

# Industrial Property

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## Contents

### EDITOR'S NOTE

Announcement: Merger of WIPO Reviews, *Industrial Property* and *Copyright* . . . . . 315

### NOTIFICATIONS CONCERNING TREATIES ADMINISTERED BY WIPO IN THE FIELD OF INDUSTRIAL PROPERTY

WIPO Convention. Accessions: Andorra, Guyana . . . . . 316

#### Paris Convention

I. New Member of the Paris Union: Guyana . . . . . 316

II. Withdrawal of Declaration Concerning Article 28(1) of the Stockholm Act (1967): Poland. 316

Budapest Treaty. Change of Name and Address and New Schedule of Fees: Russian Collection of Microorganisms (VKM)(Russian Federation) . . . . . 317

### ACTIVITIES OF WIPO

Highlights—An Overview of Activities and Developments in the First Half of 1994 . . . . . 317

### GOVERNING BODIES OF WIPO

WIPO Coordination Committee. Thirty-Second (8th Extraordinary) Session (Geneva, July 29, 1994) . . . . . 321

### REGISTRATION SYSTEMS ADMINISTERED BY WIPO

#### Patent Cooperation Treaty (PCT)

Meeting of International Authorities Under the PCT (PCT/MIA). Fourth Session (Geneva, June 27 to July 1, 1994) . . . . . 322

Application of Rule 32 of the PCT Regulations (Successor States) in Kazakhstan and Uzbekistan . . . . . 322

Training and Promotion Meetings With PCT Users . . . . . 322

Computerization Activities . . . . . 323

#### Madrid Union

Training and Promotion Meetings With Users of the Madrid System . . . . . 323

Computerization Activities . . . . . 323

### ACTIVITIES OF WIPO IN THE FIELD OF INDUSTRIAL PROPERTY SPECIALLY DESIGNED FOR DEVELOPING COUNTRIES

Africa . . . . . 324

Arab Countries . . . . . 324

[Continued overleaf]

### WIPO 1994

Any reproduction of official notes or reports and translations of laws or agreements published in this review is authorized only with the prior consent of WIPO.

Asia and the Pacific . . . . .	325
Latin America and the Caribbean . . . . .	326
Development Cooperation (in General) . . . . .	327
WIPO Medals . . . . .	330
<b>ACTIVITIES OF WIPO IN THE FIELD OF INDUSTRIAL PROPERTY SPECIALLY DESIGNED FOR COUNTRIES IN TRANSITION TO MARKET ECONOMY . . . . .</b>	<b>330</b>
<b>OTHER CONTACTS OF THE INTERNATIONAL BUREAU OF WIPO WITH GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS IN THE FIELD OF INDUSTRIAL PROPERTY . . . . .</b>	<b>331</b>
<b>MISCELLANEOUS NEWS . . . . .</b>	<b>342</b>
<b>CALENDAR OF MEETINGS . . . . .</b>	<b>342</b>

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

Editor's Note

**COLOMBIA**

Decree No. 117 of January 14, 1994, Implementing Decision No. 344 of the Commission of the Cartagena Agreement . . . . . Text 1-002

**FINLAND**

Law on the Exclusive Right in the Layout-Design of an Integrated Circuit (Law No. 32 of January 11, 1991, as amended by Law No. 579 of June 26, 1992, and Law No. 1036 of November 13, 1992). . . . . Text 1-001

Law on Utility Model Rights (Law No. 800 of May 10, 1991, as amended by Law No. 580 of June 26, 1992, Law No. 1037 of November 13, 1992, and Law No. 1410 of December 18, 1992). . . . . Text 2-004

Utility Model Decree (Decree No. 1419 of December 5, 1991) . . . . . Text 2-005

**ICELAND**

Patent Law (Law No. 17 of March 20, 1991) . . . . . Text 2-001

**KYRGYZSTAN**

Announcement on the Extension of the Time Limits for the Re-registration of Industrial Property Titles in Kyrgyzstan (of August 15, 1994) . . . . . Text 1-003

**THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA**

Announcement on the Protection of Industrial Property in the Former Yugoslav Republic of Macedonia (of August 15, 1994) (*This text replaces the one previously published under the same code number*) . . . . . Text 1-001

## Editor's Note

### ANNOUNCEMENT

#### **Merger of WIPO Reviews, *Industrial Property* and *Copyright***

As of January 1, 1995, the monthly reviews of the World Intellectual Property Organization (WIPO), *Industrial Property* and *Copyright*, will be merged into a single monthly review under the title *Industrial Property and Copyright*.

Current subscribers to one or both of the existing two reviews will receive the new merged review provided they send to WIPO by December 31, 1994, the completed subscription form inserted in this issue.

The annual subscription rate for the merged review will be 210 Swiss francs for Europe and outside Europe by surface mail, and 300 Swiss francs outside Europe by airmail. All subscribers will then be receiving the equivalent of two reviews instead of one as from the beginning of 1995.

As far as the legislative texts inserted in the existing reviews are concerned, all subscribers to the merged review will receive both sets of industrial property and copyright and neighboring rights laws. It will no longer be possible to subscribe separately to the legislative texts only; the merged review and the legislative inserts relating to the two fields will only be available as a single subscription.

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

### WIPO Convention

#### Accessions

#### ANDORRA

The Government of Andorra deposited, on July 28, 1994, its instrument of accession to the Convention Establishing the World Intellectual Property Organization, signed at Stockholm on July 14, 1967.

Andorra will belong to Class IX for the purpose of establishing its contribution towards the budget of the World Intellectual Property Organization.

The said Convention will enter into force, with respect to Andorra, on October 28, 1994.

*WIPO Notification No. 177, of July 28, 1994.*

#### GUYANA

The Government of Guyana deposited, on July 25, 1994, its instrument of accession to the Convention Establishing the World Intellectual Property Organization, signed at Stockholm on July 14, 1967.

Under the unitary contribution system, Guyana will belong to Class *Sbis* for the purpose of establishing its contribution towards the budget of the World Intellectual Property Organization.

The said Convention will enter into force, with respect to Guyana, on October 25, 1994.

*WIPO Notification No. 176, of July 25, 1994.*

### Paris Convention

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

#### GUYANA

The Government of Guyana deposited, on July 25, 1994, 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.

Guyana has not heretofore been a member of the International Union for the Protection of Industrial Property ("Paris Union"), founded by the Paris Convention.

The Paris Convention as revised will enter into force, with respect to Guyana, on October 25, 1994. On that date, Guyana will become a member of the Paris Union.

Guyana belongs to Class *Sbis* for the purpose of establishing its contribution to the World Intellectual Property Organization (WIPO).

*Paris Notification No. 157, of July 25, 1994.*

#### II. Withdrawal of Declaration Concerning Article 28(1) of the Stockholm Act (1967)

#### POLAND

The Government of Poland has notified, in its notification received on July 21, 1994, the withdrawal of the declaration which it made under Article 28(2) of the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised at Stockholm on July 14, 1967, concerning the International Court of Justice (see Paris Notification No. 59, of December 24, 1974<sup>1</sup>).

*Paris Notification No. 156, of July 22, 1994.*

<sup>1</sup> See *Industrial Property*, 1975, p. 42.

## Budapest Treaty

### Change of Name and Address and New Schedule of Fees

#### RUSSIAN COLLECTION OF MICROORGANISMS (VKM)

(Russian Federation)

(formerly known as the "Institute of  
Biochemistry and Physiology of  
Microorganisms of the Russian  
Academy of Sciences (IBFM-VKM))"

The Government of the Russian Federation has informed the Director General of WIPO by notifications of July 29 and August 12, 1994, respectively, of the new name and address of and the new schedule of fees charged by the Institute of Biochemistry and Physiology of Microorganisms of the Russian Academy of Sciences (IBFM-VKM), an international depositary authority under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure.

The new name and address of the said international depositary authority are:

Russian Collection of Microorganisms (VKM)  
Prospekt Naouki No. 5  
142292 Puchino (Moscow Region)  
Russian Federation.

The new schedule of fees charged by the said international depositary authority is:

	USD
– Storage . . . . .	300
– Issuance of viability statements . . . . .	50
– Furnishing of samples . . . . .	50

The list of the kinds of microorganisms accepted for deposit by the above-mentioned international depositary authority remains unchanged.

The new schedule of fees set forth in the said notifications will apply as from the thirtieth day following the date (September 30, 1994) of publication of the said fees in the September 1994 issue of *Industrial Property*, that is, as from October 30, 1994 (see Rule 12.2(a) and (c) of the Regulations under the Budapest Treaty). The said fees will replace the fees as published in the July/August 1987 issue of *Industrial Property* (see Budapest Notification No. 63, of July 28, 1987).<sup>1</sup>

*Budapest Notification No. 92 (this notification is the subject of Budapest Notification No. 130, of August 26, 1994).*

<sup>1</sup> See *Industrial Property*, 1987, p. 248 et seq.

## Activities of WIPO

### Highlights—An Overview of Activities and Developments in the First Half of 1994

#### Introduction

During the first six months of 1994, significant achievements were attained in all three main areas of

WIPO's activities: development cooperation, setting of norms and international registration.

In the field of development cooperation, the vigorous level of activities was facilitated by the

bigger allocations for such work in the budget of WIPO in the new biennium (1994-95).

In the field of norm-setting, final preparations were made for the Diplomatic Conference for the Conclusion of the Trademark Law Treaty to be held in October 1994, and for the WIPO Arbitration Center which will become operational also in October 1994. Many useful ideas on how to master the challenge posed to copyright protection by digital technology were raised and discussed in several working groups organized for that purpose as well as at the WIPO Worldwide Symposium on the Future of Copyright and Neighboring Rights in June 1994.

In the field of the main international registration systems administered by WIPO—the PCT (Patent Cooperation Treaty) system and the international trademark registration system (Madrid Agreement Concerning the International Registration of Marks)—there was an encouraging increase in membership and use: membership increased by 10 and four States, respectively, while the number of international applications increased by 14.82% and 10.50%, respectively, compared to the same period last year.

The importance of international protection of intellectual property was further underlined by the increase in membership of the Organization and the Paris Union for the Protection of Industrial Property and Berne Union for the Protection of Literary and Artistic Works. During the period under review, the total of States members of WIPO increased from 143 to 149, the Paris Union from 117 to 126, and of the Berne Union from 105 to 108.

### Development Cooperation Activities

During the period under review, WIPO continued to receive many requests for assistance from developing countries. As the outlook with regard to extra-budgetary funds from the United Nations Development Programme (UNDP) further deteriorated, the high level of WIPO's assistance to developing countries could be sustained mainly because of the Organization's increased allocation from its own regular budget for such work.

A total of 94 developing countries and 11 inter-governmental organizations of developing countries benefited from WIPO's development cooperation program in the fields of industrial property and copyright and neighboring rights. Forty courses, seminars or other meetings were held at the global, regional or national levels, giving training or information to some 4,000 men and women coming from the government and private sectors. The travel and living expenses of 392 men and women were borne by WIPO, donor Member States of WIPO and inter-governmental organizations. Study visits were organized for 36 persons.

As for advisory missions relating to legislation and institution-building, 97 such missions were undertaken to 48 developing countries. The enactment of laws or the revision of existing ones remained the prime objective of missions dealing with legislation. As for institution-building, besides training on the job, the missions focused mainly on the streamlining and computerization of procedures in industrial property offices and on the use of CD-ROM technology in using and disseminating industrial property information. A number of such advisory missions also gave on-the-spot training to government officials or supervised the installation of computer equipment and software. Each mission was composed of WIPO officials and/or specially-recruited WIPO consultants. In total, 107 consultants were engaged either for advisory missions or as speakers in courses and seminars, with a significant proportion of those consultants, 30% of them, coming from developing countries.

The WIPO Academy conducted two two-week sessions for middle- and senior-level government officials from developing countries of Asia and the Pacific, and of Latin America and the Caribbean, respectively. The aim of each session was to present current intellectual property issues in such a way as to highlight the policy considerations behind them and thereby enable the participants in the Academy, on their return to their countries, to better formulate appropriate policies for their governments.

The WIPO Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights held its eleventh session in May and the WIPO Permanent Committee for Development Cooperation Related to Industrial Property held its sixteenth session in June. These two meetings were the occasion for the countries members of those Committees to review and evaluate the development cooperation activities carried out by WIPO since the last meetings of the said Committees, as well as to comment on the main orientations for those activities in 1994 and 1995.

