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WORLD INTELLECTUAL PROPERTY ORGANIZATION  
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COMMITTEE OF EXPERTS  
ON  
THE DEPOSIT OF MICROORGANISMS  
FOR THE PURPOSES OF PATENT PROCEDURE

Second Session  
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DRAFT TREATY

prepared by the International Bureau

Preliminary Observations On the Draft Treaty

1. Disclosure of the invention is a generally recognized requirement for the grant of patents. Normally, an invention is disclosed by means of a written description. Where an invention involves the use of a microorganism which is not available to the public, such a description is not sufficient for disclosure. That is why in the patent procedure of an increasing number of countries it is necessary not only to file a written description but also to deposit, with a specialized institution, a sample of the microorganism. Patent offices are not equipped to handle microorganisms, whose preservation requires special expertise and equipment to keep them viable, to protect them from contamination and to protect health or the environment from contamination. Such preservation is costly. The release of samples by the institution also requires specialized expertise and equipment.

2. When protection is sought in several countries for an invention involving the use of a microorganism, the complex and costly procedures of the deposit of the microorganism might have to be repeated in each of those countries. It was in order to eliminate or reduce such multiplication of deposits that the United Kingdom proposed, in 1973, that WIPO should study the possibilities of one deposit serving the purposes of all the deposits which would otherwise be needed. The proposal was adopted by the Executive Committee of the Paris Union for the Protection of Industrial Property at its 1973 session. As a first step in the proposed study, the Director General of WIPO convened a committee of experts in April 1974. The matter was thoroughly discussed and the general outlines of a solution emerged. The essence of the proposed solution was that certain scientific institutions should be recognized as depositary authorities and that the deposit of a microorganism with any one of them should be recognized as valid for the purposes of the patent procedure of all the countries in which protection for the invention involving the use of the microorganism is sought. The Committee also found that the solution required the conclusion of a treaty.

3. It was on the basis of the discussions of the said Committee and further consultations and study by the International Bureau of WIPO that the draft treaty contained in this document and the draft of the regulations under the treaty, which appears in a separate document (DMO/III/3), were established.

4. The International Bureau realizes that the texts of both drafts need further improvement not only as to their clarity, conciseness and completeness but also as to the solutions they propose on certain aspects. It is believed, however, that such improvements would be greatly facilitated if future discussions could be based on draft texts rather than merely on the enumeration of principles or the outlines of such texts. The draft texts presented now should thus be regarded as tentative. Further meetings and redrafts will doubtless be needed before the texts are ready for consideration by a diplomatic conference.

5. The text of the draft treaty appears on the odd-numbered pages; the even-numbered pages contain, in relation to some of the provisions of the draft treaty, observations in the nature of explanations or, sometimes, invitations to reflect on other possible solutions or the possibility of loopholes in the draft text.

DRAFT TREATY ON THE INTERNATIONAL RECOGNITION  
OF THE DEPOSIT OF MICROORGANISMS  
FOR THE PURPOSES OF PATENT PROCEDURE

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DRAFT TREATY ON THE INTERNATIONAL RECOGNITION  
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Observations on Article 1

The two possible solutions reflected by the fact that certain words appear within square brackets in this Article pose a fundamental question: should not only States but also certain intergovernmental organizations be allowed to become party to the Treaty? The kind of intergovernmental organization that is meant is indicated in Article 14. As of today, the Office africain et malgache de la propriété industrielle (OAMPI) and the future European Patent Organisation would qualify.

Such organizations having a legal personality recognized in international public law, it would seem possible that they could become Contracting Parties. If such organizations were allowed to be Contracting Parties, the Treaty could apply without complications to patent procedure before regional patent offices even if some of the States in which the regional patent office's procedure has effect do not become party to the Treaty.

If intergovernmental organizations are allowed to become party to the Treaty, the wording of Article 14 might require an appropriate amendment in order to enable such organizations, in the light of their procedures or practices, to file a declaration of acceptance or approval of the Treaty instead of depositing an instrument of ratification or accession.

INTRODUCTORY PROVISIONS

Article 1

Establishment of a Union

The States [and intergovernmental organizations]<sup>1</sup> party to this Treaty (hereinafter called "the Contracting [States]<sup>2</sup> [Parties]<sup>3</sup>") constitute a Union for the international recognition of the deposit of microorganisms for the purposes of patent procedure.

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<sup>1</sup> These words appear within square brackets since the question whether intergovernmental organizations are to be allowed to become party to the Treaty will have to be further examined.

<sup>2</sup> This word applies if only States may become party to the Treaty.

<sup>3</sup> This word applies if both States and intergovernmental organizations may become party to the Treaty.

Observations on Article 2

ad (i): This definition follows the generally accepted scientific definition.

ad (ii): This definition follows the generally accepted scientific definition, except that the words "or a mixture of strains of microorganisms" were added for practical reasons: it may happen that for particular inventions only cultures which comprise several different strains of microorganisms have the claimed effect.

ad (iii): "Release" should be understood as meaning transmittal, by the depositary institution, to another person. Questions: Is "release" the right expression? Should it be defined? Should "sample" be defined?

ad (iv): This definition follows the definition contained in Article 2(ii) of the Patent Cooperation Treaty.

ad (v): "Patent procedure" includes not only the procedure preceding the grant and the grant itself but also procedure after the grant, such as maintenance of the patent and nullity, infringement or opposition proceedings in which the patent is involved.

ad (vi): The reference to Article 7, here and in every other place where no express reference is made to one of the two (A or B) alternatives of that Article, is a reference to either alternative. "Competent body" is defined in item (vi-bis).

ad (vi-bis): This item applies only if intergovernmental organizations may become party to the Treaty. In the case of the European Patent Organisation, the European Patent Office would be "the industrial property office...of that organization."

ad (vii): Question: Should "person" not be defined as meaning both natural persons and legal entities? Such a definition would allow using, in other places, one word instead of five.

ad (viii): It follows from the reference to the internationally recognized depositary authority that deposit means a deposit under the Treaty. Question: Should this be expressly stated in the definition?

ad (ix): An alleged invention is something that the applicant calls an invention but for which no patent is granted because it does not meet the requirements (novelty, inventive step, industrial applicability, etc.) of the patent law.

ad (x): A regional patent office is also "an authority competent for the grant of patents..."

ad (xi) to (xvii): No observations.

