

Industrial Property

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INTERNATIONAL UNIONS

Paris Union

Adhesions

REPUBLIC OF KENYA

UGANDA

According to a communication received from the Federal Political Department, the following notes were addressed by the Embassies of the Swiss Confederation in the countries of the Paris Union to the Ministries of Foreign Affairs of those countries:

Republic of Kenya (Translation)

“In compliance with the instructions of the Federal Political Department dated May 14, 1965, the Swiss Embassy has the honour to inform the Ministry of Foreign Affairs that the Government of the Republic of Kenya has informed the Government of the Swiss Confederation of the adhesion of this State to the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised at Lishon on October 31, 1958.

“This notification is made in application of Article 16 (2) of the above-mentioned Convention. In accordance with paragraph (3) of the said Article, the adhesion of Kenya will take effect on June 14, 1965.

“With regard to its contribution to the expenses of the International Bureau of the Union, this State is placed, at its request, in the Sixth Class for the purposes of Article 13 (8) and (9) of the Paris Convention as revised at Lisbon.”

Uganda (Translation)

“In compliance with the instructions of the Federal Political Department dated May 14, 1965, the Swiss Embassy has the honour to inform the Ministry of Foreign Affairs that the Government of Uganda has informed the Government of the Swiss Confederation of the adhesion of this State to the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised at Brussels on December 14, 1900, at Washington on June 2, 1911, at The Hague on November 6, 1925, at London on June 2, 1934, and at Lisbon on October 31, 1958.

“This notification is made in application of Article 16 (2) of the above-mentioned Convention. In accordance with paragraph (3) of the said Article, the adhesion of Uganda will take effect on June 14, 1965.

“The class of contribution to the expenses of the International Bureau of the Union of this State will be communicated in a subsequent notification.”

* * *

These adhesions will bring the membership of the Union to 70 countries with effect from July 1, 1965.

Paris Union - Madrid Union Adhesion to the London Texts

YUGOSLAVIA

According to a communication received from the Federal Political Department, the following note was addressed by the Embassies of the Swiss Confederation in the countries of the Paris Union to the Ministries of Foreign Affairs of those countries:

(Translation)

“In compliance with the instructions of the Federal Political Department dated May 7, 1965, the Swiss Embassy has the honour to inform the Ministry of Foreign Affairs that the Embassy of the Socialist Federal Republic of Yugoslavia in Berne, deposited with the said Department on March 18, 1965, the instruments of adhesion of Yugoslavia to the following Acts of the Paris Union for the Protection of Industrial Property:

- the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised at Brussels on December 14, 1900, at Washington on June 2, 1911, at The Hague on November 6, 1925, and at London on June 2, 1934;
- the Madrid Agreement for the International Registration of Trademarks of April 14, 1891, as revised at Brussels on December 14, 1900, at Washington on June 2, 1911, at The Hague on November 6, 1925, and at London on June 2, 1934,

“In accordance with Article 16 (3) of the Paris Convention, to which Article 11 (1) of the said Madrid Agreement refers, the adhesion to the Agreement of Madrid will take effect on June 7, 1965.

“Yugoslavia has already adhered, with effect from April 11, 1965, to the Paris Convention as revised at Lishon on October 31, 1958¹⁾.”

¹⁾ See *Industrial Property*, 1965, p. 74.

Committee of Experts on the Administrative Structure of International Cooperation in the Field of Intellectual Property

(Geneva, March 22 to April 2, 1965)

NOTE ¹⁾

(1) The Committee of Experts on the Administrative Structure of International Cooperation in the Field of Intellectual Property (hereinafter referred to as “the Committee of Experts”) met in Geneva from March 22 to April 2, 1965, on the invitation of the Director of BIRPI and pursuant to a joint Resolution of the Permanent Committee of the Berne Union and the Permanent Bureau of the Paris Union, adopted in 1962 (see *Industrial Property*, 1962, page 234).

¹⁾ This Note was prepared by BIRPI on the basis of the official Records of the meeting (document AA/II/34).

(2) Of the Member States of the Paris and Berne Unions, 37 were represented: Australia, Austria, Belgium, Brazil, Canada, Congo (Leopoldville), Czechoslovak Socialist Republic, Denmark, Finland, France, Federal Republic of Germany, Greece, People's Republic of Hungary, India, Indonesia, Iran, Ireland, Israel, Italy, Ivory Coast, Japan, Lebanon, Luxembourg, Monaco, Morocco, Netherlands, New Zealand, Norway, Pakistan, Polish People's Republic, Rumanian People's Republic, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America, Socialist Federal People's Republic of Yugoslavia.

(3) The Union of Soviet Socialist Republics was represented by Observers, its adherence to the Paris Union becoming effective only on July 1, 1965.

(4) Four intergovernmental organizations, namely, the United Nations, UNESCO, the International Patent Institute, and the Organization of American States, and six non-governmental organizations: International Association for the Protection of Industrial Property (IAPIP), International Bureau for Mechanical Reproduction (BIEM), International Chamber of Commerce (ICC), International Confederation of Societies of Authors and Composers (CISAC), International Federation of Patent Agents (FICPI), International Literary and Artistic Association (ALAI) were also represented by Observers.

(5) The names of the participants appear at the end of the present Note.

(6) Judge Torwald Hesser (Sweden) was elected Chairman, while Messrs. H. Puget (France), S. Sumodiredjo (Indonesia), and E. Tasnády (Hungary), were elected Vice-Chairmen.

Basis of the Work of the Committee of Experts

(7) The Committee of Experts had before it the texts of a draft convention entitled "Convention of the World Intellectual Property Organization" and a draft resolution which a Working Group (hereinafter referred to as "the Working Group of 1964") consisting of experts from ten States Members of the Paris or Berne Unions had drawn up in May 1964 (see *Industrial Property*, 1964, page 139). The Committee of Experts also had before it an Introductory Report drawn up by the Secretariat of BIRPI with the assistance of experts of the Government of Sweden, the prospective host of the Stockholm Revision Conference scheduled to take place in 1967.

(8) It will be recalled that the main objective of the draft convention prepared by the Working Group of 1964 was to provide for an administrative framework in which the basic aims of the Paris and Berne Unions could be more efficiently served.

(9) That draft provided for the establishment of a World Intellectual Property Organization to which Members of the Paris or Berne Unions and certain other States not Members of any of these Unions (hereinafter referred to as "Third States") could adhere. It also provided for a General Conference of all these States and an Executive Board emanating from the General Conference. Furthermore, it provided for a General Assembly and an Executive Committee for each of the Unions, and for a Coordination Committee. Finally, it

provided for a Secretariat, regulated the finances of the Organization and the Unions, and contained other provisions usual in international treaties of its kind.

Results of the Meeting

(10) The Committee of Experts made some important changes in the drafts of the Working Group of 1964 both in respect of the structure of the proposed instruments and in respect of the proposed changes in the administrative structure of the various Unions administered by BIRPI and BIRPI's proposed successor to which the new drafts give the name "International Intellectual Property Organization" (abbreviated as "IPO").

(11) As to the structure of the instruments which would incorporate and effectuate the changes, the Committee of Experts proposes that only matters which concern directly IPO should be the subject of the proposed new Convention ("IPO Convention") whereas all matters of direct and exclusive interest to the various Unions should be the subject of Protocols. There would be single separate Protocols, for the Paris Union, for the Berne Union, and each of the Special Agreements or Restricted Unions existing under the Paris Convention. Each of these Protocols would be roughly identical and in harmony with the provisions of the IPO Convention. Accordingly, the Committee established the text of a Draft Protocol which would serve as a model for each Union.

(12) This solution was dictated not only by legal considerations but also by the desire to underline the autonomy of each Union.

(13) Each Union would have an Assembly consisting of its Member States. The Paris Union would also have an Executive Committee elected by its Assembly and consisting of one-fourth of the Member States. The Berne Union would have a corresponding but separate Executive Committee established similarly. The other Unions may have Executive Committees, if they so desire. In addition to the questions relating to the Assembly and the Executive Committee, the main questions regulated by the Protocol are the finances of each Union. Further details on the Protocol are given in paragraphs (17) to (19) below.

(14) The organs of IPO would be the following: General Assembly, Coordination Committee, Conference, and Secretariat — the last being a simple continuation of what is today BIRPI. Membership in IPO would not be limited to States Members of the Unions, but membership in the General Assembly would be limited to such States. The Conference — having mainly consultative functions only — would include all Members of IPO, that is also States not Members of any of the Unions (so-called Third States). The Coordination Committee would consist of the States Members of the Executive Committees of the Paris and Berne Unions. It is to be noted that whereas the Draft of the Working Group of 1964 provided for a General Conference including also Third States and an Executive Committee as an emanation of the General Conference, the Drafts adopted by the Committee of Experts provide for neither of these organs. Further details on the Draft IPO Convention are given in paragraphs (20) to (28), below.

