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# INTERNATIONAL UNIONS

## Protocol of Geneva to the Hague Agreement Concerning the International Deposit of Industrial Designs

(as signed at Geneva on August 29, 1975)

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### Article 1

#### Abbreviated Expressions

For the purposes of this Protocol:

- (i) "Hague Agreement" means the Hague Agreement Concerning the International Deposit of Industrial Designs concluded on November 6, 1925;
- (ii) "1934 Act" means the Act of the Hague Agreement revised at London on June 2, 1934;
- (iii) "1960 Act" means the Act of the Hague Agreement revised at The Hague on November 28, 1960;
- (iv) "1967 Act" means the Complementary Act of Stockholm of July 14, 1967, to the Hague Agreement;
- (v) "Hague Union" means the Union established by the Hague Agreement;
- (vi) "Contracting State" means any State bound by this Protocol;
- (vii) "national" of any State includes also any person who, without being a national of that State, is domiciled or has a real and effective industrial or commercial establishment in the territory of the said State;
- (viii) "International Bureau" means the International Bureau of the World Intellectual Property Organization and, as long as it subsists, the United International

\* This table of contents is added for the convenience of the reader. It does not appear in the original signed text.

Bureaux for the Protection of Intellectual Property (BIRPI);

- (ix) "Director General" means the Director General of the World Intellectual Property Organization.

### Article 2

#### Deposits Made by Nationals of Contracting States Bound by the 1934 Act

(1) In respect of any international deposit of an industrial design made by a national of a Contracting State bound by the 1934 Act, and subject to paragraph (2), Articles 1 to 14 and 17 to 21 of the 1934 Act shall be applied by Contracting States bound by the 1934 Act, whereas Articles 2 to 15 and 18 of the 1960 Act, which are reproduced in the Appendix, shall be applied by Contracting States not bound by the 1934 Act; the International Bureau shall apply the former set of Articles with respect to Contracting States bound by the 1934 Act and the latter set of Articles with respect to Contracting States not bound by the 1934 Act.

(2) At the time of making the international deposit of an industrial design, the depositor who is a national of a Contracting State bound by the 1934 Act may request that the provisions of the 1960 Act be applied with respect to any Contracting State bound by the 1934 Act; in respect of any international deposit accompanied by such a request and for the purposes of the State or States named in that request, Articles 2 to 15 and 18 of the 1960 Act shall be applied by the latter State or States and by the International Bureau.

### Article 3

#### Deposits Made by Nationals of Contracting States Not Bound by the 1934 Act

In respect of any international deposit of an industrial design made by a national of a Contracting State not bound by the 1934 Act, Articles 2 to 15 and 18 of the 1960 Act, which are reproduced in the Appendix, shall be applied by all Contracting States and by the International Bureau.

### Article 4

#### Regulations

(1) The details of application of this Protocol shall be prescribed by Regulations adopted by the Assembly of the Hague Union not later than two months after the entry into force of this Protocol. The Regulations thus adopted shall enter into force one month after their adoption.

(2) The rules of procedure of the Assembly of the Hague Union shall regulate the right to vote in respect of the adoption of, and any amendment to, the provisions of the Regulations which concern only Contracting States.

**Article 5**

## Acceptance of the 1967 Act

With respect to any State which has not previously ratified or acceded to the 1967 Act, ratification of, or accession to, this Protocol shall automatically entail ratification of, or accession to, the 1967 Act.

**Article 6**

## Membership in the Hague Union

With respect to any State which is not a country of the Hague Union, ratification of, or accession to, this Protocol shall also have the effect that the said State will become a country of the Hague Union on the date on which this Protocol enters into force with respect to that State.

**Article 7**

## Becoming Party to the Protocol

(1) This Protocol may be signed by:

- (i) any State which is or which has been bound by the 1934 Act,
- (ii) any other State which has deposited, not later than December 1, 1975, an instrument of ratification or accession in respect of the 1934 Act or the 1960 Act.

(2) Any State may become party to this Protocol by:

- (i) the deposit of an instrument of ratification if it has signed this Protocol,
- (ii) the deposit of an instrument of accession if it has not signed this Protocol,

provided that the said State, at the time of depositing its instrument of ratification or accession in respect of this Protocol, is bound by the 1934 Act or, without being bound by that Act, had deposited an instrument of ratification or accession in respect of the 1934 Act or the 1960 Act.

(3) Instruments of ratification or accession in respect of this Protocol shall be deposited with the Director General.

**Article 8**

## Regional Groups

(1) If several States form a regional group with a common industrial designs office, each of the States forming the regional group may, at the time it deposits its instrument of ratification or accession in respect of this Protocol, or at any date subsequent to such deposit, deposit with the Director General a notification indicating the States which form the regional group and stating:

- (i) that a common office shall be substituted for the national Office of each of the States forming the regional group, and
- (ii) that the States forming the regional group shall be deemed a single State for the purposes of the application of Articles 2 and 3 of this Protocol.

(2) Such notification shall have the effect provided for in paragraph (1) one month after the date on which the Director General has received the notifications and deposits referred to in paragraph (1) of all the States forming the regional group or, where that date is more than one month before the

date of entry into force of this Protocol with respect to all the States forming the regional group, on the said date of entry into force.

**Article 9**

## Entry Into Force

(1) Subject to Article 11 (1), this Protocol shall enter into force one month after the deposit of the instruments of ratification or accession of two States which are bound by the 1934 Act and two States which are not bound by the 1934 Act; however, no international deposit of an industrial design may be made under this Protocol before the entry into force of the Regulations referred to in Article 4.

(2) With respect to any State other than those whose instruments cause the entry into force of this Protocol by virtue of paragraph (1), this Protocol shall enter into force one month after the deposit of its instrument of ratification or accession.

**Article 10**

## Denunciation

(1) Any State may denounce this Protocol at any time after the expiration of five years from the date on which it entered into force with respect to such State.

(2) Any denunciation of this Protocol shall be effected through a notification addressed to the Director General. It shall become effective one year after receipt of the said notification by the Director General.

(3) Denunciation of this Protocol shall not relieve any Contracting State of its obligations under this Protocol in respect of industrial designs whose date of international deposit precedes the date on which the denunciation takes effect.

**Article 11**

## Effect of Entry Into Force of the 1960 Act

(1) This Protocol shall not enter into force if, on the date on which it would enter into force by virtue of Article 9(1), the 1960 Act is already in force.

(2)(a) This Protocol shall cease to have effect as from the date of entry into force of the 1960 Act.

(b) The fact that this Protocol ceases to have effect in accordance with subparagraph (a) shall not relieve Contracting States of their obligations under this Protocol in respect of industrial designs whose date of international deposit precedes the date of entry into force of the 1960 Act.

**Article 12**

## Signature, Languages, Depositary Functions

(1) This Protocol shall be signed in a single original in the English and French languages and shall be deposited with the Director General.

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

(3) This Protocol shall remain open for signature until December 1, 1975.

(4) The Director General shall transmit two copies, certified by him, of this Protocol to the Governments of all States party to the Paris Convention for the Protection of Industrial Property and, on request, to the Government of any other State.

(5) The Director General shall register this Protocol with the Secretariat of the United Nations.

(6) The Director General shall notify the Governments of all States party to the Paris Convention for the Protection of Industrial Property of signatures, deposits of instruments of ratification or accession, entry into force, and all other relevant notifications.

## APPENDIX

### Excerpts from the 1960 Act

(see Articles 2(1) and 3 of the Protocol)

#### Article 2

For the purposes of this Agreement:

"1925 Agreement" shall mean the Hague Agreement concerning the International Deposit of Industrial Designs of November 6, 1925;

"1934 Agreement" shall mean the Hague Agreement concerning the International Deposit of Industrial Designs of November 6, 1925, as revised at London on June 2, 1934;

"this Agreement" or "the present Agreement" shall mean the Hague Agreement concerning the International Deposit of Industrial Designs as established by the present Act;

"Regulations" shall mean the Regulations for carrying out this Agreement;

"International Bureau" shall mean the Bureau of the International Union for the Protection of Industrial Property;

"international deposit" shall mean a deposit made at the International Bureau;

"national deposit" shall mean a deposit made at the national Office of a contracting State;

"multiple deposit" shall mean a deposit including several designs;

"State of origin of an international deposit" shall mean the contracting State in which the applicant has a real and effective industrial or commercial establishment or, if the applicant has such establishments in several contracting States, the contracting State which he has indicated in his application; if the applicant has no such establishment in any contracting State, the contracting State in which he has his domicile; if he has no domicile in a contracting State, the contracting State of which he is a national;

"State having a novelty examination" shall mean a contracting State the domestic law of which provides for a system which involves a preliminary ex officio search and examination by its national Office as to the novelty of each deposited design.

#### Article 3

Nationals of contracting States and persons who, without being nationals of any contracting State, are domiciled or have a real and effective industrial or commercial establishment in the territory of a contracting State may deposit designs at the International Bureau.

#### Article 4

(1) International deposit may be made at the International Bureau:

1. direct, or
2. through the intermediary of the national Office of a contracting State if the law of that State so permits.

(2) The domestic law of any contracting State may require that international deposits of which it is deemed to be the State of origin shall be made through its national Office. Non-compliance with this requirement shall not prejudice the effects of the international deposit in the other contracting States.

#### Article 5

(1) The international deposit shall consist of an application and one or more photographs or other graphic representations of the design, and shall involve payment of the fees prescribed by the Regulations.

(2) The application shall contain:

1. a list of the contracting States in which the applicant requests that the international deposit shall have effect;
2. the designation of the article or articles in which it is intended to incorporate the design;
3. if the applicant wishes to claim the priority provided for in Article 9, an indication of the date, the State, and the number of the deposit giving rise to the right of priority;
4. such other particulars as the Regulations may prescribe.

(3)(a) In addition, the application may contain:

1. a short description of characteristic features of the design;
2. a declaration as to who is the true creator of the design;
3. a request for deferment of publication as provided in Article 6(4).

(b) The application may be accompanied also by samples or models of the article or articles incorporating the design.

(4) A multiple deposit may include several designs intended to be incorporated in articles included in the same class of the International Design Classification referred to in Article 21(2), item 4.

#### Article 6

(1) The International Bureau shall maintain the International Design Register and shall register international deposits therein.

(2) The international deposit shall be deemed to have been made on the date on which the International Bureau received the application in due form, the fees payable with

the application, and the photograph or photographs or other graphic representations of the design, or, if the International Bureau received them on different dates, on the last of these dates. The registration shall bear the same date.

(3)(a) For each international deposit, the International Bureau shall publish in a periodical bulletin:

1. reproductions in black and white or, at the request of the applicant, in color of the deposited photographs or other graphic representations;
2. the date of the international deposit;
3. the particulars prescribed by the Regulations.

(b) The International Bureau shall send the periodical bulletin to the national Offices as soon as possible.

(4)(a) The publication referred to in paragraph (3)(a) shall, at the request of the applicant, be deferred for such period as he may request. The said period may not exceed twelve months from the date of the international deposit. However, if priority is claimed, the starting date of such period shall be the priority date.

(b) At any time during the period referred to in subparagraph (a), the applicant may request immediate publication or may withdraw his deposit. Withdrawal of the deposit may be limited to one or a few only of the contracting States and, in the case of a multiple deposit, to some only of the designs included therein.