Additional questions: Should an abbreviated expression for "internationally recognized depositary authority" be adopted? For example: "Depositary Authority" or "International Depositary Authority?" See also the French text, which, in order to avoid a cumbersome expression, uses the wording "autorité de dépôt."



## Article 2

Definitions

For the purposes of this Treaty and the Regulations,

(i) "strain of microorganism" means a given kind of microorganism consisting of the descendants of a single isolation in pure culture;

(ii) "culture of microorganism" means a population of microorganisms, in a given place and at a given time, belonging to a strain of microorganism or a mixture of strains of microorganisms;

(iii) "depository institution" means an institution which provides for the storage of cultures of microorganisms and the release of samples thereof;

(iv) references to a "patent" shall be construed as references to patents for inventions, inventors' certificates, utility certificates, utility models, patents or certificates of addition, inventors' certificates of addition, and utility certificates of addition;

(v) "patent procedure" means any procedure whose aim or result is to obtain, maintain or sustain a patent or to enforce the protection deriving from a patent;

(vi) "internationally recognized depository authority" means a depository institution which, for the purposes of patent procedure [in the Contracting States]<sup>1</sup> [before the competent bodies of the Contracting Parties]<sup>2</sup>, has been recognized as provided in Article 7;

[(vi-bis) "competent body" of a Contracting Party shall mean:

(a) where the Contracting Party is a State, the industrial property office or any other authority, including any court, of that State or of any inter-governmental organization of which that State is a member and which is competent in any patent procedure having effect in that State,

(b) where the Contracting Party is an intergovernmental organization, the industrial property office or any other authority, including any court, of that organization or of any State member of that organization, provided that the office, authority or court of such State is competent in any patent procedure having effect in that organization or that State;]<sup>3</sup>

(vii) "depositor" means the natural person or legal entity transmitting a culture of microorganism to an internationally recognized depository authority and the successor in title of the said natural person or legal entity;

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<sup>1</sup> These words apply if only States may become party to the Treaty.

<sup>2</sup> These words apply if both States and intergovernmental organizations may become party to the Treaty.

<sup>3</sup> This item (i.e., vi-bis) applies if both States and intergovernmental organizations may become party to the Treaty.

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[Article 2, continued]

(viii) "deposit of microorganism" means, according to the context in which these words appear, the transmittal of a culture of microorganism by the depositor to the internationally recognized depositary authority or the storage of that culture by that authority, or both the said transmittal and the said storage;

(ix) "invention" means also an alleged invention;

(x) "industrial property office" means an authority competent for the grant of patents;

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

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

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

(xiv) "International Bureau" means the International Bureau of the Organization and, as long as it subsists, the United International Bureaux for the Protection of Intellectual Property (BIRPI);

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

(xvi) "Regulations" means the Regulations referred to in Article 11;

[(xvii) "Committee of Experts" means the Committee of Experts referred to in Article 8]<sup>1</sup>.

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<sup>1</sup>The definition within square brackets applies if Article 8 is maintained.

Observations on Article 3

ad (1) (a): As to the granting or acquisition of the status of internationally recognized depositary authority, see Article 7 (Alternative A) and Article 7 (Alternative B), respectively.

It follows from the words "recognize as valid" that the recognition extends to the fact of the deposit, its date and the fact that the culture from which samples are taken for the purposes of release is identical with the deposited culture of the microorganism. Question: Should these consequences be expressly stated in the Treaty?

As to the making of the deposit, see Rule 7.1; as to the receipt, see Rule 8.

ad (1) (b): The requirement of a viability certificate in the stated situation is justified by the fact that after the passage of a relatively long time the deposited culture may no longer be viable (alive). Question: Does "viability" need defining?

As to the viability tests and viability certificates, see Rule 11. Question: Should the Treaty provide that the certificate of the first viability test must be part of the receipt?

ad (2) (a): Non-availability for release may be caused by the fact that the deposited culture has died (is no longer "viable") or been destroyed, lost, misplaced, etc.

ad (2) (b): The consequence of total or partial loss of the status in question is that, even if, physically, the deposit subsists, legally it is no longer a deposit under the Treaty. As to the total or partial loss of the status in question, see Article 7(2) and (3).

Where the internationally recognized depositary authority with which the culture was deposited interrupts or discontinues its functions (see Article 6(2)), the culture must be transferred to another internationally recognized depositary authority (see Rule 6.1). Consequently, the culture is available, albeit in an authority other than the original one. That is why paragraph (2) does not deal with the said situation.

ad (2) (c): If the identity of the newly deposited culture with the originally deposited culture is contested, the depositor will have to prove that these cultures are identical. It may be helpful for such proof if the originally deposited culture was given a scientific designation and/or taxonomic description (see Rules 7 and 9).

If the date alleged by the depositor as being that on which he became aware of the non-availability is contested, the depositor will have to prove his allegation, but, of course, the contesting party may prove that the date is an earlier one than the date alleged by the depositor. The same holds, under Alternative X, for the date on which the depositor became aware of the loss of status. But since such proof may be particularly difficult, Alternative Y provides for an objective criterion, namely, the publication in the Gazette.

Additional observations. It is to be noted that nothing in the Treaty prevents the making of deposits of the same culture of microorganism, by the same depositor, with several internationally recognized depositary authorities. On the other hand, the Treaty contains no express reply to the question whether any national law or regional treaty may exclude the possibility of referring, in any given patent application, to more than one deposit of the same culture. Questions: Should the Treaty contain an express reply to this question? If so, what should the reply be? Should the Treaty provide for the possibility of the transfer of the deposited culture, upon the request of the depositor, from the internationally recognized depositary authority with which the culture was originally deposited to another such authority, even where the circumstances referred to in Article 3(2) (a) and (b) do not exist?

## CHAPTER I

## SUBSTANTIVE PROVISIONS

Article 3Recognition of the Deposit of Microorganisms

(1) (a) Each [Contracting State]<sup>1</sup> [competent body of any Contracting Party]<sup>2</sup> which allows or requires the deposit of microorganisms shall recognize as valid, for the purposes of patent procedure, the deposit of any microorganism with any internationally recognized depositary authority, provided that the deposit complies with the provisions of this Treaty and the Regulations and provided that the deposit is proved by a receipt issued by the said authority and filed with the industrial property office of the said Contracting [State]<sup>1</sup> [Party]<sup>2</sup>.