Cooperation with developing countries at the regional or subregional level was further strengthened, as shown by the closer dialogue and cooperation with such organizations as the Association of South East Asian Nations (ASEAN), the Common Market of the Southern Cone (MERCOSUR), the Permanent Secretariat of the General Treaty on Central American Economic Integration (SIECA), the Andean countries (JUNAC (Board of the Cartagena Agreement)), the African Regional Industrial Property Organization (ARIPO) and the African Intellectual Property Organization (OAPI).

In carrying out its development cooperation program, WIPO received financial support or support in kind from 48 countries, both developing and industrialized, and six intergovernmental organizations, foremost among the latter being UNDP, the

European Patent Office (EPO) and the Commission of the European Communities. The donor countries which provided funds in trust for the program were France, Japan and Sweden.

### **Norm-Setting Activities**

Regarding work on the setting of norms and exploration of issues in possible need of norm-setting, substantial progress was achieved. The competent Committee of Experts held its sixth session in February and examined the provisions set forth in the draft Treaty on the Settlement of Disputes Between States in the Field of Intellectual Property and in the draft Regulations under the Treaty. The Committee decided that a further session would be necessary to further consider a number of issues and a decision in this respect will be made by the Governing Bodies at their meetings in September 1994. The Preparatory Meeting for the Diplomatic Conference to conclude the said Treaty was held in February. It considered and approved the text of the proposed Rules of Procedure for the Diplomatic Conference.

Preparations for the holding of the Diplomatic Conference for the Conclusion of the Trademark Law Treaty (to be held in Geneva from October 10 to 28, 1994) have been undertaken. The preparatory documents were sent to the States and intergovernmental and non-governmental organizations invited to participate in the Conference.

The Assembly of the Berne Union decided, in an extraordinary session in April, that a fourth session of the Committee of Experts on a Possible Protocol to the Berne Convention would be convened in December 1994, followed immediately by the third session of the Committee of Experts on a Possible Instrument for the Protection of Rights of Performers and Producers of Phonograms.

With regard to a Voluntary International Numbering System for Certain Categories of Literary and Artistic Works and for Phonograms, a Consultation Meeting was held in February on the establishment of such a system. The Consultation Meeting created four working groups on a possible numbering system for musical works and for phonograms, for computer programs, for printed works and for audiovisual works, respectively. They met in the first half of 1994. Most working groups supported the continuation of discussions. The Consultation Meeting should be convened again, possibly before the end of the year.

In March, WIPO jointly organized with the American Arbitration Association (AAA) a Worldwide Forum on the Arbitration of Intellectual Property Disputes at the headquarters of WIPO, in which the future WIPO Arbitration Center and its services were

presented. The International Bureau prepared, with the help of a Group of Experts which met twice, the drafts of the WIPO Arbitration, Expedited Arbitration and Mediation Rules, as well as of the model contract clauses for referring disputes to the WIPO Arbitration Center. These texts will be finalized for the advice of the WIPO Arbitration Council in September. It is expected that the Rules will enter into force in October, when it is expected that the WIPO Arbitration Center will commence operations.

### **Countries in Transition to a Market-Economy System**

In the first half of 1994, WIPO's contacts with countries in transition to a market-economy system were primarily in connection with those countries' programs for the preparation and enactment of intellectual property laws, the strengthening of industrial property offices, as well as adherence (principally by depositing with the Director General a declaration of continued application) to WIPO-administered treaties. Government leaders and officials from several of those countries had discussions in Geneva with the Director General and studied the International Bureau's work, while WIPO officials visited the capitals of several of the countries concerned to give further advice. A number of officials were invited for study visits at WIPO and to various countries. The International Bureau assisted them, on request, in the preparation of laws dealing with one or more aspects of intellectual property. Advice was also given on the establishment of administrative structures to implement those laws, while assistance and training were extended in relation to accession to WIPO-administered treaties. Staff members of the International Bureau lectured in seminars and meetings to promote awareness of the importance of intellectual property in those countries as well as in special training courses.

The International Bureau also gave advice and assistance relating to the Interstate Council for the Protection of Industrial Property (which groups nine States of the former Soviet Union, namely, Armenia, Belarus, Kazakhstan, Kyrgyzstan, the Republic of Moldova, the Russian Federation, Tajikistan, Ukraine and Uzbekistan) on a plan to set up a regional patent system under the Eurasian Patent Convention which was initialled in February at WIPO's headquarters.

### **Registration Activities**

Compared to the first six months of 1993, registrations increased in two international registration systems in the corresponding period of 1994. Under the PCT, there were 16,290 international applications, representing a growth of 14.82% compared to

the same six-month period in 1993. One hundred eighty-six of these international applications were filed directly with the International Bureau in its capacity as a receiving Office. This service of the International Bureau started on January 1, 1994. The total of the international deposits and renewals of industrial designs in the Hague system (Hague Agreement Concerning the International Deposit of Industrial Designs) was slightly higher in the first six months of 1994 than during the first six months of 1993; it was 2,754 rather than 2,674.

In the Madrid trademark system, the total number of registrations was 8,405, representing an increase of 10.50% compared to the same period in 1993. The total number of registrations and renewals, 10,671, also represented an increase compared to the corresponding figure in 1993 (9,784).

The Working Group on the Application of the Madrid Protocol of 1989 (Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks), which met in May, agreed on a number of changes to the Rules and Forms under the draft Regulations Under the Madrid Agreement and the Madrid Protocol. Those changes were taken into account by the International Bureau for the preparation of a new version of the Regulations, which were circulated for comments. Following the receipt of those comments, a final draft of the Regulations will be prepared for submission to the Assembly of the Madrid Union, once the required number of instruments of ratification or accession for the entry into force of the Protocol has been deposited.

The Committee of Experts on the Development of the Hague Agreement Concerning the International Deposit of Industrial Designs, which met in late January and early February, discussed in detail a draft New Act of the Hague Agreement containing solutions encouraging more accessions of States to

the Agreement and making the new Act more attractive for users.

### New Adherences to Treaties

During the period from January 1 to August 19, 1994, there was a marked increase in the number of States party to treaties administered by WIPO. The following States became party to, *inter alia*, the following treaties (the figures in brackets indicate the number of States party to the treaties on the latter date):

- Convention Establishing the World Intellectual Property Organization*: Andorra, Brunei Darussalam, Georgia, Guyana, Kyrgyzstan, Tajikistan (149);
- Paris Convention for the Protection of Industrial Property*: Armenia, Estonia, Georgia, Guyana, Kyrgyzstan, Liberia, Lithuania, Paraguay, Tajikistan (126);
- Berne Convention for the Protection of Literary and Artistic Works*: Estonia, Guyana, United Republic of Tanzania (108);
- Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure*: Republic of Moldova, Tajikistan (31);
- Nairobi Treaty on the Protection of the Olympic Symbol*: Republic of Moldova, Tajikistan (36);
- Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks*: China, Tajikistan (40);
- Patent Cooperation Treaty (PCT)*: Armenia, Estonia, Georgia, Kenya, Kyrgyzstan, Liberia, Lithuania, Republic of Moldova, Swaziland, Tajikistan (73);
- Madrid Agreement Concerning the International Registration of Marks*: Armenia, Kyrgyzstan, Republic of Moldova, Tajikistan (42).



## Governing Bodies of WIPO

### WIPO Coordination Committee

Thirty-Second (8th Extraordinary) Session  
(Geneva, July 29, 1994)

The WIPO Coordination Committee held its thirty-second (8th extraordinary) session in Geneva on July 29, 1994.<sup>1</sup>

The following 41 of the 58 member States of the Coordination Committee were represented: Argentina, Australia, Austria, Belgium, Brazil, Cameroon, Chile, China, Colombia, Czech Republic, Egypt, El Salvador, Finland, France, Germany, Hungary, India, Indonesia, Ireland, Japan, Kenya, Mexico, Namibia, Netherlands, Pakistan, Paraguay, Peru, Portugal, Republic of Korea, Romania, Russian Federation, Singapore, Slovenia, Spain, Sri Lanka, Sudan, Switzerland, United Kingdom, United States of America, Uruguay, Venezuela.

The following 15 States were represented in an observer capacity: Algeria, Ecuador, Ghana, Iraq, Jordan, Libya, Mauritius, Nicaragua, Norway, Senegal, South Africa, Thailand, Tunisia, United Republic of Tanzania, Zimbabwe. One intergovernmental organization, the Organization of African Unity (OAU), was also represented.<sup>2</sup>

The Coordination Committee made decisions on three matters which are described below.

*South Africa.* The Coordination Committee unanimously and by acclamation decided that, in view of the recent changes in South Africa, the decision taken at its 1977 session to exclude the then *Apartheid* regime of South Africa from all meetings of WIPO should cease to be applicable with immediate effect. Thereupon, at the invitation of the Chairman of the Coordination Committee, the Delegation of South Africa took its place in the meeting.

*WIPO Arbitration Council.* The Coordination Committee expressed its approval of the Director General's intention to appoint Mr. Jürgen Schmid-Dwertmann, Deputy Director General, Ministry of Justice, Germany, and Professor Tang Houzhi, Vice-Chairman, China International Trade and Economic Arbitration Commission (CIETAC), as members of the WIPO Arbitration Council.

*Staff Matters.* The Coordination Committee unanimously approved the appointment of Mr. Kamil E. Idris, a national of Sudan, to the post of Deputy Director General from August 1, 1994, to July 31, 2000, and gave favorable advice on the intention of the Director General to promote Mr. Jean-Luc Perrin, a national of France, and Mr. Yoshiyuki Takagi, a national of Japan, to grade D.1, as Director, Personnel Division, and Director, Industrial Property Information Division, respectively.

<sup>1</sup> For a note on the previous session, see *Industrial Property*, 1993, pp. 381 *et seq.*

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

## Registration Systems Administered by WIPO

### Patent Cooperation Treaty (PCT)

#### Meeting of International Authorities Under the PCT (PCT/MIA)

Fourth Session  
(Geneva, June 27 to July 1, 1994)

The PCT/MIA held its fourth session in Geneva from June 27 to July 1, 1994.<sup>1</sup>

The following nine International Authorities were represented at the session: Australian Industrial Property Organisation (AIPO), Austrian Patent Office, Chinese Patent Office (CPO), European Patent Office (EPO), Japanese Patent Office (JPO), Swedish Patent and Registration Office, United States Patent and Trademark Office (USPTO) in their capacities as International Searching and Preliminary Examining Authorities under the PCT; the Spanish Patent and Trademark Office in its capacity as an International Searching Authority; and the United Kingdom Patent Office in its (former) capacity<sup>2</sup> as an International Preliminary Examining Authority.

The Meeting agreed on a number of proposals for the modification of the Administrative Instructions and Forms of interest to the International Searching Authorities and the International Preliminary Examining Authorities.

The Meeting discussed in detail proposals by the USPTO intended to introduce more flexibility in the *Guidelines for International Preliminary Examination Under the PCT* in order to avoid conflict with practices followed in both national examination and international preliminary examination. Although concern was expressed over the possible dilution of the impact of international preliminary examination reports, which would result from accommodating specific national practices in the *Guidelines*, the Meeting agreed on a number of proposed changes.

Regarding the establishment of a uniform format for nucleotide and/or amino acid sequence listings,

the Meeting noted that agreement had been reached on a set of proposed mandatory requirements in the framework of the Trilateral Cooperation among the EPO, the USPTO and the JPO, with a view to establishing a common standard for sequence listings disclosed in international applications, but that questions relating to the language to be used in the said listings were still unresolved. Since, however, most elements of such listings were language-independent and that the sequence listing data banks exclusively used the English language for language-dependent elements, the Meeting agreed that the question of a common standard for, and the language of, sequence listings filed in and in connection with international applications should be further considered by a special meeting including experts in that specific field.

#### **Application of Rule 32 of the PCT Regulations (Successor States) in Kazakhstan and Uzbekistan**

In June 1994, in accordance with the above Rule, the International Bureau sent notifications to the applicants (or agents of applicants) of four international applications under the PCT—having international filing dates after December 25, 1991, and before April 16, 1993—informing them of the possibility of requesting, within three months from the date of mailing of the notifications, the extension of the effects of such applications to Kazakhstan.