(c) If the applicant fails to pay within the proper time the fees payable before the expiration of the period referred to in subparagraph (a), the International Bureau shall cancel the deposit and shall not effect the publication referred to in paragraph (3)(a).

(d) Until the expiration of the period referred to in subparagraph (a), the International Bureau shall keep in confidence the registration of deposits made subject to deferred publication, and the public shall have no access to any documents or articles concerning such deposits. These provisions shall apply without limitation as to time if the applicant has withdrawn his deposit before the expiration of the said period.

(5) Except as provided in paragraph (4), the Register and all documents and articles filed with the International Bureau shall be open to inspection by the public.

#### Article 7

(1)(a) A deposit registered at the International Bureau shall have the same effect in each of the contracting States designated by the applicant in his application as if all the formalities required by the domestic law for the grant of protection had been complied with by the applicant and as if all administrative acts required to that end had been accomplished by the Office of such State.

(b) Subject to the provisions of Article 11, the protection of designs the deposit of which has been registered at the International Bureau is governed in each contracting State by those provisions of the domestic law which are applicable in that State to designs for which protection has been claimed on the basis of a national deposit and in respect of which all

formalities and administrative acts have been complied with and accomplished.

(2) An international deposit shall have no effect in the State of origin if the laws of that State so provide.

#### Article 8

(1) Notwithstanding the provisions of Article 7, the national Office of a contracting State whose domestic law provides that the national Office may, on the basis of an administrative ex officio examination or pursuant to an opposition by a third party, refuse protection shall, in case of refusal, notify the International Bureau within six months that the design does not meet the requirements of its domestic law other than the formalities and administrative acts referred to in Article 7(1). If no such refusal is notified within a period of six months the international deposit shall become effective in that State as from the date of that deposit. However, in a contracting State having a novelty examination, the international deposit, while retaining its priority, shall, if no refusal is notified within a period of six months, become effective from the expiration of the said period unless the domestic law provides for an earlier date for deposits made with its national Office.

(2) The period of six months referred to in paragraph (1) shall be computed from the date on which the national Office receives the issue of the periodical bulletin in which the registration of the international deposit has been published. The national Office shall communicate that date to any person so requesting.

(3) The applicant shall have the same remedies against the refusal of the national Office referred to in paragraph (1) as if he had deposited his design in that Office; in any case, the refusal shall be subject to a request for re-examination or appeal. Notification of such refusal shall indicate:

1. the reasons for which it has been found that the design does not meet the requirements of the domestic law;
2. the date referred to in paragraph (2);
3. the time allowed for a request for re-examination or appeal;
4. the authority to which such request or appeal may be addressed.

(4)(a) The national Office of a contracting State whose domestic law contains provisions of the kind referred to in paragraph (1) requiring a declaration as to who is the true creator of the design or a description of the design may provide that, upon request and within a period of not less than sixty days from the dispatch of such a request by the said Office, the applicant shall file in the language of the application filed with the International Bureau:

1. a declaration as to who is the true creator of the design;
2. a short description emphasizing the essential characteristic features of the design as shown by the photographs or other graphic representations.

(b) No fees shall be charged by a national Office in connection with the filing of such declarations or descriptions, or for their possible publication by that national Office.

(5)(a) Any contracting State whose domestic law contains provisions of the kind referred to in paragraph (1) shall notify the International Bureau accordingly.

(b) If, under its legislation, a contracting State has several systems for the protection of designs one of which provides for novelty examination, the provisions of this Agreement concerning States having a novelty examination shall apply only to the said system.

#### Article 9

If the international deposit of a design is made within six months of the first deposit of the same design in a State member of the International Union for the Protection of Industrial Property, and if priority is claimed for the international deposit, the priority date shall be that of the first deposit.

#### Article 10

(1) An international deposit may be renewed every five years by payment only, during the last year of each period of five years, of the renewal fees prescribed by the Regulations.

(2) Subject to the payment of a surcharge fixed by the Regulations, a period of grace of six months shall be granted for renewal of the international deposit.

(3) At the time of paying the renewal fees, the international deposit number must be indicated and also, if renewal is not to be effected for all the contracting States for which the deposit is about to expire, those of the contracting States for which the renewal is to be effected.

(4) Renewal may be limited to some only of the designs included in a multiple deposit.

(5) The International Bureau shall record and publish renewals.

#### Article 11

(1)(a) The term of protection granted by a contracting State to designs which have been the subject of an international deposit shall not be less than:

1. ten years from the date of the international deposit if the deposit has been renewed;
2. five years from the date of the international deposit in the absence of renewal.

(b) However, if, under the provisions of the domestic law of a contracting State having a novelty examination, protection commences at a date later than that of the international deposit, the minimum terms provided for in subparagraph (a) shall be computed from the date at which protection commences in that State. The fact that the international deposit is not renewed or is renewed only once shall in no way affect the minimum terms of protection thus defined.

(2) If the domestic law of a contracting State provides, in respect of designs which have been the subject of a national deposit, for protection whose duration, with or without renewal, is longer than ten years, protection of the same dura-

tion shall, on the basis of the international deposit and its renewals, be granted in that State to designs which have been the subject of an international deposit.

(3) A contracting State may, under its domestic law, limit the term of protection of designs which have been the subject of an international deposit to the terms provided for in paragraph (1).

(4) Subject to the provisions of paragraph (1)(b), protection in a contracting State shall terminate at the date of expiration of the international deposit, unless the domestic law of that State provides that protection shall continue after the date of expiration of the international deposit.

#### Article 12

(1) The International Bureau shall record and publish changes affecting ownership of a design which is the subject of an international deposit in force. It is understood that transfer of ownership may be limited to the rights arising from the international deposit in one or a few only of the contracting States and, in the case of a multiple deposit, to some only of the designs included therein.

(2) The recording referred to in paragraph (1) shall have the same effect as if it had been made in the national Offices of the contracting States.

#### Article 13

(1) The owner of an international deposit may, by means of a declaration addressed to the International Bureau, renounce his rights in respect of all or some only of the contracting States and, in the case of a multiple deposit, in respect of some only of the designs included therein.

(2) The International Bureau shall record and publish such declaration.

#### Article 14

(1) No contracting State may, as a condition of recognition of the right to protection, require that the article incorporating the design bear a sign or notice concerning the deposit of the design.

(2) If the domestic law of a contracting State provides for a notice on the article for any other purpose, such State shall regard such requirement as satisfied if all the articles offered to the public with the authorization of the owner of the rights in the design, or the tags attached to such articles, bear the international design notice.

(3) The international design notice shall consist of the symbol  $\textcircled{D}$  (a capital D in a circle) accompanied by:

1. the year of the international deposit and the name, or the usual abbreviation of the name, of the depositor, or
2. the number of the international deposit.

(4) The mere appearance of the international design notice on the article or the tags shall in no case be interpreted as implying a waiver of protection by virtue of copyright or on any other grounds, whenever, in the absence of such notice, such protection may be claimed.

### Article 15

- (1) The fees prescribed by the Regulations shall consist of:
1. fees for the International Bureau;
  2. fees for the contracting States designated by the applicant, namely:
    - (a) a fee for each contracting State;
    - (b) a fee for each contracting State having a novelty examination and requiring the payment of a fee for such examination.
- (2) Any fees paid in respect of one and the same deposit for a contracting State under paragraph (1), item 2(a), shall be deducted from the amount of the fee referred to in paragraph (1), item 2(b), if the latter fee becomes payable for the same State.

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### Article 18

The provisions of this Agreement shall not preclude the making of a claim to the benefit of any greater protection which may be granted by domestic legislation in a contracting State, nor shall they affect in any way the protection accorded to works of art and works of applied art by international copyright treaties and conventions.

## Strasbourg Agreement

### I

#### Accession

#### SOVIET UNION

The Government of the Soviet Union deposited on September 30, 1975, its instrument of accession to the Strasbourg Agreement Concerning the International Patent Classification of March 24, 1971.

This instrument of accession contains the following declaration:

"The Union of Soviet Socialist Republics considers it necessary to make the following declaration in respect of the provisions of Article 12(3) of the Agreement. That Article provides Contracting Parties with the possibility of extending its effect to those territories for the external

relations of which they are responsible. The Union of Soviet Socialist Republics declares that the provisions of the said Article are outdated and that they are in contradiction with the Declaration of the General Assembly of the United Nations on the granting of independence to colonial countries and peoples (United Nations General Assembly Resolution 1514 (XV) of December 14, 1960). That Declaration proclaims the necessity of bringing to a speedy and unconditional end colonialism in all its forms and manifestations." (Translation)

Pursuant to the provisions of Article 13(1)(b), the Strasbourg Agreement will enter into force with respect to the Soviet Union on October 3, 1976.

Strasbourg Notification No. 24, of October 3, 1975.

### II

#### Reservation under Article 4(4)(ii)

#### MONACO

The Government of Monaco, referring to its instrument of ratification of the Strasbourg Agreement Concerning the International Patent Classification of March 24, 1971, deposited on June 10, 1975, states that the following declaration should be understood to form part of that instrument:

"The Government of the Principality declares that it avails itself of the reservation provided for in Article 4(4)(ii) of the said Agreement, which reads as follows: Any country which does not proceed to an examination as to novelty, whether immediate or deferred, and in which the procedure for the grant of patents or other kinds of protection does not provide for a search into the state of the art, may declare that it does not undertake to include the symbols relating to the groups and subgroups of the Classification in the documents and notices referred to in paragraph (3). If these conditions exist only in relation to certain kinds of protection or certain fields of technology, the country in question may only make this reservation to the extent that the conditions apply." (Translation)

Pursuant to the provisions of Article 13(1)(b), the Strasbourg Agreement will enter into force with respect to Monaco on June 13, 1976 (see Strasbourg Notification No. 22<sup>1</sup>).

Strasbourg Notification No. 25, of October 14, 1975.

<sup>1</sup> *Industrial Property*, 1975, p. 171.

# WIPO MEETINGS

## Hague Union

### Conference of Plenipotentiaries

(Geneva, August 28 and 29, 1975)

#### Note\*

At the invitation of the Director General of WIPO, a Conference of Plenipotentiaries of the Hague Union Concerning the International Deposit of Industrial Designs met at the headquarters of WIPO.

The Conference was composed of the delegations of seven States that are or have been members of the Hague Union, the delegation of another State member of the International Union for the Protection of Industrial Property (Paris Union) and the representative of one intergovernmental organization. Under the Rules of Procedure of the Conference, the seven first-mentioned delegations had the right to vote, while the other delegation and the representative of the intergovernmental organization took part in the Conference in an observer capacity. The Conference formed a Credentials Committee and a Drafting Committee. The lists of participants and officers appear below this Note.

On the basis of a draft prepared by a Committee of Experts<sup>1</sup>, the Conference adopted, on August 29, 1975, the Geneva Protocol to the Hague Agreement Concerning the International Deposit of Industrial Designs; the text of the Protocol together with its Appendix, is reproduced on page 298 above. The main purpose of the Protocol is to establish or re-establish, in the field of the international deposit of industrial designs and until the 1960 Act of the Hague Agreement enters into force, relations between member States of the Hague Union and States not members of that Union having ratified or acceded to the 1960 Act. The latter States would, by accepting the Protocol, become members of the Hague Union and would, to the extent laid down in the Protocol, have the rights and obligations which arise under the 1960 and 1967 Acts of the Hague Agreement. The Protocol and the 1960 Act will not be parallel instruments: the entry into force of the 1960 Act will either prevent the entry into force of the Protocol or, if the Protocol has already entered into force, result in the Protocol ceasing to have any effect.