(b) Where the receipt issued by the internationally recognized depositary authority indicates that the deposit was made more than [five]<sup>3</sup> years before the date of the filing of the receipt with the industrial property office of the Contracting [State]<sup>1</sup> [Party]<sup>2</sup>, the obligation of recognition referred to in subparagraph (a) shall, as far as [that State is]<sup>1</sup> [the competent bodies of that Contracting Party are]<sup>2</sup> concerned, apply only if, together with the receipt, a certificate issued by the same internationally recognized depositary authority is filed certifying that, on a date preceding the date of filing by not more than [one year]<sup>3</sup>, the deposited culture was viable.

(2) (a) Where any deposited culture of microorganism is no longer available for release of samples, the depositor may make a new deposit by depositing with an internationally recognized depositary authority a culture of the same strain, or the same mixture of strains, which was the subject of the original deposit.

(b) Subparagraph (a) applies also where the internationally recognized depositary authority with which the original deposit was made loses the status of such authority, or loses it in respect of the kind of microorganisms to which the original deposit belongs, and where the originally deposited culture was not transferred to another internationally recognized depositary authority.

(c) The new deposit made under subparagraphs (a) or (b) shall be deemed to have been made on the date on which the original deposit was made if the new deposit is made within [six]<sup>3</sup> months from the date [Alternative X: on which the depositor learned of the relevant fact under subparagraphs (a) or (b)]<sup>4</sup> [Alternative Y: on which the depositor learned of the fact referred to in subparagraph (a) or on which the fact referred to in subparagraph (b) was published in the Gazette, as the case may be].

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<sup>1</sup> These words apply if only States may become party to the Treaty.

<sup>2</sup> These words apply if both States and intergovernmental organizations may become party to the Treaty.

<sup>3</sup> The length of the term here indicated is merely tentative.

<sup>4</sup> See the Observations.

Observations on Article 4

The import, and sometimes the export, of certain microorganisms, particularly if they are dangerous, is prohibited by national law. Such prohibitions could completely frustrate the aims of the Treaty whenever the internationally recognized depositary authority and the would-be depositor or the person or authority requesting the release of a sample are in different countries.

The Treaty would consequently limit the freedom of the Contracting [States] [Parties] to impose import or export restrictions: those restrictions could be imposed only when they were "absolutely necessary," and only when they were absolutely necessary for the protection of "health" (whether human, animal or plant) or of "environment" (for example, for the purity of soil, water or air).

Article 4Export and Import Restrictions

If and to the extent to which any Contracting [State]<sup>1</sup> [Party]<sup>2</sup> adopts regulations restricting the export or import of certain kinds of microorganisms, it shall [, with due regard to the desirability of the worldwide dissemination of knowledge,]<sup>3</sup> apply such regulations to microorganisms deposited, or destined for deposit, under this Treaty only where the restriction is absolutely necessary in view of the dangers that the export or import of the microorganisms entails for health or the environment.

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<sup>1</sup> This word applies if only States may become party to the Treaty.

<sup>2</sup> This word applies if both States and intergovernmental organizations may become party to the Treaty.

<sup>3</sup> It has yet to be decided whether to include the words appearing within square brackets.

Observations on Article 5

As to (i): See the observations on Article 6.

As to (ii): See the observations on Article 6(1)(ii) to (vii).

As to (iii): Location on the territory of a Contracting State has the advantage that the State would have--by virtue of its laws, decrees or other appropriate measures, including contracts which it could conclude with the internationally recognized depositary authority--direct means of compelling that authority to respect its obligations, obligations whose performance that State would guarantee under Article 6.

If the second alternative is adopted, such an authority may be outside the territory of a Contracting State. Thus, there may be no possibility of compelling the authority, under the law or decrees of the State on the territory of which it is located, to respect its obligations since such State would probably refuse to legislate under a treaty to which it is not party.

Question: Should the second alternative be omitted even if intergovernmental organizations are allowed to become Contracting Parties? In support of maintaining the second alternative is the fact that, by contract, such an organization would be able to create enforceable obligations for the said authorities. Moreover, such an organization could conclude with the State on whose territory the depositary institution is located an agreement in accordance with which that State would assume the guarantees referred to in Article 6.



Article 5

General Conditions of the Status of  
Internationally Recognized Depository Authority

In order to qualify for the status of internationally Recognized depository authority, any depository institution must and, once it has that status, must continue to:

- (i) benefit from the guarantees referred to in Article 6,
- (ii) comply with the requirements referred to in Article 6 (1) (ii) to (vii),
- (iii) be located on the territory of a [Contracting State]<sup>1</sup> [State which is a Contracting Party or a member of an intergovernmental organization which is a Contracting Party]<sup>1</sup>.

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<sup>1</sup> See the Observations.

Observations on Article 6

ad (1), introductory passages: The main difference between Alternatives A and B of Article 7 is that, under the first, the guaranteeing State (or intergovernmental organization) merely requests international recognition and the Assembly grants or refuses such recognition, whereas, under the second, the acquisition of international recognition flows, automatically, from the sole will of the guaranteeing State or organization, from its having professed the required guarantees. It is to be noted that, once the status exists, the difference disappears, since under both Alternatives the status can be taken away and such taking away depends solely on the Assembly.

The guarantee principle provided for in Article 6 and refined in other provisions of the Treaty and the Regulations is a pivotal principle of the solutions proposed. It is dictated mainly by a practical and by a legal consideration. The practical consideration is that depositary institutions are mostly not branches of a government, and the legal consideration is that, for the said reason, they cannot become party to a treaty. Thus, instead of providing that the institutions will do this and that, the Treaty provides that the Contracting States (or intergovernmental organizations) must see to it that the said institutions will do this or that.

ad (1)(i): Naturally, nobody can guarantee that the institution will last for ever. The provision mainly wishes to emphasize that the institution should have a long existence without interruptions while it lasts. Should the institution, qua internationally recognized depositary authority, still interrupt or discontinue its functions, the guaranteeing State (or organization) will have to see to it that the deposits held by the said institution are transferred to another such authority (see Article 6(2) and Rule 6.1).

ad (1)(ii): As to staff, equipment and facilities, see Rule 2.2.

Rule 2.1 provides that any internationally recognized depositary authority "may be a government agency or a private entity."

