

Industrial Property

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for the Protection of Intellectual Property (BIRPI)
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WORLD INTELLECTUAL PROPERTY ORGANIZATION

SENEGAL

Ratification of the WIPO Convention ¹⁾

*Notification of the Director of BIRPI to the Governments
of the countries invited to the Stockholm Conference*

The Director of the United International Bureaux for the Protection of Intellectual Property (BIRPI) presents his compliments to the Minister for Foreign Affairs of and, in accordance with the provisions of the above Convention, has the honor to notify him that the Government of the Republic of Senegal, referring to Article 14(3), deposited, on September 19, 1968, its instrument of ratification dated August 24, 1968, of the Convention Establishing the World Intellectual Property Organization (WIPO).

The Republic of Senegal has fulfilled the condition set forth in Article 14(2) of the Convention by concurrently ratifying the Stockholm Act of the Paris Convention in its entirety and the Stockholm Act of the Berne Convention in its entirety.

Geneva, September 20, 1968.

WIPO Notification No. 5

¹⁾ The notification concerning the ratification by Senegal of the Paris Convention will appear in the next issue of *Industrial Property*.

INTERNATIONAL UNIONS

Council of the Lisbon Union for the Protection of Appellations of Origin and their International Registration

Third Session

(Geneva, September 26 and 27, 1968)

Report ¹⁾

Composition of the Council and Opening of the Session

The Council set up by the Lisbon Agreement (hereinafter referred to as "the Council") held its third ordinary session ²⁾ on September 26 and 27, 1968, at the headquarters of the International Telecommunication Union, Geneva.

Of the eight countries which, at that date, were party to the Lisbon Agreement, five were represented, namely: Cuba, Czechoslovakia, France, Hungary and Israel.

¹⁾ This Report was prepared by BIRPI on the basis of the official documents of the session.

²⁾ Reports on the first two sessions were published in the following numbers of *Industrial Property*: 1966, p. 231; 1968, p. 51.

Italy, which had deposited its instruments of ratification of the Agreement, was also represented; it had not yet been possible, however, to send the notification of this ratification to the other member countries of the Lisbon Union.

The countries not represented were Haiti, Mexico and Portugal.

The following six States, party to the Paris Convention for the Protection of Industrial Property but not to the Lisbon Agreement, were represented by observers: Algeria, Germany (Federal Republic), Greece, Poland, Sweden and Switzerland.

The list of participants is attached to this report.

At the opening session the Chairman announced that Italy had deposited its instruments of ratification of the Lisbon Agreement. He added that, while waiting for the notification of the ratification to be made to the other member countries, Italy could already be welcomed as a member of the Special Lisbon Union.

The following new officers of the Council were elected unanimously: Mr. Mario García Incháustegui (Cuba), Chairman, and Mr. M. D. Špunda (Czechoslovakia), Vice-Chairman.

Activities of the Lisbon Union and Financial Questions

As regards the activities of the Lisbon Union, the accounts for the year 1967, and the draft budget for 1969, the Council approved the report of the Director of BIRPI.

List of Participants

I. States Party to the Agreement

Cuba

Mr. M. García Incháustegui, Ambassador, Permanent Mission of Cuba, Geneva.

Mr. F. Ortiz Rodriguez, First Secretary, Permanent Mission of Cuba, Geneva.

Czechoslovakia

Mr. M. Špunda, Head of Department, Office for Patents and Inventions, Prague.

France

Mr. F. Savignon, Director, National Institute of Industrial Property, Paris.

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

Mr. A. Devletian, Agricultural Expert, Head, External Service, National Institute of Appellations of Origin, Paris.

Mr. M. Bierry, Civil Administrator, Ministry of Industry, Paris.

Hungary

Mr. A. Kiss, Vice-Chairman, National Office for Inventions, Budapest.

Mr. J. Bobrovsky, Legal Advisor, National Office for Inventions, Budapest.

Israel

Mr. Ze'ev Sher, Registrar of Patents, Designs and Trade Marks, Patent Office, Jerusalem.

Algeria

Mr. S. Bouzidi, Head of Division, National Industrial Property Office, Algiers.

Germany (Federal Republic)

Mr. A. Krieger, Ministerialrat, Federal Ministry of Justice, Bonn.

Mrs. E. Steup, Regierungsdirektorin, Federal Ministry of Justice, Bonn.

II. Observer States

Greece

Mr. S. Papageorgiou, Commercial Secretary, Embassy of Greece, Berne.

Italy

Mr. A. Pelizza, Inspector General, Ministry of Industry, Rome.

Poland

Mr. J. Dalewski, Head of the Legal Section, National Patent Office, Warsaw.

Sweden

Mr. C. A. Ugglä, Legal Advisor to the Board of Appeal, National Patent and Registration Office, Stockholm.

Switzerland

Mr. J. Voyame, Director, Federal Bureau of Intellectual Property, Berne.

Officers of the Council

Chairman: Mr. M. García Incháustegui (Cuha)

Vice-Chairman: Mr. M. Špunda (Czechoslovakia)

Secretary: Mr. Ch.-L. Magnin (BIRPI)

United International Bureaux for the Protection of Intellectual Property (BIRPI)

Professor G. H. C. Bodenhausen, Director.

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

Mr. B. A. Armstrong, Counsellor, Head, Division of Finance, Personnel and General Administration.

Mr. L. Egger, Counsellor, Head, Division of the Registration, Search and Classification Services.

Locarno Conference for the Purpose of Setting Up an International Classification for Industrial Designs (1968)

I

Locarno Agreement Establishing an International Classification for Industrial Designs

Signed at LOCARNO on October 8, 1968¹⁾

Article 1

Establishment of a Special Union; Adoption of an International Classification

(1) The countries to which this Agreement applies constitute a Special Union.

(2) They adopt a single classification for industrial designs (hereinafter designated as "the international classification").

(3) The international classification shall comprise:

(i) a list of classes and subclasses;

¹⁾ The text of the Locarno Agreement was signed by the following twenty-two countries: Algeria, Austria, Belgium, Czechoslovakia, Denmark, Finland, Germany (Fed. Rep.), Holy See, Hungary, Iran, Italy, Kenya, Liechtenstein, Luxembourg, Monaco, Netherlands, Norway, Portugal, Spain, Switzerland, United States of America, Yugoslavia.

The Agreement will remain open for signature, with the Swiss Government at Berne, until June 30, 1969.

- (ii) an alphabetical list of goods in which industrial designs are incorporated, with an indication of the classes and subclasses into which they fall;
- (iii) explanatory notes.

(4) The list of classes and subclasses is the list annexed to the present Agreement, subject to such amendments and additions as the Committee of Experts set up under Article 3 (hereinafter designated as "the Committee of Experts") may make to it.

(5) The alphabetical list of goods and the explanatory notes shall be adopted by the Committee of Experts in accordance with the procedure laid down in Article 3.

(6) The international classification may be amended or supplemented by the Committee of Experts, in accordance with the procedure laid down in Article 3.

(7) (a) The international classification shall be established in the English and French languages.

(b) Official texts of the international classification, in such other languages as the Assembly referred to in Article 5 may designate, shall be established, after consultation with the interested Governments, by the International Bureau of Intellectual Property (hereinafter designated as "the International Bureau") referred to in the Convention Establishing the World Intellectual Property Organization (hereinafter designated as "the Organization").

Article 2

Use and Legal Scope of the International Classification

(1) Subject to the requirements prescribed by this Agreement, the international classification shall be solely of an administrative character. Nevertheless, each country may attribute to it the legal scope which it considers appropriate. In particular, the international classification shall not bind the countries of the Special Union as regards the nature and scope of the protection afforded to the design in those countries.

(2) Each country of the Special Union reserves the right to use the international classification as a principal or as a subsidiary system.

(3) The Offices of the countries of the Special Union shall include in the official documents for the deposit or registration of designs, and, if they are officially published, in the publications in question, the numbers of the classes and subclasses of the international classification into which the goods incorporating the designs belong.

(4) In selecting terms for inclusion in the alphabetical list of goods, the Committee of Experts shall exercise reasonable care to avoid using terms in which exclusive rights may exist. The inclusion of any word in the alphabetical index, however, is not an expression of opinion of the Committee of Experts on whether or not it is subject to exclusive rights.

Article 3

Committee of Experts

(1) A Committee of Experts shall be entrusted with the tasks referred to in Article 1(4), 1(5) and 1(6). Each country

of the Special Union shall be represented on the Committee of Experts, which shall be organized according to rules of procedure adopted by a simple majority of the countries represented.

(2) The Committee of Experts shall adopt the alphabetical list and explanatory notes by a simple majority of the votes of the countries of the Special Union.

(3) Proposals for amendments or additions to the international classification may be made by the Office of any country of the Special Union or by the International Bureau. Any proposal emanating from an Office shall be communicated by that Office to the International Bureau. Proposals from Offices and from the International Bureau shall be transmitted by the latter to the members of the Committee of Experts not later than two months before the session of the Committee at which the said proposals are to be considered.

(4) The decisions of the Committee of Experts concerning the adoption of amendments and additions to be made in the international classification shall be by a simple majority of the countries of the Special Union. Nevertheless, if such decisions entail the setting up of a new class or any transfer of goods from one class to another, unanimity shall be required.

(5) Each expert shall have the right to vote by mail.

(6) If a country does not appoint a representative for a given session of the Committee of Experts, or if the expert appointed has not expressed his vote during the session or within a period to be prescribed by the rules of procedure of the Committee of Experts, the country concerned shall be considered to have accepted the decision of the Committee.

Article 4

Notification and Publication of the Classification and of Amendments and Additions Thereto

(1) The alphabetical list of goods and the explanatory notes adopted by the Committee of Experts, as well as any amendment or addition to the international classification decided by the Committee, shall be communicated to the Offices of the countries of the Special Union by the International Bureau. The decisions of the Committee of Experts shall enter into force as soon as the communication is received. Nevertheless, if such decisions entail the setting up of a new class or any transfer of goods from one class to another, they shall enter into force within a period of six months from the date of the said communication.

(2) The International Bureau, as depositary of the international classification, shall incorporate therein the amendments and additions which have entered into force. Announcements of the amendments and additions shall be published in the periodicals to be designated by the Assembly.

Article 5

Assembly of the Special Union

(1) (a) The Special Union shall have an Assembly consisting of the countries of the Special Union.

(b) The Government of each country of the Special Union 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) (a) Subject to the provisions of Article 3, the Assembly shall:

- (i) deal with all matters concerning the maintenance and development of the Special Union and the implementation of this Agreement;
- (ii) give directions to the International Bureau concerning the preparation for conferences of revision;
- (iii) review and approve the reports and activities of the Director General of the Organization (hereinafter designated as "the Director General") concerning the Special Union, and give him all necessary instructions concerning matters within the competence of the Special Union;
- (iv) determine the program and adopt the triennial budget of the Special Union, and approve its final accounts;
- (v) adopt the financial regulations of the Special Union;
- (vi) decide on the establishment of official texts of the international classification in languages other than English and French;
- (vii) establish, in addition to the Committee of Experts set up under Article 3, such other committees of experts and working groups as it deems appropriate to achieve the objectives of the Special Union;
- (viii) determine which countries not members of the Special Union and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;
- (ix) adopt amendments to Articles 5 to 8;
- (x) take any other appropriate action designed to further the objectives of the Special Union;
- (xi) perform such other functions as are appropriate under this Agreement.

