositor*: If requested, the KCLRF will telephone the date of deposit and accession number after the microorganism has been received but before the official receipt is issued. The KCLRF will similarly communicate the result of the viability test before the viability statement is issued.

(4) *Supply of Information to Patent Agent*: The KCLRF does not routinely ask the depositor for the name and address of his patent agent. The KCLRF will send copies of the receipt and viability statement either to the depositor or to his agent if requested, but not to both.

#### (c) Converting a Previous Deposit

Deposits made outside the provisions of the Budapest Treaty may be converted by the original depositor to Budapest Treaty deposits only if they were originally made for patent purposes. The administrative requirements for conversion are similar to those to be met in respect of an original deposit made under the Treaty, except that the depositor is also required to supply a copy of the receipt of the previous deposit. All conversions are subject to payment of the normal storage fee levied on Budapest Treaty deposits, regardless of whether any fees had been paid previously in respect of those deposits.

#### (d) Making a New Deposit

The depositor is required to complete model form BP/2 when making a new deposit and to supply copies of the relevant documents required by Rule 6.2. The receipt and viability statement for a new deposit are issued in mandatory "international forms" BP/5 and BP/9, respectively.

## Furnishing of Samples

### 1. Requests for Samples

The KCLRF advises third parties of the correct procedures to follow in order to make a valid request. In the case of requests requiring proof of entitlement, the KCLRF will provide the requesting parties with copies of a model request form BP/12 and/or request forms used by industrial property offices (where they have been supplied with such forms).

The KCLRF furnishes samples in the belief that it is the responsibility of the requesting party to ensure that it complies with any relevant health and safety requirements. When responding to requests from overseas, the KCLRF assumes that the requesting party has met the import requirements of its own country.

All samples of cell lines furnished by the KCLRF are from batches of its own preparation of the cell lines.

### 2. Notification of Budapest Treaty Deposits

Depositors are notified in model form BP/14 when samples of their cell lines have been furnished to third parties.

### 3. Cataloguing of Budapest Treaty Deposits

The KCLRF does not list Budapest Treaty deposits in the catalog of its own publications.

**Schedule of Fees**

1. Storage	
– original deposit	Won 600,000
– new deposit	50,000
2. Issuance of Viability Statement	
– if the depositor requiring a viability statement has also requested a viability test	20,000
– in other cases	10,000
3. Furnishing of Samples	50,000
4. Issuance of an attestation under Rule 8.2	10,000
5. Communication of information under Rule 7.6	10,000

**Guidance for Deposition**

The KCLRF does not at present produce specific written notes for the guidance of prospective depositors, but is always ready to offer advice by telephone or letters.

[End of the text of the communication of the Government of the Republic of Korea]

Pursuant to Article 7(2)(b) of the Budapest Treaty, the Korean Cell Line Research Foundation (KCLRF) acquires the status of international depositary authority as from August 31, 1993.

*Budapest Communication No. 83 (this communication is the subject of Budapest Notification No. 114, of June 14, 1993).*

**III. Change of Name**

CULTURE COLLECTION OF YEASTS (CCY)

(Slovakia)

(formerly known as the “Czechoslovak Collection of Yeasts (CCY)”)

The Government of Slovakia has informed the Director General of WIPO by a written communication of July 27, 1993, that the assurances furnished by the Czech and Slovak Federal Republic concerning the Czechoslovak Collection of Yeasts (CCY), an international depositary authority under the Budapest Treaty, continue to apply to the Culture Collection of Yeasts (CCM). The address of the said international depositary authority is unchanged, that is:

Dúbravská cesta 9  
842 38 Bratislava  
Slovakia  
Tel.: +42-7-378 2625  
Fax: +42-7-373 811.

*Budapest Communication No. 86 (this communication is the subject of Budapest Notification No. 119, of August 12, 1993).*

CZECH COLLECTION OF MICROORGANISMS (CCM)

(Czech Republic)

(formerly known as the “Czechoslovak Collection of Microorganisms (CCM)”)

The Government of the Czech Republic has informed the Director General of WIPO by a written communication of June 23, 1993, that the assurances furnished by the Czech and Slovak Federal Republic concerning the Czechoslovak Collection of Microorganisms (CCM), an international depositary authority under the Budapest Treaty, continue to apply to the Czech Collection of Microorganisms (CCM). The address of the said international depositary authority is unchanged, that is:

Masarykovy University  
ul. Tvrdeho 14  
602 00 Brno  
Czech Republic  
Tel.: (05) 33 72 31, 33 77 42  
Fax: (05) 74 01 08.

*Budapest Communication No. 84 (this communication is the subject of Budapest Notification No. 116, of July 23, 1993).*

**IV. Extension of the List of Kinds of Microorganisms and Change in the Related Schedule of Fees**

BELGIAN COORDINATED COLLECTIONS OF MICROORGANISMS (BCCM)

(Belgium)

The following notification from the Government of Belgium, dated June 29, 1993, was received on July 2, 1993, by the Director General of WIPO under the Budapest Treaty:

1. In accordance with Rule 3.3 of the Regulations under the Budapest Treaty, the Belgian Government hereby notifies you, as a supplement to its declaration published in the February 1992 issue of the periodical *Industrial Property*, that the list

of organisms which BCCM—and more particularly the LMBP collection (hereinafter referred to as BCCM/LMBP)—will accept for deposit is extended as follows:

### 1.1 *Genetic Material*

BCCM/LMBP accepts the deposit of genetic material, whether recombinant or not—as plasmids, oncogenes and RNA, for example—in the form of an isolated material preparation or in a host.

### 1.2 *Human and Animal Cells, Hybridomes*

BCCM/LMBP accepts deposits of animal cell cultures, including human cell lines, genetically modified cell lines and hybridomes, which can be stored without particular deterioration nor loss of their properties, by controlled freezing, followed by long-term storage in liquid nitrogen.

Cell cultures contaminated by microplasmas can only be accepted for deposit in exceptional cases.

In the case of the two above-mentioned categories, and notwithstanding what is said above, BCCM/LMBP:

- does not normally accept any deposit requiring a containment level beyond category 3 of the United Kingdom Advisory Committee on Genetic Manipulation (ACGM);

- must be informed of the required containment level together with any other data (e.g., presence of oncogenes) required to assess the inherent hazards of the biological material to be deposited;

- maintains its right to refuse acceptance for deposit of any material which, according to the curator, represents an unacceptable hazard or which is not suitable, for technical reasons, for manipulation.

All applications and/or deposits under the Budapest Treaty concerning the two categories of biological material referred to should be addressed directly to the

BCCM/LMBP Collection  
Laboratorium voor Moleculaire Biologie  
K.L. Ledeganckstraat 35  
B-9000 Gent  
Belgium

Telephone: +32-91-645145  
Fax: +32-91-645348.

P.S. As from June 26, 1993, the zone number 91 should be replaced by 92.

## 2. *Requirements Under Rule 6.3*

### 2.1 *Genetic material*

#### 2.1.1 In a host,

BCCM/LMBP requires the applicant to supply:

3 active or freeze-dried or cryogenically conserved cultures, one of which will be

subjected to a viability test and subsequently serve to prepare a minimum stock of 20 samples of cryogenically conserved cells and/or 20 ampoules of freeze-dried cells;

or

23 ampoules of freeze-dried cells of the same preparation, 1 of which will be subjected to a viability test and subsequently serve for the preparation of a minimum stock of 20 cryogenically conserved samples.

2.1.2 In the form of a preparation of isolated material,

BCCM/LMBP requires that samples be supplied in freeze-dried or cryogenically conserved form or precipitated in alcohol. A minimum of 2 x 20 µg must be furnished.

The plasmids must have a degree of purity such that ready transformation is ensured (the recommended host must normally be stated and furnished—without the plasmid concerned—together with sufficiently detailed instructions for ensuring ready transformation).

### 2.2 *Human and Animal Cells, Hybridomes*

Before dispatching the animal and human cell cultures or the hybridomes to BCCM/LMBP, the depositor must check that they are free of contaminants. The cells must be submitted for deposit in the form of frozen cultures. BCCM/LMBP may refuse to accept the deposit of cultures not packed in a sufficient quantity of dry ice to ensure that they remain frozen during transport. On deposit, the depositor must submit at least 12 samples of the same preparation in well-closed tubes of the cryotube type (12 to 13 mm diameter; volume: 1 to 2 millilitres), clearly and durably marked. The cultures must contain at least 4 x 10<sup>6</sup> viable cells/ampoule. One or two samples will be tested for viability requiring between three and six weeks of testing (including the microplasm contamination test).

In general, BCCM/LMBP does not prepare its own batches of genetic material, animal and human cell lines or hybridomes. Consequently, when stocks of material are exhausted following furnishing of samples, it requests the depositor to make a new deposit.

3. With reference to Rule 12.2(a) of the Regulations under the Budapest Treaty, the following change in the amount of fees is notified:

For genetic material, the schedule of fees reproduced in *Industrial Property* of February 1992 remains in force:

- |                                                 |           |
|-------------------------------------------------|-----------|
| (a) Storage (Rule 9.1)                          | FB 20,000 |
| (b) Issue of a viability statement (Rule 10.2): |           |

- if the viability test is to be carried out 2,000
- based on the last viability test 800
- (c) Furnishing of a sample (Rules 11.2 and 11.3) 2,000
- (d) Communication of information under Rule 7.6 800
- (e) Issue of an attestation of amendment of the scientific description and/or taxonomic designation of the microorganism in accordance with Rule 8.2 800

For human cells, animal cells and hybridomes, the same schedule of fees will apply, except:

- (a) Storage (Rule 9.1) FB 45,000
- (b) Issue of a viability statement (Rule 10.2):
  - if the viability test is to be carried out on a case-by-case basis (minimum FB 3,000)

- (c) Furnishing of a sample (Rules 11.2 and 11.3) 4,000

These prices do not include the cost of dispatch (FB 100 currently represent approximately 2.5 ECUs or US\$3).

(Translation)

[End of the text of the notification of the Government of Belgium]

The extension of the list of kinds of microorganisms accepted by the Belgian Coordinated Collections of Microorganisms (BCCM) and the schedule of fees relating thereto will take effect as from August 31, 1993, the date of publication of the said notification in the present issue of *Industrial Property*.

*Budapest Notification No. 85 (this notification is the subject of Budapest Notification No. 117, of July 30, 1993).*

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

### Committee of Experts on the Settlement of Intellectual Property Disputes Between States

Fifth Session  
(Geneva, May 10 to 21, 1993)

The Committee of Experts on the Settlement of Intellectual Property Disputes between States held its fifth session in Geneva from May 10 to 21, 1993.<sup>1</sup> The following 70 States and one intergovernmental organization were represented as members: Algeria, Argentina, Armenia, Australia, Austria, Bangladesh,

Belgium, Brazil, Bulgaria, Cameroon, Chile, China, Colombia, Côte d'Ivoire, Democratic People's Republic of Korea, Denmark, Ecuador, Egypt, Finland, France, Germany, Greece, Guinea, Honduras, Hungary, India, Indonesia, Iran (Islamic Republic of), Ireland, Israel, Italy, Japan, Kenya, Latvia, Lesotho, Libya, Malawi, Malaysia, Mexico, Morocco, Namibia, Netherlands, New Zealand, Norway, Pakistan, Panama, Paraguay, Peru, Philip-

<sup>1</sup> For a note on the fourth session, see *Industrial Property*, 1992, p. 227.

pires, Portugal, Republic of Korea, Romania, Russian Federation, Senegal, Slovenia, Spain, Sudan, Swaziland, Sweden, Switzerland, Syria, Thailand, Togo, Turkey, United Kingdom, United States of America, Uruguay, Viet Nam, Yugoslavia, Zambia, Commission of the European Communities (CEC). Representatives of four intergovernmental organizations (United Nations (UN), United Nations Educational, Scientific and Cultural Organization (UNESCO), General Agreement on Tariffs and Trade (GATT), European Patent Organisation (EPO)) and of two non-governmental organizations (International Association for the Protection of Industrial Property (AIPPI), International Literary and Artistic Association (ALAI)) participated in the session in an observer capacity.

The Committee examined all the provisions set forth in the draft Treaty on the Settlement of Disputes between States in the Field of Intellectual Property (document SD/CE/V/2) and in the draft Regulations under the Treaty (document SD/CE/V/3), which are reproduced hereafter. The draft Treaty provides for a dispute settlement system which involves recourse to consultations and submission of disputes to a panel procedure. Good offices, conciliation and mediation as well as arbitration are also provided for on an optional basis. The Committee also discussed a proposal submitted by the European Communities concerning the status of regional economic integration organizations and intergovernmental organizations under the Treaty, and another submitted by the Government of the Netherlands concerning the compulsory submission of disputes either to arbitration or to the International Court of Justice. In view of those proposals and the fact that a number of other issues required further consideration, the Committee concluded that an additional (sixth) session of the Committee of Experts should be convened.

**DRAFT TREATY ON THE SETTLEMENT OF  
DISPUTES BETWEEN STATES IN THE  
FIELD OF INTELLECTUAL PROPERTY**

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**Preamble**

*The Contracting Parties*

*Desiring* to promote the protection of intellectual property by furthering the enforcement of international obligations and securing the uniform interpretation and application of international rules in the field of intellectual property,

*Bearing in mind* that disputes between States or between States and intergovernmental organizations may arise out of the enforcement of such international obligations and the interpretation or application of such international rules,

*Recognizing* the need for such disputes to be resolved through appropriate multilateral institutional arrangements,

*Convinced* that a treaty, administered by the World Intellectual Property Organization, establishing procedures for the amicable settlement of such disputes would promote the protection of intellectual property,

*Have agreed* as follows:

**Article 1**

**Establishment of a Union**

The Contracting Parties to this Treaty constitute a Union for the purposes of this Treaty.

**Article 2**

**Use of Terms and Abbreviated Expressions**

For the purposes of this Treaty, unless expressly stated otherwise:

(i) "Contracting Party" means a State or an intergovernmental organization that is party to this Treaty;

(ii) "Union" means the Union referred to in Article 1;

(iii) "Assembly" means the Assembly referred to in Article 9;

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

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

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

(vii) "Regulations" means the Regulations under this Treaty that are referred to in Article 11;

(viii) "prescribed" means prescribed in the Regulations;

(ix) "dispute" means a disagreement between parties concerning the existence or breach of an obligation referred to in Article 3(1) or (2);

(x) "party" in the expression "party to a dispute" means a State or an intergovernmental organization;

(xi) the expression "a party to a dispute" shall be construed as including also cases where there are several parties;

(xii) "source treaty" means the treaty containing the provision or provisions concerning the protection of intellectual property, the interpretation or application of which provision or provisions is an issue to be decided in the course of the settlement of the dispute.

### Article 3 Sphere of Application

(1) [*Disputes Between Contracting Parties Under Multilateral Treaties*] This Treaty applies to any dispute between Contracting Parties only to the extent that at least one or more of the issues to be decided upon in settling the dispute relates to a matter or to matters of intellectual property and requires the interpretation or application of one or more provisions, forming the basis of the obligation the alleged breach of which is in dispute and binding those Parties, contained in a multilateral treaty

*Alternative A:* [no further words] [in the field of intellectual property].

*Alternative B:* that is administered by the Organization alone or that is administered by the Organization in association with one or more intergovernmental organizations.

*Alternative C:* that is administered by the Organization alone.

(2) [*Other Disputes*] Where a dispute does not fall within the scope of paragraph (1), the provisions of this Treaty shall nevertheless be applicable to the dispute but only to the extent that at least one or more of the issues to be decided upon in settling the

dispute relates or relate to a matter or to matters of intellectual property, if the dispute

(i) arises under a source treaty that requires the parties to the dispute to submit their dispute to one or more of the procedures for the settlement of disputes established by this Treaty or that permits the parties to the dispute to agree to so submit their dispute and they so agree, or

(ii) concerns an obligation the source of which is other than a treaty and the parties to the dispute agree to submit their dispute to one or more of the procedures for the settlement of disputes established by this Treaty [, provided that, in the case provided for in item (i) or item (ii), above,

*Alternative A:* all the parties to the dispute that so agree are Contracting Parties.

*Alternative B:* at least one of the parties to the dispute that so agree is a Contracting Party].

(3) [*Non-Applicability of the Treaty to Certain Disputes*] Notwithstanding paragraphs (1) and (2), this Treaty, or any procedure established therein, shall not apply

(i) where the parties to a dispute agree that, for the purposes of that dispute, this Treaty, or a specified procedure established therein, shall not apply; or

(ii) where the dispute arises under a source treaty that does not permit the parties to the dispute to resort to dispute settlement procedures other than those provided for in that treaty.

[(4) [*Exhaustion of Local Remedies*] (a) A party to a dispute may not invoke any procedure for the settlement of a dispute established by this Treaty where the dispute concerns the alleged breach by the other party to the dispute of an obligation concerning the treatment to be accorded by that other party to a national or to the nationals of the party invoking the procedure unless that national has or those nationals have exhausted [the effective remedies available within the territory of the other party to that national or those nationals without having obtained the treatment called for by the said obligation, or where that is not possible, an equivalent treatment] [local remedies in accordance with [generally recognized principles of] [customary] rules of international law].

(b) The rule stated in paragraph (a) shall not be applicable where the obligation requires the other party to the dispute to enact a law on a matter affecting the status or rights of a national or the nationals of the party invoking the procedure and the other party to the dispute has not enacted that law.]

### Article 4 Consultations

(1) [*Invitation to Enter into Consultations*] Before making a request for a procedure before a panel

pursuant to Article 6, a party to a dispute shall, subject to Articles 3(3)(i), 5(1) and 6(1)(ii), invite the other party to the dispute to enter into consultations with it in respect of that dispute. The invitation shall indicate that the invitation is made with a view to initiating consultations pursuant to this Treaty, set forth the obligation or obligations the alleged breach of which has given rise to the dispute and state the facts and the legal grounds on which the allegation against the other party to the dispute is based.

(2) [*Reply to the Invitation*] Unless the parties to the dispute otherwise agree, the party to the dispute to which the invitation to enter into consultations is addressed shall reply to the invitation within two months from the date of the receipt of the invitation and shall, subject to Article 5(1), for a date within three months from the date of the receipt of the invitation, offer to the other party an adequate opportunity for the consultations.

(3) [*Consultations*] The parties to the dispute shall proceed in good faith in their consultations with a view to settling the dispute through agreement.

(4) [*Notification of the Invitation*] The party to the dispute that extends the invitation to enter into consultations shall [, if the other party to the dispute so agrees,] send a copy of the invitation to the Director General. The Director General shall [, if the parties to the dispute so agree,] notify the members of the Assembly and the parties to the source treaty, if any, of the fact that an invitation to enter into consultations has been made and [, if the parties to the dispute so agree,] of the names of the parties to the dispute. The Director General shall [, if the parties to the dispute so agree,] transmit, on request, to any member of the Assembly or party to the source treaty, a copy of the said invitation.]

(5) [*Notification of the Results of the Consultations*] Each of the parties to the dispute shall [, if the parties so agree,] inform the Director General whether the result of their consultations is the settlement of their dispute or not, and, if they have settled their dispute, what the outcome is. The Director General shall [, if the parties to the dispute so agree,] notify the members of the Assembly and the parties to the source treaty, if any, the information received from the parties to the dispute concerning the results of their consultations.]

[(4)][(6)] [*Privileged Nature of the Conduct and Contents of Consultations*] [Subject to paragraphs (4) and (5), and] unless the parties to the dispute otherwise agree, no party to the dispute shall divulge the way in which the consultations are or have been conducted, or any admission or any offer of settlement, or any other statement made, or any information furnished, in the course of the consultations, by any party to the dispute, except such information

that, prior to the consultations, has been disclosed by a party to the dispute or that is generally known or that is in the public domain. In addition, in any procedure other than the said consultations, including the procedures provided for in Articles 5, 6 and 8 of this Treaty,

*Alternative A:* any such divulgence shall be without prejudice to the rights of any party to the dispute.

*Alternative B:* no party to the dispute may invoke or rely on any admission or any offer of settlement or any other statement made, or any information provided, in the course of the consultations where such statement or information could prejudice the position or rights of any other party to the dispute.

## Article 5

### Good Offices, Conciliation, Mediation

(1) [*Recourse to Good Offices, Conciliation or Mediation*] (a) The parties to a dispute may, by common agreement, made at any time, that is, before, during or after the consultations provided for in Article 4, and even during the panel procedure established under Article 6, submit their dispute to the procedure of good offices, conciliation or mediation of an intermediary jointly designated by them.

(b) Where a party to a dispute is a Contracting State that is regarded as a developing country in conformity with the established practice of the General Assembly of the United Nations, it may request the good offices, conciliation or mediation of the Director General

*Alternative A:* prior to the making by either party to the dispute of a request for a procedure before a panel:

- (i) if within the time limit specified in, or otherwise agreed to by virtue of, Article 4(2), an invitation to enter into consultations made by the said Contracting State to the other party is not replied to by the other party, or the opportunity for consultations is not offered by the other party, or the parties to the dispute are unable to agree that their consultations shall commence; or
- (ii) if all parties to the dispute agree that the consultations provided for under Article 4 shall be dispensed with; or
- (iii) if the consultations under Article 4 do not result in the settlement of the dispute within six months from the date of the receipt of the invitation referred to in Article 4(1) or within any other shorter or longer period agreed upon by the parties.

*Alternative B:* at any time [, that is, before,] [during or] after the consultations provided for in Article 4 [or during the] [but not after the making by

either party to the dispute of a request for a] [procedure before a panel under Article 6].

(c) The Director General shall transmit a copy of the request referred to in paragraph (b) to the other party to the dispute and shall transmit a copy of the response of that party to that request to the party making the request.

(2) [Cooperation with the Intermediary] The parties to the dispute shall cooperate in good faith with the intermediary in order to enable the latter to carry out the functions necessary to bring about the settlement of the dispute through agreement.

[(3) [Notification of Submission to Good Offices, Conciliation or Mediation] Each of the parties to a dispute that agree to submit their dispute to the procedure of good offices, conciliation or mediation under paragraph (1)(a) shall [, if the said parties so agree,] inform the Director General of that submission. The Director General shall [, if the parties to the dispute so agree,] notify the members of the Assembly and the parties to the source treaty, if any, of the fact that a submission has been made under paragraph (1)(a) or that a request has been made under paragraph (1)(b) and [, if the parties to the dispute so agree,] of the names of the parties to the dispute and the name of the intermediary.]

[(4) [Notification of the Results of Good Offices, Conciliation or Mediation] Each of the parties to a dispute that has been submitted to good offices, conciliation or mediation under paragraph (1)(a) shall [, if the parties so agree,] inform the Director General whether the result of those means is the settlement of their dispute or not, and, if they have settled their dispute, what the outcome is. The Director General shall [, if the parties to the dispute so agree,] notify the members of the Assembly and the parties to the source treaty, if any, the information received from the parties to the dispute concerning the results of the good offices, conciliation or mediation carried out under paragraph (1)(b).]

[(3)][(5)] [Privileged Nature of the Conduct and Contents of the Procedure] [Subject to paragraphs (3) and (4),] Article 4(4) shall apply, *mutatis mutandis*, to both the parties to the dispute and the intermediary also in respect of the procedure of good offices, conciliation or mediation.

## Article 6 Panel Procedure

(1) [Recourse to a Panel] Any party to a dispute may request a procedure before a panel:

(i) if, within the time limit specified in, or otherwise agreed to by virtue of, Article 4(2), an invitation to enter into consultations made by that party to the other party is not replied to by the other

party, or the opportunity for consultations is not offered by the other party, or the parties to the dispute are unable to agree that their consultations shall commence; or

(ii) if all parties to the dispute agree that the consultations provided for under Article 4 shall be dispensed with; or

(iii) if the consultations under Article 4, or the good offices, conciliation or mediation, if any, referred to in Article 5, do not result in the settlement of the dispute within six months from the date of the receipt of the invitation referred to in Article 4(1) or [from the date of the conclusion of the common agreement referred to in Article 5(1)(a) or from the date of the request for good offices, conciliation or mediation referred to in Article 5(1)(b), respectively,] [from the date, if any, on which any party to the dispute informs the Director General, in accordance with Article 5(4), that they have not settled their dispute,] or within any other shorter or longer period agreed upon by the parties.