(15) In addition to the Draft Protocol and the Draft IPO Convention, the Committee of Experts also adopted a Draft Resolution concerning the limited provisional application, on an interim basis, of the instruments to be adopted at Stockholm, and a list of consequential changes which would have to be made in the various existing Conventions and Agreements in respect to administrative provisions in them.

(16) Some of the Experts made certain reservations in connection with the various texts adopted by the Committee of Experts. They are reflected in the Report adopted by the Committee of Experts but not reproduced in the present Note since it was generally admitted that the Experts did not in any way express a binding or final opinion of the Governments which delegated them into the Committee of Experts.

The Draft Protocol

(17) As already indicated, each Union would have an Assembly consisting of the States Members of the Union. The Assembly would, among other things: (a) deal with all matters concerning the maintenance and development of the Union and the implementation of its Convention (but not with the revision of the Union's Convention which would still be in the sole jurisdiction of diplomatic (negotiating) conferences convened for that specific purpose), (b) determine the program and adopt the triennial budget of the Union, (c) review the activities of, and instruct, the Secretariat, as far as matters concerning the Union are concerned.

(18) All administrative tasks would be carried out by the Secretariat of IPO.

(19) The present class-and-unit system for the contributions of Member States would be maintained; however, a seventh class (with one unit) would be added to the present six classes. The budget would be voted upon once every three years; if any new budget should carry with it an increase in the contributions of the Member States, its adoption would require a two-third majority. A working capital fund would be instituted.

The Draft IPO Convention

(20) The Preamble of the Draft Convention summarized in the following manner the *reasons* for which the Convention would be concluded: "The Contracting Parties, desiring to modernize and render more efficient the administration of the Intellectual Property Unions through the establishment of administrative organs which, although in part common, fully respect the autonomy of each of the several Unions, and to promote the protection of intellectual property throughout the world, in particular through the creation of a Conference and the offer of legal-technical assistance to developing countries, have agreed as follows . . ."

(21) Article 1 states that "the International Intellectual Property Organization is hereby established", and enumerates its *organs*: "a General Assembly of the States Members of the various Unions, a Coordination Committee, a Conference, and a Secretariat".

(22) The *objective* of IPO is "to promote cooperation among States in the field of protection" for industrial property, copyright and neighboring rights "through administra-

tive cooperation among the various Intellectual Property Unions and through other appropriate means set out in the . . . Convention".

(23) The *tasks* entrusted to IPO would include the administrative tasks of the Paris and Berne Unions and other existing or future intellectual property Unions, the assembling of information, the maintenance of various services, the promotion of the harmonization of legislations, and the furnishing of technical-legal assistance, particularly to developing countries.

(24) The *Headquarters* of IPO would be in Geneva.

(25) The *General Assembly* would consist only of the States which are Members of a least one Union. All such States would be Members of the General Assembly. Among other things, the General Assembly would: (a) review the activities of the Coordination Committee, (b) appoint the Director-General after having heard the advice of the Conference, (c) decide — by a three-quarters majority — whether or not to accept new intellectual property agreements for administration by IPO.

(26) The *Conference* — in which "Third States" would have the same rights as States Members of one or more Unions — would: (a) discuss matters of general interest in the field of intellectual property and adopt resolutions and recommendations relating to such matters; (b) adopt a triennial budget (consisting of contributions which the various Unions have agreed to make and the contributions of Third States providing for funds to cover the expenses of the Conference and the program of technical-legal assistance ("Conference budget")); (c) within the limits of the Conference budget, establish the triennial program of legal-technical assistance; (d) give advice to the General Assembly as to the question of who should be elected Director-General. The General Assembly is not bound to follow this advice.

(27) The *Coordination Committee* would consist of the States Members of the Executive Committee of the Paris Union, and of the Executive Committee of the Berne Union, each of these Committees being composed of one-fourth of the Members of the Unions. Whenever the Coordination Committee considers the Conference budget, one-fourth of the Third States would participate in the Coordination Committee with the same rights as Members of that Committee. The main task of the Coordination Committee would consist of giving advice to the organs of the various Unions, the General Assembly, and the Conference, on all administrative, financial and other matters of common interest to two or more of the Unions; and in particular on the common expenses to be inscribed in the budgets of the various Unions and the Conference budget.

(28) The *Secretariat* would comprise a Director-General, two or more Deputy Directors-General, and other staff members as required.

Future Steps Contemplated

(29) The matters dealt with by the Committee of Experts are expected to be further discussed and finalized at the Stockholm Diplomatic Conference scheduled for 1967.

List of Participants

I. Member States

Australia

Mr. K. B. Petersson, Commissioner of Patents, Patent Office, Canberra.

Austria

Mr. Thomas Lorenz, Ratssekretär, Patent Office, Vienna.
Mr. Helmuth Tades, Secretary, Federal Ministry of Justice, Vienna.

Belgium

Mr. Albert Willot, Second Secretary of Legation, Permanent Delegation of Belgium in Geneva.
Mr. Gérard de San, Director-General, Legal Counsellor, Deputy Chairman of the National Copyright Commission, Brussels.
Mr. Frans Van Isacker, Professor at the Faculty of Law of Gand, Member of the National Copyright Commission, Brussels.
Mr. A. Schurmans, Director of the Industrial and Commercial Property Service, Brussels.
Mr. Paul Peetermans, Doctor at Law, Industrial and Commercial Property Service, Brussels.

Brazil

Mr. Fanor Cumplido Jr., Minister, Permanent Delegation of Brazil, Geneva.
Mr. João Cabral Melo Neto, Counsellor of Embassy, Permanent Delegation of Brazil, Geneva.

Canada

Mr. J. W. T. Michel, Commissioner of Patents, Patent Office, Ottawa.
Mr. Charles T. Stone, Counsellor, Second Secretary, Permanent Mission of Canada, Geneva.

Congo-Leopoldville (Dem. Rep.)

Mr. Albert Mongita, Director of Cultural Affairs, Ministry of National Education and Cultural Affairs, Central Government, Leopoldville.
Mr. Marcel Dubru, Dean of the Faculty of Law, University of Lovanium, Leopoldville.

Czechoslovak Socialist Republic

Mr. Jaroslav Němeček, President, Patent Office, Prague.
Mr. Radko Fajfr, First Secretary, Ministry of Foreign Affairs, Prague.
Mr. Jiří Kordač, Counsellor, Legislative Division, Ministry of Education and Culture, Prague.
Dr. Otto Kunz, Chief of Research, Czechoslovak Academy of Science, Law Institute, Prague.

Denmark

Mr. Torben Lund, Professor at the University of Aarhus.

Finland

Mr. Berndt Godenhjelm, Professor at the Faculty of Law, University of Helsinki, Helsinki.

France

Mr. Henry Puget, Counsellor of State, Professor, Institut des Sciences Politiques, President of the Intellectual Property Commission, Paris.

Mr. Guillaume Finnis, Inspector-General of Industry and Commerce, Paris.

Mr. Roger Labry, Counsellor of Embassy, Ministry of Foreign Affairs, Paris.

Mr. Charles Robmer, Head of the Copyright Bureau, Ministry of Cultural Affairs, Paris.

Mr. Bernard Laclavière, Civil Administrator, Ministry of Agriculture, Paris.

Mr. Marcel Pierre, Civil Administrator, Industrial Property Service, Paris.

Federal Republic of Germany

Mr. Albrecht Krieger, Regierungsdirektor, Federal Ministry of Justice, Bonn.

Mr. Dirk Rogge, Landgerichtsrat, Federal Ministry of Justice, Bonn.

Mr. Klaus Pfanner, Regierungsdirektor, Patent Office, Munich.

Mr. Hans-Ludwig Donle, Regierungsrat, Patent Office, Munich.

Mr. Peter Schönfeld, First Secretary of Embassy, Permanent Delegation of the Federal Republic of Germany, Geneva.

Greece

Mr. Georges Pilavachi, Jurist, Permanent Delegation of Greece, Geneva.

Hungarian People's Republic

Mr. Emil Tasnádi, President, National Office of Inventions, Budapest.

Mr. Jozsef Bényi, Deputy Permanent Representative, Chargé d'Affaires a. i., Permanent Mission of Hungary, Geneva.

Mr. Gyula Jelenik, Secretary, Ministry of Foreign Affairs, Budapest.

Mr. János Zakár, Legal Counsellor, Hungarian Copyright Office, Budapest.

