

ANNEX

Convention Establishing the World Intellectual Property Organization
Unmarked Version of Texts of Proposed Amendments

Contents

- Article 6: General Assembly
- Article 7: [deleted]
- Article 8: Coordination Committee
- Article 9: International Bureau
- Article 11: Finances
- Article 17: Amendments
- Article 20: Final Provisions
- Article 21: Transitional Provisions

Article 6
General Assembly

(1)(a) There shall be a General Assembly consisting of the States party to this Convention.

(b) The Government of each State shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each delegation shall be borne by the Government which has appointed it.

(2) The General Assembly shall:

(i) discuss matters of general interest in the field of intellectual property and may adopt recommendations relating to such matters, having regard for the competence and autonomy of the Unions;

(ii) appoint the Director General upon nomination by the Coordination Committee;

(iii) review and approve reports of the Director General concerning the Organization and give him all necessary instructions;

(iv) review and approve the reports and activities of the Coordination Committee and give instructions to such Committee;

(v) adopt the biennial budget of expenses common to the Unions;

(vi) approve the measures proposed by the Director General concerning the administration of the international agreements referred to in Article 4(iii);

(vii) adopt amendments to this Convention as provided in Article 17;

(viii) adopt the financial regulations of the Organization;

(ix) determine the working languages of the Secretariat, taking into consideration the practice of the United Nations;

[Article 6 continues]

(x) invite States referred to under Article 5(2)(ii) to become party to this Convention;

(xi) determine which States not Members of the Organization and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;

(xii) exercise such other functions as are appropriate under this Convention.

(3)(a) Subject to paragraph (b), each State shall have one vote in the General Assembly.

(b) No State may vote in the General Assembly on any question relating to a treaty for which the General Assembly is competent and to which the State is not a party.

(c) One-half of the States members of the General Assembly shall constitute a quorum.

(d) Notwithstanding the provisions of subparagraph (c), if, in any session, the number of States represented is less than one-half but equal to or more than one-third of the States members of the General Assembly, the General Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the following conditions are fulfilled. The International Bureau shall communicate the said decisions to the States members of the General Assembly which were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of this period, the number of States having thus expressed their vote or abstention attains the number of States which was lacking for attaining the quorum in the session itself, such decisions shall take effect provided that at the same time the required majority still obtains.

(e) Subject to the provisions of subparagraphs (f) and (g), the General Assembly shall make its decisions by a majority of two-thirds of the votes cast.

(f) The approval of measures concerning the administration of international agreements referred to in Article 4(iii) shall require a majority of three-fourths of the votes cast.

(g) The approval of an agreement with the United Nations under Articles 57 and 63 of the Charter of the United Nations shall require a majority of nine-tenths of the votes cast.

(h) For the appointment of the Director General (paragraph (2)(ii), the approval of measures proposed by the Director General concerning the administration of international agreements (paragraph (2) (vi)), and the transfer of headquarters (Article 10), the required majority must be attained not only in the General Assembly but also in the Assembly of the Paris Union and the Assembly of the Berne Union.

(i) Abstentions shall not be considered as votes.

(j) A delegate may represent, and vote in the name of, one State only.

(4)(a) The General Assembly shall meet once in every calendar year in ordinary session, upon convocation by the Director General.

(b) The General Assembly shall meet in extraordinary session upon convocation by the Director General either at the request of the Coordination Committee or at the request of one-fourth of the States members of the General Assembly.

(c) Meetings shall be held at the headquarters of the Organization.

(5) The General Assembly shall adopt its own rules of procedure.

[End of Article 6]

A/39/2
Annex, page 5

[Article 7
Conference]

[deleted]

Article 8
Coordination Committee

(1)(a) There shall be a Coordination Committee consisting of the States party to this Convention which are members of the Executive Committee of the Paris Union, or the Executive Committee of the Berne Union, or both. However, if either of these Executive Committees is composed of more than one-fourth of the number of the countries members of the Assembly which elected it, then such Executive Committee shall designate from among its members the States which will be members of the Coordination Committee, in such a way that their number shall not exceed the one-fourth referred to above, it being understood that the country on the territory of which the Organization has its headquarters shall not be included in the computation of the said one-fourth.

(b) The Government of each State member of the Coordination Committee shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each delegation shall be borne by the Government which has appointed it.

(2) If the other Unions administered by the Organization wish to be represented as such in the Coordination Committee, their representatives must be appointed from among the States members of the Coordination Committee.

(3) The Coordination Committee shall:

(i) give advice to the organs of the Unions, the General Assembly and the Director General, on all administrative, financial and other matters of common interest either to two or more of the Unions, or to one or more of the Unions and the Organization, and in particular on the budget of expenses common to the Unions;

(ii) prepare the draft agenda of the General Assembly;

(iii) [deleted]

[Article 8 continues]

[Article 8, continued]

(iv) [deleted]

(v) when the term of office of the Director General is about to expire, or when there is a vacancy in the post of the Director General, nominate a candidate for appointment to such position by the General Assembly; if the General Assembly does not appoint its nominee, the Coordination Committee shall nominate another candidate; this procedure shall be repeated until the latest nominee is appointed by the General Assembly;

(vi) if the post of the Director General becomes vacant between two sessions of the General Assembly, appoint an Acting Director General for the term preceding the assuming of office by the new Director General;

(vii) perform such other functions as are allocated to it under this Convention.