Also in June 1994 and in accordance with the said Rule, the International Bureau sent notifications to the applicants (or agents of applicants) of 87 international applications under the PCT—having international filing dates after December 25, 1991, and before October 18, 1993—informing them of the possibility of requesting, within three months from the date of mailing of the notifications, the extension of the effects of such applications to Uzbekistan.

<sup>1</sup> For a note on the previous session, see *Industrial Property*, 1993, pp. 321 *et seq.*

<sup>2</sup> Although the United Kingdom Patent Office ceased to be an International Preliminary Examining Authority on May 30, 1993, it participated in the Meeting since it is still acting in that capacity in respect of demands for international preliminary examination filed by the said date.

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

*Israel.* In June 1994, a government official had discussions with WIPO officials in Geneva on ques-

tions related to Israel's possible accession to the PCT.

*United Kingdom.* In June 1994, two WIPO officials conducted a seminar on the PCT organized in London by Management Forum Ltd., an enterprise in the United Kingdom, for 30 patent administrators and legal assistants from industry and law firms from Denmark, the Netherlands, Sweden and the United Kingdom.

*United States of America.* In June 1994, three WIPO officials and a WIPO consultant from the United States of America met with government officials of the USPTO in charge of PCT operations in Washington, D.C., to discuss the implementation of PCT procedures and to give training to new members of the USPTO staff.

Also in June 1994, two WIPO officials and a WIPO consultant from the United States of America spoke at an advanced PCT round table organized by a private enterprise for some 25 patent administrators from industry and law firms in Madison (New Jersey).

Later in June 1994, three WIPO officials conducted practical training at a PCT seminar organized in Boston (Massachusetts) by the Boston Patent Law Association (BPLA) for some 60 patent attorneys and administrators and legal assistants.

*European Patent Office (EPO).* In June 1994, a WIPO official had discussions with EPO officials in Munich on various PCT matters, in particular the exchange of data and Euro-PCT statistics.

*Centre for International Industrial Property Studies (CEIPI).* In June 1994, seven CEIPI tutors and three students visited WIPO where they were briefed on the PCT by WIPO officials.

### **Computerization Activities**

*United States of America.* In June 1994, two government officials had discussions on PCT matters with WIPO officials in Geneva and were given a presentation of the DICAPS (*Document Imaging and Computer-Assisted Publication System*) system used in the operations under the PCT.

## **Madrid Union**

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

*Bosnia and Herzegovina.* In June 1994, Mr. Krešimir Puškarić, Head of Patents, Designs and Trademarks, had discussions with WIPO officials in Geneva on the use of the CD-ROM workstation donated by WIPO under the Madrid Agreement Concerning the International Registration of Marks.

### **Computerization Activities**

*Austria/Liechtenstein/Switzerland.* In June 1994, two WIPO officials attended, in Vienna, a meeting

of representatives of the industrial property administrations of those three countries to discuss plans for a possible common CD-ROM for national marks.

*Canada/United Kingdom/United States of America.* In June 1994, three WIPO officials had discussions in Ottawa with government officials from Canada, the United Kingdom and the United States of America on electronic communications between the International Bureau and offices of future Contracting Parties of the Madrid Agreement and Madrid Protocol relating thereto.

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

### Africa

#### Training Courses, Seminars and Meetings

*WIPO National Seminar on the Role of Trademarks in Economic Development (Senegal).* From June 7 to 9, 1994, WIPO organized that Seminar at Saly-Portudal, in cooperation with the Government of Senegal. It was attended by some 60 participants from government circles and public and private enterprises. Presentations were made by a WIPO consultant from France, a WIPO official and a government official of Senegal.

#### Assistance With Training, Legislation and Modernization of Administration

*Congo.* In June 1994, a government official held discussions with WIPO officials in Geneva on the patent documentation needs of the National Industrial Property Unit.

*Lesotho.* In June 1994, the International Bureau prepared and sent to the government authorities, at their request, comments on proposed amendments to the Industrial Property Order, 1989.

*Liberia.* In June 1994, a government official had discussions with WIPO officials in Geneva on the modernization of the country's industrial property system.

*Madagascar.* In June 1994, WIPO organized a study visit for the Director General of the Malagasy Industrial Property Office (OMAPI) to the National

Institute of Industrial Property (INPI) of France in Paris, the Swiss Federal Intellectual Property Office (FIPO) in Berne and WIPO in Geneva. The study visit was aimed at gathering information on the management of an industrial property office and discussing future cooperation with WIPO, including matters relating to the Madrid Agreement Concerning the International Registration of Marks and the Patent Cooperation Treaty (PCT).

*Mauritius.* In June 1994, the Resident Representative of the United Nations Development Programme (UNDP) in Mauritius visited WIPO in Geneva to discuss WIPO's activities in Mauritius.

*Swaziland.* In June 1994, Mr. Andrias M. Mathabela, Registrar General, had discussions with WIPO officials in Geneva on the revision and updating of the draft Patents, Utility Models and Industrial Designs Bill, 1994, and on matters relating to the PCT.

*Zaire.* In June 1994, Mr. Pierre Tshime Shabangu, Director of Industrial Property, held discussions with WIPO officials in Geneva on the possible continuation of the WIPO country project.

*Organization of African Unity (OAU).* In June 1994, the Director General, who was accompanied by three other WIPO officials, addressed the Council of Ministers of the OAU which held its 60th ordinary session in Tunis.

Also in June 1994, a WIPO official attended the official opening of the OAU Assembly of Heads of State and Government, held in Tunis.

### Arab Countries

#### Assistance With Training, Legislation and Modernization of Administration

*Egypt.* In June 1994, a government official held discussions with WIPO officials in Geneva on matters of mutual cooperation.

*Morocco.* In June 1994, Mr. Aziz Bouazzaoui, Director of the Moroccan Industrial Property Office, discussed with WIPO officials in Geneva activities to be implemented under the UNDP-financed country project for Morocco, as well as the possible extension of that project. The revision of the Moroccan

industrial property legislation and the restructuring and modernization of the Moroccan Industrial Property Office were also discussed.

*Sudan.* In June 1994, Mr. Abd Elrahman Ahmed Ibrahim, Commercial Registrar General, discussed with WIPO officials in Geneva cooperation between Sudan and WIPO.

*Tunisia.* In June 1994, the Director General, accompanied by three other WIPO officials, visited the National Institute for Standardization and Industrial Property (INNORPI) in Tunis and held discussions with its President Director General on cooperation between Tunisia and WIPO.

Also in June 1994, a government official discussed with WIPO officials in Geneva the proposed UNDP-financed country project for Tunisia.

## Asia and the Pacific

### Training Courses, Seminars and Meetings

*WIPO-Association of South East Asian Countries (ASEAN) Second Consultation Meeting on Cooperation in the Field of Intellectual Property (Geneva).* In June 1994, WIPO organized the WIPO-ASEAN Second Consultation Meeting on Cooperation in the Field of Intellectual Property at its headquarters in Geneva. The ASEAN Secretariat was represented by Dato' Ajit Singh, Secretary General, and the ASEAN member countries (Brunei Darussalam, Indonesia, Malaysia, Philippines, Singapore, Thailand) by the ASEAN Geneva Committee, at the level of Permanent Representatives and Heads of Missions. WIPO was represented by the Director General and several other WIPO officials. A review was undertaken of the activities carried out in 1993 by WIPO in cooperation with the ASEAN member countries and the ASEAN Secretariat and follow-up action as well as suggestions for future activities were considered and agreed upon.

*WIPO-ASEAN Subregional Seminar on the Enforcement of Intellectual Property Rights (Thailand).* From June 15 to 17, 1994, WIPO organized that Seminar in Bangkok, in cooperation with the Government of Thailand and the European Patent Office (EPO) and with the assistance of the Commission of the European Community (CEC). It was attended by 17 participants from Brunei Darussalam, Indonesia, Malaysia, the Philippines and Singapore and 46 participants from Thailand, representing the intellectual property offices of those countries, other government departments, the police, the judiciary and private sector associations. Papers were presented by four WIPO consultants from France, Sweden and the United Kingdom as well as by participants from Malaysia and the Philippines. A paper was also presented by an EPO consultant from the United Kingdom. The Seminar was financed under the European Commission (EC)-ASEAN Patents and Trademarks Program.

### Assistance With Training, Legislation and Modernization of Administration

*European Commission (EC) Patents and Trademarks Program.* In June 1994, a WIPO official attended in Munich a coordination meeting with officials of the European Commission and the EPO on the EC-ASEAN Patents and Trademarks Program. Progress of activities conducted so far by WIPO and the EPO as well as coordination of future activities were discussed.

*Bangladesh.* In June 1994, a government official had discussions with WIPO officials in Geneva on a possible follow-up to the UNDP-financed country project for the strengthening of the industrial property system of Bangladesh.

*Bhutan.* In June 1994, a government official held discussions with WIPO officials in Geneva on matters of mutual interest.

*Brunei Darussalam.* In June 1994, a WIPO official undertook a mission to the Registry of Trade Marks in Bandar Seri Begawan to assess the trademark computerization requirements of the Registry and to investigate the feasibility of publishing trademark information of Brunei Darussalam on CD-ROM. The mission was financed under the EC-ASEAN Patents and Trademarks Program.

*China.* In June 1994, five government officials held discussions with WIPO officials in Geneva on matters of mutual interest in the intellectual property field.

Also in June 1994, a WIPO official and a WIPO consultant from the United States of America undertook a mission to Beijing and Wuhan to review the preparations for China's possible accession to the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure.

*Fiji.* In June 1994, a government official held discussions with WIPO officials in Geneva on matters of mutual interest, in particular, on the proposed UNDP-financed country project for the modernization of the industrial property system and on intellectual property legislative issues in the country.

*India.* In June 1994, two government officials held discussions with WIPO officials in Geneva on the progress of the two UNDP-financed country projects for the modernization of the patent information system and the modernization of the trademark administration in India, respectively.

Also in June 1994, a government official had discussions with the Director General and other WIPO officials in Geneva on matters of mutual interest and reviewed in detail the progress of the UNDP-financed country project on trademarks.

Also in June 1994, a WIPO official undertook a mission to Bombay to assess the progress of computerization of the Trade Marks Registry under the said UNDP-financed country project in the field of trademarks.

*Indonesia.* In June 1994, a WIPO official undertook a mission to Jakarta to review the further computerization of the Directorate General of Copyrights, Patents and Trademarks. The mission was undertaken under the UNDP-financed country project.

*Laos.* In June 1994, the UNDP Resident Representative Designate in Laos held discussions with WIPO officials in Geneva on development cooperation extended by WIPO to Laos, the advantages for Laos of becoming a Member State of WIPO and other matters in the field of industrial property.

*Malaysia.* In June 1994, a government official held discussions with WIPO officials in Geneva on the progress of the ongoing UNDP-financed country project and the development of human resources and awareness-building seminars that WIPO proposes to organize in Malaysia.

Also in June 1994, the International Bureau prepared and sent to the government authorities, at

their request, comments on the draft industrial designs act.

*Pakistan.* In June 1994, Mr. Abdul Ghaffar Qureshi, Registrar of Trade Marks, had discussions with WIPO officials in Geneva on WIPO's possible assistance in modernizing the services of the Registry of Trade Marks and Pakistan's possible accession to various WIPO-administered treaties.

*Philippines.* In June 1994, a government official held discussions with WIPO officials in Geneva on matters of mutual interest.

*Republic of Korea.* In June 1994, Mr. Kwang-Koo Ahn, Commissioner of the Korean Industrial Property Office (KIPO), visited WIPO and discussed with the Director General and other WIPO officials WIPO's development cooperation activities in the Republic of Korea, the further computerization of KIPO, the PCT and the WIPO Arbitration Center.

*Singapore.* In June 1994, a WIPO official undertook a mission to the Registry of Trade Marks and Patents to evaluate the Registry's computer system for trademark operations and assess the feasibility of publishing trademark data on CD-ROM. The mission was financed under the EC-ASEAN Patents and Trademarks Program.

*Sri Lanka.* In June 1994, a government official held discussions with WIPO officials in Geneva on matters of mutual interest, in particular, on the proposed UNDP-financed country project for the modernization of the industrial property system.

*Thailand.* In June 1994, a government official held discussions with WIPO officials in Geneva on cooperation between Thailand and WIPO.