Mr. Gyula Pusztai, Head of Section, National Office for Inventions, Budapest.

India

Mr. S. Vatsa Purushottam, Second Secretary, Permanent Mission of India, Geneva.

Indonesia

Mr. Sugondo Sumodiredjo, Assistant Minister of Justice for Legal and Legislative Affairs, Department of Justice, Djakarta.

Mr. Alwi Sutan Osman, Head of the Minister's Bureau, Department of Justice, Djakarta.

Iran

Mr. Gholam-Reza Salahshoor, Director-General, Office of Registration of Acts and Property, Teheran.

Mr. Mehdi Naraghi, Director, Industrial Property and Societies Registration Office, Teheran.

Ireland

Mr. J. J. Lennon, Controller of Industrial and Commercial Property, Dublin.

- Israel**
Mr. Ze'ev Sher, Registrar of Patents, Designs and Trademarks, Ministry of Justice, Jerusalem.
- Italy**
Mr. Giuseppe Talamo Atenolfi, Ambassador of Italy, Ministry of Foreign Affairs, Rome.
Mr. Valerio De Sanctis, Lawyer, Rome.
Mr. Giuseppe Trotta, Legal Counsellor, Ministry of Foreign Affairs, Rome.
- Ivory Coast**
Mr. Theodore De Mel, Counsellor of Embassy, Berne.
- Japan**
Mr. Muneoki Date, First Secretary, Permanent Delegation of Japan, Geneva.
- Lebanon**
Mr. Michel Farah, Chargé d'Affaires, Embassy of Lebanon, Berne.
- Luxembourg**
Mr. Jean-Pierre Hoffmann, Head, Industrial Property Service, Ministry of National Economy and Power, Luxembourg.
- Monaco**
Mr. Jean-Marie Notari, Head, Industrial Property Service, Monaco.
- Morocco**
Mr. Laraqui, Ambassador of Morocco, Berne.
- Netherlands**
Mr. C.J. De Haan, President, Patent Council, The Hague.
Mr. W. M. J. C. Phaf, Director, Legal Section of the Ministry of Economic Affairs, The Hague.
- New Zealand**
Miss M. C. Riches, Third Secretary, New Zealand Permanent Mission, Geneva.
- Norway**
Mr. Sten H. Røer, Office Manager, Patent Office, Oslo.
- Pakistan**
Mr. Sam M. Ahmed, Controller of Patents and Designs, Karachi.
- Polish People's Republic**
Mr. Ian Dalewski, Head, Legal Section, Polish Patent Office, Warsaw.
Mrs. Eleonora Ratuszniak, Chief of the Division, Ministry of Foreign Affairs, Warsaw.
Mr. Edward Drabienko, Lawyer, Counsellor to the Minister of Arts and Culture, Warsaw.
- Rumanian People's Republic**
Mr. Ion Anghel, Chief Legal Adviser, Ministry of Foreign Affairs, Bucharest.
Mr. Lucian Marinete, Technical Director, State Office for Inventions, Bucharest.
- Spain**
Mr. Electo J. Garcia Tejedor, Permanent Delegate a. i. to International Organizations, Geneva.
- Mr. Ernesto Rua, Chief of Section, Spanish Industrial Property Registry, Madrid.
Mr. Emilio Aragon Colville, Deputy-Head of the Trademark Section, Industrial Property Registry, Madrid.
- Sweden**
Mr. Torwald Hesser, Judge at the Court of Appeal, Ministry of Justice, Stockholm.
Mr. Claës Uggla, Counsellor, Board of Appeals, Patent and Registration Office, Stockholm.
Mr. J. L. Myrsten, Head of Section, Ministry of Foreign Affairs, Stockholm.
- Switzerland**
Mr. Hans Morf, Lawyer, Former Director of the Federal Office of Intellectual Property, Berne.
Mr. Joseph Voyame, Director, Federal Office of Intellectual Property, Berne.
Mr. Rodolphe Bühler, Division of International Organizations, Federal Political Department, Berne.
- United Kingdom**
Mr. Gordon Grant, Comptroller-General of Patents, Designs and Trademarks, Industrial Property Department, Board of Trade, London.
Mr. William Wallace, C. M. G., Assistant Comptroller, Patent Office, Board of Trade, London.
Mr. L. J. Smith, Controller of Plant Variety Rights, London.
Mr. James D. Miller, United Kingdom Deputy Permanent Representative, Geneva.
- United States of America**
Mr. William M. Gibson, Minister, U. S. Mission, Geneva.
Mr. Edward Brenner, Commissioner of Patents, Washington.
Mr. Harvey J. Winter, Assistant Chief, International Business Practices Division, Department of State, Washington.
Mr. Kenneth McClure, Director, Office of Legislative Planning, U. S. Patent Office, Washington.
Miss Sylvia Nilsen, Office of the Legal Adviser, Department of State, Washington.
- Yugoslavia**
Mr. Vladimir Savić, Director, Patent Office, Belgrade.
Mr. Vojislav Spaić, Professor, University of Sarajevo.

II. Observers

1. States

Union of Soviet Socialist Republics

- Mr. Yevgueny Artemyev, Vice-Chairman, Committee of State for Inventions and Discoveries, Moscow.
Mr. Yevgueny Pavlov, Expert, Committee of State for Inventions and Discoveries, Moscow.
Mr. Yevstigneyev, Expert, Committee of State for Inventions and Discoveries, Moscow.
Mrs. Chvetsova, Translator, Geneva.

2. Intergovernmental Organizations

United Nations

Mr. Claude Benjamin, Legal Officer, Commission Affairs and Trade Development Division, Economic Commission for Europe, Geneva.

International Patent Institute

Mr. G. Finnis, Chairman of the Administrative Council.
Mr. D. Merle, Financial Controller.

Unesco

Mr. Alfonso de Silva, Head, Division of Relations with International Organizations, Paris.

Miss Marie-Claude Dock, Copyright Section, Department of Cultural Activities, Paris.

Organization of American States (OAS)

Mr. Raul Migone, Representative, Geneva.

3. Non-Governmental Organizations

International Association for the Protection of Industrial Property (IAPIP)

Prof. P. J. Pointet, Chairman, Swiss Group of IAPIP, Zurich.

Mr. Georges Gansser, Chairman, International Coordination Commission for Intellectual Property Rights of IAPIP, Basel.

International Bureau for Mechanical Reproduction (BIEM)

Mr. Léon Malaplate, Secretary-General, CISAC, Paris.

International Chamber of Commerce (ICC)

Prof. P. J. Pointet, Vice-Chairman, Commission for the International Protection of Industrial Property of the ICC, Zurich.

International Confederation of Societies of Authors and Composers (CISAC)

Mr. Léon Malaplate, Secretary-General, Paris.

International Federation of Patent Agents (FICPI)

Mr. René Jourdain, Chairman, Work Study Commission of FICPI, Paris.

Mr. Alfred Vander Haeghen, Patent Agent, Professor at the University of Brussels.

International Literary and Artistic Association (ALAI)

Mr. Jean Vilbois, Permanent Secretary, Paris.

III. BIRPI

Prof. G. H. C. Bodenhausen, Director.

Dr. Arpad Bogsch, Deputy-Director.

Mr. Charles-L. Magnin, Deputy-Director.

Mr. Claude Masouyé, Counsellor, Head of Copyright Division.

IV. Officers of the Meeting

Chairman: Mr. Torwald Hesser (Sweden).

Vice-Chairmen: Mr. Henry Puget (France).

Mr. Sugondo Sumodiredjo (Indonesia).

Mr. Emil Tasnádi (Hungarian People's Rep.).

LEGISLATION

ITALY

Decrees

concerning the Temporary Protection of Industrial Property Rights at 4 Exhibitions

(Of March 8, 18, 23 and 27, 1965)¹⁾

Single Article

Industrial inventions, utility models, designs and trademarks relating to objects appearing at the following exhibitions:

XII^a *Rassegna internazionale elettronica, nucleare e teleradio-cinematografica* (Rome, June 16-29, 1965);

XXIX^a *Fiera del Levante — Campionaria internazionale* (Bari, September 7-20, 1965);

XX^a *Mostra internazionale delle industrie per le conserve alimentari, conserve, imballaggi, impianti ed attrezzature industriali* (Parma, September 20-30, 1965);

Mostra di apparecchiature chimiche MAC 65 (Milan, October 16-24, 1965)

shall enjoy the temporary protection provided by laws No. 1127 of June 29, 1939²⁾, No. 1411 of August 25, 1940³⁾, No. 929 of June 21, 1942⁴⁾, and No. 514 of July 1, 1959⁵⁾.

UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND

Plant Varieties and Seeds Act 1964

(First Part)

CHAPTER 14

Arrangement of Sections

PART I

Plant Breeders' Rights

Section

1. Grant of plant breeders' rights.
2. Conditions for grant of rights.
3. Period for which rights are exercisable.
4. The nature of the rights.
5. Naming of protected plant varieties.
6. Maintenance of reproductive material.
7. Compulsory licences.
8. Exclusion from Restrictive Trade Practices Act 1956.
9. Regulations as to applications, fees, etc.
10. The Tribunal.
11. The Plant Variety Rights Office.
12. Application of Tribunals and Inquiries Act 1958.
13. False representations as to rights and false information.
14. Application of Part I to the Crown.
15. Interpretation of Part I.

¹⁾ Official communication from the Italian Administration.

²⁾ See *Prop. ind.*, 1939, p. 124; 1940, p. 84.

³⁾ *Ibid.*, 1940, p. 196.

⁴⁾ *Ibid.*, 1942, p. 168.

⁵⁾ *Ibid.*, 1960, p. 23.

PART II

Seeds and Seed Potatoes

Regulation of Sales

16. Seeds regulations.
17. Civil liabilities of sellers of seeds.
18. Defences in proceedings for offences against seeds regulations.
19. Presumption as respects statutory statements under seeds regulations.

The Index

20. Index of names of plant varieties.
21. Restrictions on sales of seeds of unindexed plant varieties.
22. Performance trials and reports for new varieties within a section of the Index.
23. Punishment for offences in connection with the Index.

Official Testing Stations

24. Official testing stations and certificates of test.

Supplemental

25. Powers of entry.
26. Use of samples in criminal proceedings.
27. Tampering with samples.
28. Institution of criminal proceedings.
29. Application of Part II to seed potatoes.
30. Interpretation of Part II.
31. Repeals and consequential amendment.

PART III

Control of Imports and Prevention of Cross-Pollination

32. Control of imports of potentially deleterious seeds.
33. Measures to prevent injurious cross-pollination affecting crops of seeds.

PART IV

General

34. The gazette.
35. General provisions as to offences.
36. Supplemental provisions as to regulations.
37. Departmental expenses and payments into Exchequer.
38. Interpretation.
39. Extension of Act to Northern Ireland.
40. Extension of Act to Isle of Man and Channel Islands.
41. Short title and commencement.

SCHEDULES

- Schedule 1 — Protection of applicant for rights while application is pending.
- Schedule 2 — Part I: Priorities between applicants for rights.
Part II: Rules for grant of rights.
- Schedule 3 — Plant breeders' rights in special cases.
- Schedule 4 — The Plant Variety Rights Tribunal.
- Schedule 5 — Procedure for compiling and amending Index.
- Schedule 6 — Repeals of Seeds Enactments.
- Schedule 7 — Cross-pollination injuring protected crops.

An Act to provide for the granting of proprietary rights to persons who breed or discover plant varieties and for the issue of compulsory licences in respect thereof; to establish a tribunal to hear appeals and other proceedings relating to the rights, and to exclude certain agreements relating to the rights from Part I of the Restrictive Trade Practices Act 1956; to confer power to regulate, and to amend in other respects the law relating to, transactions in seeds and seed potatoes, including provision for the testing of seeds and seed potatoes, the establishment of an index of names of varieties and the imposition of restrictions as respects the

introduction of new varieties; to control the import of seeds and seed potatoes; to authorise measures to prevent injurious cross-pollination; and for connected purposes.

(12th March 1964)

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

PART I

Plant Breeders' Rights

Grant of plant breeders' rights

1. — (1) Rights, to be known as plant breeders' rights, may be granted in accordance with this Part of this Act in respect of plant varieties of such species or groups as may be prescribed by a scheme made by the Ministers under this Part of this Act.

(2) Subject to this Part of this Act, plant breeders' rights shall be granted to an applicant by the Controller of the Plant Variety Rights Office established under this Part of this Act (hereafter in this Act referred to as "the Controller") on being satisfied that the conditions laid down in the next following section are fulfilled.

(3) Schedule 1 to this Act shall have effect for the protection of an applicant pending the decision to allow or refuse his application for the grant of plant breeders' rights.

(4) An appeal shall lie to the Tribunal established under this Part of this Act (hereafter in this Act referred to as "the Tribunal") against the decision of the Controller to allow or refuse an application for the grant of plant breeders' rights.

(5) Before making a scheme under this Part of this Act the Ministers shall consult the Controller and representatives of such interests as appear to the Ministers to be concerned, and any scheme under this Part of this Act:

(a) may make different provision for different species or groups of plant varieties,

(b) may contain such supplemental, incidental and transitional provisions as appear to the Ministers to be appropriate, and

(c) may be varied or revoked by a subsequent scheme, so, however, that the variation or revocation of a scheme shall not prejudice a grant of plant breeders' rights made before the variation or revocation takes effect.

(6) A scheme under this Part of this Act shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Conditions for grant of rights

2. — (1) The conditions laid down in this section must be fulfilled as respects an applicant for plant breeders' rights and the plant variety to which the application relates.

(2) The applicant must be the person who bred or discovered the variety, or his successor in title, and the provisions of Part I of Schedule 2 to this Act shall have effect as respects priorities between two or more persons who have independently bred or discovered a variety.

(3) The variety must conform to the rules in Part II of Schedule 2 to this Act.

(4) References in this section and Schedule 2 to this Act to the discovery of a plant variety are references to the discovery of a plant variety, whether growing in the wild or occurring as a genetic variant, whether artificially induced or not.

Period for which rights are exercisable

3. — (1) A scheme under this Part of this Act shall prescribe the period, being a period not exceeding 25 years, for which plant breeders' rights are to be exercisable.

(2) As respects fruit trees and their root-stocks, forest and ornamental trees and grape vines the period so prescribed shall be not less than 18 years, and a statement in a scheme under this Part of this Act to the effect that a species or group of plant varieties falls under this subsection shall be conclusive.

(3) As respects plant varieties not falling under the last foregoing subsection the period so prescribed shall be not less than 15 years.

(4) Subject to the following provisions of this section, the period for which plant breeders' rights are exercisable shall be the relevant period prescribed by a scheme under this Part of this Act, beginning with the date on which the grant of the plant breeders' rights by the Controller takes effect.

(5) If on the application of the holder of any plant breeders' rights the Controller is satisfied that, for reasons beyond the control of the applicant, the holder has not been adequately remunerated by the grant of the rights, the Controller may extend the period for which his plant breeders' rights are exercisable, subject to such restrictions, conditions and other provisions, if any, as may be directed by the Controller so, however,

(a) that the period as extended shall not exceed 25 years, and

(b) where the period as extended is less than 25 years, no further extension shall be made under this subsection.

An appeal shall lie to the Tribunal against the decision of the Controller to allow or refuse an application under this subsection.

(6) The holder of plant breeders' rights may at any time make an application to the Controller offering to surrender his rights and if, after notice of the application has been given in the manner prescribed by regulations under this Part of this Act, and after the procedure so prescribed for hearing any person on whom the right to object is conferred by such regulations has been followed, the Controller is satisfied that the rights may properly be surrendered, he may accept the offer and terminate the period for which the rights are exercisable.

An appeal shall lie to the Tribunal from any decision of the Controller under this subsection.

(7) The Controller shall terminate the period for which any plant breeders' rights are exercisable if at any time he is satisfied:

(a) that any information submitted in the application for the grant of the rights, or any information submitted by or on behalf of the applicant in connection with the application, was incorrect and that, if the Controller had known before the grant that it was incorrect, he would have refused the grant, or

(b) that facts have been discovered which, if known before the grant, would have resulted in the grant being refused on the grounds that rule 1 or rule 2 in Part II of Schedule 2 to this Act was not satisfied in respect of the plant variety.

(8) The Controller shall revoke or, if it has begun, terminate any extension under subsection (5) of this section of the period for which any plant breeders' rights are exercisable if at any time he is satisfied that any information submitted in the application under that subsection, or any information submitted by or on behalf of the applicant in connection with the application, was incorrect and that, if the Controller had known before deciding to allow the application that it was incorrect, he would have refused the application.

(9) An appeal shall lie to the Tribunal against any decision of the Controller to act under subsection (7) or subsection (8) of this section.

The nature of the rights

4. — (1) Subject to this Part of this Act, the holder of plant breeders' rights in a plant variety shall have the exclusive right to do, and to authorise others to do, as follows:

(a) to sell the reproductive material of the plant variety;

(b) to produce the reproductive material of the plant variety in Great Britain for the purpose of selling it; and

(c) in the circumstances described in Schedule 3 to this Act, to exercise the other rights there specified,

and, subject to this section, infringements of plant breeders' rights shall be actionable at the suit of the holder of the rights, and in any proceedings for such an infringement all such relief, by way of damages, injunction, interdict, account or otherwise, shall be available as is available in any corresponding proceedings in respect of infringements of other proprietary rights.