(2) [The Request] (a) The request for a procedure before a panel shall be addressed to the Director General.

(b) The said request shall

(i) set forth the terms of the invitation to enter into consultations made under Article 4(1), unless the parties to the dispute have agreed to dispense with the said consultations,

(ii) set forth the obligation the alleged breach of which has given rise to the dispute and state the facts and the legal grounds on which that allegation is based,

(iii) state the relevant facts concerning the attempted settlement of the dispute through the consultations, if any, provided for under Article 4 or through any procedure provided for under Article 5,

(iv) be accompanied by a summary of the dispute, drawn up in the prescribed manner and with the prescribed content.

(c) The Director General shall, within seven days of its receipt, send a copy of the said request and of the summary of the dispute to the other party to the dispute. He shall also send to all parties to the dispute a copy of the roster of potential members of panels that is established in the prescribed manner and shall offer to the said parties the possibility of his drawing up from the said roster a list of persons with particular expertise appropriate to the subject matter of the dispute.

(2)bis [The Answer] (a) Within two months of the sending by the Director General of the copy of the request for a procedure before a panel referred to in paragraph (2)(a), the other party to the dispute shall send to the Director General an answer stating which of the facts and legal grounds in the request

the said party admits or denies, on what basis, and on what other facts and legal grounds it relies.

(b) Within seven days of the receipt of the answer, the Director General shall send a copy of that answer to the party to the dispute that made the request.

(2) *ter* [Transmission of Summary of Dispute, the Request and the Answer to the Members of the Assembly and Parties to the Source Treaty] The Director General shall transmit to the members of the Assembly as well as to the parties to the source treaty a copy of the summary of the dispute and shall, on request, transmit to any member of the Assembly and to any party to the source treaty a copy of the request for a procedure before a panel and of the answer thereto.

(3) [Designation and Convocation of the Panel]

(a) Within two months from the date of the sending by the Director General of the copy of the request referred to in paragraph (2)(c), or within such other time limit as may be agreed to by the parties to the dispute, the parties to the dispute shall agree on the total number of members of the panel, which number shall be no less than three but no more than five, as well as on the number of members of the panel to be designated by each. Within the said time limit, the parties to the dispute shall also designate the member or members of the panel agreed upon between them as the member or members of the panel to be designated by each. Unless the parties to the dispute otherwise agree, the member or members so designated must be persons whose name or names appear on the roster, established by the Assembly, of potential members of panels. If the parties to the dispute fail to agree on the total number of the members of the panel, the number shall be three. If any party to the dispute fails to designate as a member or members of the panel the member that was or the members that were agreed by the parties to the dispute to be designated by that party or, if the parties fail to designate the member that was or the members that were agreed by the parties to the dispute to be designated by them jointly, then, at the request of either party to the dispute, the Director General shall designate the said member or members of the panel.

(b) Where at least one of the parties to the dispute is a Contracting Party that is regarded as a developing country in conformity with the established practice of the General Assembly of the United Nations, the Director General shall, at the request of any such party to the dispute that is so regarded, designate one or more persons from one or more countries regarded as developing countries as member or members of the panel, the number of them being fixed in the Regulations.

(c) The members of the panel designated by the Director General pursuant to paragraph (a) or (b)

shall be persons whose names appear on the roster, established by the Assembly, of potential members of panels. The member or members of the panel designated by the Director General shall be a national of a Contracting Party, whether it be a party or not to the source treaty, if any, but may not be a national of any party to the dispute. The member or members so designated shall have an expertise in the field of intellectual property.

(d) The Director General shall convene the panel not later than two months from its designation.

(4) [Task of the Panel] The panel shall

(i) examine the dispute;

(ii) express an opinion in a written report on the question whether an obligation relating to a matter or to matters of intellectual property exists and was breached and, if so, to what extent; the report shall contain a finding of the facts and a statement of the law on which the opinion is based, and a summary of the panel's proceedings and of the submissions of the parties to the dispute;

(iii) make recommendations, in the said report, as to the measures that one or more of the parties to the dispute should take in the light of the said opinion; however, the panel shall not make any recommendation as to how a party to the dispute should enact or amend its legislation, unless that party requests the panel to make such a recommendation;

(iv) conclude its proceedings, adopt its report and transmit its report to the Director General within six months from the date of its first meeting [, or from the date, if any, on which any party to the dispute informs the Director General, in accordance with Article 5(4), that the parties have not settled their dispute, whichever date is later,] or within such longer period not to exceed 12 months from that [later] date, as the panel, after consultation with the parties to the dispute, may decide;

(v) whenever a party to the dispute is a Contracting Party that is regarded as a developing country in conformity with the established practice of the General Assembly of the United Nations, take into account, in making its findings of fact and statement of the law, in expressing its opinion and in making its recommendations, the relevant provisions in the source treaty, if any, that contain special measures for developing countries, and the special circumstances and needs of the developing country party to the dispute [, as well as the impact of the recommendations of the panel on the economy and trade of that developing country].

(5) [Procedural Rights of the Parties to the Dispute] (a) In the course of the examination of the dispute by the panel, each party to the dispute shall have the right

(i) to be heard by the panel and be present when the other party or any intervening party is being heard,

(ii) to submit to the panel arguments in writing, including any written rebuttals of such arguments,

(iii) to receive copies of the submissions of arguments and rebuttals of the other party to the dispute,

(iv) to receive copies of the submissions expressing the views of an intervening party on the matter in dispute,

(v) to comment in writing on the draft of the report that the panel intends to make.

(b) If the parties to the dispute so request, the panel shall stop its proceedings.

(6) [*Intervention by Parties to a Source Treaty*]

(a) Any party to a source treaty that is not a party to the dispute under that treaty, provided it is a Contracting Party and has a substantial interest in the dispute, may intervene, in the prescribed manner, in the proceedings before the panel in order to express its views on the matter in dispute. Any such party wishing to intervene shall so notify the Director General within one month from the sending of the information referred to in paragraph (2) *ter* and shall state in its notification the nature of its interest in the dispute.

(b) The intervening party shall have the opportunity to present written submissions to, and be heard by, the panel. If the parties to the dispute so agree, the intervening party may be present when the parties to the dispute are heard by the panel and may receive copies of the submission of arguments and rebuttals of the parties to the dispute.

(7) [*Communication and Consideration of the Report of the Panel*] (a) The Director General shall transmit copies of the report of the panel to the parties to the dispute.

(b) Each of the parties to the dispute shall inform the Director General within one month from the date of the transmittal referred to in paragraph (a), or within such other period, not exceeding three months, as may be agreed upon by the parties to the dispute, of any comments it may have on the report and what action, if any, it has taken or plans to take in respect of the recommendations in the said report.

(c) The Director General shall within one month from the expiration of the time limit referred to in paragraph (b), or within such other period, not exceeding three months, as may be agreed upon by the parties to the dispute, transmit copies of the said report and of their comments, if any, on the report, together with the information received from them on the action taken or to be taken in respect of the said recommendations, to the members of the Assembly and to the parties to the source treaty, if any.

(d) The Assembly may have an exchange of views on the report of the panel and on the information thereon received from the parties to the dispute. The Assembly shall not impose or authorize sanctions for non-compliance with the recommendations contained in the report of the panel.

## Article 7

### Reporting on the Compliance with the Recommendations of the Panel

Each party to a dispute shall submit reports to the Assembly, in the prescribed manner and within the prescribed period or periods, on the implementation of the recommendation or recommendations made by the panel. Such reports shall be submitted by a party to the dispute even in the case where it disagrees with the recommendation or recommendations made by the panel.

## Article 8

### Arbitration

(1) [*Arbitration Agreement*] The parties to a dispute may agree, at any time, that their dispute shall be settled by arbitration in accordance with the provisions of this Article. If they agree to so settle their dispute, no other procedure for the settlement of that dispute under this Treaty may be invoked or pursued by any of the parties to the dispute.

(2) [*Arbitration Procedure*] Unless the parties to an arbitration agreement agree otherwise, the arbitration procedure shall be as follows:

(i) any party to an agreement referred to in paragraph (1) may request, in the prescribed manner, the other party to the dispute to proceed with the establishment of an arbitration tribunal. A copy of the request shall be addressed to the Director General;

(ii) the arbitration tribunal shall be composed of three arbitrators: subject to item (iii), each party to the dispute shall appoint one arbitrator, and the third arbitrator shall be appointed by agreement of the parties to the dispute. No arbitrator shall be a national of any State party to the dispute or of any State member of an intergovernmental organization that is party to the dispute;

(iii) if, within two months from the date of receipt by the Director General of the copy of the request referred to in paragraph (2)(i), any member of the arbitration tribunal has not been appointed by the parties to the dispute as provided in (ii), above, then the Director General shall, at the request of any of the parties to the dispute, appoint, as prescribed and within one month of the request, such arbitrator or arbitrators;

(iv) the arbitration tribunal shall be the judge of its own competence;

(v) the arbitration proceedings shall be conducted in the prescribed manner and within the prescribed time limits;

(vi) the arbitration tribunal shall decide its award on the basis of the treaty or other source of international law establishing the obligation the alleged violation of which has given rise to the dispute;

(vii) the adoption of an arbitration award shall require that the majority of the arbitrators vote for it.

(3) An arbitration award shall be final.

[(4) *Notification of Submission to Arbitration*]

Each of the parties to a dispute that agree to submit their dispute to arbitration under paragraph (1) shall [, if the said parties so agree,] inform the Director General of that submission. The Director General shall [, if the parties to the dispute so agree,] notify the members of the Assembly and the parties to the source treaty, if any, of the fact that a submission has been made under paragraph (1) and [, if the parties so agree,] of the names of the parties to the dispute and the names of the arbitrators.]

[(5) *Notification of the Results of Arbitration*]

Each of the parties to the dispute that has been submitted to arbitration under paragraph (1) shall [, if the parties so agree,] inform the Director General what the outcome of the arbitration is. The Director General shall [, if the parties to the dispute so agree,] notify the members of the Assembly and the parties to the source treaty, if any, the information received from the parties to the dispute concerning the outcome of the arbitration.]

[4] [6] [*Privileged Nature of the Conduct and Contents of the Arbitration*] [Subject to paragraphs (4) and (5),] Article 4(4) shall apply, *mutatis mutandis*, to both the parties to the dispute and the arbitrators also in respect of the arbitration procedure.

## Article 9 Assembly

(1) [*Composition*] (a) The Union shall have an Assembly consisting of the Contracting Parties.

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

(c) Subject to subparagraph (d), the Union shall not bear the expenses of the participation of any delegation in any session of the Assembly.

(d) The Assembly may ask the Organization to grant financial assistance

(i) to facilitate the participation in sessions of the Assembly of delegations of Contracting Parties that are regarded as developing countries in conformity with the established practice of the General Assembly of the United Nations or

(ii) to cover the cost of any qualified legal expert referred to in Article 10(1)(iv).

(2) [*Tasks*] (a) The Assembly shall:

(i) deal with all matters concerning the maintenance and development of the Union and the implementation of this Treaty;

(ii) amend the provisions of the Treaty in accordance with the provisions of Article 13;

(iii) adopt the Regulations and may amend the provisions thereof;

(iv) adopt, where it considers it desirable, guidelines for the implementation of provisions of this Treaty or the Regulations;

(v) establish the roster of potential panelists referred to in Article 6(3);

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

(vii) give directions to the Director General concerning the preparations for any conference of revision referred to in Article 12 and decide the convocation of any such conference;

(viii) review and approve the reports and activities of the Director General concerning the Union, and give him all necessary instructions concerning matters within the competence of the Union;

(ix) establish such committees and working groups as it deems appropriate to achieve the objectives of the Union;

(x) determine which States and intergovernmental organizations, other than Contracting Parties, and which non-governmental organizations shall be admitted to its meetings as observers;

(xi) take any other appropriate action designed to further the objectives of the Union and perform such other functions as are appropriate under this Treaty.

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

(3) [*Representation*] A delegate may represent one Contracting Party only.

(4) [*Voting*] (a) Each Contracting Party that is a State shall have one vote and shall vote only in its own name.

(b) Provided that all its member States that are Contracting Parties have notified the Director General that their right to vote may be exercised by it, any intergovernmental organization that is a Contracting Party may so exercise the right to vote of its member States that are Contracting Parties present at the time of voting. The intergovernmental organization may not, in a given vote, exercise the right to vote if any of its member States participates in the vote or expressly abstains.

(c) The right to vote of a State that is a Contracting Party may not, in a given vote, be exercised by more than one intergovernmental organization.

(5) [*Quorum*] (a) One-half of the Contracting Parties that have the right to vote shall constitute a quorum.

(b) In the absence of the quorum, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the quorum and the required majority are attained through voting by correspondence.

(6) [Majorities] (a) Subject to paragraph (9)(b) of this Article, to Article 11(2)(b) and (3) and to Article 13(3)(b), the decisions of the Assembly shall require a majority of the votes cast.

(b) Abstentions shall not be considered as votes.

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

(b) The Assembly shall meet in extraordinary session upon convocation by the Director General, either at the request of one-fourth of the Contracting Parties or on the Director General's own initiative. The Assembly shall also meet in extraordinary session, upon the convocation of the Director General, for the purpose of having the exchange of views provided for in Article 6(7)(d), or for the purpose of considering the reports called for under Article 7, if requested to do so for that purpose by any Contracting Party that is party to the dispute which is to be the subject of that exchange of views or of the said reports.

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

(9) [Guidelines] (a) In the case of conflict between the guidelines referred to in paragraph (2)(a)(iv) and the provisions of this Treaty or the Regulations, the latter shall prevail.

(b) The adoption by the Assembly of the said guidelines shall require three-fourths of the votes cast.

## Article 10 International Bureau

(1) [Tasks] The International Bureau shall

(i) perform the administrative tasks concerning the Union, as well as any tasks specifically assigned to it by the Assembly;

(ii) provide the secretariat of the conferences of revision referred to in Article 12, of the Assembly, of the committees and working groups established by the Assembly, and of any other meeting convened by the Director General under the aegis of the Union;

(iii) perform, in the prescribed manner, the administrative tasks that may be required by any of the procedures for dispute settlement established by this Treaty;

(iv) provide information in respect of dispute settlement to any Contracting Party, at its request;

(v) where a Contracting Party is regarded as a developing country in conformity with the established practice of the General Assembly of the United Nations and funds of the Organization have been authorized to be used for such a purpose, make available to that developing country, at its request, a qualified legal expert to assist the said country in respect of any procedure established by this Treaty for the settlement of any dispute to which it is a party, it being understood that the International Bureau shall act in a manner ensuring its continued impartiality.

(2) [Director General] The Director General shall be the chief executive of the Union and shall represent the Union.

(3) [Assembly and Other Meetings] The Director General shall convene the Assembly and any committee and working group established by the Assembly and all other meetings organized dealing with matters of concern to the Union.

(4) [Role of the International Bureau in Meetings] (a) The Director General and any staff member designated by him shall participate, without the right to vote, in all the meetings of the Assembly, the committees and working groups established by the Assembly, and any other meetings convened by the Director General under the aegis of the Union.

(b) The Director General or a staff member designated by him shall be *ex officio* secretary in all the meetings of the Assembly, and of the committees, working groups and other meetings referred to in subparagraph (a).

(5) [Conferences of Revision] (a) The Director General shall, in accordance with the directions of the Assembly, make the preparations for conferences of revision referred to in Article 12 and convene such conferences.

(b) The Director General may consult with inter-governmental and international and national non-governmental organizations concerning the said preparations.

(c) The Director General and staff members designated by him shall take part, without the right to vote, in the discussions at any conference of revision referred to in subparagraph (a).

(d) The Director General or a staff member designated by him shall be *ex officio* secretary of any conference of revision referred to in subparagraph (a).

## Article 11 Regulations

(1) [Content] The Regulations shall provide rules concerning

(i) matters which this Treaty expressly provides are to be “prescribed”;

(ii) any details useful in the implementation of the provisions of this Treaty.

(2) [*Entry into Force and Majorities*] (a) The Assembly shall determine the conditions for the entry into force of the Regulations and each amendment thereto.

(b) Subject to the provisions of paragraph (3), the adoption of the Regulations or of any amendment thereto shall require three-fourths of the votes cast.

(3) [*Requirement of Unanimity*] (a) The Regulations may specify rules which may be amended only by unanimous consent.

(b) Exclusion, for the future, of any rules designated as requiring unanimous consent for amendment from such requirement shall require unanimous consent.

(c) Inclusion, for the future, of the requirement of unanimous consent for the amendment of any rule shall require unanimous consent.

(4) [*Conflict Between the Treaty and the Regulations*] In the case of conflict between the provisions of this Treaty and those of the Regulations, the former shall prevail.

#### Article 12

##### Revision of the Treaty by Conferences of Revision

(1) [*Revision Conferences*] This Treaty may be revised by the Contracting Parties in conferences of revision.

(2) [*Provisions that can be Amended Also by the Assembly*] The provisions referred to in Article 13(1) may be amended either by a conference of revision or according to Article 13.

#### Article 13

##### Amendment of Certain Provisions of the Treaty by the Assembly

(1) [*Amending of Certain Provisions by the Assembly*] The Assembly may amend the provisions in Articles 4(2), 6(1)(iii), 6(2)(c), 6(2)bis(a) and (b), 6(2)ter, 6(3)(a) and (b), 6(4)(iv), 6(6)(a) and 6(7)(b) and (c), as well as 8(2)(iii), as far as the time limits mentioned in them are concerned and the provisions in Articles 9(1)(c) and (d), 9(5) and 9(7).

(2) [*Initiation and Notice of Proposals for Amendment*] (a) Proposals for amendments under paragraph (1) may be made by any Contracting Party or by the Director General.

(b) Such proposals shall be communicated by the Director General to the Contracting Parties at least

six months in advance of their consideration by the Assembly.

(3) [*Adoption and Required Majority*] (a) Amendments under paragraph (1) shall be adopted by the Assembly.

(b) Adoption by the Assembly of any amendment under this Article shall require three-fourths of the votes cast, provided that any amendment to Article 9 shall require four-fifths of the votes cast.

(4) [*Entry Into Force*] (a) Any amendment adopted under paragraph (3) shall enter into force one month after written notification of acceptance has been received by the Director General from three-fourths of the Contracting Parties members of the Assembly at the time the Assembly adopted the amendment.

(b) Any amendment to the said provisions thus accepted shall bind all States and intergovernmental organizations that were Contracting Parties at the time the amendment was adopted by the Assembly or that become Contracting Parties thereafter, except Contracting Parties which have notified their denunciation to this Treaty in accordance with Article 16 before the entry into force of the amendment.

#### Article 14

##### Becoming Party to the Treaty

(1) [*Eligibility*] The following may become party to this Treaty:

(i) any State that is a member of the Organization and any other State member of the United Nations or of any other specialized agency brought into relationship with the United Nations;

(ii) any intergovernmental organization that is a party to a multilateral treaty in the field of intellectual property or that, without being party to it, has accepted an obligation or obligations under such a treaty.

(2) [*Signature; Deposit of Instrument*] To become party to this Treaty, the State or the intergovernmental organization referred to in paragraph (1) shall:

(i) sign this Treaty and deposit an instrument of ratification, or

(ii) deposit an instrument of accession.

#### Article 15

##### Entry Into Force of the Treaty

(1) [*Entry Into Force*] This Treaty shall enter into force three months after [two] [five] States or intergovernmental organizations have deposited their instruments of ratification or accession.

(2) [*Ratifications and Accessions Subsequent to the Entry Into Force of the Treaty*] Any State or

intergovernmental organization not covered by paragraph (1) shall become bound by this Treaty three months after the date on which it has deposited its instrument of ratification or accession, unless a later date has been indicated in the said instrument. In the latter case, the said State or intergovernmental organization shall become bound by this Treaty on the date thus indicated.

### Article 16 Denunciation of the Treaty

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

(2) [Effective Date] (a) Denunciation shall take effect one year from the date on which the Director General has received the notification of denunciation.

(b) The denunciation shall not affect the application of this Treaty to any dispute to which the Contracting Party making the denunciation is a party and which is pending at the time of the expiration of the one-year period referred to in subparagraph (a).

### Article 17 Languages of the Treaty; Signature

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

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

(2) [Time Limit for Signature] This Treaty shall remain open for signature at the headquarters of the Organization for one year after its adoption.

### Article 18 Depositary

The Director General shall be the depositary of this Treaty.

## DRAFT REGULATIONS UNDER THE TREATY

### LIST OF RULES

#### PART A: Introductory Rules

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- Rule 25: Request for an Arbitration Tribunal
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PART A  
INTRODUCTORY RULES

**Rule 1**

**Use of Terms and Abbreviated Expressions**

(1) [*“Treaty”*; *“Article”*; *“Regulations”*; *“Rule”*; *“Paragraph”*; *“Guidelines”*] In these Regulations, the word

(i) *“Treaty”* means the Treaty on the Settlement of Disputes Between States in the Field of Intellectual Property;

(ii) *“Article”* refers to the specified Article of the Treaty;

(iii) *“Regulations”* means the Regulations under the Treaty;

(iv) *“Rule”* refers to the specified Rule of the Regulations;

(v) *“paragraph”* refers to the specified paragraph of the Rule in which the paragraph containing the reference is located unless another rule is specified in that paragraph;

(vi) *“Guidelines”* means the guidelines adopted by the Assembly.

(2) [*Use of Terms and Abbreviated Expressions Defined in the Treaty*] The terms and abbreviated expressions defined in Article 2 for the purposes of the Treaty shall have the same meaning for the purposes of the Regulations.

**Rule 2**

**Interpretation of Certain Words**

(1) [*“Sender”*; *“Addressee”*] Whenever the word *“sender”* or *“addressee”* is used in these Regulations, it shall be construed as meaning a Contracting Party, a party to the dispute, an intervening party, the Director General or the International Bureau that sends a communication or to whom a communication is addressed, unless the contrary clearly follows from the wording or the nature of the provision, or the context in which the word is used.

(2) [*“Communication”*] Whenever the word *“communication”* is used in these Regulations, it shall be construed as meaning the notification of the submission of a dispute, referred to in Article 3(2)(i) or (ii), the invitation to enter into consultations, referred to in Article 4(1), the reply to that invitation, referred to in Article 4(2), [the notifications under Article 4(4) and (5), Article 5(3) and (4) and Article 8(4) and (5),] the request for the good offices, conciliation or mediation of the Director General, referred to in Article 5(1)(b), the response to that request, referred to in Article 5(1)(c), the request for a procedure before a panel, referred to in Article 6(2), the summary accompanying that request, referred to in Article 6(2)(b)(iv), the answer

to that request, referred to in Article 6(2)*bis*, [the comments on the report of the panel, referred to in Article 6(7)(b),] the request for the establishment of an arbitration tribunal, referred to in Article 8(2)(i), and the reply to that request, unless the contrary clearly follows from the wording or the nature of the provision, or the context in which the word is used.

(3) [*“Interested Party”*] Whenever the expression *“interested party”* is used in these Regulations, it shall be construed as meaning either a sender or an addressee of a communication or both, unless the contrary clearly follows from the wording or the nature of the provision, or the context in which the expression is used.

PART B  
RULES CONCERNING SEVERAL ARTICLES  
OF THE TREATY

**Rule 3**

**Languages of Communications**

(1) [*Communications to a Party to a Dispute*]

(a) Any communication addressed by a party to a dispute to another party to that dispute may be in any language chosen by the sender, provided that, if that language is not a language that is an official language of the addressee, the communication shall be accompanied by a translation in an official language of the addressee, prepared by the sender.

(b) Any communication addressed by the Director General or the International Bureau to a party to a dispute or to an intervening party shall be, at the option of the Director General or the International Bureau, in English or French; however, where that communication is in response to a communication addressed by such party to the Director General or the International Bureau in English or in French, the former communication shall be in the language of the latter communication.

