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# World Intellectual Property Organization

## The World Intellectual Property Organization in 1975

### Introduction

In 1975, the main activities of WIPO as such (as distinguished from those of the Unions administered by it) were: first, the efforts which culminated in the accession of a number of States which had formerly exercised the so-called five-year privilege to membership of WIPO; second, the projects executed under the legal-technical assistance program, in particular the continuation of the preparation of a new Model Law on Inventions and Know-How, the completion of a Model Law for Arab States on Trademarks, the continuation of assistance to the Government of Brazil in modernizing its patent system, the plans for the creation of a patent documentation and information service within the African and Malagasy Industrial Property Office (OAMPI), the steps leading to the strengthening of the patent, trademark and industrial designs system in the English-speaking countries in Africa and the convening within the framework of the WIPO Permanent Legal-Technical Program for the Acquisition by Developing Countries of Technology Related to Industrial Property of seminars, training courses and groups of consultants to consider various problems concerning such acquisition; and, third, measures taken for the purposes of cooperation on activities and coordination of administrative matters within the United Nations system.

### Member States

*Acceptance.* The Governments of 17 States deposited instruments of ratification of or accession to the Convention Establishing the World Intellectual Property Organization (WIPO): Algeria, Chile, Congo, Egypt, Gabon, Greece, Holy See, India, Iraq, Japan, Mexico, Niger, Portugal, Republic of South Viet-Nam, Togo, Tunisia, Upper Volta. With the exception of Greece and Iraq, all these ratifications and accessions took effect in 1975. The number of States bound by the WIPO Convention at the end of 1975 was 63.

*Five-Year Privilege.* The privilege under Article 21(2)(a) of the WIPO Convention whereby States members of the Unions not party to that Convention were able to exercise the same rights as if they had become party to the Convention expired on April 26,

1975. On that date, 22 States were exercising the said privilege. By the end of 1975, 12 of the said States had ratified or acceded to the WIPO Convention.

*Wider Acceptance of the WIPO Convention and the Treaties Administered by WIPO.* The International Bureau continued its efforts to promote wider acceptance of the WIPO Convention and the treaties administered by WIPO. States members of the United Nations and of other specialized agencies which had not yet become party to the WIPO Convention were invited to ratify or accede to that Convention. As for the other treaties administered by WIPO, special emphasis was placed on the importance of an early ratification or accession to facilitate the entry into force of those treaties.

### Administrative Bodies

*Membership.* The membership of the Administrative Bodies of WIPO is set forth below (p. 14).

*Sixth Series of Meetings.* The sixth series of meetings of the Administrative Bodies of WIPO and of the Unions administered by WIPO was held in September 1975. During the said series of meetings the WIPO Coordination Committee met in ordinary session, as did the Executive Committees of the Paris and Berne Unions. In addition, the Madrid Union Assembly and Committee of Directors and the Nice Union Assembly met in extraordinary session and a Preparatory Committee for the Entry Into Force of the Strasbourg Agreement Concerning the International Patent Classification was convened.

*WIPO Coordination Committee.* The WIPO Coordination Committee met in extraordinary session in February 1975 and, as indicated above, in ordinary session in September 1975 during the sixth series of meetings of the Administrative Bodies of WIPO.

The principal decisions taken by the WIPO Coordination Committee in September 1975 were as follows. The Committee noted with approval the report of the Director General on the activities of the International Bureau of WIPO since October 1974, the accounts of the International Bureau, the report of the auditors on those accounts and other information concerning finances for 1974. The Committee established the WIPO Legal-Technical Assistance Program and Budget for 1976. It also noted the informa-

tion on the composition of the Secretariat, which included 158 staff members, nationals of 36 different countries, and approved a long-term plan for filling vacant posts, which includes the principle of distribution by regions and other principles in conformity with those implemented in the United Nations.

*Appointment of Deputy Directors General.* At its session in February 1975, the WIPO Coordination Committee approved the appointment by the Director General of Mrs. K.-L. Liguier-Laubhouet, a national of the Ivory Coast, to the post of Deputy Director General to be occupied by a national of a developing country. At its session in September 1975, the WIPO Coordination Committee approved the appointment of Mr. Felix A. Sviridov, a national of the Soviet Union, to the post of Deputy Director General to be occupied by a national of a Socialist country.

### **Legal-Technical Assistance to Developing Countries**

WIPO continued to implement its technical assistance program for developing countries. The program was complemented by the approved programs for the year 1975 of the various Unions, which included projects also of benefit to developing countries.

#### *Training Program*

In cooperation with the various industrial property offices or copyright offices, 16 traineeships for a duration of two or three months were organized under the 1975 program for officials from Burundi, Cameroon, Egypt, Honduras, Iraq, Mexico, Nigeria, Pakistan, Senegal, Sri Lanka, Sudan, Tanzania, Venezuela, Zaire, the Industrial Development Centre for Arab States (IDCAS) and the African and Malagasy Industrial Property Office (OAMPI).

#### *Assistance to Certain Developing Countries and Regional Institutions of Developing Countries*

*Algeria.* After further discussions, held with the Algerian authorities in Algeria in June 1975, on the draft legislative texts on innovations and inventions prepared by the International Bureau with the aid of a consultant, revised drafts of a decree on innovations and guidelines concerning its application, a decree on the protection of inventions and a decree on the remuneration of inventors were prepared, together with memoranda on certain aspects of those decrees, and sent to the Algerian authorities in July 1975.

*Brazil.* Implementation of the project under the United Nations Development Programme (UNDP) to assist the Government of Brazil in modernizing the Brazilian patent system continued.

The five-year project commenced during the second half of October 1973, and the first phase was completed in mid-October 1975. The details of the

program and budget of project activities to be carried out during the second phase, which ends in mid-October 1978, presented by WIPO, were approved and a revised project document was signed in June/July 1975 by the Brazilian Government and UNDP.

With the valuable cooperation of the national industrial property offices of Australia, Germany (Federal Republic of), Japan, the Netherlands, Sweden, the United Kingdom and the United States of America as well as the International Patent Institute (IIB), 33 experts have been recruited by WIPO and 226 man/months of expert services have been spent on the project since its commencement.

Under the direction of the project manager, who is an expert in industrial property administration, and with the advice of a consultant and the collaboration of national counterpart staff, an organizational plan for the patent operations of the National Institute of Industrial Property (INPI) was prepared and a centralized file was established of patent documents classified according to the International Patent Classification (IPC) and arranged in numerical order. The existing patent document collection of INPI was augmented by patent documents contributed by the industrial property offices of France, Germany (Federal Republic of), Switzerland, the United Kingdom and the United States of America. More than one million documents have been introduced into the newly-created search file established according to the finest subdivision of the IPC.

A series of training courses in patent classification, searching techniques and examination in the chemical, electrical and mechanical fields, of three-months' duration, was organized and manuals on patent operations were prepared. The training courses are supplemented by a subsequent six-month period of on-the-job training. More than 50 trainees participated in the training program.

*Cuba.* In response to the request of the Government of Cuba in April 1975, an expert from the German Patent Office (Munich) provided training in Cuba for a two-week period during October 1975 on the application of the International Patent Classification (IPC) and gave advice on the classification of search files and other questions concerning the organization of an industrial property office.

*Nigeria.* At the request of the Government of Nigeria, an evaluation mission, consisting of three officials of the International Bureau, visited the government authorities of Nigeria in June 1975, studied the needs of the Nigerian Industrial Property Office and made recommendations for its improvement.

The mission also recommended that a study be made of the possibility of regional cooperation with other African industrial property offices, of ratification of or accession to several international conventions and agreements, and of the creation of a tech-

nical information bank on the basis of patent documents.

*Saudi Arabia.* In November 1975, the Government of Saudi Arabia announced that its Industrial Studies and Development Centre intended to undertake a study on the use by Saudi Arabian industry of patents and trademarks of foreign establishments and requested information from the International Bureau on the subject. The International Bureau provided the authorities of Saudi Arabia with information on the Model Laws for Developing Countries which have been or are being prepared on patents and trademarks, as well as on other procedural and substantive aspects of the subject.

*English-Speaking Countries in Africa.* The Conference on Industrial Property Laws of English-Speaking Africa, which was convened jointly by the United Nations Economic Commission for Africa (ECA) and WIPO in Addis Ababa in June 1974, established a Committee for Patent Matters and a Committee for Trademark and Industrial Design Matters<sup>1</sup>.

These two Committees held their first sessions in October 1975 at Nairobi, Kenya. Nine of the 18 States invited sent delegations to take part in the work of the Committees: Gambia, Ghana, Kenya, Lesotho, Liberia, Nigeria, Sudan, Uganda and Zambia.

The delegations expressed the favorable attitude of their Governments to the draft Agreement on the Creation of an Industrial Property Organization for English-Speaking Africa, which the Conference held at Addis Ababa had approved for consideration, and recommended the convening in December 1976 of a Diplomatic Conference for the adoption and signature of such an Agreement.

The two Committees recommended that independent patent and trademark systems should be established where they did not yet exist, that national patent and trademark laws should be modernized and harmonized, that such harmonization should be accomplished through the preparation of model provisions which should form the basis of national legislation, and that, in order to promote regional cooperation, a regional office should be established to assist the cooperating countries in implementing their national legislation, training personnel, giving advice on existing technology through the creation of a patent documentation center and assisting in the examination of trademark applications.

The Committee for Trademarks and Industrial Designs also recommended that a survey should be made to obtain information on the desirability of introducing independent systems of design protection in the countries of English-Speaking Africa and of

establishing a special system for the protection of textile designs.

The two Committees invited WIPO, in consultation with the ECA, to prepare a full draft of the model provisions referred to above, to undertake a feasibility study with the assistance of UNDP, and to take other necessary steps with a view to the establishment of the proposed regional office.

Finally, the Committee for Patent Matters recommended that all countries should accede as soon as possible to the Patent Cooperation Treaty (PCT) and, where they had not done so, to accede as a first step to the Paris Convention for the Protection of Industrial Property.

*Industrial Development Centre for Arab States (IDCAS).* Work continued on the draft plan for the creation of a regional patent documentation center under the aegis of IDCAS. A preliminary draft plan has been prepared by the Secretariat of IDCAS with the assistance of the International Bureau. In this connection, a staff member of IDCAS underwent training in patent documentation with a view to assisting in the further development of the draft plan.

Work was also completed in cooperation with IDCAS on the preparation of a Model Law for Arab States on Trademarks (see p. 6).

*African and Malagasy Industrial Property Office (OAMPI).* In May/June 1975, a preparatory assistance mission, financed by UNDP, explored the possibilities of assisting OAMPI in establishing a regional patent documentation center. The mission, consisting of two experts from the Austrian and Swiss Patent Offices and two officials of the International Bureau, met with officials of OAMPI in Yaoundé and with the competent government authorities and the representatives of UNDP in four countries, namely, Cameroon, Gabon, Ivory Coast and Senegal.

The mission prepared a report which contains recommendations to OAMPI and UNDP and a draft project document concerning the creation of a patent documentation and information service within the framework of OAMPI. The service would have the following functions: (1) to provide a source of information on technology available in patent applications filed not only with OAMPI but also in the principal industrialized countries, with the objective of facilitating the efficient transfer of technology; (2) to provide a working tool for the patent service of OAMPI and for governments and industry to perform state-of-the-art searches on inventions, with a view to the possibility that OAMPI might become an International Searching Authority as defined in the PCT.

The report of the mission was submitted to OAMPI and UNDP in July 1975 for consideration and approval of the project.

<sup>1</sup> See *Industrial Property*, 1975, p. 335.

### *Model Laws for Developing Countries*

*Appellations of Origin.* The text of the Model Law on Appellations of Origin and Indications of Source and its Commentary was published in January 1975. The Model Law is based on the discussions of a Committee of Experts which met in April 1973.

*Inventions and Know-How.* The Working Group on the Model Law for Developing Countries on Inventions and Know-How held two sessions in 1975. The Working Group was convened pursuant to a decision of the WIPO Permanent Committee for the Acquisition by Developing Countries of Technology Related to Industrial Property, which had recommended at its first session in March 1974 that the BIRPI Model Law for Developing Countries on Inventions published in 1965 should be revised.

The revision started in 1974 with the preparation, by the International Bureau, of draft model provisions on contractual licenses, know-how, the State control of certain contracts, transfer of technology patents, and industrial development patents. Those draft model provisions were discussed in the first session of the Working Group in November 1974<sup>2</sup>.

For its second and third sessions in 1975 the Working Group was composed of experts designated by the Governments of the following countries: Algeria, Argentina, Brazil, Cameroon, Chile, Egypt, France, Germany (Federal Republic of), Hungary, Indonesia, Israel, Kenya, Mexico, Poland, Spain, Sri Lanka, Soviet Union, Tunisia, United Kingdom, United States of America, Zaire. The Chairman of the Permanent Committee was an *ex officio* member of the Working Group at these sessions. In addition, the United Nations, the United Nations Conference on Trade and Development (UNCTAD) and a number of international non-governmental organizations were represented.

In its second session, which was held in May 1975<sup>3</sup>, the Working Group discussed draft model provisions, prepared by the International Bureau, on patentability, the right to the patent, the rights under the patent, the duration of the patent, and compulsory licenses.

In its third session, which was held in November 1975<sup>4</sup>, the Working Group discussed draft model provisions, prepared by the International Bureau, on the procedure for the grant of patents, assignment and transfer of patent applications and patents, joint ownership of patents, surrender and nullity, infringement of rights under the patent, procedural provisions and rules. Furthermore, the Working Group also discussed inventors' certificates and two new topics not previously dealt with in the BIRPI Model

Law: information services of the patent office and innovations.

In accordance with the decisions of the Permanent Committee of the WIPO Legal-Technical Program for the Acquisition by Developing Countries of Technology Related to Industrial Property, the Working Group also had before it at its sessions the report on the discussions in the Permanent Committee, the United Nations (Department of Economic and Social Affairs) — UNCTAD — WIPO report entitled "The Role of the Patent System in the Transfer of Technology to Developing Countries" and the directives of the 1975 session of the Permanent Committee, as well as the report of the first session of the WIPO Ad Hoc Group of Experts on the Revision of the Paris Convention<sup>5</sup> and a report, prepared by the Director General, containing an analysis and suggestions concerning the fourteen questions of that first session.

*Copyright.* The draft of a Model Law on Copyright for Developing Countries, with a commentary on it, compatible with the Paris (1971) revisions of the Berne Convention for the Protection of Literary and Artistic Works and of the Universal Copyright Convention, was completed by the International Bureau of WIPO and the Secretariat of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in May 1974. In June 1974, the draft was circulated for comments to the Governments of States party to the Berne Convention and/or to the Universal Copyright Convention and to interested international organizations. Comments were received from a number of such Governments and organizations. A committee of experts, consisting of representatives of developing countries, will meet at Tunis in February, 1976, to adopt a model law on copyright for developing countries.

*Model Law for Arab States on Trademarks.* At the invitation of the Industrial Development Centre for Arab States (IDCAS) and WIPO, and with the cooperation of the Government of Tunisia, a Committee of Experts to study the second draft of the Model Law for Arab States on Trademarks met at Tunis in June 1975. Eleven States, all members of the League of Arab States, were represented: Algeria, Egypt, Iraq, Kuwait, Libyan Arab Republic, Morocco, Sudan, Syrian Arab Republic, Tunisia, Qatar, United Arab Emirates.

The discussions of the Committee were based on the second draft of the Model Law for Arab States on Trademarks, prepared by the Secretariat of IDCAS and the International Bureau, and on the preliminary observations of certain States on this draft, as well as on other written observations submitted in the course of the meeting. In accordance

<sup>2</sup> *Ibid.*, 1975, p. 49.

<sup>3</sup> *Ibid.*, 1975, p. 230.

<sup>4</sup> *Ibid.*, 1976, p. 82.

<sup>5</sup> *Ibid.*, 1975, p. 84.

with the decision of the Committee, the Secretariat of IDCAS and the International Bureau, in cooperation with the Chairman of the Committee, prepared in October 1975 a revised draft on the basis of the observations and proposals submitted during the meeting.

The revised draft was submitted to a Drafting Committee, which met at Doha, Qatar, in November 1975, at the invitation of the Government of Qatar. The Drafting Committee completed the revised draft and adopted the final text of the Model Law. The Model Law, which was prepared in Arabic, has been translated into English and French and will be printed by the International Bureau in these three languages in one volume and sent by IDCAS to all the States members of the League of Arab States.

#### *Acquisition by Developing Countries of Technology Related to Industrial Property*

*Permanent Program.* The activities of the International Bureau carried out within the framework of the WIPO Permanent Legal-Technical Program for the Acquisition by Developing Countries of Technology Related to Industrial Property, established by the WIPO Conference in November 1973, and the work of the Permanent Committee which keeps the Permanent Program under review and makes recommendations in this connection to the WIPO Conference and Coordination Committee are summarized in the following paragraphs.

*Permanent Committee.* The Permanent Committee held its second session in March 1975. At that time, the Permanent Committee comprised 47 members<sup>6</sup>, 34 of which were represented at the session; 17 other States and 6 intergovernmental and 10 international non-governmental organizations were represented by observers. In addition, representatives of the International Patent Documentation Center (INPADOC) participated in the session.

The Permanent Committee considered the following items, on the basis of documentation prepared by the International Bureau, and decided to make the following recommendations.

*New Model Law for Developing Countries on Inventions and Know-How.* The Permanent Committee endorsed the plans for the future sessions of the Working Group on the Model Law for Developing Countries on Inventions and Know-how (see above).

*Licensing Seminar and Licensing Guidelines.* The Permanent Committee recommended that the texts of the lectures given at the Licensing Seminar held in November 1974, within the framework of the Permanent Program, and the detailed summary of the proceedings prepared by the Chairman should be dis-

tributed not only to the participants but also to the Governments of the member States of the Permanent Committee. It also endorsed the plans of the International Bureau for further work in the field of licensing, which include the preparation of draft guidelines appropriate to the needs of developing countries, with illustrative examples of the drafting of specific provisions and possibly also with draft model provisions, to be submitted to a committee of experts.

*Publication on Licensing Opportunities.* A Group of Editorial Consultants, established on the recommendation of the Permanent Committee, held its first session in January 1975. As recommended by the Permanent Committee, the Group consisted of consultants nominated by the Governments of Austria, Brazil, Egypt, France, Sri Lanka and the United States of America, and by three non-governmental organizations.

The task of the Group was to advise on a possible publication to be issued by the International Bureau as a means of providing information on opportunities for developing countries to acquire technology through license agreements.

The Group expressed the opinion that a publication on licensing opportunities merely reproducing all offers and demands submitted and not forming an integral part of wider services and facilities for the transfer of technologies would not be of significant benefit to developing countries. The Group asked the Permanent Committee to give directions for its future work.

At its session in March 1975, the Permanent Committee decided to defer the decision on convening a further meeting of the Group of Editorial Consultants until after the results of the envisaged consultations with UNCTAD and the United Nations Industrial Development Organization (UNIDO) on possible cooperative services, referred to below (see "Cooperative Technical Advisory Services: proposal by Cuba"), could be assessed.

*Training Course for Developing Countries on the Use of the International Patent Classification (IPC).* A Training Course for Developing Countries on the Use of the IPC was organized by the International Bureau within the framework of the Permanent Program in May 1975.

Officials of 14 countries members of the Permanent Committee and of OAMPI participated in the Training Course.

Lectures were given by officials of the International Bureau and IIB on the role of patent information and documentation, the history of the IPC and its administration, the principles, the layout of the system and the advantages of using the IPC, the use of the IPC by a non-examining office and by an examining office, and the organization of training of classifiers within an office.

<sup>6</sup> The number of States members of the Permanent Committee at the end of 1975 was 49.

The lectures were followed by practical training in the use of the IPC and by an exchange of views on the experience gained.

*Cooperative Technical Advisory Services: proposal by Cuba.* In June 1975, representatives of the International Bureau, assisted by a consultant, had preliminary consultations with the Secretariats of UNCTAD in Geneva and UNIDO in Vienna, to discuss the proposal of the Delegation of Cuba, which was endorsed by the Permanent Committee at its second session, that WIPO, UNCTAD and UNIDO should examine jointly the possibility of establishing and maintaining services on a cooperative basis to provide technical advice relating to alternative technologies, and the means of choosing them, and customary conditions in various types of contracts for the acquisition of technology, to provide patent and patent-related information and information on licensing opportunities, and to provide training.

*State-of-the-Art Search Reports: proposal by Austria.* In July 1975, an Agreement was signed on behalf of the Government of Austria and on behalf of WIPO concerning the furnishing by the Austrian authorities of search reports on the "state of the art" in response to search requests submitted by developing countries through the International Bureau. The Agreement provides the legal basis for the implementation of the proposal concerning such searches made by the Delegation of Austria at the March 1975 session of the Permanent Committee. The purpose of the Agreement is to provide free of charge 100 searches of the state of the art, and thereby to enable an experiment to be conducted concerning the usefulness of such searches to developing countries in the context of the acquisition by such countries of technology related to industrial property.

Search requests, submitted by developing countries in response to the invitation extended by the Director General in 1975, are being processed by the Austrian authorities in cooperation with the International Bureau.

#### *Other Relations with Developing Countries*

*Meetings.* WIPO was represented at the sixteenth session of the United Nations Economic Commission for Latin America (ECLA) at Port-of-Spain in May 1975, and at meetings on technology acquisition through licensing convened by UNIDO in Kuala Lumpur in October and in Benghazi in December 1975.