(2) Paragraph (a) of the foregoing subsection shall not apply to the sale of reproductive material which is not in Great Britain when it is sold; but if any person purchases the reproductive material of the plant variety which is not in Great Britain when it is sold and uses it in Great Britain as reproductive material, the purchase and subsequent use shall together constitute an infringement of the plant breeders' rights and the purchaser shall be liable to be proceeded against in respect of the infringement.

References in this subsection to using the reproductive material of a plant variety as reproductive material in Great Britain include references to so disposing of that material (otherwise than by way of sale) while it is in Great Britain as to make it available for use in Great Britain as reproductive material.

(3) There shall be no right to damages in respect of an infringement of plant breeders' rights:

(a) if the person infringing the rights was not aware, and had no reasonable grounds for suspecting, that the plant variety in question was the subject of plant breeders' rights, or

(b) in a case where the infringement consists of a breach of conditions attached to a licence, if that person had no notice of any of those conditions,

but the person who would, but for the foregoing provisions, be entitled to damages shall be entitled to an account of profits in respect of the infringement (and to payment of any amount found due on the account) whether any other relief is granted under this section or not.

(4) The holder of plant breeders' rights may, in authorising other persons to exercise his exclusive rights, impose any conditions, limitations or restrictions which may be imposed by the holder of any other kind of proprietary rights, and plant breeders' rights shall be assignable like other kinds of proprietary rights.

(5) A sale of the reproductive material of a plant variety which is the subject of plant breeders' rights, being a sale by the holder of the rights (or by any other person authorised to grant a licence in respect of those rights):

(a) shall not imply that the seller authorises the purchaser to produce the reproductive material of the plant variety for the purpose of selling it, but

(b) subject to any terms or conditions imposed by the seller, shall imply that the seller authorises the purchaser to sell the reproductive material sold to him.

(6) In this section and in Schedule 3 to this Act references to selling reproductive material include references to any transaction effected in the course of business:

(a) under which the property in the reproductive material passes from one person to another, or

(b) under which the reproductive material is made over by one person to another in pursuance of a contract under which he will use the reproductive material for growing further reproductive material or other crops,

and paragraph (b) of this subsection shall apply irrespective of whether the contract provides that the property in the crop will be in the person to be regarded as the seller, or the person to be regarded as the purchaser, or a third party; and any reference to purchasing or a purchaser shall be construed accordingly.

Naming of protected plant varieties

5. — (1) The Ministers may by regulations under this section provide for the selection of names for plant varieties which are the subject of applications for plant breeders' rights and for the keeping of a register of the names so selected.

(2) Notice of all entries made in the register, including alterations, corrections and erasures, shall be published by the Controller in the *Gazette* to be issued under Part IV of this Act, and in such other manner as appears to the Controller to be convenient for the publication of these to all concerned.

(3) After a section of the Index under Part II of this Act has come into force, the part of the register under this section

dealing with the class of plant varieties to which that section of the Index relates shall, so far as practicable, be combined with the Index.

(4) Regulations under this section may in particular:

(a) prescribe the circumstances in which representations may be made regarding any decision as to the name to be registered in respect of any plant variety.

(b) make provision for the publication or service of notices of decisions which the Controller proposes to take, and

(c) prescribe the times at which, and the circumstances in which, the register may be inspected by members of the public.

(5) Any regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(6) If, where a name is registered under this section for a plant variety, any person uses that name, or a name so nearly resembling it as to be likely to deceive or cause confusion, in selling or offering or exposing for sale:

(a) reproductive material of a different plant variety within the same class, or

(b) where under paragraph 1 of Schedule 3 of this Act plant breeders' rights in the first-mentioned plant variety have been extended to material other than reproductive material, that other material from a different plant variety within the same class,

the use of the name shall be a wrong actionable in proceedings by the holder of the rights; but it shall be a defence to a claim for damages in any such proceedings to prove that the defendant took all reasonable precautions against committing a wrong of the kind alleged and had not when using the name any reason to suspect that it was wrongful.

(7) In this section the expression "name" includes any designation, and references to plant varieties as being within the same class are references to them as being within the same class being either:

(a) a class consisting of all plant varieties of the species or groups prescribed by any one scheme under this Part of this Act, or

(b) any other class of plant varieties prescribed for the purposes of this subsection by any such scheme.

Maintenance of reproductive material

6. — (1) The provisions of this section shall apply in relation to all plant varieties except such as fall within any species or group which is excluded from this section by a scheme under this Part of this Act.

(2) Every holder of plant breeders' rights shall ensure that, throughout the period for which the rights are exercisable, he is in a position to produce to the Controller reproductive material which is capable of producing the variety to which the rights relate with the morphological and physiological and other characteristics taken into account when the rights were granted in respect of the variety.

(3) It shall also be the duty of every holder of plant breeders' rights to afford to the Controller all such information and facilities as he may request for the purpose of

satisfying himself that the holder of the plant breeders' rights is fulfilling his duty under subsection (2) of this section, including facilities for the inspection by or on behalf of the Controller of the measures taken for the preservation of the plant variety; and if he is satisfied that the holder of the rights has failed to comply with any request under this subsection he may if he thinks fit at any time terminate the period for which the plant breeders' rights are exercisable.

(4) If at any time it appears to the Controller that any holder of plant breeders' rights is no longer in a position to provide the Controller with the reproductive material mentioned in subsection (2) of this section, he shall terminate the period for which the rights are exercisable.

(5) An appeal shall lie to the Tribunal against any decision of the Controller under this section to terminate the period for which any rights are exercisable.

Compulsory licences

7. — (1) Subject to the provisions of this section, if any person applies to the Controller and satisfies him that the holder of any plant breeders' rights has unreasonably refused to grant a licence to the applicant, or, in granting or offering to grant a licence, has imposed or put forward unreasonable terms, the Controller shall, unless it appears to him that there is good reason for refusing the application, grant to the applicant in the form of a compulsory licence any such rights as respects the plant variety as might have been granted to the applicant by the holder of the plant breeders' rights.

(2) A scheme under this Part of this Act may, for any species or group of plant varieties, prescribe for the purposes of this subsection a period of a length specified in the scheme, and a compulsory licence granted as respects a plant variety which falls within the species or group of plant varieties specified in the scheme shall not have effect during a period beginning with the date of grant of the rights and equal in length to the period so prescribed by the scheme.

The prescribed period may be different for different species or groups.

(3) In entertaining applications and settling the terms of compulsory licences under this section the Controller shall endeavour to secure that the plant variety is available to the public at reasonable prices, that it is widely distributed, that it is maintained in quality and that there is reasonable remuneration for the holder of the plant breeders' rights.

(4) A compulsory licence under this section may include terms obliging the holder of the plant breeders' rights to make reproductive material available to the holder of the compulsory licence.

(5) Without prejudice to the following provisions of this Part of this Act requiring provision to be made by regulations as to proceedings before the Controller, where:

(a) the holder of the plant breeders' rights to which an application under subsection (1) of this section relates is, or is represented by, a society or other organisation which has as its main object, or one of its main objects, the negotiation or granting of licences to exercise plant

breeders' rights, either as the holder of the rights or as agent for holders, and

(b) an organisation (whether claiming to be representative of persons requiring licences or not) or a person (whether requiring a licence or not) applies to the Controller for an opportunity of making representations concerning the application, and the Controller is satisfied that the organisation or person has a substantial interest in the application and that the application involves issues which may affect other applicants for compulsory licences under this section, and

(c) if the applicant under paragraph (b) of this subsection is an organisation, the Controller is satisfied that it is reasonably representative of the class of persons which it claims to represent,

the Controller shall afford to the organisation or person applying under paragraph (b) of this subsection an opportunity of making representations to the Controller and of being heard by the Controller or by a person appointed by the Controller for the purpose.

(6) The Controller before granting a compulsory licence shall satisfy himself that the applicant is financially and otherwise in a position, and intends, to exploit the rights to be conferred on him in a competent and businesslike manner.

(7) Without prejudice to the remedies available to the holder of a compulsory licence by the taking of proceedings in any court, the Controller may, if it is represented to him by any applicant that the holder of the plant breeders' rights has failed to meet any obligation imposed on him by a compulsory licence under this section, and he is satisfied that the representations are correct, terminate the period for which the plant breeders' rights are exercisable.

(8) The Controller may at any time on representations made by any applicant extend, limit or vary in any other respect, or revoke, a compulsory licence.