(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.

(3) (a) Each country member of the Assembly shall have one vote.

(b) One-half of the countries members of the Assembly shall constitute a quorum.

(c) Notwithstanding the provisions of subparagraph (b), if, in any session, the number of countries represented is less than one-half but equal to or more than one-third of the countries members of the Assembly, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the conditions set forth hereinafter are fulfilled. The International Bureau shall communicate the said decisions to the countries members of the 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 countries having thus expressed their vote or abstention attains the number of countries 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.

(d) Subject to the provisions of Article 8(2), the decisions of the Assembly shall require two-thirds of the votes cast.

(e) Abstentions shall not be considered as votes.

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

(4) (a) The Assembly shall meet once in every third calendar year in ordinary session upon convocation by the Director General and, in the absence of exceptional circumstances, 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, at the request of one-fourth of the countries members of the Assembly.

(c) The agenda of each session shall be prepared by the Director General.

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

Article 6

International Bureau

(1) (a) Administrative tasks concerning the Special Union shall be performed by the International Bureau.

(b) In particular, the International Bureau shall prepare the meetings and provide the secretariat of the Assembly, the Committee of Experts, and such other committees of experts and working groups as may have been established by the Assembly or the Committee of Experts.

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

(2) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly, the Committee of Experts, and such other committees of experts or working groups as may have been established by the Assembly or the Committee of Experts. The Director General, or a staff member designated by him, shall be *ex officio* secretary of those bodies.

(3) (a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for the conferences of revision of the provisions of the Agreement other than Articles 5 to 8.

(b) The International Bureau may consult with inter-governmental and international non-governmental organizations concerning preparations for conferences of revision.

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

(4) The International Bureau shall carry out any other tasks assigned to it.

Article 7

Finances

(1) (a) The Special Union shall have a budget.

(b) The budget of the Special Union shall include the income and expenses proper to the Special Union, its contribution to the budget of expenses common to the Unions, and, where applicable, the sum made available to the budget of the Conference of the Organization.

(c) Expenses not attributable exclusively to the Special Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the Unions. The share of the Special Union in such common expenses shall be in proportion to the interest the Special Union has in them.

(2) The budget of the Special Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organization.

(3) The budget of the Special Union shall be financed from the following sources:

- (i) contributions of the countries of the Special Union;
- (ii) fees and charges due for services rendered by the International Bureau in relation to the Special Union;
- (iii) sale of, or royalties on, the publications of the International Bureau concerning the Special Union;
- (iv) gifts, bequests, and subventions;
- (v) rents, interests, and other miscellaneous income.

(4) (a) For the purpose of establishing its contribution referred to in paragraph (3)(i), each country of the Special Union shall belong to the same class as it belongs to in the Paris Union for the Protection of Industrial Property, and shall pay its annual contributions on the basis of the same number of units as is fixed for that class in that Union.

(b) The annual contribution of each country of the Special Union shall be an amount in the same proportion to the total sum to be contributed to the budget of the Special Union by all countries as the number of its units is to the total of the units of all contributing countries.

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

(d) A country which is in arrears in the payment of its contributions may not exercise its right to vote in any organ of the Special Union 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 organ of the Special Union may allow such a country to continue to exercise its right to vote in that organ if, and as long as, it is satisfied that the delay in payment is due to exceptional and unavoidable circumstances.

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

(5) The amount of the fees and charges due for services rendered by the International Bureau in relation to the Special Union shall be established, and shall be reported to the Assembly, by the Director General.

(6) (a) The Special Union shall have a working capital fund which shall be constituted by a single payment made by each country of the Special Union. If the fund becomes insufficient, the Assembly shall decide to increase it.

(b) The amount of the initial payment of each country to the said fund or of its participation in the increase thereof shall be a proportion of the contribution of that country for the year in which the fund is established or the decision to increase it is made.

(c) The proportion and the terms of payment shall be fixed by the Assembly on the proposal of the Director General and after it has heard the advice of the Coordination Committee of the Organization.

(7) (a) In the headquarters agreement concluded with the country on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such country shall grant advances. The amount of those advances and the conditions on which they are granted shall be the subject of separate agreements, in each case, between such country and the Organization.

(b) The country 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 of the countries of the Special Union or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

Article 8

Amendment of Articles 5 to 8

(1) Proposals for the amendment of Articles 5, 6, 7, and the present Article, may be initiated by any country of the Special Union or by the Director General. Such proposals shall be communicated by the Director General to the countries of the Special Union at least six months in advance of their consideration by the Assembly.

(2) Amendments to the Articles referred to in paragraph (1) shall be adopted by the Assembly. Adoption shall require three-fourths of the votes cast, provided that any amendment to Article 5, and to the present paragraph, shall require four-fifths of the votes cast.

(3) 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 countries members of the Special Union at the time the amendment was adopted. Any amendment to the said Articles thus accepted shall bind all the countries which are members of the Special Union at the time the amendment enters into force, or which become members thereof at a subsequent date, provided that any amendment increasing the financial obligations of countries of the Special Union shall bind only those countries which have notified their acceptance of such amendment.

Article 9

Ratification and Accession; Entry Into Force

(1) Any country party to the Paris Convention for the Protection of Industrial Property which has signed this Agreement may ratify it, and, if it has not signed it, may accede to it.

(2) Instruments of ratification and accession shall be deposited with the Director General.

(3) (a) With respect to the first five countries which have deposited their instruments of ratification or accession, this

Agreement shall enter into force three months after the deposit of the fifth such instrument.

(b) With respect to any other country, this Agreement shall enter into force three months after the date on which its ratification or accession has been notified by the Director General, unless a subsequent date has been indicated in the instrument of ratification or accession. In the latter case, this Agreement shall enter into force with respect to that country on the date thus indicated.

(4) Ratification or accession shall automatically entail acceptance of all the clauses and admission to all the advantages of this Agreement.

Article 10

Force and Duration of the Agreement

This Agreement shall have the same force and duration as the Paris Convention for the Protection of Industrial Property.

Article 11

Revision of Articles 1 to 4 and 9 to 15

(1) Articles 1 to 4 and 9 to 15 of this Agreement may be submitted to revision with a view to the introduction of desired improvements.

(2) Every revision shall be considered at a conference which shall be held among the delegates of the countries of the Special Union.

Article 12

Denunciation

(1) Any country may denounce this Agreement by notification addressed to the Director General. Such denunciation shall affect only the country making it, the Agreement remaining in full force and effect as regards the other countries of the Special Union.

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

(3) The right of denunciation provided by this Article shall not be exercised by any country before the expiration of five years from the date upon which it becomes a member of the Special Union.

Article 13

Territories

The provisions of Article 24 of the Paris Convention for the Protection of Industrial Property shall apply to this Agreement.

Article 14

Signature, Languages, Notifications

(1) (a) This Agreement shall be signed in a single copy in the English and French languages, both texts being equally authentic, and shall be deposited with the Government of Switzerland.

(b) This Agreement shall remain open for signature at Berne until June 30, 1969.

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

(3) The Director General shall transmit two copies, certified by the Government of Switzerland, of the signed text of this Agreement to the Governments of the countries that have signed it and, on request, to the Government of any other country.

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

(5) The Director General shall notify the Governments of all countries of the Special Union of the date of entry into force of the Agreement, signatures, deposits of instruments of ratification or accession, acceptances of amendments to this Agreement and the dates on which such amendments enter into force, and notifications of denunciation.

Article 15

Transitional Provision

Until the first Director General assumes office, references in this Agreement to the International Bureau of the Organization or to the Director General shall be deemed to be references to the United International Bureaux for the Protection of Intellectual Property (BIRPI) or its Director, respectively.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Agreement.

DONE at Locarno, on October 8, 1968.

ANNEX

List of Classes and Subclasses of the International Classification

Class 1 — Foodstuffs, Including Dietetic Foods

- 01) Bakers' products, biscuits, pastry, macaroni, etc.
- 02) Chocolates, confectionery, ices
- 03) Cheeses, butter and other dairy produce and substitutes
- 04) Butchers' meat (including pork products)
- 05) Animal foodstuffs
- 99) Miscellaneous

Class 2 — Articles of Clothing, Including Footwear

- 01) Garments
- 02) Undergarments, lingerie, corsets, brassières
- 03) Headwear
- 04) Footwear (including boots, shoes and slippers)
- 05) Socks and stockings
- 06) Neckties, scarves and neckerchiefs
- 07) Gloves
- 08) Haberdashery
- 99) Miscellaneous

Class 3 — Travel Goods and Personal Belongings, Not Elsewhere Specified

- 01) Trunks, suitcases and briefcases
- 02) Handbags, wallets, pocketbooks, purses, boxes
- 03) Umbrellas, walking sticks
- 04) Fans
- 99) Miscellaneous

Class 4 — Brushware

- 01) Brushes for cleaning and brooms
- 02) Toilet and clothes brushes
- 03) Brushes for industry
- 04) Paint-brushes
- 99) Miscellaneous

Class 5 — Textile Piece-goods Articles, and Other Sheet Material

- 01) Spun articles
- 02) Textile fabrics (woven, knitted, etc.)
- 03) Sheet material
- 04) Felt
- 05) Covering sheets (wallpaper, linoleum, etc.)
- 06) Lace
- 07) Embroideries
- 08) Ribbons, braids and other trimmings
- 09) Leather and substitutes
- 99) Miscellaneous

Class 6 — Furnishing

- 01) Furniture
- 02) Mattresses and cushions
- 03) Curtains (ready-made)
- 04) Carpets
- 05) Mats and floor rugs
- 06) Mirrors and frames
- 07) Garment hangers
- 08) Bedspreads
- 09) Household linen and napery
- 99) Miscellaneous

Class 7 — Household Goods, Not Elsewhere Specified

- 01) China, glassware, dishes and other articles of a similar nature
- 02) Cooking utensils and containers
- 03) Knives, forks and spoons
- 04) Cooking stoves, toasters, etc.
- 05) Chopping, mincing, grinding and mixing machines
- 06) Flat-irons and laundering, cleaning and drying equipment
- 99) Miscellaneous

Class 8 — Tools and Hardware

- 01) Tools and implements for agriculture, forestry and horticulture
- 02) Other tools and implements
- 03) Locks and other hardware fittings
- 04) Nails, screws, nuts, bolts, etc.
- 99) Miscellaneous

Class 9 — Packages and Containers

- 01) Bottles, flasks, carboys, demijohns and pots
- 02) Closing means
- 03) Drums and casks
- 04) Boxes and cases
- 05) Hampers, crates and baskets
- 06) Bags, wrappers and tubes and capsules
- 07) Cans
- 08) Ropes and hooping materials
- 99) Miscellaneous