*Missions.* Visits were made to Algeria, Argentina, Brazil, Cameroon, Chile, Egypt, Gabon, Indonesia, Iran, Ivory Coast, Kenya, Kuwait, Lebanon, Libyan Arab Republic, Madagascar, Malaysia, Mexico, Morocco, Nigeria, Pakistan, Peru, Qatar, Senegal, Singapore, Thailand, Togo, Tunisia, Turkey, Uruguay and

Venezuela by officials of the International Bureau for the purpose of exchanging views with the government authorities and the Resident Representatives of UNDP in those countries on matters concerning industrial property or copyright.

Similarly, talks took place on such matters with the Secretariats of the ECA in Addis Ababa, the ECLA in Port-of-Spain, the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) in Bangkok, with IDCAS in Cairo, with the Junta of the Cartagena Agreement (Andean Group) in Lima, with the Organization of African Unity (OAU) in Addis Ababa and with OAMPI in Yaoundé.

### **Cooperation Between WIPO and Other Organizations Within the United Nations System**

#### *General Coordination of Policies and Activities with Other Organizations Within the United Nations System*

The Director General and officials of the International Bureau participated in the work of United Nations bodies established for the purpose of facilitating coordination of the policies and activities of the organizations within the United Nations system.

Thus, the Director General participated in the sessions of the Administrative Committee on Coordination (ACC) (April, July and October, 1975), which consists of the executive heads of the United Nations, of the specialized agencies and of other organizations within the United Nations system, with the Secretary-General of the United Nations as Chairman. Officials of WIPO also attended the meetings of certain subcommittees of the ACC, including the Preparatory Committee (March, July, September and October 1975), the Consultative Committee on Administrative Questions (CCAQ) (January and September, 1975), as well as other subcommittees and working groups and inter-agency meetings held during the year dealing with such matters as program planning, languages, documents and publications, development, science and technology, education and training, employment, racism and discrimination, the preparations for the Seventh Special Session of the General Assembly and the implementation of its resolutions, and International Women's Year.

The Director General and other officials of WIPO attended the sessions of the Inter-Agency Consultative Board (IACB) (April and October, 1975). The IACB consists of the Administrator of the United Nations Development Programme (UNDP), the Secretary-General of the United Nations and the executive heads of the specialized agencies and of the other organizations within the

United Nations system, with the Administrator of UNDP as Chairman. The IACB and its subsidiary bodies, including the Programme Working Group (PWG) and the Working Group on Administrative and Financial Matters (WGAFM), advise the Administrator of UNDP on the programs and projects submitted by governments, on the selection of Executing Agencies for the execution of projects and on other aspects of the United Nations Development Programme. Officials of WIPO also attended the meetings of the Programme Working Group (March and October, 1975) and the meetings of Accountants and of Contract Specialists (March, 1975) convened by WGAFM.

The Director General also took other measures for the purpose of coordination, in particular with a view to cooperation in administrative matters, as called for by the Agreement between the United Nations and WIPO. These measures included the continuation of the participation of WIPO in the United Nations Joint Purchasing Service, but as a full member whereas it had formerly been an associate member, and the making of arrangements, including participation as a full member, with the International Computer Centre for the performance of certain computer work facilitating the administration of the payroll and other financial records of the International Bureau.

*Information, Studies and Reports Requested By, and Coordination of Activities With, Other Organizations Within the United Nations System*

*United Nations.* In a number of resolutions adopted at its twenty-ninth session (September/December 1974), the General Assembly requested the Secretary-General of the United Nations to prepare, in coordination with the specialized agencies and other organizations of the United Nations system, a report on a specified subject for submission to a designated organ of the United Nations. Pursuant to the invitation of the Secretary-General, the Director General provided the information requested during the year 1975 or otherwise contributed to reports prepared by the Secretary-General on subjects of direct concern to WIPO.

At its Seventh Special Session in September 1975, the General Assembly considered a number of topics, including science and technology. As regards the transfer of technology and industrial property, the General Assembly called for a review and revision of the international conventions on patents and trademarks "to meet, in particular, the special needs of the developing countries, in order that these conventions may become more satisfactory instruments for aiding developing countries in the transfer and development of technology." The General Assembly also declared that "national patent systems should,

without delay, be brought in line with the international patent system in its revised form."

Furthermore, the General Assembly declared that developed countries should improve the transparency of the industrial property market in order to facilitate the technological choices of developing countries and, in this respect, it called upon the relevant organizations of the United Nations system, with the collaboration of developed countries, to undertake projects in the field of information, consultancy and training for the benefit of developing countries.

Moreover, the General Assembly stressed that the work of the relevant organizations of the United Nations system, including that of WIPO, to facilitate the transfer and diffusion of technology should be given urgent priority.

*United Nations and UNCTAD.* The study, prepared by the United Nations Department of Economic and Social Affairs, the UNCTAD Secretariat and the International Bureau, entitled "The Role of the Patent System in the Transfer of Technology to Developing Countries," was circulated by the Director General for written comments to Governments, with the request that they send him their comments by August 1, 1975. The Director General received comments from the following countries: Argentina, Australia, Austria, Belgium, Denmark, Finland, Germany (Federal Republic of), Ireland, Japan, Netherlands, Norway, Sweden, Switzerland, United Kingdom, United States of America and Zambia.

The same study had also been communicated for comments by UNCTAD, with an indication that the comments received would be transmitted to WIPO. UNCTAD transmitted to WIPO copies of the comments received by it from the following countries: Argentina, Australia, Austria, Belgium, Burma, Chad, Colombia, Denmark, Egypt, Finland, France, Germany (Federal Republic of), Ghana, Holy See, Hungary, India, Ireland, Italy, Japan, Lesotho, Netherlands, Norway, Pakistan, Poland, Rwanda, Singapore, Spain, Soviet Union, Sri Lanka, Sweden, Switzerland, Turkey, United Kingdom, United States of America, Venezuela, Yugoslavia and Zambia.

The study and summaries of the comments received by UNCTAD, together with other preparatory documents, were submitted to a Group of Governmental Experts on the Role of the Patent System in the Transfer of Technology of the Committee on Transfer of Technology, which was convened by UNCTAD in September 1975.

The conclusions and recommendations of the Group, which include a number of direct interest to WIPO, were endorsed by the Committee on Transfer of Technology of the UNCTAD Trade and Development Board, at its first session in November 1975.

At that session, the Committee on Transfer of Technology, in its resolution entitled the "Role of

Industrial Property in the Transfer of Technology to Developing Countries," recognized that patent legislation can be an important instrument for the economic development of the developing countries, if it is designed to serve their public interest. The Committee recommended that the process of revising the Paris Convention as well as the Model Law for Developing Countries on Inventions should take full account of the responsibility and competences of WIPO and UNCTAD and should be guided by certain considerations which the Group of Governmental Experts, referred to above, had agreed on.

The Committee on Transfer of Technology also called upon UNCTAD, UNIDO and WIPO to provide increased technical assistance to the developing countries with regard to industrial property as a means of promoting national technological development. The Committee recommended that the Secretary-General of UNCTAD continue developing UNCTAD's activities related to the economic, commercial and development aspects of the function of the international patent system in the transfer of technology and requested him to convene a meeting of governmental experts early in 1977 to continue, in the light of the fourth session of UNCTAD, the examination of the said aspects of industrial property in the transfer of technology to developing countries.

Finally, the Committee on the Transfer of Technology requested the Secretary-General of UNCTAD to undertake, in consultation with WIPO and UNIDO, studies on the improvement of the national scientific and technological infrastructures of developing countries with regard to industrial property and on the creation of national and sub-regional centers to facilitate the availability of information in the scientific-technical fields, the transfer of technology and personnel training. It further requested him, in coordination with WIPO, to prepare a study on the impact of trademarks, indications of source, appellations of origin and other subjects of industrial property protection on the developmental process of developing countries, and, in consultation with WIPO, to undertake studies on the impact which new policies and legislation in the field of industrial property and related matters have on that process.

*UNIDO.* The Second General Conference of the United Nations Industrial Development Organization (UNIDO), held at Lima, Peru, in March 1975, took several decisions relevant to the work of WIPO. The Conference adopted a "Declaration and Plan of Action on Industrial Development and Co-operation" and a resolution on the "Selection of Appropriate Industrial Technology."

Part III of the Lima Declaration and Plan of Action is entitled "Co-operation Between Developing and Developed Countries." It calls for coopera-

tion with a view to granting access by developing countries to technological know-how and advanced technology, to making available a greater flow to the developing countries of information permitting the proper selection of advanced technologies, to reviewing the international conventions on patents and trademarks and studying their revision through the work of WIPO with appropriate contributions of UNCTAD and other interested United Nations bodies, and to formulating an international code of conduct for the transfer of technology.

At its session in May 1975, the Industrial Development Board of UNIDO, in resolution 45(IX), the text of which was communicated by the Executive Director of UNIDO to the Director General in May 1975, invited all organizations of the United Nations system to initiate the necessary measures within their respective spheres of competence to implement the Lima Declaration and Plan of Action.

In its resolution on the subject of the selection of appropriate industrial technology, the General Conference of UNIDO requested the Executive Director of UNIDO, in consultation with the executive heads of the organs and agencies within the United Nations system concerned, notably UNCTAD, the International Labour Organisation (ILO) and WIPO, to prepare as a matter of urgency a "concrete co-operative programme of action to promote the creation, the transfer and the use of appropriate industrial technology for developing countries primarily related to specific branches of industry as well as to social conditions," and to submit a report on this matter including recommendations on ways and means of implementation through the Industrial Development Board and the Economic and Social Council to the General Assembly at its thirty-first session.

The "co-operative programme" called for by the said resolution parallels in some respects the cooperative technical advisory services which, in accordance with the recommendation of the Permanent Committee of the WIPO Permanent Legal-Technical Program on the Acquisition by Developing Countries of Technology Related to Industrial Property referred to above, WIPO has invited UNIDO and UNCTAD to examine.

*Unesco.* Close cooperation continued with the United Nations Educational, Scientific and Cultural Organization (UNESCO) on matters in the field of copyright and neighboring rights, particularly in connection with the publication of the Collection of Copyright Laws and Treaties of the World and of the Records of the Brussels Conference (1974) and in carrying out studies on the question of the reprographic reproduction of works protected by copyright, on the problems arising in connection with the making and use of audiovisual cassettes and discs, on the copyright problems in connection with the storage

in, and retrieval from, computers of works protected by copyright and on the question of the use of works protected by copyright in cable television (see *Copyright*, 1976, pp. 15 *et seq.*).

*Unesco and ILO.* Close cooperation was maintained with Unesco and the International Labour Organisation (ILO) on matters relating to neighboring rights. With the support of the Government of Mexico, a regional seminar under the title "Latin American and Caribbean Seminar on the Rights of Performers, Producers of Phonograms and Broadcasting Organizations" was organized by WIPO, ILO and Unesco at Oaxtepec in October 1975 (see *Copyright*, 1976, pp. 18 and 25). In addition, the Intergovernmental Committee established under the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention), the Secretariat of which is provided by the three organizations, was convened in December 1975 (see *Copyright*, 1976, p. 18).

#### *Representation at Meetings of United Nations Bodies*

WIPO continued to be represented at various meetings of the United Nations and other organizations of the United Nations system at which questions of direct interest to WIPO were discussed; these concerned, in addition to cooperation with other organizations within the United Nations system and coordination of their policies and activities (see p. 8), economic development, technical assistance the application of science and technology to development, transfer of technology to developing countries and related activities.

#### **Cooperation With Other Intergovernmental Organizations**

*Industrial Development Centre for Arab States (IDCAS):* see pp. 5 and 6 above.

*African and Malagasy Industrial Property Office (OAMPI):* see p. 5 above.

*Organization of African Unity (OAU):* see *Copyright*, 1975, p. 220.

#### **Relations With International Non-Governmental Organizations**

*Meetings.* WIPO was represented at meetings of various international non-governmental organizations and national organizations concerned with matters in the field of industrial property (see pp. 24 and 25) and copyright at which questions of direct interest to WIPO were discussed.

#### **WIPO Publications**

*Reviews.* The reviews *Industrial Property* and *Copyright* continued to appear every month in

English and French. The review *La Propiedad Intelectual*, containing general information and studies concerning WIPO, industrial property and copyright, continued to appear in Spanish every quarter.

*Other publications.* Updated editions of the WIPO *General Information* brochure were published in English and French in April 1975, in German in May 1975, and in Russian and Spanish in June 1975. A printed edition of the Agreement between the United Nations and the World Intellectual Property Organization containing all six language versions — Arabic, Chinese, English, French, Russian and Spanish — of the Agreement was published in April 1975. A catalogue of WIPO publications was published in March 1975.

Authentic or official texts in various languages of the international agreements and classifications administered by WIPO were published in the form of brochures. The publications are mentioned in connection with the relevant program activities.

The fourth supplement to the *Manual of the Berne Convention for the Protection of Literary and Artistic Works* (Texts) was published in English and French in October 1975. The English, French and German versions of the *Guide to the International Registration of Marks* (1975 Edition) were published in May 1975. The fourth supplement to the February 1974 edition of the *Directory of National Industrial Property Offices* was issued in February 1975. *The Role of Patent Information in Research and Development*, a collection of lectures given at the Moscow Symposium organized by WIPO in October 1974, was published in February 1975.

A new brochure, entitled *The International Patent Classification — General Information*, was published in English in September 1975 and in French in December 1975. Versions in other languages are in preparation.

Records of the Diplomatic Conference for the Revision of the Berne Convention (Paris, 1971) were published in English and French in October 1974 and the Records of the Vienna Diplomatic Conference on the Trademark Registration Treaty, 1973, were published in English in May 1975. The Records of the International Conference of States on the Protection of Phonograms (Geneva, 1971) were published in English and French in July 1975, and in Spanish in October 1975.

Model laws were also published in the form of brochures. The *Model Law concerning the Protection of Performers, Producers of Phonograms and Broadcasting Organizations* with a Commentary on it was published in English, French and Spanish in October 1974. The *Model Law for Developing Countries on Appellations of Origin and Indications of Source* was published in English, French and Spanish in February 1975. A reprint of the text

entitled *The Principal Provisions of Patent Legislation in Eighty-five Countries*, drafted in the form of summary tables and first appearing in *Industrial Property/La Propriété industrielle* (May/June 1974), was issued in English in September 1974 and in French in October 1974.

### WIPO Headquarters Building

Further progress was made in the construction of the new building. The supports and floor foundations of each of the twelve floors were completed. The central part of the heating and air conditioning installations was completed. The construction of the floor foundation and ceiling of the main conference room was completed.

### Other Activities

*Information meetings.* Lectures on WIPO and its activities were given by officials of the International Bureau in information meetings held at the headquarters of WIPO, for student groups from the Universities of Cologne in March 1975 and of Nice and Strasbourg in May 1975, as well as, also in May 1975, for a group of government officials from developing countries responsible for the planning of industrial development and the programming of technical assistance whose itinerary was organized by the United Nations Industrial Development Organization (UNIDO) in cooperation with the Government of Switzerland. Similarly, lectures were given at seminars and courses organized in Geneva by the United Nations Institute for Training and Research (UNITAR) in February, April and December, 1975. Officials of the International Bureau also participated in the weekly press briefings given at the *Palais des Nations* for the benefit of the communications media.

## Member States of the World Intellectual Property Organization

as on January 1, 1976\*

State		Date on which membership in WIPO took effect
Algeria . . . . .	P <sup>1</sup>	April 16, 1975
Australia . . . . .	P B <sup>2</sup>	August 10, 1972
Austria . . . . .	P B	August 11, 1973
Belgium . . . . .	P B	January 31, 1975
Benin . . . . .	P B	March 9, 1975
Brazil . . . . .	P B	March 20, 1975
Bulgaria . . . . .	P B	May 19, 1970
Byelorussian SSR . . . . .		April 26, 1970
Cameroon . . . . .	P B	November 3, 1973
Canada . . . . .	P B	June 26, 1970
Chad . . . . .	P B	September 26, 1970
Chile . . . . .	B	June 25, 1975
Congo . . . . .	P B	December 2, 1975
Cuba . . . . .	P	March 27, 1975
Czechoslovakia . . . . .	P	December 22, 1970
Democratic People's Republic of Korea . . . . .		August 17, 1974
Denmark . . . . .	P B	April 26, 1970
Egypt . . . . .	P	April 21, 1975
Fiji . . . . .	B	March 11, 1972
Finland . . . . .	P B	September 8, 1970

\* This list includes all the entities to which the Convention has been declared applicable. It does not imply any expression of opinion as to the legal status of any country or territory or of its authorities.

<sup>1</sup> "P" means that the State has ratified or acceded to at least the administrative provisions of the Stockholm Act of the *Paris Convention*.

<sup>2</sup> "B" means that the State has ratified or acceded to at least the administrative provisions of the Stockholm or Paris Act of the *Berne Convention*.

State			Date on which membership in WIPO took effect
France . . . . .	P	B	October 18, 1974
Gabon . . . . .	P	B	June 6, 1975
German Democratic Republic . . . . .	P	B	April 26, 1970
Germany, Federal Republic of . . . . .	P	B	September 19, 1970
Greece . . . . .		B	March 4, 1976
Holy See . . . . .	P	B	April 20, 1975
Hungary . . . . .	P	B	April 26, 1970
India . . . . .		B	May 1, 1975
Iraq . . . . .	P		January 21, 1976
Ireland . . . . .	P	B	April 26, 1970
Israel . . . . .	P	B	April 26, 1970
Ivory Coast . . . . .	P	B	May 1, 1974
Japan . . . . .	P	B	April 20, 1975
Jordan . . . . .	P		July 12, 1972
Kenya . . . . .	P		October 5, 1971
Liechtenstein . . . . .	P	B	May 21, 1972
Luxembourg . . . . .	P	B	March 19, 1975
Malawi . . . . .	P		June 11, 1970
Mexico . . . . .		B	June 14, 1975
Monaco . . . . .	P	B	March 3, 1975
Morocco . . . . .	P	B	July 27, 1971
Netherlands . . . . .	P	B	January 9, 1975
Niger . . . . .	P	B	May 18, 1975
Norway . . . . .	P	B	June 8, 1974
Poland . . . . .	P		March 23, 1975
Portugal . . . . .	P		April 27, 1975
Republic of South Viet-Nam . . . . .	P		April 30, 1975
Romania . . . . .	P	B	April 26, 1970
Senegal . . . . .	P	B	April 26, 1970
South Africa . . . . .	P	B	March 23, 1975
Soviet Union . . . . .	P		April 26, 1970
Spain . . . . .	P	B	April 26, 1970
Sudan . . . . .			February 15, 1974
Sweden . . . . .	P	B	April 26, 1970
Switzerland . . . . .	P	B	April 26, 1970
Togo . . . . .	P	B	April 28, 1975
Tunisia . . . . .	P	B	November 28, 1975
Uganda . . . . .	P		October 18, 1973
Ukrainian SSR . . . . .			April 26, 1970
United Arab Emirates . . . . .			September 24, 1974
United Kingdom . . . . .	P	B	April 26, 1970
United States of America . . . . .	P		August 25, 1970
Upper Volta . . . . .	P	B	August 23, 1975
Yugoslavia . . . . .	P	B	October 11, 1973
Zaire . . . . .	P	B	January 28, 1975

(Total: 65 States)<sup>3</sup>

<sup>3</sup> The situation of Surinam in respect of the Convention establishing WIPO is under examination.

## Membership of the Administrative Bodies of WIPO

On January 1, 1976, the membership of the Administrative Bodies of the World Intellectual Property Organization was as follows:

*General Assembly:* Algeria, Australia, Austria, Belgium, Benin, Brazil, Bulgaria, Cameroon, Canada, Chad, Chile, Congo, Cuba, Czechoslovakia, Denmark, Egypt, Fiji, Finland, France, Gabon, German Democratic Republic, Germany (Federal Republic of), Greece (as from March 4), Holy See, Hungary, India, Iraq (as from January 21), Ireland, Israel, Ivory Coast, Japan, Jordan, Kenya, Liechtenstein, Luxembourg, Malawi, Mexico, Monaco, Morocco, Netherlands, Niger, Norway, Poland, Portugal, Republic of South Viet-Nam, Romania, Senegal, South Africa, Soviet Union, Spain, Sweden, Switzerland, Togo, Tunisia, Uganda, United Kingdom, United States of America, Upper Volta, Yugoslavia, Zaire (60).

*Conference:* The same States as above, with Byelorussian SSR, Democratic People's Republic of Korea, Sudan, Ukrainian SSR and United Arab Emirates (65).

*Coordination Committee:* Algeria, Argentina, Australia, Brazil, Cameroon, Canada, Egypt, France, German Democratic Republic, Germany (Federal

Republic of), Hungary, India, Iran, Israel, Italy, Japan, Kenya, Mexico, Morocco, Netherlands, Nigeria, Philippines, Poland, Romania, Senegal, Soviet Union, Spain, Sri Lanka, Sweden, Switzerland, United Kingdom, United States of America, Yugoslavia (33).

*Permanent Committee of the WIPO Permanent Legal-Technical Program for the Acquisition by Developing Countries of Technology Related to Industrial Property:* Algeria, Argentina, Australia, Austria, Brazil, Cameroon, Canada, Chile, Congo, Cuba, Czechoslovakia, Denmark, Egypt, Finland, France, Gabon, Germany (Federal Republic of), Hungary, Indonesia, Israel, Italy, Ivory Coast, Japan, Jordan, Kenya, Malta, Mauritania, Mexico, Netherlands, Poland, Portugal, Romania, Senegal, Soviet Union, Spain, Sri Lanka, Sudan, Sweden, Switzerland, Syrian Arab Republic, Togo, Tunisia, Turkey, Uganda, United Kingdom, United States of America, Uruguay, Yugoslavia, Zaire (49).