Questions: Is such a provision necessary? Would silence on the matter not imply the same permission? In any case, neither "government agency" nor "private entity" seems to have a very precise legal meaning.

ad (1)(iii): If the institution is financed by the government, a State or private university or a scientific association, or is simply a private enterprise (even when working for profit), it may still qualify even if, occasionally, it accepts deposits from a government agency of the same State, the research branch of the same university or the owners of the same private enterprise, as long as such State, branch or owners do not exercise upon it any material influence which could endanger its impartiality. It is difficult to define, in precise legal terms, such independence or impartiality. It seems, however, sufficient to indicate this requirement, since the Assembly will weigh all the circumstances and, if it is not satisfied, it will refuse to grant the status (under Article 7, Alternative A) or will withdraw it (under both Alternatives of Article 7).

ad (1)(iv): As to "certain kinds of microorganisms," see also Article 3(2) and Rules 3.1(b)(iii) and 3.3.

As to the examination of viability, see Rules 11 and 13.

As to the acceptance of deposits, see Rules 7, 8 and 13.

As to storage, see Rule 10, which regulates the duration of the storage (Rule 10.1), the returning to the depositor and the destroying, on the request of the depositor, of the deposited culture as long as the corresponding patent application or patent is not published (Rule 10.2), and the secrecy of the deposit (Rule 10.3).

ad (1)(v): As to the receipt, see Rule 8.

As to the viability certificate, see Rule 11.2.

Article 6

Guarantees

(1) [Alternative A:]<sup>1</sup> The Contracting [State]<sup>2</sup> [Party]<sup>3</sup> which, under Article 7 (Alternative A), proposes a depositary institution for recognition as an internationally recognized depositary authority

[Alternative B:]<sup>4</sup> The Contracting [State]<sup>2</sup> [Party]<sup>3</sup> whose certification, under Article 7 (Alternative B), causes the depositary institution to become an internationally recognized depositary authority

[Both Alternatives:] shall guarantee that, in its capacity of internationally recognized depositary authority, that institution shall

- (i) have a continued existence, as prescribed in the Regulations,
- (ii) maintain a generally recognized, high scientific standard and have specialized staff, equipment and facilities, as prescribed in the Regulations,
- (iii) be independent in the sense of being free from any material influence on the part of actual or prospective depositors and their actual or potential competitors,
- (iv) accept for deposit cultures of any or certain kinds of microorganisms, examine their viability and store them, as prescribed in the Regulations,
- (v) issue to the depositor a receipt, and any required viability certificate, as prescribed in the Regulations,
- (vi) comply, in respect of the microorganisms deposited with it, with the requirement of secrecy, as prescribed in the Regulations,
- (vii) release samples of any deposited microorganism only where, under the Regulations, it is required to do so, and in conformity with the procedure provided in the Regulations,
- (viii) be held immune by the said Contracting [State]<sup>2</sup> [Party]<sup>3</sup> from any claims which may arise from any act that has been performed or that has failed to be performed by that institution under this Treaty and the Regulations.

(2) The Regulations provide for the measures to be taken if an internationally recognized depositary authority, while still having the status of such authority, interrupts or discontinues its functions in respect of cultures already deposited with it or refuses to accept kinds of microorganisms it should accept.

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<sup>1</sup> This Alternative applies if Alternative A of Article 7 is adopted.

<sup>2</sup> This word applies if only States may become party to the Treaty.

<sup>3</sup> This word applies if both States and intergovernmental organizations may become party to the Treaty.

<sup>4</sup> This Alternative applies if Alternative B of Article 7 is adopted.

[Observations on Article 6, continued]

ad (1) (vi): As to secrecy, see Rule 10.3.

ad (1) (vii): A satisfactory regulation of the questions who has a right to a sample and when and under what conditions is perhaps the most difficult to achieve. The answers are provided in the Regulations (Rule 12) rather than in the Treaty itself so as to allow their amendment, in the light of experience, without having to have recourse to the cumbersome procedure of revising the Treaty. However, because the matter is so important, mainly for the depositors, the Treaty provides that the rules concerning release of samples can be amended only by a unanimous decision of the States (and organizations) party to the Treaty (Article 11(4) (b)).

Rule 12 distinguishes between three cases:

The first case is where the sample is needed by a (national or regional) industrial property office for its patent procedure (Rule 12.1). This seems to be unobjectionable as well as necessary. If any would-be depositor has fears, the only solution for him is not to deposit. He will probably not then get a patent.

The second case is where the sample is to be released on the express request, or with the express authorization, of the depositor (Rule 12.2). This presents no problems.

The third case--the case where the release is neither for the industrial property office nor for the depositor or a person authorized by him but for some other person, including, possibly, a competitor of the depositor--is one which is difficult to regulate. The solution provided for in Rule 12.3 is that the question who has the right to a sample is not answered by the Treaty or the Regulations. The answer is left to the applicable national law or regional treaty. What Rule 12.3 provides, in essence, is simply that the (national or regional) industrial property office (with which the depositor has filed a patent application involving the use of the deposited microorganism) must certify that, under the law or regional treaty under which that office operates, the party desiring the release of a sample to him has a right to obtain such a sample. Thus, Rule 12.3 leaves the matter to the national law (or the regional treaty) applicable under the procedure of those industrial property offices with which the depositor has filed applications, except that, whatever that law (or treaty), release will not be permitted before the said application, or the patent issued on it, has been published (Rule 12.3(ii)).

Question: Should the Regulations provide that, before issuing certification to the requesting party, the national or regional office must give an opportunity to the depositor to be heard on the question whether, in his opinion, the right of the requesting party exists?

Rule 12.3 provides that, where the said law makes the right to obtain a sample "dependent on the fulfillment of certain conditions," the said office must satisfy itself that such conditions are in fact fulfilled. Such conditions may, for example, be that the party desiring the release must sign an undertaking to the effect that he will not give the sample to third persons and/or that he will use the sample only for purposes of identification and research and particularly not for an industrial or commercial exploitation of the invention involving the use of the microorganism. It would be possible to generalize these principles and to provide, in the Regulations themselves, that the party desiring the release under Rule 12.3 must give the internationally recognized depositary authority a statement to the said effects.

Question: Should the Regulations require such a statement?

ad (1) (viii): Another difficult question to resolve is the question of the extent of the responsibility of the internationally recognized depositary authority vis-à-vis others, mainly the depositor. The answer provided in this item is based on the preliminary discussions that have taken place so far. It consists of an obligation on the part of the guaranteeing State (or organization) to "hold immune" the said authority from any claims which may be made against that authority qua internationally recognized depositary authority.