Class 10 — Clocks and Watches, and Measuring Instruments

- 01) House clocks
- 02) Watches and wrist-watches
- 03) Alarms
- 04) Other clocks
- 05) All other chronometrical instruments
- 06) Dials, hands and all other parts of watches, clocks, and of other chronometrical instruments
- 07) Geodetic, nautical, acoustic and meteorological articles
- 08) Instruments for measuring physical sizes, like length, pressure, etc.
- 09) Instruments for measuring temperature
- 10) Instruments for measuring electric sizes (voltmeters, etc.)
- 11) Testing instruments
- 99) Miscellaneous

Class 11 — Articles of Adornment

- 01) Jewelry
- 02) Trinkets, table, mantel and wall ornaments, including flower vases
- 03) Medals and badges
- 04) Artificial flowers, fruits and plants
- 05) Festive decorations
- 99) Miscellaneous

Class 12 — Vehicles

- 01) Vehicles drawn by animals
- 02) Trolleys, trucks and barrows, hand-drawn
- 03) Locomotives and rolling-stock for railways and all other rail vehicles
- 04) Telepher carriers and chair lifts
- 05) Elevators and hoists
- 06) Ships and boats
- 07) Aircraft and space vehicles
- 08) Motor-cars and buses
- 09) Lorries and tractors
- 10) Trailers, including camping or house trailers
- 11) Motorcycles, scooters, bicycles and tricycles
- 12) Perambulators and invalid chairs
- 13) Special vehicles
- 14) Pneumatic tyres, inner tubes and all other equipment or accessories, not elsewhere specified
- 99) Miscellaneous

Class 13 — Equipment for Production, Distribution and Transformation of Electricity

- 01) Generators and motors
- 02) Power transformers, rectifiers, batteries and accumulators
- 03) Equipment for distribution and control of electric power (conductors, switch-gear, etc.)
- 99) Miscellaneous

Class 14 — Electrical and Electronic Equipment

- 01) Equipment for the recording and reproduction of sounds or pictures
- 02) Equipment for the recording, reproduction and retrieval of information
- 03) Communications equipment (telegraph, telephone, teletype, television and radio)
- 04) Amplifiers
- 99) Miscellaneous

Class 15 — Industrial and Household Machines

- 01) Engines (not electrical)
- 02) Pumps and compressors
- 03) Agricultural machinery
- 04) Construction machinery
- 05) Industrial machines, not elsewhere specified
- 06) Industrial laundry and cleaning machines
- 07) Household laundry and cleaning machines
- 08) Industrial textile sewing, knitting and embroidering machines
- 09) Household textile sewing, knitting and embroidering machines
- 10) Industrial refrigeration apparatus
- 11) Household refrigeration apparatus
- 12) Food preparation machines
- 99) Miscellaneous

Class 16 — Photographic, Cinematographic and Optical Apparatus

- 01) Photographic cameras
- 02) Film cameras
- 03) Projectors (for slides)
- 04) Projectors (for films)
- 05) Photocopying apparatus and enlargers
- 06) Developing apparatus
- 07) Accessories
- 08) Optical articles, such as spectacles, microscopes, etc.
- 99) Miscellaneous

Class 17 — Musical Instruments

- 01) Keyboard instruments (including electronic and other organs)
- 02) Wind instruments (including piano accordions)
- 03) Stringed instruments
- 04) Percussion instruments
- 05) Mechanical instruments
- 99) Miscellaneous

Class 18 — Printing and Office Machinery

- 01) Typewriters and calculating machines, with the exception of electronic machines
- 02) Typographical machinery
- 03) Machinery for printing by processes other than typography (excluding photocopying machinery)
- 04) Characters and type faces
- 05) Massicots
- 99) Miscellaneous

Class 19 — Stationers' Goods, Desk Equipment, Artists' and Teaching Materials

- 01) Writing paper and envelopes
- 02) Desk equipment
- 03) Calendars
- 04) Bindings
- 05) Illustrated cards and other printed matter
- 06) Materials and instruments for writing by hand
- 07) Materials and instruments for painting (excluding brushes), for sculpture, for engraving and for other artistic techniques
- 08) Teaching materials
- 99) Miscellaneous

Class 20 — Sales and Advertising Equipment

- 01) Automatic vending machines
- 02) Display and sales equipment
- 03) Signboards and advertising materials
- 99) Miscellaneous

Class 21 — Games, Toys and Sports Goods

- 01) Games
- 02) Toys
- 03) Gymnastics and sports apparatus and equipment
- 04) Amusement and entertainment articles
- 05) Tents
- 99) Miscellaneous

Class 22 — Arms and Tackle for Hunting, Fishing and Vermin Trapping

- 01) Side arms
- 02) Projectile weapons
- 03) Ammunition, fuses and projectiles
- 04) Hunting equipment (excluding weapons)
- 05) Fishing rods
- 06) Reels for fishing rods
- 07) Baits
- 08) Other pieces of fishing tackle
- 09) Traps and articles for vermin destruction
- 99) Miscellaneous

Class 23 — Sanitary, Heating, Ventilation and Air-Conditioning Equipment

- 01) Fluid and gas-distribution equipment (including pipes and pipe fittings)
- 02) Sanitary fittings and equipment (baths, showers, wash-basins, lavatories, sanitary units, etc.)
- 03) Heating equipment
- 04) Ventilation and air-conditioning
- 05) Solid fuel
- 99) Miscellaneous

Class 24 — Medical and Laboratory Equipment

- 01) Equipment for transport and accommodation for patients
- 02) Hospital and laboratory equipment (for diagnostic, tests, operations, treatment, eye-testing)
- 03) Medical, surgical, dental instruments
- 04) Prosthetic articles
- 05) Material for dressing and nursing
- 99) Miscellaneous

Class 25 — Building Units and Construction Elements

- 01) Building material and elements, such as bricks, beams, tiles, slates, panels, etc.
- 02) Windows, doors, blinds, etc.
- 03) Sections, angles and channels
- 04) Houses, garages and all other buildings
- 05) Civil engineering elements
- 99) Miscellaneous

Class 26 — Lighting Apparatus

- 01) Luminous sources, electrical or not, such as incandescent bulbs, luminous tubes and plates
- 02) Lamps, standard lamps, chandeliers, wall and ceiling fixtures

- 03) Public lighting fixtures (outside lamps, stagelighting, floodlights)
- 04) Torches and hand lamps and lanterns
- 05) Candles, candlesticks
- 06) Lamp-shades
- 99) Miscellaneous

Class 27 — Tobacco and Smokers' Supplies

- 01) Tobacco, cigars and cigarettes
- 02) Pipes, cigar and cigarette holders
- 03) Ash-trays
- 04) Matches
- 05) Lighters
- 06) Cigar cases, cigarette cases, tobacco jars and pouches
- 99) Miscellaneous

Class 28 — Pharmaceutical and Cosmetic Articles and Products, Toilet Articles and Apparatus

- 01) Pharmaceutical articles and products
- 02) Cosmetic articles and products
- 03) Toilet articles and beauty parlor equipment
- 99) Miscellaneous

Class 29 — Safety and Protective Devices and Equipment for Human Beings

- 01) Devices and equipment against fire hazards
- 02) Devices and equipment for water rescue
- 03) Devices and equipment for mountain rescue
- 99) Devices and equipment against other hazards (roads, mines, industries, etc.)

Class 30 — Care and Handling of Animals

- 01) Shelters and pens
- 02) Feeders and waterers
- 03) Saddlery
- 04) Safety and protective devices and equipment for animals
- 99) Other articles

Class 31 — Miscellaneous

All the products not included in the preceding classes.

II**Resolution**

Adopted by the Conference of Locarno
on October 7, 1968

(1) A provisional Committee of Experts is hereby set up at the International Bureau. This Committee shall include a representative of each country signatory to the Locarno Agreement Establishing an International Classification for Industrial Designs.

(2) The provisional Committee shall submit to the International Bureau a draft of the alphabetical list of goods and of the explanatory notes mentioned in Article 1(5) of the Agreement. It shall also re-examine the list of classes and sub-classes annexed to the Agreement and shall submit to the International Bureau, if necessary, draft amendments and additions to be made to the said list.

(3) The International Bureau shall prepare the work of the provisional Committee and shall convene it as early as possible.

(4) As soon as the Agreement enters into force, the Committee of Experts set up under Article 3 of the Agreement shall make a decision concerning the drafts referred to in paragraph (2) above.

(5) The travel and subsistence expenses of the members of the provisional Committee shall be borne by the countries which they represent.

III

General Report

By W. M. J. C. PHAF, General Rapporteur
(Member of the Delegation of the Netherlands)

1. The first Plenary Meeting was opened at 11 a. m. on October 2, 1968, by *Professor G. H. C. Bodenhause*n, Director of BIRPI.

2. On the proposal of the French Delegation, supported by several other delegations, *Mr. J. Voyame*, Head of the Swiss Delegation, was unanimously elected Chairman of the Conference.

3. As the draft *Rules of Procedure* came under discussion, the question arose whether under Rule 9 any proposal made by a government in one of the Conference documents should be discussed at a meeting and resubmitted in writing. The Chairman replied that it seemed necessary to discuss any such proposal at the meeting but that it should be considered superfluous to resubmit in writing any proposal already clearly formulated in a document. The Rules were adopted unanimously.

4. The Delegation of the United States then proposed that *Mr. L. M. Laurelli* (Argentina), *Mr. E. Tasnádi* (Hungary) and *Mr. J. B. Ben Slimane* (Tunisia) should be appointed Vice-Chairmen, and that *Mr. W. M. J. C. Phaf* (Netherlands) should be appointed General Rapporteur. This proposal, supported by several delegations, was accepted unanimously. The Chairman proposed that the Delegates of the following countries should be appointed members of the Credentials Committee: Finland, Germany (Federal Republic), Italy, Switzerland, Union of Soviet Socialist Republics, Uruguay; and that the Delegates of the following countries should be appointed members of the Drafting Committee: Belgium, Czechoslovakia, France, Ireland, Kenya, Switzerland and the United States of America.

5. The meeting rose at noon.

* * *

6. At 3 p. m. the Chairman opened the meeting of the General Commission and pointed out that, under the Rules of Procedure, the Officers of the Conference were also the Officers of the General Commission. He then opened the discussion on the *general comments* on the Draft (document L/1). He proposed to divide them into three items: (1) the advisability of concluding an Agreement on the international classification for industrial designs; (2) in the event of an affirmative reply, the necessity of setting up a Special Union for this

purpose, (3) the other items of a general character which the delegations might desire to propose for consideration.