*WIPO Headquarters Building Subcommittee:* Argentina, Cameroon, France, Germany (Federal Republic of), Italy, Netherlands, Switzerland, United States of America (8).

## International Unions

### The Paris Union and Industrial Property in 1975

#### Introduction

The most important events during 1975 in the industrial property field were: the entry into force on October 7, 1975, of the Strasbourg Agreement Concerning the International Patent Classification of 1971, the adoption on August 29, 1975, by the Hague Union Conference of Plenipotentiaries, of a Protocol to the Hague Agreement Concerning the International Deposit of Industrial Designs, and the holding of two sessions of the Ad Hoc Group of Governmental Experts on the Revision of the Paris Convention.

#### I. Paris Union

##### Member States

Iraq deposited an instrument of accession to the Stockholm Act (1967) of the Paris Convention for

the Protection of Industrial Property (Paris Convention). The accession of Iraq will become effective on January 24, 1976. On that date Iraq will become a member of the Paris Union for the Protection of Industrial Property (Paris Union) and the number of member States of the Paris Union will be 82 (see Table of Member States, below).

##### Stockholm Act (1967)

*Acceptance.* The Stockholm Act (1967) of the Paris Convention was ratified or acceded to in its entirety by 13 States: Algeria, Cameroon, Congo, Cuba, France, Gabon, Holy See, Iraq, Monaco, Portugal, Republic of South Viet-Nam, Togo, Upper Volta. Japan, which had ratified the administrative provisions (Articles 13 to 30) of the Stockholm Act (1967), extended its ratification to the substantive provisions (Articles 1 to 12) of that Act. Also, Australia extended its accession and Finland its ratification to the administrative provisions of the Stockholm Act (1967). With the exception of Iraq,

all these ratifications, accessions and extensions took effect in 1975 (see Table of Member States, below).

*Five-year Privilege.* The privilege accorded to States members of the Paris Union not party to the Stockholm Act (1967) of the Paris Convention, whereby such States were able to exercise the rights provided for under Articles 13 to 17 of that Act as if they were bound by those Articles, expired on April 26, 1975. On that date, 17 States were exercising the said privilege. By the end of 1975, 7 of those 17 States deposited instruments of ratification or accession and became party to the Stockholm Act (1967) in its entirety.

#### *Acts in Force*

As far as the substantive provisions of the Paris Convention (Articles 1 to 12) are concerned, of the 81 States which were members of the Paris Union as of December 31, 1975, two were bound by the Hague Act (1925), eleven by the London Act (1934), sixteen by the Lisbon Act (1958) and fifty-two by the Stockholm Act (1967). As of the same date, 54 of the said 81 States were bound by the administrative provisions (Articles 13 to 30) of the Stockholm Act (1967) of the Paris Convention (see Table of Member States, below).

#### *Official Texts*

Official texts in Arabic and Portuguese of the Paris Convention (Stockholm Act) were published in the form of brochures in June and August 1975 respectively, and the official text in German of that Convention was reprinted and titles were added to the Articles in October 1975.

#### *Administrative Bodies*

The Executive Committee of the Paris Union met in ordinary session in September 1975. It noted with approval the activities of the International Bureau since September 1974. It also noted with approval the accounts of the International Bureau and the report of the auditors on those accounts as well as other information concerning finances in 1974. The Executive Committee approved the program and budget for 1976 of the Paris Union. It adopted a recommendation on the amounts of the special cash contributions to be made by the countries concerned for the year 1976 to cover the expenses of the International Bureau connected with the work for the preparation of the entry into force of the Patent Cooperation Treaty (PCT). It also adopted a recommendation on the cash contributions for the year 1976 of the participating countries in the Paris Union Committee for International Cooperation in Information Retrieval Among Patent Offices (ICI-REPAT). The Executive Committee confirmed the decision of the Plenary Committee of ICIREPAT

(PLC) to merge, with effect from January 1, 1976, the Technical Coordination Committee (TCC) with the PLC. It requested the Director General to convene an Ad Hoc Committee to review the related technical activities within the framework of the PCT, the Strasbourg (IPC) Agreement of 1971 and ICI-REPAT for the purpose of offering recommendations to the competent bodies to facilitate coordination of their activities. The Executive Committee approved the project for international cooperation in the classification of search files according to the IPC ("CAPRI System") and authorized the Director General to conclude an agreement concerning the CAPRI System with the International Patent Documentation Center (INPADOC).

#### *Revision of the Paris Convention*

An Ad Hoc Group of Governmental Experts on the Revision of the Paris Convention met twice, in February and December 1975.

All member States of the Paris Union and all States members of WIPO, or exercising the rights belonging to members of WIPO, were invited. Forty-seven States were represented at the first session whereas fifty-four States were represented at the second session. The United Nations, two United Nations bodies and a number of intergovernmental and international non-governmental organizations were represented by observers at both sessions.

The task of the Group of Experts was to study all aspects of the question of revising the Paris Convention including, *inter alia*, additional provisions of special benefit to developing countries.

During the general discussion at the first session, most of the delegations expressed the view that the Paris Convention was playing a very useful role but that the moment had come to revise it as regards certain points, particularly in order to take the legitimate interests of developing countries into account.

The Group of Experts noted the interest that developing countries had manifested in the revision of the Paris Convention and agreed that, at this stage of the work, the following questions should be considered: (i) national treatment; (ii) independence of patents; (iii) to (v) non-working and delays in working of the patented invention, compulsory licenses, licenses of right; (vi) preferential treatment without reciprocity; (vii) technical assistance; (viii) types of protection other than patents (inventors' certificates, etc.); (ix) marks, industrial designs, appellations of origin; (x) reservations; (xi) deletion of Article 24; (xii) scope of protection of process patents; (xiii) right of priority; (xiv) unanimity rule.

Pursuant to the recommendation of the Group of Experts, the Director General prepared a study containing an analysis of the issues and outlining possible alternative solutions in respect of the fourteen questions, and communicated that study to the

Governments of all countries members of the United Nations system of organizations for their comments. The study was submitted, together with the comments received from Governments, to the second session of the Group of Experts which met in December 1975.

At its second session, the Group of Experts adopted a Declaration on the Objectives of the Revision of the Paris Convention, providing, in particular, that this revision should contribute towards the establishment of a new economic order in the world and that industrial property should constitute an element in the process of the transfer of technology and should contribute to the achievement of new technological advances <sup>1</sup>.

The Group of Experts also studied in depth seven of the fourteen questions mentioned above (that is, independence of patents; compulsory licenses, licenses of right; national treatment; preferential treatment without reciprocity; process patents; inventors' certificates; technical assistance) and asked the International Bureau to prepare further studies on the various matters relating to these seven questions. These studies, together with the questions which the Group of Experts did not have time to study at its second session, will be examined at the next sessions of the Group of Experts <sup>2</sup>.

## II. Patent Cooperation Treaty (PCT)

### *Acceptance*

Gabon deposited its instrument of accession to the Patent Cooperation Treaty (PCT) and Togo and the United States of America deposited their instruments of ratification of that Treaty. The United States of America is the first State ratifying or acceding to the PCT which fulfills the requirement of major patent activities under Article 63 (1) (a) PCT; entry into force of the PCT requires the ratification or accession of four such States. Thus by the end of 1975, nine States had ratified or acceded to the PCT (see Table of Member States, below).

### *Records of Washington Diplomatic Conference*

The International Bureau continued work on the preparation of the French edition of the records of the Washington Diplomatic Conference. The French edition should be published in 1976. The English edition was published in July 1972.

### *Official Texts*

The official text in Italian of the PCT was published in brochure form in September 1975.

### *Preparatory Work for the Entry into Force of the PCT*

The preparatory work for the entry into force of the PCT continued throughout the year.

*Interim Committees.* The three PCT Interim Committees established by the Paris Union in implementation of the recommended measures for the entry into force of the PCT met in November 1975. Twenty-two States were represented. In addition, two intergovernmental organizations and nine other organizations were represented by observers.

The Interim Committees took action on the following matters, for which the International Bureau had prepared documentation.

The *Interim Committee for Administrative Questions* examined the third revised draft of the PCT Administrative Instructions, adopted a number of proposals for their amendment and requested the International Bureau to study further other suggestions for their modification. The Committee also examined the draft forms under the Administrative Instructions and decided that further detailed consideration should be deferred until after an envisaged simulated test program had been completed and analyzed in light of the observations of the interested Offices. The Committee discussed the first draft of the Guideline for Applicants, decided that its present form and content should, in principle, be maintained, but made a number of suggestions for its improvement.

The said Committee considered the Guidelines for Receiving Offices and made suggestions for their modification. It also considered the draft of a model agreement between the International Bureau and the prospective International Searching Authorities and asked the International Bureau to revise the draft in light of the comments made. The Committee noted the initiative of the Soviet Union in proposing a program relating to the conducting of tests for the processing of simple PCT international applications and the intention of the interested Offices (Austria, Germany (Federal Republic of), Soviet Union, Sweden, Switzerland, United Kingdom, United States of America), the International Patent Institute (IIB) and the International Bureau to participate in or contribute to the test program. In addition, the Committee noted the information in the report of the International Bureau on the compatibility and consistency of the solutions envisaged in the framework of the PCT and the European Patent Organisation. Finally, the Committee decided that the program for 1976 should include two new items, the preparation of a study of the staff and equipment requirements of the International Bureau during the year before the entry into force of the PCT and during the first year of its effective operation and the preparation of a draft Guideline on Publication for

<sup>1</sup> The full text of this Declaration is reproduced on p. 47.

<sup>2</sup> For more details on this second session, see the Note on p. 46.

the PCT reflecting the form, style and layout of publications which the International Bureau would be required to issue under the PCT.

The *Interim Committee for Technical Cooperation* considered a number of questions concerning minimum documentation, searching and the establishment of guidelines for the preparation of abstracts, for searching and for examination.

The said Committee approved an updated version of the PCT Minimum List of Non-Patent Literature and requested the International Bureau to publish and distribute the List. The List contains 169 periodicals. The Committee reviewed the progress made in the implementation of the Patent Associated Literature (PAL) Project of INSPEC (Informational Services in Physics, Electro-Technology, Computers and Control of the Institution of Electrical Engineers, London). The Committee decided that the prospective International Searching Authorities which were subscribers to the PAL Full-Text Copy Service of INSPEC need not subscribe to the periodicals of the PCT Minimum List covered by that Service as long as they remained subscribers to the Service and as long as the periodicals were covered by the Service. With regard to minimum patent documentation, the Committee discussed the progress made in establishing sorted collections of the patent documents of Australia, Austria and Canada, which are to be placed at the disposal of the prospective International Searching Authorities. The Committee also considered the surveys made on the state of completeness of the search files of the said Authorities and on the availability of English-language abstracts of Japanese and Soviet Union patent documents. The Committee gave guidance to the International Bureau concerning further surveys and studies on these matters. The Committee noted the survey of searching practices prepared by the International Bureau, and the test by the IIB of the draft International Search Report form. It also discussed the treatment of patent families from the standpoint of which members should be included in the search files and which should be cited in the search report. The Committee noted with approval the "General Guidelines for the Preparation of Abstracts of Patent Documents" which had been adopted by the Plenary Committee of ICIREPAT. The Committee noted the first outline of guidelines for searches under the PCT prepared on the basis of the draft guidelines for searches under the European Patent Convention and established a number of principles for the guidance of the International Bureau in the future work on this subject. Finally, the Committee decided that the program for 1976 should include two new items, namely work on Guidelines for International Preliminary Examination and a survey of PCT minimum documentation countries to ascertain the extent to

which the publication date of their patent documents corresponded to the actual publication date.

The *Interim Committee for Technical Assistance* was informed by the International Bureau about the progress made so far in the implementation of the project to assist the Government of Brazil to modernize the Brazilian patent system (see page 4, above). The Committee also noted the efforts undertaken by the International Bureau within the framework of the WIPO Legal-Technical Assistance Program particularly with respect to the request for assistance to establish a patent documentation service within the African and Malagasy Industrial Property Office (OAMPI) (see page 5, above), the project for cooperation in the field of industrial property among the English-Speaking African countries (see page 5, above) and the assistance provided to the Governments of Algeria (see page 4, above), Cuba (see page 4, above) and IDCAS (see page 5, above) to strengthen their industrial property systems or patent documentation activities. The Committee recommended that the International Bureau, with the cooperation of the national industrial property offices, should continue the efforts to identify collections of patent documents which could be made available to developing countries and urged all countries which had offered collections to extend the period of time during which they would retain such collections, thus permitting all interested developing countries further time to respond. The Committee welcomed the proposal of the Government of Austria, as part of a general program for the technical assistance activities of Austria in the field of industrial property, to provide a comprehensive training program to assist in creating the necessary infrastructure for developing countries, by training future experts of developing countries in the International Patent Classification (IPC) as a means of organizing and having easy access to patent documents, in the searching of patent documents in order to extract the technical information contained therein and in methods to make the most practical use of such information. The Committee recommended that the International Bureau continue its work in this matter with a view to ensuring as rapidly as possible the implementation of the proposed training program. The Committee also recommended that the implementation of a proposed program to test the value for developing countries of the services of the International Patent Documentation Center (INPADOC) should be proceeded with by providing certain of the existing services of INPADOC free of charge for a limited period of time and by approaching developing countries to explore their interest and to secure their participation in the test program. Finally, the Committee requested the International Bureau to continue its work on the establishment of a

revised, expanded list of technical periodicals which could be supplied free of charge, or on very favorable conditions, to developing countries, so as to enable them to start a technical library in fields of interest to them.

### III. International Patent Classification (IPC)

#### *Strasbourg (IPC) Agreement of 1971*

*Acceptance.* By the end of 1975, 20 States had ratified or acceded to the Strasbourg Agreement Concerning the International Patent Classification of March 24, 1971, namely: Australia, Austria, Belgium, Brazil, Denmark, Egypt, Finland, France, Germany (Federal Republic of), Ireland, Israel, Monaco, Netherlands, Norway, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America.

*Entry into Force.* In accordance with its Article 13(1)(a), the Strasbourg (IPC) Agreement of 1971 entered into force on October 7, 1975, with respect to the States listed in the preceding paragraph, with the exception of Australia, Belgium, Egypt, Finland, Monaco, Spain and the Soviet Union. It entered into force for Egypt on October 17, 1975, for Australia and Spain in November 1975, whereas for Belgium, Finland, Monaco and the Soviet Union it will enter into force in 1976 (See Table of Member States, below).

Following upon the decision of the Assembly of the IPC Union, the Soviet Union notified the Director General on October 7, 1975, that it would fulfill its obligations under the Strasbourg (IPC) Agreement of 1971 before its entry into force with respect to that State. In accordance with the decision of the Assembly of the IPC Union, taken at its first session, the Soviet Union is to be treated as if the Strasbourg (IPC) Agreement of 1971 is already in force with respect to that State.

#### *Declarations under Article 4(4)*

Six States have made declarations under Article 4(4) of the Strasbourg (IPC) Agreement of 1971 to the effect that they do not undertake to include the symbols relating to groups or subgroups of the International Patent Classification (IPC) in the applications referred to in Article 4(3) which are only laid open for public inspection and in notices relating thereto (Australia, Finland, Ireland, Norway, Spain, United Kingdom), whereas four States have made such declarations with respect to all documents referred to in Article 4(3) and notices relating thereto (Belgium, France, Monaco, Spain) (see Table of Member States, below).

#### *Administrative Bodies of the IPC Union*

A Preparatory Meeting for the Entry Into Force of the Strasbourg (IPC) Agreement of 1971 was held

during the sixth series of meetings of the Administrative Bodies of WIPO and the Unions administered by WIPO in September 1975. This meeting was followed in October 1975 by extraordinary sessions of the Assembly and Committee of Experts of the IPC Union, the two bodies established under Articles 5 and 7 of the Strasbourg (IPC) Agreement of 1971.

The Preparatory Meeting recommended, and the Assembly of the IPC Union adopted, the program and budget for 1976 of the IPC Union. The program includes a continuation of the work on the second revision of the IPC and on its uniform application. The Assembly requested the Committee of Experts to examine the program activities, in particular the revision work, during the year 1976, with a view to proposing possible ways of saving for the future, and investigating the possibility of streamlining program activities and the resulting work of the Secretariat.

The Preparatory Meeting recommended, and the Assembly of the IPC Union adopted, a transitional system for computing contributions for 1976.

Finally, the Assembly of the IPC Union decided on a number of administrative matters, including the adoption of the Financial Regulations of the IPC Union, the appointment of auditors, the adoption of the Rules of Procedure of the Assembly and the admission of observers to its sessions, the designation of Arabic and Italian as languages in which official texts of the Strasbourg (IPC) Agreement of 1971 should be established and the designation of Czech as a language in which an official text of the second edition of the IPC should be established.

The Committee of Experts of the IPC Union adopted its Rules of Procedure and, in accordance with these Rules, set up a Steering Committee and five Working Groups. The Steering Committee consists of Australia, Austria, Brazil, Denmark, France, Germany (Federal Republic of), Soviet Union, Spain, Sweden, the United Kingdom and the United States of America, as members, with Japan as the associate member. The Committee of Experts fixed the dates and places of the sessions in 1975 and 1976 of the Committee, the Working Groups and the Steering Committee and referred to that Committee, for further study, all recommendations formulated by the Bureau and endorsed by the Joint ad hoc Committee of the Council of Europe and WIPO at their last sessions.

#### *Joint ad hoc Committee and Working Groups*

In 1975, the Joint ad hoc Committee of the Council of Europe and WIPO met once, while its Bureau and its Working Groups I, II, III, IV and V each met once. The Bureau met in Geneva while the meetings of the Working Groups took place in Geneva, Munich, Rijswijk (Netherlands) and Washington. In

addition, Working Groups II and III each met once, in Berne and Munich.

*Joint ad hoc Committee.* The tenth and last session of the Joint ad hoc Committee was held on October 6, 1975, the day before the entry into force of the Strasbourg (IPC) Agreement of 1971. The Committee endorsed the conclusions of the report of the Rapporteur General, which covered the period from January 1974 up to that date of entry into force, noted the results of the survey on the use of the IPC and the application of its symbols, endorsed the conclusions and recommendations of the twelfth session of the Bureau and referred these matters to the Committee of Experts of the IPC Union.

*Working Groups.* Four of the five Working Groups continued to deal with detailed proposals for the second revision period concerning various sections of the IPC, while the fifth Working Group continued to deal with the uniform application of the IPC, the progress made in classification according to the IPC, the selection of training examples, the experience gained in the use of such examples, the preparation of a comprehensive set of training documents, and advice to searchers.

#### *Second Edition of the International Patent Classification (IPC)*

*Translations and Publication.* Translations of the second edition of the IPC in German, Japanese and Russian have been prepared and published by the Governments of the Federal Republic of Germany, Japan and the Soviet Union respectively. Translations down to subclass level have also been prepared in Spanish and Finnish by the Governments of Spain and Finland respectively. A translation in Portuguese has been started by the Brazilian Patent Office.

A revised edition of the Catchword Index to the IPC in German is being prepared at the German Patent Office.

A new brochure, entitled *The International Patent Classification — General Information* was published in English and French in 1975. Versions in other languages are in preparation.

#### *Use of the IPC and Application of its Symbols*

In view of the entry into force of the Strasbourg (IPC) Agreement on October 7, 1975, the International Bureau undertook to update the survey made in 1968 on the use of the IPC and to collect, at the same time, information on the exact starting date and form of the application of the symbols of the second edition of the IPC, in accordance with the wish expressed by the Bureau of the Joint ad hoc Committee at its session in December 1974.

#### *Training Course*

A training course on the use of the IPC for participants from developing countries was organized in

Geneva in May 1975 within the framework of the WIPO Permanent Legal-Technical Program for the Acquisition by Developing Countries of Technology Related to Industrial Property (see page 7, above).

#### *Classification of Search Files*

The Working Group on International Cooperation in the Classification of Search Files According to the International Patent Classification held its second session in January 1975. The Working Group noted a progress report by the International Bureau on the advancement of classification of search files according to the IPC in various industrial property offices. The Working Group also discussed a "Study of a Centralized Procedure for Organizing Search Files According to the IPC", prepared by the International Bureau with the help of consultants. With regard to the further steps to be taken for the implementation of the project, the Working Group recommended that the International Bureau continue consultations with the Austrian authorities on the cost and financing of the project, and that it prepare the final study by July 1975 as a preparatory document for the 1975 session of the Executive Committee of the Paris Union.

At its session in September 1975, the Executive Committee of the Paris Union approved the project for International Cooperation in the Classification of Search Files According to the IPC ("CAPRI System") and authorized the Director General to conclude an agreement concerning the CAPRI System with the International Patent Documentation Center (INPADOC) (See page 15 above, and page 22 below).

## IV. ICIREPAT

#### *Participating Countries*

At the end of 1975, 22 countries were members ("participating countries") of the Paris Union Committee for International Cooperation in Information Retrieval Among Patent Offices (ICIREPAT) and were represented in its executive body, the Plenary Committee (PLC) (see Table of Membership below).

#### *Activities and Committees*

ICIREPAT's main activities continued to be carried out within the framework of the Technical Committees, the Technical Coordination Committee (TCC) and the Plenary Committee (PLC).

The Technical Coordination Committee (TCC) met in June and December 1975 and considered the activities and suggestions of the various Technical Committees whose work it coordinates, in particular, the Technical Committee for Standardization (TCST) and the Technical Committee for Search Systems (TCSS), which each met twice in April 1975 and October 1975. An Ad Hoc Committee established by the TCC met in April 1975.