*United Nations Development Programme (UNDP).* In June 1994, two WIPO officials attended an inter-agency meeting convened in Geneva by the UNDP Regional Bureau for Asia and the Pacific on the mid-term review of the ongoing UNDP-financed regional program. Separate discussions were also held at WIPO between WIPO and UNDP officials concerning future activities under that program.

## Latin America and the Caribbean

### Training Courses, Seminars and Meetings

*WIPO Roving National Seminars on Trademarks (Brazil).* On June 7 and 8, 1994, in Sao Paulo, and on June 9 and 10, 1994, in Rio de Janeiro, WIPO

organized two Seminars jointly with the National Institute of Industrial Property (INPI) of Brazil. Ninety participants attended the Seminar in Sao Paulo and 120 in Rio de Janeiro. They came mainly from government circles and law firms. Presentations

were made by two WIPO consultants from France and the United States of America, a WIPO official, as well as by INPI officials.

*Andean Countries.* In June 1994, a WIPO official and a WIPO consultant from Chile attended a meeting of the national industrial property offices of the Andean countries in Santa Fe de Bogotá. The meeting was also attended by government officials of Colombia, Ecuador, Peru and Venezuela and officials of the Secretariat of the Board of the Cartagena Agreement (JUNAC). The meeting discussed possible areas of cooperation among the industrial property offices of the five Andean countries and between them and WIPO, as well as a possible cooperation project to be financed by the Inter-American Development Bank (IDB) and implemented by WIPO.

*Common Market of the Southern Cone (MERCOSUR).* In June 1994, a WIPO official attended a meeting of the Intellectual Property Commission of MERCOSUR held in Asunción. It was also attended by government officials of Argentina, Brazil, Paraguay and Uruguay. The WIPO official presented the draft provisions on the legal protection of inventions and industrial designs and on copyright, sent to the governments earlier that month. A work program was adopted by the meeting.

*Permanent Secretariat of the General Treaty on Central American Economic Integration (SIECA).* In June 1994, a WIPO official participated in the second technical meeting on industrial property convened by the Permanent Secretariat in Managua. The meeting examined the draft protocol amending the Central American Convention for the Protection of Industrial Property (Marks, Trade Names and Advertising Slogans and Signs), which was prepared by WIPO.

### Assistance With Training, Legislation and Modernization of Administration

*Colombia.* In June 1994, a WIPO official held discussions with government officials in Santa Fe de Bogotá on the intellectual property situation in the country.

*Jamaica.* In June 1994, a government official had discussions with WIPO officials in Geneva on the revision of the country's patent and trademark laws as well as on the establishment of a patent documentation center.

*Mexico.* In June 1994, the International Bureau prepared and sent to the government authorities, at their request, comments on the Industrial Property Amendment Bill.

*Peru.* In June 1994, a WIPO official had discussions, in Lima, with Peruvian Parliamentarians on the possible accession of Peru to the Paris Convention for the Protection of Industrial Property.

*Common Market of the Southern Cone (MERCOSUR).* In June 1994, the International Bureau prepared and sent to the government authorities of the MERCOSUR countries, at their request, draft provisions on the legal protection of inventions and industrial designs, and on copyright.

*Organization of Eastern Caribbean States (OECS).* In June 1994, WIPO sent to the OECS Central Secretariat, at its request, a draft technical assistance project in the field of industrial property, which envisages the modernization of the industrial property system in the OECS member States.

## Development Cooperation (in General)

### Training Courses, Seminars and Meetings

*WIPO Permanent Committee for Development Cooperation Related to Industrial Property.* The WIPO Permanent Committee for Development Cooperation Related to Industrial Property held its sixteenth session in Geneva from June 20 to 23, 1994.<sup>1</sup>

<sup>1</sup> For a note on the previous session, see *Industrial Property*, 1993, pp. 114 *et seq.*

Seventy-three States members of the Permanent Committee were represented at the session: Algeria, Argentina, Australia, Austria, Bangladesh, Benin, Brazil, Burkina Faso, Burundi, Canada, Central African Republic, Chad, Chile, China, Colombia, Congo, Costa Rica, Croatia, Democratic People's Republic of Korea, Ecuador, Egypt, El Salvador, France, Gambia, Germany, Ghana, Guinea, Guinea-Bissau, Hungary, India, Indonesia, Iraq, Israel, Italy, Jamaica, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mexico, Mongolia, Morocco, Netherlands, Nicaragua, Niger, Pakistan, Paraguay,

Philippines, Portugal, Republic of Korea, Romania, Senegal, Sierra Leone, Slovenia, Spain, Sudan, Swaziland, Sweden, Switzerland, Togo, Tunisia, Turkey, Uganda, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Zaire, Zambia, Zimbabwe. Dominica was represented as an observer.

Observers from six intergovernmental organizations, namely, Benelux Trademark Office (BBM), CEC, EPO, General Agreement on Tariffs and Trade (GATT), League of Arab States (LAS), UNDP, and five international and national non-governmental organizations, namely, European Communities Trade Mark Association (ECTA), International Association for the Protection of Industrial Property (AIPPI), International Federation of Inventors' Associations (IFIA), Licensing Executives Society (LES)-Colombia-Ecuador, Max Planck Institute for Foreign and International Patent, Copyright and Competition Law (MPI), also participated in the meeting.<sup>2</sup>

The meeting was opened by a WIPO official, on behalf of the Director General of WIPO. He underlined that the period since the Permanent Committee's last session in 1992 had been full and active. Developing countries have continued to express substantial interest in, and demand for, the development cooperation services, advice and assistance of WIPO, and the International Bureau had made all efforts to respond in full. Referring to the resources available to WIPO for development cooperation, he underlined the fact that the discouraging trend in UNDP funding, noted by the Permanent Committee at previous sessions, had regrettably been confirmed, with particularly severe consequences for the regional projects managed by WIPO. Despite the concerted and consistent efforts of the International Bureau, at all levels, to prepare and submit well-designed proposals for UNDP financing, extra-budgetary funds available to WIPO from UNDP had not adequately matched expectations. This erosion of extra-budgetary funds for development cooperation activities in industrial property warrants the attention and concern of the Permanent Committee. In view of the reduced possibilities for external funding of its development cooperation activities, WIPO increased by nearly 30 percent, compared to the budget for the 1992-93 biennium, the allocation to the development cooperation program in the regular budget for the 1994-95 biennium. He recalled that the introduction, on January 1, 1994, of WIPO's new unitary contribution system helps to reduce for all developing countries, and in particular the least developed countries (LDCs), the financial burden incurred by their membership in WIPO and accession to the WIPO-administered treaties. Furthermore, he drew the attention of the delegations to some innovations in

WIPO's development cooperation activities, notably the establishment of the WIPO Academy, the grant of long-term fellowships for the study of intellectual property in academic institutions and the provision of CD-ROM technology and its related products to developing countries.

The Committee elected its officers for the session and subsequently reviewed and evaluated the activities under the Permanent Program since the last session of the Permanent Committee (November 1992) and the main orientations of the Permanent Program in 1994 and 1995, on the basis of a document prepared by the International Bureau.

Delegations of 57 countries and observers from three intergovernmental organizations and a non-governmental organization took the floor.

Virtually all the delegations commended the International Bureau on the excellence of the documentation before the meeting which was found to be comprehensive, balanced and lucid. All delegations were unanimous in their positive evaluation of the orientation, scope and substance of WIPO's development cooperation program during the period under review. WIPO's activities were regarded as having been carried out in response to the wishes of developing countries and had successfully attained the targets set for the program.

Numerous delegations of developing countries stressed the importance they attached to the UNDP-financed projects executed by WIPO in the field of industrial property and urged that such technical cooperation should continue and grow. They all regretted the reduced funding available from UNDP for projects in the field of industrial property, in particular regional projects which were considered especially useful as a means of reinforcing efforts at the national level. The International Bureau was urged to intensify its contacts with UNDP in order to try to increase the availability of funds. At the same time, the International Bureau should redouble its efforts in the search for new sources of funds, including from potential donor countries. While expressing appreciation of the contributions, in cash and kind, from existing donor countries, those delegations expressed the hope that the latter countries would increase their contributions in the future. The delegations of the donor countries which spoke gave the assurance that they would continue to contribute to WIPO's development cooperation program as the activities are of benefit to all concerned.

A number of delegations also noted that although WIPO's budget for the 1994-95 biennium has an increased allocation for development cooperation activities, they were, however, of the opinion that the amount for such activities should be further increased in the next biennium.

There was unanimous support for the main orientations of WIPO's development cooperation program for the 1994-95 biennium, and the desire was

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



expressed for a continuation and intensification of the development cooperation activities, notably in areas such as development of human resources, revision of legislation, modernization and computerization of industrial property administrations and information systems. A number of delegations underlined the importance of assistance in promoting regional and subregional cooperation at the request of groups of countries.

The suggestions and requests for development cooperation assistance and activities to be carried out by WIPO in the rest of the 1994-95 biennium were noted by the International Bureau and will be taken into account when it plans its future activities.

The Permanent Committee urged the International Bureau to be at the disposal of developing countries wishing to receive advice concerning the compatibility of their existing or planned national intellectual property legislation not only with treaties administered by WIPO but also with other international norms and trends, including the recently concluded GATT TRIPS (trade-related aspects of intellectual property rights) Agreement. In this connection, many delegations indicated the need for WIPO to prepare studies on the implications of the said Agreement on the treaties administered by WIPO.

The Permanent Committee agreed with the proposal to hold a symposium during the seventeenth session of the Permanent Committee to deal with the enforcement of industrial property rights.

*WIPO Symposium on the Use of Trademarks and Appellations of Origin in the Promotion of Exports from Developing Countries to International Markets (Geneva).* As decided at its fifteenth session (November 1992), the WIPO Permanent Committee for Development Cooperation Related to Industrial Property devoted part of its sixteenth session in June 1994 to a Symposium on the Use of Trademarks and Appellations of Origin in the Promotion of Exports from Developing Countries to International Markets. The participants in the Symposium were the same States and organizations which attended the sixteenth session of the Permanent Committee. Presentations were made by a WIPO consultant from France and a WIPO official and were followed by a discussion and an exchange of views among the participants.

Also as decided at the last session of the Permanent Committee in 1992, the delegations were given a demonstration by WIPO officials of CD-ROM products in the field of industrial property information and documentation.

*WIPO Training Seminar on "Search and Examination of Patent Applications Concerning Chemical*

*Components, Especially Pharmaceuticals" (Geneva, The Hague, Vienna).* In June 1994, WIPO organized that Seminar in English, in cooperation with the EPO and the Austrian Patent Office, in The Hague, Vienna and Geneva. Sixteen government officials from Brazil, Cuba, Egypt, Indonesia, Malaysia, Mexico, Morocco, Pakistan, the Philippines, the Republic of Korea, Thailand, Venezuela and Viet Nam participated in the Seminar; the travel and subsistence costs of 14 of the participants were funded by the EPO.

*WIPO Training Seminar on Patent Searching and Examination (Geneva, Madrid, Munich).* In June 1994, WIPO organized that Seminar in Spanish, in cooperation with the EPO and the Spanish Patent and Trademark Office, in Madrid, Munich and Geneva. Fifteen government officials from Argentina, Brazil, Colombia, Cuba, El Salvador, Mexico, Panama, Peru and Venezuela participated in the Seminar; the travel and subsistence costs of 13 of the participants were funded by the EPO.

*WIPO Academy—Session for Developing Countries of Asia and the Pacific (Geneva).* From June 6 to 17, 1994, WIPO organized, in Geneva, a session of the WIPO Academy specially designed for developing countries of Asia and the Pacific. The aim of the program was to inform the participants of the main elements and current issues relating to intellectual property, present those elements and issues in such a way as to highlight the policy considerations behind them and thereby to enable the participants, after their return to their respective countries, to strengthen their role in the formulation of government policies on intellectual property questions, particularly the impact of those questions on cultural, social, technological and economic development. Fourteen government officials from Bangladesh, Bhutan, Brunei Darussalam, China, Fiji, India, Malaysia, Mongolia, Pakistan, the Philippines, Sri Lanka and Thailand attended the session. The coordinator of the session was Professor Karl F. Jorda from the United States of America, and presentations were made by nine WIPO consultants from Germany, Switzerland, the United Kingdom and the United States of America, as well as by WIPO officials.