(9) A compulsory licence under this section may be granted to an applicant whether or not the holder of the plant breeders' rights has granted licences to the applicant or any other person, and shall not be an exclusive licence.

(10) If and so far as any agreement purports to bind any person not to apply for a compulsory licence under this section, it shall be void.

(11) An appeal shall lie to the Tribunal against the decision of the Controller to allow or refuse any application under subsection (1), subsection (7) or subsection (8) of this section.

Exclusion from Restrictive Trade Practices Act 1956

8. — Part I of the Restrictive Trade Practices Act 1956 (registration and judicial investigation of restrictive trading agreements) shall not apply:

(a) to any licence granted by a holder of plant breeders' rights or by any other person authorised to grant a licence in respect of such rights, or

(b) to any assignment of plant breeders' rights or of the title to apply for the grant of such rights, or

(c) to any agreement for such a licence or assignment, being a licence, assignment or agreement under which no such restrictions as are described in section 6 (1) of that Act are accepted except in respect of goods which are plants or parts of plants of the plant variety which is the subject of those plant breeders' rights, or will be the subject of them if granted.

Regulations, as to applications, fees, etc.

9. — (1) Regulations may be made under this section by the Ministers as respects the manner in which the Controller is to discharge his functions under this Part of this Act, and in particular as respects:

- (a) applications for the grant of plant breeders' rights and other applications to the Controller under this Part of this Act, and
- (b) the charging of fees, including periodical fees payable by persons holding plant breeders' rights, and regulations concerning fees charged by the Controller shall be separate regulations made with the approval of the Treasury.

(2) Regulations under this section may authorise the Controller:

- (a) in the case of a failure to pay any fees payable in connection with any application to him under this Part of this Act, to refuse the application, and
- (b) in the case of a failure by a holder of plant breeders' rights to pay any fees payable in connection with those rights, to terminate the period for which the rights are exercisable,

with or without, in any case, a right of appeal against the Controller's decision, and may provide for the restoration of the application or the rights if the failure to pay fees is made good.

(3) The regulations shall provide for affording, before the Controller makes a decision to which this subsection applies, both to the person entitled to appeal to the Tribunal against that decision, and to persons of such other descriptions as may be prescribed by the regulations, an opportunity of making representations to the Controller and of being heard by the Controller or by a person appointed by the Controller for the purpose.

This subsection applies to any decision of the Controller against which, under the provisions contained in this Part of this Act, an appeal lies to the Tribunal.

(4) The regulations may, in addition to the rights of appeal conferred by the provisions contained in this Part of this Act, confer a right of appeal to the Tribunal against any decision of the Controller under regulations made under section 5 of this Act or this section.

(5) Regulations under this section may in particular:

- (a) prescribe the information and facilities to be afforded by an applicant and the reproductive material and other plant material to be submitted at the time of the application or subsequently,
- (b) prescribe the tests, trials, examinations and other steps to be taken by the applicant or the Controller before

any application is granted, and the time within which any such steps are to be taken,

- (c) restrict the making of repeated applications on the same subject,
- (d) prescribe the circumstances in which representations may be made regarding any decision on any application,
- (e) make provision as to the keeping of registers and records by the Controller and their rectification, and prescribe the circumstances in which they may be inspected by members of the public,
- (f) make provision for the publication or service of notice of applications and of the Controller's decisions,
- (g) prescribe the manner of dealing with objections to applications.

(6) Subject to the provisions of this section requiring the approval of the Treasury for regulations concerning fees, any regulations under this section shall be made by the Ministers by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

The Tribunal

10. — (1) There shall be a Plant Variety Rights Tribunal in relation to which the provisions of Schedule 4 to this Act shall apply.

(2) Subject to this section, section 9 of the Tribunals and Inquiries Act 1958 (appeals on questions of law) shall apply as if the Tribunal were included among the tribunals mentioned in subsection (1) of that section and, subject to that section, the decisions of the Tribunal shall be final and conclusive.

(3) The Tribunal shall, in addition to their jurisdiction under this Part of this Act, hear and determine any matters agreed to be referred to the Tribunal by any arbitration agreement relating to the infringement of plant breeders' rights, or to matters which include the infringement of plant breeders' rights, but subsection (2) of this section shall not apply in relation to any jurisdiction conferred on the Tribunal by this subsection.

(4) The fees payable to the Tribunal for acting under any arbitration agreement shall be such as the Tribunal may determine, and nothing in section 4 of the Arbitration (Scotland) Act 1894 (power to name oversman) or in section 9 of the Arbitration Act 1950 (agreements for reference to three arbitrators) shall be taken as applying to the Tribunal.

(5) Regulations may be made by the Ministers under this section as respects any appeal to the Tribunal under this Act, or under regulations made under this Act for all or any of the following purposes, that is:

- (a) to provide for determining in which part of Great Britain any appeal is to be heard;
- (b) to authorise persons other than the appellant and the Controller or other authority whose decision is appealed against to appear and be heard as parties to any appeal;
- (c) to provide for suspending, or authorising or requiring the suspension of, the operation of a decision pending final determination of an appeal against a decision, and

(d) to provide for the publication of notices or the taking of other steps for securing that the persons affected by the suspension of the operation of a decision appealed against will be informed of its suspension.

Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) In the application of this section to England and Wales "arbitration agreement" has the meaning given by section 32 of the Arbitration Act 1950.

The Plant Variety Rights Office

11. — (1) For the purposes of this Part of this Act there shall be an office to be known as the Plant Variety Rights Office which shall be under the immediate control of an officer appointed by the Ministers, to be known as the Controller of Plant Variety Rights.

(2) The Controller shall in the exercise of his functions, other than the taking of any decision from which an appeal lies to the Tribunal, act under the general direction of the Ministers.

(3) The Ministers may, in addition to the Controller, appoint a deputy controller and such other officers and servants to act in the Plant Variety Rights Office as the Ministers may with the consent of the Treasury determine, and there shall be paid to the Controller and any other officers and servants appointed under this section such remuneration and allowances as the Treasury may determine.

(4) Without prejudice to the Controller's general discretion as to the manner in which he performs his duties under this Act, and subject to subsection (2) of this section, the Controller:

- (a) in carrying out the tests and trials which he considers expedient for the purposes of this Part of this Act, and in assessing the results of any tests and trials (whether carried out by him or not) which he considers relevant for those purposes, may use the services of persons who are not officers or servants appointed under this section and may pay to such persons in respect of their services fees in accordance with such a scale as he may with the approval of the Treasury determine, and
- (b) may establish and maintain reference collections of plant material, and
- (c) may by means of grants of such amounts as he may with the approval of the Treasury determine defray or contribute towards the expenses incurred by any other person in maintaining any reference collection of plant material.

(5) Any act or thing directed to be done by or to the Controller may be done by or to any officer authorised by the Ministers, and prima facie evidence, or in Scotland sufficient evidence, of any document issued by the Controller may be given in all legal proceedings by the production of a copy or extract certified to be a true copy or extract by an officer appointed under this section and authorised to give a certificate under this subsection.

(6) There shall be an official seal for the Plant Variety Rights Office, which shall be officially and judicially noticed, and shall be authenticated by the signature of the Controller or of an officer appointed under this section and authorised to authenticate the seal.

(7) Any document purporting to be certified or sealed in accordance with subsection (5) or subsection (6) of this section shall, unless the contrary is proved, be deemed to have been duly certified or sealed without proof of the official character or handwriting of the person appearing to have certified the document or authenticated the seal.

Application of Tribunals and Inquiries Act 1958

12. — (1) Subject to this section, Part I of Schedule 1 to the Tribunals and Inquiries Act 1958 shall have effect as if:

- (a) the Controller and any officer authorised to exercise the functions of the Controller under section 11 (5) of this Act, and
 - (b) the Tribunal
- were specified therein.

(2) Notwithstanding the foregoing subsection, section 5 of that Act (which makes it necessary to obtain the concurrence of the Lord Chancellor and of certain judicial officers in Scotland and Northern Ireland to dismissals in certain cases) shall not apply to the Controller or any such officer as is mentioned in paragraph (a) of the foregoing subsection.

(3) References in that Act, as applied by this section, to the working or a decision of, or procedural rules for, the Controller shall not include references to his working, decisions or procedure in the exercise of executive functions.

False representations as to rights and false information

13. — (1) If a person falsely represents that he is entitled to exercise any plant breeders' rights, or rights derived from plant breeders' rights, whether or not the variety as respects which the representation is made is the subject of plant breeders' rights, and he knows that the representation is false or makes the representation recklessly, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both.