The Protocol was signed the same day, on August 29, 1975, by the following five States: Belgium, Germany (Federal Republic of), Liechtenstein, the Netherlands and Switzerland. It will remain open until December 1, 1975, for signature by States that are or have been bound by the 1934 Act of the Hague Agreement and other States that have, by that date, deposited an instrument of ratification of or accession to the 1934 or the 1960 Act.

\* This Note has been prepared by the International Bureau.

<sup>1</sup> For the two sessions of this Committee of Experts, see *Industrial Property*, 1974, p. 432, and 1975, p. 87.

## List of Participants\*

### I. Member States

Belgium: R. Raux; P. Peetermans. France: S. Balous (Mrs.). Germany (Federal Republic of): E. Steup (Mrs.); H. F. Graeve. Liechtenstein: A. F. de Gerliczy-Burian. Netherlands: E. van Weel; W. de Boer. Spain: J. Delicado Montero-Rios. Switzerland: P. Braendli; R. Kämpf.

### II. Observer State

Luxembourg: J. P. Hoffmann.

### III. Intergovernmental Organization

Benelux Designs Office: L. van Bauwel.

### IV. WIPO

A. Bogseb (*Director General*); L. Baeumer (*Counsellor, Head, Legislation and Regional Agreements Section, Industrial Property Division*); L. Egger (*Counsellor, Head, International Registrations Division*); G. A. Ledakis (*Legal Counsel, Office of the Director General*); F. Curbod (*Legal Officer, General and Periodicals Section, Industrial Property Division*); V. Terbois (*Head, Designs Section, International Registrations Division*).

## List of Officers

### Conference

*President*: P. Braendli (Switzerland); *Vice-Presidents*: E. van Weel (Netherlands), J. Delicado Montero-Rios (Spain); *Secretary General*: L. Baeumer (WIPO); *Assistant Secretary General*: L. Egger (WIPO).

### Credentials Committee

*Chairman*: R. Raux (Belgium); *Vice-Chairman*: A. F. de Gerliczy-Burian (Liechtenstein); *Secretary*: G. A. Ledakis (WIPO).

### Drafting Committee

*Chairman*: E. Steup (Mrs.) (Germany, Federal Republic of); *Vice-Chairman*: S. Balous (Mrs.) (France); *Secretary*: F. Curbod (WIPO).

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

## WIPO/IDCAS Committee of Experts for the Study of the Second Draft of the Model Law for Arab States on Trademarks

(Tunis, June 2 to 7, 1975)

#### Note\*

At the invitation of the World Intellectual Property Organization (WIPO) and the Industrial Development Center for Arab States (IDCAS), a Committee of Experts for the study of the second draft of the Model Law for Arab States on Trademarks, Tradenames and Acts of Unfair Competition, met in

\* This Note has been prepared by the International Bureau.



Tunis from June 2 to 7, 1975, under the sponsorship of the Tunisian Government.

All member States of the League of Arab States were invited. The following eleven States were represented: Algeria, Egypt, Iraq, Kuwait, Libyan Arab Republic, Morocco, Qatar, Sudan, Syrian Arab Republic, Tunisia, United Arab Emirates. The Association for the Protection of Industrial Property in the Middle East and North Africa (APPIMAF) was represented by observers. The list of participants follows this Note.

The Committee of Experts unanimously elected Mr. K. Gueblaoui (Tunisia) as Chairman and Mr. B. El-Ghafari (Syria) as Vice-Chairman. The Secretariat of the Committee of Experts was provided by the representatives of IDCAS and WIPO.

The Committee of Experts' discussions were based on two documents, the first containing the second draft of the Model Law for Arab States on Trademarks and the second the preliminary observations of several Arab States on that draft. Discussions also centered around other written observations distributed during the course of the meeting of the Committee of Experts.

The Committee of Experts discussed in detail the draft Model Law submitted to them and formulated numerous observations and proposals, which were noted by the Secretariat.

In conclusion, it was decided that WIPO and IDCAS should prepare, in collaboration with the Chairman of the

Committee of Experts, the final version of a new draft Model Law on Trademarks based on the observations and proposals put forward during the course of this Session of the Committee of Experts.

## List of Participants \*

### I. Arab States

Algeria: F. Bouzid (Mrs.). Egypt: A. El-Shahed. Iraq: H. El-Yawer. Kuwait: H. Abou-El-Melb. Libyan Arab Republic: S. El-Rabeti. Morocco: R. Ben Moussa (Miss). Qatar: I. S. Hafiz; A. Abbas; O. El-Rachidee. Sudan: Z. Sir-El-Khatim. Syrian Arab Republic: B. El-Ghafari. Tunisia: S. Basli; K. Gueblaoui; S. Nafti; S. Kallala; A. Naili; E. Manaa; F. Grassi; M. S. Ladjimi; R. Chaïbi (Miss); A. K. Louati. United Arab Emirates: D. El-Fardan.

### II. Observer

Association for the Protection of Industrial Property in the Middle East and North Africa (APPIMAF): F. S. Saba; M. Hachaichi.

### III. IDCAS

S. El-Jader (*Director, Department of Productivity and Administrative Studies*); A. Abdel-Hak (*Head, Industrial Legislation Section*); A. Soubeïha (*Consultant*).

### IV. WIPO

G. H. C. Bodenbausen (*Consultant*); F. Moussa (*Counsellor, External Relations Division*); F. Curcbod (*Legal Officer, Industrial Property Division*).

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

# LEGISLATION

## ROMANIA

### Law on Inventions and Innovations

(No. 62, of October 30, 1974) \*

#### I. General Provisions

1. — In the Socialist Republic of Romania the State shall ensure the permanent development of the technical and scientific activity of creation performed by scientists, research workers, specialists, workers, technicians and other specialists from the units of research, design, education and production, for the creation of important inventions and innovations that contribute to the development of the economy, science and culture, and to the multilateral progress of the socialist society.

2. — Scientists, research workers, designers, specialists and other people working in the field of production, education and in economic units shall have the duty of being active on a continuous basis with a view to the creation of inventions and innovations of high economic and social usefulness, with the potential of obtaining a greater yield from the capacity of scientific and technical thought of the Romanian people.

3. — The central research institutes, the academies of sciences, the units of research, design and education as well as the other socialist organizations shall have the duty of stimulating and directing the activity of the scientific and technical specialists such that they create inventions that should ensure a wide expansion of technical progress and of national thinking in the field of economics, and of taking all the necessary steps for putting them to good use in production or in social and cultural activity.

4. — Inventions, as a superior form of materialization of the creative scientific and technical thought, should contribute to:

(a) integration of the new discoveries of science and technology into the field of the national economy and in social and cultural activity;

(b) the creation of new technology and the modernization of that which exists, the creation of new products with superior characteristics, the introduction of new technology into the development of industry, agriculture, construction and the other branches of the national economy as well as in the field of environmental protection;

(c) the extension of the sources of raw materials, the reduction of the costs of production, of the consumption of raw materials, of materials and of energy;

(d) the improvement of the level of mechanization and automation of the production processes in the economy, the raising of the productivity of social work, the increasing of economic efficiency and profitability and the diminution of the workers' physical efforts;

(e) the continuous improvement of the technical means for meeting the needs of the population and for enriching the material and spiritual life of the people;

(f) the improvement of the protection of health, of benefits to the public and of mass social and cultural activity;

(g) the increase of the national capacity for defense;

(h) the raising of the competitiveness of Romanian products on the international market and the intensification of the contribution of national scientific and technical creation in the exchange of material and spiritual values on an international scale.

5. — The Ministries, the other central bodies and the State-owned, cooperative and public socialist organizations shall have the duty of identifying original technical creations and ideas, of ensuring their protection by patents, and of taking necessary steps for the research, design, experimentation, application and diffusion of the inventions in all the branches of activity, in accordance with the provisions of this Law. The socialist organizations shall also have the duty of granting the authors of inventions technical and legal support to fulfill all the requirements for patenting the inventions.

6. — The central research institutes, the academies of sciences, the research, design and education units, the departments for creative thinking in central organs and organizations, as well as the patentees shall have the duty of closely following the way in which created inventions are used in production, and the efficiency obtained; they shall also have the duty of ensuring the continuous improvement of the technical solutions that are being adopted.

7. — In Romania, the scientific and technical creations that constitute inventions according to this Law shall be protected through patents granted by the State Office for Inventions and Trade Marks <sup>1</sup>.

8. — The rights regarding inventions of Romanian natural and legal persons, as well as of foreigners residing in Romania, shall be acknowledged and protected in accordance with this Law.

Foreigners residing abroad as well as foreign legal persons shall enjoy the benefits of the provisions of this Law on the basis of international conventions to which the Socialist Republic of Romania is party or, where no such convention is applicable, on the basis of reciprocity.

\* Published in the *Official Journal*, No. 137, of November 2, 1974.

Note: This translation has been prepared by the State Office for Inventions and Trade Marks.

<sup>1</sup> Hereinafter "State Office" — Editor's note.

9. — The right to use inventions belongs to the State, which provides the circumstances necessary for their trials, use, development and diffusion.

## II. The Invention and its Protection

10. — For the purposes of this Law, an invention is a technical or scientific creation showing novelty and progress as compared with the known state of the art in the world, which has not been patented or described in a printed publication within the country or abroad, which represents a technical solution and which can be applied for solving problems in economics, science, the protection of health, national defense or any other field of economic or social life.

11. — A supplementary invention is an invention that improves or supplements an invention for which there is a patent in force and that cannot be used without the invention patented previously.

12. — Inventions contrary to laws, to rules of socialist living, or whose application would adversely affect the development of society, shall not be patentable.

13. — The person who has created an invention shall be deemed the author of the invention.

If the invention is the result of joint activity, all persons who have made a creative contribution shall be considered joint authors.

Persons who have merely given technical assistance but who have not made a creative contribution cannot be deemed joint authors.

14. — A patent shall be granted as follows:

(a) to socialist organizations of the Socialist Republic of Romania for:

- inventions created by persons working in a socialist organization in the course of their contracts of employment and in relation to their work;
- inventions resulting from work carried out at the request of or made with the material assistance of such socialist organizations;

(b) to State-owned socialist organizations for inventions relating to substances obtained by means of nuclear and chemical methods, to medicinal products, to methods for diagnosis and medical treatment, to disinfectants, to food and spices, as well as to new varieties of plants, strains of bacteria and fungi, new breeds of animals and silkworms, regardless of the conditions under which they were created;

(c) to inventors who have worked individually or collectively in the case of inventions other than those provided for in paragraphs (a) and (b).

15. — Where the holder of a patent for an invention is a socialist organization, an inventor's certificate shall be granted to the author.

For inventions referred to in Article 14(c), the author or the joint authors may transfer the rights in the invention to an organization or apply for a patent.

16. — For supplementary inventions the patent shall be granted subject to the same conditions as for the inventions to which they are additional.