The PLC, which met in September 1975, reviewed the activities of the Technical Committees which had met in April 1975, and of the TCC, which had met in June 1975, and acted upon their conclusions and recommendations. The said Committees, assisted by the International Bureau, dealt with the following matters.

#### *Coordination of ICIREPAT Efforts with Other Bodies of WIPO*

The PLC, at its September 1975 session, recommended to the Executive Committee of the Paris Union that it request the Director General to convene an Ad Hoc Committee to review the related technical activities within the framework of the Patent Cooperation Treaty (PCT), the Strasbourg (IPC) Agreement of 1971, and ICIREPAT, for the purpose of offering recommendations to the competent bodies to facilitate coordination of their activities. At its session in September 1975, the Executive Committee of the Paris Union endorsed this recommendation (see page 15, above).

#### *Reorganization of ICIREPAT*

The PLC, at its September 1975 session, after considering the recommendation of the TCC made at its June 1975 session that the present structure of ICIREPAT on a three-tier basis (PLC-TCC-Technical Committees) should be retained, decided to merge the TCC with the PLC with effect from January 1, 1976, and also decided that the PLC would, at its spring sessions, mainly discuss technical matters, whereas at its fall sessions, preceding the meetings of the Administrative Bodies of WIPO, both technical and policy matters would be dealt with. At its session in September 1975, the Executive Committee of the Paris Union confirmed the decision of the PLC.

#### *Search Systems*

As part of the New Program for Shared Systems, work continued on revising the ICIREPAT Manual to accommodate the new routes for system development introduced during the two-year reconsideration of that Program. Chapters of the Manual dealing with "ICIREPAT Procedure for the Development and Introduction of Systems" and the "Guide for the Implementation of Systems" were completely revised. Revision work proceeded on the chapters concerning characteristics of ICIREPAT shared use systems, guiding principles for non-conventional retrieval systems, and instructions for Monitoring Offices for systems proceeding according to the ICIREPAT Procedure for Cooperative Development of Systems.

New ways of developing coordinate indexing systems were studied and several offices developed such systems.

The monitoring and supervision of the implementation of developed search systems which have been developed in cooperation, and the keeping track of search systems being worked out by individual offices, continued to be carried out by the Technical Committee for Search Systems (TCSS).

For operational systems, the updating indexing continued to be regularly performed by the participating offices. For certain systems arrangements were made for backlog indexing and this progressed according to the time limits set.

Consideration was given to the establishment of cut-off dates in order to economize the work that has to be done when indexing the backlog file for mechanized search systems. The TCSS adopted certain principles concerning the question of cut-off dates and agreed to proceed with the elaboration of guidelines for determining such dates.

Work was started on a procedure for search system revision.

Guidelines for the preparation of abstracts, including categorized abstracts, were prepared by the TCSS, approved by the TCC and adopted by the PLC.

Discussions on questions of procedures and guidelines for cost/benefit estimates connected with the design and maintenance of manual and mechanized search systems were initiated in the TCSS.

#### *Standardization*

The Technical Committee for Standardization (TCST) and the International Bureau continued to assemble information and to carry out studies on problems relating to the size and other physical characteristics of published patent documents, the characteristics pertaining to layout and presentation, and the production and reproduction as well as the identification of patent documents.

*ICIREPAT Country Code.* Various new two-letter country codes were approved by the TCC and adopted by the PLC. A study was initiated on the extension of the ICIREPAT Country Code to geographical entities other than independent States.

*INID Codes.* Discussions were initiated on the creation of new INID Codes ("ICIREPAT Number for one Identification Data") for bibliographic data not yet covered by INID numbers. The International Bureau was asked to undertake a study on the frequency of appearance of various data in patent documents and in Official Gazettes.

*Titles of Inventions on Patent Documents.* The question whether titles of inventions could be effective in giving access to the technical information contained in patent documents was considered, as was the advisability and usefulness of preparing guidelines for improving titles, which could prove useful to offices contemplating establishing rules in

this respect, especially to offices of developing countries.

*Identification of Different Kinds of Patent Documents.* A revised version of The Standard Code for the Identification of Different Kinds of Patent Documents (Standard SI.8) was adopted. It incorporates amendments relating to the definition of the words "published" and "publication" and to the use of the Code for identifying patent documents cited in search reports and in the list of references appearing on patent documents. A list of published patent documents broken down by issuing country, coded in accordance with the Code and to be attached thereto as an appendix, was finalized. A collection was started of samples of the first page of patent documents, as a means of establishing concordance between the kinds of patent documents and the SI.8 codes to be applied. Discussions were started on the establishment of a code allowing the identification of the legal status of patent documents.

*Numbering of Patent Documents.* A discussion was initiated on how applications for patents and published patent documents should be numbered, and guidance was given to the International Bureau in the preparation of a survey on the subject.

*Content, Layout, Production and Reproduction of Patent Documents.* Draft guidelines were prepared on the physical characteristics of published patent documents particularly relevant to the reproducibility and legibility of such documents. As for the characteristics pertaining to the layout and presentation of patent documents, draft guidelines were prepared on the minimum size of margins of published patent documents produced by the reproduction of non-composed masters and on the layout and presentation of the composed first page of patent documents. An amendment to Standard ST.10, concerning the presentation of priority application numbers on the first page of patent documents, was approved.

*Recording the Texts and Bibliographic Data of Patent Documents.* Information was exchanged on the experiences gained by patent offices in recording texts and bibliographic data of patent documents on magnetic tape or in machine sensible form (by keyboarding, optical character recognition, etc.) and in converting such texts and data for the purposes of the composition and printing of patent documents and entries in Official Gazettes.

*Official Gazettes.* The advisability and feasibility of establishing standards on the organization, physical layout and content of Official Gazettes was studied and data relating thereto was collected by the International Bureau.

*Microforms.* Recommended Standards for 16 mm roll microfilm and for 35 mm microfilm in 8-up configuration, for exchange between patent offices,

were adopted by the PLC. The difficulties experienced by offices in the handling of 8-up aperture cards in sorting and punching operations were reviewed. The advisability and feasibility of establishing recommendations on microfiches, including COM microfiches, was discussed and the need was recognized to consider the question of their standardization in the broader context of exchange, dissemination and domestic use of information relating to patent documents including patent documents themselves. The possibilities for exchange arrangements of microforms of priority documents was also explored.

#### *Long-Term Program for Development of an Integrated System for Patent Search*

Following the mandate given it by the TCC at its session in December 1974, an Ad Hoc Committee of the TCC met in April 1975 to study the proposals submitted by the Government of the Soviet Union concerning a "Long-Term Program for Development of an Integrated System for Patent Search," as well as the comments on those proposals and the discussions on the subject in the TCC, as reflected in the reports on its sessions.

The Ad Hoc Committee took into account the considerations formulated by the TCC at its session in December 1974 with respect to the continuation of the study of the Long-Term Program proposals to the effect that the Program should primarily be an attempt to coordinate efforts for a period of five years, starting in 1976, to improve searching in patent offices, that the needs of users of patent documents outside patent offices and the needs of developing countries should be taken into account, and that the program should include a detailed list of tasks to be performed.

The Ad Hoc Committee agreed on a general outline of the study which would be submitted to the TCC. It entrusted the International Bureau with the preparation of a draft text of the study. The draft text was transmitted by the International Bureau to the members of the Ad Hoc Committee in April 1975 and approved by them.

At its session in December 1975, the TCC agreed in general with the conclusions arrived at by the Ad Hoc Committee. The TCC drew up a plan for the implementation of the Long-Term Program for Development of an Integrated System for Patent Search in three steps: (1) improvement of basic tools for manual and mechanized searches; (2) production of standardized systems for mechanized search; (3) feasibility study of the integration of manual and mechanized search. In addition, the TCC identified the tasks to be accomplished in the first step.

#### *Exchange of Information between Patent Offices*

Annual technical reports by ICIREPAT Offices were submitted to the International Bureau and

distributed by it. The reports had been submitted by the Offices of the following fourteen countries and by the organization mentioned below: Canada, Cuba, Czechoslovakia, Denmark, Finland, German Democratic Republic, Germany (Federal Republic of), Netherlands, Norway, Soviet Union, Sweden, Switzerland, United Kingdom, United States of America, International Patent Institute (IIB). Two further issues of ICIREPAT Notes — a review containing summaries of developments relevant to patent documentation problems and patent office operations — were prepared and distributed during the year.

### **V. International Patent Documentation Center (INPADOC)**

The International Patent Documentation Center (INPADOC) was established pursuant to an agreement between the Government of Austria and WIPO; its headquarters are in Vienna.

By the end of 1975, INPADOC had concluded agreements of cooperation with the national industrial property offices of Australia, Canada, Denmark, Finland, France, Germany (Federal Republic of), Japan, Norway, the Soviet Union, Sweden and the United States of America, as well as with the International Patent Institute (IIB). The agreements provide for the furnishing to INPADOC by the said offices and the IIB of bibliographic data, in machine-readable form, pertaining to patent documents.

INPADOC's services became operational in July 1974. By the end of 1975, the current patent documents of the following countries were covered in INPADOC's computerized data base: Australia, Austria, Belgium, Bulgaria, Canada, Cuba, Czechoslovakia, Denmark, Finland, France, German Democratic Republic, Germany (Federal Republic of), Hungary, Israel, Japan, Luxembourg, Netherlands, Norway, Poland, Romania, South Africa, Soviet Union, Sweden, Switzerland, United Kingdom, United States of America, Zambia (27). They represent approximately 800,000 patent documents a year. For each patent document, at least ten kinds of bibliographic data are inputted. In the case of the documents of some countries, three additional data (the name of the inventor, the name of the owner and the title of the invention) are also inputted.

On the basis of the bibliographic data contained in INPADOC's data base, INPADOC identifies patent documents which are connected or related on the basis of common priority claim ("Patent Family Service") or a common symbol of the International Patent Classification (IPC) ("Patent Classification Service") or a common application or owner ("Current Applicant Index"). These services are offered as computer printouts either on paper (for a limited number of documents) or as computer output on microfiche (COM). INPADOC also offers a copy

service of patent documents as paper copies or as 16 mm roll microfilms.

At its September 1975 session, the Executive Committee of the Paris Union approved the establishment of a system for international cooperation in the classification of search files according to the International Patent Classification (IPC) ("CAPRI System"), and authorized the Director General to conclude an agreement with INPADOC for the implementation of that System, under which INPADOC would exercise the function of a central body for the System. (See also page 19, above.)

The possibility of the use of INPADOC services by information centers in developing countries was further studied by the International Bureau and INPADOC pursuant to the recommendation of the PCT Interim Committee for Technical Assistance (see page 17, above).

The International Bureau continued throughout 1975 to assist INPADOC in its contacts with the cooperating national offices and the International Patent Institute (IIB).

### **VI. Appellations of Origin**

The Committee of Experts on the International Protection of Appellations of Origin and Other Indications of Source held its second session in December 1975. Twenty-one States members of the Paris Union, three intergovernmental organizations and four international non-governmental organizations were represented.

The discussions of the Committee of Experts were based on two documents prepared by the International Bureau, one of which contained a Draft Treaty on the Protection of Geographical Indications, and the other a report on the question whether the new international instrument should alternatively take the form of an Act revising the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration.

A number of delegations expressed their preference for a new treaty rather than a revision of the Lisbon Agreement whereas other delegations favored the alternative of revising the Lisbon Agreement as it would give rise to fewer difficulties with respect to national acceptance. Still other delegations, while expressing interest in the work towards an improvement in the international protection of geographical indications, drew attention to the problems which might exist with regard to the solutions provided for in the Draft Treaty, or considered it more appropriate to revise the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods as such rather than combine the systems under that Agreement and the Lisbon Agreement in a single treaty.

The Committee of Experts undertook an examination in detail of the provisions of the Draft Treaty. It recommended that a new Draft Treaty as well as Draft Regulations should be prepared for its next session by the International Bureau, taking into account the conclusions adopted during the examination. The Committee of Experts suggested that its next session should be postponed until 1977.

### VII. Scientific Discoveries

The Working Group on Scientific Discoveries held its third session in October 1975. Twenty-four States, one intergovernmental organization and three international non-governmental organizations were represented.

The Working Group noted the divergence of opinion expressed during its discussions on the usefulness and necessity of creating an international register in which the description of scientific discoveries and the identity of the discoverers would be recorded. It nevertheless examined in detail a possible system of international recording of scientific discoveries which would be operated by WIPO. During the discussion a difference of opinion emerged as to whether the legal basis of such a system, if established, should be in the form of a resolution of the General Assembly of WIPO, as indicated in the preparatory documents, or in the form of a treaty. The Working Group agreed that the International Bureau should prepare the drafts of both a resolution and a treaty, that those drafts should be discussed at the next session of the Working Group, scheduled for May 1976, and that once so considered by the Working Group they should be submitted to the General Assembly of WIPO in September 1976.

### VIII. Deposit of Microorganisms

The Committee of Experts on the Deposit of Microorganisms for the Purposes of Patent Procedure held its second session in April 1975. Eighteen States members of the Paris Union and ten international organizations were represented.

Discussions were based on a Draft Treaty and Draft Regulations prepared by the International Bureau. After a general discussion, the Committee of Experts decided to accept those drafts as a basis for its deliberations and examined each of them separately. The Committee of Experts also considered a document prepared by the International Bureau containing an analysis of replies received from depositary institutions to the WIPO questionnaire on deposits of microorganisms for the purposes of patent procedure, as well as documents containing observations and proposals by the Delegations of Czechoslovakia, France, Sweden and Switzerland and by the International Bureau, and a joint proposal

by five of the international non-governmental organizations.

In accordance with the recommendations adopted by the Committee of Experts at its second session in April 1975, the International Bureau consulted the participants in that session concerning proposals prepared by the International Bureau on three specific aspects of the Draft Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure and the Draft Regulations of that Treaty, namely, certain definitions, the liability of an internationally recognized depositary authority, and the release of samples of deposited microorganisms to third parties. The results of this consultation were taken into account in the preparation of a new draft of the Treaty and the Regulations.

The new draft of the Treaty and the Regulations was sent to the States members of the Paris Union in December 1975 and will be considered by the Committee of Experts in 1976.

### IX. Computer Programs

The Advisory Group of Non-Governmental Experts for the Protection of Computer Programs held its second session in Geneva in June 1975. Experts had been designated by 21 non-governmental organizations, and the governments of five States and three intergovernmental organizations were represented by observers.

The Advisory Group discussed two subjects, the legal protection of computer programs and the registration of computer programs. The discussions were based on documents prepared by the International Bureau, one of which summarized the information given at earlier meetings on the question of the need for legal protection of computer programs and on the possibility of protection under national laws, while another contained a survey of existing registration schemes operated by private, governmental and intergovernmental institutions and made suggestions concerning the establishment of an international register for computer programs or of an internationally coordinated system of registers.

As regards the legal protection of computer programs, the Advisory Group concluded that a special type of protection should be established, without prejudice to the continuation of any existing forms of protection, and that such special protection should supplement the existing forms and be governed by certain guiding principles which the Advisory Committee formulated. As regards the registration of computer software, the Advisory Group concluded that WIPO's contribution should mainly focus on the legal effects of registration, taking into account, however, other aspects such as the dissemination of information.

The Advisory Group recommended that the International Bureau should prepare model provisions for national laws on the protection of computer software following the principles of the special type of protection which the Advisory Group had formulated, with an optional deposit embodying certain advantages for the depositor. The Advisory Group also recommended that the International Bureau prepare draft treaty provisions at the international level according to the same principles; furthermore provisions should be included for the establishment of an international register and optional deposit system.

### X. Industrial Property Statistics

In April 1975, the International Bureau sent to industrial property offices the questionnaires for the collection of their industrial property statistics for 1974. As in the past, the statistics for the year 1974 were published as an Annex to the December 1975 issue of the monthly review *Industrial Property / La Propriété industrielle*.

Drafts of new questionnaires to be used for industrial property statistics from 1975 onwards, which take into account the views of a Group of Governmental Consultants on Industrial Property Statistics which met in July 1974, had been circulated in December 1974 to national industrial property offices for their information and also to enable them, as from the beginning of 1975, to start taking the necessary steps towards providing the information requested.

### XI. Other Matters

#### *Convention on the Grant of European Patents*

WIPO was represented at the second session (January 1975), the third session (September 1975) and the fourth session (December 1975) of the Interim Committee established in implementation of the recommended preparatory measures for the entry into force of the Convention on the Grant of European Patents (European Patent Convention), which was adopted on October 5, 1973. WIPO was also represented at meetings of the Working Parties on Organization, on Searching, on Examination, and on Legal Matters, held during the year 1975.

WIPO's main interest in the work of these bodies is to ensure consistency between the procedures under the Patent Cooperation Treaty (PCT) and the European Patent Convention (EPC).

#### *Diplomatic Conference on the Community Patent*

WIPO was represented at the Diplomatic Conference on the Community Patent held in Luxembourg from November 17 to December 15, 1975 which was organized by the nine States of the European Communities (the Western European Common Market) and also attended by other signatory States

of the European Patent Convention of 1973 and by several intergovernmental and non-governmental organizations as observers.

The result of the Conference was the conclusion of a new treaty in the field of patents, the "Community Patent Convention."<sup>3</sup> The aim of this Convention is to achieve, for the nine States of the European Communities and on the basis of the European Patent Convention of 1973 concluded among a larger group of European countries, a further unification of the patent system on a regional basis.

The European Patent Convention of 1973 provides for a uniform procedure for the grant of European Patents by the future European Patent Office, subjecting the patents after grant to the application of the national laws of the Contracting States. Thus immediately after grant, the European patent is divided into a "batch" of national patents. The Community Patent Convention creates a unitary patent law for the nine States of the European Communities on the basis of which the European patent or "batch" patent granted under the European Patent Convention of 1973 is combined into a unitary patent, the Community patent, having the same effect in all member States. The Community Patent Convention was signed on December 15 by all nine States of the European Communities. The Conference adopted furthermore a resolution on the ratification of the PCT in which the nine States declare their intention to deposit the instrument of ratification for the PCT together with that of the European Patent Convention of 1973 or as soon as possible thereafter in order to promote an entry into force of the PCT at an early date and preferably at the same time as that of the European Patent Convention.

#### *Cooperation with the International Organization for Standardization (ISO)*

Cooperation between the International Bureau and the International Organization for Standardization (ISO) continued in the field of the adoption of common names for pesticides.

Cooperation also continued with ISO in the field of documentation. The International Bureau contributed to the work of Technical Committee 46 (Documentation), especially in the preparations for a revised version of Draft International Standard 3388 "Patent Documents — Bibliographic References — Essential and Complementary Elements."

#### *Relations with Other International and National Organizations*

In 1975, WIPO was represented at the following meetings of intergovernmental and non-governmental organizations having an interest in industrial property: the meeting of the Administrative Board of the

<sup>3</sup> This Convention will be published in the February issue of *Industrial Property*.

International Patent Institute (IIB) at Rijswijk in October 1975; the meeting of the Administrative Council of the African and Malagasy Industrial Property Office (OAMPI) at Yaoundé in February 1975; the meeting of the Heads of the Industrial Property Offices of the Member States of the Council for Mutual Economic Assistance (CMEA) at Leipzig in July 1975; the meetings of the Congress and the Council of Presidents of the International Association for the Protection of Industrial Property (IAPIP) at San Francisco in May 1975 and at London in November 1975, respectively; the meetings of the Industrial Property Commission of the International Chamber of Commerce (ICC) at Paris in March and September 1975; the meeting of the Committee for Patent Documentation of the International Federation for Documentation (IFD) at Munich in April 1975, and the annual meeting of the Licensing Executives Society (LES) at Phoenix (USA) in October 1975. In addition, WIPO was represented at the annual meeting of the German Association for Industrial Property and Copyright (GRUR), which was held in Berlin in June 1975. An official of WIPO participated in the "journée d'étude" of the International League Against Unfair Competition (LICCD) at Liège in September 1975.

The Director General gave a lecture on "WIPO in the Next Three Years" before the Patent, Trademark and Copyright Section of the American Bar Association (ABA) at Montreal in August 1975. Lectures were also given by officials of the International Bureau on industrial property matters at the University of Grenoble in May 1975 and at the headquarters of WIPO to student groups from the Universities of Nice and Strasbourg.

## XII. Madrid Agreement (Indications of Source)

### *Member States*

Bulgaria deposited its instrument of accession to the Lisbon Act (1958) and the Additional Act of Stockholm (1967) of the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods and thus became party to that Agreement. At the end of 1975, the number of States party to the Madrid Agreement (Indications of Source) was 32 (see Table of Member States, below).

### *Lisbon Act (1958)*

Bulgaria deposited its instrument of accession to the Lisbon Act (1958) of the Madrid Agreement (Indications of Source). At the end of 1975, 20 States had ratified or acceded to the said Act.

### *Additional Act of Stockholm (1967)*

Bulgaria, France, Japan and Monaco deposited instruments of ratification of or accession to the Additional Act of Stockholm (1967) of the Madrid

Agreement (Indications of Source). At the end of 1975, 17 States had ratified or acceded to the said Act.

### *Acts in Force*

Of the 32 States party to the Madrid Agreement (Indications of Source) as on December 31, 1975, three were bound by the Hague Act (1925), 9 by the London Act (1934) and 20 by the Lisbon Act (1958); 17 States were also bound by the Additional Act of Stockholm (1967) (see Table of Member States, below).