(2) If:

- (a) any information submitted in an application to the Controller for a decision against which an appeal lies to the Tribunal, or any information submitted by or on behalf of the applicant in connection with such an application, or
- (b) any information given in pursuance of a request under section 6 (3) of this Act,

is false in a material particular and the person giving the information or making the statement knows that it is false or gives the information or makes the statement recklessly, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both.

Application of Part I to the Crown

14. — (1) If any servant or agent of the Crown infringes any plant breeders' rights or makes himself liable to civil proceedings under section 5 of this Act, and the infringement or wrong is committed with the authority of the Crown, then civil proceedings in respect of the infringement or wrong shall lie against the Crown.

(2) Subject to the foregoing subsection, no proceedings shall lie against the Crown by virtue of the Crown Proceedings Act 1947 in respect of the infringement of plant breeders' rights or of any such wrong.

(3) This section shall have effect as if contained in Part I of the Crown Proceedings Act 1947.

Interpretation of Part I

15. — (1) References in this Part of this Act to reproductive material are references to reproductive material of plant varieties, and include references:

- (a) to seeds for sowing,
- (b) to seed potatoes and other vegetative propagating material,
- (c) to whole plants, as well as parts of plants, where whole plants may be used as reproductive material, and
- (d) to ornamental plants and parts of ornamental plants when used commercially as propagating material in the production of ornamental plants and cut flowers.

(2) References in this Part of this Act to an applicant for plant breeders' rights, or to the holder of plants breeders' rights, include, where the context allows, references to his predecessors in title or his successors in title.

(To be continued)

GENERAL STUDIES

The New French Trademark Law *)

By A. ARMENGAUD, Senator, Paris

**The Effect of Patent Protection on the
National Economy of a Developing Country**

By Hildegard RONDÓN DE SANSÓ, Caracas (Venezuela) *

- ELBERG (Marie-Amélie). *Lien entre la marque et l'entreprise (Le)*. Paris, Faculty of Law, 1961. - 26,5 cm., 414 p. Thesis.
- UNITED STATES. COMMITTEE ON THE JUDICIARY. SENATE. *Studies of the subcommittee on patents, trademarks, and copyrights of the Committee on the Judiciary United States Senate*. Washington, U. S. Government Printing Office, 1957. - 23 cm.
- KNOBLAUCH (Hans). *Einführung in die Praxis des Warenzeichen- und Ausstattungsrechtes*. Weinheim, Verlag Chemie, 1964. - 21 cm., 148 p.
- KOKTVEDGAARD (Mogens). *Konkurrencepraegede Immaterialretspositioner*. Copenhagen, Juristforbundets Forlag, 1965. - 23 cm., XXXV-464 p.
- RONDÓN DE SANSÓ (Hildegard). *Influencia de la protección de las patentes y las marcas sobre la economía nacional de los diversos estados de la América latina*. Bogotá, Congreso Latinoamericano de la Propiedad industrial, 1964. - 22 cm., 29 p.
- THOMIK (Rudolf) et WEINHOLD (Edgar). *Dictionnaire économique, commercial et financier - Fachwörterbuch für Wirtschaft, Handel und Finanzwesen*. Baden-Baden, R. A. P. O.-Wervereis, 1952. - 20,5 cm., XIV-412 p. Preface by Walter Hallstein and Jean Monnet.
- TROLLER (Alois). *Mehrseitigen völkerrechtlichen Verträge im internationalen gewerblichen Rechtsschutz und Urheberrecht (Die)*. Basel, Vg. f. Recht u. Gesellschaft, 1965. - 22 cm., XX-226 p. Studien zum Immaterialgüterrecht, Vol. 6.

NOTE

The list of "Books received" in our March issue at page 70 contained the publication "Industrie Pharmaceutique de Recherche. The position adopted by Swiss Pharmaceutical Firms engaged in research towards current tendencies affecting industrial property rights and related matters".

It has been drawn to our attention that this is a private publication not for sale.

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Review of periodicals received by the Library. Published by the *Institut national de la propriété industrielle*, Paris. (In French.)

This bi-monthly review contains brief notes relating in particular to French and foreign legislation, scientific works, and to legal decisions. The subject matter is published under the following chapters: Official texts; Foreign legislation; Industrial property; Literary and artistic property; Patents of invention; Trademarks; Register of Commerce and related questions; Bibliography.

A very detailed table of contents is published every year which enables the reader to find his way through the vast amount of material.

This review is without doubt one of the most important sources of information for those concerned with the protection of industrial property and copyright.

R. W.

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BOOK REVIEW

Books Received

- BLANCHET (Bernard). *Code du Vin et textes viti-vinicoles français et communautaires*. Montpellier, published in "La Journée Vinicole", 1964. - 24 cm., 249 p.
- BUSSE (Rudolf). *Patentgesetz und Gebrauchsmustergesetz*. Berlin, W. de Gruyter. - 20,5 cm. The following editions are in the Library: 1937 (548 p.), 1956 (XIX-726 p.) and 1964 (XX-870 p.).
- CANADA. SECRETARY OF STATE. *Report of the Secretary of State of Canada for the year ended March 31, 1964*. Ottawa, Queen's Printer. - 24,5 cm.
- DELLER (Anthony William). *Deller's Walker on Patents*. New York, Baker, Voorhis & Co., 1964. - 24 cm., 7 vol. Second edition.
- DOLEŽIL (Vladimír). *Licenční smlouvy v mezinárodním obchodě*. Prague, Státní nakladatelství technické literatury, 1965. - 20,5 cm., 144 p.

Schadensberechnung im gewerblichen Rechtsschutz, Urheberrecht und unlauteren Wettbewerb (Assessment of damages in the fields of industrial property, copyright and unfair competition), by *Theo Fischer*, Doctor of Law. One volume of 203 pages, 23 × 16 cm. Published by Verlag für Recht und Gesellschaft AG, Basle, 1961. Price: 40 Swiss francs. (In German)

This book, which answers a practical need, is based essentially on Swiss law. It is divided into three parts under the following headings: I. The basis of the right to compensation for damage sustained in respect of the protection of intangible property. II. The assessment of the amount of the damages and of the profits. III. Court practice.

The last part is of particular interest to the practitioner. Indeed, as the author explains, the assessment of damages often presents great difficulties for the plaintiff and in most cases he has to rely mainly on the

judge's estimate. With this in mind, the writer has classified clearly and methodically a considerable number of legal decisions under the following headings: "Patent law", "Industrial designs", "Copyright", "Unfair competition".

R. W.

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System des patentrechtlichen Erfindungsschutzes (System of protection granted by patents of invention), by *Alfred Kumm*, Doctor of Laws. One volume of 350 pages, 22 × 15 cm. Published by Verlag für angewandte Wissenschaften, Baden-Baden, 1962. Price: DM 49.— (In German.)

The author, an *Oberregierungsrat* in the German Patent Office, has undertaken the task of publishing a complete guide to facilitate the drafting of logical and legally sound patents. The practitioner who is required to draft patents and to assess their legal effect and possibilities, will find valuable assistance, advice and useful suggestions.

A systematic table of contents and a detailed alphabetical index greatly facilitate consultation of the work which deserves attention.

R. W.

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Die täuschende Werbung im italienischen Wettbewerbsrecht (Deceptive advertising under the Italian law on competition), by *Gerhard Schrickler*, One volume of 241 pages, 22 × 15 cm. Published by Carl Heymanns Verlag KG, Munich, Cologne, Berlin, Bonn, 1962. Price: DM 28.— (In German)

The author of this book has set himself the task of examining the legal position in Italy with regard to deceptive advertising and comparing the results with the situation in Germany under the law at present in force. He takes as his starting point the field of application of the rules on unfair advertising in German law. His study is not confined, however, to actual situations dealt with under the provisions of the German law. It also extends to all cases having the characteristic of deception that is typical of all unfair advertising. This applies, for instance, to indications liable to mislead which have not been made public.

As the author observes, most Italian manuals deal with deceptive advertising in the chapters they devote to unfair competition, but they seldom give more than a few brief indications on the subject. That is why Mr. Schrickler's book is based mainly on court decisions. The solutions adopted in Italian law are compared in each case with those of German law.

Among others, the following facts are established. Unfair advertising is not actionable under Italian law unless the plaintiff risks injury. In the absence of this condition, there is no right of action. Under German law, on the other hand, it is sufficient if there is a possibility that the purchaser might be misled. The author concludes that the principle of truthfulness as applied to advertising is observed to better effect in German law than in Italian law. Italian jurisprudence is explained by the fact that actions, confined to competitors in similar branches of business, and serving consumers' interests at the same time, are quite unknown in Italian law, where they are even regarded as dangerous.