[Observations on Article 6, continued]

However, it would seem that a less summary--a more differentiated--solution could be preferable.

One ought, perhaps, to distinguish between two types of claims:

One type of claim would be any claim arising from the fact that the authority--characteristically because of its negligence--has lost the deposited culture (it has died, or been destroyed, or got misplaced, etc.). The solution could be that the depositor would be required, at the time of the deposit, to sign a paper waiving any claim in this connection except the right to have the authority accept, gratis, a new deposit under Article 3(2). What would be waived in particular is any claim for damages caused by the fact that the loss of the deposit may entail the loss of the patent application or the patent. To use an (admittedly imperfect) analogy: just as an enterprise developing photographic films is not liable for damages, when it loses or spoils the film, in respect of the loss of the possibility for the photographer to make money from the photograph (which might even have been protected by copyright!) but usually merely assumes the responsibility for giving a new unexposed film, so the responsibility of the internationally recognized depository authority would be limited, as indicated above, by virtue of contract or law, or both. In any case, the Treaty should expressly state that such a limitation is lawful and the said written waiver suffices to constitute the said limitation legally.

The other type of claim is the one which would be based on the fact that the internationally recognized depository authority released a sample to a person who had no right to it. If this happened because the mistake was in the certification by the industrial property office (Rule 12.3), perhaps the best solution would be if the Treaty itself transferred the responsibility to the guaranteeing State (or organization). But if the said mistake happened because of negligence on the part of the depository authority itself, then, the possibility could be considered of limiting that authority's responsibility by contract (a waiver signed by the depositor), since it is unlikely that a State (or organization) could assume responsibility for the negligence (and even less for the wilful acts) of an authority over which it might have no or little control. Here, too, perhaps the Treaty should expressly state that such a limitation is lawful and the said written waiver suffices to constitute the said limitation legally.

ad (2): As to interruption and discontinuance, see Rule 6.1.

As to refusal, see Rule 6.2.

Observations on Article 7

(Alternative A)

(Alternative B)

As to the existence of two Alternatives (A and B): See the first two paragraphs of the observations on Article 6.

As to the existence of two Alternatives (A and B): See the first two paragraphs of the observations on Article 6.

ad (1): See Rule 3 (Alternative A).

ad (1): See Rule 3 (Alternative B).

ad (2): See Rule 4 (Alternative A).

ad (2): See Rule 4 (Alternative B).

ad (3): See Rule 5 (Alternative A).

ad (3): See Rule 5 (Alternative B).

ad (4): As to the Committee of Experts, see the first two paragraphs of the observations on Article 8.

ad (4): As to the Committee of Experts, see the first two paragraphs of the observations on Article 8.

ad (5): See the Rules referred to in the observations on paragraphs (1) to (3).

ad (5): See the Rules referred to in the observations on paragraphs (1) to (3).

Article 7

(Alternative A)

Granting, Withdrawal, Loss  
and Limitation of the Status of  
Internationally Recognized Depository  
Authority

(1) (a) Any Contracting [State]<sup>1</sup> [Party]<sup>2</sup> may propose to the Assembly that a depository institution located as required under Article 5(iii) be granted by that Assembly the status of internationally recognized depository authority; the proposal shall include an express declaration by the Contracting [State]<sup>1</sup> [Party]<sup>2</sup> making such proposal to the effect that that [State]<sup>1</sup> [Party]<sup>2</sup> guarantees what is provided in Article 6.

(b) Where the Assembly finds that the conditions set forth in Article 5 are fulfilled, it shall decide to grant to the depository institution the status of internationally recognized depository authority.

(2) (a) Any Contracting [State]<sup>1</sup> [Party]<sup>2</sup> may, in respect of any internationally recognized depository authority, request the Assembly to withdraw, either entirely or in respect only of certain kinds of microorganisms, such authority's status of internationally recognized depository authority on the ground that the conditions set forth in Article 5 are no longer fulfilled.

(Alternative B)

Acquisition, Termination, Loss  
and Limitation of the Status of  
Internationally Recognized Depository  
Authority

(1) (a) Any Contracting [State]<sup>1</sup> [Party]<sup>2</sup> may, by a communication addressed to the Director General, certify, in respect of any depository institution located as required under Article 5(iii), that that institution fulfills the conditions referred to in Article 5(ii) and (iii); the communication shall include an express declaration by the Contracting [State]<sup>1</sup> [Party]<sup>2</sup> making such communication to the effect that that Contracting [State]<sup>1</sup> [Party]<sup>2</sup> guarantees what is provided in Article 6.

(b) Where the Director General finds that the said communication contains the said certification and includes the said declaration, such communication shall, as of the date of the [receipt of the said communication] [said finding] confer upon the said depository institution the status of internationally recognized depository authority.

(2) (a) Any Contracting [State]<sup>1</sup> [Party]<sup>2</sup> other than that which has made the relevant communication under paragraph (1) (a) may, in respect of any internationally recognized depository authority, request the Assembly to terminate, either entirely or in respect only of certain kinds of microorganisms, such authority's status of internationally recognized depository authority on the ground that the conditions set forth in Article 5 were not or are no longer fulfilled.

<sup>1</sup> This word applies if only States may become party to the Treaty.

<sup>2</sup> This word applies if both States and intergovernmental organizations may become party to the Treaty.



[Article 7(2) (Alternative A) continued]

(b) Where the Assembly finds that the request is well founded, it shall decide to withdraw, either entirely or in respect only of certain kinds of microorganisms, the status of internationally recognized depositary authority from the authority referred to in subparagraph (a).

(3) (a) The Contracting [State]<sup>1</sup> [Party]<sup>2</sup> having made the declaration referred to in paragraph (1) (a) may, by a communication addressed to the Director General, withdraw its declaration either in its entirety or in respect only of certain kinds of microorganisms.

(b) Such a communication shall, from the date provided for in the Regulations, entail, where it relates to the entirety of the declaration, the loss of the status of internationally recognized depositary authority or, where it relates only to certain kinds of microorganisms, a corresponding limitation of such status.