(2) [*Communications to the Director General or the International Bureau*] Any communication addressed to the Director General or the International Bureau by a party to a dispute or by an intervening party [shall be, at the option of such party, in English or French] [may be in such language as that party chooses, provided that the communication is accompanied by a translation in English or French, prepared by that party].

(3) [*Communications to the Assembly or to Parties to a Source Treaty*] Any communication addressed by the Director General or the International Bureau to the members of the Assembly or to the parties to a source treaty, if any, transmitting to those members or to those parties [any information referred to in Article 4(4) and (5), in Article 5(3)

and (4) and Article 8(4) and (5),] the request referred to in Article 6(2), the answer referred to in Article 6(2)*bis*, the report, comments and information referred to in Article 6(7)(a), (b) and (c), and the reports referred to in Article 7, shall be, at the option of the Director General, in English or French, whereas [the information referred to in Article 4(4) and (5), Article 5(3) and (4) and Article 8(4) and (5),] the comments and information referred to in Article 6(7)(c) and the reports referred to in Article 7, shall be in the language of [that information,] those comments and information or those reports, as received from a party to the dispute, but shall be accompanied by a translation thereof, in English or French, prepared by that party. The report of the panel referred to in Article 6(7)(a), and prepared in accordance with Rule 23, shall be transmitted by the Director General to the Assembly and to the parties to the source treaty, if any, in its original language, and, if that language is not English or French, it shall be accompanied by a translation in the English or French language, prepared by the International Bureau.

#### **Rule 4 Expressing Dates**

Interested parties shall, for the purposes of the Treaty and the Regulations, express any date in terms of the Christian era and the Gregorian calendar, or, if they use other eras and calendars, they shall also express any date in terms of the Christian era and the Gregorian calendar.

#### **Rule 5 Calculation of Time Limits**

(1) [*Periods Expressed in Months*] Any period expressed as one month or a certain number of months shall expire in the relevant subsequent month, on the day which has the same number as the day of the event from which the period starts to run, provided that if the relevant subsequent month has no day with the same number, the period shall expire on the last day of the month.

(2) [*Periods Expressed in Days*] The calculation of any period expressed in days shall start with the day following the day on which the relevant event occurred and shall expire on the day on which the last day of the count has been reached.

(3) [*Periods Expressed in Weeks*] Any period expressed as a week or a certain number of weeks shall start on the day following the day on which the relevant event occurred, and the period shall expire in the relevant subsequent week, on the day which is the seventh day counting from that following day.

(4) [*Local Dates*] (a) The date which is taken into consideration as the starting date of the computation of any period shall be the date which prevails in the locality at the time when the relevant event occurred.

(b) The date on which any period expires shall be the date which prevails in the locality at which the required communication must be received.

(5) [*Expiration on a Non-Working Day*] If a period expires on a day on which the addressee is not open for official business, the period shall expire on the first subsequent day on which the addressee is open for official business.

(6) [*End of Working Day*] (a) A period expiring on a given day shall expire at the moment the addressee closes for official business on that day.

(b) Any addressee may depart from the provisions of paragraph (a) up to midnight on the relevant day.

(7) [*Date of Communication*] (a) Where a period starts on the day of the date of a communication, any interested party may prove that the said communication was mailed on a day later than the date it bears, in which case the date of actual mailing shall, for the purposes of calculating the period, be considered to be the date on which the period starts.

(b) Irrespective of the date on which the said communication is mailed, if the sender offers evidence to the Director General which satisfies the Director General that the communication was received more than seven days after the date it bears, the Director General shall treat the period starting from the date of the communication as expiring later by an additional number of days which is equal to the number of days which the communication was received later than seven days after the date it bears.

(8) [*Receipt of Communication*] (a) Any communication is deemed to have been received if it is physically delivered to the addressee or if it is delivered at its mailing address or at the place it conducts official business.

(b) The communication shall be deemed to have been received on the day it is so delivered.

(9) [*Indication of the Date of Expiration*] The Director General or the International Bureau shall in all cases in which he or it communicates a time limit, indicate the date of the expiration, according to paragraphs (1) to (8), of the said time limit.

#### **Rule 6 Irregularities in the Mail Service**

(1) [*Delay or Loss in Mail*] Delay by an interested party in meeting a time limit for a communication to be addressed to another interested party shall

be excused if the sender proves to the satisfaction of the addressee that

(i) at least five days preceding the day of expiration of the time limit, it mailed the communication which, because of delay in arrival, reached the addressee after the expiration of the time limit or, because of loss in the mail, was never received by the addressee,

(ii) the sender effected the mailing within five days after the mail service was resumed or, in the case of loss in the mail, a communication which is identical with the communication lost is submitted to the addressee within one month after the sender noticed—or with due diligence should have noticed—the delay or loss, and in no case later than six months after the expiration of the time limit applicable in the given case.

(2) [*Interruption in the Mail Service*] Delay by an interested party in meeting a time limit for a communication to be addressed to another interested party shall be excused if the sender proves to the satisfaction of the addressee that

(i) on any of the 10 days preceding the day of expiration of the time limit the postal service was interrupted on account of war, revolution, civil disorder, strike, natural calamity, or other like reason,

(ii) the sender effected the mailing within five days after the mail service was resumed.

### **Rule 7**

#### **Amount of Expenses to be Paid by Party to a Dispute**

The International Bureau shall, subject to Rule 31, fix the amount to be paid by each party to a dispute as its contribution to the expenses of the procedure or procedures to which the dispute is submitted.

### **PART C**

#### **RULE CONCERNING ARTICLE 3 OF THE TREATY**

### **Rule 8**

#### **Notification of Submission of Dispute Under Article 3(2)(i) or (ii)**

Where, pursuant to Article 3(2)(i) or (ii), a dispute is to be submitted by the parties to the dispute to one or more of the procedures for the settlement of disputes established by the Treaty, each such party shall inform the Director General that the said dispute is being so submitted and shall specify the procedure or procedures concerned.

### **PART D**

#### **RULES CONCERNING ARTICLE 4 OF THE TREATY**

### **Rule 9**

#### **Content of the Invitation**

The invitation to enter into consultations, referred to in Article 4(1), shall

(i) state the name of the State or intergovernmental organization that is extending the invitation,

(ii) state the name of the State or intergovernmental organization to which the invitation is extended,

(iii) state that the invitation is extended with a view to initiating consultations under Article 4 of the Treaty,

(iv) contain an allegation that the addressee of the invitation has breached an obligation relating to a matter or to matters of intellectual property,

(v) indicate the source of the obligation by referring either to the provision or provisions of the source treaty that contains or contain the obligation or to a generally recognized principle of law concerning or applicable to intellectual property that is the basis of the obligation,

(vi) describe the matter or matters of intellectual property in respect of which the obligation relates,

(vii) specify the facts that demonstrate a breach of the obligation has occurred,

(viii) state any other legal grounds in support of the alleged breach,

(ix) identify the authority in the State or the unit in the intergovernmental organization, as the case may be, that is extending the invitation, which is competent to enter into the consultations,

(x) designate the official or officials of that authority or that unit, as the case may be, who is or are authorized to carry out the consultations,

(xi) set forth the postal address and, if any, the telecopier number and the telex number of the authority or unit to which the reply and other written communications are to be sent,

(xii) indicate whether the reply to the invitation may be made within a period other than the two-month period referred to in Article 4(2) and, if so, what that period is,

(xiii) indicate whether the date to be offered for the consultations may be within a period other than the three-month period referred to in Article 4(2) and, if so, what that period is.

### **Rule 10**

#### **Content of the Reply**

The reply to the invitation to enter into consultations, referred to in Article 4(2), shall

(i) state the name of the State or the intergovernmental organization that is the sender of the reply,

(ii) identify the invitation in respect of which the reply is being sent,

(iii) specify a date on which the sender of the reply proposes that the consultations commence,

(iv) indicate the place where the sender of the reply proposes that the consultations be carried out,

(v) identify the authority in the State or the unit in the intergovernmental organization, as the case may be, which is competent, on behalf of the sender of the reply, to enter into the consultations,

(vi) designate the official or officials of that authority or that unit, as the case may be, who is or are authorized to carry out the consultations,

(vii) set forth the postal address and, if any, the telecopier number and telex number of the authority or unit to which written communications are to be sent.

#### **Rule 11**

#### **Channel and Mode of Communication of the Invitation and of the Reply**

(1) The invitation to enter into consultations, referred to in Article 4(1), and the reply to that invitation, referred to in Article 4(2), shall be

(i) addressed, in the case of a State party to the dispute, by or to the Minister for Foreign Affairs of that State and, in the case of an intergovernmental organization that is party to the dispute, by or to the executive head of that organization;

(ii) sent, by registered mail, to the addressee referred to in item (i), above; in respect of a reply to an invitation to enter into consultations, the reply shall be sent to the place indicated in that invitation; in respect of an invitation to enter into consultations, the invitation shall be sent to the place where, to the knowledge of the sender of the invitation, the addressee normally does its official business.

(2) The sender of the invitation to enter into consultations or of the reply to that invitation may send that invitation or that reply to the Director General for transmission to the addressee of that invitation or of that reply, as the case may be.

#### **Rule 12**

#### **Place of the Consultations**

The consultations shall be carried out at the place proposed by the addressee to whom the invitation to enter into consultations has been sent, unless the sender of that invitation objects to that place. In the event of such an objection, the consultations shall be carried out at such other place as may be agreed upon by the parties to the dispute. In the absence of

such an agreement, the consultations shall be carried out at the headquarters of the Organization.

#### **Rule 13**

#### **Languages of the Consultations**

The consultations shall be carried out in the language or languages agreed upon by the parties to the dispute. In the absence of such an agreement, each party to the dispute may use the language it prefers, provided that it provides interpretation from that language into a language designated by the other party to the dispute, if the latter requests such interpretation. Any party to the dispute may provide interpretation into the language it prefers to use from the language used by the other party.

#### **PART E**

#### **RULE CONCERNING ARTICLE 5 OF THE TREATY**

#### **Rule 14**

#### **Good Offices, Conciliation or Mediation of the Director General**

(1) [*The Request*] The request for the good offices, conciliation or mediation of the Director General, referred to in Article 5(1)(b), shall

(i) be addressed to the Director General,

(ii) state the name of the State making the request,

(iii) state the name of the other party to the dispute,

(iv) state that the request is being made with a view to initiating the good offices, conciliation or mediation of the Director General pursuant to Article 5(1)(b) of the Treaty,

(v) contain an allegation that the other party to the dispute has breached an obligation relating to a matter of intellectual property,

(vi) indicate the source of the obligation by referring either to the provision or provisions of the source treaty, if any, that contains or contain the obligation or to a generally recognized principle of law concerning or applicable to intellectual property that is the basis of the obligation,

(vii) describe the matter or matters of intellectual property in respect of which the obligation relates,

(viii) specify the facts that demonstrate a breach of the obligation has occurred,

(ix) state any other legal grounds in support of the alleged breach,

(x) identify the authority in the State making the request which is competent to take part in the procedure of good offices, conciliation or mediation,

(xi) designate the official or officials of that authority who is or are authorized to be contacted in the course of that procedure,

(xii) set forth the postal address and, if any, the teletypewriter number and telex number of the authority to which written communications are to be sent.

(2) [*Transmittal of Copy of the Request to the Other Party to the Dispute*] The Director General shall send to the other party to the dispute a copy of the request referred to in paragraph (1) and invite the said party to respond to that request.

(3) [*The Response*] The response of the other party to the dispute to the request referred to in paragraph (1) shall

(i) state the name of the State or intergovernmental organization that is the sender of the response,

(ii) identify the request in respect of which the response is being sent,

(iii) state which of the facts and legal grounds in the request are admitted or denied, and, on what basis,

(iv) state what other facts and legal grounds are relied upon,

(v) identify the authority in the State or the unit in the intergovernmental organization, as the case may be, which is competent, on behalf of the sender of the response, to take part in the procedure of good offices, conciliation or mediation,

(vi) designate the official or officials of that authority or that unit, as the case may be, who is or are authorized to be contacted in the course of that procedure,

(vii) set forth the postal address and, if any, the teletypewriter number and telex number of the authority or unit to which written communications are to be sent.

(4) [*Date, Place and Languages of the Procedure*] The date when, and the place where, as well as the language or languages in which, the procedure of good offices, conciliation or mediation is to be conducted shall be fixed by the Director General in agreement with the parties to the dispute.

## PART F

### RULES CONCERNING ARTICLE 6 OF THE TREATY

#### Rule 15

##### Roster of Potential Members of Panels

(1) [*Invitation to Nominate Persons*] At least two months before the first session of the Assembly, and, thereafter, before each ordinary session of the Assembly, the Director General shall address a communication to the Contracting Parties inviting each Contracting Party to nominate for inclusion in the roster of potential members of panels, to be

established by the Assembly, four persons, each of whom may be a national of that Contracting Party.

(2) [*Preparation and Submission of Text*] (a) The Director General shall prepare a list in alphabetical order of all the persons thus nominated as well as 12 persons nominated by him. The list shall be accompanied by a brief description of each person, indicating his nationality, education, service in government, position in industry or status in a profession and expertise in a given branch of intellectual property.

(b) The Director General shall submit the list and the information on each person to the Assembly.

(3) [*Establishment of Roster*] The Assembly, at its first session, and, similarly, at each ordinary session, shall, on the basis of the list submitted to it, establish the roster of potential members of panels. In establishing that roster, the Assembly may delete from the list submitted to it the name of any person appearing thereon.

#### Rule 16

##### Number of Persons from Developing Countries as Members of Panel

Pursuant to Article 6(3)(b), the Director General shall designate as members of the panel the following number of persons from developing countries:

(i) one, in the event that the parties to the dispute have agreed that the number of members of the panel shall be three and have agreed on the designation of one or two of the members of the panel,

(ii) two, in the event that the parties to the dispute have agreed that the number of members of the panel shall be three and have agreed on the designation of none of the members of the panel,

(iii) one, in the event that the parties to the dispute have agreed that the number of members of the panel shall be four and have agreed on the designation of one or two or three of the members of the panel,

(iv) two, in the event that the parties to the dispute have agreed that the number of members of the panel shall be four and have agreed on the designation of none of the members of the panel,

(v) one, in the event that the parties to the dispute have agreed that the number of members of the panel shall be five and have agreed on the designation of all but one of the members of the panel,

(vi) two, in the event that the parties to the dispute have agreed that the number of members of the panel shall be five and have agreed on the designation of none, one, or two or three of the members of the panel.

### **Rule 17**

#### **Summary of the Dispute**

(1) The summary of the dispute, referred to in Article 6(2)(iv) shall

(i) state the name of the State or intergovernmental organization that has drawn up the request for a procedure before a panel and the name of the other party to the dispute,

(ii) set forth the obligation alleged to be breached that has given rise to the dispute,

(iii) indicate the provision or provisions of the source treaty, if any, that contains or contain the obligation or a generally recognized principle of law concerning or applicable to intellectual property that is the basis of the obligation,

(iv) describe the proposed measures that should be taken by the other party to the dispute in respect of the breach.

(2) The summary of the dispute shall be drawn up in accordance with the format suggested in the Guidelines or, in the absence of such guidelines, as recommended by the International Bureau.

### **Rule 18**

#### **Meetings of the Panel**

(1) The panel shall fix the date, time and place of its meetings.

(2) At its meetings, the panel shall, subject to these Rules, determine the place, languages and procedure to be followed during its proceedings, shall prepare its draft report, consider the comments on that draft report, made by the parties to the dispute, and adopt its report.

(3) All meetings of the panel shall be in private.

### **Rule 19**

#### **Place of Panel Proceedings**

The place of the proceedings before the panel shall be at the headquarters of the Organization, unless the panel determines, in view of all the circumstances of the matter, that another place is more appropriate.

### **Rule 20**

#### **Languages in Panel Proceedings**

(1) Subject to any agreement of the parties to the dispute, and to paragraph (2), the panel shall promptly after its convocation determine the language or languages to be used in the proceedings. This determination shall apply to written submissions of arguments, and any other written statements or documents, the draft report of the panel, the comments of the parties to the dispute on that draft

report, the report [and the comments of the parties to the dispute on the report of the panel,] and, if oral hearings take place, to the language or languages to be used in such hearings.

(2) The report of the panel referred to in Article 6(7)(a) shall be prepared by the International Bureau in the English and in the French language, unless the panel decides, in agreement with the parties to the dispute, that the report shall be prepared in another language or other languages than English or French, in which event, the International Bureau shall prepare a translation in English and in French.

### **Rule 21**

#### **Submission of Written Arguments, Rebuttals, Statements and Documents in Panel Proceedings**

(1) The panel shall determine the periods of time within which each party to the dispute or an intervening party shall submit its written arguments and rebuttals.

(2) The panel shall decide which further written statement or statements, in addition to the written submissions of arguments and rebuttals, shall be required from any party to the dispute or any intervening party, or may be presented by such a party, and shall fix the period of time for communicating such statement or statements.

(3) The period of time fixed by the panel for the submission of written arguments or rebuttals or of any further written statement shall not exceed forty-five (45) days. However, the panel may extend the time limit on such terms as it may deem appropriate.

(4) All written arguments, rebuttals or any further statement or statements shall be accompanied by copies (or, if they are especially voluminous, lists) of all essential documents on which the party concerned relies and which have not previously been submitted by any party.

(5) As soon as practicable following the completion of the submission of written arguments and rebuttals and any further written statement or statements, the panel may hold hearings and otherwise proceed pursuant to its authority under Article 6 and these Rules.

(6) If any party to the dispute or intervening party fails, within the period of time fixed by the panel, to submit written arguments or rebuttals or any further written statement or statements, or, if at any point any party fails to avail itself of the opportunity to present its case in the manner directed by the panel, the panel may nevertheless proceed, conclude its proceedings, prepare its draft report, invite comments thereon, and adopt its report.

## Rule 22

### Hearings Before the Panel

(1) The panel may decide to hold hearings for the presentation of [evidence by witnesses, including expert witnesses, or for] oral argument.

(2) The panel shall fix the date, time and place of hearings before the panel and shall give the parties to the dispute and any intervening party reasonable notice thereof.

(3) The panel may in advance of hearings submit to any party to the dispute or to any intervening party a list of questions which the panel wishes that party to treat with special attention.

(4) All hearings before the panel shall be in private unless the panel decides otherwise.

(5) The panel may declare the hearings closed if no party to the dispute or any intervening party has any further oral or written submissions or arguments to make or proof to offer [or witnesses to be heard].

(6) The panel may on its own initiative, or upon request of any party to the dispute or of any intervening party, but before the panel adopts its report, reopen the hearings.

## Rule 23

### Content of the Panel Report

The report of the panel shall contain

- (i) the date on which it was drawn up,
- (ii) the names of the members of the panel,
- (iii) a description of the parties to the dispute,
- (iv) the names of the representatives of each of the parties to the dispute,
- (v) a summary of the proceedings,
- (vi) a finding of the facts,
- (vii) a statement of the arguments of each party to the dispute,
- (viii) the opinion of the panel as to whether the facts found disclose a breach by the party to the dispute concerned of its obligation relating to a matter or to matters of intellectual property,
- (ix) the reasons on which the opinion is based,
- (x) the recommendations of the panel as to the measures that one or more of the parties to the dispute should take.

## PART G

### RULE CONCERNING ARTICLE 7 OF THE TREATY

## Rule 24

### Reports to the Assembly

The report or reports on the implementation of the recommendation or recommendations of the

panel, referred to in Article 7, shall be submitted by each party to the dispute in such form, content, periodicity and manner, as indicated in the Guidelines adopted by the Assembly or as decided by the Assembly after its exchange of views on the report of the panel has taken place in accordance with Article 6(7)(d).

## PART H

### RULES CONCERNING ARTICLE 8 OF THE TREATY

## Rule 25

### Request for an Arbitration Tribunal

(1) [*The Request*] The request for the establishment of an arbitration tribunal, referred to in Article 8(2)(i), shall

- (i) refer to the agreement between the parties to the dispute to settle their dispute by arbitration,
- (ii) set forth the obligation the alleged violation of which has given rise to the dispute,
- (iii) state the facts and legal grounds on which the allegation of breach is based,
- (iv) ask the other party to the dispute to proceed with the establishment of the arbitration tribunal,
- (v) identify the authority in the State or the unit in the intergovernmental organization which is competent to take part in the arbitration procedure,
- (vi) designate the official or officials of that authority or that unit who is or are authorized to be contacted in respect of that procedure,
- (vii) set forth the postal address and, if any, the telecopier number and telex number of the authority or that unit to which written communications are to be sent.

(2) [*The Reply to the Request*] (a) The party to the dispute to which the request for the establishment of an arbitration tribunal is sent shall reply to that request within one month of the receipt of the request.

(b) The reply of the other party to the dispute shall indicate the name of the arbitrator appointed by that party and may propose the third arbitrator to be appointed with the agreement of the parties to the dispute.

(c) The reply shall contain also the information indicated in items (v), (vi) and (vii) of paragraph (1).

(3) [*Channel and Mode of Communication of the Request and the Reply*] (a) When sending the request for the establishment of an arbitration tribunal to the other party to the dispute, the sender shall also transmit a copy of the request to the Director General.

(b) Rule 11 shall apply, *mutatis mutandis*, to the request for the establishment of an arbitration tribunal and to the reply to that request.

**Rule 26****Roster of Potential Arbitrators**

Rule 15 shall apply, *mutatis mutandis*, to the invitation to nominate persons for inclusion in the roster of potential arbitrators, the preparation of the list of persons thus nominated and its submission to the Assembly, as well as to the establishment by the Assembly of the roster of potential arbitrators.

**Rule 27****Composition of the Arbitration Tribunal**

(1) [*Arbitrators appointed by the Director General*] When requested by a party to the dispute, the Director General shall appoint the arbitrator or arbitrators, in consultation with the parties, from among the persons on the roster of potential arbitrators referred to in Rule 26.

(2) [*Presiding Arbitrator*] The third arbitrator, appointed by agreement of the parties or, in the absence of such agreement, by the Director General, shall be the presiding arbitrator.

**Rule 28****Place of Arbitration Proceedings**

Except if the parties to the dispute agree otherwise, the arbitration proceedings shall take place at the headquarters of the Organization, unless, in view of the circumstances, the arbitration tribunal decides otherwise.

**Rule 29****Languages in Arbitration Proceedings**

Subject to any agreement of the parties to the dispute, the arbitration tribunal shall promptly after its convocation determine the language or languages to be used in its proceedings. This determination shall apply to written submissions of arguments, and any other written statements or documents, the award of the arbitration tribunal and, if oral hearings take place, to the language or languages to be used in such hearings.

**Rule 30****Conduct of Arbitration Proceedings**

(1) [*Procedure before the Tribunal*] Unless the parties to the dispute agree otherwise, the arbitration tribunal shall determine its procedure, assuring to

each party a full opportunity to be heard and to present its case. In particular, the arbitration tribunal shall determine

(i) the periods of time within which each of the parties to the dispute shall submit its written arguments and rebuttals,

(ii) whether further written statements, documents or other information should be submitted by any of the parties and, if so, fix the period of time for communicating such statement or statements,

(iii) whether, in view of the circumstances, any period of time may be extended,

(iv) whether oral hearings shall take place and, if so, their date and place.

(2) [*Experts*] The arbitration tribunal may appoint one or more experts to report on specific issues determined by the arbitration tribunal.

(3) [*The Award*] The award shall be made in writing and shall state the reasons upon which it is based.

(4) [*Transmission of the Award*] The arbitration tribunal shall transmit the award to the parties to the dispute.

**Rule 31****Expenses**

The expenses of the arbitration proceedings, including the remuneration of the members of the arbitration tribunal, shall be borne by the parties to the dispute in equal shares unless the arbitration tribunal decides otherwise in view of the circumstances of the case.