In the author's view, any reform of Italian law would have to pay more attention to the principle of truthfulness which is applicable in Germany, as in other countries, in the matter of deceptive advertising. This would contribute to attempts to reduce the divergencies existing in the laws of the various European countries on unfair competition. R. W.

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Die Patentfähigkeit als rechtsteleologisches Problem (Patentability as a teleological problem of law), by *Mr. Fritz Walleser*. One volume of IV+168 pages, 23 × 15.5 cm. Published by Verlag Stämpfli & Co., Berne, 1963. Price Sfr. 22.— (In German)

The object of this thesis is to contribute to a new definition of the concept of the invention, based on a new criterium.

The author has raised the question of the conditions which an invention must fulfil in order to justify the exceptional economic position of

the inventor. He favours the maintenance of the patent as a legal institution, because the possibility of obtaining a patent stimulates the inventive spirit, which contributes to an increase in prosperity. The author defines the invention as equivalent to an increase in technological knowledge, i. e., a knowledge of the laws of nature usefully employed (p. 18).

In the opinion of the author, the concept of the usefulness of an invention as a condition of patentability is debatable and "technical progress" should not serve as a criterium for the right of the inventor to obtain a patent. This problem should rather be solved according to the teleological method by comparing the interests of the inventor in obtaining an exclusive right with those of competitors in disposing freely of technological knowledge.

Such arguments and ideas are not lacking in originality and will perhaps contribute to a re-examination of the concept of the invention.

R. W.

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Licenční smlouvy v mezinárodním obchodě (Licence Contracts in International Trade), by *Vladimír Doležil*. Published by SNTL, Prague, 144 pages. (In Czechoslovak.)

This study deals with licensing contracts in international trade.

After an introduction devoted to the protection of intangible assets (patents, trademarks, industrial designs, etc.) in the legislation of different countries and in international treaties, the author systematically examines the various stages in the conclusion of licensing contracts between parties who are not nationals of the same country. Taking as a basis the Czechoslovak Law now in force, the author draws the attention of the reader to the divergent provisions of the legislation of other countries and the problems frequently encountered in this field.

The organization of the licensing service in Czechoslovakia is dealt with in a separate chapter.

At the end of the book, the reader will find selected texts in Czechoslovak, English and German of different types of licensing contracts.

This study will be of great assistance from both a theoretical and a practical point of view and will be a most useful instrument.

Otto Kuuz.

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La protection des inventions (The Protection of Inventions), by *Pierre-Jean Pointet*, Professor at the University of Neuchâtel; with preface by *Mr. F.-W. Hummler*. One volume of 62 pages, 24 × 16 cm. Edited by the "Centre Electronique Horloger S. A.", Neuchâtel, 1965. (In French.)

An ever-increasing circle of industrialists, economists, financiers, administrators and technicians are called upon to deal with the protection of inventions and thereby discover the existence of industrial property law. It is then that they find considerable difficulty in grasping the basic principles, because of the abstruse and complex nature of this field of law which touches at the same time both private and administrative law and economics. The abundance of learned theoretical works discourages the uninitiated, and we have so far lacked an exhaustive study conceived by a specialist for the use of non-specialists, anxious for complete and concise information.

The excellent study of Pierre-Jean Pointet *La protection des inventions* is a welcome contribution to such information. It is clear that the author is particularly well-qualified; he not only lectures on intellectual property law at the University of Neuchâtel but he is also Chairman of the Swiss Group of the International Association for the Protection of Industrial Property, Vice-Chairman of the International Commission for the Protection of Industrial Property of the International Chamber of Commerce and a Member of the Appeals Board of the Federal Bureau of Intellectual Property.

In some 50 perfectly written, clear and descriptive pages, Professor Pointet paints a complete picture of the basic elements essential for the understanding of the international and Swiss problems of the protection of inventions. In the first part, the author begins by explaining the concept of an invention; he then deals with patents, inventors' certifi-

cates and utility models. He emphasises, in particular, that "... the evolution of industry during the past sixty years has proved that the protection granted to patents of invention has been a powerful stimulant to research and, consequently, to technical progress and industrial development..." This is indeed a well-stated truth and should be a subject for meditation for those who still doubt the real effectiveness of the protection of inventions.

The author then explains the fundamental principles of the obligation to exploit; he also covers that other principle, so well-known to practitioners but unknown to others: the territorial scope of a patent. Not a week passes without BIRPI receiving applications for international patents from persons whose lack of information is somewhat surprising. M. Pointet then presents a vivid and complete picture of the different procedures for granting patents.

Before analysing the characteristic elements particular to Switzerland, M. Pointet devotes a chapter, as clear as well it is exhaustive, to international conventions, with particular emphasis on the Paris Convention. We were particularly impressed by his description of the main characteristics of our Convention. The work and activities of the Council of Europe, the International Patent Institute of The Hague and of the European Economic Community are also fully revealed. In this latter respect, M. Pointet believes that "Because certain decisions yet to be taken are of a political nature, it is impossible to predict what will be the final form of the Convention establishing a European patent. In any case, it is certain to be several years before it will come into force".

Lastly, some 30 pages are more specially devoted to the aspects of the protection of inventions from the Swiss point of view, namely, the legislation, theory, bibliography and jurisprudence.

The opinions voiced by some of the first readers of M. Pointet's work are more than flattering. And, among them, are those of well-known

specialists who have said how pleasing it is to rediscover a subject which they thought they knew well and which M. Pointet has managed to present in such an easy and attractive manner. This is perhaps the best compliment which will no doubt encourage other readers to acquire this excellent study.

Mr. Pierre-Jean Pointet's study will certainly find a wide audience among Swiss economic circles, the more so because it has also been translated into German by Mr. Peter Gross, Secretary-General to the « Centre Economique Horloger ».

G. B.

NEWS ITEMS

BRAZIL

Appointment of new Director-General of the National Department of Industrial Property

We are informed that Dr. Geraldo Thomé de Sahoya e Silva has been appointed Director-General of the National Department of Industrial Property.

We take this opportunity of congratulating the new Director-General on his appointment.

CALENDAR

Meetings of BIRPI

Date and Place	Title	Object	Invitations to Participate	Observers Invited
May 4 to 7, 1965 Geneva	Committee of Experts for the Classification of Goods and Services	To bring up to date the international classification	All Member States of the Nice Union	
May 18, 1965 Geneva (Headquarters of ILO)	Constitution of the Intergovernmental Committee (Neighbouring Rights). Meeting convened jointly with ILO and Unesco	Application of Article 32 (1), (2) and (3) of the Rome Convention	Czechoslovakia, Congo (Brazzaville), Ecuador, Mexico, Niger, Sweden, United Kingdom of Great Britain and Northern Ireland	Denmark
July 5 to 14, 1965 Geneva	Committee of Governmental Experts preparatory to the Revision Conference of Stockholm (Copyright)	Examination of the amendments proposed by the Swedish/BIRPI Study Group for the revision of the Berne Convention	All Member States of the Berne Union	Certain Non-Member States of the Berne Union; Interested international intergovernmental and non-governmental organizations
September 28 to October 1, 1965 Geneva	Interunion Coordination Committee (3 rd Session)	Program and budget of BIRPI	Belgium, Brazil, Ceylon, Czechoslovakia, Denmark, France, Germany (Fed. Rep.), Hungary, India, Italy, Japan, Morocco, Netherlands, Nigeria, Portugal, Rumania, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia	All other Member States of the Paris Union or of the Berne Union; United Nations
September 29 to October 1, 1965 Geneva	Executive Committee of the Conference of Representatives of the Paris Union (1 st Session)	Program and activities of the International Bureau of the Paris Union	Ceylon, Czechoslovakia, France, Germany (Fed. Rep.), Hungary, Italy, Japan, Morocco, Netherlands, Nigeria, Portugal, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia	All other Member States of the Paris Union; United Nations

Meetings of Other International Organizations concerned with Intellectual Property

Place	Date	Organization	Title
Caracas	May 4 to 6, 1965	Inter-American Association of Industrial Property (ASIPI)	Administrative Council
Paris	May 7, 1965	International Literary and Artistic Association (ALAI)	International Commission and Executive Committee
Namur	May 23 to 27, 1965	International League Against Unfair Competition	Congress
Paris	May 31, 1965	International Chamber of Commerce (ICC)	Commission on the International Protection of Industrial Property
Stockholm	August 23 to 28, 1965	International Literary and Artistic Association (ALAI)	Congress
London	August 31 to September 10, 1965	Committee for International Cooperation in Information Retrieval among Examining Patent Offices (ICIREPAT)	Fifth Annual Meeting
Tokyo	April 11 to 16, 1966	International Association for the Protection of Industrial Property (IAPIP)	Congress