(4) (a) Any decision under paragraph (1) (b) shall [be made after the Assembly has taken cognizance of the report of the Committee of Experts and shall]<sup>3</sup> require that [a majority of [two-thirds]<sup>4</sup> [three-fourths]<sup>4</sup> of the votes cast be in favor of]<sup>4</sup> [no Contracting [State]<sup>1</sup> [Party]<sup>2</sup> vote against]<sup>4</sup> the proposal to grant the status of internationally recognized depositary authority.

(b) Any decision under paragraph (2) (b) shall [be made after the

[Article 7(2) (Alternative B) continued]

(b) Where the Assembly finds that the request is well founded, it shall decide to terminate, either entirely or in respect only of certain kinds of microorganisms, the status of internationally recognized depositary authority of the authority referred to in subparagraph (a).

(3) (a) The Contracting [State]<sup>1</sup> [Party]<sup>2</sup> having made the declaration referred to in paragraph (1) (a) may, by a communication addressed to the Director General, withdraw its declaration either in its entirety or in respect only of certain kinds of microorganisms.

(b) Such a communication shall, from the date provided for in the Regulations, entail, where it relates to the entirety of the declaration, the loss of the status of internationally recognized depositary authority or, where it relates only to certain kinds of microorganisms, a corresponding limitation of such status.

(4) Any decision under paragraph (2) (b) shall [be made after the Assembly

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<sup>1</sup> This word applies if only States may become party to the Treaty.

<sup>2</sup> This word applies if both States and intergovernmental organizations may become party to the Treaty.

<sup>3</sup> The words within square brackets apply if Article 8 is maintained.

<sup>4</sup> The words within pairs of square brackets are possible alternatives.



[Article 7(4) (Alternative A) continued]

Assembly has taken cognizance of the report of the Committee of Experts and shall<sup>1</sup> require that a majority of [three-fourths]<sup>2</sup> [two-thirds]<sup>2</sup> of the votes cast be in favor of the request to withdraw the status of internationally recognized depositary authority.

(5) The details of the procedure under paragraphs (1) to (4) are provided in the Regulations.

[Article 7(4) (Alternative B) continued]

has taken cognizance of the report of the Committee of Experts and shall<sup>1</sup> require that a majority of [two-thirds]<sup>2</sup> [three-fourths]<sup>2</sup> of the votes cast be in favor of the request to terminate the status of internationally recognized depositary authority.

(5) The details of the procedure under paragraphs (1) to (4) are provided in the Regulations.

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<sup>1</sup> The words within square brackets apply if Article 8 is maintained.

<sup>2</sup> The words within pairs of square brackets are possible alternatives.

Observations on Article 8

As to the square brackets: This whole Article is placed between square brackets since, in the preliminary discussions--on which this draft is based--opinions were divided on the usefulness of constituting a Committee of Experts.

The main argument against it is that since its members would be the same as those of the Assembly--namely, the Contracting States (and organizations)--it was a superfluous body. The Assembly could just as well perform the same functions. The main argument for the constitution of such a Committee is that it could be manned by persons who are specialists in the very technical questions with which the Committee would mainly deal (to which one could reply that the decision on who the individuals representing the members should be taken in the light of the agenda of each meeting of the Assembly). Another argument is that the delays in the decisions of the Assembly, caused by the fact that such decisions would be prepared by another body (the Committee), would be conducive to more reflection, better information and less danger of a hasty decision (to which one could reply that the same result could be obtained by the Assembly's constituting ad hoc committees or working groups).

ad (1): As to the expenses of the delegations, see Rule 15.

ad (2): The proposal made under Article 7 (Alternative A) (1) (a) is for the grant of the status of internationally recognized depositary authority.

The request made under Article 7 (2) (a) is to withdraw or terminate the status of internationally recognized depositary authority.

ad (3): As to Article 7 (1) (a) and (2) (a), see the observations on paragraph (2).

ad (4): The preliminary discussions did not envisage any reference to depositary institutions. Such reference, however, may be useful. It is offered here for consideration.

[Article 8]\*

[Committee of Experts]

[(1) (a) The members of the Committee of Experts shall be appointed by the Contracting [States]<sup>1</sup> [Parties]<sup>2</sup>.

(b) Each Contracting [State]<sup>1</sup> [Party]<sup>2</sup> shall appoint one expert as a member. He may be assisted by an alternate member and by advisors.

(c) The Director General may and, if requested by the Committee of Experts, shall invite interested intergovernmental and international non-governmental organizations to be represented by observers at meetings of the Committee of Experts.

(d) The Director General shall, if requested by the Committee of Experts, invite representatives of depositary institutions having or seeking the status of internationally recognized depositary authority to attend as observers those meetings of the Committee of Experts at which questions of special interest to them are discussed.

(2) (a) The Committee of Experts shall:

(i) examine [any proposal made under Article 7(1) (a) and]<sup>3</sup> any request made under Article 7(2) (a), and shall submit a report on the results of its examination to the Assembly,

(ii) establish guidelines for the procedure, equipment and facilities of internationally recognized depositary authorities.

(b) The Committee of Experts may:

(i) adopt recommendations to the Contracting [States]<sup>1</sup> [Parties]<sup>2</sup> concerning questions relating to the deposit of microorganisms for the purposes of patent procedure, including questions relating to possible restrictions on the export or import of certain kinds of microorganisms,

(ii) establish subcommittees and working groups.

(3) (a) Each member of the Committee of Experts shall have one vote.

(b) Any decision of the Committee of Experts shall require a simple majority of the votes cast, provided that the adoption of any report referred to in paragraph (2) (a) (i) and recommending the acceptance by the Assembly of [any proposal made under Article 7(1) (a) or]<sup>3</sup> any request made under Article 7(2) (a) shall, in respect of the voting in the Committee of Experts, be governed by the same requirements as are provided for in respect of the voting in the Assembly on the same [proposal or]<sup>3</sup> request.

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\* The entire text of Article 8 is placed between square brackets since the question whether this Article should or should not be included in the Treaty appears to require further examination.

<sup>1</sup> This word applies if only States may become party to the Treaty.

<sup>2</sup> This word applies if both States and intergovernmental organizations may become party to the Treaty.

<sup>3</sup> The words within square brackets apply if Alternative A of Article 7 is adopted.

[Article 8(3), continued]

(c) Abstentions shall not be considered as votes.