## PART I

RULES CONCERNING ARTICLES 9 TO 18  
OF THE TREATY**Rule 32****Facilities and Assistance of  
the International Bureau**

The International Bureau shall, at the request of any party to a dispute that is the subject of consultations, good offices, mediation or conciliation, or at the request of the panel before which a procedure has been requested, or at the request of the arbitration tribunal to which a dispute has been submitted, make available, or arrange for, such facilities and assistance for the conduct of the consultations, good offices, conciliation or mediation, or the procedure before the panel, or the arbitration proceedings, as may be required, including suitable accommodation therefor, and secretarial and interpretation services.

**Rule 33****Absence of Quorum in the Assembly**

In the case provided for in Article 9(5)(b), the International Bureau shall communicate the decisions of the Assembly (other than those concerning the Assembly's own procedure) to the Contracting Parties having the right to vote which were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of that period, the number of Contracting Parties having thus expressed their vote or abstentions attains the number of Contracting Parties which was lacking for attaining the quorum in the session itself, such decisions shall take effect provided that at the same time the required majority still obtains.

**Rule 34****Requirement of Unanimity for Amending Certain Rules  
(ad Article 11(3))**

Amendment of Rule 33 or Rule 35 and of the present Rule of these Regulations shall require that no Contracting Party having the right to vote in the Assembly vote against the proposed amendment.

**Rule 35****Amendment of Time Limits Fixed in the Treaty  
(ad Article 13(1))**

(1) [*Presentation of Proposals for Amendment*] Proposals made by a Contracting Party shall be presented to the Director General.

(2) [*Decision by the Assembly*] (a) The text of a proposal shall be sent by the Director General to all Contracting Parties at least two months in advance of that session of the Assembly whose agenda includes the proposal.

(b) During the discussions of the proposal in the Assembly, the proposal may be amended or consequential amendments proposed.

(3) [*Voting by Correspondence*] (a) When voting by correspondence is chosen, the proposal shall be included in a written communication from the Director General to the Contracting Parties, inviting them to express their vote in writing.

(b) The invitation shall fix the time limit within which the reply containing the vote expressed in writing must reach the International Bureau. That time limit shall not be less than three months from the date of the invitation.

(c) Replies must be either positive or negative. Proposals for amendments or mere observations shall not be regarded as votes.

**Preparatory Meeting for the Diplomatic Conference  
for the Conclusion of a Treaty on the Settlement of Disputes  
Between States in the Field of Intellectual Property**

(Geneva, May 17 to 21, 1993)

The Preparatory Meeting for the Diplomatic Conference for the Conclusion of a Treaty on the Settlement of Disputes between States in the Field of Intellectual Property was held in Geneva from May 17 to 21, 1993. The following 69 States were represented at the meeting: Algeria, Argentina, Armenia, Australia, Austria, Bangladesh, Belgium, Brazil, Bulgaria, Cameroon, Chile, China, Colombia, Côte d'Ivoire, Democratic People's Republic of Korea, Denmark, Ecuador, Egypt, Finland, France, Germany, Greece, Guinea, Honduras, Hungary, India, Indonesia, Iran (Islamic Republic of), Ireland, Israel, Italy, Japan, Kenya, Latvia, Lesotho, Libya, Malawi, Malaysia, Mexico, Morocco, Netherlands, New Zealand, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Portugal, Republic of Korea,

Romania, Russian Federation, Senegal, Slovenia, Spain, Sudan, Swaziland, Sweden, Switzerland, Syria, Thailand, Togo, Turkey, United Kingdom, United States of America, Uruguay, Viet Nam, Yugoslavia, Zambia. The following four international organizations were admitted to the Preparatory Meeting in an observer capacity: African Regional Industrial Property Organization (ARIPO), African Intellectual Property Organization (OAPI), European Communities (EC), European Patent Organisation (EPO).

The discussions of the Preparatory Meeting were based on a memorandum of the International Bureau which dealt with the following matters: substantive documents to be submitted to the Diplomatic Conference, languages of the preparatory documents,

languages of interpretation, proposed agenda, proposed rules of procedure and invitations to the Diplomatic Conference.

The Preparatory Meeting decided that it should be convened to meet for a second part in conjunction with the next (sixth) session of the Committee of

Experts on the Settlement of Intellectual Property Disputes between States in order to deal with certain questions the consideration of which had been postponed in view of their bearing on the issues to be further considered by the Committee of Experts at its sixth session.

## Paris Union

### Assembly

Twentieth (10th extraordinary) Session  
(Geneva, April 5, 1993)

The Assembly of the International Union for the Protection of Industrial Property (Paris Union) held its twentieth (10th extraordinary) session in Geneva on April 5, 1993.<sup>2</sup>

The following 54 States, members of the Assembly of the Paris Union, were represented: Algeria, Argentina, Australia, Austria, Bangladesh, Belgium, Brazil, Bulgaria, Canada, Chile, China, Côte d'Ivoire, Croatia, Cuba, Czech Republic, Democratic People's Republic of Korea, Denmark, Egypt, Finland, France, Germany, Hungary, Indonesia, Ireland, Italy, Japan, Kenya, Libya, Mauritius, Mexico, Monaco, Mongolia, Netherlands, Norway, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Rwanda, Senegal, Slovakia, Slovenia, Spain, Sri Lanka, Sweden, Switzerland, Turkey, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Viet Nam, Zambia.

The following two States, members of the Conference of Representatives of the Paris Union, were

represented by observers: Dominican Republic, Syria.

The following 11 States, members of WIPO but not of the Paris Union, were represented by observers: Albania, Colombia, Ecuador, El Salvador, Guatemala, Honduras, India, Pakistan, Panama, Peru, Venezuela.

Representatives of the Commission of the European Communities (CEC) and of the European Patent Organisation (EPO) participated in the session in an observer capacity.

The Assembly of the Paris Union:

(i) decided that the second part of the Diplomatic Conference for the Conclusion of a Treaty Supplementing the Paris Convention as far as Patents are Concerned, scheduled for July 1993, was postponed;

(ii) decided that the agenda of the twenty-first session of the Paris Union Assembly (to be held from September 20 to 29, 1993) would contain an item concerning the continuation of the Diplomatic Conference;

(iii) expressed in particular to the United States of America its strong expectation and wish that the second part of the Diplomatic Conference would take place as early as possible in 1994.

## Nice Union

### Preparatory Working Group of the Committee of Experts of the Nice Union

Thirteenth Session  
(Geneva, May 3 to 14, 1993)

From May 3 to 14, 1993, the Preparatory Working Group of the Committee of Experts of the

Nice Union held its thirteenth session in Geneva. Twelve States members of the Working Group were represented at the session: Austria, Denmark, France, Germany, Japan, Netherlands, Norway, Portugal, Spain, Sweden, United Kingdom, United States of America. The Benelux Trademark Office (BBM) was also represented. China, Italy and the Republic of Korea were represented by observers.

The Preparatory Working Group approved a number of changes in the Nice Classification which will be forwarded to the next session of the Committee of Experts of the Nice Union for adoption. Among the changes considered were proposals concerning the addition of "retail store services" in

<sup>2</sup> For a note on the nineteenth session, see *Industrial Property*, 1992, p. 299.

the Alphabetical List. The Working Group did not add any item to the List to cover such services, but noted that the International Bureau considered the question of the registration of marks for "retail store services" to be of great importance, in particular because of the forthcoming entry into force of the Protocol Relating to the Madrid Agreement, and that the International Bureau intended to study the question further with a view to finding a compromise

solution, if there was one, that could be accepted by all countries.

The Working Group noted a preliminary evaluation by the International Bureau of a survey relating to the possible restructuring of the Nice Classification which showed that, with the exception of the subdivision of existing classes and the introduction of new classes, most trademark offices were opposed to any restructuring of the Classification.

## Permanent Committee on Industrial Property Information (PCIPI)

### PCIPI Working Group on General Information (PCIPI/GI)

Tenth Session  
(Geneva, April 15 to 23, 1993)

The Working Group on General Information of the Permanent Committee on Industrial Property Information (PCIPI/GI) held its tenth session in Geneva from April 15 to 23, 1993.<sup>3</sup>

The following 18 members of the Working Group were represented at the session: Bulgaria, Canada, Denmark, Finland, France, Germany, Hungary, Japan, Mexico, Netherlands, Romania, Russian Federation, Spain, Sweden, Switzerland, United Kingdom, United States of America, European Patent Office (EPO). The Patent Documentation Group (PDG) was represented by observers.

As regards a proposal for creating an additional code within WIPO Standard ST.16 (Standard Code for Identification of Different Kinds of Patent Documents), the Working Group agreed to recommend to the PCIPI Executive Coordination Committee the

adoption of a new letter code "W" for the publication of information on utility model applications or registrations.

The Working Group considered the first draft of a WIPO standard for field name tags used in patent search systems and had a first discussion on the revision of WIPO Standards ST. 23 (Recommendation for the Presentation of Nucleotide and Amino Acid Sequences in Patent Applications and in Published Patent Documents) and ST.32 (Generic Coding of the Text of Patent Documents Exchanged on a Machine-Readable Carrier).

Regarding the possibility of distinguishing the International Patent Classification (IPC) indexing codes more clearly from the IPC classification symbols by modifying the present representation of the indexing codes printed on patent documents and recorded in databases, the Working Group agreed, in view of the practical problems involved, not to change the representation of those codes.

Finally, the Working Group considered a proposal by the Norwegian Patent Office to indicate, from the year 2000 onwards, the year of filing a patent application by four digits in a leading position of the application number, as well as the possible consequences of the use of such a numbering system on industrial property information and documentation services.

<sup>3</sup>For a note on the ninth session, see *Industrial Property*, 1993, p. 39.

## Registration Systems Administered by WIPO

### Patent Cooperation Treaty (PCT)

#### PCT Committee for Administrative and Legal Matters (PCT/CAL)

Fifth Session  
(Geneva, May 24 to 27, 1993)

The PCT Committee for Administrative and Legal Matters (PCT/CAL) held its fifth session in Geneva from May 24 to 27, 1993. The following 25 States members of the Committee were represented at the session: Australia, Austria, Bulgaria, Canada, Czech Republic, Denmark, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Spain, Sweden, Switzerland, United Kingdom, United States of America, Viet Nam; the European Patent Office (EPO), in its capacity as an International Searching and Preliminary Examining Authority, was also represented. The following four States members of the Paris Union were represented by observers: Chile, China, Indonesia, Libya. The following one intergovernmental and six non-governmental international organizations were represented by observers: United Nations Conference on Trade and Development (UNCTAD), Committee of National Institutes of Patent Agents (CNIPA), European Federation of Agents of Industry in Industrial Property (FEMIP), Federal Chamber of Patent Attorneys (FCPA), Institute of Professional Representatives Before the European Patent Office (EPI), International Association for the Protection of Industrial Property (AIPPI), International Federation of Industrial Property Attorneys (FICPI).

The Committee discussed proposed amendments to the PCT Regulations which would give applicants from all PCT Contracting States the option, from January 1, 1994, of filing international applications with the International Bureau as receiving Office, as an alternative to filing with the competent national (including regional) Offices as receiving Offices. The Committee approved the proposed amendments, including a new Rule 19.4, which further protects PCT applicants by providing that an international application filed by an applicant from a PCT Contracting State with a "non-competent" receiving Office would be transmitted by that Office to the International Bureau as receiving Office and the date

of receipt by the "non-competent" Office would then be considered the date of receipt by the International Bureau. The proposed amendments will be considered by the PCT Assembly in September 1993.

The Committee also considered two proposals to amend Rule 91.1 to provide for the rectification of obvious errors in the request or demand if the competent authority is satisfied that what was offered was what was intended and that the rectification was obvious from a comparison with any paper relating to the international application existing at the time of filing the request or the demand. Although many delegations expressed sympathy for the general spirit of the proposals, no agreement was reached concerning them. In contrast, the Committee generally agreed that possibilities for further improvements in specific remedies should be studied.

The Committee also discussed proposed amendments to the PCT Regulations to provide for the electronic filing of international applications under the *Electronic Application System (EASY)* project. Although the Committee welcomed the development of an electronic filing system for international applications and expressed general support for the implementation plan, it agreed that the consideration of amendments to the Regulations concerning electronic filing should be deferred until further experience had been gained in the implementation of the first stage of EASY's development.

#### **Application of Rule 32 of the PCT Regulations (Successor States) in the Czech Republic and Slovakia**

In April 1993, in accordance with Rule 32 of the PCT Regulations, the International Bureau sent notifications to 1,692 applicants (or agents of applicants), representing 2,226 international applications under the PCT with international filing dates after December 31, 1992, and before February 22, 1993, informing them of the possibility of requesting, within three months of the date of mailing of the notifications, the extension of the effects of such applications to the Czech Republic.

Also in April 1993, in accordance with the same Rule, the International Bureau sent notifications to

1,692 applicants (or agents of applicants), representing 3,446 international applications under the PCT with international filing dates after December 31, 1992, and before March 7, 1993, informing them of the possibility of requesting, within three months of the date of mailing of the notifications, the extension of the effects of such applications to Slovakia.

### **Training and Promotion Meetings With PCT Users**

*Germany.* In April 1993, a WIPO official spoke on the PCT to some 30 participants in a seminar for patent administrators organized in Munich by the Institut für Management Forum, an enterprise in Heidelberg.

*Kazakhstan.* In April 1993, two officials from the National Patent Office underwent one week's training at the headquarters of WIPO in administrative procedures under the PCT.

*Mongolia.* In late March and early April 1993, a WIPO official undertook a mission to Ulaanbaatar to provide patent examiners and trademark examiners with training in the use of the CD-ROM workstations and CD-ROMs supplied to that Office by WIPO under the PCT and the Madrid Agreement. He also discussed the computerization of Mongolian Patent and Trademark Office operations with government officials.

*Slovakia.* In May 1993, an official from the Industrial Property Office underwent one week's training in the administrative procedures under the PCT at the headquarters of WIPO.

*Spain.* In April 1993, Mr. Eugenio Triana, Secretary General of Industrial Promotion and Technology, and Mr. Julio Delicado Montero-Ríos, Director General of the Spanish Patent and Trademark Office, had discussions with the Director General and other WIPO officials in Geneva on the Spanish Office's official request to become an International Searching Authority under the PCT.

*United States of America.* In April 1993, three WIPO officials participated in a PCT Colloquium jointly organized in New York by WIPO and the International Patent Club of New York. The Colloquium was attended by some 25 participants representing major PCT users and by representatives of

the United States Patent and Trademark Office (USPTO) and the EPO.

Also in April 1993, a WIPO official spoke at a PCT seminar organized in Boston (Massachusetts) by the Boston Patent Law Association (BPLA) and the Franklin Pierce Law Center (FPLC), which was attended by some 100 patent attorneys and legal assistants.

Also in April 1993, two WIPO officials spoke at a PCT seminar organized in New York by the New York International Patent Club and the New Jersey Intellectual Property Association, which was attended by some 70 participants comprising PCT users and representatives of the USPTO and EPO.

Also in April 1993, three WIPO officials had discussions with USPTO officials in Washington, D.C., on PCT operations and training activities.

Also in April 1993, the same three WIPO officials spoke at a PCT seminar organized by the Patent Resources Group (PRG) at Hilton Head (South Carolina), which was attended by some 70 patent attorneys and legal assistants from industry. One of the WIPO officials also spoke on Euro-PCT aspects at a seminar on European patent law, also held by PRG at Hilton Head, which was attended by some 40 participants.

Also in April 1993, two WIPO officials spoke at a PCT seminar organized in San Francisco (California) by the San Francisco Patent and Trademark Law Association (SFPTLA), which was attended by some 40 patent attorneys, mostly from the San Francisco area.

Also in April 1993, two WIPO officials spoke at a PCT seminar organized in Los Angeles (California) by the Los Angeles Intellectual Property Law Association (LAIPLA) and the Orange County Patent Law Association and attended by some 60 patent attorneys from the Los Angeles area.

### **Computerization Activities**

*USPTO/EPO/WIPO EASY project for the electronic filing of applications.* In April 1993, two USPTO officials visited WIPO to discuss with WIPO officials the progress of the EASY project and study the administrative procedures under the PCT. They were given a demonstration of the Document Imaging and Computer-Assisted Publication System (DICAPS) used for PCT operations.

Also in April 1993, three officials of the EPO's EASY team had discussions with WIPO officials in Geneva on the progress of the EASY project and were given a demonstration of the DICAPS system.

## Madrid Union

### Training and Promotion Meetings With Users of the Madrid System

*Bulgaria.* In May 1993, a WIPO official undertook a mission to Sofia to observe the trademark operations of the Patent Office and to discuss the computerization of those operations with government officials. This mission was preceded by a mission by the same WIPO official, accompanied by a government official from Bulgaria, to the German Patent Office in Munich to discuss with government officials there the progress made in the computerization of that Office's trademark operations.

*France.* In April 1993, four government officials visited WIPO to observe the administrative procedure and computerized systems used at WIPO for the international registration of marks.

*Kazakhstan.* In April 1993, two officials from the National Patent Office underwent one week's training at the headquarters of WIPO in the administrative procedures for the international registration of marks under the Madrid Agreement Concerning the International Registration of Marks.

*Slovakia.* In May 1993, an official from the Industrial Property Office underwent one week's

training at the headquarters of WIPO in the administrative procedures under the Madrid Agreement.

*Slovenia.* In May 1993, two officials from the Industrial Property Protection Office underwent one week's training at the headquarters of WIPO in the administrative procedures under the Madrid Agreement.

*Switzerland.* In May 1993, three officials from the Swiss Federal Intellectual Property Office underwent one day's training in the administrative procedures under the Madrid Agreement, focusing particularly on the use of WIPO's SEMIRA system (System of Electronic Marks Actualized Registry Interrogation, Registration and Administration), with which the Swiss Office has a direct computerized link.

### Computerization Activities

In April 1993, three WIPO officials had discussions in Washington, D.C., with officials of the USPTO and the industrial property offices of Canada and the United Kingdom on cooperation between WIPO and the three offices in the exchange of electronic data under the Protocol Relating to the Madrid Agreement.

## Hague Union

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

Third Session  
(Geneva, April 26 to 30, 1993)

#### 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 third session in Geneva from April 26 to 30, 1993.<sup>1</sup>

The following States members of the Hague Union were represented at the session: Belgium,

Côte d'Ivoire, Democratic People's Republic of Korea, France, Germany, Hungary, Indonesia, Italy, Netherlands, Romania, Senegal, Spain, Switzerland (13).

The following States members of the Paris Union were represented by observers: Algeria, Argentina, Bangladesh, Bulgaria, China, Denmark, Finland, Ireland, Japan, Kenya, Mexico, Norway, Philippines, Portugal, Republic of Korea, Sweden, United Kingdom, United States of America (18).

Representatives of the General Agreement on Tariffs and Trade (GATT), 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), Committee of National Institutes of Patent Agents (CNIPA), Coordination Committee for the

<sup>1</sup> For the notes on the first and second sessions, see *Industrial Property*, 1991, pp. 246 to 256, and 1992, pp. 184 to 200, respectively.

Textile Industries in the European Economic Community (COMITEXFIL), European Communities Trade Mark Association (ECTA), 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 Liaison Committee for Embroideries, Curtains and Laces (CELIBRIDE), Japan Design Protection Association (JDPA), Max Planck Institute for Foreign and International Patent, Copyright and Competition Law (MPI), Swiss Textile Federation (TVS), 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) (17).<sup>2</sup>

Discussions were based on the following document drawn up by the International Bureau of WIPO: "Draft New Act of the Hague Agreement Concerning the International Deposit of Industrial Designs" (document H/CE/III/2).

In the present note, any references to the "Hague Agreement" are to the Hague Agreement Concerning the International Deposit of Industrial Designs, and any references to the "1960 Act" are to the Hague Act of 1960 of the Hague Agreement, respectively.

### *General Observations*

The following general observations were made:

"The Delegation of Denmark, speaking on behalf of the European Communities and its Member States, observed that seven Member States of the European Communities were members of the Hague Union, while five were not members. One of the reasons for these States not being members was the short period of time for notifying a refusal of protection in the present Agreement. The Delegation complimented the International Bureau for the document that served as the basis for discussions at this meeting, and said that it contained interesting proposals for the solution of some of the difficult problems. The Delegation concluded by reiterating the positive interest of the European Communities in the continuation of the work of the Committee.

The Delegation of Germany considered the new proposal to be a big step towards an improved system for the international registration of designs. It reiterated its point of view that the negotiations should essentially lead to a new

instrument which would be simple and feasible and would attract as many States as possible, whether or not those States were already party to the Hague Agreement. The Delegation did not object to a revised Act, provided that the adoption of a new Act would lead to a unified system for international design registration. It further supported the suggestion of the International Bureau to allow States and intergovernmental organizations which were not members of the Hague Union to participate in a diplomatic conference with the right to make proposals. The Delegation expressed its satisfaction that most of the concerns it had raised in the previous sessions of the Committee of Experts had been taken care of. In particular, it mentioned the fact that the draft new Act provided for the possibility of deferred publication. It indicated that interested circles in Germany, especially the textile industry, had already expressed their satisfaction with the solutions proposed in Article 7, Article 10(5) and Article 3(2)(a)(iii) of the draft new Act.

The Delegation of Hungary mentioned that its country had a long tradition of industrial design protection, and that it was therefore particularly interested in taking part in the work on improving the provisions of the Hague Agreement. It also expressed the wish that the Hague Agreement, as revised, would attract the greatest possible number of countries, as that would not only benefit the number of international registrations but also bring about an increase in industrial design activity in States party to the new Act. The Delegation considered moreover that the improvement of the provisions of the Hague Agreement should make it possible to effect an approximation of the various national laws involved. It stated in conclusion that its country hoped to be able to use a revised Hague Agreement as a basis on which to complete and improve its own industrial design legislation.

The Delegation of Switzerland declared itself pleased with the progress of the work of the present Committee of Experts, and more especially with the new Act of the Hague Agreement drawn up by the International Bureau. It was favorably impressed by the fact that, for each problem, the draft new Act proposed a solution capable of reconciling the various systems for the protection of industrial designs. It also declared itself particularly pleased that the solution proposed by its country in the course of the previous session of the Committee of Experts, on the subject of the deferment of publication, had been written into the draft new Act and enlarged upon, and hoped that that proposal and the others would win the approval of the other member States of the Hague Union, that they would promote the accession of new members and that

<sup>2</sup> A full list of the participants may be obtained on request from the International Bureau.

they would allay the concerns of Hague Agreement users. The Delegation of Switzerland added that it supported the International Bureau's proposal that a new Act of the Hague Agreement be adopted rather than a new treaty. It considered that the arguments in favor of a new Act, namely, the fact of the Contracting States belonging to one and the same Union, the simpler administration of the international registration system and the incentive to establish an international deposit procedure compatible with all industrial design protection systems, seemed bound to prevail. It was aware of the fact that the adoption of a new Act had the drawback of not allowing States not members of the Hague Union or to intergovernmental organizations to vote on its adoption at the Diplomatic Conference. It did consider, however, that as the purpose of the present revision was to bring new members to the Hague Union, its country would be prepared to give careful consideration to the suggestions and opinions of the States and intergovernmental organizations interested in accession.

The Delegation of France recalled that the draft new Act of the Hague Agreement drawn up by the International Bureau had the twofold objective of broadening the geographical area of application of the Agreement and of making life easier for applicants. It added that, in order to achieve those twin objectives, the draft new Act contained interesting solutions to problems that had been raised, such as the deferment of publication, the filing of specimens and the dividing-up of fee payments. As for the legal form that the new instrument should be given, it considered that a new Act was consistent with the aim of simplification that was being pursued. It also made the point that it would be necessary, at the time of the Diplomatic Conference, to find means of giving a hearing to States not members of the Hague Union.

The Delegation of Finland stated that this was the first time that its country had participated in an observer capacity in a session of the Committee of Experts, and that it was interested to hear about the latest developments in this field. It indicated that, traditionally, industrial designs were very important in Finland and that the country attached importance to the international protection of designs. The Delegation noted that the Hague Agreement, in its present form, was not to its satisfaction, and that it therefore attentively followed its development.