## XIII. Madrid Union (Marks)

### *Member States*

At the end of 1975, the number of States party to the Madrid Agreement Concerning the International Registration of Marks remained at 23.

### *Stockholm Act (1967)*

*Acceptance.* France, Monaco and Morocco deposited instruments of ratification of the Stockholm Act (1967) of the Madrid Agreement (Marks). At the end of 1975, the number of States party to the said Act was 18.

*Five-year Privilege.* The privilege, accorded to States members of the Madrid Union not party to the Stockholm Act (1967) of the Madrid Agreement (Marks), whereby such States were able to exercise the rights provided for under Articles 10 to 13 of the said Act as if they were bound by those Articles, expired on April 26, 1975. On that date, 6 States were exercising the said privilege. By the end of 1975, three of the said States had ratified the Stockholm Act (1967) of the Madrid Agreement (Marks).

### *Notifications under Article 3<sup>bis</sup> (Nice and Stockholm Acts).*

All of the member States of the Madrid Union have availed themselves of the right provided for in Article 3<sup>bis</sup> whereby protection resulting from the international registration extends to those countries only at the express request of the owner of the mark. In addition, as from January 1, 1971, the whole of the territories in Europe of Belgium, Luxembourg and the Netherlands is to be considered a single country for the purpose of Article 3<sup>bis</sup>.

### *Acts in Force*

Of the 23 States which were members of the Madrid Union on December 31, 1975, 5 were bound by the Nice Act (1957) and 18 by the Stockholm Act (1967) (see Table of Member States, below).

### *Official Texts*

The official texts in English, French and German of the Madrid Agreement (Stockholm Act) were

reprinted, together with the Regulations of June 21, 1974, and published in March and April 1975.

#### *Assembly and Committee of Directors*

The Assembly of the Madrid Union and the Committee of Directors of the National Industrial Property Offices met in extraordinary session in September 1975. They decided to raise, with effect from January 1, 1976, the amounts of the basic, supplementary and complementary fees provided for under the Madrid Agreement. They also amended the Regulations of June 21, 1974, to provide that, for the purpose of the distribution of supplementary and complementary fees, coefficient 4 would be applied to countries which carried out anticipation searches *ex officio* with an indication of the most significant anticipations. The said coefficient will be applied, as from January 1, 1976, to the Benelux Trademark Office.

#### *Statistics*

The total number of registrations in 1975 was 7203 to which should be added 3190 renewals effected under the Nice or the Stockholm Act. The total number of registrations and renewals in 1975 was therefore 10,393 as against 12,326 in 1974. The total number of changes recorded in the International Register in 1975 which affected the international registration of a mark was 14,732 as against 21,709 in 1974.

#### *Mechanization in the Field of Trademarks*

A Committee of Experts on the Computerization of Trademark Operations met in March 1975. Fifteen States members of the Paris Union, two inter-governmental organizations, five international non-governmental organizations and five private firms were represented at the meeting of the Committee of Experts.

The Committee of Experts discussed various aspects of the possible computerization of trademark operations on the basis of information obtained by the International Bureau from national and regional industrial property offices on their present situation, future plans and wishes with regard to mechanization in the field of trademarks, and on their views as to the possibility of avoiding overlaps by establishing international cooperation in the search field, especially by means of exchanges or work sharing.

The Committee of Experts decided that its future studies would concentrate on the following sectors, in the following order of priority: (i) computerization of trademark administration (establishment of registration or renewal certificates, publication of trademark journals, renewal reminders, establishment of extracts from trademark registers, financial administration, statistics, etc.); continuation of the studies on computerized searching of word marks; (ii) criteria of similarity between marks; (iii) similarity between

goods, between services, and between goods and services; (iv) computerized searching of device marks.

The Committee of Experts established a Working Group to study items (i) and (ii) above; it considered that the possibilities of coordination of work and collaboration at the international level should be studied separately for each of the subjects concerned.

In May 1975, the International Bureau asked national and regional industrial property offices for information on a number of points, including the use or the planned use by the said offices of computers for different trademark operations, their interest in the exchange of data in machine-readable form concerning trademarks and their willingness to place their data bases at the disposal of a possible international, national or regional data center. A number of private searching firms were also asked whether they would be willing to place their data bases, on conditions to be fixed, at the disposal of interested national or regional industrial property offices. The results of the enquiry were communicated in November 1975 to the States, organizations and firms that were invited to take part in the work of the Committee of Experts.

#### *Publications*

*Guide to the International Registration of Marks.* The January 1975 edition of the *Guide to the International Registration of Marks* concerning the application of the Madrid Agreement (Marks), prepared by the International Bureau, was published in English, French and German in May 1975. The Guide is based on the Nice and Stockholm Acts of the Madrid Agreement and on the Regulations of June 21, 1974.

*Other Publications.* The review *Les Marques internationales* continued to appear each month.

## **XIV. Hague Union**

#### *Member States*

At the end of 1975, the number of States party to the Hague Agreement Concerning the International Deposit of Industrial Designs was 14 (see Table of Member States, below).

Denunciation of the Hague Agreement (1925), the London Act (1934) and the Additional Act of Monaco (1961) by Belgium and by the Netherlands for the Kingdom in Europe took effect on January 1, 1975. The notification of denunciation by the Netherlands contained a statement that the said Agreement and Acts would remain in force for Surinam and the Netherlands Antilles.

#### *Complementary Act of Stockholm (1967)*

During the year 1975, France and Monaco deposited instruments of ratification of the Complementary Act of Stockholm (1967).

Pursuant to Article 9(1) of the Complementary Act of Stockholm (1967), that Act entered into force on September 27, 1975 — that is, three months after the deposit of the fifth instrument of ratification (by Monaco on June 27, 1975) — with respect to the following five States, which had deposited instruments of ratification: France, Germany (Federal Republic of), Liechtenstein, Monaco, Switzerland.

#### *Acts in Force*

Of the 14 member States of the Hague Union as on December 31, 1975, all were bound by the London Act (1934). France, Germany (Federal Republic of), Liechtenstein, Monaco, the Netherlands, Spain and Switzerland were also bound by the Additional Act of Monaco (1961).

By the end of 1975, France, Liechtenstein and Switzerland had ratified the Hague Act (1960). Failing the required number of ratifications or accessions, the Hague Act (1960) has not yet entered into force.

#### *Official Texts*

The English text of the Hague Agreement Concerning the International Deposit of Industrial Designs was reprinted in November 1975 with the addition of titles to the Articles and the text of the Protocol of Geneva of August 29, 1975.

#### *Fees*

In November 1974, the International Bureau proposed to the States members of the Hague Union an increase of approximately 50 % in the fees for an international deposit and for its prolongation. In accordance with Article 3 of the Monaco Act, the proposed increase in fees having been approved by all the offices of the States concerned, the new fees for the international deposit and for its prolongation took effect on July 1, 1975.

#### *Hague Union Conference of Plenipotentiaries*

The Hague Union Conference of Plenipotentiaries was convened by the Director General of WIPO at Geneva on August 28 and 29, 1975.

The objective of the Conference was to adopt a Protocol to the Hague Agreement Concerning the International Deposit of Industrial Designs.

The 14 States members of the Hague Union, as well as Belgium which was but is no longer a member of the Hague Union, were invited to participate with voting rights in the Conference, whereas the other States members of the Paris Union were invited to participate in an observer capacity. Belgium, France, Germany (Federal Republic of), Liechtenstein, the Netherlands, Spain and Switzerland participated in the former capacity and Luxembourg in the latter capacity. The Benelux Designs Office was represented by an observer.

The Conference held discussions on the basis of the draft Protocol drawn up by the Committee of Governmental Experts which met at Geneva in February 1975. The Conference adopted the text of the Protocol. An Appendix contains the provisions of the 1960 Act referred to in the Protocol.

*The Protocol.* The main purpose of the Protocol is to establish or re-establish, in the field of the international deposit of industrial designs and until the 1960 Act of the said Agreement enters into force, relations between member States of the Hague Union and such non-member States as will have ratified or acceded to the 1960 Act.

The Protocol calls for the application by Contracting States bound by the 1934 Act, as well as by the International Bureau, of Articles 1 to 14 and 17 to 21 of that Act in respect of any international deposit of an industrial design made by a national of any such Contracting State, whereas Articles 2 to 15 and 18 of the 1960 Act are to be applied by Contracting States not bound by the 1934 Act, and by the International Bureau. However, the depositor who is a national of a Contracting State bound by the 1934 Act may request that the provisions of the 1960 Act be applied in respect of any Contracting State bound by the 1934 Act, in which event Articles 2 to 15 and 18 of the 1960 Act are to be applied by that Contracting State and by the International Bureau. In respect of any international deposit of an industrial design made by a national of a Contracting State not bound by the 1934 Act, Articles 2 to 15 and 18 of the 1960 Act are to be applied by all Contracting States and by the International Bureau.

The text of the Protocol was established in the English and French languages. Official texts of the Protocol may be established by the Director General in such other languages as the Assembly of the Hague Union may designate.

*Signatures.* The Protocol remained open for signature until December 1, 1975. By that date, it had been signed by six States: Belgium, France, Germany (Federal Republic of), Liechtenstein, Netherlands, Switzerland.

#### *Statistics*

The total number of international deposits in 1975 was 2,032 as against 2,428 in 1974: the number of prolongations was 880 as against 1,594 in 1974.

Open deposits in 1975 numbered 1,398 and sealed deposits 634; simple deposits numbered 1,003 and multiple deposits 1,029.

The total number of objects deposited in 1975 was 27,394, of which 14,546 were two-dimensional (*dessins*) and 12,848 were three-dimensional (*modèles*).

### *Publications*

The review *Les Dessins et Modèles internationaux* continued to appear monthly.

## **XV. Nice Union**

### *Member States*

Luxembourg deposited its instrument of accession to the Stockholm Act (1967) of the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks and thus became party to that Agreement on March 24, 1975. At the end of 1975, the number of States party to the Nice Agreement was 31 (see Table of Member States, below).

### *Stockholm Act (1967)*

*Acceptance.* During 1975, France, Monaco and Morocco deposited instruments of ratification of the Stockholm Act (1967) of the Nice Agreement. The Stockholm Act (1967) entered into force for France and Monaco in 1975 whereas it will enter into force for Morocco in 1976 (see Table of Member States, below).

*Five-year Privilege.* The privilege, accorded to States members of the Nice Union not party to the Stockholm Act (1967) of the Nice Agreement, whereby such States were able to exercise rights provided for under Articles 5 to 8 of the said Act as if they were bound by those Articles, expired on April 26, 1975. On that date, 5 States were exercising the said privilege. Thereafter two of those States deposited instruments of ratification and became bound by the Stockholm Act (1967).

### *Acts in Force*

Of the 31 States which were members of the Nice Union on December 31, 1975, 7 were bound by the Nice Act (1957) and 24 by the Stockholm Act (1967) (see Table of Members States, below).

### *Revision of the Nice Agreement*

The Assembly of the Nice Union held an extraordinary session in September 1975. All States members of the Nice Union were represented.

This session of the Assembly was convened in order to consider the desirability of revising the Nice Agreement on certain points, and in particular whether Article 3 (3) — according to which decisions of the Committee of Experts concerning amendments to the International Classification of Goods and Services for the Purposes of the Registration of Marks require the unanimous consent of the contracting countries — and Article 3(5) — according to which each expert has the right to submit his opinion in writing or to delegate his powers to the expert of another country — should be revised.

The Assembly decided to set up an ad hoc Committee of Experts to examine the modifications which should be made, in particular, to the said provisions and authorized the Director General to convene a revision Conference if in the light of the preparatory work, he found that the time was ripe for such a conference.

### *Review of the International Classification*

The Committee of Experts set up under Article 3 of the Nice Agreement held its twelfth session in November 1975. Sixteen States party to the Nice Agreement were represented. One intergovernmental organization and four international non-governmental organizations were represented by observers.

The Committee of Experts considered the results of a study by the International Bureau and its proposal that a systematic overall review of the International Classification be made during a specified period — which might be three years — in order to establish whether, and if so to what extent, revision of the International Classification was necessary. While recognizing that the International Classification had in general proved to be a satisfactory tool and that therefore its basic structure should be retained, the Committee of Experts adopted the proposal for a systematic review of the International Classification. It also agreed on a number of principles concerning the procedure for the implementation of such a systematic review, including the communication of proposals for revision to the States member of the Committee of Experts and to the interested organizations, the examination of those proposals by the Preparatory Working Group set up by the Committee of Experts at its June 1974 session, and, if one-fourth of the States members of the Committee of Experts so requested, the convening of the Committee of Experts to prepare guidelines for the examination of the proposals to which the request related.

### *Review of the Alphabetical List of Goods and Services and the Explanatory Notes of the International Classification*

A Temporary Working Group established by the Committee of Experts referred to above held its third session in April 1975. Seven States were represented as members. One State and one intergovernmental organization were represented in an observer capacity. The Temporary Working Group adopted principles applicable to the review of the Alphabetical List of Goods and Services and the procedure for its revision. The Group recommended that the Explanatory Notes of the International Classification be redrafted on the basis of a model which had been submitted by the International Bureau. In addition, the Group expressed the opinion that it would be useful to publish a short guide on how to use the International Classification.

At its November 1975 session, the Committee of Experts of the Nice Union approved the principles adopted by the Temporary Working Group which should be applied in the review of the Alphabetical List and also endorsed the proposals for the review of the Explanatory Notes.

#### *Publications*

The third supplement (1973/1974) to the Spanish version of the International Classification of Goods and Services for the Purposes of the Registration of Marks was published in April 1975. The Portuguese version of the International Classification was published in August 1975 and a Dutch version was published by the Benelux Trademark Office in June 1975.

### **XVI. Lisbon Union**

#### *Member States*

During 1975, Bulgaria, Gabon, Togo and Upper Volta deposited instruments of accession to the Stockholm Act (1967) of the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration and thus became party to that Agreement. At the end of 1975, the number of States party to the Lisbon Agreement was 15 (see Table of Member States, below).

#### *Stockholm Act (1967)*

*Acceptance.* During 1975, six States deposited instruments of ratification or accession with respect to the Stockholm Act (1967) of the Lisbon Agreement: Bulgaria, Cuba, France, Gabon, Togo and Upper Volta. At the end of 1975, the number of States party to the Stockholm Act (1967) of the Lisbon Agreement was 11.

*Five-year Privilege.* The privilege, accorded to States members of the Lisbon Union not party to the Stockholm Act (1967) of the Lisbon Agreement, whereby such States were able to exercise the rights provided for under Articles 9 to 12 of the said Act as if they were bound by those Articles, expired on April 26, 1975. On that date, 3 States were exercising the said privilege. By the end of 1975, one such State had ratified the Stockholm Act (1967) of the Lisbon Agreement.

#### *Acts in Force*

Of the 15 States which were members of the Lisbon Union on December 31, 1975, 4 were bound by the Lisbon Act (1958) and 11 by the Stockholm Act (1967) (see Table of Member States, below).

#### *Statistics*

In 1975, 6 applications for the registration of appellations of origin were filed at the International Bureau. Of these applications, 2 came from Czecho-

slovakia, 2 from France, and 2 from Hungary. All of the appellations of origin covered by those applications were registered during 1975.

Since the entry into force of the Lisbon Agreement on September 25, 1966, up to the end of 1975, a total of 603 appellations of origin have been registered. Of these, 19 came from Algeria, 18 from Cuba, 84 from Czechoslovakia, 423 from France, 24 from Hungary, 1 from Israel, 25 from Italy, 2 from Portugal and 7 from Tunisia.

#### *Revision of the Lisbon Agreement*

See page 22 above.

#### *Model Law for Developing Countries on Appellations of Origin*

See page 6 above.

### **XVII. Locarno Union**

#### *Member States*

During 1975, France and Italy became party to the Locarno Agreement Establishing an International Classification for Industrial Designs. The number of member States of the Locarno Union was thus 15 at the end of 1975 (see Table of Member States, below).

### **XVIII. Trademark Registration Treaty (TRT)**

#### *Acceptance*

During 1975, Gabon, Togo and Upper Volta deposited instruments of accession to the Trademark Registration Treaty (TRT). The TRT is not yet in force.

#### *Records of the Diplomatic Conference*

The English edition of the *Records of the Vienna Diplomatic Conference on the Trademark Registration Treaty, 1973*, was published in May 1975. This one-volume edition has 469 pages. It contains, in particular, the texts of the TRT and the TRT Regulations, Notes on the Articles of the TRT and on the Rules of the Regulations, the list of signatories, the text of the Resolution concerning preparatory measures for the entry into force of the TRT, the text of the conference documents, the verbatim minutes of the Plenary of the Vienna Diplomatic Conference on Industrial Property and of the Diplomatic Conference on the Trademark Registration Treaty as well as the summary minutes of the Main Committee of the Diplomatic Conference on the Trademark Registration Treaty, the list of participants, a series of post-conference documents and an index. Preparation of a French edition started in 1975.

### *Preparatory Work for the Entry Into Force of the TRT*

The Trademark Registration Treaty Interim Advisory Committee held its first session in September 1975. Sixteen States were represented as members, one State, one intergovernmental organization and thirteen international non-governmental organizations were represented by observers.

The Interim Advisory Committee noted the progress of the work of the International Bureau in the publication, or in the preparation for publication, of a number of documents concerning the TRT, including a series of "Post-Conference Documents" on the history of the negotiations leading to the conclusion of the TRT, its main provisions, its Regulations, the Notes on the Articles of the Treaty and on the Rules of the Regulations, the minutes of the meetings of the Diplomatic Conference, and the texts of the Treaty and of the Regulations.

The Interim Advisory Committee approved its work program, which calls for the preparation of an inventory of all matters to be regulated by the Administrative Instructions referred to in the Regulations under the TRT, a first draft of the said Administrative Instructions, a first draft of the forms which will be mainly for the use of the International Bureau but also for national offices, and a study on the options available to national legislations under the TRT.

The Interim Advisory Committee, noting the transitional provisions for the benefit of developing countries contained in the TRT, agreed that legal-technical assistance to developing countries was of great importance and that such assistance should be given under its guidance; it should consist in particular of assistance in establishing national legislation or adapting such legislation, account being taken of the TRT system, and in organizing or modernizing national trademark offices, especially with respect to the adoption of the International Classification of Goods and Services established under the Nice Agreement.

### **XIX. Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks**

#### *Acceptance*

During 1975, France deposited an instrument of ratification of the Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks. The Vienna Agreement (Classification of Figurative Elements) is not yet in force.

#### *Texts of the Classification*

A translation in Spanish of the International Classification of the Figurative Elements of Marks was published in October 1974.

### *Provisional Committee of Experts*

The Provisional Committee of Experts for the International Classification of the Figurative Elements of Marks, set up by a Resolution adopted in 1973 by the Vienna Conference on the International Classification of the Figurative Elements of Marks, held its first session in December 1975. Nine States, one intergovernmental organization and three international non-governmental organizations were represented at the meeting.

The Provisional Committee adopted a number of proposed amendments and additions to the first 14 categories of the International Classification of the Figurative Elements of Marks which would be submitted to the Committee of Experts set up under Article 5 of the Vienna Agreement Establishing an International Classification of the Figurative Element of Marks when that Agreement entered into force.

### **XX. Table of Contracting States**

The following table shows the situation of the Acts in force at the end of 1975 (see also "Member States of the Industrial Property Unions," below).

Instrument	Number of Contracting Countries					
	Total	Bound by the Act of				
		Stockholm 1967	Lisbon 1958	Nice 1957	London 1934	The Hague 1925
Paris Convention . . .	81	52 <sup>1</sup>	16	NA	11	2
Madrid Agreement/ Indications of Source	32	17 <sup>2</sup>	20	NA	9	3
Madrid Agreement/ Marks . . . . .	23	18	NA	5	0	0
Hague Agreement . . .	14	5	NA	NA	14 <sup>3</sup>	0
Nice Agreement . . . .	31	24	NA	7	NA	NA
Lisbon Agreement . . .	15	11	4	NA	NA	NA
Locarno Agreement . .	15	NA	NA	NA	NA	NA
Strasbourg Agreement .	16	NA	NA	NA	NA	NA

NA: Not applicable.

<sup>1</sup> This figure relates to the number of countries which have accepted the substantive Articles (1 to 12) of the Stockholm Act.

<sup>2</sup> Since the Stockholm Act is an additional Act, these 17 countries are included in the figure for countries bound by the Lisbon Act.

<sup>3</sup> Hague Act (1960) (not yet in force): 3; Additional Act of Monaco (1961): 7; Geneva Protocol (1975) (not yet in force): 5 Signatory States.