## III. Procedure for the Patenting of Inventions

17. — An application for a patent, together with the documents necessary for the granting of a patent, shall constitute the official filing and shall be registered by the State Office, which shall give a right of priority to the applicant, with effect from the date of filing, in respect of any later filing concerning the same invention.

18. — An application for a patent shall be filed with the State Office by a socialist organization on the written request of the applicant, or of its own motion.

If the socialist organization fails to comply with the written request of the author within 30 days, the latter may file an application directly with the State Office.

An application for a patent shall be referred by the State Office to the central research institutes, to the academies of sciences or to the competent research and design institutes, within 15 days of the filing date.

19. — Natural and legal Romanian persons, and citizens of States party to conventions concerning inventions to which Romania is also party, as well as persons treated on the same basis as these, shall enjoy, subject to the requirements of the present Law, a right of priority of 12 months starting from the date of the first filing, if they apply within that period of time, for the grant of a patent for the same invention.

20. — An exhibition priority of six months from the date of first display in an exhibition shall be recognized for patentable inventions displayed at a national or international exhibition, which is official or officially recognized, on the territory of Romania or in States with which it has concluded conventions to that effect or in States ensuring such a right by reciprocity. This priority shall not extend the period of priority provided for in Article 19.

21. — The priorities provided for in Articles 19 and 20 shall be recognized if they are claimed together with the filing of the patent application and if, within three months of the date of filing of the application, they are confirmed by supporting documents.

22. — A patent shall be granted by the State Office after the examination of the application as to compliance with the requirements for the existence of a patentable invention, on the basis of the advice given by the central research institutes, the academies of sciences or by the competent research and design institutes. The advice shall be given to the State Office within 30 days from when the necessary documents were received.

The State Office shall, in the course of the examination of the patent application, have the right to require explanations from the applicant with a view to demonstrating that the subject-matter of the invention fulfills the requirements for

granting a patent. Socialist organizations shall, at the request of and within the time limits appointed by the State Office, carry out the work and give the information necessary for the examination of the application for the patent.

23. — The decision to grant a patent or the decision refusing to do so, which shall state the reasons on which it is based, shall be taken within a maximum of two years from the filing of the application.

Patents shall be recorded in the register of patents.

24. — The period of validity of a patent shall be 15 years and shall start from the date on which the patent application was regularly filed. For a patent of addition the period of validity shall be limited to the period of the patent granted for the main invention, but shall not be less than ten years.

#### IV. Use and Diffusion of Inventions

25. — Central research institutes, academies of sciences or the competent research and design institutes shall, within 30 days from the filing date of the application for the grant of a patent with the State Office, report on the possibilities of producing, creating, working, and benefiting from the invention within the country and abroad and forward the necessary documents to the Ministry or to the central body in whose field of activity it can be applied.

The Ministries and the other central bodies shall, within 30 days of the date of receiving the documents pursuant to the previous paragraph, decide which socialist organization shall hold the patent, notify the decision to the State Office, and take measures for including the invention in their plan of activity.

26. — The socialist organization which holds the patent shall try out the invention and draw up plans for using and working the invention within one year from the date on which it was designated as holder. This period of time may be extended in seriously justified cases by the central research institutes, academies of sciences or the competent central bodies.

27. — Research into the trying-out and working of inventions shall be carried out by socialist organizations by including the same in their own plans or in the national plan for social and economic development on the basis of technical and economic studies made by the central research institutes, the academies of sciences or by the competent research and design institutes.

The working and diffusing of an invention which has been tried out and tested in industry or in other departments of the national economy, with the aim of replacing or improving lines and operating processes, installations, devices or other products, shall be carried out only on the basis of an economic and technical study, and taking into account the opinion of the central research institutes, the academies of sciences or of the competent central body with the agreement of the National Council for Science and Technology.

28. — Research, experimentation, testing and use relating to new varieties of plants, cultures of bacteria, varieties of fungi and of new breeds of animals and silkworms shall take place within the time limits and subject to the conditions laid down in the special law.

29. — Where the holder of a patented invention is a socialist organization of the Socialist Republic of Romania, the invention may be used without charge and without any other formality by any Romanian socialist organization, provided that the latter shall be obliged to inform the State Office.

Undertakings and mixed organizations which are part Romanian owned may use the inventions referred to in the previous paragraph on the basis of license agreements concluded between them and the holders of the patents.

#### V. The Patenting and Utilization of Romanian Inventions in other States and of Foreign Inventions in Romania

30. — Responsibility for obtaining patents for Romanian inventions abroad shall lie with the State Office which shall act through the intermediary of the Romanian Chamber of Commerce and Industry, on the proposals of holders of patents and taking into account the opinion of the central research institutes, the academies of sciences or the competent research and design institutes, in compliance with the requirements laid down by this Law.

The costs incurred in obtaining and renewing Romanian inventions abroad shall be covered from the currency fund held by the State Office and shall be paid by the Romanian Chamber of Commerce and Industry.

31. — Romanian patents for foreign inventions shall be granted by the State Office on the request of the holders of patents, transmitted through the Romanian Chamber of Commerce and Industry.

32. — The utilization of Romanian inventions abroad shall take place through foreign trade undertakings, on proposals from the holders of the patents, and taking into account the opinion of the central research institutes, academies of sciences or competent research and design institutes, by means of exporting products, installations and operating processes, the mutual exchange of licenses and through cooperation, complying with the legal requirements.

33. — The utilization of foreign inventions in Romania shall take place through foreign trade undertakings, taking into account the opinion of central research institutes, academies of sciences or competent research and design institutes and with the agreement of the central beneficiary body.

34. — Where the granting of patents and the utilization of inventions take place pursuant to conventions for collaboration or cooperation or where undertakings or mixed organizations are owned or partly owned by the Romanian State or by a socialist organization, the provisions of these conventions shall be complied with.

## VI. Rights and Obligations

35. — The grant of a patent shall confer upon the patent owner the right to the exclusive use of the invention within the territory of Romania.

36. — The inventor's certificate shall confer recognition of the fact that the person to whom it is delivered is the inventor.

37. — The authors of inventions used in the national economy shall receive honorary and material rewards of the following kinds: scientific titles, orders and medals, professional degrees, exceptional promotion to a position, prizes and other pecuniary rewards, all of which shall be established on the basis of the economic and social advantages calculated with reference to the utilization of the invention.

Pecuniary rewards shall be calculated for each invention separately, on the basis of rules approved by the Council of Ministers on a proposal from the National Council for Science and Technology, the Ministry of Finance and the Ministry of Labor.

The amount of the pecuniary reward that shall be paid for each invention shall be approved by the National Council for Science and Technology and the Ministry of Finance, on a proposal from the socialist organization which holds the patent, and taking into account the opinion of the central research institutes, academies of sciences or competent central body.

The payment shall be made by the socialist organization that uses the invention, from the savings effectively obtained as a consequence of using it, calculated yearly on the basis of the scales referred to in the second paragraph of this Article.

38. — The yearly pecuniary reward concerning an invention worked in the economy shall not exceed a maximum of three times the monthly remuneration carried by the post of senior scientific worker in the respective branch and shall be payable only up to a maximum period of five years.

The amount of the reward shall be the same regardless of the number of authors and payment shall be made only for the period within which the invention is effectively used.

Where several inventions attributable to the same author are being used, the yearly amount of the reward that shall be granted to him cannot exceed the amount mentioned in paragraph 1.

The authors of inventions which are put to use shall have the right to the rewards provided for in paragraph 1, independently of the prizes from which they can benefit in accordance with the legislation in force.

39. — A list of rewards granted pursuant to Article 38, stating the names of the persons to whom they are given, shall be kept by the State Office on the basis of information sent in from the socialist organizations which pay them.

40. — The creation of inventions in the course of scientific research and design activity, developed on the basis of contracts by the research and design units, shall represent one

of the main tasks of the scientific and technical staff of these units.

Where an invention is created in the circumstances mentioned in the previous paragraph and is used in the national economy, the inventor can receive prizes calculated in proportion to the economic efficiency obtained; such prizes shall not exceed three times his monthly remuneration.

The amounts of these prizes shall be calculated on the basis of the provisions laid down in Article 37 and shall be granted for a single working year.

The provisions of this Article shall also apply to the management staff fulfilling leadership roles in research, designing, education units and other socialist units.

41. — The National Council for Science and Technology, taking into account the opinion of the Ministries or other interested central bodies, can submit for the approval of the Council of Ministers proposals for granting special rewards for inventions of outstanding technical, scientific, economic or social importance.

42. — The inventor shall be obliged to give the necessary technical assistance, to participate, at the request of the socialist organizations holding patents, in designing, experimenting, working and diffusing the inventions, to provide explanations on these inventions and to fulfill any other requirements prescribed by the law with a view to obtaining patents for the inventions.

The socialist organization asking for technical assistance from the inventor shall cover the expenses relating to travel, accommodation, and subsistence and shall pay him remuneration in accordance with the legal provisions in force.

43. — The inventor shall have the right to be mentioned in his capacity as inventor, by his name and first name, on the patent granted, on the specification and in other publications or documents concerning the invention, as well as the right to have his capacity as inventor written on his employment card.

44. — The right to the grant of a patent, the patent rights, as well as the property rights resulting from the patent, shall be transferable.

The property rights deriving from an inventor's certificate shall also be transferable.

45. — The transfer of rights relating to the use of an invention shall be registered at the State Office and shall become effective with regard to third parties only from the date when it is registered.

46. — Where a patent of invention is held otherwise than by a socialist organization, the invention may, subject to the agreements and conventions to which Romania is party, be used by interested socialist organizations without the consent of the holder of the patent, on the basis of compulsory licenses granted by the State Office, in the following cases:

(a) where the invention is of public interest or is connected with national defense, and it has not been possible to come to an agreement with the patentee;

(b) where the invention has not been worked or has been insufficiently worked within the territory of Romania for three years from the date of the grant of the patent, and the patentee cannot justify his lack of action.

The compulsory licenses granted shall not give rise to any right to exclusive use of the inventions to which they relate and cannot be transferred as sublicenses except where the estate or a part thereof is also transferred or except where a socialist organization to which a compulsory license has been granted is reorganized.

A decision concerning the grant or refusal of a license shall be communicated in writing to the persons interested therein within five days from the day on which it is taken and shall state the reasons on which it is based.

47. — The following shall not constitute an infringement of the exclusive rights conferred on socialist organizations and on other patentees:

(a) use of patented inventions in the construction or operation of ground, naval or air vehicles, or in devices for the operation of such vehicles, belonging to States party to a convention concerning inventions to which Romania is party, when these vehicles pass temporarily or accidentally over the territory of Romania, provided that such use is exclusively for the needs of those vehicles;

(b) use of an invention by a person who has obtained a compulsory license;

(c) use of an invention by a person who, in good faith, worked the invention or who took all measures with a view to working it, independently of the patentee and before the patent application was regularly filed or before the date on which the recognized period of priority began. In such cases, the invention may be further used without interruption by the person concerned and cannot be transferred except where the estate or a part thereof is also transferred or except where the person concerned is a socialist organization and that socialist organization is reorganized.

48. — The rights arising under a patent shall cease to exist upon the expiration of the period of protection or upon renunciation of the rights by the patentee.

Romanian socialist organizations may not renounce their rights arising under a patent unless approval for this is obtained from the Central Research Institute, the Academy of Science or from the central body.