The Delegation of the United States of America was pleased to have the opportunity to participate as an observer in this meeting and planned to participate actively in the discussions with the goal of obtaining an agreement that could engender interest and support by industries

and designers in the United States of America. It stated that, although several interested companies and members of the patent bar had supported the Delegation's participation in these discussions, no consensus had been reached on the question of participation by the United States of America in an international design registration system. It also pointed out that the United States of America should consider any proposal for an international design registration system in the context of the existing regimes for the protection of industrial designs, and not in the context of possible future schemes of protection. In its review since the last meeting of the Committee of Experts, the Delegation had concluded that the existing design patent system would be the most appropriate vehicle for the participation of the United States of America in an international design registration system. However, other forms of protection for industrial designs would continue to be available in the United States of America. The Delegation commended the International Bureau on the preparation of the draft new Act, and was encouraged by several improvements made to the draft text. These included extending the time for a Contracting Party to refuse to recognize an international registration, not requiring Contracting Parties to defer publication of an industrial design registration, and permitting a Contracting Party with an examination system to collect individual designation fees. However, the Delegation believed that additional changes should be made to the draft new Act in order to increase the chances of participation on the part of the United States of America. For example, potential users of the system in the United States of America had expressed strong sentiment in favor of an option for filing an international design application through the national industrial property office in the United States of America. With respect to the question of whether the revision should take the form of a new Act or a new Treaty, the Delegation indicated that it had no objection at this stage to the approach of the International Bureau in recommending a new Act, but that no official position had been taken in that respect. In any event, accession by the United States of America would depend on the substantive provisions which would be adopted.

The Delegation of Belgium said that the draft new Act of the Hague Agreement drawn up by the International Bureau was an excellent working document and also a sound basis on which considerable progress could be made.

The Delegation of the United Kingdom stated that it was pleased to be present as an observer State in this meeting. The Delegation expressed its gratitude to the International Bureau for the helpful arrangement of the new draft Act and the

explanatory notes supporting the proposed text of the articles and the various alternatives for discussion. The Delegation supported the goal of revising the Hague Agreement with a view to overall simplification of the system, coupled with the incorporation of further provisions in the text that would enable accession of States, such as the United Kingdom, which were not yet party to the Hague Agreement. The Delegation considered the changes in the draft text from the last meeting of the Committee of Experts to be positive steps towards that goal, and stated that the introduction of the possibility of deferred publication would encourage the use of the new system by certain sectors of industry. However, the Delegation felt that there was room for further improvement and, in particular, hoped that the option of indirect filing would be part of the new Act.

The Delegation of Romania said that its country had joined the Hague Union in 1992, and that its industrial design legislation had entered into force in January 1993, two things that testified to Romania's interest in the question of industrial design protection. It concluded by saying that it fully supported the draft new Act, which contained very interesting and useful provisions.

The Delegation of the Netherlands considered the new draft Act to present an excellent opportunity for new States to adhere to the Hague Agreement. It expressed its satisfaction that most of the suggestions which were made in previous sessions of the Committee of Experts had been taken into account. However, it suggested broadening the circle of potential users of the Agreement. To that end, it proposed that applications for international registration should not be limited to applicants having a connection with a State party to the Agreement as suggested in Article 2 of the draft new Act.

The Delegation of the Republic of Korea stated that, while the Republic of Korea was not a member State of the Hague Union, it was presently in the process of studying the future prospects of joining the Hague Union with a view to the internationalization of its industrial design protection system. The Delegation welcomed certain provisions of the draft new Act that dealt with various problems that had emerged from the second session of the Committee of Experts, in particular the prolongation of the maximum period for refusal, and the possibility of requesting deferred publication. These provisions would ensure that the circle of States party to the Agreement would be broadened as much as possible. The Delegation understood that one of the purposes of this Committee was to introduce greater flexibility into the system, to make it possible for countries, like the Republic of Korea,

which were not yet members to accede to the Agreement. In this regard, the Delegation expressed its wish that maximum flexibility be provided in the draft new Act through discussion at this session.

The Delegation of Denmark expressed its gratitude to be participating in this meeting as an observer, and looked forward to participating in the discussions. In view of the reasons put forth by the International Bureau, the Delegation could support the presentation of the draft revision as a draft new Act.

The Delegation of Bulgaria said that it was in favor of the efforts being made to develop a new Act of the Hague Agreement. It added that a decision was awaited from its Government which would enable Bulgaria to become party to the Hague Agreement.

The Delegation of Ireland commended the International Bureau on the quality of the draft new Act and the clarity of the notes, and in particular acknowledged the provisions which allowed for flexibility. The Delegation, however, indicated that it had some reservations on certain aspects of the draft new Act.

The Delegation of Japan commended the International Bureau on the quality of the draft new Act and stated that it was interested in the work of the Committee of Experts on the revised version of the document. Japan was not a member of the Hague Union, and was interested in seeking improvement of the Agreement so that it could join the Union in the future. While the present Hague Agreement was not satisfactory for examining countries such as Japan, the present draft new Act introduced a number of positive elements which provided for flexibility in order to help examination countries to accede to the Agreement. However, some additional features needed to be introduced. The Delegation indicated that it would present a comparison during the course of the meeting between current Japanese law and the draft new Act as a constructive way of drawing attention to the need for introducing such features to achieve a better scheme for examining countries. Concerning the question of whether the revision should take the form of a new treaty or a new Act, the Government of Japan preferred a new treaty. The pros and cons stated on pages 2 and 3, paragraphs 5 and 6, of document H/CE/III/2 were not persuasive that the revision should take the form of a new Act. While it was natural for member States to prefer a new Act to a new treaty, there were serious drawbacks to that option, and the goals of achieving a single uniform international system and expanding membership were better served by a new treaty. While the Delegation hoped that the members of the Hague Union would consider the

concerns of non-member States when concluding the revision, it remained skeptical. With respect to participation in a Diplomatic Conference, the Delegation indicated that it would study and examine whether such participation would solve its concerns.

The Delegation of Côte d'Ivoire considered that the draft new Act drawn up by the International Bureau was an excellent working document. It also informed the Committee of Experts that on April 26, 1993, its Government had deposited the instrument of accession of Côte d'Ivoire to the Hague Agreement with the Director General of WIPO.

The Delegation of Portugal declared itself pleased to be able to take part in the present meeting of the Committee of Experts as an observer, and was impressed by the excellent work done by the International Bureau.

The Delegation of Sweden pointed out that, at the previous session of the Committee, it had welcomed the simplified international registration system that the previous draft Treaty presented. This simplified approach was in most aspects maintained in the draft new Act. However, the Delegation indicated that its country could foresee two difficulties with the draft new Act, especially since it had a system of substantive examination of applications for industrial designs. These were the possibilities of multiple registrations and the deferment of publication. The latter, in particular, could lead to situations where examination of a design application was made uncertain because the publication of a prior international design application containing a similar design had been deferred and was not available during examination.

The Representative of the CEC noted the intervention of the Delegation of Denmark on behalf of the European Communities, and added its support to the ongoing effort to revise the Hague Agreement in order to allow those Community Member States which were not yet Contracting Parties to the Hague Agreement to adhere to the system if they so chose, and also to allow a number of non-Community Member States, which were among the Community's most important trading partners, to adhere. This would have a positive effect on facilitating trade with the European Communities' trading partners by removing barriers to the entry of foreign markets. The Delegation considered the arguments in favor of concluding a new Act instead of a new treaty to be persuasive. Furthermore, the Delegation observed that there seemed to exist general agreement to allow non-members to make proposals at the Diplomatic Conference, and that the option of allowing indirect filing of international design applications through national offices seemed to be most attractive.

The Representative of AIPPI expressed her support for the development of the draft new Act, and pointed specifically to the flexible solution concerning the deferment of publication that had been adopted. However, she objected to the form of the possible new agreement, and stated that she was strongly in favor of a new treaty instead of a new Act. The Representative indicated that she could support the form of a new Act, provided that it resulted in one single solution for international design registrations.

The Representative of UNICE and ECTA stated that both organizations were interested in an efficient and expeditious way of obtaining design protection. In order to achieve that goal, the registration procedure should be simple and cost effective. The Representative noted that the Hague Agreement corresponded closely to the needs of industry. He expressed the sincere hope of the organizations represented by him that the discussions would lead to a revision of the Hague Agreement.

The Representative of ABA expressed his pleasure at being in this meeting. The American Bar Association had studied the draft new Act, which contained many improvements that made it possible for attorneys in the United States of America to look favorably on the process of revising the Hague Agreement. However, many points still needed to be discussed. It was important at this meeting to identify all the problems that remained, in order to increase awareness of the concerns of attorneys in the United States of America, and to prevent these problems from coming up at a later time. The Delegation considered that the most important topic was the problem of registration of multiple designs, which affected many articles of the draft new Act and warranted intense analysis.

The Representative of ICSID recalled that his organization represented the interests of professional designers. He hoped that the discussions would lead to a simple and effective system of protection for design registrations. Furthermore, he entirely supported the statement made by the Representative of UNICE and ECTA.

The Representative of TVS said that the draft new Act of the Hague Agreement was an excellent working document. He considered that the draft dealt with at least four points that were very important to the profession that he represented, namely the deferment of publication, multiple design registrations, the filing of specimens and the Schedule of Fees. The proposed solutions took account of the specific problems of industries that produced very large numbers of designs, and were crucial to the textile industry in particular, affording the prospect of that industry once again making use of the international design registration system. The Representative said that an interna-

tional registration system that did not allow multiple design registrations would soon be devoid of interest. He concluded with the opinion that the rapid and successful completion of the work undertaken could be achieved, as the draft new Act had sufficient flexibility to enable a large number of countries to accept it.

The Representative of FICPI stated that FICPI was particularly in favor of the option for decentralized filing, and that the filing date of the decentralized filing should become the filing date of the international application or registration. The Representative also suggested providing a legal remedy for refusals of applications on the grounds of provisions of the Treaty, so that all rights were not lost. Finally, the beginning of the duration of protection as of the registration date was an unusual provision, and should be reconsidered in light of current practice in most countries.

The Representative of COMITEXIL said that her organization was pleased to see a single instrument being contemplated for the international deposit of industrial designs, as that should make it possible to simplify the present system and make the work of applicants easier. She considered that the draft new Act of the Hague Agreement was an excellent working document, which should open the way for States not members of the Hague Union to become members without any risk to their vested interests. She pointed out that the textile industry was at the mercy of very fast-changing fashion trends, and therefore produced a great many designs. Under such circumstances an efficient international registration system, in other words one that was rapid, clear and simple, was essential, as that would help motivate potential users and consequently promote creation. She concluded by mentioning that the provisions of the draft on deferment of publication, multiple design registrations, the filing of specimens and the dividing-up of fee payments were in line with her organization's concerns regarding the improvement of the international industrial design deposit system, which was essential to the introduction of efficient industrial property protection."

*Discussions on the Provisions of  
the Draft New Act*

*Draft Article 1: Abbreviated Expressions*

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

*"For the purposes of this Act:*

(i) *'this Act' means the Hague Agreement Concerning the International Deposit of Industrial Designs as established by the present Act;*

(ii) *'international registration' means the international registration of an industrial design effected according to this Act;*

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

(iv) *'International Register' means the official collection of data concerning international registrations maintained by the International Bureau, which data this Act or the Regulations referred to in item (xviii) require or permit to be recorded, regardless of the medium in which such data are stored;*

(v) *'person' means a natural person and a legal entity;*

(vi) *'applicant' means the person in whose name an international application is filed;*

(vii) *'holder' means the person in whose name an international registration is recorded in the International Register.*

(viii) *'Contracting Party' means any State or intergovernmental organization party to this Act;*

(ix) *'territory of a Contracting Party' means, where the Contracting Party is a State, the territory of that State and, where the Contracting Party is an intergovernmental organization, the territory in which the constituent treaty of that intergovernmental organization applies;*

(x) *'Office' means the governmental or intergovernmental agency of a Contracting Party that is the competent authority for the grant of protection for industrial designs with effect in the territory of that Contracting Party;*

(xi) *'designation' means a request that an international registration have effect in a Contracting Party; it also means the indication, recorded in the International Register, that the international registration has effect in that Contracting Party;*

(xii) *'designated Contracting Party' and 'designated Office' means the Contracting Party and the Office of the Contracting Party, respectively, to which a designation applies;*

(xiii) *'notification of refusal' means the communication by a designated Office to the International Bureau pursuant to Article 8(2) of the refusal by it of the effect of an international registration as far as the Contracting Party to which that Office belongs is concerned;*

(xiv) *'Organization' means the World Intellectual Property Organization;*

(xv) *'Director General' means the Director General of the Organization;*

(xvi) *'International Bureau' means the International Bureau of the Organization;*

(xvii) *'Regulations' means the Regulations adopted by the Contracting Parties meeting in the Assembly;*

(xviii) *'prescribed' means prescribed in the Regulations;*

(xix) 'Paris Convention' means the Paris Convention for the Protection of Industrial Property, signed at Paris on March 20, 1883, as revised and amended;

(xx) 'International Classification' means the Classification established by the Locarno Agreement Establishing an International Classification for Industrial Designs, signed at Locarno on October 8, 1968, as amended."

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

"Item (i). Two delegations were of the opinion that the new Act should effect a change in the title of the Hague Agreement Concerning the International Deposit of Industrial Designs by replacing the word 'Deposit' with the word 'Registration,' since the draft new Act provided for the registration of industrial designs.

Items (ii) to (ix). These items were approved as proposed.

Item (x). The representative of an observer organization stated that it should be made clear in the explanatory notes that trademark protection was outside the scope of the new Act.

In reply to one delegation, which raised the question of overlapping systems of protection, the International Bureau stated that it intended to include in the next draft a provision corresponding to Article 18 of the 1960 Act.

Items (xi) to (xvi). These items were approved as proposed.

Item (xvii). One delegation proposed that this item should read: "Regulations" means the Regulations under the present Act, adopted by the Contracting Parties meeting in the Assembly."

Items (xviii) and (xix). These items were approved as proposed.

Item (xx). In reply to a question from one delegation, the International Bureau said that membership in the Locarno Union was not a prerequisite for being a party to the Hague Agreement."

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

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

"Any person that is a national of a Contracting Party, or, where the Contracting Party is an intergovernmental organization, of a State member of that intergovernmental organization, or has a domicile, a habitual residence or a real and effective establishment in the territory of

a Contracting Party, shall be entitled to file an international application."

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

"In reply to a question raised by one delegation, the International Bureau stated that, while it was possible to provide that any person could file an international application, even if such person had no connection with a Contracting Party, such a provision would have the effect of removing the main incentive for States to accede to the Hague Agreement.

According to the wish expressed by one delegation, it was agreed that the International Bureau would examine whether the drafting of Article 2 could not be clarified.

In reply to a question raised by one delegation, the International Bureau explained that the term 'habitual residence' had been borrowed from the Berne Convention for the Protection of Literary and Artistic Works and had been introduced in order to combine the approaches adopted in the Berne Convention and the Paris Convention for the Protection of Industrial Property. The introduction of the new term was intended to compensate for any excessively narrow interpretation of the concept of 'domicile' that might be adopted under national laws."

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

Draft Article 3 of the draft new Act 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] (a) *The international application shall be in the prescribed language and shall contain or be accompanied by*

(i) *a request for international registration under this Act;*

(ii) *indications concerning the applicant's identity, address and entitlement to file an international application under Article 2;*

(iii) *one reproduction or, at the choice of the applicant, more than one reproduction of the industrial design, provided that, where the industrial design that is the subject of the international application is two-dimensional and a request for deferment of publication is made in accordance with paragraph (5), the international application may, instead of one or more reproductions, be accompanied by a specimen of the industrial design;*

(iv) *an indication of the product or products which constitute the industrial design or in which the industrial design is used;*

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

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

(b) *Where, at the time of becoming party to this Act, a Contracting Party provides for the protection of industrial designs, based on the filing of an application, only through the grant of a patent, any international application designating that Contracting Party shall also contain or be accompanied by such matters as are prescribed.*

(3) [Optional Contents] *The international application may contain the following elements, even where it is not required, by virtue of paragraph (2)(b), to contain them:*

(i) *the name of the creator of the industrial design;*

(ii) *a short description of the characteristic features of the industrial design.*

(4) [Several Industrial Designs in the Same International Application] *Two or more industrial designs may be the subject of the same international application, provided that they relate to the same class of the International Classification.*

(5) [Request for Deferred Publication] *The international application may contain a request for deferment of the publication."*

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

*"Paragraph (1). A few delegations and representatives of observer organizations spoke in favor of the provision since it constituted a simplification and avoided extra costs for the applicant. They further noted, in that respect, that the indirect filing of an industrial design through a national Office, which could be permitted or required by a State under Article 4(1)2 and (2) of the 1960 Act and was permitted only by one State party to the 1960 Act, was almost never used in practice.*

On the other hand, most delegations, as well as representatives of observer organizations, considered that the possibility of indirect filing through a national or regional Office should be provided for on an optional basis. Indirect filing, on an optional basis, was considered to be more user-friendly for individuals and small-sized enterprises who or which might prefer to have preliminary contacts, in their national language, with their national or regional Office. In addition, in those countries where security clearance was

required for filing applications abroad, the possibility of filing through the national Office would simplify the task of obtaining such clearance.

It was emphasized that, if the possibility of optional indirect filing were provided for, the date of filing should be the date on which the application was received by the national or regional Office, and not the date of receipt of the application by the International Bureau as presently provided under Article 6(2) of the 1960 Act.

It was pointed out by the International Bureau that the modalities of optional indirect filing, which was supported by a clear majority within the Committee of Experts, would need to be clarified. In particular, the following questions needed to be addressed: (i) Should the national or regional Office act as a 'letter box' and merely stamp and transmit the international application to the International Bureau after any required security clearance had been obtained? (ii) Should, on the contrary, the national or regional Office play a more significant role and carry out a formal check of the international application, which could either be limited to checking the requirements that would have a bearing on the date of international registration or not be so limited? (iii) Should the International Bureau reexamine the international application from a formal point of view in either case referred to under item (ii), above? (iv) Should the national or regional Office receive the application fees and, if so, in which currency? In that case, an exchange rate mechanism, providing for regular review of the rate, might need to be established. (v) Should the national or regional Office be permitted to charge a 'transmittal fee' in respect of international applications filed through them and should the amount of the application fees collected by the International Bureau differ in respect of international applications filed directly or indirectly? (vi) If the date of the international application were deemed to be the date of receipt of the application by the national or regional Office, should the international application be transmitted to the International Bureau within a maximum time limit, failing which either the international application would be considered not to have been filed, or the date of filing of the international application would be considered to be the date of receipt of that application by the International Bureau?

As regards the role of the national or regional Office in the case of indirect filing, it was agreed that the said Office would ensure that any required national security clearance had been obtained before transmitting the international application to the International Bureau. In that respect, the representative of an observer organization explained that, in the United States of America, where an application related to a design,

the procedure for national security review did not, in most cases, take more than two or three months. Moreover, most of the delegations and representatives of observer organizations were of the opinion that formal examination of the international application should be carried out only by the International Bureau.

As regards the question of fees, it was agreed that, even where an international application was filed through a national or regional Office, the international application fees should be paid direct by the applicant to the International Bureau in Swiss francs, as was the case under the Madrid Agreement Concerning the International Registration of Marks and would also be the case under the Madrid Protocol, thus avoiding the need for the establishment of an exchange rate mechanism and an unnecessarily complicated administrative structure for handling international applications.

The majority of delegations and observer organizations considered that the national or regional Office should be permitted to charge a 'transmittal fee' for international applications filed through it. The representative of one observer organization stated that a higher fee could be collected by the International Bureau where the international application was filed indirectly.

In conclusion, it was agreed that draft Article 3(1) should be amended to provide for the option of indirect filing through the national or regional Office of a Contracting Party where the latter so permitted. Such a provision should make it clear that the international application fee should be paid direct to the International Bureau, and that the national or regional Office concerned could, at least where it would be entrusted with formal examination tasks, charge the applicant a 'transmittal fee.' The provision should also indicate that, in case of indirect filing, the date of filing of the international application would be the date of filing at the national or regional Office, provided the International Bureau received the international application within a certain maximum time limit, the length of which should be further studied. It was further noted that the introduction of optional indirect filing would entail the amendment of several other provisions of the draft new Act.

It was also agreed that further study was needed with respect to the nature of the tasks—beyond ensuring that any required security clearance was obtained—of a national or regional Office in case of indirect filing (merely letter box, full formal examination or limited formal examination of the international application).

*Paragraph (2)(a). Item (i).* This provision was approved as proposed, provided that, in the French text, the words 'une demande d'enreg-

istrement' were replaced by the words 'une requête en enregistrement...'

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

*Item (iii).* In reply to a delegation, the International Bureau explained that examination of an international registration by a designated Office would be based on a fully published international registration, including the reproduction of the industrial design, and not on a specimen.

In reply to another delegation, the International Bureau indicated that the International Bureau would not verify whether the reproduction of an industrial design furnished under Article 7(8)(b) corresponded exactly to the specimen furnished under Article 3(2)(a)(iii). On the other hand, that specimen, kept at the International Bureau, would, after publication of the relevant international registration, be available for inspection or put at the disposal of an interested Office or a court for the purposes of verification.

One delegation asked whether the word 'reproduction' covered the term 'drawing.' The International Bureau indicated that the term 'reproduction' was intended to cover photographs and other graphic representations, including drawings.

The same delegation further asked whether the requirement, under its national law, of furnishing six different views from different angles in order to determine the precise scope of protection of the design could be taken into consideration. The delegation explained that, in order to obtain a filing date in its country, only one view was needed and the other five views could be supplied at a later stage. The International Bureau stated that it would study whether the words 'one reproduction, or, at the choice of the applicant, more than one reproduction' could be replaced by 'one or more reproductions as prescribed,' leaving the details to be dealt with in the Regulations.

The Delegation of the United States of America indicated that, with respect to the reproduction of a design, the rules under its applicable law would be amended in the near future so as to allow the furnishing of either photographs (in black and white only) or drawings.

The representative of an observer organization suggested that the term 'reproduction' be defined. The International Bureau observed that such a definition might best be dealt with in the Regulations, since the definition of that term might have to be changed in response to technological developments. The representative of another observer organization suggested replacing the word 'reproduction' by 'graphic representation,' which would exclude any interpretation that the product itself could be covered by the term 'reproduction.'

The representative of an observer organization considered that a reproduction of the industrial

design should always be furnished and suggested therefore that the words 'instead of' be replaced by the words 'in addition to.' The representative of another observer organization considered, on the contrary, that the possibility of replacing the furnishing of a reproduction by a specimen in the case of two-dimensional designs for which deferred publication had been requested was of vital importance to some industries, such as the textile industry, since it avoided the cost of reproductions for all the designs contained in such an application.

Two delegations proposed amendments of a purely drafting nature which could be made at least in the French text.

*Item (iv).* In reply to a question put by a delegation on the meaning of the word 'indication,' it was explained that the explanatory notes in the next version of the draft would specify that the indication should be in words.

The representative of an observer organization asked whether the words 'is used' were appropriate and whether the drafting of the last clause should not be reviewed.

One delegation questioned why this provision only referred to 'an indication' and not to 'an exact indication,' the term 'exact' being used in Rule 5.1(a)(v) of the Regulations under the Hague Agreement. It further emphasized that, for the purposes of substantive examination, the preciseness of the indication of the product or products was important. It also explained that, under the applicable law of its country, an applicant must choose a product indication from among a predetermined list of products containing 3,000 items and, if no item corresponding to the product existed, the applicant was required to describe it. The International Bureau indicated that consideration could be given to clarifying and explaining the term 'indication' in the Regulations.

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

*Paragraph (2)(b).* The Delegation of Japan stated that a system of international registration should not seek to harmonize different national laws, but rather to accommodate the specific requirements of such laws. It considered that a provision of the kind contained in paragraph (2)(b) was an appropriate means of accommodating the special requirements of different systems existing to protect industrial designs. However, it was of the view that the present wording was too limited in that it only took into account the special requirements of design patent systems. The real distinction, in its view, lay not between registration and design patent systems, but between systems providing for substantive examination and those not providing for such

examination. In addition, it considered that its own law could be appropriately characterized as providing for *sui generis* protection, giving rise to an exclusive right, and that the special requirements of such a law needed to be taken into account. It therefore proposed broadening paragraph (2)(b) so as to make allowance not only for the requirements of design patent systems, but also systems providing for substantive examination and giving rise to exclusive rights. The Delegation of the Republic of Korea stated that it supported the concerns and proposals of the Delegation of Japan.