(4) Subject to paragraphs (1) to (3), the Committee of Experts shall adopt its own rules of procedure. In any case, such rules of procedure shall allow for the possibility of participation, in meetings of subcommittees and working groups established by the Committee of Experts, of interested intergovernmental and international non-governmental organizations and interested depositary institutions having or seeking the status of internationally recognized depositary authority, provided that such organizations or institutions are likely to contribute to the solution of questions considered by the said subcommittees or working groups.]

Observations on Articles 9 to 19

The contents of Articles 9 to 19 follow so closely the corresponding provisions of treaties recently concluded under the aegis of WIPO--in particular, the Patent Cooperation Treaty and the Trademark Registration Treaty--that it seems to be superfluous to comment on them. (This holds also for Rule 16 concerning voting by correspondence referred to in Article 9(5)(b).)

The one major difference between the administrative provisions of the said treaties and those of the present draft Treaty is that, while the other treaties contain financial provisions, this one does not.

The reason is that, once the Treaty becomes operational, the tasks of the International Bureau, though important substantively, will be modest as far as costs are concerned. Those tasks would probably be mainly the following:

- (i) preparing the documentation for the meetings of the Assembly and other possible bodies convened under the Treaty,
- (ii) providing the secretariat, meeting rooms, interpretation, etc., for such meetings,
- (iii) publishing the Gazette (probably not more than a dozen pages per year).

It is proposed that these relatively modest costs arising from the Treaty should be borne by the budget of the Paris Union. They do not seem to warrant the complications that a system of contributions (for such moderate amounts) would entail for the contributing States (and organizations).

CHAPTER II

ADMINISTRATIVE PROVISIONS

Article 9

Assembly

(1) (a) The Assembly shall consist of the Contracting [States]<sup>1</sup> [Parties]<sup>2</sup>.

(b) Each Contracting [State]<sup>1</sup> [Party]<sup>2</sup> shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) Any State not member of the Union which is a member of the Organization or of the International Union for the Protection of Industrial Property and any intergovernmental organization specialized in the field of patents may be represented by observers in the meetings of the Assembly and, if the Assembly so decides, in those of such committees or working groups as may have been established by the Assembly.

(2) (a) The Assembly shall:

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

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

(iii) give directions to the Director General concerning the preparation for revision conferences;

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

(v) establish such committees and working groups as it deems appropriate to facilitate the work of the Union and of its organs;

(vi) determine, subject to paragraph (1) (c), which States other than Contracting [States]<sup>1</sup> [Parties]<sup>2</sup> and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;

(vii) take any other appropriate action designed to further the objectives of the Union;

(viii) perform such other functions as are appropriate under this Treaty;

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

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<sup>1</sup>This word applies if only States may become party to the Treaty.

<sup>2</sup>This word applies if both States and intergovernmental organizations may become party to the Treaty.





[Article 9, continued]

(3) A delegate may represent, and vote in the name of, one Contracting [State]<sup>1</sup> [Party]<sup>2</sup> only.

(4) Each Contracting [State]<sup>1</sup> [Party]<sup>2</sup> shall have one vote.

(5) (a) One-half of the Contracting [States]<sup>1</sup> [Parties]<sup>2</sup> shall constitute a quorum.

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

(6) (a) Subject to Articles 11(4) and 13(2) (b), the decisions of the Assembly shall require a majority of the votes cast.

(b) Abstentions shall not be considered as votes.

(7) (a) The Assembly shall meet once in every third calendar year in ordinary session upon convocation by the Director General, preferably during the same period and at the same place as the General Assembly of the Organization.

(b) The Assembly shall meet in extraordinary session upon convocation by the Director General, either on his own initiative or at the request of one-fourth of the Contracting [States]<sup>1</sup> [Parties]<sup>2</sup>.

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

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<sup>1</sup> This word applies if only States may become party to the Treaty.

<sup>2</sup> This word applies if both States and intergovernmental organizations may become party to the Treaty.

Article 10

International Bureau

(1) The International Bureau shall:

(i) perform the administrative tasks concerning the Union; in particular, it shall perform such tasks as are specifically assigned to it under this Treaty or by the Assembly;

(ii) provide the secretariat of revision conferences, of the Assembly, of committees and working groups established by the Assembly, [of the Committee of Experts, of subcommittees and working groups established by the Committee of Experts,]<sup>1</sup> and of any other meeting convened by the Director General and dealing with matters of concern to the Union.

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

(3) The Director General shall convene all meetings dealing with matters of concern to the Union.

(4) (a) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly, the committees and working groups established by the Assembly, [the Committee of Experts, the subcommittees and working groups established by the Committee of Experts,]<sup>1</sup> and any other meeting convened by the Director General and dealing with matters of concern to the Union.

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

(5) (a) The Director General shall, in accordance with the directions of the Assembly, make the preparations for revision conferences.

(b) The Director General may consult with intergovernmental and international non-governmental organizations concerning the preparations for revision conferences.

(c) The Director General and persons designated by him shall take part, without the right to vote, in the discussions at revision conferences.

(d) The Director General, or a staff member designated by him, shall be ex officio secretary of any revision conference.

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<sup>1</sup> The words within square brackets apply if Article 8 is maintained.



Article 11

Regulations

(1) The Regulations provide rules concerning:

(i) matters in respect of which this Treaty expressly refers to the Regulations or expressly provides that they are or shall be prescribed;

(ii) any administrative requirements, matters or procedures;

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

(2) The Regulations adopted at the same time as this Treaty are annexed to this Treaty.

(3) The Assembly may amend the Regulations.

(4) (a) Subject to subparagraph (b), adoption of any amendment of the Regulations shall require two-thirds of the votes cast.

(b) Adoption of any amendment concerning the release of samples of deposited cultures by the internationally recognized depositary authorities shall require that no Contracting [State]<sup>1</sup> [Party]<sup>2</sup> vote against the proposed amendment.

(5) In the case of conflict between the provisions of this Treaty and those of the Regulations, the provisions of this Treaty shall prevail.

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<sup>1</sup> This word applies if only States may become party to the Treaty.

<sup>2</sup> This word applies if both States and intergovernmental organizations may become party to the Treaty.



CHAPTER III

REVISION AND AMENDMENT

Article 12

Revision of the Treaty

(1) This Treaty may be revised from time to time by conferences of the Contracting [States]<sup>1</sup> [Parties]<sup>2</sup>.

(2) The convocation of any revision conference shall be decided by the Assembly.

(3) Articles 9, 10 and 13 may be amended either by a revision conference or according to Article 13.