Renunciation shall take effect from the date on which the request for renunciation is registered at the State Office.

49. — The filing and examination of patent applications, the renewal of patents as well as any other acts or services performed by the State Office in connection with patents, shall be subject to fees fixed by decision of the Council of Ministers.

The fees for the renewal of patents shall be paid annually, during the period of validity.

The following shall be exempt from the payment of fees:

(a) the filing of patent applications when filed together with a declaration of assignment to a socialist organization;

(b) actions and petitions by inventors, including appeals, which are connected with inventions for which inventors' certificates are granted in accordance with the provisions of the law.

The Ministry of Finance, on a proposal from the State Office, may also grant exemptions or reductions of fees in cases other than those referred to in paragraph 3, to Romanian or foreign natural or legal persons.

Patentees shall lose the rights conferred by their patents pursuant to this Law if they do not pay the annual fees and the increases in fees, within the legal time limits.

50. — A patent shall be annulled in whole or in part by the State Office through the intermediary of the Appeal Commission Concerning Inventions in the case where it is found that the invention was not patentable under Article 12 or that the legal requirements for the existence of a patentable invention were not fulfilled.

A request for the annulment of a patent may be filed throughout the period of validity of the patent.

The annulment of a patent shall give rise to the annulment of the inventor's certificate issued for the respective invention by the State Office.

51. — Where, in a decision delivered by court, it is found that a person other than the person mentioned in a patent as the inventor is entitled to the grant of the patent, the State Office shall grant the patent to the person entitled to it.

## VII. Settlement of Disputes Concerning Inventions

52. — Socialist organizations or interested persons may appeal against decisions concerning inventions before the Appeal Commission Concerning Inventions, which shall function within the State Office.

Appeals shall be lodged within three months of the notification of decisions and shall be settled within 30 days of the filing date of the appeals.

53. — Decisions taken by the Appeal Commission Concerning Inventions within the State Office shall be final, with the exception of decisions concerning the grant or the refusal of patent applications, against which an appeal shall lie to the Municipal Court at Bucharest within three months from notification of the decision concerned.

54. — The lodging of appeals shall stay the execution of decisions concerning the payment of rewards and of the other sums until such appeals have been heard. These sums shall be paid into the Savings Bank until the appeal has been heard.

55. — The Appeal Commission Concerning Inventions within the State Office or the courts of law may reinstate the time limits in favor of the interested party if it is found that the reasons for non-observance of the time limits are well-founded. In the case of the time limit provided for in Article 19, reinstatement may be accorded only for reasons of *force majeure*.

A request for reinstatement shall be lodged within two months of the cessation of the reason for the non-observance of the time limit but not later than one month from the expiry of the time limit in question.

56. — The use of the invention or measures taken in good faith with a view to using the invention before the reinstatement in favor of the patentee shall entitle the person concerned to continue using the invention provided that this right may only be transferred with the estate or a part thereof or in cases where a legal person is reorganized.

57. — A final decision concerning the payment of a sum of money in the case of an invention for which an inventor's certificate has been granted shall constitute an enforceable title to the payment.

58. — An inventor who obtains rewards to which he is not entitled shall make restitution thereof according to the law.

59. — The Appeal Commission Concerning Inventions within the State Office shall be composed of five specialists including the Director General of the Office, who shall act as chairman.

The organization and functioning of the Appeal Commission Concerning Inventions within the State Office shall be determined by rules approved by the National Council for Science and Technology, which shall also approve the list of the members of the Commission, on a proposal from the State Office.

60. — Disputes concerning the question whether a person is or is not the author or joint author of an invention, the question how the reward or the other property rights are to be shared between the joint authors, and any other disputes relating to the rights arising under patents, assignments, licenses and compulsory licenses shall be settled by the courts of law according to the provisions of the Code of Civil Procedure.

### VIII. The Protection of State Secrets

61. — All inventions created by Romanian citizens or by foreign persons residing on the territory of Romania for which an application for a patent has been filed shall be State Secrets until they have been patented and published in the "Bulletin for Inventions and Trademarks" or until they are sent abroad, in view of patenting.

Documents prepared in socialist organizations, doctorate papers or those describing the results of scientific research and including patentable inventions, as well as technical data concerning utilization and trials, or any other technological knowledge, information or technical experiments related to inventions shall also constitute State Secrets according to the preceding paragraph, from the outset of their elaboration.

62. — After having been patented the following inventions shall continue to have the character of State Secrets:

(a) inventions concerning national defense;

(b) inventions which receive this character, either for superior reasons of State or for superior interests concerning the national economy.

The attribution of an invention to the category of those described at point (a) shall be decided by the Ministry of National Defense or by the Ministry of Internal Affairs; its attribution to the category described at point (b) shall be decided by the Ministry in whose branch of activity the invention is to be utilized.

Whenever the Ministry of National Defense or the Ministry of Internal Affairs considers that, for superior reasons of State or for the benefit of the national economy, an invention should no longer be subject to the treatment described at point (a) or whenever the Ministry in whose branch of activity the invention is to be utilized considers that an invention should no longer be subject to the treatment mentioned in (b), all these inventions shall receive the treatment described in Article 61.

63. — Patent applications regarding the inventions referred to in Article 61 shall be entered in the register of applications for patents, and their titles shall be published in the "Bulletin for Inventions and Trademarks" except those referred to in Article 62(a).

Patent applications regarding the inventions provided for in Article 62 shall be entered in a separate register.

The drafting, copying, handling and filing of patent applications with the State Office, as well as the storage, transportation and question of access to the documents referred to in Articles 61 and 62 shall be dealt with in compliance with the legal provisions in force regarding the keeping of State Secrets.

Patent applications and the documents necessary for patenting, filed by persons who are not members of the staff of a socialist organization, shall be filed with the Executive Committees of the People's Councils and shall be immediately transmitted by the latter to the State Office.

The translation of the documents regarding the inventions that are to be patented abroad shall take place under the responsibility of their patentees, subject to the provisions laid down in paragraph 3.

64. — The staff of the State Office, its collaborators, as well as any other person performing work related to inventions shall have, in compliance with the legal provisions regarding the keeping of State Secrets, the obligation not to divulge information which is State Secret in character and which is contained in patent applications and in the other documents related to inventions.

### IX. Innovations

65. — An innovation shall consist of any technical achievement showing novelty at national level, evidence of progress and economic or social advantages, and solving a problem in industry or in any other field relating to the economy, science, culture, the protection of health and national defense or in any other branch of economic and social life and



which has not previously been utilized on the territory of Romania.

66. — An application relating to an innovation shall be filed with the socialist organization where the author is working or with the socialist organization where the innovation can be worked.

An application relating to an innovation connected with national defense shall be filed with the Ministry of National Defense or with the Ministry of Internal Affairs.

67. — The person who created and first filed the innovation shall be deemed its author.

If the innovation is the result of joint activity all persons who have made a creative contribution thereto shall be considered joint authors.

68. — The author of an innovation shall have the right to an innovator's certificate. The grant of an innovator's certificate shall mean that the grantee is recognized as the author of the invention and may confer on him the right to be distinguished and promoted as well as the right to awards of orders, medals and other distinctions.

69. — A socialist organization with which an application relating to an innovation has been filed shall have the duty to convey the application together with the necessary documentation to the Ministry or other central body to which it is subordinated, within 15 days of the filing.

70. — A Ministry or other central body that receives an application relating to an innovation shall, within two months of the reception of the application, examine it from the technical and economic point of view and shall require from the central research institutes, from the academies of sciences, and from the research and design institutes confirmation of its novelty at national level and that it is expedient to put it to use.

71. — A Ministry or other central body having received an application relating to an innovation shall deliver the innovator's certificate within 15 days of the reception of the confirmation of novelty.

72. — The decision regarding design, trials, and utilization of an innovation shall be taken by the collective leadership body of the organization that is to utilize it with the agreement of the central research institutes, the academies of sciences or of the competent research and design institutes, on the basis of its proved technical and economic efficiency, within six months from the filing of the application.

73. — In the case of innovations of exceptional economic or social importance, the supervisory Ministries may, on a proposal from the organizations where such innovations have been utilized and taking into account the opinion of the central research institutes, the academies of sciences or the competent research and design institutes, approve the payment of a reward amounting to a maximum of three times the monthly

remuneration of the innovator, in accordance with the legal provisions, for a period of one year from when the innovation was first used, regardless of the number of innovations used during that year.

If the innovation is the result of the joint activity of several persons, the reward shall amount to a maximum of three times the monthly remuneration of the joint author with the highest remuneration.

Appeals against decisions taken concerning innovations shall lie to the Appeal Commission Concerning Inventions within the State Office.

Appeals must be lodged within three months of the notification of the decision and shall be settled by final decision within two months from the date on which they are lodged.

### X. Powers, Duties and Penalties

74. — The National Council for Science and Technology shall be responsible for the application of the policy of the Party and of the State in the field of inventions and of the other forms of industrial property; to this effect it shall guide and coordinate the State Office, a specialized State body of republican interest having an autonomous activity.

The State Office shall examine novelty and the technical progress of inventions, grant patents and guide, supervise and control the activities concerning trials, the application and utilization of inventions and shall be responsible for ensuring the protection of inventions in Romania.

75. — The General Association of Trades Unions in Romania shall lead the mass movement of inventors and innovators and shall organize, to the extent that it is empowered so to do, the people's control over activity relating to inventions and innovations.

76. — The Ministries and other central bodies, the industrial central bodies, and the organizations holders of patents shall be responsible for the inclusion in the plan of tasks regarding research, designing, trials, application and utilization, and diffusion concerning inventions.

77. — The persons holding leading functions in socialist organizations shall adopt measures for the identification of inventions and the protection of inventions by patents and also for matters relating to design, trials, application and utilization concerning inventions and innovations.

Non-compliance with the obligations mentioned in the above paragraph shall involve administrative, disciplinary, pecuniary, civil or penal responsibility, as the case requires.

Socialist organizations shall recover damages from guilty persons, in compliance with the rules in force.

78. — A person who, by any means whatsoever, falsely holds himself out as being the author of an invention or of an innovation shall be guilty of an offense and shall consequently be punished by imprisonment of six months to two years or by fines.

Prosecutions shall be initiated *ex officio*.



79. — The filing of an application for a patent abroad, with a view to obtaining a patent, before it is filed in Romania as well as the utilization of an invention abroad by persons who are not authorized so to do shall be an offense and shall be punishable by imprisonment of six months to two years or by fines, excepting cases constituting a still graver offense.

#### XI. Final and Transitional Provisions

80. — The rewards for inventions and innovations of economic efficiency shall be paid from the savings effectively obtained as a result of their utilization, calculated according to the provisions of Articles 37 and 38.

81. — Patent applications filed at the State Office which are in course of examination, and those which are with the socialist organizations and concerning which no decision to accept or to reject has been taken, shall be settled in conformity with the provisions of this Law.

Applications concerning innovations that have not been settled at the date of entry into force of this Law shall be decided in conformity with the provisions of this Law.

Rewards that have not been paid prior to the date of entry into force of this Law shall be established and paid in conformity with the provisions of this Law, regardless of the title and of the date when the right to the reward arose.

82. — This Law shall enter into force three months from the date of its publication in the *Official Journal* of the Socialist Republic of Romania.