7. With regard to item (1), a large number of delegations had stressed the necessity of concluding an Agreement. Such a classification, if accepted by a large number of countries, would facilitate the research into the existence of exclusive rights respecting a specified design or any variants thereof. Further, a comprehensive classification was absolutely necessary for countries that required a search for novelty. As no delegation had stated its opinion against this view, the Chairman concluded that the reply to the question was unanimously in the affirmative. The Director of BIRPI gave explanations with respect to item (2). If a classification was desired, much work would be required to set it up. It would be necessary to establish a Committee of Experts to draw up the alphabetical list of goods embodying the designs and to draft the explanatory notes. The experience of the Nice Agreement for the International Classification of Goods and Services for the Purposes of the Registration of Marks had shown this quite clearly. Further, the classification had to be kept up to date, completed, and, when necessary, amended. It was therefore obvious that this work would cost a good deal. If a Special Union was not set up, the expenditure would fall upon the Paris Union, as such. Now it was probable that even if a large number of countries became party to the new Agreement, this latter would not include all or even a majority of the countries members of the Paris Union. It would therefore be unfair to charge this expenditure, which was by no means negligible, to all the members of the Paris Union. The only way to avoid this was to set up a Special Union which would finance itself.

8. The Director added that one should not exaggerate the supplementary expenditure that a Special Union would cause. An example could be found in the Special Lisbon Union for the Protection of Appellations of Origin. That Union had held a meeting during the annual meeting of the Executive Committee of the Paris Union. BIRPI had prepared the documents and a full morning had been set aside for this Special Union, but the whole sitting had ended after twenty minutes. Certainly, such rapid work was possible only if everyone was more or less in agreement. But, if there were any real differences of opinion with regard to certain matters, the existence of a Union was all the more necessary, as otherwise a competent body to harmonize these differences and, if necessary, to decide on them would be lacking.

9. After this statement by the Director, several delegations spoke in favor of setting up a Special Union. It should be added that, in the absence of a Special Union, the expenditure for the classification of designs would be charged to the Paris Union and certain countries would doubtless hesitate to accept this procedure. No opinion to the contrary was expressed. Even the countries which, in the preparatory documents, had formulated doubts concerning the necessity of a Special Union declared themselves satisfied.

10. Only certain non-governmental organizations had expressed doubts on this point, and these doubts had already been stated in the preparatory documents. These organizations

had expressed the opinion that the institutionalization of a new Union should be as little complicated as possible.

11. Further, with regard to item (2), the Chairman noted that the reply of the delegations was unanimously in the affirmative. In view of the fact that no delegation desired to raise another general point of order, the Chairman called for a discussion of *Article 1*, paragraphs (1) to (3) of the Draft (document L/1).

12. The first paragraph was adopted without discussion.

13. As regards the second paragraph, the question arose whether the notion of "industrial designs" also included what was called "utility models." The Director of BIRPI explained that in this Draft Agreement, as in all the other Agreements, the terminology of the Paris Convention was used. It was quite clear from the first paragraph of Article 1 of that Convention that the notion of industrial designs was quite distinct from that of utility models. As a result, therefore, the present Draft did not in any way refer to the latter category. It would in any case be impossible to include the two categories in one and the same classification, since the utility models were more of the nature of small patents and should therefore find their place if necessary in the system of the classification of patents.

14. A proposal regarding the second paragraph with respect to a change of substance was dealt with later, together with the related proposal regarding paragraphs (4) and (5).

15. A proposal was made with respect to paragraph (3) to insert under (ii) after the term "goods" the words "in which industrial designs are incorporated" (document L/2, page 15). It was pointed out that the legislation of certain countries included the notion of ornamental designs, that is to say, designs which might be called designs "in their own right," i. e., which were not intended for incorporation in specified goods, but which may be incorporated in any product. It might be asked in what class such designs could be included; it might be necessary to set aside a special class for them.

16. Mr. Ch.-L. Magnin, Deputy Director of BIRPI, pointed out that they were dealing here with a classification of goods and not with a classification of designs. The author of the above-mentioned observation stated that he did not oppose the proposal to add the words "in which industrial designs are incorporated," but that it would all the same be necessary to bear in mind that category of designs which have been called "designs in their own right."

17. The proposal was accepted and paragraph (3), thus amended, was adopted.

18. In this connection, a suggestion was made to amend the title of the Agreement in the same sense and mention that the Agreement comprised "an international classification of goods in which industrial designs are incorporated." This suggestion was referred to the Drafting Committee.

19. As regards paragraphs (4) and (5) of Article 1, an amendment of substance was proposed (document L/7). The text of the Draft endorsed in a certain sense the list of classes and subclasses drawn up in 1966 by a Committee of Experts. The Committee of Experts set up under the present Agreement could amend it and the provisional Committee mentioned in the Draft Resolution (document L/1, page 61) would ex-

amine the necessity of any subsequent modifications, but, as from the date of the entry into force of the Agreement, the 1966 list would bind the States Parties. It had, however, already become evident that certain amendments would have to be made to this list, and it would therefore be more logical not to confirm the 1966 list but to stipulate that a new list should be drawn up by the Committee of Experts established by the Agreement on the basis of the 1966 list. The Director agreed that paragraph (4) seemed to lay down that the 1966 list should become applicable on the date of the entry into force of the Agreement, and it was only with respect to any later needs that paragraph (6) allowed the possibility of modifying it. However, as shown in the commentary on these provisions, that was by no means the case. It was intended, rather, that the provisional Committee mentioned in the Resolution should examine the 1966 list immediately after the signature of the new Agreement and that the final Committee established by the Agreement would make all amendments considered advisable after the entry into force of the Agreement. If the text of the Draft did not show this idea clearly enough, it would be advisable to amend it. From the practical point of view there was no great difference between the system in the Draft and that of the proposal in question, but from the legal point of view the latter text entailed a great risk. If, after the entry into force of the Agreement, the Committee was unable to agree concerning the list to be drawn up, then one would be faced by a complete vacuum. The Agreement intended to set up an international classification would not then have achieved its purpose. For that reason, the Director thought that, although the system in the Draft was from the practical point of view similar enough to that of the proposal under discussion, it was nevertheless preferable from the legal point of view.

20. After the explanation given by the Director, the delegation which had made the proposal did not insist.

21. The Director's suggestion to clarify paragraph (4) by adding the following words: "subject to such amendments and additions as the Committee of Experts set up under Article 3 may make to it," was then transformed into a formal proposal and accepted.

22. Another proposal to reword the first two lines of paragraph (4) as follows: "The list of classes and subclasses is the list annexed to the present Agreement," was also accepted.

23. Paragraphs (5), (6) and (7) of Article 1 were then adopted without discussion, with the exception of a few remarks of a purely drafting nature.

24. The Chairman then opened the discussion on *Article 2*.

25. The remarks made by several delegations and by some non-governmental organizations showed quite clearly that there was a certain unanimity with regard to the substance of the first paragraph, but that there was some doubt with respect to the drafting. There was general agreement that the international classification by itself should be merely of an administrative character and that every country which was a member of the Special Union should have the right to give it the legal scope it deemed necessary. The difference of opinion referred specially to the second sentence beginning with the words "In particular."

26. In the Draft, this phrase was intended to free the countries from an obligation which might perhaps be inferred from the first sentence, namely, the obligation to take into account in some measure the international classification when, under the national legislation or under a judgment of the national courts, the extent of the protection granted to a design was defined or limited. In a first attempt at clarification (document L/9) on the other hand, the sentence beginning with the words "In particular" had quite a different purpose. It seemed intended rather to protect the owners of industrial designs against a detrimental interpretation which might be given to the first sentence.

27. After various other suggestions to modify certain phrases or to alter the sequence of the order of the sentences had been made, there was finally agreement on the following text: "Subject to the requirements prescribed by this Agreement, the international classification shall be solely of an administrative character. Nevertheless, each country may attribute to it the legal scope which it considers appropriate. In particular, the international classification shall not hinder the countries of the Special Union as regards the nature and scope of the protection afforded to the design in those countries."

28. Paragraph (2) as amended was adopted without discussion.

29. With regard to paragraph (3), it was pointed out that it should not compel the countries to issue a publication of the designs deposited. The following text was therefore proposed: "The Offices of the countries of the Special Union shall include in the official documents for the deposit or registration of designs, and if they are officially published in the publications in question, the numbers ..."

30. Paragraph (3) was adopted with this amendment. The General Commission expressed the opinion that if a country issued two publications, for example, a publication for the deposit of designs and later a publication for their registration, the text adopted allowed it to include the prescribed information in only one of the two publications.

31. Certain delegations stressed that paragraph (4) could not prevent the fact of the inclusion of a term in the alphabetical list of goods from entailing as a consequence that the term in question would be considered a generic term and that in certain countries a trademark right in that term would cease to exist. It would therefore be advisable to avoid such a situation as much as possible. For this reason it was proposed to give a more explicit wording to the paragraph as follows: "In selecting terms for inclusion in the alphabetical list of goods the Committee of Experts shall exercise reasonable care to avoid using terms in which proprietary rights may exist. The inclusion of any word in the alphabetical index, however, is not an expression of opinion of the Committee of Experts on whether or not it is subject to proprietary rights."

32. The first paragraph of *Article 3* was adopted without discussion, with the exception of a few remarks regarding the drafting.

33. Paragraphs (2) to (5) gave rise to a fairly long discussion. According to the system in the Draft Agreement, a distinction is made between two categories of decisions that

the Committee of Experts might take regarding the international classification, which consists of three elements: (1) the list of classes and subclasses established by the Agreement itself; (2) the alphabetical list of goods; (3) the explanatory notes. One category comprises the adoption of the alphabetical list and the explanatory notes and any addition to be made to the classification in general; the other includes every amendment to be made to the classification, if that amendment involves the transfer of a product from one class to another. The decisions of the first category are taken by a simple majority, whereas those of the second category require unanimity.

34. One delegation proposed to introduce for the second category a qualified majority of two-thirds, instead of unanimity, in order to avoid that a small group of countries might block the wishes of the great majority (document L/7, page 5). Another delegation asked if two different voting procedures were really necessary. The Director of BIRPI explained that the double procedure was justified by the fact that the decisions of the second category might be detrimental to the interests of private persons, which was not the case as regards the first category. He added that the introduction of a weighted majority for the first category might result in the countries that had voted against not applying the decision adopted and that would endanger the unity of the classification. Further, there did not appear to be any real danger of a blocking. The Director admitted that unanimity and a weighted majority both had advantages and disadvantages; he preferred unanimity which, in his opinion, was the lesser evil.

35. Several delegations expressed their agreement with the opinion of the Director and the proposal for a weighted majority was therefore withdrawn.

36. Paragraphs (2) to (5) were adopted.

37. A proposal made to delete, in paragraph (6), the right of the expert of a country to delegate his powers to an expert of another country met with general approval. One delegation pointed out, however, that a provision of that nature presented a certain interest to the smaller countries; he asked if a similar provision in the Nice Agreement Concerning the International Classification of Goods and Services had caused any difficulty. The Director of BIRPI replied in the negative but drew attention to the fact that at Stockholm a thorough examination had been made of the principle of such delegation of powers and the result of that examination had been clearly unfavorable.

38. According to the proposal made, paragraph (6) would read: "Each expert shall have the right to vote by mail." Paragraph (6) was adopted as amended.