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<sup>1</sup> This word applies if only States may become party to the Treaty.

<sup>2</sup> This word applies if both States and intergovernmental organizations may become party to the Treaty.

Article 13

Amendment of Certain Provisions of the Treaty

(1) (a) Proposals for the amendment of Articles 9, 10, and the present Article, may be initiated by any Contracting [State]<sup>1</sup> [Party]<sup>2</sup> or by the Director General.

(b) Such proposals shall be communicated by the Director General to the Contracting [States]<sup>1</sup> [Parties]<sup>2</sup> at least six months in advance of their consideration by the Assembly.

(2) (a) Amendments to the Articles referred to in paragraph (1) shall be adopted by the Assembly.

(b) Adoption shall require three-fourths of the votes cast, provided that adoption of any amendment to Article 9 and to the present subparagraph shall require four-fifths of the votes cast.

(3) (a) Any amendment to the Articles referred to in paragraph (1) 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 Contracting [States]<sup>1</sup> [Parties]<sup>2</sup> members of the Assembly at the time the Assembly adopted the amendment,

(b) Any amendment to the said Articles thus accepted shall bind all the Contracting [States]<sup>1</sup> [Parties]<sup>2</sup> which were Contracting [States]<sup>1</sup> [Parties]<sup>2</sup> at the time the amendment was adopted by the Assembly, provided that any amendment creating financial obligations for the said Contracting [States]<sup>1</sup> [Parties]<sup>2</sup> or increasing such obligations shall bind only those [States]<sup>1</sup> [Parties]<sup>2</sup> which have notified their acceptance of such amendment.

(c) Any amendment which has been accepted and which has entered into force in accordance with subparagraph (a) shall bind all States [and intergovernmental organizations]<sup>3</sup> which become Contracting [States]<sup>1</sup> [Parties]<sup>2</sup> after the date on which the amendment was adopted by the Assembly.

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<sup>1</sup> This word applies if only States may become party to the Treaty.

<sup>2</sup> This word applies if both States and intergovernmental organizations may become party to the Treaty.

<sup>3</sup> The words within square brackets apply if both States and intergovernmental organizations may become party to the Treaty.





CHAPTER IV

FINAL PROVISIONS

Article 14

Becoming Party to the Treaty

(1) Any State member of the International Union for the Protection of Industrial Property [or any intergovernmental organization to which several States have entrusted the task of granting regional patents and of which at least one of the member States is a member of the International Union for the Protection of Industrial Property]<sup>1</sup> may become party to this Treaty by:

- (i) signature followed by the deposit of an instrument of ratification<sup>2</sup>; or
- (ii) deposit of an instrument of accession<sup>2</sup>.

(2) Instruments of ratification or accession<sup>2</sup> shall be deposited with the Director General.

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<sup>1</sup> The words within square brackets apply if both States and intergovernmental organizations may become party to the Treaty.

<sup>2</sup> See the Observations on Article 1.



Article 15

Entry Into Force of the Treaty

(1) This Treaty shall enter into force, with respect to the first five States [or intergovernmental organizations]<sup>1</sup> which have deposited their instruments of ratification or accession, three months after the date on which the fifth instrument of ratification or accession has been deposited.

(2) This Treaty shall enter into force with respect to any other State [or intergovernmental organization]<sup>1</sup> three months after the date on which that State [or intergovernmental organization]<sup>1</sup> has deposited its instrument of ratification or accession, unless a later date has been indicated in the instrument of ratification or accession. In the latter case, this Treaty shall enter into force with respect to that State [or intergovernmental organization]<sup>1</sup> on the date thus indicated.

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<sup>1</sup> The words within square brackets apply if both States and intergovernmental organizations may become party to the Treaty.

Article 16

Denunciation of the Treaty

(1) Any Contracting [State]<sup>1</sup> [Party]<sup>2</sup> may denounce this Treaty by notification addressed to the Director General.

(2) Denunciation shall take effect two years after the day on which the Director General has received the notification.

(3) The right of denunciation provided for in paragraph (1) shall not be exercised by any Contracting [State]<sup>1</sup> [Party]<sup>2</sup> before the expiration of five years from the date on which it becomes party to this Treaty.

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<sup>1</sup> This word applies if only States may become party to the Treaty.

<sup>2</sup> This word applies if both States and intergovernmental organizations may become party to the Treaty.



Article 17

Signature and Languages of the Treaty

(1) (a) This Treaty shall be signed in a single original in the English and French languages, both texts being equally authentic.

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

(2) This Treaty shall remain open for signature at ..... until .....  
.....





Article 18

Depositary Functions

(1) The original of this Treaty, when no longer open for signature, shall be deposited with the Director General.

(2) The Director General shall transmit two copies, certified by him, of this Treaty and the Regulations to the Governments of all the States [and to the intergovernmental organizations]<sup>1</sup> referred to in Article 14(1) and, on request, to the Government of any other State.

(3) The Director General shall register this Treaty with the Secretariat of the United Nations.

(4) The Director General shall transmit two copies, certified by him, of any amendment to this Treaty and to the Regulations to all Contracting [States]<sup>2</sup> [Parties]<sup>3</sup> and, on request, to the Government of any State [or to any intergovernmental organization]<sup>1</sup> referred to in Article 14(1) which is not a Contracting [State]<sup>2</sup> [Party]<sup>3</sup>.

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<sup>1</sup> The words within square brackets apply if both States and intergovernmental organizations may become party to the Treaty.

<sup>2</sup> This word applies if only States may become party to the Treaty.

<sup>3</sup> This word applies if both States and intergovernmental organizations may become party to the Treaty.

Article 19

Notifications

The Director General shall notify the Contracting [States]<sup>1</sup> [Parties]<sup>2</sup> of:

- (i) signatures under Article 17;
- (ii) deposits of instruments of ratification or accession under Article 14(2);
- (iii) the date of entry into force of this Treaty under Article 15(1);
- (iv) the decisions and communications under Article 7 relating to the status of internationally recognized depositary authority;
- (v) acceptance of amendments to this Treaty under Article 13(3);
- (vi) the dates on which such amendments enter into force;
- (vii) denunciations received under Article 16.

[End of document]

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<sup>1</sup> This word applies if only States may become party to the Treaty.

<sup>2</sup> This word applies if both States and intergovernmental organizations may become party to the Treaty.