83. — On the date of the entry into force of this Law the Decree Concerning Inventions, Innovations and Rationalizations No. 884/1967<sup>2</sup>, as well as any other provisions contrary to this Law, shall be repealed.

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<sup>2</sup> *Industrial Property*, 1968, p. 271.

*LETTERS FROM CORRESPONDENTS*

**Letter from Belgium**

Antoine BRAUN \*

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## **Letter from French-Speaking Black Africa**

Robert CAZENAVE \*







# ACTIVITIES OF OTHER ORGANIZATIONS

## International Association for the Protection of Industrial Property

XXIX<sup>th</sup> Congress

(San Francisco, May 3 to 10, 1975)

### Introduction

The International Association for the Protection of Industrial Property (IAPIP) held its XXIX<sup>th</sup> Congress in the United States of America, at San Francisco, from May 3 to 10, 1975. The work of the Congress was followed by approximately 1,400 delegates, and nearly 800 accompanying persons, together with the delegates, took part in various receptions and excursions. About fifteen States, as well as several inter-governmental organizations and international non-governmental organizations, sent representatives.

The World Intellectual Property Organization (WIPO) was represented by its Director General, Dr. A. Bogsch, together with Messrs. K. Pfanner (Deputy Director General), L. Baeumer (Counsellor, Head, Legislation and Regional Agreements Section, Industrial Property Division) and F. Curchod (Legal Officer, General and Periodicals Section, Industrial Property Division).

At the Opening Ceremony, the Director General of WIPO delivered an address, which is reproduced below.

The work of the Congress of San Francisco culminated with the ratification, by the Executive Committee of the IAPIP, of seven resolutions. These resolutions are reproduced below.

### Address by the Director General of WIPO

Mr. First Vice-President,  
Members of the Bureau,  
Ladies and Gentlemen,

The World Intellectual Property Organization is pleased to be present at the 29<sup>th</sup> Congress of IAPIP and I am honored by the opportunity given to me to speak at this opening ceremony.

This Congress was prepared with the utmost care by an organizing committee which has worked hard for years. The framework which they have created and the efficient and smooth handling of the many problems connected with a conference of this size will, I am sure, make this a particularly significant Congress in the history of IAPIP. It will also be a Congress of great importance for the development of international understanding in the field of industrial property.

This is so for at least two reasons.

The first is that, thanks to the wisdom of its organizers, the agenda includes most of the questions which are at present

also under consideration by the World Intellectual Property Organization — also called WIPO, or the World Organization — that is, by the Governments of the countries which constitute that Organization.

The second reason is that, thanks to the presence of hundreds of IAPIP members having an immense knowledge and experience in international relations in the field of industrial property, the questions appearing on the agenda will be discussed in a highly qualified forum of practitioners.

I shall now mention each of the five items on the agenda of your Congress.

The first item is entitled the "Value of Industrial Property for Technical Development and Economic Progress." The topic and the place it occupies on your agenda proves once more that IAPIP is aware of what is the most urgent problem today in the field of industrial property. The problem is that both of us — you in IAPIP, and we in the World Organization — must prove that industrial property is of considerable value for technical development and economic progress, and that this is true not only for the highly industrialized but also for the developing countries. Furthermore, IAPIP and the World Organization must both strive to increase the value of industrial property, particularly for developing countries.

What can we do in this respect? The direction in which the answer must be found is, to a large extent, indicated by the two sub-items into which the first item of your agenda is divided: the *Revision of the Paris Convention* and *Transfer of Technology*.

When the Executive Committee of the Paris Union decided last September that studies concerning the need for, and possibilities of, revising the Paris Convention should be initiated, the Council of Presidents of IAPIP was almost immediately convened by George Clark and the permanent members of the Bureau, Paul Mathély, Rudolf Blum and Stephen Ladas. This prompt action and the spirit in which the discussions took place were evidence of the fact that your Association is constructive, progressive and dynamic and that it has a special interest in questions concerning developing countries.

As far as the World Organization is concerned, the first preparatory intergovernmental meeting on the question of the revision of the Paris Convention took place in February. Your Association was represented in the Committee of Experts, and the representatives of your Association took an active part in the discussions. The said meeting concluded by listing 14 questions which should be the basis of further study. I think that two of them stand out as being the most important. Technical assistance to developing countries is one; preferential treatment without reciprocity for developing countries and other possible exceptions to the principle of national

treatment — one of the fundamental rules of the Paris Convention — is the other. It will be our duty — certainly it will be the duty of the World Organization, and I trust you will consider that it will also be yours — to find imaginative, realistic, useful answers to these two questions as well as to the other 12. As far as I am concerned, I do not share the view that the present situation is satisfactory and that nothing needs to be done. On the contrary, I am convinced that much needs to be done quite apart from the Paris Convention: in particular, the national laws of many developing countries need to be rewritten to fit their economic and social goals; and the administration of their industrial property laws needs to be made more efficient.

The World Organization is deeply involved in these matters: with the help of various committees in which IAPIP is also represented, we are in the process of writing a new Model Law on Inventions and Know-How for Developing Countries; a revised model law on trademarks will follow later; we organize seminars and fellowships; expert teams set up by us help in modernizing patent and trademark administrations. Much of our salvation in these matters lies in the Patent Cooperation Treaty and in the Trademark Registration Treaty since they would help in granting more meaningful patents and in providing more meaningful registration of trademarks and would greatly lighten the administrative burdens connected with them.

Many of you have been, still are, and, I hope, will in future be, personally involved in these activities of the World Organization. I should also like to express here — because we are in the United States of America, from which the initiative came, and because many of the main artisans of the Patent Cooperation Treaty and the Trademark Registration Treaty are US members of IAPIP — the hope that the United States will soon, very soon, ratify these two treaties. Such ratifications would render a great service both to the developing countries and to the United States and all the other industrialized countries. The entry into force and the use of those two treaties would greatly simplify and otherwise facilitate relations among countries, whether developed or developing, in the international field. Such simplification and such increased efficiency in those relations are a vital necessity for the improvement, if not for the survival, of the international protection of inventions and trademarks.

But let me go back, for one more observation, to the revision of the Paris Convention. Around next September, I shall issue our study on the 14 points referred to above and shall convene, for the middle of December, the same Committee which met earlier this year, to discuss that study and carry the revision question a step further. It will be another occasion for your Association to make an important contribution.

Transfer of Technology is the second sub-item of the first item of your agenda. We all know that acquisition of technology depends on many factors, the two most important being technically qualified persons and money available for investment. Industrial property is, however, also a factor, because the protection of inventions stimulates inventors and investment. The World Organization is active in several ways in promoting transfer of technology. In the legislative field, we

are progressively refining the rules concerning a new legal title, the "transfer of technology patent," which, as shown by its name, is intended to promote cooperation between the foreign owner of the invention and the local entrepreneur, a cooperation the result of which is the local exploitation of the foreign technology. In the field of contractual relationships, we are working on the establishment of guidelines on licensing contracts and are organizing seminars and other meetings here too. Much of the intellectual input comes from your members, and I hope that it will continue to do so.

I have dealt in some detail with the first item of your agenda because it is of the greatest importance for the whole future of international industrial property. I shall now say only a few words about the other four items of your agenda.

Item 2 deals with the incidence on the rights of industrial property of the national and international provisions guaranteeing free competition. The World Organization is mainly interested in this item because of its model laws. Indeed, one of the questions here is whether provisions on restrictive business practices and anti-trust provisions should be part of industrial property laws, and, if so, to what extent.

Item 3 of your agenda is entitled "Protection of Computer Programs." In this matter, the interaction between your Association and the World Organization is particularly fruitful. Many of the ideas under consideration issued from your Executive Committee's Melbourne meeting of last year. They will be further developed in a Committee of Experts convened by me to meet next month in Geneva.

Item 4 of your agenda concerns the protection of industrial property in the field of microbiology. A Committee of Experts convened by me was held on this matter in the latter part of last month. As a result of that meeting, the outlines of a new treaty are taking shape. It is expected to provide for the deposit of microorganisms involved in inventions which are the subject of patent applications with any one of the depositary authorities which would be internationally recognized. The single deposit with such an authority would have effect in all the Contracting States. One or two more meetings will be necessary before the matter is ripe for the adoption of the treaty by a diplomatic conference.

Finally, Item 5 of your agenda deals with the international protection of appellations of origin. Here, too, the World Organization is working on a new international instrument and has benefited greatly from the discussions which took place in IAPIP on the same subject. The next meeting of the Committee of Experts dealing with this question will take place in early December. Your Association is invited to this meeting too, and a substantial contribution is expected from it.

Mr. First Vice-President, as can be seen from all I have said, cooperation between IAPIP and the World Organization is a necessity. We deal with the same subjects. The World Organization and the Governments members of the World Organization need your experience and your advice, because you are the practitioners who see the practical problems which arise in applying patent and trademark laws in concrete cases and who should therefore be able to recommend realistic solutions and forecast future needs. Your views will

doubtless be carefully considered by the Governments of the countries members of the World Organization and they will certainly be so considered by myself. I look forward, therefore, with great interest to the deliberations of this Congress and express, wholeheartedly, my best wishes for its complete success.

Thank you.

## Resolutions adopted

### QUESTION 37

#### Incidence on Industrial Property Rights of the National or International Provisions Guaranteeing Free Competition

Whereas the proper protection of industrial property rights is indispensable for the development of science, economic prosperity and the promotion of competition, and

whereas active steps should be taken by IAPIP to ensure the maintenance and defence of industrial property rights,

the IAPIP

*adopts the following resolution:*

1. Industrial property rights and rules governing freedom of competition are not in conflict but on the contrary jointly serve economic progress and the public interest.

2. It is wrong to say that rules governing freedom of competition may impair, if not the existence, then at least the exercise, of industrial property rights, for limiting or prohibiting the exercise of industrial property rights drains from them their entire substance, which is thus destroyed.

3. Rules governing freedom of competition should not impair the exercise of industrial property rights, if that exercise remains within the normal framework of the object and the ends of these rights.

The IAPIP,

Implementing the resolution requesting active steps to be taken to ensure the maintenance and defence of industrial property rights,

charges the Bureau with the task of taking the necessary measures for the recognition of the IAPIP as an institution, under Article 37 of the Protocol of the Statute of the Court of Justice of the EEC, having "an interest in the result of any case" involving the protection of industrial property, so that the IAPIP may have the possibility of arranging for the submission of its views to the Court, as *amicus curiae*.

### QUESTION 45 (1)

#### Revision of the Paris Convention

The IAPIP,

considering that the Paris Convention should be maintained in its entirety as constituting an instrument well adapted to the development of international relations in the field of industrial property;

considering that it seems generally possible for the legitimate needs of the developing countries to be satisfied within

the framework of the Paris Convention by the introduction of the necessary measures into their national laws,

invites the Groups to consider the points raised at the meeting of the Committee of Governmental Experts convened by WIPO in February 1975 (Document PR GE I/10) to enable the IAPIP to form its opinion within the scope of the studies being conducted by WIPO.