39. Paragraph (7) was adopted without discussion.

40. The first paragraph of *Article 4* was adopted.

41. With regard to paragraph (2), it was pointed out that the word "administrator" was not quite correct, since BIRPI was not the only international body which administered the classification, but rather all the bodies set up under the Agreement. A proposal to substitute "depository" was accepted. Paragraph (2), as amended, was adopted.

42. With regard to *Articles 5 to 15*, the Director of BIRPI explained that it was a matter of *ad interim* law. These Articles had been adapted to the results of the Stockholm Conference

- Mr. Berndt A. F. Godenhielm, Professor of Law at the University of Helsinki, Helsinki.
 Mr. Eero Yrjölä, First Secretary of Embassy, Embassy of Finland, Berne.

France

- Mr. Roger Labry, Counsellor of Embassy, Direction of Economic and Financial Affairs, Ministry of Foreign Affairs, Paris.
 Mr. Maurice Bierry, Administrateur civil, Ministry of Industry, Paris.

Germany (Federal Republic)

- Mr. Gerhard Schneider, Ministerialrat, Federal Ministry of Justice, Bonn.
 Mr. Peter Schönfeld, First Secretary, Permanent Delegation of the Federal Republic of Germany, Geneva.

Holy See

- Rev. Father Henri-Maurice de Riedmatten, Permanent Observer of the Holy See, Geneva.

Hungary

- Mr. Emil Tasnádi, President, National Office for Inventions, Budapest.
 Mr. Ivan Szász, Head of Department, Ministry of Foreign Trade, Budapest.
 Mr. Gyula Pusztai, Head of Section, National Office for Inventions, Budapest.
 Mr. János Fodor, Ministry of Foreign Affairs, Budapest.

Iran

- Mr. Mehdi Naraghi, Director, Office for the Registration of Companies and Industrial Property, Teheran.
 Mr. Ebrahim Djahannema, Second Secretary, Permanent Delegation of Iran, Geneva.

Ireland

- Mr. Michael J. Quinn, Controller of Patents, Designs and Trade Marks, Dublin.

Italy

- Mr. Gino Galtieri, Head, Literary, Artistic and Scientific Property Office, Presidency of the Council of Ministers, Rome.
 Mrs. Girolama Pizzini, Patent Office, Rome.
 Mr. Giuseppe Trotta, Legal Counsellor, Ministry of Foreign Affairs, Rome.
 Mr. Valerio De Sanctis, Attorney, Rome.

Kenya

- Mr. David J. Coward, C. M. G., Registrar-General, State Law Office, Nairobi.

Liechtenstein

- Miss Marianne Marxer, Third Secretary of Legation, Legation of Liechtenstein, Berne.

Luxembourg

- Mr. Jean-Pierre Hoffmann, Head, Industrial Property Service, Luxembourg.

Monaco

- Mr. Piero Benedick, Consul of Monaco, Lugano.
 Mr. Jean-Marie Notari, Director, Industrial Property Department, Monaco.

Netherlands

- Mr. Willem M. J. C. Phaf, Head of the Division of Legislative and Legal Affairs, Ministry of Economic Affairs, The Hague.
 Mr. Enno van Weel, Vice-President, Patent Board, The Hague.

Norway

- Mr. Roald Roed, Head of Section, Patent Office, Oslo.

Poland

- Mr. Jozef Ciesielski, Director, National Patent Office, Warsaw.

- Mrs. Camilla Matlaszek, Head of Service, Ministry of Foreign Affairs, Warsaw.

- Mr. Jan Dalewski, Head of the Legal Section, National Patent Office, Warsaw.

Portugal

- Mr. Adriano Carvalho, Deputy Director-General for Economic Affairs, Ministry of Foreign Affairs, Lisbon.
 Mr. Jorge Van-Zeller Garin, Assistant to the General Direction of Commerce, Lisbon.
 Mr. José Mota Maia, Industrial Property Department, Lisbon.

Spain

- Mr. Antonio F. Mazarambroz, Director, Industrial Property Registration Office, Madrid.
 Mr. Julio Escudero Durán, Head, Designs Section, Industrial Property Registration Office, Madrid.

Sweden

- Mr. Claës Uggla, Legal Advisor, National Patent and Registration Office, Stockholm.
 Mr. Bengt Lundberg, Head of Section, National Patent and Registration Office, Stockholm.

Switzerland

- Mr. Joseph Voyame, Director, Federal Bureau of Intellectual Property, Berne.
 Mr. Walter Stamm, Head of Section, Federal Bureau of Intellectual Property, Berne.
 Mr. Paul Ruedin, Consular Official, Federal Political Department, Berne.
 Mr. André Coigny, Diplomatic Assistant, Federal Political Department, Berne.
 Mr. Pierre Jean Pointet, Professor at the University of Nenchâtel, Zurich.

Tunisia

- Mr. J. Bachemi Ben Slimane, Direction of Industry, Tunis.

Union of Soviet Socialist Republics

- Mr. Victor Tsaregorodtzev, Vice-President, Committee for Inventions and Discoveries Attached to the Council of Ministers of the USSR, Moscow.
 Mr. Igor Tcherviakov, Deputy Director, Central Scientific Institute for Information on Patents and Technico Economical Research, Moscow.
 Mr. Yury Kulakov, Chief, Trademarks and Designs Department, Committee for Inventions and Discoveries Attached to the Council of Ministers of the USSR, Moscow.

United Arab Republic

- Mr. Hassan Shash, Embassy of the United Arab Republic, Berne.

United States of America

- Mr. Gerald D. O'Brien, Assistant Commissioner of Patents, Department of Commerce, Washington.
 Mr. Harvey J. Winter, Assistant Chief, Business Practices Division, Department of State, Washington.

Uruguay

- Mrs. Perla Bertani, Counsellor of Embassy, Embassy of Uruguay, Berne.

Yugoslavia

- Mr. Nenad Janković, Legal Advisor, Federal Patent Office, Belgrade.
 Mr. Zoltan Biro, Justice of the Supreme Economic Court, Belgrade.

II. Observers

Countries

Congo (Democratic Republic of)

- Mr. Gustave Mulenda, First Secretary, Permanent Mission of Congo, Geneva.

Ghana

Mr. Benjamin Wolseley Prah, Registrar-General, Registrar-General's Department, Accra.

Korea (Republic of)

Mr. Tak C. Han, Second Secretary, Permanent Mission of the Republic of Korea, Geneva.

Nicaragua

Mr. Antonio A. Mullhaupt, Consul of Nicaragua, Geneva.

Pakistan

Mr. Gul Haneef, Embassy of Pakistan, Berne.

Thailand

Mr. Birath Israsena, First Secretary, Royal Thai Embassy, Berne.

Venezuela

Mrs. Hildegard Rondon de Sanso, Industrial Property Registry, Caracas.

Intergovernmental Organizations**Council of Europe**

Mr. Alexandre Papandreou, Administrateur principal, Strasbourg.

Non-Governmental International Organizations**Committee of National Institutes of Patent Agents (CNIPA)**

Mr. Walter Stark, Patent Agent, Krefeld.

International Chamber of Commerce (ICC)

Mr. Yves Saint-Gal, Directeur à l'Union des Fabricants, Paris.

Mr. Harry von der Hude, Patent Agent, Copenhagen.

International Association for the Protection of Industrial Property (IAPIP)

Mr. Hans Leuenberger, Attorney, St. Gall.

International Literary and Artistic Association (ALAI)

Mr. Jacques Duchemin, Secretary General, SPADEM, Paris.

Miss Renée V. Blaustein, Paris.

International League Against Unfair Competition (LICCD)

Mr. Yves Saint-Gal, Directeur à l'Union des Fabricants, Paris.

Mr. Franco Bennsi, Milan.

Mr. Jacques Gnyet, Membre du Conseil d'Administration, Geneva.

Officers of the Conference

Chairman:	Mr. J. Voyame (Switzerland)
Vice-Chairman:	Mr. L. M. Laurelli (Argentina)
	Mr. E. Tasnádi (Hungary)
	Mr. J. B. Ben Slimane (Tunisia)
General Rapporteur	Mr. W. M. J. C. Phaf (Netherlands)
Secretary General	
of the Conference:	Mr. Ch.-L. Magnin (Deputy Director of BIRPI)

United International Bureaux for the Protection of Intellectual Property (BIRPI)

Professor G. H. C. Bodenhause, Director.
 Mr. Ch.-L. Magnin, Deputy Director.
 Mr. L. Egger, Counsellor, Head of the Registration Division.
 Mr. J. Lamb, Head of the Publications Service.
 Mr. H. Rossier, Head of the Chancellery.
 Mr. V. Terbois, Head of the Industrial Designs Service.

LEGISLATION**BRAZIL****Industrial Property Code**

(Decree-Law No. 254, of February 28, 1967)¹⁾

Introduction**Article 1**

Industrial property rights shall be protected by:

- (a) the grant of patents for inventions, industrial designs and industrial models;
- (b) the grant of registrations of trademarks or service marks, trade names, titles of establishment, insignia, advertising slogans or publicity signs, and industrial prizes;
- (c) the repression of false indications of source;
- (d) the repression of unfair competition.

Article 2

The provisions of this Code shall cover applications filed in Brazil direct and those which, although filed or granted abroad, enjoy rights under treaties or conventions.

Article 3

Any individual person or legal entity may, through administrative or judicial channels, request that the provisions of any treaties or conventions advantageous to individual persons or legal entities domiciled abroad be applied in equal conditions.

TITLE I**Titles of Invention****CHAPTER I****Patents for Inventions****Section I****General Provisions****Article 4**

The author of a new invention capable of industrial exploitation shall have the right to take out a patent which guarantees his exclusive ownership and use thereof, in the conditions laid down in this Code.

(1) For the purposes of patent grant, the applicant shall be presumed to be the author of the invention.

(2) Legal entities may apply for patents if they are expressly authorized to do so by the inventor.

Section II**Patentable Inventions****Article 5**

Any new invention capable of industrial application shall be patentable.

¹⁾ BIRPI translation.

(1) Any invention which, at the date of the filing of the application for a patent, has not been filed, patented, disclosed or worked in the country, or patented, disclosed or worked abroad, shall be considered new and consequently patentable.

(2) For the purposes of patent grant, examination of the novelty of the invention shall be restricted to the allegations and evidence contained in oppositions lodged or in reports made by technical bodies.

Article 6

The following shall also be patentable:

- (a) new products so long as, through analysis or other adequate technical tests, they reveal, by virtue of their intrinsic properties, the process from which they derive;
- (b) new processes for the manufacture of substances, products or materials mentioned therein;
- (c) metal alloys, as well as mixtures having specific qualities, which are perfectly characterized by their qualitative and quantitative compositions;
- (d) the juxtaposition of known elements, components or parts, the change of shape, proportions, dimensions or materials, where the overall result produces a new technical effect or an original solution to a technical problem or represents an invention offering practical and economic advantages.

Section III

Non-patentable Inventions

Article 7

The following shall not be patentable:

- (a) inventions contrary to law, morality, and public health and safety;
- (b) inventions relating to food or medicinal substances or products of any kind;
- (c) inventions relating to food or medicinal materials, substances or products of any kind;
- (d) purely theoretical concepts;
- (e) simple juxtapositions of known elements, components or parts, or simple changes of shape, proportion, dimension or materials;
- (f) bookkeeping and calculation systems, and plans or schemes for finance, credit, lottery, speculation or publicity.