## Member States of the Industrial Property Unions as on January 1, 1976

### I

#### International Union for the Protection of Industrial Property (Paris Union) \*

founded by the Paris Convention (1883), revised at Brussels (1900), Washington (1911), The Hague (1925), London (1934), Lisbon (1958), and Stockholm (1967)

Member State **	Class chosen	Starting-date of membership	Latest Act by which the State is bound and date from which it is bound
Algeria <sup>1</sup>	VI	March 1, 1966	Stockholm: April 20, 1975 •
Argentina	III	February 10, 1967	Lisbon: February 10, 1967
Australia <sup>1, 2</sup>	III	October 10, 1925	Stockholm: September 27, 1975 (substance) † August 25, 1972 <sup>3</sup> (administration) ††
Austria	IV	January 1, 1909	Stockholm: August 18, 1973
Belgium	III	July 7, 1884	Stockholm: February 12, 1975
Benin <sup>1, 4</sup>	VII	January 10, 1967	Stockholm: March 12, 1975
BRAZIL	III	JULY 7, 1884	THE HAGUE: OCTOBER 26, 1929 STOCKHOLM: MARCH 24, 1975 <sup>3</sup> (administration) †† •
Bulgaria	V	June 13, 1921	Stockholm: May 19 or 27, 1970 <sup>5</sup> (substance) † May 27, 1970 (administration) †† •
Cameroon <sup>1</sup>	VII	May 10, 1964	Stockholm: April 20, 1975
Canada <sup>1</sup>	II	June 12, 1925	London: July 30, 1951 Stockholm: July 7, 1970 <sup>3</sup> (administration) ††
Central African Republic <sup>1</sup>	VI	November 19, 1963	Lisbon: November 19, 1963
Chad <sup>1</sup>	VII	November 19, 1963	Stockholm: September 26, 1970
Congo <sup>1</sup>	VII	September 2, 1963	Stockholm: December 5, 1975
Cuba	VI	November 17, 1904	Stockholm: April 8, 1975 •
Cyprus	VI	January 17, 1966	Lisbon: January 17, 1966
Czechoslovakia	IV	October 5, 1919	Stockholm: December 29, 1970 •
Denmark <sup>6</sup>	IV	October 1, 1894	Stockholm <sup>7</sup> : April 26 or May 19, 1970 <sup>5</sup> (substance) † April 26, 1970 (administration) ††
DOMINICAN REPUBLIC	VI	JULY 11, 1890	THE HAGUE: APRIL 6, 1951
Egypt	VI	July 1, 1951	Stockholm: March 6, 1975 •
Finland	IV	September 20, 1921	Stockholm: October 21, 1975 (substance) † September 15, 1970 <sup>3</sup> (administration) ††
France <sup>8</sup>	I	July 7, 1884	Stockholm: August 12, 1975
Gabon <sup>1</sup>	VII	February 29, 1964	Stockholm: June 10, 1975
German Democratic Republic	III	May 1, 1903 <sup>9</sup>	Stockholm: April 26 or May 19, 1970 <sup>5</sup> (substance) † April 26, 1970 (administration) ††
Germany, Federal Republic of	I	May 1, 1903 <sup>9</sup>	Stockholm: September 19, 1970
Greece	V	October 2, 1924	London: November 27, 1953
Haiti	VI	July 1, 1958	Lisbon: January 4, 1962
Holy See	VI	September 29, 1960	Stockholm: April 24, 1975
Hungary	V	January 1, 1909	Stockholm: April 26 or May 19, 1970 <sup>5</sup> (substance) † April 26, 1970 (administration) †† •
Iceland	VI	May 5, 1962	London: May 5, 1962
Indonesia <sup>1</sup>	IV	December 24, 1950	London: December 24, 1950
Iran	IV	December 16, 1959	Lisbon: January 4, 1962
Iraq	VI	January 24, 1976	Stockholm: January 24, 1976 •
Ireland	IV	December 4, 1925	Stockholm: April 26 or May 19, 1970 <sup>5</sup> (substance) † April 26, 1970 (administration) ††
Israel <sup>1</sup>	V	March 24, 1950	Stockholm: April 26 or May 19, 1970 <sup>5</sup> (substance) † April 26, 1970 (administration) ††
Italy	I	July 7, 1884	Lisbon: December 29, 1968
Ivory Coast <sup>1</sup>	VII	October 23, 1963	Stockholm: May 4, 1974
Japan	I	July 15, 1899	Stockholm: October 1, 1975 (substance) † April 24, 1975 <sup>3</sup> (administration) ††
Jordan <sup>1</sup>	VII	July 17, 1972	Stockholm: July 17, 1972
Kenya	VI	June 14, 1965	Stockholm: October 26, 1971

Member State **	Class chosen	Starting-date of membership	Latest Act by which the State is bound and date from which it is bound
Lebanon . . . . .	VI	September 1, 1924	London: September 30, 1947
Liechtenstein . . . . .	VII	July 14, 1933	Stockholm: May 25, 1972
Luxembourg . . . . .	VI	June 30, 1922	Stockholm: March 24, 1975
Madagascar <sup>1</sup> . . . . .	VII	December 21, 1963	Stockholm: April 10, 1972
Malawi <sup>10</sup> . . . . .	VII	July 6, 1964	Stockholm: June 25, 1970
Malta . . . . .	VI	October 20, 1967	Lisbon: October 20, 1967
Mauritania <sup>1</sup> . . . . .	VI	April 11, 1965	Lisbon: April 11, 1965
Mexico . . . . .	IV	September 7, 1903	Lisbon: May 10, 1964
Monaco . . . . .	VII	April 29, 1956	Stockholm: October 4, 1975
Morocco . . . . .	VI	July 30, 1917	Stockholm: August 6, 1971
Netherlands <sup>11</sup> . . . . .	III	July 7, 1884	Stockholm: January 10, 1975
New Zealand <sup>1</sup> . . . . .	V	July 29, 1931	London: July 14, 1946
Niger <sup>1</sup> . . . . .	VII	July 5, 1964	Stockholm: March 6, 1975
Nigeria . . . . .	VI	September 2, 1963	Lisbon: September 2, 1963
Norway . . . . .	IV	July 1, 1885	Stockholm: June 13, 1974
Philippines . . . . .	VI	September 27, 1965	Lisbon: September 27, 1965
Poland . . . . .	III	November 10, 1919	Stockholm: March 24, 1975 •
Portugal <sup>12</sup> . . . . .	IV	July 7, 1884	Stockholm: April 30, 1975
Republic of South Viet-Nam <sup>1</sup> . . . . .	VI	December 8, 1956	Stockholm: April 30, 1975
Romania . . . . .	IV	October 6, 1920	Stockholm: April 26 or May 19, 1970 <sup>5</sup> (substance) † April 26, 1970 (administration) †† •
San Marino . . . . .	VI	March 4, 1960	London: March 4, 1960
Senegal <sup>1</sup> . . . . .	VII	December 21, 1963	Stockholm: April 26 or May 19, 1970 <sup>5</sup> (substance) † April 26, 1970 (administration) ††
South Africa . . . . .	IV	December 1, 1947	Stockholm: March 24, 1975 •
Southern Rhodesia <sup>10</sup> . . . . .	VI	April 6, 1965	Lisbon: April 6, 1965
Soviet Union . . . . .	I	July 1, 1965	Stockholm: April 26 or May 19, 1970 <sup>5</sup> (substance) † April 26, 1970 (administration) †† •
Spain . . . . .	IV	July 7, 1884	Stockholm: April 14, 1972
Sri Lanka <sup>1</sup> . . . . .	VI	December 29, 1952	London: December 29, 1952
Sweden . . . . .	III	July 1, 1885	Stockholm: October 9, 1970 (substance) † April 26, 1970 <sup>3</sup> (administration) ††
Switzerland . . . . .	III	July 7, 1884	Stockholm: April 26 or May 19, 1970 <sup>5</sup> (substance) † April 26, 1970 (administration) ††
Syrian Arab Republic . . . . .	VI	September 1, 1924	London: September 30, 1947
Togo <sup>1</sup> . . . . .	VII	September 10, 1967	Stockholm: April 30, 1975
Trinidad and Tobago <sup>1</sup> . . . . .	VI	August 1, 1964	Lisbon: August 1, 1964
Tunisia . . . . .	VI	July 7, 1884	London: October 4, 1942
Turkey . . . . .	VI	October 10, 1925	London: June 27, 1957
Uganda . . . . .	VII	June 14, 1965	Stockholm: October 20, 1973
United Kingdom . . . . .	I	July 7, 1884	Stockholm: April 26 or May 19, 1970 <sup>5</sup> (substance) † April 26, 1970 (administration) ††
United Republic of Tanzania <sup>1</sup> . . . . .	VI	June 16, 1963	Lisbon: June 16, 1963
United States of America <sup>13</sup> . . . . .	I	May 30, 1887	Stockholm: August 25, 1973 (substance) † September 5, 1970 <sup>3</sup> (administration) ††
Upper Volta <sup>1</sup> . . . . .	VII	November 19, 1963	Stockholm: September 2, 1975
Uruguay . . . . .	VI	March 18, 1967	Lisbon: March 18, 1967
Yugoslavia . . . . .	IV	February 26, 1921	Stockholm: October 16, 1973
Zaire . . . . .	VI	January 31, 1975	Stockholm: January 31, 1975
Zambia <sup>10</sup> . . . . .	VI	April 6, 1965	Lisbon: April 6, 1965

(Total: 82 States) <sup>14</sup>

\* This list includes all the entities to which the Convention has been declared applicable. It does not imply any expression of opinion as to the legal status of any country or territory or of its authorities.

\*\* Explanation of type:

**Heavy type:** States which have accepted the Stockholm Act (1967) in its entirety.

*Italics:* States which have accepted the Lisbon Act (1958) and States which have accepted the Lisbon Act and the Stockholm Act (1967) except Articles 1 to 12 of the latter.

Ordinary type: States which have accepted the London Act (1934) and States which have accepted the London Act and the Stockholm Act (1967) except Articles 1 to 12 of the latter.

**CAPITAL LETTERS:** State which has accepted the Hague Act (1925) and State which has accepted the Hague and the Stockholm Act (1967) except Articles 1 to 12 of the latter.

† “Substance” means Articles 1 to 12 and, unless the date under “administration” is earlier, Articles 18 to 30.

†† “Administration” means Articles 13 to 17 and, unless the date under “substance” is earlier or where there is no entry “substance,” Articles 18 to 30.

• With the declaration provided for in Article 28(2).

<sup>1</sup> The Convention was previously applied, as from the dates indicated, on the territories of what are now the following States: Australia (August 5, 1907), Canada (September 1, 1923), Indonesia (October 1, 1888), Israel (September 12, 1933), Jordan (Cis-Jordan only, September 12, 1933), New Zealand (September 7, 1891), Sri Lanka (June 10, 1905), Trinidad and Tobago (May 14, 1908), U. R. of Tanzania (Tanganyika only, January 1, 1938). The Convention was previously applied, from various dates, on the territories of what are now the following States: Algeria, Benin, Cameroon, Central African Republic, Chad, Congo, Gabon, Ivory Coast, Madagascar, Mauritania, Niger, Republic of South Viet-Nam, Senegal, Togo, Upper Volta.

<sup>2</sup> Australia extended the application of the Hague Act (1925) to Norfolk Island and Nauru with effect from July 29, 1936. Australia extended the application of the London Act (1934) to Norfolk Island with effect from February 5, 1960.

<sup>3</sup> Acceptance excluding Articles 1 to 12.

<sup>4</sup> Formerly Dahomey.

<sup>5</sup> These are the alternative dates of entry into force which the Director General of WIPO communicated to the States concerned.

<sup>6</sup> Including the Faroe Islands.

<sup>7</sup> Denmark extended the application of the Stockholm Act (1967) to the Faroe Islands with effect from August 6, 1971.

<sup>8</sup> Including the Departments of Guadeloupe, Guyane, Martinique and Reunion and all Overseas Territories.

<sup>9</sup> Date on which the adhesion of the German Empire took effect.

<sup>10</sup> The Federation of Rhodesia and Nyasaland, a semi-autonomous member of the Commonwealth, acceded to the London Act (1934) as from April 1, 1958. The Convention continued to be applied to Malawi (Nyasaland) and to Zambia (Northern Rhodesia) as a result of declarations of continuity and instruments of accession deposited with the Swiss Confederation, the depositary of the Lisbon Act (1958). Through the intermediary of the Embassy of the United Kingdom, a declaration of continuity and an instrument of accession were deposited by the Government of Southern Rhodesia with the Swiss Confederation, which on March 6, 1965, notified this deposit and that the accession would take effect on April 6, 1965. This notification gave rise to a communication of March 30, 1965, from the Government of Cameroon. By its communication of December 6, 1968, the Government of the United Kingdom requested the International Bureau to transmit in the future all communications intended for the Southern Rhodesian authorities to the Government of the United Kingdom.

<sup>11</sup> The Netherlands extended to Curaçao the application of the Convention with effect from July 1, 1890, and of the London Act (1934) with effect from August 5, 1948. The instrument of ratification of the Stockholm Act (1967) was deposited for the Kingdom in Europe and the Netherlands Antilles.

<sup>12</sup> Including the Azores and Madeira.

<sup>13</sup> The United States of America extended the application of the Lisbon Act (1958) to American Samoa, Guam, Puerto Rico and Virgin Islands with effect from July 7, 1963, and has extended the application of the Stockholm Act (1967) to all territories and possessions of the United States, including the Commonwealth of Puerto Rico, as from August 25, 1973.

<sup>14</sup> The situation of the following States in respect of the Paris Union is under examination: Bahamas, Papua-New Guinea, Surinam.

## II

## Agreement for the Repression of False or Deceptive Indications of Source on Goods (Madrid Agreement) \*

founded by the Madrid Agreement (1891), revised at Washington (1911), The Hague (1925), London (1934),  
Lisbon (1958), and supplemented by the Additional Act of Stockholm (1967)

Contracting State **	Original date on which the State became bound by the Agreement	Latest Act by which the State is bound and date from which it is bound (see, however, for some States, the Additional Act of Stockholm)	Additional Act of Stockholm and date from which the State is bound by it
<b>Algeria</b> <sup>1</sup>	<b>July 5, 1972</b>	<b>Lisbon: July 5, 1972</b>	<b>July 5, 1972</b>
BRAZIL	OCTOBER 3, 1896	THE HAGUE: OCTOBER 26, 1929	—
<b>Bulgaria</b>	<b>August 12, 1975</b>	<b>Lisbon: August 12, 1975</b>	<b>August 12, 1975</b>
<i>Cuba</i>	<i>January 1, 1905</i>	<i>Lisbon: October 11, 1964</i>	—
<b>Czechoslovakia</b>	<b>September 30, 1921</b>	<b>Lisbon: June 1, 1963</b>	<b>December 29, 1970</b>
DOMINICAN REPUBLIC	APRIL 6, 1951	THE HAGUE: APRIL 6, 1951	—
<b>Egypt</b>	<b>July 1, 1952</b>	<b>Lisbon: March 6, 1975</b>	<b>March 6, 1975</b>
<b>France</b> <sup>2</sup>	<b>July 15, 1892</b>	<b>Lisbon: June 1, 1963</b>	<b>August 12, 1975</b>
<b>German Democratic Republic</b>	<b>June 12, 1925</b> <sup>3</sup>	<b>Lisbon: January 15, 1965</b>	<b>April 26, 1970</b>
<b>Germany, Federal Republic of</b>	<b>June 12, 1925</b> <sup>3</sup>	<b>Lisbon: June 1, 1963</b>	<b>September 19, 1970</b>
<b>Hungary</b>	<b>June 5, 1934</b>	<b>Lisbon: March 23, 1967</b>	<b>April 26, 1970</b>
<b>Ireland</b>	<b>December 4, 1925</b>	<b>Lisbon: June 9, 1967</b>	<b>April 26, 1970</b>
<b>Israel</b> <sup>1</sup>	<b>March 24, 1950</b>	<b>Lisbon: July 2, 1967</b>	<b>April 26, 1970</b>
<i>Italy</i>	<i>March 5, 1951</i>	<i>Lisbon: December 29, 1968</i>	—
<b>Japan</b>	<b>July 8, 1953</b>	<b>Lisbon: August 21, 1965</b>	<b>April 24, 1975</b>
<b>Lebanon</b>	September 1, 1924	London: September 30, 1947	—
<b>Liechtenstein</b>	<b>July 14, 1933</b>	<b>Lisbon: April 10, 1972</b>	<b>May 25, 1972</b>
<b>Monaco</b>	<b>April 29, 1956</b>	<b>Lisbon: June 1, 1963</b>	<b>October 4, 1975</b>
<i>Morocco</i>	<i>July 30, 1917</i>	<i>Lisbon: May 15, 1967</i>	—
<b>New Zealand</b> <sup>1</sup>	July 29, 1931	London: May 17, 1947	—
POLAND	DECEMBER 10, 1928	THE HAGUE: DECEMBER 10, 1928	—
Portugal <sup>4</sup>	October 31, 1893	London: November 7, 1949	—
Republic of South Viet-Nam <sup>1</sup>	December 8, 1956	London: December 8, 1956	—
<b>San Marino</b>	September 25, 1960	London: September 25, 1960	—
<b>Spain</b>	<b>July 15, 1892</b>	<b>Lisbon: August 14, 1973</b>	<b>August 14, 1973</b>
<b>Sri Lanka</b> <sup>1</sup>	December 29, 1952	London: December 29, 1952	—
<b>Sweden</b>	<b>January 1, 1934</b>	<b>Lisbon: October 3, 1969</b>	<b>April 26, 1970</b>
<b>Switzerland</b>	<b>July 15, 1892</b>	<b>Lisbon: June 1, 1963</b>	<b>April 26, 1970</b>
<b>Syrian Arab Republic</b>	September 1, 1924	London: September 30, 1947	—
<b>Tunisia</b>	July 15, 1892	London: October 4, 1942	—
<b>Turkey</b>	August 21, 1930	London: June 27, 1957	—
<b>United Kingdom</b>	<b>July 15, 1892</b>	<b>Lisbon: June 1, 1963</b>	<b>April 26, 1970</b>

(Total: 32 States)

\* This list includes all the entities to which the Agreement has been declared applicable. It does not imply any expression of opinion as to the legal status of any country or territory or of its authorities.

\*\* Explanation of type:

**Heavy type:** States which have accepted the Stockholm Act (1967).

*Italics:* States which have not accepted an Act later than Lisbon (1958).

Ordinary type: States which have not accepted an Act later than London (1934).

CAPITAL LETTERS: States which have not accepted an Act later than The Hague (1925).

<sup>1</sup> The Agreement was previously applied, as from the dates indicated, on the territories of what are now the following countries: Israel (September 12, 1933), New Zealand (June 20, 1913), Sri Lanka (September 1, 1913). The Agreement was previously applied, from various dates, on the territories of what are now Algeria and the Republic of South Viet-Nam.

<sup>2</sup> Including the Departments of Guadeloupe, Guyane, Martinique and Reunion and all Overseas Territories.

<sup>3</sup> Date on which Germany became bound by the Agreement.

<sup>4</sup> Including the Azores and Madeira.

## III

**Union for the International Registration of Marks (Madrid Union) \***

founded by the Madrid Agreement (1891), revised at Brussels (1900), Washington (1911), The Hague (1925), London (1934), Nice (1957) and Stockholm (1967)

Member State **	Starting-date of membership in the Union	Latest Act by which the State is bound and date from which it is bound
Algeria <sup>1, 2</sup>	July 5, 1972	Stockholm: July 5, 1972
Austria <sup>1</sup>	January 1, 1909	Stockholm: August 18, 1973
Belgium <sup>1, 3</sup>	July 15, 1892	Stockholm: February 12, 1975
Czechoslovakia <sup>1</sup>	October 5, 1919	Stockholm: December 22 or 29, 1970 <sup>4</sup>
Egypt <sup>1, 5</sup>	July 1, 1952	Stockholm: March 6, 1975
France <sup>1, 6</sup>	July 15, 1892	Stockholm: August 12, 1975
German Democratic Republic <sup>1</sup>	December 1, 1922 <sup>7, 8</sup>	Stockholm: September 19, or December 22, 1970 <sup>4</sup>
Germany, Federal Republic of <sup>1</sup>	December 1, 1922 <sup>7</sup>	Stockholm: September 19, or December 22, 1970 <sup>4</sup>
Hungary <sup>1</sup>	January 1, 1909	Stockholm: September 19, or December 22, 1970 <sup>4</sup>
Italy <sup>1</sup>	October 15, 1894	Nice: December 15, 1966
Liechtenstein <sup>1</sup>	July 14, 1933	Stockholm: May 25, 1972
Luxembourg <sup>1, 3</sup>	September 1, 1924	Stockholm: March 24, 1975
Monaco <sup>1, 5</sup>	April 29, 1956	Stockholm: October 4, 1975
Morocco <sup>1</sup>	July 30, 1917	Stockholm: January 24, 1976
Netherlands <sup>1, 3</sup>	March 1, 1893	Stockholm: March 6, 1975 <sup>9</sup>
Portugal <sup>1, 10</sup>	October 31, 1893	Nice: December 15, 1966
Republic of South Viet-Nam <sup>1, 2</sup>	December 8, 1956	Stockholm: May 15, 1973
Romania <sup>1</sup>	October 6, 1920	Stockholm: September 19, or December 22, 1970 <sup>4</sup>
San Marino <sup>1</sup>	September 25, 1960	Nice: December 15, 1966
Spain <sup>1, 11</sup>	July 15, 1892	Nice: December 15, 1966
Switzerland <sup>1</sup>	July 15, 1892	Stockholm: September 19, or December 22, 1970 <sup>4</sup>
Tunisia <sup>1</sup>	July 15, 1892	Nice: August 28, 1967
Yugoslavia <sup>1</sup>	February 26, 1921	Stockholm: October 16, 1973

(Total: 23 States) <sup>12</sup>

\* This list includes all the entities to which the Agreement has been declared applicable. It does not imply any expression of opinion as to the legal status of any country or territory or of its authorities.

\*\* Explanation of type:

**Heavy type:** States which have accepted the Stockholm Act (1967).

*Italics:* States which have not accepted an Act later than Nice (1957).