(4)(a) The Coordination Committee shall meet once every year in ordinary session, upon convocation by the Director General. It shall normally meet at the headquarters of the Organization.

(b) The Coordination Committee shall meet in extraordinary session, upon convocation by the Director General, either on his own initiative, or at the request of its Chairman or one-fourth of its members.

(5)(a) Each State, whether a member of one or both of the Executive Committees referred to in paragraph (1)(a), shall have one vote in the Coordination Committee.

(b) One-half of the members of the Coordination Committee shall constitute a quorum.

(c) A delegate may represent, and vote in the name of, one State only.

(6)(a) The Coordination Committee shall express its opinions and make its decisions by a simple majority of the votes cast. Abstentions shall not be considered as votes.

[Article 8 continues]

[Article 8, continued]

(b) Even if a simple majority is obtained, any member of the Coordination Committee may, immediately after the vote, request that the votes be the subject of a special recount in the following manner: two separate lists shall be prepared, one containing the names of the States members of the Executive Committee of the Paris Union and the other the names of the States members of the Executive Committee of the Berne Union; the vote of each State shall be inscribed opposite its name in each list in which it appears. Should this special recount indicate that a simple majority has not been obtained in each of those lists, the proposal shall not be considered as carried.

(7) Any State Member of the Organization which is not a member of the Coordination Committee may be represented at the meetings of the Committee by observers having the right to take part in the debates but without the right to vote.

(8) The Coordination Committee shall establish its own rules of procedure.

[End of Article 8]

Article 9
International Bureau

- (1) The International Bureau shall be the Secretariat of the Organization.
- (2) The International Bureau shall be directed by the Director General, assisted by two or more Deputy Directors General.
- (3) The Director General shall be appointed for a fixed term of six years. He shall be eligible for reappointment only for one further fixed term of six years. All other conditions of the appointment shall be fixed by the General Assembly.*
- (4)(a) The Director General shall be the chief executive of the Organization.
 - (b) He shall represent the Organization.
 - (c) He shall report to, and conform to the instructions of, the General Assembly as to the internal and external affairs of the Organization.
- (5) The Director General shall prepare the draft programs and budgets and periodical reports on activities. He shall transmit them to the Governments of the interested States and to the competent organs of the Unions and the Organization.
- (6) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the General Assembly, the Coordination Committee, and any other committee or working group. The Director General or a staff member designated by him shall be ex officio secretary of these bodies.

[Article 9 continues]

* Text adopted in September 1999, but not yet in force.

[Article 9, continued]

(7) The Director General shall appoint the staff necessary for the efficient performance of the tasks of the International Bureau. He shall appoint the Deputy Directors General after approval by the Coordination Committee. The conditions of employment shall be fixed by the staff regulations to be approved by the Coordination Committee on the proposal of the Director General. The paramount consideration in the employment of the staff in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

(8) The nature of the responsibilities of the Director General and of the staff shall be exclusively international. In the discharge of their duties they shall not seek or receive instructions from any Government or from any authority external to the Organization. They shall refrain from any action which might prejudice their position as international officials. Each Member State undertakes to respect the exclusively international character of the responsibilities of the Director General and the staff, and not to seek to influence them in the discharge of their duties.

[End of Article 9]

Article 11
Finances

(1) The Budget of the Organization shall present the income and expenses of the Organization and the Unions administered by the Organization in a fair and transparent manner.

(2) The budget shall be financed from the following sources:

- (i) contributions of Member States;
- (ii) fees and charges due for services performed by the International Bureau;
- (iii) sale of, or royalties on, the publications of the International Bureau;
- (iv) gifts, bequests, and subventions, given to the Organization;
- (v) rents, interests, and other miscellaneous income, of the Organization.

(3)(a) For the purpose of establishing its contribution towards the budget, each State party to this Convention shall belong to a class, and shall pay its annual contribution on the basis of the number of units assigned to that class.

(b) The number of classes and the units assigned to each class shall be established by the General Assembly meeting in joint session with the Assemblies of the Unions whose constituent treaties provide for the payment of a contribution.

(c) Subject to any conditions governing eligibility for membership of any classes, each State shall, (i) at the time of becoming party to this Convention, or (ii) at the time of becoming a member of a Union which provides for a contribution, whichever occurs earlier, indicate the class to which it wishes to belong. Any such State may, subject to any conditions governing eligibility for membership of any class, change class. If it chooses a lower class, the State must announce it to the General Assembly at one of its ordinary sessions. Any such change shall take effect at the beginning of the calendar year following the session.

[Article 11 continues]

(d) The annual contribution of each State shall be an amount in the same proportion to the total sum to be contributed to the budget by all States as the number of its units is to the total of the units of all the States.

(e) Contributions shall become due on the first of January of each year.