*United Nations Development Programme (UNDP).* In June 1994, WIPO was represented at the Annual Session of the UNDP Executive Board held in Geneva.

## WIPO Medals

In June 1994, two WIPO medals were awarded to the winners of the best invention and best student invention at the Fifth Annual Technology Fair and National Invention Contest in Manila.

Also in June 1994, the Director General awarded a WIPO medal to Mr. Farag Moussa, President of IFIA, in recognition of his contribution to promoting inventive activity and international cooperation among inventors' associations.

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

### Regional Activities

*Training Course for Industrial Property Attorneys in Central Asia (Kazakhstan).* From June 14 to 17, 1994, that Training Course was organized in Almaty by the National Patent Office of Kazakhstan in cooperation with WIPO. Over 130 participants, who were government officials and patent attorneys as well as patent specialists from enterprises, from Kazakhstan, Kyrgyzstan and Uzbekistan attended the Course. The Course was opened by Mr. G.A. Abilsiitov, Vice Prime Minister of Kazakhstan, and the Director General of WIPO. Two other WIPO officials also attended the Course. Papers were presented by three WIPO consultants from France, Germany and the United Kingdom and by a government official from Kazakhstan.

*United Nations.* In June 1994, a WIPO official attended an interagency meeting on cooperation with Central and Eastern Europe convened by the United Nations Economic Commission for Europe (ECE), in Geneva.

*WIPO/European Patent Organisation (EPO) Cooperation.* In June 1994, four WIPO officials held discussions with EPO officials in Munich to better coordinate the two organization's respective and joint assistance to Central and Eastern European and Central Asian countries.

### National Activities

*Albania.* In late May and early June 1994, WIPO organized study visits for two government officials to the Austrian Patent Office in Vienna, the Swiss Federal Intellectual Property Office in Berne, to the headquarters of WIPO in Geneva and to the Industrial Property Department in Ankara, to observe the organization of a patent office and receive training in patent and trademark procedures. In Berne, they were accompanied by a WIPO official. At WIPO, they had discussions with WIPO officials on industrial property legislation and the United Nations Development Programme (UNDP)-financed country project. The study visits were financed under that project.

*Bulgaria.* In June 1994, two WIPO officials had discussions with government and UNDP officials in Sofia on activities carried out under the UNDP-financed country project.

*Estonia.* In June 1994, the International Bureau prepared and sent to the government authorities, at their request, a draft announcement on the protection of industrial property in Estonia.

*Kazakhstan.* In June 1994, on the occasion of his participation in the Training Course for Industrial Property Attorneys in Central Asia which was held in Almaty, the Director General was received by the Vice President of Kazakhstan, and discussed with

him and government officials cooperation between Kazakhstan and WIPO, the proposed Eurasian patent system and the possible organization of a regional copyright seminar in Almaty in 1995.

*Romania.* In June 1994, a government official had discussions with WIPO officials in Geneva on Romania's possible accession to the WIPO-administered international classification treaties.

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

### **National Contacts**

*Denmark.* In June 1994, two WIPO officials had discussions with government officials in Copenhagen on the draft Patent Law Treaty, the Protocol Relating to the Madrid Agreement for the International Registration of Marks (Madrid Protocol) and the draft Trademark Law Treaty.

*France.* In June 1994, a WIPO official participated as a speaker in a Colloquium on the Fight Against Counterfeiting jointly organized in Paris by the Ministry of the Economy and the Ministry of the Budget of France.

*Israel.* In June 1994, a government official had discussions with WIPO officials in Geneva on arbitration matters.

*Turkey.* In June 1994, a WIPO official undertook a mission to Ankara to give training in trademark administration and classification under the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Classification) and the Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks (Vienna Classification) to some 20 staff members of the Industrial Property Department. He also had discussions with government officials on the modernization of the said Department and Turkey's possible accession to further WIPO-administered treaties. The mission was carried out under the

United Nations Development Programme (UNDP)-financed country project.

Also in June 1994, WIPO organized a study visit for two government officials to the European Patent Office (EPO) and German Patent Office in Munich to receive training in trademark operations. This activity was undertaken under the above-mentioned country project.

### **Intergovernmental Organizations**

*European Commission.* In June 1994, two officials of the said Commission had discussions with the Director General in Geneva on WIPO's norm-setting activities and on cooperation between the two organizations.

*European Patent Organisation (EPO).* In June 1994, a WIPO official attended the 52nd meeting of the Administrative Council of the EPO, held in Munich.

*International Vine and Wine Office (OIV).* In June 1994, a WIPO official attended the 74th General Assembly of OIV, held in Paris.

### **Other Organizations**

*American Bar Association (ABA).* In June 1994, a WIPO official attended the Special Intellectual Prop-

erty Law Conference of ABA, held in Hot Springs (Virginia, United States of America).

*French Association of Industrial Property Specialists in Industry (ASPI)*. In June 1994, a group of 18 members of ASPI visited WIPO and were briefed by WIPO officials on the Organization's activities.

*French Association of Practitioners in Trademark and Design Law (APRAM)*. In June 1994, a WIPO official made a presentation on the WIPO Arbitration Center, the revision of the Hague Agreement Concerning the International Deposit of Industrial Designs and the draft Trademark Law Treaty at a working meeting of APRAM, held in Paris.

*German Association for Industrial Property and Copyright (DVGR)*. In June 1994, a WIPO official attended the annual meeting of DVGR, held in Stuttgart (Germany).

*Institut für gewerblichen Rechtsschutz (INGRES)*. In June 1994, two WIPO officials attended an information meeting on intellectual property organized by INGRES in Zurich (Switzerland). One of the WIPO officials gave a presentation on, and the other a demonstration of, WIPO's ROMARIN (for marks) and IP-LEX (for intellectual property legislation) CD-ROMs.

*International Association for the Protection of Industrial Property (AIPPI)*. In June 1994, AIPPI held a meeting of its Executive Committee in Copenhagen. About 300 members of AIPPI participated in the meeting, which was opened by the President of the Danish AIPPI Group, Mogens Plesner, and presided over by the Executive President of AIPPI, Mrs. Joan Clark (Canada), and other officers of AIPPI.

WIPO was represented by its Director General, Dr. Arpad Bogoch, Mr. François Curchod (Deputy Director General) and Mr. Niels Svendsen (Consultant).

At the opening ceremony, the Director General of WIPO delivered an address which is reproduced below.

The Executive Committee dealt with the following questions: harmonization of certain provisions of the legal systems for protecting inventions; harmonization of trademark law/harmonization of formal requirements for trademark applications, registrations and amendments thereof; possibility of arbitration of intellectual property disputes between private parties; Patent Cooperation Treaty (PCT); biotechnology; effective protection against unfair competition under Article 10bis of the Paris Convention for the Protection of Industrial Property; trademark licensing and franchising; trade and service

marks and geographical indications; restitution of patents and patent application rights which have lapsed because of post filing defaults in meeting time limits.

During the same period, the Council of Presidents of AIPPI held several meetings. At the conclusion of the meetings, the Executive Committee adopted a number of resolutions. The essential contents of some of the resolutions adopted are reproduced below.

#### *Address by the Director General of WIPO*

"Madame Joan Clark, Executive President of AIPPI,  
Mr. Per Lund Thoft, Director General of the Danish Patent Office,  
Mr. Mogens Plesner, President of the Danish National Group of AIPPI and of the Organizing Committee,  
Ladies and Gentlemen,

It is, as always, a most welcome occasion for the World Intellectual Property Organization to address the Executive Committee of AIPPI.

The International Bureau and I personally have a constant and close contact with your Secretary General, Martin Lutz, and the other officers of AIPPI. A practice has developed in the last years that they visit me and my principal collaborators, and among them our Deputy Director General, François Curchod, in Geneva, for a business lunch in which we inform each other of the status of the program of our respective organizations and decide in what practical ways we can assist each other in the realization of our goals. These goals are fundamentally the same: to make the international protection of industrial property stronger and more secure, and the acquisition and the maintenance of such protection more user friendly.

Another way of interacting between AIPPI and WIPO consists of AIPPI's participation in our meetings. In practically all the WIPO meetings that advise on, or decide, policy, an AIPPI delegation participates and usually participates very actively: it may and does speak on any subject at all times and brings into our discussions its tremendous knowledge and experience, which makes our meetings a dialogue between governments and the users of industrial property. Your representatives warn against any proposal that, in their opinion, is unrealistic or counterproductive, and make proposals that they consider to be just and practical.

Among the numerous topics of mutual interest, I shall mention only five. I shall speak of the status in which each of them is at the present moment. All five topics concern multilateral

treaties: two are in the field of patents, one is in the field of industrial designs and two are in the field of marks.

In the field of patents, we have the plan of the Patent Law Treaty, the PLT. The first part of the Diplomatic Conference for the adoption of this Treaty took place three years ago, in The Hague, in June 1991. The second part was planned to take place in July 1993, but it was postponed, at the request of the United States of America, which wanted to reexamine its position. After having done so, the United States of America, in January of this year (1994), declared that 'it would not seek to resume negotiations ... at this time' and that it 'will maintain our [its] first-to-invent system while keeping open the option of full patent harmonization in the future.'

I am anxious to see the Diplomatic Conference resume and decide whether a PLT, with or without making the first-to-file system immediately obligatory, is acceptable. I am proposing that the 125 member States of the Paris Union, when they meet three months from now in September, reconsider the list of topics to be dealt with by the Diplomatic Conference and decide that the second and, hopefully, last part of that Conference be held in the month of May of next year (1995).

Naturally, the crux of the question is what changes, if any, should be made in the agenda of the Diplomatic Conference. Should one be less ambitious? Should one omit 'first to file' and, if so, should one not, as a condition for doing it, inscribe rules which would make the position of non-U.S. applicants for U.S. patents not only *de jure* but also *de facto* equal to the position of U.S. applicants? At the same time, should one maintain the draft article on the grace period, causing hesitations in some European countries, and should one maintain the draft article on the time limits for patent search and examination, causing hesitations, in particular, in Japan?

I have prepared proposals containing these and several other alternatives for consideration by the September 1994 session of the Paris Union Assembly. They are contained in WIPO document P/A/XXII/1, made available to AIPPI three weeks ago.

As far as your Executive Committee's present meeting is concerned, there is no topic, in the view of WIPO, which would be more important and more urgent than this one, because the International Bureau and, I presume, many of the governments of our member States, are most interested in knowing what the advice of AIPPI is going to be.

The second matter in the field of patents concerns the Patent Cooperation Treaty, the PCT. Our investigation of the possibility of the so-

called 'super' search has led me to believe that we should examine a somewhat different approach, which could be called 'multiple'—rather than 'super'—search. Under the multiple search system, an applicant filing an international (PCT) application could, *if he so desired*, ask for an international search not only from one, but from two or more International Searching Authorities. For example, he could ask for search reports from the European, the United States and the Japanese Patent Offices. He could ask for them simultaneously or, subject to certain conditions, one after the other. The latter would allow the applicant to incur the expense for any further report or reports only if the report or reports that he already has are, in his opinion, not conclusive.

Here, too, I am very interested in your advice, the more so as it would seem to me useful to pursue this idea with the above-mentioned three, and possibly also other, great patent offices only if, in principle, the members of the profession show interest. I repeat, however, that the multiple international search system, if there is one, would be optional, that is, the present system—one search report only—would also remain available.

I come to the third topic, the treaty on industrial designs. The draft for a revision of the Hague Agreement on the International Deposit of Industrial Designs has been under discussion for more than two years.

A further session of the Committee of Experts will take place in 1995. I believe that an agreement is in sight, although there is some criticism that too many concessions are proposed for accommodating the present design patent system of the United States of America. I hope that that system will eventually be changed by eliminating from it the features which suit patents for inventions, but are unusual for industrial designs. However, changing the United States law may take a long time. In the meantime, I do not see much harm in accommodating the United States of America, that is, the present system of the United States of America, as long as it is maintained, without, however, the *Hilmer* doctrine. Applicants who do not wish to comply, under the Hague system, with those features of the U.S. system, could simply not designate the United States of America in their international applications under the Hague Agreement. Naturally, when they file direct in the United States Patent and Trademark Office (USPTO), that is, without using the Hague system, they would have to comply with the said features, so that the problem is of little practical significance. I see no danger whatsoever that countries other than the United States of America might contemplate introducing in their national systems the said American features.