### QUESTION 45 (2)

#### Value of Industrial Property for Technical Development and Economic Progress

Whereas, notwithstanding that the existing industrial property system based upon the Paris Union is, when properly implemented, conducive to technological development in both developed and developing countries, nevertheless the developing countries require additional stimuli to national development and introduction of technology; and

whereas, the level of technological development in at least some developing countries is such that the know-how required by such countries is at a technological level different from that reflected by current patents and patent applications; and

whereas, there is a need on the one hand for effective introduction and implementation of transferred know-how in the developing country with attendant continuity and stability of the national enterprise to which the know-how is transferred, and on the other hand for effective incentives to those in possession of the know-how to transfer it for the mutual benefit of the developing country and the transferor; and

whereas, consideration of recently proposed model laws and juridical systems relating to alternative new types of industrial property rights should be undertaken not in isolation but as part of a comprehensive study of the optimum means for promoting national development and transfer of technology to developing countries;

*now therefore be it resolved* that IAPIP welcomes the initiatives and studies heretofore undertaken by WIPO, and recommends that the emphasis of further study and activity by IAPIP be shifted in the direction of the creation of positive proposals for international cooperation leading to national development and introduction of technology into developing countries, to meet the individual needs of developing countries at different stages of technological development, and that for this purpose the IAPIP Working Committee continue to study the relevant problems and expeditiously make recommendations for positive solutions; such study and activity to include

1. consideration of the necessity for the transferred know-how within the developing country, and of the means effectively to implement it with attendant continuity and utility of the technology in the hands of the domestic enterprise to which the know-how is transferred, whilst at the same time providing sufficient incentives to those originally in the possession of know-how to induce them to transfer the know-how to developing countries;

2. continued study of possible novel forms of industrial property rights as one means of promoting national development and transfer of technology;

3. consideration of means whereby developing countries can make positive use of the present industrial property system including the Paris Convention to promote the transfer and absorption of foreign technology and development of national technology at levels appropriate to the stage of development of individual countries, and the harmonization of the juridical system for transferring know-how with the present industrial property system.

#### QUESTION 50

##### Reorganization of the IAPIP

The Executive Committee,  
acting on the recommendation of the Working Committee,  
recognizes that the study of the question should be continued.

#### QUESTION 56

##### Protection of Industrial Property in the Field of Microbiology

The IAPIP welcomes the remarkable work done by WIPO since the passing of the IAPIP resolution in Melbourne on the formulation of a Draft for an International Agreement, including Rules, on the deposit of microorganisms for patent purposes. This Draft Agreement is to be regarded as a special agreement under Article 19 of the Paris Convention. According to the above Draft Agreement, deposit of a strain of a microorganism not available to the public, with one internationally recognized depository authority, will be sufficient to satisfy the deposit requirements for filing patent applications relating thereto in all the contracting States. IAPIP is of the opinion that the said deposit should be made at the latest at the filing date of the application or at the priority date if priority is claimed.

The IAPIP notes the provision in the Agreement drafted by WIPO that the earliest time of release of the deposited strain to third parties upon their request following publication of the respective application or patent should be determined by the national law of each contracting State. Nevertheless, it is the opinion of the IAPIP that the deposited microorganism should not be released to third parties until some enforceable form of patent protection begins. Further, the above Agreement should contain unambiguous rules establishing the minimum conditions of assurance against misuse of the microorganisms to be required by the international depository authority for the release of a deposited strain of a microorganism to a third party applying for such release.

IAPIP proposes that such release should be made contingent upon the filing of a statement with undertaking to the applicant or patentee by the person seeking said release; said statement should be filed in the Patent Office of the respective contracting State together with the application for release and the undertaking should include at least the following:

1. that the released microorganism will be used for purposes of research and/or identification, and not for industrial or commercial purposes which are within the scope of the invention as covered in the respective patent application or patent;

2. that the microorganism will not be given to third parties;

3. that should any dispute arise regarding the breach of the undertaking under point 1, the receiver of the microorganism shall prove that he has not violated that undertaking.

The effective duration of the above undertaking should be limited to the duration of patent protection in the State where the application for release was made.

Such an undertaking should be embodied in a uniform International Release Form which could be drafted and brought into final form by the Director General of WIPO (or by the General Assembly of all contracting States). Said International Release Form executed in a legally binding manner should be given to the depositor, to the depository authority and to the Patent Office of the respective State in which such application for release was made.

If certain of the above provisions could not be accepted into the Treaty, they should at least be introduced by the applicable national law.

#### QUESTION 57

##### Protection of Computer Programmes

The IAPIP,

taking into account

(a) that, irrespective of any protection of software as know-how, and of any protection provided by contracts and by rules against unfair competition, intellectual creations in the field of software in principle deserve and require protection by way of exclusive rights or inventors' certificates to encourage the production of and foster the exploitation of software and promote the dissemination of knowledge related to software, and

(b) that all parties concerned with the production, distribution or application of software, and of computer programmes in particular, need increased legal security.

adopts the following resolutions:

1. Inventions otherwise satisfying the criteria of patentability according to national laws, should not be denied patent protection or protection by inventors' certificates merely because software, especially a computer programme, is involved, or because the subject-matter can or is intended to be put into effect by using or programming data processing equipment. This approach is not contradictory to provisions in national laws and international conventions which specifically exclude computer programmes as such from patent protection.

2. Until a more appropriate system of protection is established, computer programmes, in whatever form embodied, as well as material concomitant to such programmes, should be eligible for and enjoy copyright protection, where necessary by liberal interpretation of existing national laws.

3. It is desirable that there be prepared under the auspices of WIPO:

(a) a draft treaty on a *sui generis* international deposit system for the protection of computer programmes, and

(b) a draft model law corresponding to the system of such a treaty.

4. The study of Question 57 should be continued, *inter alia*, on the following points:

(a) an exact definition of the notion covered by the term "computer programme,"

(b) search for the most appropriate system of protection,

(c) a draft treaty and draft model law according to point No. 3 above,

(d) the possible establishment of a system of registration of computer software for the purpose of providing information to the public.

## QUESTION 62

### International Protection of Appellations of Origin and Indications of Source

#### I. The IAPIP

*confirms* the opinion expressed in its Resolution of Melbourne in 1974 that the protection of appellations of origin and indications of source as it is provided for by national legislation or existing international arrangements reveals inconsistencies and deficiencies, requiring improvement in the present system of protection.

#### II. The IAPIP

##### *underlines*

— the economic value attaching to both appellations of origin and indications of source as means for advancing the marketing of goods in national and international trade; for encouraging the development of quality products, and for informing consumers with respect to the true geographic origin of products and with respect to their particular characteristics;

— the interest of producers as well as of consumers in more efficient protection against unfair competition and deception;

— the particular importance of indications of source for developing countries as a means for making their national products known in the world market and thus promoting their exportation.

#### III. The IAPIP

*notes* that the national and international protection of appellations of origin and indications of source is presently governed by different rules, depending on the countries in question:

— one group of countries provides only for a general prohibition against false indications of source by means of rules against unfair competition and/or deception;

— a second group of countries provides, in addition, for special protection of specific appellations of origin or indications of source, either by means of specific domestic rules of law of origin, or by means of bilateral treaties, or by means of the Lisbon Agreement providing for international registration and procuring reinforced protection, not only against misleading use, but also against other forms of misuse.

#### IV. The IAPIP

*considering* that in the present state of affairs it does not seem possible to create by means of a reform of the Lisbon Agreement an improved system of protection of specific appellations of origin and indications of source to which both groups of countries could adhere without difficulty,

*is of the opinion* that the improvement of international protection should be sought in the two following directions:

1. by extending and reinforcing the *general* provisions against the use of false or misleading denominations of origin such as are contained in the Paris Convention and in the Madrid Agreement,

— either by a revision of these conventions;

— or by including such provisions in a new arrangement, possibly in the form of a general chapter capable of being adopted separately by certain countries independently of the other parts of the new arrangement;

2. by extending and reinforcing the provisions regarding the protection of *specific* appellations of origin and indications of source,

— either by improving the system of registration provided by the Lisbon Agreement with such improvements possibly to be realized by the above-mentioned new arrangement;

— or by the conclusion of bilateral treaties comprising lists of denominations protected in the respective countries;

— or — for countries with legislations difficult to be reconciled with systems of registration or listing of indications of source — by increased application of a system whereby appellations of origin and indications of source can be registered as collective or certification marks notwithstanding any legislation prohibiting in general terms the registration of geographical denominations.

V. Concerning in particular the reforms of the system of protection presently provided by the Lisbon Agreement,

#### The IAPIP

— *confirms* the opinion which it gave under Sections 1, 2 and 3 of point I of the Melbourne Resolution, while clarifying the following points:

1. It would be of advantage to define in the future instrument the meaning of "indications of source" and "appellations of origin," the latter being a particular category of indications of source.

— Indication of source could be defined as being a denomination which directly or indirectly indicates the geographical origin of a product, whether it is a country, a region, or a locality.

— Appellation of origin should be defined by the terms of Article 1, paragraph 2, of the Lisbon Agreement.

2. In order to simplify the terminology, it does not seem convenient to mention the "other geographical denominations," it being understood that such denominations are covered by the notion of indication of source as above defined.

3. Access of indications of source to the new international rules of protection should not be limited to so-called "qualified" or "privileged" indications of source, i. e., those

necessarily enjoying a particular reputation or evoking substantial qualities of the product; the contracting States should nevertheless be encouraged to apply only for registration of denominations having actual importance for their international trade.

4. Although it could be advantageous to improve the system of international registration by limiting the reasons of rejection, it nevertheless appears difficult to establish a complete list of such reasons which would be acceptable to all the States. At least, the rejections should be duly motivated, and the reasons therefor serve as a basis for negotiations with a view to finding amicable solutions.

5. There is agreement that the envisaged reform of the system of international registration must maintain the level of protection presently afforded to appellations of origin by the Lisbon Agreement.

Should the said reform be carried out by the conclusion of a new arrangement, the coexistence thereof with the Lisbon Agreement should be organized in such a manner that it would allow it to be progressively substituted for the Lisbon Agreement.

## VI. The Congress

*recommends* that the Executive Committee continue the Working Committee as a Special Committee, requesting it

1. to follow the development of the question and to make recommendations at the appropriate point in time to the competent bodies of IAPIP regarding the drafts presently proposed within the framework of WIPO;

2. to continue the study of the question regarding the following points:

(a) whether there should be provided a limitation of the grounds of refusal on which the States can oppose an application for international registration;

(b) conflicts between a registered appellation of origin or indication of source and private rights, such as trademarks, trade names, etc.;

(c) effect of the international registration in those States for which protection is requested;

(d) requirements of registration of appellations of origin or indications of source as collective or certification marks.

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## BOOK REVIEWS

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*Droit des dessins et modèles au Benelux* [Benelux Designs Law], by A. Braun and J.-J. Evrard. Maison Ferdinand Larcier S.A. Editeurs, Brussels, 1975. - 463 pages.

As is known, the Benelux countries have recently acquired a Uniform Designs Law, the text of which was published not long ago in this review (*Industrial Property*, 1974, p. 178). This work of Messrs. A. Braun and J.-J. Evrard therefore comes at an opportune moment for explaining and commenting on the new system.

After a short historical account, especially of the old national systems which this Uniform Law now replaces, the authors deal with the subject-matter by means of two "Volumes" which concentrate respectively on internal rights and foreigners' rights in the Benelux countries.