(f) If the budget is not adopted before the beginning of a new financial period, the budget shall be at the same level as the budget of the previous year, in accordance with the financial regulations.

(4) Any State party to this Convention which is in arrears in the payment of its financial contributions shall not exercise its vote in any of the bodies of the Organization of which it is a member, if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. However, any of these bodies may allow such a State to continue to exercise its vote in that body if, and as long as, it is satisfied that the delay in payment arises from exceptional and unavoidable circumstances.

(5) The Organization, with the approval of the Coordination Committee, may receive gifts, bequests, and subventions, directly from Governments, public or private institutions, associations or private persons.

(6)(a) The Organization shall have a working capital fund which shall be constituted by a single payment made by the Unions and by each State party to this Convention not member of any Union. If the fund becomes insufficient, it shall be increased.

(b) The amount of the single payment of each Union and its possible participation in any increase shall be decided by its Assembly.

(c) The amount of the single payment of each State party to this Convention not member of any Union and its part in any increase shall be a proportion of the contribution of that State for the year in which the fund is established or the increase decided. The proportion and the terms of payment shall be fixed by the General Assembly on the proposal of the Director General and after it has heard the advice of the Coordination Committee.

[Article 11, continued]

(7)(a) In the headquarters agreement concluded with the State on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such State shall grant advances. The amount of these advances and the conditions on which they are granted shall be the subject of separate agreements, in each case, between such State and the Organization. As long as it remains under the obligation to grant advances, such State shall have an ex officio seat on the Coordination Committee.

(b) The State referred to in subparagraph (a) and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

(8) The auditing of the accounts shall be effected by one or more Member States, or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the General Assembly.

(...)

[End of Article 11]

Article 17
Amendments

(1) Proposals for the amendment of this Convention may be initiated by any Member State, by the Coordination Committee, or by the Director General. Such proposals shall be communicated by the Director General to the Member States at least six months in advance of their consideration by the General Assembly.

(2) Amendments shall be adopted by the General Assembly. Amendments shall be adopted by a simple majority of the votes cast, provided that the General Assembly shall vote only on such proposals for amendments as have previously been adopted by the Assembly of the Paris Union and the Assembly of the Berne Union according to the rules applicable in each of them regarding the adoption of amendments to the administrative provisions of their respective Conventions.

(3) Any amendment shall enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of the States Members of the Organization, entitled to vote on the proposal for amendment pursuant to paragraph (2), at the time the General Assembly adopted the amendment. Any amendments thus accepted shall bind all the States which are Members of the Organization at the time the amendment enters into force or which become Members at a subsequent date, provided that any amendment increasing the financial obligations of Member States shall bind only those States which have notified their acceptance of such amendment.

[End of Article 17]

Article 20
Final Provisions

(1)(a) This Convention shall be signed in a single copy in English, French, Russian and Spanish, all texts being equally authentic, and shall be deposited with the Government of Sweden.

(b) This Convention shall remain open for signature at Stockholm until January 13, 1968.

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

(3) The Director General shall transmit two duly certified copies of this Convention and of each amendment adopted by the General Assembly to the Governments of the States members of the Paris or Berne Unions, to the Government of any other State when it accedes to this Convention, and, on request, to the Government of any other State. The copies of the signed text of the Convention transmitted to the Governments shall be certified by the Government of Sweden.

(4) The Director General shall register this Convention with the Secretariat of the United Nations.

[End of Article 20]

Article 21
Transitional Provisions

(1) Until the first Director General assumes office, references in this Convention to the International Bureau or to the Director General shall be deemed to be references to the United International Bureaux for the Protection of Industrial, Literary and Artistic Property (also called the United International Bureaux for the Protection of Intellectual Property (BIRPI)), or its Director, respectively.

(2)(a) States which are members of any of the Unions but which have not become party to this Convention may, for five years from the date of entry into force of this Convention, exercise, if they so desire, the same rights as if they had become party to this Convention. Any State desiring to exercise such rights shall give written notification to this effect to the Director General; this notification shall be effective on the date of its receipt. Such States shall be deemed to be members of the General Assembly until the expiration of the said period.

(b) Upon expiration of this five-year period, such States shall have no right to vote in the General Assembly, and the Coordination Committee.

(c) Upon becoming party to this Convention, such States shall regain such right to vote.

(3)(a) As long as there are States members of the Paris or Berne Unions which have not become party to this Convention, the International Bureau and the Director General shall also function as the United International Bureaux for the Protection of Industrial, Literary and Artistic Property, and its Director, respectively.

(b) The staff in the employment of the said Bureaux on the date of entry into force of this Convention shall, during the transitional period referred to in subparagraph (a), be considered as also employed by the International Bureau.

[Article 21 continues]

[Article 21, continued]

(4)(a) Once all the States members of the Paris Union have become Members of the Organization, the rights, obligations, and property, of the Bureau of that Union shall devolve on the International Bureau of the Organization.

(b) Once all the States members of the Berne Union have become Members of the Organization, the rights, obligations, and property, of the Bureau of that Union shall devolve on the International Bureau of the Organization.

[End of Article 21 and of WIPO Convention]

[End of Annex and of document]