Now remain the two topics on marks.

The Madrid Protocol is ready to be used—as far as the International Bureau is concerned. The Draft Regulations and Forms have been refined in six meetings of a working group in which AIPPI's representatives played a very important role. All we need is ratifications, and it seems that they will start coming next year. The Alicante Office is expected to be operational in 1996. The simultaneous use of the Madrid Protocol system and the Community trademark registration system is provided for in the Madrid Protocol and will, we are told, soon be provided for in the Implementing Regulations of the Alicante Office.

The only cloud in the sky is that the United States of America has difficulties in accepting that the European Communities should have the right to vote in the Assembly of the Madrid Union. I hope that the problem will eventually be resolved, the more so as the interested circles in the United States of America strongly desire U.S. participation in the Madrid Protocol system. Finding the solution might delay accession by the United States of America, but should not delay accession by other countries. Such accessions should be triggered off by those countries of the European Union that are not party to the present Madrid system. Denmark and the United Kingdom are expected to be the first to ratify.

Now remains the second trademark topic, which is the last topic I shall mention today. It is the Trademark Law Treaty, the TLT. The idea of basically limiting the scope of the Treaty to the simplification of administrative procedures was launched by the Council of Presidents of AIPPI during its 1991 meeting in Lucerne. The final draft of this Treaty has been completed, distributed and will be considered by the Diplomatic Conference, which will take place in Geneva from October 10 to 28 this year (1994). It is a draft, I am glad to say, that seems to have general acceptance both by governments and private circles, except for a political question in the final clauses that still has to be resolved. The essence of the draft is, as I have said before, to simplify the procedures for obtaining the registration of a mark in a national or regional office. It prohibits the one-class/one-registration system and obliges countries to accept one application, and make one registration, even if the goods or services belong to several classes. The Treaty makes registration of service marks obligatory. It generally prohibits continuing the requirement of legalization of signatures. It obliges trademark registries to accept a single request for recording the same change in several—even hundreds—of registrations of the same owner.

The elaboration of the draft of the TLT is also an event in which the advice of AIPPI has been most precious, and the encouragement given by AIPPI has maintained the momentum and has been most important for the governments as well as for the International Bureau. We look forward to further support for, and a repeated expression of strong interest in, the success of the Diplomatic Conference on the TLT on behalf of your Association.

Thanking AIPPI for its advice and encouragement, and asking it that it should do the same also in the future, in all our common endeavors, I close my address, and wish AIPPI much success in its deliberations."

### *Resolutions Adopted*

*[Excerpts]*

#### QUESTION 89

#### *Draft Treaty for the Harmonization of Patent Laws*

#### RESOLUTION

#### AIPPI

1. *is aware* of the press release dated January 24, 1994, of the Department of Commerce of the United States of America and of the decision of that country to maintain for the time being the first-to-invent system;

2. *is aware* of the WIPO Memorandum of May 20, 1994 (doc. P/A/XXII/1), and of the Alternatives A, B and C contained therein for the continuation of the Diplomatic Conference;

3. *acknowledges* the removal from the Draft Treaty of Articles 10, 19, 22(1), 24, 25 and 26 by the Paris Union Assembly in September 1992, which seems acceptable since most of those provisions are included in the GATT/TRIPS Agreement;

4. *confirms* its former Resolutions...;

5. *expresses* the wish that the Draft Treaty implementing the Paris Convention as regards patents will not be further eroded;

6. *very much regrets* that the States party to the Paris Convention have not unanimously accepted to continue the work of the Diplomatic Conference on the basis of WIPO document PLT/DC/69 prepared for the second part thereof;

7. *considers* that it is of paramount importance for the users of the patent system represented by AIPPI to find harmonized solutions throughout the world to the problems with which they are faced to obtain the prompt and reliable grant of their patents as well as an efficient protection for their inventions;

8. *suggests* therefore resuming the work of the Diplomatic Conference, which goes back to June 1991, within the shortest term with a view to maintaining the momentum acquired during almost 10 years in the field of harmonization of patent laws, and achieving the aims set forth by the Draft Treaty;

9. *expresses* the wish that the Assembly of the Paris Union, which will be held in Geneva from September 26 to October 4, 1994, will work for a solution which permits the Diplomatic Conference to be resumed in 1995 without reducing, however, the scope of the Draft Treaty as far as its essential provisions are concerned;

10. *suggests* in this context:

(a) inserting in a first chapter Alternative A as contained in WIPO document P/A/XXII/1, paragraph 14, including

provisions ensuring equal treatment for nationals and non-nationals and the removal of the *Hilmer* doctrine,

- (b) inserting the most controversial provisions of the Draft Treaty, such as Articles 9(2) (first-to-file), 12 (grace period), 16 (time limits for search and substantive examination) and 20 (prior user), in a separate chapter which would enter into force at a later date, when the United States of America becomes bound by this separate chapter;

11. *considers* on the other hand that the reduction of the Patent Law Treaty to Alternatives B and C would reduce its basic interest and would constitute an abandonment of the originally established goals and of the considerable amount of work carried out over the past 10 years on an international level;

12. *considers* in any case that permanent contact should be maintained between the member States of the Paris Union with a view to finding a consensus resulting in the signature of the Treaty within a relatively brief term.

#### QUESTION 92

##### *Harmonization of Trademark Law*

#### QUESTION 92D

##### *Harmonization of Formal Requirements for Trademark Applications, Registrations and Amendments Thereof*

#### RESOLUTION

AIPPI...

– *appreciating* the work and the efforts of the World Intellectual Property Organization and of its Member States which have lead to the preparation of the “Basic Proposal” for a Trademark Law Treaty to be concluded by a Diplomatic Conference in October 1994;

– *satisfied* that the substantive provisions of the Draft Treaty respond to the wishes expressed by an overwhelming number of AIPPI members and reflect AIPPI’s proposals for an effective simplification and harmonization of formalities in trademark matters...;

– *reiterating* its firm belief that the adoption and early acceptance of this Treaty by a great number of States will effectively facilitate the acquisition, the maintaining, the transfer and even the exercise of trademark rights and will thus satisfy important needs and interests of trademark owners and trademark practitioners throughout the world;

– *being, however, seriously concerned* that there still exist differences of opinion among the negotiating parties as to certain institutional provisions which might endanger the success of the Treaty;

– *urges*, therefore, the parties participating in the negotiations of the Diplomatic Conference for the Conclusion of the Trademark Law Treaty to make all efforts to agree on and to adopt such institutional provisions of the Treaty which will allow an early acceptance of the Treaty by as many States as possible.

#### QUESTION 106

##### *Arbitrability of Intellectual Property Disputes*

#### RESOLUTION

AIPPI *commends* WIPO for its successfully concluded efforts to create the WIPO Arbitration Center and expresses the hope

that the WIPO system will improve previously existing systems for handling intellectual property disputes. AIPPI is aware of the absence of reliable broadly based comparative law studies on the arbitrability of intellectual property disputes. It is therefore *resolved* that AIPPI continue its work under Question 106 and conduct a more systematic in-depth examination than heretofore of the arbitrability of intellectual property disputes.

#### QUESTION 109

##### *PCT—Patent Cooperation Treaty*

#### RESOLUTION

AIPPI *has taken note* of the proposal of the Director General of WIPO made in his address at the Opening Ceremony of the Executive Committee of AIPPI in Copenhagen which reads as follows:

“Under the multiple search system, an applicant filing an international (PCT) application could, *if he so desired*, ask for an international search not only from one, but from two or more International Searching Authorities. For example, he could ask for search reports from the European, the United States and the Japanese Patent Offices. He could ask for them simultaneously or, subject to certain conditions, one after the other. The latter would allow the applicant to incur the expense for any further report or reports only if the report or reports that he already has are, in his opinion, not conclusive.”

AIPPI *welcomes* any further development of the PCT and supports the further study of the above proposal.

#### QUESTION 115

##### *Effective Protection Against Unfair Competition Under Article 10bis of the Paris Convention of 1883*

#### RESOLUTION

....

AIPPI *adopts* the following Resolution:

##### *5. Acts of Unfair Competition in General*

###### *5.1 Definition*

Article 10bis(2) restricts protection against unfair competition to acts of competition contrary to honest practices in industrial and commercial matters. Since the modern concept of protection against unfair competition aims to protect not only competitors but also consumers and the public in general, AIPPI believes that any act contrary to honest (fair) business practices should be regarded as an act of unfair competition.

###### *5.2 General Clause and Specific Examples of Unfair Competition*

For many countries it may be desirable for the practical application of laws proscribing unfair competition that particular categories of unfair competition be listed and the work of AIPPI should help define such typical examples. However, it is impossible to establish an exhaustive list of unfair behavior. AIPPI, therefore, *believes* that countries, in order to combat unfair competition effectively and in a flexible manner, should provide,

in their national laws, for a general clause prohibiting all acts contrary to honest business practices.

6. *Acts of Such Nature as to Create Confusion (Article 10bis(3)1)*

....

AIPPI believes that:

6.8 when considering trade dress imitations, all factors should be taken into account, and in particular the similarity in the overall appearance arising from the use of similar sizes and shapes, colors and graphic elements and from any other aspects, such as similar illustrations, the use of descriptive text in a similar presentation, and similar logo design;

6.9 the law should proscribe the inducing of trade by confusing consumers as to the origin or quality of the product offered for sale, even where the confusion is corrected prior to the sale being completed.

7. *False Allegations of Such Nature as to Discredit a Competitor (Article 10bis(3)2)*

....

AIPPI believes that:

....

7.6 denigrations relating to attributes of a competitor which have nothing to do with his commercial activities (e.g., references to nationality or race) should always be regarded as unreasonable and therefore as unfair business practice.

8. *Indications Which are Liable to Mislead the Public (Article 10bis(3)3)*

....

AIPPI believes that:

....

8.5 the standard by which allegations are measured should be neither too lenient, nor over-protective; the test should be whether the average (reasonable) consumer, having normal attentiveness, is likely to be misled by an allegation. Such test would also be applicable to determine prohibited exaggerations.

9. *Dilution*

....

AIPPI believes that:

9.3 dilution should be generally regarded as unfair competition and

9.4 reiterates its position ... that marks and other distinctive signs having a reputation should be protected against the taking of undue advantage of or causing detriment to their distinctive character or reputation.

10. *Slavish or Quasi-slavish Imitation or Copying*

....

AIPPI believes that:

10.9 slavish or quasi-slavish imitation which creates a risk of confusion is contrary to honest business practices ...;

10.10 whether and under what circumstances slavish or quasi-slavish imitation or direct appropriation, which is not likely to create confusion, may be contrary to honest business practices, should be studied further.

11. *Violation of a Trade Secret*

....

AIPPI believes that:

11.10 confidential commercial and industrial information should be protected as a trade secret;

11.11 any violation of a trade secret should constitute an act of unfair competition, in particular

- industrial or commercial espionage,
- use or disclosure of a trade secret improperly obtained from the proprietor,
- unauthorized use or disclosure of a trade secret by a person to whom the proprietor entrusted it,
- the use or disclosure of a trade secret without the consent of its proprietor, which was received from a person to whom it was entrusted or who obtained it improperly, if the user knew or should have been aware of that fact,
- the question whether this should apply even if the trade secret was received in good faith should be studied further.

QUESTION 118

*Trade and Service Marks and Geographical Indications*

RESOLUTION

1. AIPPI observes that the terminology used internationally with respect to geographical indications varies. This leads to confusion.

For the purposes of this question, AIPPI defines a “geographical indication,” whether a word or device and whether it constitutes the entire indication or is an element thereof, in its broadest sense to include:

- *indication of source*, meaning a geographical indication perceived by the public as indicating the origin of the goods or services, as used in the Madrid Agreement;
- *appellation of origin*, meaning a geographical indication used to designate goods or services which originate from the region or place in question and whose qualities and characteristics are due exclusively or essentially to the geographical environment in the sense of Article 2 of the Lisbon Agreement, Article 22 of the TRIPS Agreement or Article 2 of EEC Regulation No. 2081/92;
- *neutral geographical indication* that the public does not perceive as indicating the origin of the goods or services;
- *generic geographical indication* which has become merely descriptive for goods or services (for example, “Bermuda” for a certain kind of shorts).