- <sup>1</sup> All the States have declared, under Article 3<sup>bis</sup> of the Nice or Stockholm Act, that the protection arising from international registration shall not extend to them unless the proprietor of the mark so requests: Algeria (July 5, 1972), Austria (February 8, 1970), Belgium (December 15, 1966), Czechoslovakia (April 14, 1971), Egypt (March 1, 1967), France (July 1, 1973), German Democratic Republic (October 25, 1967), Germany (Federal Republic of) (July 1, 1973), Hungary (October 30, 1970), Italy (June 14, 1967), Liechtenstein (January 1, 1973), Luxembourg (December 15, 1966), Monaco (December 15, 1966), Morocco (December 18, 1970), Netherlands (December 15, 1966), Portugal (December 15, 1966), Republic of South Viet-Nam (May 15, 1973), Romania (June 10, 1967), San Marino (August 14, 1969), Spain (December 15, 1966), Switzerland (January 1, 1973), Tunisia (August 28, 1967), Yugoslavia (June 29, 1972). The dates in parentheses indicate the effective date of the declaration in respect of each State.
- <sup>2</sup> The Agreement previously applied, from various dates, on the territories of what are now Algeria and the Republic of South Viet-Nam.
- <sup>3</sup> As from January 1, 1971, the territories in Europe of Belgium, Luxembourg and the Netherlands are, for the application of the Agreement, to be deemed a single country.
- <sup>4</sup> These are the alternative dates of entry into force which the Director General of WIPO communicated to the States concerned.
- <sup>5</sup> Egypt and Monaco only recognize trademarks registered under the Agreement *after* the date of their adhesion to the Union.
- <sup>6</sup> Including the Departments of Guadeloupe, Guyane, Martinique and Reunion and all Overseas Territories.
- <sup>7</sup> Date on which Germany adhered to the Union.
- <sup>8</sup> The German Democratic Republic declared that it considered the Madrid Agreement revised at London (1934) as again applicable on the territory of the German Democratic Republic. As such, in the German Democratic Republic, protection is not accorded to marks deposited within the international framework during the period between May 8, 1945 and the date its declaration was sent by the depositary to the States concerned, that is January 16, 1956.
- <sup>9</sup> The instrument of ratification of the Stockholm Act (1967) was deposited for the Kingdom in Europe.
- <sup>10</sup> Including the Azores and Madeira.
- <sup>11</sup> Spain has declared that it no longer wishes to be bound by instruments earlier than the Nice Act. This declaration became effective on December 15, 1966. The Madrid Agreement was thus not applicable between Spain and the following States between December 15, 1966 and the date indicated for each State: Austria (February 8, 1970), Hungary (March 23, 1967), Liechtenstein (May 29, 1967), Morocco (December 18, 1970), Republic of South Viet-Nam (May 15, 1973), Tunisia (August 28, 1967).
- <sup>12</sup> Turkey withdrew from the Union with effect from September 10, 1956. International registrations in effect on that date continue to be recognized by Turkey until they expire.

## IV

**Union Concerning the International Deposit of Industrial Designs (Hague Union) \***

founded by the Hague Agreement (1925), revised at London (1934) and The Hague (1960)<sup>1</sup>, and supplemented by the Additional Act of Monaco (1961) and by the Complementary Act of Stockholm (1967)

Member State **	Starting-date of membership in the Union	London Act and date from which the State is bound	Additional Act of Monaco and date from which the State is bound	Complementary Act of Stockholm and date from which the State is bound
Egypt . . . . .	July 1, 1952	July 1, 1952	—	—
<b>France</b> <sup>2, 3, 4</sup> . . . . .	<b>October 20, 1930</b>	<b>June 25, 1939</b>	<b>December 1, 1962</b>	<b>September 27, 1975</b>
German Democratic Republic . . . . .	June 1, 1928 <sup>5</sup>	June 13, 1939 <sup>6, 7</sup>	—	—
<b>Germany, Federal Republic of</b> <sup>2</sup> . . . . .	<b>June 1, 1928<sup>5</sup></b>	<b>June 13, 1939<sup>7</sup></b>	<b>December 1, 1962</b>	<b>September 27, 1975</b>
Holy See . . . . .	September 29, 1960	September 29, 1960	—	—
Indonesia <sup>8</sup> . . . . .	December 24, 1950	December 24, 1950	—	—
<b>Liechtenstein</b> <sup>2, 3</sup> . . . . .	<b>July 14, 1933</b>	<b>January 28, 1951</b>	<b>July 9, 1966</b>	<b>September 27, 1975</b>
<b>Monaco</b> . . . . .	<b>April 29, 1956</b>	<b>April 29, 1956</b>	<b>September 14, 1963</b>	<b>September 27, 1975</b>
Morocco . . . . .	October 20, 1930	January 21, 1941	—	—
<i>Netherlands as far as the Netherlands Antilles are concerned</i> <sup>2, 9</sup> . . . . .	<i>June 1, 1928</i>	<i>August 5, 1948</i>	<i>September 14, 1963</i>	—
Republic of South Viet-Nam <sup>8</sup> . . . . .	December 8, 1956	December 8, 1956	—	—
<i>Spain</i> . . . . .	<i>June 1, 1928</i>	<i>March 2, 1956</i>	<i>August 31, 1969</i>	—
<b>Switzerland</b> <sup>2, 3</sup> . . . . .	<b>June 1, 1928</b>	<b>November 24, 1939</b>	<b>December 21, 1962</b>	<b>September 27, 1975</b>
Tunisia . . . . .	October 20, 1930	October 4, 1942	—	—

(Total: 14 States)<sup>9, 10</sup>

\* This list includes all the entities to which the Agreement has been declared applicable. It does not imply any expression of opinion as to the legal status of any country or territory or of its authorities.

\*\* Explanation of type:

**Heavy type:** States which have accepted the London Act (1934), the Additional Act of Monaco (1961) and the Complementary Act of Stockholm (1967).

*Italics:* States which have accepted the London Act (1934) and the Additional Act of Monaco (1961).

Ordinary type: States which have accepted the London Act (1934) but not the Additional Act of Monaco (1961).

<sup>1</sup> The Hague Act (1960) is not yet in force.

<sup>2</sup> This State has signed the Geneva Protocol of August 29, 1975.

<sup>3</sup> This State has ratified the Hague Act (1960), which is however not yet in force.

<sup>4</sup> Including the Departments of Guadeloupe, Guyane, Martinique and Reunion and all Overseas Territories.

<sup>5</sup> Date on which Germany adhered to the Union.

<sup>6</sup> The German Democratic Republic declared that it considered the Hague Agreement revised at London (1934) as again applicable on the territory of the German Democratic Republic. As such, in the German Democratic Republic, protection is not accorded to designs deposited within the international framework during the period between May 8, 1945 and the date its declaration was sent by the depositary to the States concerned, that is January 16, 1956.

<sup>7</sup> Date of Germany's accession to the London Act.

<sup>8</sup> The Agreement was previously applied on the territories of what are now Indonesia (June 1, 1928) and the Republic of South Viet-Nam (October 20, 1930).

<sup>9</sup> Belgium withdrew from the Union with effect from January 1, 1975. The Netherlands denounced, in respect of the Kingdom in Europe and with effect from January 1, 1975, the Hague Agreement (1925) and the subsequent Acts to which the Netherlands had adhered, specifying that the said Agreement and Acts — London Act (1934) and Additional Act of Monaco (1961) — would remain in force in respect of the Netherlands Antilles. International designs deposited before January 1, 1975, continue, during the term of international protection, to enjoy protection in Belgium and in the Netherlands (Kingdom in Europe) as well as in the other States of the Union.

<sup>10</sup> The situation of Surinam in respect of the Hague Union is under examination.

## V

## Union Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Union) \*

founded by the Nice Agreement (1957), and revised at Stockholm (1967)

Member State **	Starting-date of membership in the Union	Latest Act by which the State is bound and date from which it is bound
Algeria . . . . .	July 5, 1972	Stockholm: July 5, 1972
Australia . . . . .	April 8, 1961	Stockholm: August 22, 1972
Austria . . . . .	November 30, 1969	Stockholm: August 18, 1973
Belgium . . . . .	June 6, 1962	Stockholm: February 12, 1975
Czechoslovakia . . . . .	April 8, 1961	Stockholm: December 29, 1970
Denmark . . . . .	November 30, 1961	Stockholm: May 4, 1970 <sup>1</sup>
Finland . . . . .	August 18, 1973	Stockholm: August 18, 1973
France <sup>2</sup> . . . . .	April 8, 1961	Stockholm: August 12, 1975
German Democratic Republic . . . . .	January 15, 1965	Stockholm: November 12, 1969, or March 18, 1970 <sup>3</sup>
Germany, Federal Republic of . . . . .	January 29, 1962	Stockholm: September 19, 1970
Hungary . . . . .	March 23, 1967	Stockholm: March 18, or April 19, 1970 <sup>3</sup>
Ireland . . . . .	December 12, 1966	Stockholm: November 12, 1969, or March 18, 1970 <sup>3</sup>
Israel . . . . .	April 8, 1961	Stockholm: November 12, 1969, or March 18, 1970 <sup>3</sup>
Italy . . . . .	April 8, 1961	Nice: April 8, 1961
Lebanon . . . . .	April 8, 1961	Nice: April 8, 1961
Liechtenstein . . . . .	May 29, 1967	Stockholm: May 25, 1972
Luxembourg . . . . .	March 24, 1975	Stockholm: March 24, 1975
Monaco . . . . .	April 8, 1961	Stockholm: October 4, 1975
Morocco . . . . .	October 1, 1966	Stockholm: January 24, 1976
Netherlands . . . . .	August 20, 1962	Stockholm: March 6, 1975 <sup>4</sup>
Norway . . . . .	July 28, 1961	Stockholm: June 13, 1974
Poland . . . . .	April 8, 1961	Nice: April 8, 1961
Portugal . . . . .	April 8, 1961	Nice: April 8, 1961
Soviet Union . . . . .	July 26, 1971	Stockholm: July 26, 1971
Spain . . . . .	April 8, 1961	Nice: April 8, 1961
Sweden . . . . .	July 28, 1961	Stockholm: November 12, 1969, or March 18, 1970 <sup>3</sup>
Switzerland . . . . .	August 20, 1962	Stockholm: May 4, 1970
Tunisia . . . . .	May 29, 1967	Nice: May 29, 1967
United Kingdom . . . . .	April 15, 1963	Stockholm: November 12, 1969, or March 18, 1970 <sup>3</sup>
United States of America . . . . .	May 25, 1972	Stockholm: May 25, 1972
Yugoslavia . . . . .	August 30, 1966	Stockholm: October 16, 1973
Total: 31 States)		

\* This list includes all the entities to which the Agreement has been declared applicable. It does not imply any expression of opinion as to the legal status of any country or territory or of its authorities.

\*\* Explanation of type:

**Heavy type:** States which have accepted the Stockholm Act (1967).

**Ordinary type:** States which have not accepted an Act later than Nice (1957).

<sup>1</sup> Denmark extended the application of the Stockholm Act to the Faroe Islands with effect from October 28, 1972.

<sup>2</sup> Including the Departments of Guadeloupe, Guyane, Martinique and Reunion and all Overseas Territories.

<sup>3</sup> These are the alternative dates of entry into force which the Director General of WIPO communicated to the States concerned.

<sup>4</sup> The instrument of ratification of the Stockholm Act (1967) was deposited for the Kingdom in Europe.

## VI

**Union for the Protection of Appellations of Origin and their International Registration  
(Lisbon Union) \***

founded by the Lisbon Agreement (1958), and revised at Stockholm (1967)

Member State **	Starting-date of membership in the Union	Latest Act by which the State is bound and date from which it is bound
<b>Algeria</b> . . . . .	<b>July 5, 1972</b>	<b>Stockholm: October 31, 1973</b>
<b>Bulgaria</b> . . . . .	<b>August 12, 1975</b>	<b>Stockholm: August 12, 1975</b>
<b>Cuba</b> . . . . .	<b>September 25, 1966</b>	<b>Stockholm: April 8, 1975</b>
<b>Czechoslovakia</b> . . . . .	<b>September 25, 1966</b>	<b>Stockholm: October 31, 1973</b>
<b>France</b> <sup>1</sup> . . . . .	<b>September 25, 1966</b>	<b>Stockholm: August 12, 1975</b>
<b>Gabon</b> . . . . .	<b>June 10, 1975</b>	<b>Stockholm: June 10, 1975</b>
<b>Haiti</b> . . . . .	September 25, 1966	Lisbon: September 25, 1966
<b>Hungary</b> . . . . .	<b>March 23, 1967</b>	<b>Stockholm: October 31, 1973</b>
<b>Israel</b> . . . . .	<b>September 25, 1966</b>	<b>Stockholm: October 31, 1973</b>
<b>Italy</b> . . . . .	December 29, 1968	Lisbon: December 29, 1968
<b>Mexico</b> . . . . .	September 25, 1966	Lisbon: September 25, 1966
<b>Portugal</b> . . . . .	September 25, 1966	Lisbon: September 25, 1966
<b>Togo</b> . . . . .	<b>April 30, 1975</b>	<b>Stockholm: April 30, 1975</b>
<b>Tunisia</b> . . . . .	<b>October 31, 1973</b>	<b>Stockholm: October 31, 1973</b>
<b>Upper Volta</b> . . . . .	<b>September 2, 1975</b>	<b>Stockholm: September 2, 1975</b>
(Total: 15 States)		

\* This list includes all the entities to which the Agreement has been declared applicable. It does not imply any expression of opinion as to the legal status of any country or territory or of its authorities.

\*\* Explanation of type:

**Heavy type:** States which have accepted the Stockholm Act (1967).

**Ordinary type:** States which have not accepted an Act later than Lisbon (1958).

<sup>1</sup> Including the Departments of Guadeloupe, Guyane, Martinique and Reunion and all Overseas Territories.

## VII

**Union Concerning the International Classification for Industrial Designs (Locarno Union) \***

founded by the Locarno Agreement (1968)

Member State	Starting-date of membership in the Union
Czechoslovakia . . . . .	April 27, 1971
Denmark . . . . .	April 27, 1971
Finland . . . . .	May 16, 1972
France <sup>1</sup> . . . . .	September 13, 1975
German Democratic Republic . . . . .	April 27, 1971
Hungary . . . . .	January 1, 1974
Ireland . . . . .	April 27, 1971
Italy . . . . .	August 12, 1975
Norway . . . . .	April 27, 1971
Soviet Union . . . . .	December 15, 1972
Spain . . . . .	November 17, 1973
Sweden . . . . .	April 27, 1971
Switzerland . . . . .	April 27, 1971
United States of America . . . . .	May 25, 1972
Yugoslavia . . . . .	October 16, 1973
(Total: 15 States)	

\* This list includes all the entities to which the Agreement has been declared applicable. It does not imply any expression of opinion as to the legal status of any country or territory or of its authorities.

<sup>1</sup> Including the Departments of Guadeloupe, Guyane, Martinique and Reunion and the Overseas Territories of New Caledonia, French Polynesia, St-Pierre and Miquelon, Wallis and Futuna and the French Austral and Antarctic Territories.

## VIII

**Union Concerning the International Patent Classification (Strasbourg Union) \***

founded by the Strasbourg Agreement (1971)

Member State	Starting-date of membership in the Union
Australia <sup>1</sup>	November 12, 1975
Austria	October 7, 1975
Belgium <sup>2</sup>	July 4, 1976
Brazil	October 7, 1975
Denmark	October 7, 1975
Egypt	October 17, 1975
Finland <sup>1</sup>	May 16, 1976
France <sup>2</sup>	October 7, 1975
Germany, Federal Republic of	October 7, 1975
Ireland <sup>1</sup>	October 7, 1975
Israel	October 7, 1975
Monaco <sup>2</sup>	June 13, 1976
Netherlands <sup>3</sup>	October 7, 1975
Norway <sup>1</sup>	October 7, 1975
Soviet Union	October 3, 1976
Spain <sup>1, 2</sup>	November 29, 1975
Sweden	October 7, 1975
Switzerland	October 7, 1975
United Kingdom <sup>1</sup>	October 7, 1975
United States of America	October 7, 1975
(Total: 20 States) <sup>4</sup>	

\* This list includes all the entities to which the Agreement has been declared applicable. It does not imply any expression of opinion as to the legal status of any country or territory or of its authorities.

<sup>1</sup> With the reservation provided for in Article 4(4)(i) of the Agreement.

<sup>2</sup> With the reservation provided for in Article 4(4)(ii) of the Agreement.

<sup>3</sup> The instrument of ratification of the Strasbourg Agreement (1971) was deposited for the Kingdom in Europe, Surinam and the Netherlands Antilles.

<sup>4</sup> The situation of Surinam in respect of the Strasbourg Union is under examination.

## IX

**Patent Cooperation Treaty (1970) <sup>1</sup>***Signatory States*

Algeria	France	Ivory Coast	Senegal
Argentina	Germany, Federal	Japan	Soviet Union
Austria	Republic of	Luxembourg	Sweden
Belgium	Holy See	Madagascar	Switzerland
Brazil	Hungary	Monaco	Syrian Arab Republic
Canada	Iran	Netherlands	Togo
Denmark	Ireland	Norway	United Kingdom
Egypt	Israel	Philippines	United States of America
Finland	Italy	Romania	Yugoslavia
(Total: 35 States)			

*Ratifications*

Madagascar	Togo
Senegal	United States
(Total: 4 States)	
	of America

*Accessions*

Cameroon	Chad
Central African	Gabon
Republic	Malawi
(Total: 5 States)	

<sup>1</sup> This Treaty is not yet in force.

## X

**Trademark Registration Treaty (1973) <sup>1</sup>**

<i>Signatory States</i>		<i>Accessions</i>	
Austria	Hungary	Romania	Gabon
Denmark	Italy	San Marino	Togo
Finland	Monaco	Sweden	Upper Volta
Germany, Federal Republic of	Norway	United Kingdom	
	Portugal	United States of America	(Total: 3 States)
(Total: 14 States)			

## XI

**Vienna Agreement for the Protection of Type Faces  
and their International Deposit and the Protocol to that Agreement (1973) <sup>1</sup>**

<i>Signatory States of the Agreement</i>		<i>Signatory States of the Protocol</i>	
France	Luxembourg	France	Netherlands
Germany, Federal Republic of	Netherlands	Hungary	San Marino
Hungary	San Marino	Liechtenstein	Switzerland
Italy	Switzerland	Luxembourg	
Liechtenstein	United Kingdom		
	Yugoslavia	(Total: 7 States)	
(Total: 11 States)			

## XII

**Vienna Agreement Establishing an International Classification  
of the Figurative Elements of Marks (1973) <sup>1</sup>**

<i>Signatory States</i>		
Austria	Germany, Federal Republic of	Norway
Belgium	Hungary	Portugal
Brazil	Italy	Romania
Denmark	Luxembourg	San Marino
France	Monaco	Sweden
German Democratic Republic	Netherlands	Switzerland
		Yugoslavia
(Total: 19 States)		

*Ratification*

France

<sup>1</sup> These instruments are not yet in force.

## Membership of the Administrative Bodies of the Industrial Property Unions

On January 1, 1976, the membership of the administrative bodies was as follows:

### Paris Union

*Assembly:* Algeria, Australia, Austria, Belgium, Benin, Brazil, Bulgaria, Cameroon, Canada, Chad, Congo, Cuba, Czechoslovakia, Denmark, Egypt, Finland, France, Gabon, German Democratic Republic, Germany (Federal Republic of), Holy See, Hungary, Iraq (as from January 24, 1976), Ireland, Israel, Ivory Coast, Japan, Jordan, Kenya, Liechtenstein, Luxembourg, Madagascar, Malawi, Monaco, Morocco, Netherlands, Niger, Norway, Poland, Portugal, Republic of South Viet-Nam, Romania, Senegal, South Africa, Soviet Union, Spain, Sweden, Switzerland, Togo, Uganda, United Kingdom, United States of America, Upper Volta, Yugoslavia, Zaire (55).

*Conference of Representatives:* Argentina, Central African Republic, Cyprus, Dominican Republic, Greece, Haiti, Iceland, Indonesia, Iran, Italy, Lebanon, Malta, Mauritania, Mexico, New Zealand, Nigeria, Philippines, San Marino, Southern Rhodesia, Sri Lanka, Syrian Arab Republic, Trinidad and Tobago, Tunisia, Turkey, United Republic of Tanzania, Uruguay, Zambia (27).

*Executive Committee:* Ordinary Members: Australia, Brazil, Cameroon, Egypt, France, German Democratic Republic, Japan, Kenya, Mexico, Romania, Soviet Union, Sweden, Switzerland, Syrian Arab Republic, United Kingdom, United States of America; Associate Members: Algeria, Iran, Nigeria, Sri Lanka (20).

### Madrid Union

*Assembly:* Algeria, Austria, Belgium, Czechoslovakia, Egypt, France, German Democratic Republic, Germany (Federal Republic of), Hungary, Liechtenstein, Luxembourg, Monaco, Morocco (as from January 24, 1976), Netherlands, Republic of South Viet-Nam, Romania, Switzerland, Yugoslavia (18).

*Committee of Directors:* Italy, Portugal, San Marino, Spain, Tunisia (5).

### Nice Union

*Assembly:* Algeria, Australia, Austria, Belgium, Czechoslovakia, Denmark, Finland, France, German Democratic Republic, Germany (Federal Republic of), Hungary, Ireland, Israel, Liechtenstein, Luxembourg, Monaco, Morocco (as from January 24, 1976), Netherlands, Norway, Soviet Union, Sweden, Switzerland, United Kingdom, United States of America, Yugoslavia (25).

*Conference of Representatives:* Italy, Lebanon, Poland, Portugal, Spain, Tunisia (6).

### Lisbon Union

*Assembly:* Algeria, Bulgaria, Cuba, Czechoslovakia, France, Gabon, Hungary, Israel, Togo, Tunisia, Upper Volta (11).