Section IV

Guarantee of Priority

Article 8

Any person who, before applying for a patent for his invention, wishes to make experiments, communicate with scientific associations, or exhibit the invention at official or officially recognized exhibitions should request a guarantee of priority from the National Department of Industrial Property, presenting a description and drawings, if any, of his invention, together with proof that the relevant fee has been paid.

(1) A record shall be drawn up in respect of the filing of such request, and a guarantee of priority shall run for one year from the date of that record.

(2) The interested party should present his application for a patent within that period of time; the number and date of the record referred to in the preceding paragraph shall prevail in the conditions and for the purposes of Articles 15 and 17.

(3) Requests for a guarantee of priority shall be exempt from the formalities of examination and publication, which shall nevertheless apply to the application for the patent.

(4) If the interested party has not applied for a patent by the end of the period of one year, the guarantee of priority shall automatically become void, and the request therefor shall be without effect for any purpose.

(5) The Director-General of the National Department of Industrial Property may cancel the guarantee of priority at the request of any interested party who proves that the inventor has exploited the subject matter of the invention for profit-making purposes.

(6) Interested parties may appeal from such a decision of the Director-General of the National Department of Industrial Property within a period of 90 days from the publication of the decision, and the procedure relating to the application for a patent, if it has begun, shall be suspended until the final decision is rendered on the appeal.

CHAPTER II

Industrial Designs and Models

Section I

Designs and Models Eligible for Protection

Article 9

Any new arrangement or grouping of lines or colors capable of application, for commercial or industrial purposes, to the ornamentation of a product by any manual, mechanical or chemical means, singly or in combination, may be protected as an industrial design.

Article 10

Any plastic form, any mold, any pattern, any relief, applied to any article, capable of serving as a model for the manufacture of an industrial product and characterized by a new outer shape or ornamentation may be protected as an industrial model.

Article 11

Designs and models which, although not entirely new, contain original combinations of known elements or different arrangements of elements already used and which give the respective articles a new general characteristic aspect may also benefit from legal protection.

Article 12

Designs or models composed of two or more parts required to form a whole or a group of parts shall be considered a single design or model.

Article 13

Industrial designs or models which, at the date of their deposit, have not been deposited, patented, disclosed or

utilized abroad, shall be considered new, the provisions of Article 5(1) applying as regards novelty, if relevant.

Sole paragraph. — The novelty of the design or model shall not be impaired by its exhibition at national or international, official or officially recognized exhibitions, so long as the author applies for the respective patent within a period of six months from the date of such exhibition.

Section II

Designs or Models not Eligible for Protection

Article 14

The following shall not be eligible for protection as industrial designs or models:

- (a) designs or models contrary to ethics, religious cults or ideas, or sentiments worthy of respect or veneration;
- (b) designs or models which conflict with patents for inventions, designs or models belonging to third parties;
- (c) commonplace designs or models;
- (d) those barred from patent protection by the provisions of Article 7 of this Code, with the exception of item (e) of that Article;
- (e) works of sculpture, architecture, painting, enameling, engraving, embroidery, photography, and the like, as well as any models or designs of a purely artistic nature, except where they are intended for industrial exploitation with the express or tacit consent of the author or his successors in title.

CHAPTER III

Applications for Patents for Inventions, Industrial Designs or Industrial Models

Article 15

An applicant for a patent for an invention, industrial design or industrial model must file his application, accompanied by a description and the respective drawings, if any, at the National Department of Industrial Property.

(1) The application, which shall relate to a single invention, shall be presented by a petition, addressed to the Director-General of the Department, giving the full name of the inventor, his nationality, occupation and domicile, and the name and domicile of his agent, if any.

(2) The description should be written in Portuguese, should clearly and precisely describe the invention, its purpose and the manner of using it, and should comply with the following conditions:

- (a) describe the invention and explain in detail, without reservations or omissions, the technical problem which the invention is intended to resolve, its execution and functioning;
- (b) include an abstract clearly defining the characteristic features of the invention and which shall serve to establish and limit the rights of the inventor.

(3) The drawings should contain, within the area limited by the frame, the figures in the dimensions strictly necessary so that they can be distinguished from one another and can be easily understood.

(4) The patent may be applied for by the author of the invention or by his possible successors in title upon presentation of a valid document.

Article 16

In cases where the inventor wishes to obtain separate protection for any particular aspect of his invention, he may do so by filing a separate application therefor, provided that such aspect does not form part of an indivisible whole.

CHAPTER IV

Filing of Patent Applications

Article 17

Once the application has been presented, a record of filing shall be drawn up and signed by the inventor or his agent and the official in charge.

Sole paragraph. — The record of filing shall contain the date on which the application was presented, including the hour, day, month and year, and the name of the applicant and of his agent, if any; upon payment of the prescribed fee, an attestation may be supplied to the applicant.

Article 18

Exclusively for the purposes of priority, initial applications for patents for inventions, industrial designs or industrial models may be received by the State Delegations¹⁾ of the Ministry of Industry and Commerce, who shall draw up the respective records of filing which shall contain the hour, day, month and year that the application was presented, and the signatures of the inventor or his agent and of the official appointed by the respective Delegate.

Sole paragraph. — Once the record of filing has been drawn up, the Delegation shall have the respective file sent to the National Department of Industrial Property within five days of the date of that record.

CHAPTER V

Applications Filed Abroad

Article 19

An inventor who has duly filed an application for a patent for an invention, industrial design or industrial model in a country with which Brazil has concluded a convention or treaty shall, upon filing a similar application in Brazil, enjoy a right of priority for the duration of the period of time stipulated in the respective convention or treaty. Such priority can in no case be invalidated by factors arising during that period, such as an identical application, publication of the invention, design or model, or use or exploitation thereof.

(1) The period of priority shall be recorded in the patent if the interested party, when filing an application in Brazil, claims the benefits accruing from the previous application and presents the filing certificate or the patent from the country of origin.

¹⁾ These are the Delegations of the Brazilian Ministry of Industry and Commerce in the States constituting the United States of Brazil (translator's note).

(2) The documents referred to in the preceding paragraph must be presented within a maximum period of 90 days.

(3) In addition to the filing certificate, any descriptions, drawings or other documents deemed necessary for the examination of the application may be required.

(4) If the foreign patent undergoes any qualitative or quantitative restriction as regards its characteristic features, description or drawings, the application filed in Brazil should also be altered in the same manner, on pain of patent invalidity.

CHAPTER VI

Formal and Technical Examination and Processing of the Application

Article 20

Once the record of filing has been drawn up, the file shall be subjected forthwith to formal examination and verification of the nature of the invention and its conformity with the regulations; at the same time, arrangements shall be made to have the characteristic features and drawings, if any, published.

(1) If the formal and technical examination reveals that the file is incomplete or does not conform to the standards applicable, the interested party shall be invited to put it in order within a period of 90 days.

(2) If the National Department of Industrial Property considers that the application is still incomplete, the interested party, in any case, and his agent, if any, shall be invited for the second and last time to put the file in order within a new period of 90 days, running from the date of publication of the respective decision.

(3) If the periods of time referred to in the preceding paragraphs expire and the interested party has not put the file in order, it shall be shelved, from which decision there shall be no appeal unless, within a period of 90 days from the respective publication, it is proved that an error has been committed by the National Department of Industrial Property.

Article 21

During a period of 90 days from the date of the definitive publication of the characteristic features and drawings, third-party opposition to the grant of the title of protection shall be admissible.

(1) Once the oppositions have been published, the applicant may file his reply within a period of 90 days.

(2) At the end of the period for reply, or in the absence of such reply or of any opposition, the file shall be subjected within the next 90 days to examination by the accredited experts referred to in Article 151, who may request the inventor to furnish any explanations they may deem necessary.

(3) Once the technical examination is over, the file shall be submitted to the Director-General of the National Department of Industrial Property for a decision.

(4) From the decision granting or denying the title of protection, an appeal may be brought before the Council of Industrial Property Appeals within a period of 90 days from the date of publication of that decision.

(5) The interested party may file a reply within a period of 90 days from the date of the appeal brought before the Council.

(6) There shall be no appeal from decisions denying the title of protection on the basis of Article 7, with the exception of item (e), and Article 14, with the exception of items (b) and (c).

(7) In the absence of opposition, once the period of time established in this Article for such purpose has expired and the title of protection has been granted, there shall be no administrative appeal from the respective decision.

CHAPTER VII

Issuance of Patents

Article 22

The decision to grant the title of protection shall be published and the letters patent shall be issued and delivered to the applicant or his agent in return for a receipt therefor and proof of payment of the fee due.

(1) If the fee is not paid and delivery is not taken of the letters patent within an unextendable period of 90 days from the date of grant, the title of protection shall be canceled and the respective file shelved by a decision, from which there shall be no appeal, of the Director-General of the National Department of Industrial Property, to be made within 90 days following the expiration of the said period.

(2) The letters patent shall contain the number of the patent, the name, nationality, occupation and domicile of the inventor or his successor in title, the name and domicile of his representative or agent, if any, the title of the invention, and the period of its duration; a copy of the final description and drawings shall be annexed thereto.

Article 23

The National Department of Industrial Property shall have specific registers concerning patents for inventions, patents for industrial designs, patents for industrial models, and foreign priorities claimed in Brazil, each having a separate numbering system.

Sole paragraph. — Titles of protection granted by the National Department of Industrial Property shall have the widest possible disclosure through publication in the official organ of the Department and through other means of communication, agreements with government bodies or labor and employers' organizations.

Article 24

The articles to which patents for inventions, industrial designs or industrial models relate shall, obligatorily with respect to designs or models and whenever possible with respect to patents, be marked in a visible place with the following indications: "*Privilegio de Invenção No. . .*" (Patent No. ...) or the abbreviation "P. I. No. . ."; "*Desenho Industrial No. . .*" (Industrial Design No. ...) or "D. I. No. . ."; "*Modelo Industrial No. . .*" (Industrial Model No. ...) or "M. I. No. . ."

(1) The absence of the indications prescribed in this Article, which shall always be tolerated in articles of very small dimensions or the appearance of which may be harmed by

such indications, shall not give rise to a presumption of bad faith on the part of the inventor.

(2) The placing of similar indications on unpatented articles shall give rise to a presumption of bad faith on the part of the inventor, with the consequent application of the legal penalties.

CHAPTER VIII

Duration of Patents for Inventions, Industrial Designs and Industrial Models

Article 25

A patent for an invention, industrial design or industrial model shall remain in force for a period of 20 years reckoned from the date of filing of the application, or 15 years reckoned from the date of grant of the title of protection, if this should occur more than five years after the filing of the application, so long as the corresponding fees are regularly paid.

(1) At the end of the period of validity of the patent, the invention shall automatically become public property.

(2) Patents granted under this Code shall remain in force during the period set forth in this Article, even if they expire or lapse in a foreign country.