2. AIPPI recognizes that special problems can arise with indications which, although not strictly speaking geographical, may nevertheless evoke a geographical connotation.

3. *Can a Geographical Indication Constitute a Protectable Mark—Meaning in This Resolution a Trademark or a Service Mark—and Under What Conditions?*

AIPPI recommends that,

3.1 in principle, a geographical indication can constitute a protectable mark.

However, a mark consisting of a geographical indication or containing a geographical element shall not entitle the proprietor to prohibit a third party from using the indication or element in the course of trade, provided the use is in good faith, solely to identify the geographical origin of the goods or services, and is not such as to be perceived as a mark.

3.2 The general principles as to the protectability of marks apply to this type of mark.

However, special attention should be paid to the fact that a geographical indication cannot constitute a protectable mark, in particular, in the following cases:

- (1) the mark misleads the public as to the geographical origin of the goods or services;



- (2) the mark consists of a geographical indication, which is generic for the goods or services.

3.3 When a geographical indication is accepted as a mark in its country of origin, then in applying Article 6quinquiesA(1) of the Paris Convention, protection of that mark cannot be refused in other countries solely on the ground of its geographical nature in its country of origin.

#### 4. Can an Indication of Source or an Appellation of Origin be Protected as a Mark?

##### 4.1 Protection by way of an individual mark (i.e., a mark not being a collective or certification mark)

AIPPI recommends that as a general rule, because of its nature, an indication of source or an appellation of origin cannot be registered or protected as an individual mark for the goods or services to which the indication or appellation applies.

AIPPI observes, however, that in some countries where there is no legal provision for the protection of collective or certification marks or any other suitable protection, indications of source or appellations of origin are protected as individual marks.

##### 4.2 Protection by way of collective or certification marks

AIPPI observes that there are different definitions of collective and certification marks and that in certain countries collective marks are, in fact, according to the definitions hereunder, certification marks. AIPPI endorses ... the following definitions and principles:

- (1) "‘Certification marks’ are marks which are used to indicate that the goods or services so identified are certified to possess certain characteristics or qualities, and"
- (2) "‘Collective marks’ strictly speaking are marks which are used to indicate that the goods or services so identified have been produced, distributed or performed by members of a certain group of persons."
- (3) "If goods or services have the certified characteristics or qualities, the producer, distributor or performer of these goods or services is entitled to use the certification mark to identify such goods or services."
- (4) "In the case of a registered certification mark, the nature of the characteristics or qualities certified by such mark and any conditions or restrictions imposed on the use of such mark shall be made available for public inspection."

Under these conditions, AIPPI considers that indications of source and appellations of origin can be protected in the form of collective or certification marks even though they designate the geographical origin of the goods or services. In case of protection of a geographical collective or certification mark, it must be guaranteed that any local producer who complies with the requirements for the use of that mark is entitled to use the mark, in accordance with the specifications and in the case of a collective mark to become a member of the group.

AIPPI observes, however, that this type of protection could lead to problems in the case of nonuse which could result in the cancellation of the collective or certification mark.

#### 5. Conflicts Between a Mark and an Indication of Source or an Appellation of Origin

When a conflict arises, consideration has to be given as to which of the two has priority.

##### 5.1 Conflicts between a mark and an earlier indication of source or an appellation of origin

When such a conflict arises, AIPPI recommends that:

- (1) the Trademark Office should *ex officio* refuse the registration of the mark;
- (2) third parties may
  - oppose the application to register as a mark,

- bring proceedings for cancellation of the registration of the mark and for prohibition of use thereof.

##### 5.2 Conflicts between an indication of source or an appellation of origin of high repute and a mark

AIPPI recommends that a mark can be refused protection if it is identical or similar to an indication of source or appellation of origin of high repute, even if the goods or services are not similar, if use of the mark would take unfair advantage of or be detrimental to the distinctive character or repute of the indication or appellation.

##### 5.3 Conflicts between an indication of source or an appellation of origin and an earlier mark

To settle such conflicts, AIPPI recommends in principle coexistence unless the mark has acquired a reputation or renown prior to the date the indication of source or appellation or origin is established or recognized as such. In this case, protection of the indication or appellation should be denied, and registration refused or cancelled. This, however, does not preclude the use of the indication or appellation to identify the geographical origin of the goods or services, under the conditions specified in paragraph 3.1 of this Resolution.

#### 6. Principles for Resolution of Conflicts Between Marks and Geographical Indications

AIPPI recommends that any national or regional legislation relating to geographical indications should include provisions for the resolution of conflicts between marks and geographical indications in accordance with the following principles:

- (1) Such legislation should take into account existing bilateral and multilateral agreements.
- (2) Interested parties must have the opportunity to intervene directly in any proceedings which may affect their intellectual property rights.
- (3) If a question arises as to the validity of a mark, such question should be decided only by the competent courts or authorities according to the national or regional laws relating to marks.

....

#### QUESTION 119

##### *Restitution of Patent and Patent Application Rights Which Have Lapsed Because of Post Filing Defaults in Meeting Time Limits*

#### RESOLUTION

AIPPI

....

– recommends that a system of formal notification of lapse by patent offices should be established to assist applicants/patentees and to minimize periods of uncertainty resulting from the possibility of restoration;

– resolves that restoration must be available and that no more severe conditions should be imposed on the applicant or patentee than the following in order to restore a lapsed application/patent:

##### 1. Substantive Conditions

No condition other than the demonstration that the lapse occurred through inadvertence or fortuitous circumstances may be required.

## 2. Time Limits

2.1 For the restoration of applications or patents lapsed due to non-payment of maintenance or renewal fees, a request for restoration is filed within the earlier of the following time limits:

- three months after the date when the next maintenance or renewal fee would normally have been due but for the lapse, or the date of final expiry of the term of the patent; or
- three months after express knowledge upon formal individual notification of the lapse by the patent office.

2.2 For the restoration of patent applications lapsed due to failure to comply with a time limit requiring payment of a fee other than a maintenance fee or requiring some action by the applicant, a request for restoration is filed within the shorter of a term of two months after express knowledge of the lapse, and a term of one year after the lapse.

## 3. Procedural

3.1 The forum for application for restoration shall be the patent office, with a right of appeal.

3.2 Submitting a maintenance or renewal fee relating to a right subsequent to lapse of that right may be treated by the patent office as initiating an application for restoration of that right, provided that the submittal of the fee was within the above time limits.

3.3 Official fees may be imposed.

## 4. Third Party Rights

When the text of the application/patent and the fact of its lapse has been made public, third parties who have, in good faith, started to work the invention commercially or made serious preparations therefor acquire personal rights in the invention. Such personal rights arise between the date of lapse and the earliest of (a) the date of publication of the fact of application for restoration, (b) notification of the party by the applicant/patentee of that fact, or (c) actual restoration. Such personal rights shall provide at least a defense against any infringement action brought by the applicant/patentee for acts done during the time that such personal rights exist. Such personal rights continue after restoration. The scope and conditions of such personal rights after restoration shall be a matter of national law.

## 5. Utility Models

All the above apply *mutatis mutandis* to utility models and applications therefor.

— \* —

Also in June 1994, a WIPO official attended the General Assembly of the Swiss Association for the Protection of Industrial Property (the Swiss Group of AIPPI), held in Zurich (Switzerland).

*International Federation of Industrial Property Attorneys (FICPI)*. In June 1994, the Director General delivered an address, which is reproduced hereafter, at the World Congress of FICPI, held in Vienna. Three other WIPO officials also attended the Congress, one of them as a speaker.

## “PROGRESS THROUGH WIPO”

*Address by the Director General of WIPO*

“Mr. Chairman,  
Ladies and Gentlemen,

One of the topics of the FICPI World Congress is entitled ‘The Prospects for Legal Development,’ and one of the four sub-topics to be treated—the one to be treated by me—is entitled ‘Progress Through WIPO.’

I shall consider ‘progress’ to relate to the events of the recent past, roughly three years since FICPI’s Harrogate World Congress of 1991, the pleasant memories of which are still vivid in my mind. But I shall consider the word ‘progress’ as also including the progress expected in the near future.

I shall subdivide my address, which should last some 20 minutes, into three sub-topics of an unequal length: *one*, ‘progress in the developing countries and the newly independent States of Europe and Central Asia’; *two*, ‘progress in the field of patent and trademark law harmonization’; *three*, ‘progress in the so-called international registration systems,’ that is, in the Madrid, Hague and PCT systems.

So, my first main topic is developing countries and newly independent States.

Since the beginning of 1991, five developing countries have adhered to the WIPO Convention, nine to the Paris Convention and nine—China among them—to the PCT. So, today, the total membership in WIPO is 147; in the Paris Union, 125; and in the PCT, 73. This means that practically all the developing countries of some size are members of WIPO; the Paris Convention and the PCT, however, still lack some important developing countries, particularly India and Thailand in Asia and Colombia, Peru and Venezuela in Latin America. None of the Spanish-speaking countries of Latin America is a member of the PCT, but now that the Spanish Office is to become an International Searching Authority of the PCT by the end of this year, in other words, that there will soon be an International Searching Authority that works in Spanish, one can hope that the Spanish-speaking Latin American countries will become members of the PCT.

By the newly independent States of Central and Eastern Europe and Central Asia I mean the States which, until the disappearance of the Soviet Union, Czechoslovakia and Yugoslavia, were part of those three political entities.

Among the successor States to the Soviet Union, there are first of all the Russian Federation, Belarus and Ukraine. All three are members of WIPO and became bound, in their own names,

as from December 25, 1991, by the Paris Convention, the Madrid Agreement and the PCT.

As far as the Baltic States are concerned, Lithuania became a member of WIPO in 1992, Latvia in 1993 and Estonia in 1994. All three are now bound by the Paris Convention, and Estonia and Latvia have already acceded to the PCT, while Lithuania will do so within a few months. But none has yet joined the Madrid Agreement.

There are nine further countries that were part of the former Soviet Union. They are Armenia, Azerbaijan, Georgia, the Republic of Moldova and the five '-stans,' namely, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan. Seven of the nine are members of WIPO, the Paris Union, the PCT and—with the exception of Georgia—the Madrid Union. The two that are not yet party to any of the WIPO-administered treaties are Azerbaijan and Turkmenistan.

As for the components of the former Yugoslavia, which was a member of WIPO and the Paris and Madrid Unions (but not the PCT), the 'new' Yugoslavia (or Serbia and Montenegro) considers itself a direct successor and, as such, bound by the same three treaties. Bosnia and Herzegovina, Croatia and The former Yugoslav Republic of Macedonia are also bound by those treaties. Slovenia is bound not only by the three treaties but also by the PCT.

Finally, each of the two successor States to the former Czechoslovakia—the Czech Republic and Slovakia—has declared that it continues to apply the WIPO and Paris Conventions, the Madrid Agreement and the Patent Cooperation Treaty.

'Progress Through WIPO' is illustrated by these accessions to WIPO-administered treaties. Further evidence of such progress is that at least 20 developing countries and almost all of the former Socialist countries have, during these last 3½ years, adopted new industrial property laws or thoroughly modernized the existing ones. At the same time, they have set up or modernized their patent granting and trademark registering offices. Most of them have received advice and assistance from WIPO for the revision of the laws and for the training of patent and trademark office staff, prospective industrial property agents, judges, professors and others. The training is frequently given by industrial property practitioners, and a good number of them are members of FICPI. May I seize this opportunity to thank them, and FICPI, most warmly, for their generous assistance.

I now come to my second main topic, 'progress in the field of patent and trademark law harmonization.' I shall speak of two multilateral treaties in the making: the Patent Law Treaty or 'PLT' and the Trademark Law Treaty or 'TLT.'

First, *the PLT*. The first part of the Diplomatic Conference for the adoption of the PLT took place three years ago, in The Hague, in June 1991. The second part was planned to have taken place in July 1993, but was postponed at the request of the United States of America, which wanted to reexamine its position. After having done so, the United States, in January of this year (1994), declared that 'it would not seek to resume negotiations ... at this time' and that it 'will maintain our [its] first-to-invent system while keeping open the option of full patent harmonization in the future.'