At the request of the International Bureau, the Delegation of Japan made available information indicating the nature of the special requirements that needed to be met for obtaining an industrial design registration under its law. The Delegation of the United States of America likewise made available information on the requirements under its law; it indicated in particular that the only mandatory requirement which was not listed under paragraphs (2)(a) and (3) was the claim or claims.

Considerable discussion took place as to the extent to which the system under the proposed new Act should accommodate different national requirements. On the one hand, the need for a certain, simple and effective system was emphasized. On the other hand, it was considered that an effort should be made to avoid excessive simplicity which might preclude potential new members from joining the system.

The International Bureau was asked to study ways in which the interests of simplicity and effectiveness could be balanced with the need to extend the geographical reach of the system. It suggested that, as a preliminary response, consideration could be given to separating the various national requirements into three categories: (i) requirements necessary for the establishment of a filing date; (ii) requirements not needed for establishing a filing date, but which had to be fulfilled in order to obtain protection and which were of such a nature that they must be accommodated in some way within the future system, probably in the procedure for refusal of the effect of the international registration; and (iii) requirements not needed for establishing a filing date and which, while at present necessary for obtaining protection on the national level, could be considered to be of such a nature that a country could reasonably be expected to forego insistence on their inclusion in the new system in order to achieve the goal of establishing an effective and truly international industrial design registration system. The International Bureau would examine ways in which these various categories of requirement might be incorporated into the new system.

*Paragraph (3). Introductory sentence.* It was explained that this sentence was intended to allow the applicant the option of giving the name of the creator of the design and the short description, but that no other optional contents could be included in the international application, apart from the request for deferred publication referred to in paragraph (5). One delegation suggested that an applicant should have the right to include additional optional contents and that paragraph (3) should be non-exhaustive.

In reply to a question put by a delegation as to whether the optional contents of an international application would be published, it was explained that the contents of the publication would be dealt with in the Regulations and that it was intended that all mandatory and permitted optional indications given in an international application would be recorded in the International Register and published in the Gazette.

*Item (i).* This item was approved as proposed.

*Item (ii).* A number of delegations considered that, for the purposes of substantive examination, the short description was needed and therefore suggested that this provision form part of the mandatory contents of an international application under paragraph (2)(a). One delegation added that this should also apply to countries which provided for an opposition procedure.

The representative of an observer organization considered that it would be impossible, for example in the textile industry, to give a description of each industrial design which was the subject of a multiple international application. He added that the European textile industry wished that the description be optional.

*Paragraph (4).* Several delegations and representatives of observer organizations supported the provision as it was drafted and emphasized the importance for users of the possibility of filing multiple design international applications. One of those delegations representing a State party to the Hague Agreement considered that the maintenance of the multiple application system was one of the central elements of the draft new Act.

The majority of delegations expressed willingness to study ways in which the possibility of making multiple international applications could be maintained and accommodated within their national systems. Certain of the delegations stated, however, that some practical difficulties would need to be overcome. One such difficulty concerned the limitations that might be placed on the kinds of design that could be included in the same multiple international application. While supporting the principle of a multiple design international application with no limitation as to the number of designs included in that applica-

tion, some of the delegations, however, felt that the condition relating to the 'same class' of the International Locarno Classification was probably too broad and should be narrowed down to the sub-classes of that Classification.

A number of delegations, mainly representing countries which carried out a full substantive examination, expressed concern about the adequate recovery of search and examination costs with respect to an application covering several designs, each design having to be searched and examined separately. It was pointed out by the International Bureau that, under the new draft Act, as regards the fees which would belong to the International Bureau, an additional fee which would be paid for each design (after the first) contained in a multiple international application would represent a small sum so as to be attractive in particular to the fashion and textile industries; as regards the fees which would belong to designated Offices, the new draft Act proposed a system similar to the one adopted in the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, namely, an international designation fee which would be suitable for non-examining Contracting Parties and an individual designation fee, which examining Contracting Parties were likely to choose to receive instead of the international designation fee, and the amount of which would, subject to some limitations, be fixed by those Contracting Parties so as to enable them to recover search and examination costs.

A further concern related to the requirement of unity of invention, which had to be fulfilled in the United States of America. It was explained that, under the present practice of that country, an application could relate to several designs. At the time of examination, however, the applicant might be required to divide its application and pay additional application fees to the extent that one or some of those designs could not be considered to form part of the same single inventive concept. With respect to the multiple design application, it was suggested that each separate design be allotted an identification number. The International Bureau stated that it agreed on that suggestion, which corresponded to the present practice under the 1960 Act.

The Delegation of Japan explained that, under the law of its country, an applicant could file several applications for similar industrial designs and require that those applications be associated or combined. At the time of examination, the Office would check whether those combined applications effectively related to similar designs.

In reply to a request for information, the International Bureau stated that, under the 1960 Act of the Hague Agreement, about 50% of the interna-

tional applications related to multiple designs and each multiple application contained an average of eight designs.

In conclusion, it was considered that, while the principle of enabling multiple design applications should be maintained in the draft new Act, further study was needed particularly with respect to a possible narrower limitation to sub-classes of the International Locarno Classification, and with respect to the way in which the requirement of unity of invention could be dealt with.

*Paragraph (5).* This provision was approved as proposed.”

#### *Draft Article 4: Priority*

Draft Article 4 of the draft new Act 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 Registration Serving as a Basis for Claiming Priority] *The international registration shall, as from its registration date in accordance with Article 6(1) or (2), 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:

“*Paragraph (1).* This paragraph was approved as proposed. In answer to an enquiry why the words ‘in or for any country’ were used, the International Bureau indicated that priority might be based on an application filed under the Hague Agreement itself or under a regional registration system, such as OAPI, Benelux or the future Community design system, in which case that application would have been filed ‘for,’ rather than ‘in,’ a country party to the Paris Convention.

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

#### *Draft Article 5: International Registration, Correction of Irregularities and Publication*

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

“(1) [International Registration] *The International Bureau shall register any industrial design that is the subject of an international application, whether or not publication is deferred under Article 7. The registration will be effected imme-*

*diately upon receipt of the international application or, where corrections are made under paragraph (2), immediately upon receipt of the required corrections.*

(2) [Irregularities in the International Application] (a) *If the International Bureau finds that the international application does not, at the time of its receipt, fulfill the requirements listed in Article 3(2)(a), it shall invite the applicant to make the required corrections within the prescribed time limit. If the applicant does not comply with the invitation within the prescribed time limit, the International Bureau shall reject the international application.*

(b) *If the international application designates a Contracting Party to which the requirements of Article 3(2)(b) apply and the International Bureau finds that, at the time of its receipt,*

(i) *it does not fulfill any of those requirements and the requirements not fulfilled are not listed in the Regulations as necessary for the establishment of the date of international registration, it shall invite the applicant to make the required corrections within the prescribed time limit; if the applicant does not comply with the invitation within the prescribed time limit, the international application shall be considered not to contain the designation of that Contracting Party;*

(ii) *it does not fulfill any of those requirements and the requirements not fulfilled are listed in the Regulations as necessary for the establishment of the date of international registration and, in addition, it does not fulfill any of the requirements mentioned in Article 6(3), it shall invite the applicant to make the required corrections within the prescribed time limit; if the applicant does not comply with the invitation with respect to the requirements which are listed in the Regulations as necessary for the establishment of the date of international registration within the prescribed time limit at the same time as or before any other irregularities are corrected, the international application shall be considered not to contain the designation of that Contracting Party;*

(iii) *it does not fulfill any of those requirements and the requirements not fulfilled are listed in the Regulations as necessary for the establishment of the date of international registration, but fulfills the requirements mentioned in Article 6(3), the international application shall be considered not to contain the designation of that Contracting Party.*

(3) [Publication] *Subject to Article 7, the international registration shall be published by the International Bureau in its Gazette.*”

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

*Paragraph (1).* The International Bureau noted that the last two sentences of Note 5.01 in document H/CE/III/2 should be deleted.

In reply to a question raised by one delegation, it was agreed that the International Bureau would study the possibility of using a term other than the term 'correction,' such term, in the opinion of the said delegation, suggesting the correction of material errors.

*Paragraph (2), subparagraph (a).* The question whether the new Act should provide a legal remedy for applicants whose international applications were rejected by the International Bureau was raised by certain representatives of observer organizations. Several solutions were suggested, including suggestions that rejected applications could be converted into national applications, and that the Office of a designated Contracting Party could be requested by the applicant, as was the case under the Patent Cooperation Treaty, to review an adverse decision of the International Bureau.

The International Bureau pointed out that there already existed an internal system of review of decisions of the International Bureau, up to the level of the Director General, that was quite flexible and effective.

It was agreed not to introduce any of the suggested solutions into the next draft.

*Subparagraph (b).* This subparagraph was approved as proposed.

*Paragraph (3).* One delegation asked whether this paragraph meant that it was intended not to notify international registrations to the Offices of designated Contracting Parties. The International Bureau responded that the notification of the said Offices would consist in the sending of a copy of the Gazette to the said Offices and that a specific provision to this effect could be included."

#### *Draft Article 6: Date of International Registration*

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

*"(1) [Date of International Registration of Regularly Filed International Applications] Where the international application is in conformity with this Act and the Regulations at the date on which it is received by the International Bureau, the international registration shall bear the date on which the international application was received by the International Bureau.*

*(2) [Date of International Registration Where the International Application Has an Irregularity] Where the international application has, at the date on which it is received by the International*

*Bureau, an irregularity, the international registration shall,*

*(i) if the irregularity is not one of those mentioned in paragraph (3), bear the date on which the international application is received by the International Bureau, provided that such irregularity is corrected within the time limit referred to in Article 5(2)(a);*

*(ii) if the irregularity is one of those mentioned in paragraph (3), bear the date on which the correction of such irregularity is received by the International Bureau, provided that the correction is made within the time limits referred to in Article 5(2)(a).*

*(3) [Irregularities Entailing a Postponement of the Date of International Registration] The irregularities referred to in paragraph (2)(ii) are the following:*

*(a) the applicant lacks entitlement to file an international application under Article 2;*

*(b) the international application is not in the prescribed language or one of the prescribed languages;*

*(c) the international application does not contain at least the following elements:*

*(i) a request for international registration under this Act;*

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

*(iii) a reproduction or, in accordance with Article 3(2)(iii), a specimen of each industrial design included in the international application;*

*(iv) the designation of at least one Contracting Party."*

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

*"Paragraph (1).* This paragraph was approved as proposed.

*Paragraph (2).* This paragraph was approved as proposed, subject to the replacement, in item (ii), third and fourth lines, of the words 'time limits' by 'time limit.'

*Paragraph (3), subparagraph (a).* This subparagraph was approved as proposed. In reply to a question raised by one delegation, it was agreed that the notes would specify that this provision referred to the lack of entitlement to file an international application, but not to the case where an indication relating to the entitlement of the applicant was missing.

*Subparagraph (b).* The representative of an observer organization, supported by a delegation, expressed the view that the fact that the international application was not in a prescribed

language should not entail the postponement of the date of international registration and that the new Act should provide that, if such an irregularity was remedied within a certain time limit, the date of international registration would not be postponed.

*Subparagraph (c).* This subparagraph was approved, subject to the deletion of the words 'at least' from the first line and their replacement by the words 'any of.'"

#### *Draft Article 7: Deferment of Publication*

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

*"(1) [Deferment of Publication] Where the international application contains a request for deferment of publication under Article 3(5), the publication shall be deferred for the period indicated in paragraph (3), such period commencing on the date of the international registration or, where priority is claimed, on the earliest priority date claimed in the international application.*

*(2) [Provisions of the Contracting Parties Concerning Deferment of Publication] Where the law of a Contracting Party provides for the deferment of the publication of industrial designs registered under that law for a period of less than 30 months from the filing date or, where priority is claimed, priority date of an application filed under that law, or does not allow the deferment of such publication, the Contracting Party shall, in a declaration, notify the Director General of the allowable period of deferment or of the fact that no such deferment is possible.*

*(3) [Period of Deferment Under this Act] Where deferment of publication has been requested, the period of deferment shall be,*

*(i) where none of the Contracting Parties designated in the international application has made a declaration under paragraph (2), 30 months;*

*(ii) where any of the Contracting Parties designated in the international application has made a declaration under paragraph (2) notifying a period of deferment of less than 30 months, the period notified in such declaration or, where there are more than one such designated Contracting Parties, the shortest period notified in their declarations.*

*(4) [Treatment of Requests for Deferment Where Deferment is Not Possible Under Applicable Law] Where deferment of publication has been requested and any of the Contracting Parties designated in the international application has made a declaration under paragraph (2) that*

*deferment of publication is not possible under its law, the International Bureau shall notify the applicant accordingly. If, within a period of 30 days from the date of the notification by the International Bureau, the applicant does not, by notice in writing to the International Bureau, withdraw the designation of the said Contracting Party, the International Bureau shall disregard the said request.*

*(5) [Request for Earlier Publication] At any time during the period of deferment applicable under paragraph (3), the holder may request publication, in which case the period of deferment shall be considered to have expired on the date of receipt of such request by the International Bureau.*

*(6) [Renunciation] At any time during the period of deferment applicable under paragraph (3), the holder may renounce the international registration, in which case no publication shall take place.*

*(7) [Limitation] At any time during the period of deferment applicable under paragraph (3), the holder may withdraw the designation of any Contracting Party.*

*(8) [Publication and Furnishing of Reproductions] (a) At the expiration of the period of deferment applicable under the provisions of this Article, the International Bureau shall, subject to the payment of the prescribed fees, publish the international registration. If such fees are not paid as prescribed, the international registration shall be cancelled and publication shall not take place.*

*(b) Where the international application was accompanied by a specimen of the industrial design in accordance with Article 3(2)(a)(iii), the holder shall submit the prescribed reproductions of each industrial design that is the subject of that application to the International Bureau within the prescribed time limit, failing which the international registration shall be cancelled and publication shall not take place.*

*(9) [Maintenance of Confidentiality Before Publication] The International Bureau shall keep in confidence each international application and each international registration until publication in its Gazette."*

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

*"Paragraph (1).* This paragraph was approved as proposed. In reply to a question put by a delegation with respect to the indication of a priority date, it was explained that the International

Bureau was not in a position to check whether any such indication was valid.

*Paragraph (2).* This paragraph was approved as proposed, subject to the replacement, in the second line, of the word 'registered' by the words 'to which protection has been accorded following an application.'

*Paragraph (3).* This paragraph was approved as proposed.

In respect of item (ii), one delegation was of the opinion that the period of deferment should be the longest of the periods provided for in the States designated by an applicant, not the shortest. There was no support for this view.

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

*Paragraph (5).* It was agreed that this provision should be amended so as to permit, in the case of a multiple international registration, the holder to request early publication with respect only to some of the industrial designs included in the multiple international registration.

*Paragraph (6).* It was agreed that this provision should be amended to provide that, in the case of a multiple international registration, a renunciation may be made with respect to one or some only of the industrial designs covered.

*Paragraphs (7) and (8).* These paragraphs were approved as proposed.

*Paragraph (9).* Several delegations and representatives of observer organizations were of the opinion that, for Contracting Parties which carried out a full substantive examination, the fact that international registrations whose publication was deferred would not be notified, before publication, to designated Offices could cause problems. When examining a later application, such an Office would not be able, for the purposes of prior art search, to take into account earlier international registrations of that kind. Furthermore, the holder of a registration could be confronted with a previously unknown earlier international registration, thereby creating unnecessary conflicts.

One of those delegations suggested, as a possible solution, that the International Bureau could notify to the Offices of designated Contracting Parties international registrations for which deferment of publication had been requested. Such registrations would form part of the prior art for examination purposes and would be maintained in confidentiality by the Offices concerned. Where applicable, the Office would inform a later applicant that an earlier prior conflicting international registration existed

without informing that applicant of the nature of the design or designs which were the subject of the international registration. The delegation added that, in any case, that international registration would not be examined until it was published by the International Bureau.

The representative of an observer organization pointed out that if such a notification could be made, the International Bureau should send to the designated Offices reproductions of the designs and not specimens. The representatives of other observer organizations emphasized, however, the need to maintain the possibility of filing specimens, which was considered to be an essential precondition for some industries, notably the textile and fashion industries, to the use of the international registration system.

The representative of an observer organization considered that if international registrations could be communicated to designated Offices before publication, strict confidentiality would be much more difficult to keep.

The representative of another observer organization asked whether this provision enabled a third party to inspect, at the International Bureau, the file relating to an international registration whose publication was deferred where he could establish legitimate interest. It was stated in reply that, under the present wording of paragraph (9), only the holder of such an international registration had access to the International Register. It was added that, in respect of this suggestion, it would also be difficult for the International Bureau to control whether a third party had effectively a legitimate interest.

In conclusion, it was agreed that the question of the notification to designated Offices of international registrations for which a request for deferred publication had been made should be further studied. A distinction might be envisaged between designated Offices which carried out a full substantive examination and those which did not, so that the international registrations in question would only be communicated before publication by the International Bureau to examining Offices (with or without an opposition procedure). It was recalled that the costs to be borne by the applicant should remain as low as possible until the publication of the international registration."

*Draft Article 8: Refusal of Effect; Remedies Against Refusals; Invalidity*

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

"(1) [Refusal of Effect] *The Office of any Contracting Party may, where the conditions of the grant of protection of its law, other than those*

which, by virtue of Article 9(1), are deemed to have been satisfied, are not met, refuse the effect of the international registration in respect of certain or all of the industrial designs that are the subject of that international registration.

(2) [Notification of Refusal] (a) *The refusal of the effect of an international registration shall be communicated by the Office to the International Bureau in a notification of refusal within the period of 12 months from the date on which the International Bureau sends to that Office a copy of the publication of the international registration.*

(b) *Notwithstanding subparagraph (a), any Contracting Party whose law provides for examination of the novelty of applications for the grant of protection to industrial designs, or for the possibility of opposition to the grant of such protection, may, in a declaration, notify the Director General that the period of 12 months referred to in subparagraph (a) shall be replaced by a period of 30 months.*

(c) *The notification of refusal shall state all the grounds on which the refusal is based.*

(d) *The notification of refusal may be withdrawn at any time by the Office that has made it.*

(3) [Modification of Time Limits for Refusal] *Upon the expiration of a period of 10 years from the entry into force of this Act, the periods 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.*

(b) *The holder shall have the same remedies as if any industrial design that is the subject of the international registration had been the subject of an application for the grant of protection under the law applicable to the Office that has notified the refusal. Such remedies shall at least consist of the possibility of requesting a reexamination 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 the 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).* One delegation drew attention to the difficulty of distinguishing between formal

and substantive requirements, and suggested wording Article 8(1) with reference to the formal requirements set out in Article 3. The International Bureau explained that Article 3 referred to requirements for an international application, while Article 8(1) referred to the conditions for the grant of protection under the law of a designated Contracting Party.

The representative of an observer organization suggested that where, in the case of a multiple international registration, the conditions for the grant of protection were met for some but not all of the designs covered by that registration, it should be made clear that a Contracting Party could only refuse those designs for which the conditions were not met. The International Bureau observed that Article 8(1) presently allowed a Contracting Party to refuse registration 'in respect of certain or all' of the designs but did not prevent a Contracting Party from refusing the effect of the entire international registration if only some of the designs did not meet the required conditions. It was agreed that the new draft should prohibit that, in such a case, the international registration be refused in its entirety.

*Paragraph (2)(a) and (b).* Delegations from examining countries expressed satisfaction with the length of the period provided for in those subparagraphs, while other delegations expressed a preference for a maximum time limit shorter than 30 months in subparagraph (b). The delegations of some examining countries stated that they could not guarantee that a shorter maximum period could be observed.

The International Bureau raised two suggestions for consideration. The first would set the minimum period under subparagraph (a) at 12 months and would, under subparagraph (b), allow Contracting Parties to choose a maximum time limit of either 24 or 30 months. This suggestion would allow more flexibility and would more quickly offer certainty to applicants where Contracting Parties with examining Offices were able to choose a 24-month time limit, and would permit Contracting Parties having chosen the 30-month period to switch at a later stage to the 24-month period if their Offices were able to succeed in reducing the average pendency time of applications accordingly.

The second suggestion was inspired by the system of the Madrid Protocol. The minimum period under subparagraph (a) would be 12 months, and, under subparagraph (b), a Contracting Party could only choose a maximum time limit of 24 months, with the possibility of extending that period, in individual cases, up to a maximum of 30 months. Under this suggestion, the International Bureau would have to be

informed before the end of the 24-month period that, with respect to a given international registration, a refusal might be notified beyond 24 months and up to a maximum of 30 months. In response to a question by a delegation, it was clarified that the 24-month period and a possibility of extension up to 30 months would be available even to Contracting Parties that did not have an opposition system.

Most delegations representing States having an examination system expressed a preference for the first suggestion.

A number of delegations and representatives of observer organizations were in favor of a six-month minimum period under subparagraph (a), as provided in the 1960 Act of the Hague Agreement, since they considered that a six-month period would be sufficient for Contracting Parties that did not examine applications as to novelty or provide for an opposition procedure.

The representatives of two observer organizations also indicated that certain industries, such as the textile and fashion industries, would not be satisfied with an international registration system in which it would take two years or more to obtain protection. The possibility of providing provisional protection was suggested as one way of alleviating the problem.

It was agreed that the new draft would provide for a six-month minimum period with the possibility for examining Contracting Parties to choose a longer period of either 24 months or 30 months. The alternative inspired by the Madrid Protocol would be mentioned in the notes.

*Paragraph (2)(c).* The question was raised whether the requirement that all grounds must be included in the notification of refusal meant that other ground could not be raised at a later stage.

The International Bureau indicated that the purpose of paragraph (2)(c) was to ensure that an applicant was informed of all the grounds of refusal with which it was confronted and which it would have to overcome in the immediate procedure before the Office in order to succeed in having the refusal withdrawn. It was acceptable, although such cases should be very rare, that more than one notification of refusal might be sent during the period for refusal, and that new grounds for refusal could be raised by an Office in a later notification provided that such notification was made within that period. As to new grounds for refusal raised during an appeal procedure after the expiration of the period for refusal, as was currently possible under the national laws of some countries, paragraph (2)(c) would not prohibit the raising of such new grounds. Explanations to this effect would be given in the notes.

It was agreed that that subparagraph should be amended to read, 'Any notification of refusal shall state all the grounds on which the refusal that is the subject of the notification is based.'

In response to a question raised by a delegation, it was indicated that a notification of refusal would have to include the facts underlying the refusal, for instance the particular prior art which was cited.

*Paragraph (2)(d).* It was agreed that the first word of this provision, 'The,' should be replaced by 'Any.'

*Paragraph (3).* Since the requirement of unanimous approval by the Assembly was considered sufficient security to protect all Contracting Parties, it was agreed to delete the words 'Upon the expiration of a period of 10 years from the entry into force of this Act.'

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

*Paragraph (5).* In order to make it clear that invalidations resulted from procedures that were not related to refusals, the International Bureau indicated that this paragraph would be transformed into a separate Article."