Article 26

If it judges it to be in the national interest, the Government may exceptionally extend, either *ex officio* or in response to a well-founded, verified request, the period of protection by a maximum of five years.

Article 27

Where patents for inventions, industrial designs or industrial models have been granted as joint property or become joint property through any valid document, each joint owner may freely exploit the subject matter of the invention, observing the legal provisions.

CHAPTER IX

Fees Relating to Patents for Inventions, Industrial Designs or Industrial Models

Article 28

Once the patent for an invention, industrial design or industrial model has been granted, the respective letters patent shall be delivered only upon payment of the fee relating to the first period of validity of that title of protection.

(1) Within three years of the date of issuance of the letters patent, the second fee must be paid.

(2) During the sixth year from the date of issuance of the patent, the third and last fee must be paid.

CHAPTER X

Transfer of Rights

Article 29

Ownership of the invention may be transferred by an *inter-vivos* act or by testate or intestate succession.

Article 30

Transfer may be made gratuitously or in return for payment and, in either case, may be total or partial.

Sole paragraph. — Transfer shall be total where it involves all the rights protected and partial where it comprises only some of the rights granted or if there is a restriction as to the duration of use or area of utilization.

Article 31

A request to have the transfer of the patent recorded must be addressed to the Director-General of the National Department of Industrial Property by presentation of the respective title together with the original instruments of transfer or attestations thereof.

(1) Transfer shall become effective with regard to third parties only after it has been recorded by the Department.

(2) The record shall be entered in the appropriate register and in the letters patent.

(3) Documents relating to transfers shall remain on file in the Department.

(4) Attestations concerning the documents referred to in the preceding paragraph may be issued to interested parties on request.

Article 32

Any change made in the name of the holder of the title of protection shall be recorded by the National Department of Industrial Property upon examination of valid documents. Attestations shall be issued to the interested party, and the respective documents shall be kept on file.

Sole paragraph. — Instruments relating to the suspension, limitation or suppression of titles of protection shall also be recorded by a decision of the Director-General of the Department if the interested parties so request and present valid documents.

Article 33

Transfers of patent rights and changes in the patentee's name shall, upon previous payment of the regular fees, be recorded within 30 days of the publication of the decision, from which there shall be no opposition or appeal.

Article 34

Any person having a legitimate interest therein may request the Director-General of the National Department of Industrial Property to have the recording of transfer of patent rights suspended, upon presentation of proof that he has brought court action for falsity or ineffectiveness of the instruments relating to the recording of the transfer.

(1) The suspension referred to in this Article shall be maintained until an attestation is presented showing that a final decision has been rendered in the case concerned.

(2) Cancellation of the record because of falsification shall not exempt the authors or beneficiaries thereof from civil and criminal responsibility for the offense.

Article 35

An appeal may be brought within a period of 90 days from the publication of any decision of the Director-General of the National Department of Industrial Property denying the recording of transfer of a patent.

CHAPTER XI

License Agreements for the Exploitation of Inventions

Article 36

The owner of a patent for an invention, industrial design or industrial model, or his successors or agents, may grant a license for the exploitation of the patented invention.

Article 37

Licenses shall be granted in accordance with the legal formalities; restrictions imposed upon the exploitation of the invention shall be expressly mentioned therein.

Article 38

Instruments granting licenses of exploitation for patented inventions shall take effect with respect to third parties only after they have been recorded in the appropriate register of the National Department of Industrial Property and in the letters patent.

CHAPTER XII

Compulsory Licenses for the Exploitation of Inventions

Article 39

An inventor who, in the period of three years following the grant of the patent, has not effectively worked the subject matter thereof in the country or has interrupted such working for more than two consecutive years, without justifying the cause of his inactivity, shall be compelled to grant, to any third party who so requests, a license to work the patent under the terms and conditions set forth in this Code.

(1) A special non-exclusive license to work a non-worked patent may also be granted to any third party who so requests, under the terms of this Article, for reasons of public interest set forth in a communication addressed to the Minister of Industry and Commerce by any other Minister of State or by the Governor of a State or of a Territory.

(2) Working replaced or partially supplemented by importation, on the part of the patentee, of the article concerned in the patent shall not be deemed to constitute effective working within the meaning of this Article.

Article 40

To verify the effective working of patents, the National Department of Industrial Property may require that the patentees prove their working or justify the reasons for their inaction, as from the third year from the grant of the patent.

(1) For the purposes of this Article, the National Department of Industrial Property shall notify the patentee, through publication in its official organ.

(2) If the notification is not taken into consideration within a period of 90 days from the date of its publication, the invention shall be released for the purpose of applying the provisions of Article 39.

Article 41

Any person wishing to obtain a license to work a patent must apply to the Director-General of the National Department of Industrial Property, setting forth the condition he

offers to the patentee and attaching documents proving his financial and technical capacity.

(1) The patentee shall receive official notice of such request and shall be given a period of 90 days, which cannot be extended, from the date of publication of the decision of the Director-General of the National Department of Industrial Property allowing the request for a license and establishing notification to the patentee so that he can make his reply.

(2) During this period of time, the Director-General of the Department may order investigations, call for examinations, gather information, and likewise take such steps as, in his judgment, are necessary in order to clarify the situation of the patent and the capability of the applicant for the license.

(3) At the end of the 90-day period, if there has been no conclusive reply from the patentee, the Director-General of the Department may grant the license as soon as the capability of the applicant has been verified.

Article 42

If the patentee does not answer the notification provided for in Article 40(1), the Director-General of the National Department of Industrial Property may grant the license applied for, after hearing two experts accredited by the Department who must give information with respect to the conditions of the offer of exploitation in view of the industrial value of the patent.

Article 43

If the patentee contests the application for a license during the period appointed, the Director-General of the National Department of Industrial Property shall submit the case to two accredited experts for examination and shall take a decision on the application immediately thereafter.

Article 44

The holder of a license to work a patent must begin the exploitation within six months of the grant of the license.

Article 45

The patentee shall be entitled to a share in the value of the sales or use of the subject matter of the patent and shall have the right to control production and the amount of sales or use of the invention and to demand the payment stipulated.

Sole paragraph. — The provision of this Article shall not adversely affect any agreement or contract relative to the working of the patent which may be concluded between the parties.

Article 46

The patentee may obtain cancellation of the license by proving that the licensee did not begin working the invention within the period stipulated in Article 44, that he interrupted such working for more than one year, or that he has not complied with the provisions of Article 45.

Article 47

The holder of a license for the exploitation of an invention shall be vested with the powers of representation neces-

sary to take administrative or legal action in defense of the title of protection, and the patentee shall bear the expenses arising therefrom.

CHAPTER XIII

Expropriation of Titles of Protection

Article 48

The Federal Government may, in accordance with the law, expropriate any invention if the national interest requires divulcation thereof or exclusive exploitation thereof by federally administered entities or bodies or those in which the Union participates.

(1) Expropriation shall take place at the proposal of the Minister of Industry and Commerce, based on the favorable opinion of a technical commission to be appointed, in each case, by the Director-General of the National Department of Industrial Property.

(2) The commission which is to give its opinion shall be composed of specialists in the subject matter of the invention, at least one of whom shall be an accredited expert of the National Department of Industrial Property.

(3) The organization of the commission and the study of the appropriateness of expropriation shall be instigated by the Director-General of the Department at the request of any body or entity of public administration or those participating in such administration.

(4) If the patentee does not accept the value attributed, legal proceedings shall be initiated in accordance with the law.

CHAPTER XIV

Inventions Made During the Course of an Employment Contract

Article 49

During the course of an employment contract, the inventions of an employee, whenever they arise from his personal contribution and the utilization of installations or equipment provided by the employer, shall be the common property of the employee and the employer, each having an equal share.

(1) Inventions accomplished during the course of scientific research, or during the performance of an employment contract or contract for services providing for inventive activity on the part of the employee as the purpose of the contract, shall belong to the employer.

(2) If the contract does not provide otherwise, the remuneration of the work relating to the invention shall be presumed to be included in the salary or normal remuneration of the employee.

(3) Where the invention is independent of the employment contract or contract for services but is included in the activities of the employer, he shall enjoy a right of preemption as regards exclusive exploitation of the invention or acquiring of the patent itself.

(4) In the case mentioned in the preceding paragraph, the employer may also apply for a title of protection abroad, so long as the employee is assured of remuneration corresponding to the value of the invention, to be stipulated by the

parties, taking into account the assistance given by the employer in the accomplishment of the invention.

(5) The right of preemption shall be exercised within a period of three months from the date of grant of the patent and shall cease to exist if the remuneration is not paid in accordance with the terms and conditions stipulated between the employer and the employee.

(6) For the purposes of this Article, an invention concerning which a patent is applied for by the employee within one year of the termination of the employment contract shall be deemed to have been made during the course of the employment contract or contract for services, unless otherwise agreed between the parties.

Article 50

The employer shall be entitled to exploit the invention if it is the joint property of the employee and the employer but must exercise this right within one year of the date of grant of the patent; otherwise, once this period of time has expired, ownership shall revert entirely to the employee.

Article 51

In the absence of agreement between the employer and the employee, or if disagreement should arise between them during the course of exploiting the invention, either of them may petition the Court for full ownership of the patent, in return for payment to the other of an indemnity determined by the judge.

Article 52

The provisions of the preceding Article shall be applicable, in the absence of agreement to the contrary, to inventions concerning which patents have been applied for within one year of the date on which the inventor left the service of the enterprise, if such inventions were made during the course of an employment contract.

Article 53

Where a patent is applied for by the enterprise and the invention results from an employment contract, it shall be compulsory to mention this fact, together with the name of the inventor, in both the application and the letters patent.

Article 54

The provisions of this Chapter are also applicable to employees of internal public legal entities, their *autarquias*¹⁾ and corporations.

CHAPTER XV

Inventions of Interest to National Defense

Article 55

Applications for titles of protection the subject matter of which, according to the criteria of the National Department of Industrial Property, is declared to be of interest to national defense, must be filed and prosecuted in secrecy either *ex officio* or at the request of the inventor.

Sole paragraph. — Once the application has been filed, the description of the invention shall be sent to the competent

¹⁾ *Autarquias* are government bodies having financial autonomy.

military authorities, who must decide, within a reasonable period of time, on the usefulness of keeping the invention secret and give their opinion regarding its utilization for national defense.

Article 56

The characteristic features of the patents for inventions referred to in the preceding Article shall not be published, although the patents are numbered normally by the National Department of Industrial Property.

Article 57

Inventions considered to be of interest to national defense may be expropriated in accordance with Article 48 by a decision of the National Security Council.

Article 58

Inventions deemed to be of a secret nature shall be kept secret and copies thereof shall be sent to the General Staff of the Military Ministry concerned.

Article 59

Violations of the secrecy of inventions of interest to national defense, and declared to be such in accordance with Article 55, shall be punished as crimes against the national security.

CHAPTER XVI

Expiry and Forfeiture of Titles of Protection

Article 60

Patents for inventions, industrial designs and industrial models shall expire:

- (a) at the end of the period of legal protection;
- (b) by the patentee's renunciation contained in a declaration drawn up in legal form;
- (c) by forfeiture.