I am anxious to see the Diplomatic Conference resume and decide whether a PLT, with or without making the first-to-file system immediately obligatory, is acceptable. I am proposing that the 125 member States of the Paris Union, when they meet three months from now in September, reconsider the list of topics to be dealt with by the Diplomatic Conference and decide that the second and, hopefully, last part of that Conference be held in the month of May of next year (1995).

Naturally, the crux of the question is what changes, if any, should be made in the agenda of the Diplomatic Conference. Should one be less ambitious? Should one omit 'first to file' and, if so, should one not, as a condition for doing it, inscribe rules which would make the position of non-U.S. applicants for U.S. patents, not only *de jure* but also *de facto*, equal to the position of U.S. applicants? At the same time, should one retain the draft article on the grace period, causing hesitations in some European countries, and should one retain the draft article on the time limits for patent search and examination, causing hesitations, in particular, in Japan?

I have prepared proposals containing these and several other alternatives for consideration by the September 1994 session of the Paris Union Assembly. They are contained in WIPO document P/A/XXII/1, published last month.

It would be of the utmost interest to me to have your opinion and advice. That opinion and that advice would make it easier to guess what is feasible, that is, what the formula for a much hoped-for compromise might be—not for the rest of history but, more modestly, for the immediate future. Further improvements will always remain possible.

Second, *the TLT*. The final draft of this Treaty has been completed and distributed, and it will be considered by the Diplomatic Conference that will take place in Geneva from October 10 to 28 this year (1994). It is a draft that seems, I am glad to say, to have gained general acceptance from both governments and private circles, except for one political question in the final clauses that still has to be resolved. The purpose of the draft is to simplify

the procedures for obtaining the registration of a mark at a national or regional office. It prohibits the one-class/one-registration system, and it obliges countries to accept one application, and make one registration, even if the goods or services belong to several classes. The Treaty makes the registration of service marks mandatory. It generally prohibits any continuation of the requirement that signatures be legalized. It obliges trademark registries to accept a single request for recording the same change in several—even hundreds of—registrations belonging to the same owner.

The adoption of the TLT will be real 'progress through WIPO.' The simplification of procedures before national offices would save trademark owners a lot of unnecessary expense and would increase legal security. These are important features without which it would be difficult to obtain and maintain trademark protection in the very large number of national registries. By the end of this century, there will probably be close to 200 national trademark registries. Simplification is, therefore, essential.

I now have reached the third and last main topic of my address: progress through WIPO in the so-called registration systems, that is, the Madrid, Hague and PCT systems.

In the existing *Madrid system*, in round figures, WIPO effected 15,700 new international registrations in 1992 and 16,500 in 1993. It will probably effect a few hundred—only a few hundred—more in 1994. The progress is, therefore, rather slow. That slowness can be explained by the fact that 97 percent of the international registrations come from nine continental West European countries, namely from Germany, France, the three Benelux countries, Switzerland, Italy, Spain and Austria, that is, countries which have been for decades, if not for the full 100 years of the Madrid system, members. In those countries, the Madrid system is well known and is used almost to the limit of its potential. Further significant increases may be expected only if more countries, with an important volume of trademark business, participate in the Madrid system.

It was in order to bring about that very result that the Madrid Protocol was concluded in 1989. The Protocol is ready to be used—as far as the International Bureau is concerned. The Draft Regulations and Forms have been refined at six meetings of a working group in which FICPI's representatives have played a very important role. All we need is ratifications, and it seems that they will start coming next year. The Alicante Office is expected to be operational in 1996. The simultaneous use of the Madrid Protocol system and the Community trademark registration system is provided for in the Madrid Protocol and will, we are told, soon be provided for in a special Regula-

tion concerning the link between the Community trademark system and the Madrid Protocol system.

The only cloud in the sky is that the United States of America and a number of other countries are having difficulties in accepting that the European Communities should have the right to vote in the Assembly of the Madrid Union. I hope that the problem will eventually be resolved, the more so as the interested circles in the United States of America strongly desire U.S. participation in the Madrid Protocol system. Finding the solution might delay accession on the part of the United States of America, but should not delay accession by other countries. Such accessions should be triggered by those countries of the European Union that are not party to the present Madrid system. The United Kingdom is expected to be the first to ratify.

The international deposit system of industrial designs, *the Hague system*, has shown a slow growth in the last three years as far as the yearly numbers of deposits are concerned. The membership of the Hague system is even more Continental Western European than that of the present Madrid system. Its main users are from the Benelux countries, France, Germany, Italy and Switzerland, and the percentage of deposits originating from these countries is around 96 percent.

The progress that WIPO is striving to achieve in this field is the introduction of such changes, through revision of the Hague Agreement, as will make it possible for more countries to adhere. The draft of a revision of the Hague Agreement has been under discussion for more than two years. A further session of our Committee of Experts will take place in 1995. I believe that an agreement is in sight, although there is some criticism of the number of concessions being proposed in order to accommodate the present design patent system of the United States of America. I hope that that system will eventually be changed by eliminating from it the features that suit patents for inventions, but are unusual for industrial designs. However, changing United States law could take a long time. In the meantime, I do not see much harm in accommodating the United States, or rather, the present system of the United States, for as long as it is maintained, without, however, the *Hilmer* doctrine. Applicants who do not wish to comply, under the Hague system, with those features of the U.S. system, could simply not designate the United States of America in their international applications under the Hague Agreement and file direct in Washington for U.S. protection. Naturally, when they file direct at the United States Patent and Trademark Office (USPTO), that is, without using the Hague system, applicants have to comply with the said features of the United States law, so that the

problem is of little practical consequence, the more so as, even if concessions were made, no country other than the United States of America would make use of such concessions, since it is highly unlikely that countries other than the United States of America would introduce, in their national systems, the said American patent law features.

There remains *the PCT*. As far as its members and its use are concerned, progress during the last few years has continued and continued quite strongly. On January 1, 1991, 45 countries were party to the PCT; today, their number is 73. All the highly industrialized countries are among them: the United States of America, the 17 members of the European Patent Organisation, Japan, Canada, Australia, etc. China, Brazil, the Republic of Korea and most of the Central and Eastern European States are also PCT Contracting States. But many more countries should and are expected to accede.

Progress in the use of the PCT system has also been rapid and strong. In round figures, the numbers of international (PCT) applications filed were 22,000 in 1991; 26,000 in 1992 and 28,500 in 1993; and, extrapolating from the first five months' figures, should be around 33,000 in 1994.

This growth is due, in my opinion, not only to the increase in the number of member States but also, and very significantly, to the fact that—contrary to the situation in the present Madrid system—the PCT system is far from being saturated. Its potential is much greater than its actual use since many people simply do not know that the PCT exists, and even when they know, they do not know how immensely advantageous the system is. But the knowledge is constantly growing and spreading, and more knowledge should lead to more growth.

However well the PCT system seems to be functioning, further improvements are contemplated. Our investigation of the possibility of the so-called 'super' search has led me to believe that we should examine a somewhat different approach, which could be called 'multiple'—rather than 'super'—search. Under the multiple search system, an applicant filing an international (PCT) application could, *if he so desired*, ask for an international search not only from one, but from two or more International Searching Authorities. For example, he could ask for search reports from the European, the United States and the Japanese Patent Offices. He could ask for them simultaneously or, subject to certain conditions, one after the other. The latter method would allow the applicant to incur the expense of any further report or reports only if the reports that he already has are, in his opinion, not conclusive.

Here, too, I would be very interested in your advice, the more so as, I think, it would be useful

to pursue this idea with the above-mentioned three, and possibly also other, major patent offices only if, in principle, the members of the profession show interest. I repeat, however, that the multiple international search system, if one were introduced, would be optional, in other words, the present system—one search report only—would also remain available.

I wish to close my remarks with an expression of thanks and an expression of hope.

My thanks go to FICPI itself and to its officers and its other members.

It has become a custom that once a year the officers of your Federation visit WIPO in Geneva and, in the course of a business lunch, we discuss the topics that are the same on our respective agendas. WIPO also asks for your advice: what is practical, desirable and feasible, from the viewpoint of the industrial property attorneys, in the goals of WIPO? What is not? What should be done about those that are not? In the last such meeting, your Association was represented by Helmut Sonn, Knud Raffensøe, Axel Hansmann, Joachim Beier and John Orange.

Another means of interaction between FICPI and WIPO consists in FICPI's participation in our meetings. A FICPI delegation participates, and usually participates very actively, in practically all the WIPO meetings that advise or decide policy: the FICPI delegation may and does speak on any subject at all times and brings into our discussions its tremendous knowledge and experience, which makes our meetings a dialogue between governments and the users of industrial property.

It would take too long to mention all those who have represented FICPI at WIPO meetings. Let me simply mention as examples, at our more recent meetings, in addition to those already named, Chris Everitt, Knut Feiring, Marc-Roger Hirsch, Antonio de Sampaio, Gerhard Schmitt-Nilson and Raymond Stewart.

Finally, the hope that I wish to express. It is this: that you will continue to give us your advice, that you will assist us in our work in the developing countries and in the other countries needing assistance, and that we shall maintain our cordial personal relations which—because they are cordial—are very close to my heart."

*Licensing Executives Society (LES)-Britain and Ireland.* In June 1994, a WIPO consultant from the United Kingdom spoke at that Society's annual conference, held in Dublin.

*Society of Authors and Music Composers of Mexico (SACM).* In June 1994, the Director General received SACM's highest decoration "Corazón de Oro" (Golden Heart).

## Miscellaneous News

### National News

*Ukraine.* The Law on the Protection of Inventions and Utility Models, the Law on the Protection of Industrial Designs and the Law on the Protection of Trademarks and Service Marks, all of December 15, 1993, entered into force on July 1, 1994.

## Calendar of Meetings

### WIPO Meetings

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

#### 1994

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|---|---|
| <b>September 26 to October 4 (Geneva)</b> | <p><b>Governing Bodies of WIPO and the Unions Administered by WIPO (Twenty-Fifth Series of Meetings)</b></p> <p>Some of the Governing Bodies will meet in ordinary session, others in extraordinary session.<br/> <i>Invitations:</i> As members or observers (depending on the body), States members of WIPO or the Unions and, as observers, other States and certain organizations.</p>  |
| <b>October 10 to 28 (Geneva)</b>          | <p><b>Diplomatic Conference for the Conclusion of the Trademark Law Treaty</b></p> <p>The Diplomatic Conference is expected to adopt a treaty which will harmonize certain procedural and other aspects of national and regional trademark laws.<br/> <i>Invitations:</i> States members of the Paris Union and, as observers or with a special status, States members of WIPO not members of the Paris Union and certain organizations.</p>  |
| <b>December 5 to 9 (Geneva)</b>           | <p><b>Committee of Experts on a Possible Protocol to the Berne Convention (Fourth Session)</b></p> <p>The Committee will continue to examine the question of the preparation of a possible protocol to the Berne Convention for the Protection of Literary and Artistic Works.<br/> <i>Invitations:</i> States members of the Berne Union, the Commission of the European Communities and, as observers, States members of WIPO not members of the Berne Union and certain organizations.</p> |

- December 12 to 16 (Geneva)** **Committee of Experts on a Possible Instrument for the Protection of the Rights of Performers and Producers of Phonograms (Third 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.

## 1995

- April 5 and 6 (Melbourne, Australia)** **Symposium on the International Protection of Geographical Indications** (organized by WIPO in cooperation with the Government of Australia)  
 The Symposium will deal with the protection of geographical indications (appellations of origin and other geographical indications) both on the national and multilateral level and, in particular, with the coexistence of geographical indications and trademarks.  
*Invitations:* Governments, selected intergovernmental and non-governmental organizations and any member of the public (against payment of the registration fee).

## UPOV Meetings

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

## 1994

- November 2 to 4 (Geneva)** **Technical Committee**  
*Invitations:* Member States of UPOV and, as observers, certain non-member States and inter-governmental and non-governmental organizations.
- November 7 and 8 (Geneva)** **Administrative and Legal Committee**  
*Invitations:* Member States of UPOV and, as observers, certain non-member States and inter-governmental organizations.
- November 9 (a.m.) (Geneva)** **Consultative Committee (Forty-Eighth Session)**  
*Invitations:* Member States of UPOV.
- November 9 (p.m.) (Geneva)** **Council (Twenty-Eighth Ordinary Session)**  
*Invitations:* Member States of UPOV and, as observers, certain non-member States and inter-governmental and non-governmental organizations.