#### *Draft Article 9: Effect of International Registration*

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

"(1) [Effect as Application Under Applicable Law] *The international registration shall, from the date of international registration, have at least the same effect in each Contracting Party designated in that registration as a regularly filed application for the grant of protection of the industrial design under the law of that Contracting Party and the same effect as if all the formalities required by the said law for the grant of protection had been satisfied and all the administrative acts required to that end had been accomplished by the Office of that Contracting Party.*

(2) [Effect as Registration Under Applicable Law] *(a) The international registration shall have the same effect in each Contracting Party designated in that registration as a grant of protection for the industrial design under the law of that Contracting Party at the latest from the date of the expiration of the period allowed under Article 8(2) for the communication of a notification of refusal, unless a notification of refusal has, during the said period, been communicated by the Contracting Party.*

(b) *Where a designated Contracting Party has communicated a notification of refusal and has subsequently withdrawn that notification, the international registration shall have the same effect in that Contracting Party as a grant of protection for the industrial design under the applicable law of the said Contracting Party at the latest from the date on which the notification was withdrawn.*"

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

"*Paragraph (1).* One delegation suggested inserting at the end of the provision the words 'except for prior art purposes,' to cover the case where, as in the United States of America, applications for design patents were given prior art effect only as of their domestic filing dates. It was replied that an exception, if needed, should be made in a way limiting the exception to those countries which required it.

The representative of an observer organization stated that the general question of the date at which an international registration became effective as prior art should be considered. The representative also observed that the effect of this paragraph was binding, and it therefore was necessary to clarify which formalities required by the law of each Contracting Party were deemed to have been satisfied.

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

#### *Draft Article 10: Fees for International Application*

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

"(1) [Fees for International Application] *Subject to paragraph (5), the international application shall be accompanied by the following fees:*

- (i) *an international registration fee, consisting of*
  - *a basic registration fee and,*
  - *where the international registration is made for more than one industrial design, an additional registration fee for each additional industrial design, the amount of which shall correspond to a prescribed percentage of the basic registration fee;*
- (ii) *a publication fee;*
- (iii) *subject to paragraph (2), 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 for each additional industrial design, the amount of which shall correspond to a prescribed percentage of the designation fee.*

(2) [Individual Designation Fee] *Any Contracting Party may, in a declaration, notify the Director General 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 grant of protection for five years to the same number of industrial designs, or from a holder for a five-year renewal of such protection, that amount being diminished by the savings resulting from the international procedure.*

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

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

(5) [Payment of Fees in Case of Deferment of Publication] (a) *Notwithstanding paragraph (1), where the international application contains a request for deferment of publication under Article 3(5), only a prescribed percentage of the international registration fee shall be paid at the time of filing the international application.*

(b) *Two months before the expiration of the period of deferment of publication in accordance with Article 7(3), the holder shall pay the balance of the international registration fee, as well as the publication fee and the designation or individual designation fees. If the holder has not paid the said balance and the said fees in due time, the international registration shall be considered to have been renounced.*

(c) *If earlier publication is requested under Article 7(5), the balance and the fees referred to in subparagraph (b) shall be paid to the International Bureau at the same time as the request for earlier publication, failing which the International Bureau shall disregard the request for earlier publication."*

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

“One delegation reiterated its concerns with respect to the percentage of the designation fee allotted to multiple design applications and stated that examining Contracting Parties would need to adequately recover the costs for search and examination. The International Bureau recalled that the individual designation fee under paragraph (2) could be fixed by Contracting Parties at a level adequate to cover such costs.

*Paragraph (1).* This paragraph was approved as proposed.

*Paragraph (2).* With respect to the individual designation fees for multiple international applications, the Delegation of the United States of America expressed its concern that the amounts of such fees may be difficult to determine in advance, since the application of the rules for the number or types of designs that may be included in a single application may give rise to situations in which the multiple international application would have to be divided in a way which could not be predicted. The delegation suggested that consideration be given to allowing payment of the individual designation fee with respect to examining Offices at a later stage. Another delegation recommended that Contracting Parties that could not determine the exact fees in advance fix an average cost to be charged.

Concerning the individual designation fee, the Delegation of the United States of America supported this concept in principle, but expressed another concern concerning the calculation of the fee. In the United States of America, protection was granted for a single term, which was 14 years. The delegation asked whether it would be possible to establish the individual designation fee by reference to the full term of protection, rather than to five-year terms, which would avoid the risk for the owner of an international registration to lose his rights because he forgot to pay a renewal fee.

The Delegation of Denmark expressed a reservation with respect to paragraph (2), based on a recent order from its Ministry of Finance. That order required fees to be commensurate with the amount of work actually done. Since it was conceivable that the work involved with an international application might be more extensive than the work involved with a national application, the fee ceiling stated in paragraph (2) may not be practical. The International Bureau stated in reply that the international registration system would result in savings in terms of work load, rather than in more extensive work, for the designated Offices.

The representative of an observer organization expressed her support for maintaining the fee structure under the 1960 Act of the Hague Agreement.

The representative of another observer organization suggested that the present members of the Hague Union should not be allowed to apply the individual designation fee system between themselves. The International Bureau stated in reply that, should a distinction have to be made among the Contracting Parties to the new Act, it should rather be based on whether the Office of a Contracting Party was an examining Office or not.

One delegation expressed its general support for paragraph (2), and stated that, while its country now charged annual renewal fees, it would consider the possibility of changing to a system of charging renewal fees for three five-year terms. The delegation thought that the five-year renewal term ceiling in paragraph (2) might present some problems.

The International Bureau suggested that consideration be given to a solution whereby a Contracting Party would have the possibility of setting the individual designation fee on renewal (Item 5.3 of the Schedule of Fees) at zero and including the equivalent of what would otherwise have been requested as such a fee in the individual designation fee payable at the application stage (Item 4 of the Schedule of Fees) so that the full charge would be paid upon application. It was agreed that the question should be further studied.

Several delegations observed that their national renewal fees were based on progressively increasing scales so that renewals became increasingly expensive during the term of protection.

The representatives of several observer organizations commented on the various practices of countries concerning progressively increasing renewal fees. One representative disapproved of the possibility of charging a single fee for the full term, since many registration holders would not renew their registrations and it was not fair to charge them for the full term. On the other hand, two delegations considered that examining countries often deferred recovery of part of the cost of search and examination to the renewal fees in order to stimulate the filing of applications, and that these costs should be recoverable.

The International Bureau indicated that, under the present wording of paragraph (2), it was possible to charge different amounts for the first five-year term and subsequent five-year terms and that this question would be further reviewed.

*Paragraph (3).* This paragraph was approved as proposed.

*Paragraph (4).* This paragraph was approved as proposed. One delegation requested clarification as to whether the transfer of designation fees would be made directly to the Office of the designated Contracting Party concerned or to the government treasury. The International Bureau stated that the fees would be transferred according to the instructions received from each Contracting Party.”

*Draft Article 11: Term and Renewal of International Registration*

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

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

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

(3) [Minimum and Maximum Period of Protection in Designated Contracting Parties] (a) *Subject to subparagraph (b) and provided that the international registration is renewed, the period of protection shall be, in each of the designated Contracting Parties, 10 years counted from the date of international registration.*

(b) *Where the applicable law of a designated Contracting Party allows a period of protection of more than 10 years for an industrial design for which protection has been granted under that law, the period of protection shall, provided that the international registration is renewed, be equivalent to the one afforded under the applicable law of that Contracting Party.*

(4) [Limited Renewal] *The renewal of the 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 the international registration.*

(5) [Procedure of Renewal] (a) *Six months before the expiration of a five-year term, the International Bureau shall send an unofficial notice reminding the holder of the date of expiration.*

(b) *The renewal of the 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 10, with the exception of the publication fee referred to in Article 10(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) [Recording 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 11 reads as follows:

“*Paragraph (1).* This paragraph was approved as proposed. One delegation asked why the term of the international registration was to be counted from the date of international registration, whereas it had been agreed in the last session that the term should start from the date of international application. The International Bureau explained that the new draft now treated as the date of international registration the date of receipt of the international application by the International Bureau so that the agreement expressed in the last session had been effectively implemented.

*Paragraph (2).* A delegation indicated that, with respect to articles with a short life cycle, a renewal period of five years might be too long and asked whether such period could be divided in several short periods. It was replied that, while this possibility seemed to be user friendly, it might in fact be counterproductive since it would involve higher administrative costs for the International Bureau and, consequently, higher renewal fees.

*Paragraph (3)(a).* Following a suggestion by the representative of an observer organization, it was agreed that the minimum period of protection should be 15 years instead of 10 years. One delegation explained that, under its current system, the period of protection was 14 years from grant of the design patent and that no pre-grant provisional protection existed.

*Paragraph (3)(b).* This provision was approved as proposed, subject to the possibility of replacing ‘10 years’ by ‘15 years.’

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

*Paragraph (5).* This paragraph was approved as proposed. In reply to a question raised by a delegation, the International Bureau confirmed that an unofficial notice would be sent before the expiration of each five-year term.

*Paragraph (6).* One delegation asked how the renewals of an international registration would be notified to designated Contracting Parties in which that renewal had effect. The International

Bureau indicated that it did not intend to send specific notifications of renewal since designated Contracting Parties would receive copies of the Gazette containing details of renewals.”

*Draft Article 12: Recording of Change in Ownership and Certain Other Matters Concerning International Registrations*

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

“(1) [Recording of Change in Ownership of International Registration] (a) *The International Bureau shall, as prescribed, record in the International Register any change in ownership of the international registration, in respect of all or some of the designated Contracting Parties and in respect of all or some of the industrial designs that are the subject of the international registration, provided that the new owner is entitled to file an international application under Article 2.*

(b) *The recording 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 Contracting Parties concerned.*

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

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

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

(iii) *any renunciation, by the holder, of the international registration,*

(iv) *any withdrawal, by the holder, of the designation of any of the Contracting Parties,*

(v) *any limitation, by the holder, of the international registration, in respect of any or all of the designated Contracting Parties, to one or some of the industrial designs that are the subject thereof,*

(vi) *any invalidation, by the competent authorities of a designated Contracting Party, of the effect, in the territory of that Contracting Party, of the international registration in respect of any or all of the industrial designs that are the subject thereof,*

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

(3) [Fees] *Any recording made under paragraphs (1) or (2) may be subject to the payment of a fee.*

(4) [Publication] *The International Bureau shall publish a notice concerning any recording made in accordance with paragraphs (1) or (2)."*

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

“*Paragraph (1).* This paragraph was approved as proposed.

*Paragraph (2).* This paragraph was approved as proposed, subject to the addition of the words ‘as prescribed,’ between the words ‘shall’ and ‘record,’ in the first line.

As regards item (vi), one delegation pointed out that the notification of an invalidation, by the Office of a Contracting Party, should not be mandatory, since the Office was not always informed of the invalidations pronounced by a court with respect to an international registration. The International Bureau indicated that the obligation to notify invalidations was imposed by Article 8(5), but that an Office was only able to notify those invalidations of which it was aware.

As regards item (vii), one delegation indicated that it would examine what additional matters should be recorded pursuant to its national law. In reply to a question raised by that delegation, the International Bureau said that nothing prevented a Contracting Party from recording in its national or regional register all the international registrations effective in its territory. However, such a recording might be considered undesirable and should not, in any event, be used to justify an increase in the individual designation fee to be paid for that Contracting Party. Moreover, such a recording might become superfluous once all the data relating to international registrations would be stored on CD-ROMs, which would be regularly updated and made available to Offices of Contracting Parties.”

*Draft Article 13: Information Concerning Published International Registrations*

Draft Article 13 of the draft new Act as submitted by the International Bureau read as follows:

“(1) [Information Concerning International Registrations] *The International Bureau shall supply to any person applying therefor, upon the payment of the prescribed fee, information on or copies of entries in the International Register in respect of any international registration published in its Gazette.*

(2) [Legalization] *Copies of entries in the International Register supplied by the International Bureau shall be exempt from any requirement of legalization in each Contracting Party."*

The portion of the report of the Committee of Experts concerning the discussion of draft Article 13 reads as follows:

“This Article was approved as proposed.”

*Draft Article 14: Declarations Made by Contracting Parties*

Draft Article 14 of the draft new Act as submitted by the International Bureau read as follows:

“Any declaration under Articles 7(2), 8(2)(b) or 10(2) may be made

(i) at the time of the deposit of the instruments referred to in Article...,\* in which case it shall become effective on the date on which the Contracting Party having made the declaration becomes bound by this Act, or

(ii) after the deposit of the instruments referred to in Article ...,\* in which case it shall become effective either three months after the date of its receipt by the Director General or on any later date indicated in the declaration, but shall apply only in respect of any international registration whose date of international registration is the same as, or is later than, the effective date of the declaration.”

\* This will be the Article on the deposit of instruments of ratification and accession.

The portion of the report of the Committee of Experts concerning the discussion of draft Article 14 reads as follows:

“This Article was approved as proposed.”

*Final Observations*

The portion of the report of the Committee of Experts concerning the final observations reads as follows:

“One delegation, referring to the situation under the 1960 Act, asked whether it would be possible for a Contracting Party to exclude that it be designated in an international application filed by an applicant who fulfilled, in the said Contracting Party, the conditions to be entitled to file. The International Bureau replied that it was not the intention of the draft new Act to allow such a possibility.

The Representative of COMITEXIL considered that the aim of the present revision exercise on the Hague Agreement was not only to lessen the constraints associated with filing an application, in order to make it more attractive to users, but also to enable new members to become party to the Hague Agreement. She was, however, of the opinion that such broadening should not take place at the expense of the first aim: if the revision of the international registration system with a view to attracting new members were to have the effect of affording only a belated protection in the new member States, the textile and clothing industries would have no interest in designating countries that granted no protection for a period of 24 or 30 months, not even provisionally. It was indeed of no interest to those areas of the textile sector that were tied to the short creative cycles characteristic of the fashion trade to have no protection at all during the period corresponding to the life-cycles of the creations themselves. The representative wished that a different system might be applied to the textile and clothing sector, particularly with respect to the length of the refusal period.”

**Training and Promotion Meetings  
With Users of the Hague System**

*Slovenia.* In May 1993, an official from the Industrial Property Protection Office underwent one week's training at the headquarters of WIPO in the administrative procedures under the Hague Agreement.

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

### Africa

#### Training Courses, Seminars and Meetings

*WIPO National Seminar on Trademarks and Trade Names (N'Djamena).* From May 10 to 12, 1993, WIPO organized in N'Djamena, in cooperation with the Government of Chad, a WIPO National Seminar on Trademarks and Trade Names. Over 30 participants from government institutions, the private sector and semi-public enterprises attended the Seminar. Presentations were made by two WIPO consultants from France and the Netherlands and a WIPO official.

*Burundi.* From April 19 to 21, 1993, WIPO organized in Bujumbura, in cooperation with the Government of Burundi and with the financial assistance of the Government of France, a National Seminar on Trademarks and Trade Names in Economic Development. The Seminar was attended by some 40 participants from the public sector, research institutions, the judiciary, the university and the private sector, and individual inventors. Presentations were made by a WIPO consultant from France and two WIPO officials.

*Organization of African Unity (OAU).* In May 1993, four WIPO officials attended a ceremony held at the United Nations in Geneva in honor of the 30th anniversary of the OAU.

#### Assistance with Training, Legislation and Modernization of Administration

*Burundi.* In April 1993, two WIPO officials held discussions with government officials in Bujumbura aimed at exploring ways and means of modernizing the industrial property system of Burundi.

In May 1993, the International Bureau prepared and sent to the government authorities, at their request, a draft industrial property law with a commentary.

*Chad.* In May 1993, a WIPO official held discussions in N'Djamena with government officials responsible for industrial property on possible ways and means of modernizing the industrial property system of Chad.

*Côte d'Ivoire.* In April 1993, a WIPO official held discussions with government officials in Abidjan on cooperation between Côte d'Ivoire and WIPO. In this connection, contacts were made regarding Côte d'Ivoire's proposed accession to the Hague Agreement Concerning the International Deposit of Industrial Designs. Later in April, WIPO received the country's instrument of accession to the Hague Agreement.

Also in April 1993, a government official had discussions with WIPO officials in Geneva on the computerization of the Directorate of Industrial Technology.

*Ghana.* In May 1993, the International Bureau prepared and sent to the government authorities, at their request, comments on the Patents Law, 1992, and draft implementing patent regulations.

*Kenya.* In April 1993, the Chairman of the Industrial Property Tribunal had discussions with WIPO officials in Geneva on the expected amendments to the Industrial Property Act, on the preparation of Implementing Regulations thereunder and on the Rules for the Industrial Property Tribunal.

In May 1993, a WIPO official held discussions in Nairobi on industrial property legislation with government officials from the Ministry of Research, Science and Technology and the Industrial Property Office.

*Mauritius.* In May 1993, a WIPO official visited Mauritius to have discussions on industrial property and copyright legislation with government officials and officials of semi-public entities and the private sector.

*Swaziland.* In April 1993, a WIPO consultant from the Netherlands undertook, in the framework of the United Nations Development Programme (UNDP)-financed Interregional Project for Sectoral Support in the Industrial Property Field, a two-week mission to Mbabane to assist the Office of the Registrar General in the reorganization and modernization of the trademark registry.

*Uganda.* In April 1993, a WIPO official had discussions in Entebbe with a government official on industrial property protection in that country.

*United Republic of Tanzania.* In May 1993, in connection with the WIPO National Workshop on Copyright and Neighboring Rights, the Director General was received in Dar-es-Salaam by Mr. Ali Hassan Mwinyi, President, and by Mr. Malacela, Prime Minister and First Vice-President of the United Republic of Tanzania. The Director General, who was accompanied by two other WIPO officials, visited Zanzibar where he was received by Mr. Salmin Amour Juma, Second Vice-President of the United Republic of Tanzania. The Director General had discussions with those other government leaders and also with government officials on cooperation in improving the intellectual property system in the United Republic of Tanzania.

*African Intellectual Property Organization (OAPI).* In April 1993, at the invitation of the President of the OAPI Board, who is also the Minister for Commerce and Industry of Côte d'Ivoire, a WIPO official and a WIPO consultant from France attached to OAPI visited Abidjan to advise on the recruitment of candidates for various senior posts at OAPI, including that of the Director General of OAPI.

Also in April 1993, a WIPO official and a WIPO consultant from France attended, in Yamoussoukro (Côte d'Ivoire), the Fourth Special Session of the OAPI Board, convened at ministerial level to discuss the reorganization of the OAPI Secretariat.

## Arab Countries

### Assistance with Training, Legislation and Modernization of Administration

*Egypt.* In April 1993, a government official from the Information and Decision Support Center (IDSC), Cabinet of Ministers, visited WIPO and discussed with WIPO officials possible future cooperation between IDSC and WIPO on patent information and documentation.

*Libya.* In May 1993, two government officials visited WIPO and discussed with WIPO officials the

implementation of the UNDP-financed country project entitled "Strengthening of the Industrial Property System; Promotion of Inventive Capacity" which has been provisionally approved by the Government and UNDP.

*Syria.* In May 1993, a government official visited WIPO and discussed with WIPO officials cooperation between Syria and WIPO in the field of industrial property legislation and also Syria's possible accession to the WIPO Convention and other WIPO-administered treaties.

## Asia and the Pacific

### Training Courses, Seminars and Meetings

*WIPO Asian Regional Round Table on the Development of an Effective Industrial Property System (Malaysia).* From April 5 to 7, 1993, WIPO organized in Kuala Lumpur, in cooperation with the Government of Malaysia and with the assistance of the Japanese Patent Office (JPO), the WIPO Asian Regional Round Table on the Development of an Effective Industrial Property System. The Round Table was attended by 27 participants from the public and private sectors of Bangladesh, China, Fiji, India, Indonesia, Iran (Islamic Republic of), Mongolia, Pakistan, the Philippines, the Republic of Korea, Singapore, Sri Lanka, Thailand and Viet Nam; 27 nationals of Malaysia also participated. Five WIPO consultants from Australia, Japan, the United Kingdom and the United States of America and four participants from China, India, the Philippines and the Republic of Korea delivered papers. Three WIPO officials and a consultant from Japan attached to WIPO as well as three other officials from the JPO also attended the Round Table.

*WIPO National Seminar on the Legal and Administrative Aspects of Industrial Property and Technology Transfer (Mongolia).* From May 24 to 26, 1993, WIPO organized in Ulaanbaatar, in cooperation with the Mongolian Patent and Trademark Office and with financial assistance from the Government of Germany, a WIPO National Seminar on the Legal and Administrative Aspects of Industrial Property and Technology Transfer. Approximately 60 local participants from government and non-government circles attended the Seminar. Three WIPO consultants from China, Germany and the European Patent Office (EPO) and a WIPO official made presentations at the Seminar.

### Assistance with Training, Legislation and Modernization of Administration

*Bangladesh.* In May 1993, WIPO arranged, in the framework of the UNDP-financed country project for strengthening the national industrial property system, a study visit for two government officials to the

Trade Marks Registry of the United Kingdom Patent Office in Newport. The visit provided the officials with an opportunity to observe recent developments and various aspects related to the processing of trademark applications and the handling of opposition cases.

*China.* In April 1993, two WIPO officials undertook a mission to Beijing to discuss with officials of the National Copyright Administration of China (NCAC) the printing of a commemorative book in honor of 20 years of cooperation between China and WIPO.

Also in April 1993, nine members of the All-China Patent Agents Association visited the headquarters of WIPO and had discussions with WIPO officials on matters of mutual interest.

In May 1993, two government officials from the State Administration for Industry and Commerce (SAIC) had discussions in Geneva with the Director General and other WIPO officials on matters of cooperation in the trademark field, including arrangements for the Forum on the Madrid Protocol and China, to be held in Beijing in September 1993. Also, WIPO officials and a WIPO consultant from Switzerland gave advice to the two Chinese officials on the draft regulations and the special regulations under the revised Chinese Trademark Law.

Also in May 1993, six government officials from the Chinese Patent Office and the Ministry of Personnel of China had discussions with the Director General and other WIPO officials in Geneva on the Chinese industrial property administration system.

*Democratic People's Republic of Korea.* In May 1993, Mr. Ryu Song Kwang, Director General, Inventions Office, and another government official had discussions in Geneva with WIPO officials on matters concerning the proposed UNDP-financed country project for the development of industrial property in their country.

*India.* In May 1993, a government official held discussions with WIPO officials in Geneva on the possible holding in India of a seminar on the enforcement of intellectual property rights and on the monitoring of the UNDP-financed country projects in the patent and trademark fields in India.

*Indonesia.* In April 1993, a government official had discussions with WIPO officials in Geneva on WIPO's activities in the field of dispute settlement between private parties.

In May 1993, Mr. Nico Kansil, Director General, Directorate General of Copyright, Patents and Trademarks, had discussions in Geneva with WIPO officials on the initial work plan for the implementation of the newly approved UNDP-financed country

project entitled "Strengthening the Intellectual Property System in Indonesia."

*Japan.* In April 1993, two WIPO officials participated in the Evaluation and Planning Meeting with officials of the Japanese Patent Office (JPO), in Tokyo, covering the activities under the funds-in-trust arrangement that was established from a voluntary contribution of the Government of Japan to the development cooperation program of WIPO. The Meeting evaluated the activities undertaken under the funds-in-trust arrangement covering the Japanese fiscal year April 1992 to March 1993 and discussed the draft work plan under the proposed funds-in-trust arrangement for 1993-94.

In May 1993, two government officials had discussions with WIPO officials in Geneva on the work plan for development cooperation activities to be implemented in 1993-94 under the funds-in-trust arrangement to be established from a voluntary contribution by the Government of Japan to the development cooperation program of WIPO.

*Malaysia.* In April 1993, three WIPO officials had discussions in Kuala Lumpur with government and UNDP officials, as well as with representatives of the private sector (lawyers, patent and trademark attorneys, inventors), on developing further cooperation in the field of industrial property.

*Mongolia.* In May 1993, a WIPO official undertook a mission to Ulaanbaatar and had discussions with officials of the Mongolian Patent and Trademark Office on cooperation between Mongolia and WIPO in the field of industrial property, including accession to WIPO-administered treaties.

*Philippines.* In May 1993, Mr. Ignacio Sapalo, Director of the Bureau of Patents, Trademarks and Technology Transfer (BPTTT), held discussions with the Director General and other WIPO officials in Geneva on WIPO's assistance to the Government of the Philippines in the revision of its patent, trademark and copyright laws.

*Republic of Korea.* In May 1993, a government official had discussions with WIPO officials in Geneva on the strengthening of cooperation between the Republic of Korea and WIPO in the field of industrial property, including the organization of regional training courses in that country and its possible accession to further WIPO-administered treaties.