Article 61

The title of protection shall be forfeited:

1. if the fees payable under Article 28 are not paid within the legal time limits;
2. at the request of any interested party who proves that the patented invention has not been effectively worked in the country for more than three consecutive years, except for justified reasons or because of circumstances beyond control.

(1) Forfeiture shall not be pronounced on the basis of item 2 of this Article if the patentee proves, by a valid document, that he has granted a license to a third party for the exploitation of the patent.

(2) If, notwithstanding the license granted, exploitation of the invention is again interrupted, the request for forfeiture may be renewed.

Article 62

Non-payment of fees within the legal time limits shall result in forfeiture of the title of protection by a decision, from which there shall be no appeal, of the Director-General of the National Department of Industrial Property.

(1) The decision shall be given six months from the date of expiration of the period provided for payment of the fee, payment being possible during those six months.

(2) During the 90 days following forfeiture for non-payment of fees due, a request may be made for restoration of the patent, upon payment of the fees.

Article 63

The continual and regular exploitation of the invention on an industrial scale adequate for the consumer requirements of the country, whether through production carried out by the patentee or through the granting of licenses to third parties, shall be considered effective working.

Article 64

Once a request for forfeiture has been presented, the patentee shall be notified and given a period of 90 days, which cannot be extended, in which to state his case.

Article 65

Forfeiture of patents shall be pronounced by the Director-General of the National Department of Industrial Property.

(1) An appeal may be made within 30 days from the decision granting or denying forfeiture.

(2) Once the decision of forfeiture has become final, the Director-General of the National Department of Industrial Property shall issue a communication notifying third parties thereof, and the invention shall become public property.

CHAPTER XVII

Nullity of Titles of Protection

Article 66

Patents for inventions, industrial designs or industrial models shall be null and void:

1. if it is proved that the subject matter thereof is (not) in accordance with the requirements of Articles 5, 6, 9 and 10;
2. if they have been granted in violation of Articles 7 and 14;
3. if they have been granted in violation of the rights of third parties;
4. if the title of the invention does not correspond to its true subject matter;
5. if the author, in the description of the invention, has not complied with the provisions of Article 15(2).

Sole paragraph. — Nullity may be applicable to all or part of the characteristic features of the invention.

Article 67

Nullity of rights in an invention, industrial design or industrial model may be decided only judicially.

Sole paragraph. — An action for nullity may be instituted at any time during the period of validity of the title of protection.

Article 68

The following shall be competent to bring action for patent nullity:

- (i) any interested third party;
- (ii) the Union, through the Public Prosecutor [*Procurador da Republica*].

Sole paragraph. — Any persons harmed by the grant of the patent shall be considered interested parties.

Article 69

Actions for patent nullity shall be prosecuted and judged in accordance with the Code of Civil Procedure and may be brought together with actions for damages.

(To be continued)

LETTERS FROM CORRESPONDENTS

Letter from the Federal Republic of Germany *)

By Professor Dr. Friedrich-Karl BEIER, Munich

*(Second Part) **)*

NEWS CONCERNING NATIONAL PATENT OFFICES**The Activities of the French Institute
for Industrial Property in 1967**

By P. FRESSONET

Operations Performed

The Service received 49,341 patent applications (49,486 in 1966) and granted 46,995 patents (43,950 in 1966). It received 20,564 applications for the registration of marks (21,157 in 1966), and 13,638 marks were registered (13,921 in 1966). It registered 12,886 designs (12,624 in 1966).

Patent applications included 1,180 applications for special medicine (*médicament*) patents (1,118 in 1966), the grant of which is subject to presentation of a documentary report on the novelty of the invention. 950 patents of this type were granted (908 in 1966).

Nearly 700,000 new documents (French and foreign patents, index cards, reviews, microfilms, etc.) were made available to the public.

The Service received 93,200 letters and sent out 87,000.

Some 50,000 visitors made use of the reference rooms, including the library.

**Steps Taken to Facilitate Public Access to Patent
Documentation**

A Documentation Center was opened at Lyons where the public is able to consult:

- the complete collection of individual publications of French patents from the year 1791 to the present day;
- collections of patents from the United States of America, the Federal Republic of Germany, Great Britain and Switzerland, from 1960;
- collections of both French and foreign Official Gazettes concerning industrial property;
- a copy of the file, kept in Paris, of descriptive abstracts of French patent applications;
- a copy of the judicial file, also kept in Paris, of court decisions delivered in respect of patent cases;

- photographic reproductions of designs registered in Paris which are likely to be of interest to industry in the Lyons area;
- a selection of French and foreign scientific and technical reviews.

The Documentation Center of Marseilles has been making use of the microfilm collection of American patents received from the United States of America under a Patent Exchange Agreement between the two countries.

Among the projects under way are plans to produce copies of patents by the offset method. The use of this printing process would bring about savings on the administrative level and would allow copies of patents to be made available to the public much more rapidly than is possible with the conventional printing-press method (six weeks instead of four to six months, from the date of publication of the descriptive abstracts in the *Bulletin officiel de la propriété industrielle*). This procedure would involve certain changes in the presentation of patent applications by applicants.

Steps Taken to Improve Working Methods

At Compiègne, a records depository has been established in buildings specially constructed for that purpose. The depository includes 4,000 square meters of floorspace and 17 kilometers of shelfspace.

In July 1967, a contract was concluded with a private firm with the object of studying a method and means of performing searches for anticipation of a given mark among the marks filed. The first operations made under the contract took place during the last quarter of 1967. Examples taken from court decisions demonstrate the effectiveness of the method employed.

Legislation

A new Patent Law, introducing in particular a compulsory documentary report on the novelty and inventive step (*activité inventive*) of the invention was drawn up. A great many working meetings were held for this purpose with representatives of the associations and professional circles concerned. The Bill first came up for debate before the National Assembly on July 1, 1967. It was adopted by Parliament on December 19, 1967. The new Law will enter into force on January 1, 1969. Rules regarding its implementation will have to be laid down.

Activities Concerning International Relations

The Service informed the interested associations and professional circles of the work in which it had participated within the framework of the Council of Europe, BIRPI and ICIREPAT.

It collaborated in the organization of an international colloquy held in October 1967 on the subject "The protection of search results in the face of the development of science and technology" within the framework of the Center of International Studies in Industrial Property at Strasbourg.

Income and Expenditure

The total budget of the National Institute for 1967 amounted to 33,143,933 French francs.

Excluding services not concerned with industrial property, operating expenses amounted to 27,646,131 French francs, of which 24,348,327 were chargeable to the patent service.

The corresponding income was 25,550,695 French francs, of which 22,462,753 francs were attributable to patents.

The French Institute for Industrial Property, a public institution having legal status and financial autonomy, must balance all of its charges with its own resources; consequently, the deficit of the last financial year, that is a net deficit of 2,094,681 French francs, has been covered by a deduction from its reserves.

In 1967, the National Institute further assigned a sum of 2,743,538 French francs to the purchase of equipment.

BOOK REVIEWS

Cancellation of Marks (in Greek), by *Michel Moumouris*, Barrister at the Court of Athens. - Athens, 1967.

In this 316-page volume, the author makes a thorough study of Article 15 of the Hellenic Law on Marks, which lists the grounds for the cancellation of a regularly registered mark.

This study in depth deals with the subject matter in great detail from the standpoint of both national law and comparative law. Incidentally, the author reviews the entire Hellenic system of industrial property protection and makes quite a number of comments on *lege ferenda*.

To be noted in particular is the comprehensive bibliography, both Greek and foreign, as well as the wealth of quotations from case law.
P. M.

Erratum

Readers are kindly requested to take note of the following error, which appeared in the article entitled "First Year of Application of the Nice Act of the Madrid Agreement Concerning the International Registration of Marks," published in *Industrial Property*, August 1968. In the table on page 254, second column, concerning the geographical break-down of refusals of protection notified to BIRPI, instead of "Greece," read "France."

CALENDAR OF MEETINGS

BIRPI Meetings

December 2 to 10, 1968 (Geneva) — Committee of Experts — Patent Cooperation Treaty (PCT)

Object: New Draft Treaty — *Invitations:* All member States of the Paris Union — *Observers:* State not member of the Paris Union: India. Intergovernmental Organizations: United Nations; United Nations Industrial Development Organization; United Nations Conference on Trade and Development; International Patent Institute; Organization of American States; Permanent Secretariat of the General Treaty for Central American Economic Integration; Latin-American Free Trade Association; Council of Europe; European Atomic Energy Community; European Economic Community; European Free Trade Association; African and Malagasy Industrial Property Office. Non-Governmental Organizations: Committee of National Institutes of Patent Agents; Council of European Industrial Federations; European Industrial Research Management Association; Inter-American Association of Industrial Property; International Association for the Protection of Industrial Property; International Chamber of Commerce; International Federation of Inventors' Associations (IFIA); International Federation of Patent Agents; Japan Patent Association; National Association of Manufacturers (U.S.A.); Union of European Patent Agents; Union des industries de la Communauté européenne

December 12 and 13, 1968 (Geneva) — Committee for International Cooperation in Information Retrieval Among Examining Patent Offices (ICIREPAT) — Enlarged Transitional Steering Committee (4th Session)

Object: Implementation of the decisions of the 4th Session of the Executive Committee of the Conference of Representatives of the Paris Union — *Invitations:* Germany (Fed. Rep.), Japan, Netherlands, Soviet Union, Sweden, United Kingdom, United States of America — *Observers:* International Patent Institute

February 3 to 7, 1969 (Paris) — Permanent Committee of the Berne Union (Extraordinary Session)

Object: Consideration of various questions concerning copyright — *Invitations:* Belgium, Brazil, Denmark, France, Germany (Fed. Rep.), India, Italy, Portugal, Rumania, Spain, Switzerland, United Kingdom — *Observers:* All other member States of the Berne Union; interested international intergovernmental and non-governmental organizations

September 22 to 26, 1969 (Geneva) — Interunion Coordination Committee (7th Session)

Object: To be announced later — *Invitations:* To be announced later

September 22 to 26, 1969 (Geneva) — Executive Committee of the Conference of Representatives of the Paris Union (5th Session)

Object: To be announced later — *Invitations:* To be announced later

September 12 to 26, 1969 (Geneva) — Council of the Lisbon Union for the Protection of Appellations of Origin and their International Registration (4th Session)

Object: Annual Meeting — *Invitations:* All member States of the Lisbon Union — *Observers:* All other member States of the Paris Union

Meetings of Other International Organizations Concerned with Intellectual Property

December 2 to 6, 1968 (Lima) — Inter-American Association of Industrial Property (ASIPI) — Congress

December 2 to 6, 1968 (Bogota) — VI Interamerican Meeting on Copyright

January 16 to 18, 1969 (London) — International Writers Guild (IWG) — Executive Committee

June 9 to 14, 1969 (Venice) — International Association for the Protection of Industrial Property (IAPIP) — XXVII International Congress