The first volume is divided up under five sections. A preliminary one deals with the Benelux Convention itself — basic principles, common Office, effects of legal decisions within the three countries, etc. The first section concentrates on the problems of the acquisition of rights (purpose of the protection, the fundamentals of protection and the different types: deposit, holders of rights, etc.). Section II sets out the delicate problems of the exercise of rights and more especially deals with the numerous problems posed by infringement (rights to bring legal proceedings, reme-

dies against infringement, impounding, etc.) as well as the problems of jurisdiction and procedure. Section III deals with the tricky subject of the transitional measures within the three countries in question. Section IV studies comparable methods of protection (copyright, trademark law and the action against unfair competition).

The second volume is dedicated to foreigners' rights in the Benelux countries, particularly the application of international conventions concerned on the one hand with industrial property (the Union and special Arrangements) and, on the other hand, with copyright (the Berne Convention and the Universal Convention).

Finally, Messrs. Braun and Evrard's work is completed by means of annexes containing national (for Belgium, Luxembourg and the Netherlands), regional (essentially the Uniform Law and its Rules) and international legislative texts.

This work, based on a perfect knowledge of the problems connected with the origins and creation of the Uniform Law as well as on a vast bibliography and a deep understanding of the problems of a rapidly changing world, will certainly be received with great interest by all specialists in the fields of industrial property and copyright.

G. R. W.



# CALENDAR

## WIPO Meetings

- October 27 to 31, 1975 (Mexico City) — Latin American and Caribbean Seminar on the Rights of Performers, Producers of Phonograms and Broadcasting Organizations**  
(Meeting organized jointly with ILO and Unesco)
- October 27 to November 3, 1975 (Geneva) — Patent Cooperation Treaty (PCT) — Interim Committees**
- November 3 to 7, 1975 (Geneva) — International Classification of Goods and Services for the Purposes of the Registration of Marks — Committee of Experts**
- November 3 to 14, 1975 (Berne) — International Patent Classification (IPC) — Working Group II**
- November 10 to 14, 1975 (Geneva) — WIPO Permanent Legal-Technical Program for the Acquisition by Developing Countries of Technology Related to Industrial Property — Working Group on the Model Law for Developing Countries on Inventions and Know-How**
- December 1 to 5, 1975 (Geneva) — Paris Union — International Protection of Appellations of Origin and Other Indications of Source — Committee of Experts**
- December 1 to 12, 1975 (Munich) — International Patent Classification (IPC) — Working Group III**
- December 8, 9 and 16, 1975 (Geneva) — International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations — Intergovernmental Committee — Ordinary Session (organized jointly with ILO and Unesco)**
- December 10 to 12, 1975 (Geneva) — ICIREPAT — Technical Coordination Committee (TCC)**
- December 10 to 16, 1975 (Geneva) — Executive Committee of the Berne Union (Extraordinary Session)**
- December 15 to 19, 1975 (Geneva) — International Classification of the Figurative Elements of Marks — Provisional Committee of Experts**
- December 15 to 22, 1975 (Geneva) — Paris Union — Group of Governmental Experts for the Revision of the Paris Convention**
- January 19 to 23, 1976 (Geneva) — International Patent Classification (IPC) — Steering Committee**
- January 26 to 30, 1976 (Geneva) — International Patent Classification (IPC) — Committee of Experts**
- February 2 to 4, 1976 (Geneva) — ICIREPAT — Plenary Committee (PLC)**
- February 2 to 10, 1976 (Geneva) — Nice Union — Temporary Working Group**
- February 4 to 13, 1976 (Geneva) — Paris Union — Microorganisms — Working Group**
- February 16 to 20, 1976 (Geneva) — Hague Union — Regulations — Working Group**
- February 16 to 27, 1976 (Paris) — International Patent Classification (IPC) — Working Group IV**
- February 23 to March 2, 1976 (Tunis) — Committee of Governmental Experts for the Preparation of a Model Law on Copyright for Developing Countries**  
(Meeting convened by the Government of Tunisia in cooperation with WIPO and Unesco)
- March 1 to 5, 1976 (Geneva) — Nice Union — Revision of the Nice Agreement — Committee of Experts**
- March 9 to 12, 1976 (Geneva) — Permanent Legal-Technical Program for the Acquisition by Developing Countries of Technology Related to Industrial Property — Working Group on the Use of the International Patent Classification**
- March 15 to 19, 1976 (Geneva) — WIPO Permanent Legal-Technical Program for the Acquisition by Developing Countries of Technology Related to Industrial Property — Permanent Committee (3<sup>rd</sup> session)**
- March 22 to April 2, 1976 (Munich) — International Patent Classification (IPC) — Working Group I**
- March 29 to 31, 1976 (Geneva) — Paris Union — Ad hoc Coordinating Committee for Technical Activities**
- April 26 to 30, 1976 (Geneva) — ICIREPAT — Technical Committee for Search Systems (TCSS)**
- April 26 to May 1 [or June 8 to 14], 1976 (Geneva) — Paris Union — Group of Governmental Experts for the Revision of the Paris Convention**
- May 3 to 7, 1976 (Geneva) — ICIREPAT — Technical Committee for Standardization (TCST)**
- May 3 to 7, 1976 (Geneva) — Paris and Madrid Unions — Working Group on the Use of Computers in Trademarks Operations**
- May 10 to 15, 1976 (Geneva) — Paris and Berne Unions — Committee of Experts on Scientific Discoveries**
- May 17 to 21, 1976 (Geneva) — International Patent Classification (IPC) — Working Group V**
- May 17 to 21, 1976 (Geneva) — Paris Union — Computer Programs — Committee of Experts**
- May 24 to 31, 1976 (Geneva) — Nice Union — Temporary Working Group**
- June 14 to 18, 1976 (Geneva) — WIPO Permanent Legal-Technical Program for the Acquisition by Developing Countries of Technology Related to Industrial Property — Working Group on the Model Law for Developing Countries on Inventions and Know-How**
- June 21 to 25, 1976 (Geneva) — WIPO Permanent Legal-Technical Program for the Acquisition by Developing Countries of Technology Related to Industrial Property — Working Group on Licensing Guidelines**
- September 6 to 17, 1976 (Washington) — International Patent Classification (IPC) — Working Group III**
- September 21 to 24, 1976 (Geneva) — ICIREPAT — Plenary Committee (PLC)**

- September 27 to October 5, 1976 (Geneva) — WIPO General Assembly, Conference and Coordination Committee; Assemblies of the Paris, Madrid, Nice, Lisbon, Locarno, IPC and Berne Unions; Conferences of Representatives of the Paris, Nice and Berne Unions; Executive Committees of the Paris and Berne Unions; Council of the Lisbon Union — Ordinary Sessions
- September 27 to October 8, 1976 (Rijswijk) — International Patent Classification (IPC) — Working Group II
- October 6 to 8, 1976 (Geneva) — Trademark Registration Treaty (TRT) — Interim Advisory Committee
- October 11 to 15, 1976 (Geneva) — Paris and Madrid Unions — Working Group on the Use of Computers in Trademarks Operations
- October 11 to 15, 1976 (Geneva) — International Patent Classification (IPC) — Steering Committee
- October 13 to 21, 1976 (Geneva) — Nice Union — Temporary Working Group
- October 18 to 22, 1976 (Geneva) — ICIREPAT — Technical Committee for Standardization (TCST)
- October 18 to 22, 1976 (Geneva) — International Patent Classification (IPC) — Committee of Experts
- October 18 to 29, 1976 (Geneva) — Paris Union — Microorganisms — Committee of Experts
- October 25 to 29, 1976 (Geneva) — ICIREPAT — Technical Committee for Search Systems (TCSS)
- October 25 to 30, 1976 (Beirut) — Regional Conference for Arab States on Industrial Property  
(Meeting organized jointly with UNIDO and IDCAS)
- November 1 to 6, 1976 (Geneva) — Patent Cooperation Treaty (PCT) — Interim Committees
- November 8 to 13, 1976 (Colombo) — Seminar on the Interest of the Patent System for Industrial Development
- November 8 to 19, 1976 (Munich) — International Patent Classification (IPC) — Working Group IV
- November 15 to 17, 1976 (Colombo) — Regional Conference for Asian States on Industrial Property
- November 22 to 26 [or 30], 1976 (Geneva) — Paris Union — Group of Governmental Experts for the Revision of the Paris Convention
- November 29 to December 3, 1976 (Geneva) — WIPO Permanent Legal-Technical Program for the Acquisition by Developing Countries of Technology Related to Industrial Property — Working Group on the Model Law for Developing Countries on Inventions and Know-How
- November 29 to December 10, 1976 (Rijswijk) — International Patent Classification (IPC) — Working Group I
- December 6 to 14, 1976 (Geneva) — Paris Union — International Protection of Appellations of Origin and Other Indications of Source — Committee of Experts
- March 14 to 18, 1977 (Geneva) — WIPO Permanent Legal-Technical Program for the Acquisition by Developing Countries of Technology Related to Industrial Property — Permanent Committee (4<sup>th</sup> session)
- September 26 to October 4, 1977 (Geneva) — WIPO Coordination Committee and Executive Committees of the Paris and Berne Unions

## UPOV Meetings

- Council: October 13 to 15, 1976 — Consultative Committee: March 10 and 11, 1976; October 12 and 15, 1976 — Technical Steering Committee: November 6 and 7, 1975; May 6 and 7, 1976; November 18 and 19, 1976 — Committee of Experts on International Cooperation in Examination: November 4 and 5, 1975; May 3 to 5, 1976; November 15 to 17, 1976 — Committee of Experts on the Interpretation and Revision of the Convention: December 2 to 5, 1975; February 17 to 20, 1976; September 14 to 17, 1976
- Note: All these meetings will take place in Geneva at the headquarters of UPOV

## Meetings of Other International Organizations concerned with Intellectual Property

- November 2 to 4, 1975 (London) — International Association for the Protection of Industrial Property — Council of Presidents
- November 3 to 12, 1975 (Paris) — United Nations Educational, Scientific and Cultural Organization (UNESCO) — Committee of Governmental Experts on the Double Taxation of Copyright Royalties
- November 17 to December 15, 1975 (Luxembourg) — General Secretariat of the Council of Ministers of the European Communities — Luxembourg Conference on the Community Patent
- November 24 to 28, 1975 (Sydney) — East Asian Pacific Copyright Seminar
- December 10 to 16, 1975 (Geneva) — United Nations Educational, Scientific and Cultural Organization (UNESCO) — Intergovernmental Copyright Committee established by the Universal Copyright Convention (as revised at Paris in 1971) — First extraordinary session
- December 17 to 19, 1975 (Rijswijk) — International Patent Institute — Administrative Board
- January 16, 1976 (Paris) — International Literary and Artistic Association — Executive Committee and General Assembly
- February 2 to 6, 1976 (Strasbourg) — Council of Europe — Legal Committee on Broadcasting and Television
- May 9 to 13, 1976 (Munich) — International League Against Unfair Competition — Congress
- May 24 to 29, 1976 (Athens) — International Literary and Artistic Association — Congress
- May 25 to June 1, 1976 (Tokyo) — International Publishers Association — Congress
- September 26 to October 2, 1976 (Montreux) — International Association for the Protection of Industrial Property — Executive Committee
- September 27 to October 1, 1976 (Paris) — International Confederation of Societies of Authors and Composers — Congress
- October 11 to 16, 1976 (Varna) — International Writers Guild — Congress