*Singapore.* In April 1993, WIPO maintained contact with government officials and with the WIPO long-term consultant based in Singapore on the preparations for the new patent system.

*Tonga.* In May 1993, a WIPO official and a WIPO consultant from the United Kingdom undertook a mission to Nuku'alofa and gave advice to the government authorities concerned on the implementation of the copyright law and the establishment of an industrial property system.

*Viet Nam.* In May 1993, a government official of the National Office on Inventions had discussions with WIPO officials in Geneva on development cooperation matters, including the possible holding

of a subregional symposium on industrial property in Hanoi.

*United Nations Economic and Social Commission for Asia and the Pacific (ESCAP).* In May 1993, Mr. K.V. Swaminathan, Director of ESCAP's Asian and Pacific Centre for Transfer of Technology in Bangalore, India, discussed with WIPO officials in Geneva the activities of that Centre and possible cooperation between it and WIPO.

## Latin America and the Caribbean

### Assistance with Training, Legislation and Modernization of Administration

*WIPO Regional Project "Industrial Property Systems for Technological Information and Competitiveness."* In April 1993, a WIPO consultant from Chile started an eight-month assignment to assist in the development of computerized systems on industrial property for countries of the region under the UNDP-financed regional project for Latin America and the Caribbean entitled "Industrial Property Systems for Technological Information and Competitiveness." In preparation for this assignment, the consultant visited WIPO for discussions and made study tours of the industrial property offices of Austria, Spain and the United Kingdom and the EPO.

*Bolivia.* In April 1993, Mr. Luis Campero Prudencio, Minister for Exports and Competitiveness, visited WIPO and was received by the Director General. During the visit, the Minister handed to the Director General the instrument of accession of Bolivia to the WIPO Convention and discussed with him cooperation between WIPO and Bolivia.

*Brazil.* In May 1993, the head of the Technology Department of the Federation of Industries of the State of Sao Paulo (FIESP) visited WIPO and had discussions with WIPO officials on cooperation in promoting the use of patent information and the improved management of industrial property by enterprises.

*Costa Rica.* In April 1993, a WIPO official undertook a mission to San José to participate in the WIPO/UNDP/Costa Rica Tripartite Review Meeting of the UNDP-financed country project entitled "Modernization of the Industrial Property Registry: Creation of New Services." Discussions were held with government officials on future cooperation between WIPO and Costa Rica, as well as on the advantages of adhering to the Paris Convention.

*Cuba.* In April 1993, a government official visited WIPO and had discussions with the Director General and other WIPO officials on the advantages of adhering to the PCT.

*Dominican Republic.* In April 1993, as a follow-up to the mission undertaken by two WIPO officials to Santo Domingo in January 1993, the International Bureau sent a draft industrial property law to the Government at its request.

*El Salvador.* In April 1993, a WIPO official undertook a mission to San Salvador to discuss with government officials measures to be taken for the strengthening and modernization of the Commercial Registry, Registry of Industrial, Artistic and Literary Property, a possible UNDP-financed country project, as well as the advantages of adhering to the Paris Convention.

*Guatemala.* In April 1993, a WIPO official undertook a mission to Guatemala City to discuss with government officials technical cooperation for the strengthening of the industrial property system, the possible sources of funding of such cooperation, and the advantages of adhering to the Paris Convention.

*Mexico.* In May 1993, four government officials undertook a study tour organized by WIPO, visiting the National Institute for Industrial Property (INPI) of France in Paris, the Spanish Patent and Trademark Office in Madrid and WIPO. In Geneva, they were received by the Director General and other WIPO officials and discussed the Government's plans for the establishment of a Mexican Industrial Property Institute and WIPO's technical cooperation in that connection.

Also in May 1993, a government official from the Ministry for Foreign Affairs had discussions with WIPO officials in Geneva on cooperation between Mexico and WIPO in the two fields of trademarks and geographical indications.

*Nicaragua.* In April 1993, a WIPO official visited Managua to discuss with government authorities a cooperation program for the modernization of the industrial property system and the advantages of adhering to the Paris Convention.

In late May and early June 1993, a WIPO consultant from the EPO undertook a mission to Managua and gave advice to the Industrial Property Registry on patent classification and searching.

*Panama.* In April 1993, Mr. Roberto Alfaro, Minister for Commerce and Industry, visited WIPO and had discussions with the Director General on cooperation between WIPO and Panama in the field of industrial property.

*Uruguay.* In May 1993, two WIPO officials undertook a mission to Montevideo to give information on the PCT to legislators, government officials

and representatives of interested circles. The WIPO officials attended a session of the Committee for Science and Technology of the House of Representatives and met several members of the Parliament. They also had meetings with the Minister for Industry, Energy and Mining, government officials and also the Head of the Uruguayan Association of Patent and Trademark Agents.

In late May and early June 1993, a WIPO consultant from the EPO undertook a mission to Montevideo and gave advice to the National Industrial Property Directorate on the examination of patent applications in the chemistry and biotechnology fields.

*MERCOSUR.* In May 1993, the Director General met with the Permanent Representatives in Geneva of Argentina, Brazil, Paraguay and Uruguay to discuss WIPO's role in MERCOSUR's cooperation efforts in the field of intellectual property.

### WIPO Medals

In April 1993, two WIPO medals were awarded to two young winners of the Grand Prize of the Weekly Reader National Inventive Thinking Contest (1992-93) in Akron, Ohio, United States of America.

In May 1993, two WIPO medals were awarded to inventors at the 2nd Exhibition of Syrian Inventions and Innovation in Damascus.

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

### Regional Activities

*Meeting on Coordination of Technical and Economic Assistance to the Baltic States (Oslo).* In May 1993, a WIPO official attended in Oslo the Meeting on Coordination of Technical and Economic Assistance to the Baltic States, convened by the Norwegian Patent Office for the purpose of coordinating, in particular for 1993, financial or other assistance afforded by the Nordic countries (Denmark, Finland, Norway, Sweden), WIPO and the European Patent Organisation (EPO) to the Baltic States (Estonia, Latvia, Lithuania).

*Interstate Council on the Protection of Industrial Property (Moscow).* In May 1993, the Director General, accompanied by two other WIPO officials, attended the first session of the Interstate Council on the Protection of Industrial Property convened in Moscow. The session was chaired by Mr. Valery L. Petrov, Chairman of the State Patent Office of Ukraine, and attended by the representatives of the signatory States of the Agreement on Measures on the Protection of Industrial Property, of March 12, 1993, namely, Armenia, Belarus, Kazakhstan, Kyrgyzstan, the Republic of Moldova, the Russian Federation, Tajikistan, Ukraine and Uzbekistan (9).

Azerbaijan and Turkmenistan were represented by observers.

The Interstate Council established an Interstate Office for the Protection of Industrial Property and appointed Mr. Viktor Blinnikov, First Deputy Chairman of the Committee of the Russian Federation for Patents and Trademarks (ROSPATENT), as its head.

The Interstate Council also set up a working group entrusted with the task of drawing up the first draft of a treaty for the establishment of a regional patent system.

### National Activities

*Armenia.* In May 1993, Mr. Sarkis L. Khantardjian, President of the Armenian Patent Office, accompanied by another official from the same Office, had discussions with WIPO officials in Geneva on the state of industrial property protection in Armenia and the possible continued application of certain WIPO-administered treaties to the country.

*Bulgaria.* In April 1993, a member of Parliament had discussions with WIPO officials in Geneva on issues relating to the country's Patent and Industrial Designs Laws and on the revision of its Copyright Law.

In May 1993, the International Bureau prepared and sent to the government authorities, at their request, a draft law on industrial designs.

*Latvia.* In May 1993, Mr. Zigrids Aumeisters, Director of the Patent Office, accompanied by another official from the same Office, had discussions with WIPO officials in Geneva on the state of industrial property protection in Latvia and the country's possible accession to certain WIPO-administered treaties.

*Romania.* In April 1993, a government official from the State Office for Inventions and Marks had discussions with WIPO officials in Geneva concerning the International Classification for Industrial Designs established by the Locarno Agreement.

*Russian Federation.* In April 1993, a WIPO official attended, in Moscow, the International Conference on the Protection of Industrial Property and Innovations in Russia, jointly organized by the Russian Patent Office, the Chamber of Commerce and Industry of the Russian Federation, the Russian National Group of the International Association for the Protection of Industrial Property (AIPPI) and the Association of Innovation Enterprises. The aim of the Conference was to draw the attention of foreign and Russian industrial property specialists to the

main characteristics of the new industrial property legislation of the Russian Federation and to the practical significance of that legislation to investment in the Russian Federation.

Also in April 1993, Mr. Vitaly Rassokhin, Chairman of ROSPATENT, accompanied by an official of the same Committee, visited WIPO and had discussions with the Director General and other WIPO officials, in particular on the implementation of the Agreement on the Creation of an Interstate Council on the Protection of Industrial Property signed in Moscow on March 12, 1993, by Armenia, Belarus, Kazakhstan, Kyrgyzstan, the Republic of Moldova, the Russian Federation, Tajikistan, Ukraine and Uzbekistan. They also discussed WIPO's possible role in establishing a common industrial property system for those countries.

In May 1993, the Director General, accompanied by two other WIPO officials and a WIPO consultant from the Russian Federation, had discussions in Moscow with Mr. Yuri Ryzhov, Chairman of the Subcommittee on Science and Modern Technology of the Supreme Soviet of the Russian Federation, Mr. V.P. Rassokhin, Chairman of ROSPATENT, and other government officials on intellectual property matters. The Director General called on Mr. Yuri Voronin, First Deputy Chairman of the Supreme Soviet of the Russian Federation, with whom he discussed copyright legislative matters and the Russian Federation's possible accession to the Berne Convention. Also, the Director General called on Mr. Andrei Kozyrev, the Minister for Foreign Affairs.

During his stay in Moscow, the Director General was awarded the degree of Doctor *honoris causa* of the Institute of State and Law of the Academy of Sciences of the Russian Federation at a ceremony which was attended by some 150 people. The Director General also had discussions with the Director of the said Institute on cooperation between WIPO and the Institute, in particular in the organization of a seminar on contemporary trends in intellectual property law, in Moscow in early 1994.

*Slovenia.* In April 1993, Professor Davorin Kracun, Deputy Prime Minister and Minister of Economic Relations and Development, and Mr. Bojan Pretnar, Director of the Industrial Property Protection Office, accompanied by another government official, had discussions with WIPO officials in Geneva on cooperation between Slovenia and WIPO and questions relating to the protection of industrial property in Slovenia.

In May 1993, a WIPO official had discussions in Ljubljana with officials of the Industrial Property Protection Office on the Slovenian translation of the International Classification of Goods and Services for the Purposes of the Registration of Marks established by the Nice Agreement, and gave a presenta-

tion on the Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks.

*Uzbekistan.* In May 1993, Mr. Nadirbek Roustambekovich Yousoubekov, Chairman of the State

Committee on Science and Technology, and Mr. Akil A. Azimov, Director of the Patent Office, had discussions with the Director General and other WIPO officials in Geneva on the state of industrial property protection in Uzbekistan and the possible continued application of certain WIPO-administered treaties to the country.

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

### National Contacts

*Germany.* In April 1993, at the invitation of the Government of Germany, the Director General, accompanied by another WIPO official, visited Bonn and was presented by Mrs. Sabine Leutheusser-Schnarrenberger, Minister of Justice, with the Insignia of the Grand Cross of the Order of Merit of the Federal Republic of Germany. After the ceremony, the Director General had discussions with the Minister and government officials on cooperation between Germany and WIPO.

*Portugal.* In April 1993, on the occasion of the WIPO Seminar on Copyright and Neighboring Rights for Portuguese-Speaking African Countries, held in Lisbon, a WIPO official had discussions with members of the Faculty of Law of Lisbon University on the teaching of intellectual property.

*Turkey.* In May 1993, a WIPO official and a WIPO consultant from the United Kingdom undertook a mission to Ankara to discuss with government officials and other interested circles the legal protection of computer software and other issues concerning the Turkish data-processing sector. The mission was carried out in cooperation with the World Bank.

*United States of America.* In April 1993, a WIPO official attended the Sixteenth Patent and Trademark Depository Library (PTDL) Conference organized by

the United States Patent and Trademark Office in Washington, D.C., and gave a presentation on the ROMARIN (Read-Only Memory of Madrid Actualized Registry *IN*formation) CD-ROMs containing international registrations of marks effected under the Madrid Agreement Concerning the International Registration of Marks.

In May 1993, the Director General, accompanied by another WIPO official, testified in a hearing on Bill 2129 (Madrid Protocol Implementation Act) before the Subcommittee on Intellectual Property and Judicial Administration of the United States House of Representatives Committee on the Judiciary, in Washington, D.C. The hearing was chaired by Congressman William J. Hughes, Chairman of the Subcommittee.

### United Nations

*United Nations Administrative Committee on Coordination (ACC) and its Organizational Committee (ACC(OC)).* In April 1993, a WIPO official attended the ACC(OC), hosted by FAO in Rome, to prepare for the first regular 1993 session of the ACC, scheduled to take place in Rome later in the same month.

Also in April 1993, the Director General and another WIPO official attended the above session of the ACC.

Later in April 1993, a WIPO official attended, in Rome, the post-ACC meeting of members of the ACC(OC).

*United Nations Advisory Committee on Post Adjustment Questions (ACPAQ)*. In May 1993, a WIPO official attended the 17th session of ACPAQ in New York.

*United Nations Consultative Committee on Administrative Questions (CCAQ)*. In May 1993, a WIPO official attended, in Vienna, the 17th session of a CCAQ Subcommittee on Staff Training.

*United Nations Consultative Committee on Substantive Questions (CCSQ) Task Force on Support Costs*. In April 1993, a WIPO official attended the 15th meeting of the Inter-Agency Task Force on Support Costs convened by the CCSQ in Vienna.

*United Nations Environment Programme (UNEP)*. In May 1993, a WIPO official attended the 17th session of the Governing Council of UNEP in Nairobi.

*International Computing Centre (ICC)*. In April 1993, two WIPO officials attended the ICC Management Meeting in Rome.

### Intergovernmental Organizations

*European Communities (EC)*. In May 1993, two officials of the Commission of the EC had discussions with the Director General in Geneva on current intellectual property activities in the European Communities and possible cooperation between WIPO and the Commission.

*European Patent Office (EPO)*. In May 1993, at the invitation of Mr. Paul Braendli, President of the EPO, the Director General participated in the inauguration ceremony of an additional EPO office building in Munich.

Also in May 1993, a WIPO official attended a meeting of the EPO's Working Party on Statistics, held in Munich. On the same occasion, the WIPO official made a presentation on WIPO and its activities to some 130 examiners of the EPO.

Later in May 1993, two WIPO officials attended the 4th Symposium of National Patent Libraries (PATLIB 93), organized by the EPO in Lyons (France) and gave a presentation of WIPO's ROMARIN CD-ROM.

*European Space Agency (ESA)*. In April 1993, an official of ESA had discussions with WIPO officials in Geneva on the protection of intellectual property rights, especially with respect to inventions in space.

*European Space Agency (ESA)/European Center for Space Law*. In May 1993, a WIPO official attended, in Madrid, the ESA/European Center for Space Law Workshop on Intellectual Property Rights in Outer Space. The Workshop recommended the establishment of international rules for the protection of inventions made in outer space.

*International Union for the Protection of New Varieties of Plants (UPOV)*. In April 1993, several WIPO officials attended the 32nd session of the Administrative and Legal Committee and the 29th session of the Technical Committee of UPOV, held in Geneva.

### Other Organizations

*Association of International Libraries (AIL)*. In May 1993, a WIPO official attended a meeting of the Executive Committee of AIL held in Geneva.

*Center for the International Study of Industrial Property (CEIPI)*. In May 1993, the Director General attended a meeting of the Administrative Council of CEIPI in Paris.

Also in May 1993, a WIPO official attended, in Strasbourg, the 6th CEIPI meeting of tutors in charge of training future European patent attorneys.

*Chartered Institute of Arbitrators*. In May 1993, a WIPO official spoke at the Conference on the Arbitration of Intellectual Property Disputes organized by the Institute in London.

"Computer 93." In April 1993, two WIPO officials visited the exhibition "Computer 93," held in Lausanne (Switzerland).

*Federation of German Industry (BDI)*. In April 1993, at the invitation of BDI, the Director General, accompanied by another WIPO official, attended a meeting of BDI's Industrial Property Committee specially convened in Cologne for the purpose of meeting the Director General. The discussions covered all the important normative activities of WIPO.

*Franklin Pierce Law Center (FPLC)*. In May 1993, a WIPO official spoke at a meeting of FPLC's Advisory Committee and Fourth Biennial Patent System Major Problems Conference, held in Bedford, New Hampshire, United States of America.

*Institut international d'administration publique (IIAP)*. In May 1993, 32 government officials from countries in Africa, Asia, Eastern Europe and Latin America and enrolled at IIAP (Paris) visited WIPO

and were briefed by WIPO officials on WIPO's activities and intellectual property in general.

*International Federation of Inventors' Associations (IFIA).* In May 1993, Mr. Farag Moussa, President of IFIA, had discussions with WIPO officials in Geneva concerning preparations for the next WIPO/IFIA Symposium, to be held in Vienna in 1994.

*Patent Documentation Group (PDG).* In May 1993, a WIPO official attended a PDG Round Table Conference in Düsseldorf (Germany).

*Union of European Practitioners in Industrial Property (UEPIP).* In May 1993, a WIPO official spoke at the UEPIP Congress held in Bournemouth, United Kingdom.

*United States Trademark Association (USTA).* In May 1993, a WIPO official attended USTA's Annual Meeting held in New Orleans, Louisiana, United States of America. The change of name of the Association to "International Trademark Association (INTA)" was approved by USTA's Board of Directors. On that occasion, the WIPO official had discussions with government officials and representatives of private circles on the United States of America's possible accession to the Protocol Relating to the Madrid Agreement.

*University of Perugia (Italy).* In April 1993, in Perugia, a WIPO official lectured on the treaties administered by WIPO, in particular in the field of patents, to a group of graduate law students who were following a patent course at the University of Perugia.

## Miscellaneous News

### Regional News

An Agreement on the Creation of an Interstate Council on the Protection of Industrial Property was signed in Moscow on March 12, 1993, by Armenia, Belarus, Kazakhstan, Kyrgyzstan, the Republic of Moldova, the Russian Federation, Tajikistan, Ukraine and Uzbekistan.

### National News

*Brazil.* Resolution No. 037/92, entitled Provisions Concerning the Application of the Patent Coopera-

tion Treaty (PCT), entered into force on November 12, 1992.

*Ireland.* The Patents Rules 1992 (Statutory Instrument (S.I.) No. 179 of 1992) were adopted in 1992.

*Latvia.* The Patent Law was adopted on March 2, 1993, and entered into force on March 31, 1993.

The Trademark Law was adopted on March 9, 1993, and entered into force on the same day.

*United Arab Emirates.* The Patents and Designs Law (Federal Law No. 41 of the year 1992) entered into force on January 12, 1993.

## Calendar of Meetings

### WIPO Meetings

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

#### 1993

- September 13 and 14 (Beijing)** **Symposium on the Patent Cooperation Treaty (PCT) and China (organized by the Chinese Patent Office in cooperation with WIPO)**
- The Symposium is aimed at informing interested Chinese circles of different aspects concerning the PCT, of which China is expected to become a Contracting State as from January 1, 1994. It will also provide an opportunity to non-Chinese patent circles to learn how China intends to administer and use the PCT.
- Invitations:* the Symposium is open to any member of the public (against payment of a registration fee).
- September 20 to 29 (Geneva)** **Governing Bodies of WIPO and the Unions Administered by WIPO (Twenty-Fourth Series of Meetings)**
- All the Governing Bodies of WIPO and the Unions administered by WIPO meet in ordinary sessions every two years in odd-numbered years.
- In the sessions in 1993, the Governing Bodies will, *inter alia*, review and evaluate WIPO's activities undertaken since July 1991, and adopt the program and budget of the International Bureau for the 1994-95 biennium.
- Invitations:* States members of WIPO or the Unions and, as observers, other States members of the United Nations and certain organizations.
- October 11 to 13 (Geneva)** **Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations: Intergovernmental Committee (Fourteenth Ordinary Session) (convened jointly with ILO and Unesco)**
- The Committee will review the status of adherence to the Rome Convention and related questions concerning the protection of neighboring rights.
- Invitations:* States members of the Intergovernmental Committee and, as observers, other Contracting States, other States members of the United Nations and certain organizations.
- October 13 and 14 (Funchal, Madeira)** **Symposium on the International Protection of Geographical Indications (organized by WIPO in cooperation with the Government of Portugal)**
- The Symposium will deal with the protection of geographical indications (appellations of origin and other geographical indications) both on the national and multilateral level.
- Invitations:* Governments, selected non-governmental organizations and any member of the public (against payment of a registration fee).
- November 8 to 12 (Geneva)** **Committee of Experts on a Possible Instrument on the Protection of the Rights of Performers and Producers of Phonograms (Second Session)**
- The Committee will continue to examine the question of the preparation of a possible new instrument (treaty) on the protection of the rights of performers and producers of phonograms.
- Invitations:* States members of WIPO, the Commission of the European Communities and, as observers, certain organizations.
- November 29 to December 10 (Geneva)** **Committee of Experts on the Harmonization of Laws for the Protection of Marks (Sixth Session) and Preparatory Meeting for the Diplomatic Conference for the Conclusion of a Treaty on the Harmonization of Laws for the Protection of Marks**
- The Committee of Experts is expected to complete the preparations for a possible multilateral treaty on the harmonization of laws for the protection of marks. The Preparatory Meeting will decide which substantive documents should be submitted to the Diplomatic Conference and which States and organizations should be invited to the Diplomatic Conference. The Preparatory Meeting will also establish the draft Rules of Procedure of the Diplomatic Conference. Subject to the decision of the Governing Bodies in September 1993, the Diplomatic Conference will be scheduled for late 1994.
- Invitations:* States members of the Paris Union, the European Communities and, as observers, States members of WIPO not members of the Paris Union and certain organizations.

## UPOV Meetings

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

### 1993

October 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-Seventh Session)**

*Invitations:* Member States of UPOV.

October 29 (Geneva)

**Council (Twenty-Seventh Ordinary Session)**

*Invitations:* Member States of UPOV and, as observers, certain non-member States and inter-governmental and non-governmental organizations.

## Other Meetings

### 1993

September 12 to 16 (Colombo)

Law Association for Asia and the Pacific (LAWASIA): 13th LAWASIA Conference

September 20 to 24 (Antwerp)

International Literary and Artistic Association (ALAI): Congress

October 1 and 2 (Budapest)

International League of Competition Law (LIDC): Study Days

October 6 to 8 (Cincinnati)

Pacific Industrial Property Association (PIPA): International Congress

October 12 to 14 (Lugano)

International Federation of Reproduction Rights Organisations (IFRRO): Annual General Meeting

November 10 to 13 (Rome)

International Federation of Industrial Property Attorneys (FICPI): 1st FICPI Forum

### 1994

February 2 to 8 (Queenstown)

International Federation of Industrial Property Attorneys (FICPI): Executive Committee

May 4 to 9 (Beijing)

Licensing Executives Society International (LESI): International Conference

May 8 to 11 (Seattle)

International Trademark Association (INTA): 116th Annual Meeting

May 23 to 25 (Turin)

International Publishers Association (IPA): Symposium on the theme "Publishers and New Technology"

May 25 to 28 (Luxembourg)

European Communities Trade Mark Association (ECTA): Annual General Meeting and Conference

May 28 to June 5 (Ostend)

International Federation of the Seed Trade (FIS)/International Association of Plant Breeders for the Protection of Plant Varieties (ASSINSEL): World Congress

June 12 to 18 (Copenhagen)

International Association for the Protection of Industrial Property (AIPPI): Executive Committee

June 19 to 24 (Vienna)

International Federation of Industrial Property Attorneys (FICPI): Congress