*Council:* Haiti, Italy, Mexico, Portugal (4).

### Locarno Union

*Assembly:* Czechoslovakia, Denmark, Finland, France, German Democratic Republic, Hungary, Ireland, Italy, Norway, Soviet Union, Spain, Sweden, Switzerland, United States of America, Yugoslavia (15).

### Strasbourg Union

*Assembly:* Australia, Austria, Belgium (as from July 4, 1976), Brazil, Denmark, Egypt, Finland (as from May 16, 1976), France, Germany (Federal Republic of), Ireland, Israel, Monaco (as from June 13, 1976), Netherlands, Norway, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America (20).

### ICIREPAT

*Participating countries:* Austria, Canada, Cuba, Czechoslovakia, Denmark, Finland, France, German Democratic Republic, Germany (Federal Republic of), Hungary, Ireland, Israel, Japan, Netherlands, Norway, Romania, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America (22).

*Intergovernmental Organization:* International Patent Institute (IIB)

## Paris Convention

### Ratification of the Stockholm Act

#### TUNISIA

The Government of Tunisia deposited on January 7, 1976, its instrument of ratification of the Stockholm Act of July 14, 1967, of the Paris Convention for the Protection of Industrial Property of March 20, 1883.

This instrument of ratification contains the following reservation relating to Article 28(1): "Any dispute will be brought before the International Court of Justice only with the agreement of the parties concerned." (*Translation*)

Pursuant to the provisions of Article 20(2)(c) and (3), the Stockholm Act of the Paris Convention will enter into force with respect to Tunisia on April 12, 1976.

Paris Notification No. 78, of January 12, 1976.

## Plant Varieties

### Union for the Protection of New Varieties of Plants in 1975

#### *Membership*

At the end of 1975, the International Union for the Protection of New Varieties of Plants (UPOV) consisted, as in the preceding year, of the following member States: Denmark, France, Germany (Federal Republic of), Netherlands, Sweden, United Kingdom.

No new instruments of ratification or accession were deposited in the course of the year with respect to the International Convention for the Protection of New Varieties of Plants, of December 2, 1961 (hereinafter "the UPOV Convention").

The Additional Act of November 10, 1972, amending the UPOV Convention has not yet entered into force since, by the end of 1975, it had only been ratified by Sweden (on January 11, 1973), by Denmark (on February 8, 1974) and by France (on January 22, 1975).

#### *Administrative Bodies*

The *Council* held its annual session (ninth ordinary session) from October 7 to 10, 1975. In addition to the member States, two signatory non-member States (Belgium and Switzerland) were represented at the session, in an observer capacity. The session was also attended by observers from a number of other interested non-member States which had been invited, namely, Austria, Finland, Hungary, Ireland, Israel, Japan, New Zealand, Norway, Poland, South Africa, Spain and the United States of America. The work of the Council was prepared by the Consultative Committee in two sessions: the eleventh session, on March 5 and 6, 1975, and the twelfth session, on October 6 and 7, 1975. The Council took, *inter alia*, the following decisions:

(i) Mr. H. Skov (Denmark) was elected Vice-President of the Council of UPOV. He replaces Professor H. Esbo (Sweden).

(ii) New Chairmen were elected for the different Technical Working Parties: Mr. A. F. Kelly (United Kingdom) for the Technical Working Party for Agricultural Crops, Mr. M. Bischoff (Federal Republic of Germany) for the Technical Working Party for Forest Trees, Mr. T. Brossier (France) for the Technical Working Party for Fruit Crops, Mr. F. Schneider (Netherlands) for the Technical Working Party for Ornamental Plants and Mr. T. Webster

(United Kingdom) for the Technical Working Party for Vegetables.

(iii) The annual report and accounts for 1974 were approved and the program and budget for 1976 were established.

(iv) The UPOV Model Agreement for International Cooperation in the Testing of Varieties as prepared by the Committee of Experts on International Cooperation in Examination (see below) was approved. It will serve as a basis for bilateral agreements according to which one office carries out, in respect of certain genera or species, the technical examination work for the other office. Under the Model Agreement it is envisaged that one office also furnishes to the other test reports already available or under preparation relating to varieties of other genera or species. It is hoped that by concluding a number of bilateral agreements of this kind between offices of member States a multilateral cooperation within UPOV will be achieved which at a later stage might furthermore be institutionalized.

(v) The Council expressed its appreciation of the UPOV Newsletter as published — for the first time in 1975 — by the Office of the Union and asked for it to be given the broadest distribution possible. It decided that the Newsletter should, as at present, mainly contain items of information but should occasionally also include articles on the legal or technical questions which are of interest to UPOV member States and breeders.

The *Consultative Committee* took the necessary decisions for preparing the mission of a UPOV delegation to the United States of America and Canada in order to study, on the spot, the US systems for the protection of plant breeders' rights and to discuss with government authorities and professional organizations in the United States and Canada the possibility of accession by those countries to the UPOV Convention. This mission took place from September 2 to 17, 1975. The delegation consisted of the President of the Council of UPOV, representatives of five of the six member States of UPOV and the Secretary-General and Vice Secretary-General of UPOV.

The Consultative Committee also discussed, among other topics, the possibility of protecting microorganisms under the UPOV Convention and the problem of indicating reference varieties in guidelines for the conduct of tests for distinctness, homogeneity and stability by trademarks.

### *Committees of Experts*

*The Committee of Experts on the Interpretation and Revision of the Convention* held its first session from February 25 to 28, 1975, and its second session from December 2 to 5, 1975. In both sessions the Committee considered proposals for a more flexible interpretation or revision of those Articles of the UPOV Convention which may constitute obstacles to the accession of further States to UPOV. These proposals were thoroughly discussed, also in the light of the outcome of the UPOV mission to the United States of America and Canada. The Committee will continue its work in 1976.

*The Committee of Experts on International Cooperation in Examination* held its second session from January 15 to 17, 1975, its third session from April 15 to 17, 1975, and its fourth session on November 4 and 5, 1975. During its second session, the Committee discussed the possibilities of international cooperation in the testing of varieties either by way of bilateral agreements or by a multilateral agreement. It finally agreed on a draft for a UPOV Model Agreement for International Cooperation in the Testing of Varieties which should form the basis for bilateral agreements between national authorities. During its third session, the Committee discussed this Draft Model Agreement and the question of cooperation in examination in general with representatives of international non-governmental organizations in the field of plant breeding and the seed trade. In its third and fourth sessions, the Committee had a first exchange of views on the harmonization of fees and on the harmonization of application forms, forms for technical questionnaires and test reports. On April 17, 1975, it held a joint meeting with the Technical Steering Committee for the consideration of part of those subjects. During its fourth session, the Committee agreed on a list of genera and species in which the authorities of member States would indicate those genera and species for which they are ready to discuss with other authorities the conclusion of bilateral agreements concerning cooperation in examination, especially on the basis of the UPOV Model Agreement.

### *Technical Meetings*

*The Technical Steering Committee* held its sixth session on April 17 and 18, 1975, and its seventh session on November 6 and 7, 1975. During its sixth session the Committee discussed, in a joint session with the Committee of Experts on International Cooperation in Examination, the possibilities of harmonizing application forms, forms for technical questionnaires and test reports. It also discussed the difficulties with respect to the assessing of colors as the color charts available at present seemed to be insufficient for the examination of plant varieties.

During the seventh session, the Committee discussed methods for the examination of maize hybrids, the technical aspects of the UPOV mission to the United States of America and Canada and, again, the harmonization of test reports and the problems in connection with the grouping of colors. With respect to the work of the Technical Working Parties, the Committee finally adopted the Test Guidelines for Carnations and Freesia, referred several test guidelines back to the Technical Working Parties, and also approved the transmittal of thirteen other draft test guidelines to the professional organizations for comments.

*The Technical Working Party for Agricultural Crops* held its fourth session at Cambridge (United Kingdom), from June 4 to 6, 1975, and discussed the different methods for the testing of grasses. The draft Test Guidelines for Rape, Turnip, Meadow Fescue and White Clover were finalized.

Several workshops dealing mainly with the problems of testing barley, oats, maize and wheat were held, during which the draft Test Guidelines for Barley and Oats, as well as revised draft Test Guidelines for Wheat, were finalized.

*The Technical Working Party for Forest Trees* held an unofficial meeting at Hanover (Federal Republic of Germany) on August 19 and 20, 1975, during which it rediscussed the Test Guidelines for Poplar which had been submitted to the professional organizations for comments, started preparing draft Test Guidelines for Picea and rediscussed the problems connected with the protection of multiclonal varieties.

*The Technical Working Party for Fruit Crops* held its sixth session at Bordeaux (France) from June 17 to 19, 1975, and completed the draft Test Guidelines for Cherries, Black Currants, European Plums and Raspberries. It further drafted technical questionnaires for the following species: apples, black currants, cherries, pears, European plums and strawberries.

*The Technical Working Party for Ornamental Plants* held its eighth session at Hornum (Denmark) from September 9 to 11, 1975, and established technical questionnaires for African violets, carnations, Elatior begonia, Euphorbia fulgens, freesia, pelargonium, poinsettia and roses. In addition, comments received from professional organizations on the draft Test Guidelines for Freesia, Carnations and Pelargonium were discussed and the draft Test Guidelines for Rhododendron were completed. The Working Party also discussed the problems in connection with the testing of colors.

*The Technical Working Party for Vegetables* held its seventh session at Lund (Sweden) from May 28 to 30, 1975, and discussed the remarks of the professional organizations on the draft Test Guidelines for

Garden Peas. The draft Test Guidelines for Cabbage, Carrots and Tomatoes were almost completed and technical questionnaires for garden peas, broad beans, French beans, runner beans and lettuce prepared.

*The Fee Harmonization Working Party* and the *Working Group on Variety Denominations* did not meet in 1975.

#### *Relations with States and Organizations*

The *President of the Council of UPOV* and the *Vice Secretary-General* attended several sessions of the International Association of Plant Breeders for the Protection of Plant Varieties (ASSINSEL) held in Rome (Italy) from May 21 to 23, 1975.

The *Vice Secretary-General* attended the Congress of the International Federation of the Seed Trade (FIS) held in Poznan (Poland) from May 26 to 28, 1975, the meeting of the Committee on Novelty Protection of the International Association of Horticultural Producers (AIPH) held at Mannheim (Federal Republic of Germany) on October 15, 1975, and the Advisory Group meeting and the annual meeting of the Schemes for the Varietal Certification of Seed of the Organization for Economic Cooperation and Development (OECD) held in Paris from March 17 to 20, 1975.

The *Secretary-General* visited the authorities responsible for Plant Variety Protection in France and the *Vice Secretary-General* visited the offices and some enterprises in Denmark and Sweden.

#### *Publications*

During 1975, the Office of the Union started the publication of a UPOV Newsletter and prepared and distributed the first three issues. The Office of the Union also prepared official translations of the Con-

vention and the Additional Act in Dutch, Italian and Spanish, as required under Article 41(3) of the Convention and Article VIII(2) of The Additional Act. French and German texts of the general information brochure were also published.

### **Union for the Protection of New Varieties of Plants (UPOV)**

founded by the International Convention of December 2, 1961, amended by the Additional Act of November 10, 1972 <sup>1</sup>

#### **Member States as on January 1, 1976 \***

Member State	Starting-date of membership of the Union
Denmark <sup>2</sup> . . . . .	October 6, 1968
France <sup>3</sup> . . . . .	October 3, 1971
Germany, Federal Republic of .	August 10, 1968
Netherlands . . . . .	August 10, 1968
Sweden <sup>2</sup> . . . . .	December 17, 1971
United Kingdom . . . . .	August 10, 1968
(Total: 6 States)	

\* This list includes all the entities to which the Convention has been declared applicable. It does not imply any expression of opinion as to the legal status of any country or territory or of its authorities.

<sup>1</sup> The Additional Act of November 10, 1972, is not yet in force.

<sup>2</sup> This State has ratified the Additional Act of November 10, 1972, which is however not yet in force.

<sup>3</sup> Including the Departments of Guadeloupe, Guyane, Martinique and Reunion, the Overseas Territories of French Polynesia, New Caledonia, Saint Pierre and Miquelon, Wallis and Futuna Islands and the French Southern and Antarctic Territories.

## Conventions Not Administered by WIPO

### Contracting States on January 1, 1976

#### International Patent Institute (IIB)

##### Hague Agreement of June 6, 1947, establishing the International Patent Institute

revised at The Hague on February 16, 1961

State	Date on which the State became party to the 1947 Agreement	Date on which the State became party to the 1961 Act
Belgium . . .	June 10, 1949	December 30, 1971
France . . .	June 10, 1949	December 30, 1971
Italy . . . . .		December 15, 1974
Luxembourg . .	June 10, 1949	December 30, 1971
Monaco . . .	August 2, 1956	December 30, 1971
Netherlands . .	June 10, 1949	December 30, 1971
Switzerland . .	January 1, 1960	December 30, 1971
Turkey . . .	September 28, 1955	December 30, 1971
United Kingdom	August 2, 1965	

#### Council of Europe

##### European Convention relating to the Formalities required for Patent Applications (1953)

(Entered into force June 1, 1955)

State	Date of Ratification of or Accession to the Convention
Austria . . . . .	March 3, 1971
Belgium . . . . .	March 12, 1965
Denmark . . . . .	September 3, 1956
Finland . . . . .	February 1, 1973
France . . . . .	January 18, 1962
Germany, Federal Republic of .	May 17, 1955
Greece . . . . .	June 15, 1955
Iceland . . . . .	March 24, 1966
Ireland . . . . .	June 17, 1954
Israel * . . . . .	April 29, 1966
Italy . . . . .	October 17, 1958
Luxembourg . . . . .	July 4, 1957
Netherlands . . . . .	May 9, 1956
Norway . . . . .	May 21, 1954
South Africa * . . . . .	November 28, 1957
Spain * . . . . .	June 28, 1967
Sweden . . . . .	June 28, 1957
Switzerland . . . . .	December 28, 1959
Turkey . . . . .	October 22, 1956
United Kingdom . . . . .	May 5, 1955

### European Convention on the International Classification of Patents for Invention

(including Annex as amended) (1954-1967)

(Entered into force August 1, 1955)

State	Date of Ratification of or Accession to the Convention
Australia *, ** . . . . .	March 7, 1958
Belgium ** . . . . .	May 16, 1955
Israel *, ** . . . . .	April 18, 1966
Italy . . . . .	January 9, 1957
Spain *, ** . . . . .	September 1, 1967
Turkey . . . . .	October 22, 1956

\* These States are not members of the Council of Europe.

\*\* In view of their adhesion to the Strasbourg Agreement Concerning the International Patent Classification (1971), these States have notified their denunciation of the European Convention on the International Classification of Patents for Invention.

### Convention on the Unification of Certain Points of Substantive Law on Patents for Invention (1963)

This Convention, signed on November 27, 1963, is not yet in force. It was ratified by Ireland on January 25, 1968, and has been signed but not ratified by the following States: Belgium, Denmark, France, Germany (Federal Republic of), Italy, Luxembourg, Netherlands, Sweden, Switzerland, United Kingdom.

#### European Patent Organisation

##### Convention on the Grant of European Patents (1973)

This Convention, adopted on October 5, 1973, is not yet in force. It has been signed by the following States: Austria, Belgium, Denmark, France, Germany (Federal Republic of), Greece, Ireland, Italy, Liechtenstein, Luxembourg, Monaco, Netherlands, Norway, Sweden, Switzerland, United Kingdom.

**African and Malagasy  
Industrial Property Office (OAMPI)**

**Libreville Agreement of September 13, 1962,  
Relating to the Creation of an African  
and Malagasy Industrial Property Office**

State	Date of ratification or accession <sup>1</sup>
Bénin <sup>2</sup> . . . . .	D July 5, 1963
Cameroon <sup>2</sup> . . . . .	L June 19, 1963 D August 23, 1963
Central African Republic <sup>2</sup>	L December 7, 1962
Chad <sup>2</sup> . . . . .	O March 9, 1963
Congo . . . . .	L June 15, 1963 D July 27, 1963
Gabon <sup>2</sup> . . . . .	L December 20, 1962
Ivory Coast . . . . .	D March 4, 1963

Madagascar <sup>2, 3</sup> . . . . .	L June 12, 1963 D August 28, 1963
Mauritania <sup>2</sup> . . . . .	L June 19, 1963
Niger . . . . .	L February 6, 1963
Senegal . . . . .	L July 3, 1963 D November 19, 1963
Togo . . . . .	A October 24, 1967
Upper Volta . . . . .	L May 10, 1963 D January 6, 1964

<sup>1</sup> Date of the law (L), decree (D) or order (O) providing for ratification, or effective date of the accession (A).

<sup>2</sup> This State has provided for the application of Annex IV of the Libreville Agreement. Article 3(2) of the Agreement provides that applicants not domiciled in any of the member States of OAMPI file their patent, trademark and design applications directly with OAMPI. Annex IV enables member States of OAMPI to provide for this direct filing in the case of all other applicants.

<sup>3</sup> Madagascar has denounced the Libreville Agreement with effect from December 31, 1976.

## WIPO Meetings

### PARIS UNION

#### I

### Ad Hoc Group of Governmental Experts on the Revision of the Paris Convention

#### Second Session

(Geneva, December 15 to 22, 1975)

#### Note \*

The Ad Hoc Group of Governmental Experts on the Revision of the Paris Convention (hereinafter referred to as "the Group of Experts") held its second session in Geneva from December 15 to 22, 1975.<sup>1</sup>

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

<sup>1</sup> A Note on the first session of the Group of Experts, held in February 1975, was published in *Industrial Property*, 1975, p. 84.

All States members of the Paris Union or of WIPO were invited. Fifty-three of them were represented. Three United Nations bodies, three inter-governmental and thirteen international non-governmental organizations were represented by observers. The list of participants and officers follows this Note.

In its first session, the Group of Experts had agreed on fourteen questions to be studied and had invited the Director General to prepare a study on them. This study was prepared and distributed in September 1975. Its text is reprinted at the end of the present Note. Hereinafter it is referred to as "the Director General's study."

*Objectives of the Revision.* Towards the beginning of the discussions of the second session, representatives of developing countries expressed the wish that the Group of Experts would agree on the objectives of the revision of the Paris Convention. They presented to the meeting the draft of a declaration on such objectives. The draft was then thoroughly discussed among the representatives of the participating governments. The final text, unanimously agreed upon, reads as follows:

### **Declaration on the Objectives of the Revision of the Paris Convention**

1. *The revision of the Paris Convention should aim to contribute to the establishment of a new economic order in the world in which social justice prevails and economic inequalities between nations are reduced.*

2. *Industrial property, in particular as it relates to inventions, should constitute an element in the process of the transfer of technology and should contribute to the achievement of new technological advances. It should serve the goals of a new economic order, in particular through the industrialization of developing countries.*

3. *Thus, any new orientation in the industrial property field, in particular any revision of the Paris Convention and the model laws for developing countries, should be undertaken taking into account inter alia the following objectives:*

(i) *to give full recognition to the needs for economic and social development of countries and to ensure a proper balance between these needs and the rights granted by patents;*

(ii) *to promote the actual working of inventions in each country itself;*

(iii) *to establish the principal obligations and rights of the owners of industrial property rights;*

(iv) *to facilitate the development of technology by developing countries and to improve the conditions for the transfer of technology from industrialized to developing countries under fair and reasonable terms;*

(v) *to encourage inventive activity in the developing countries;*

(vi) *to increase the potential of developing countries: in judging the real value of inventions for which protection is requested; in screening and controlling licensing contracts; in improving information for local industry;*

(vii) *to contribute to the building of the institutional infrastructure in developing countries designed to serve the above purposes, particularly the modernization or creation of industrial property offices, technical documentation centers and information services at the disposal of national industry and national inventors;*

(viii) *to enable member countries to take all appropriate measures in order to prevent abusive practices in the field of industrial property;*

(ix) *in general to ensure that all forms of industrial property, including trademarks, be designed to facilitate economic development and to ensure co-operation between countries having different systems of industrial property protection.*

4. *As far as revision of the Paris Convention is concerned, consideration is to be given to certain*

*defined cases in which exceptions and/or correctives to the principles of national treatment and independence of patents, and preferential treatment for developing countries, should be allowed.*

5. *One of the principal immediate and continuing tasks with regard to industrial property should be, by establishing within the Paris Union and by strengthening within WIPO special services for developing countries, to provide in the shortest possible time the necessary technical assistance to help developing countries to strengthen their scientific and technological infrastructure, and to train their specialists.*

6. *Consideration should be given to the question of equality of treatment for all existing forms of protection of industrial property.*

7. *International treaties within the competence of WIPO, in particular the Paris Convention, should be framed in the light of the above objectives, leaving a maximum degree of liberty to each country to adopt appropriate measures on the legislative and administrative levels consistent with its needs and social, economic and development policy.*

8. *The principal lines of this declaration should be considered for incorporation as a part of any Preamble to the Paris Convention in order to redefine industrial property concepts in an effort to better meet the needs and aspirations of developing countries.*

*The Fourteen Questions.* Because of lack of time, approximately only half of the fourteen questions treated in the Director General's study were discussed in the second session of the Group of Experts. The following were discussed, with the conclusions indicated hereinafter.

*Independence of Patents* (see paragraphs 35 to 46 of the Director General's study, reprinted below). No delegation asked for the suppression of the principle of the independence of patents but there was a general wish among representatives of developing countries — and it was a wish which was not opposed by any of the delegations of the other countries — that improved methods of information on the fate of parallel patents and parallel patent applications (that is, patents and applications relating to one and the same invention in different countries) should be secured, particularly information with respect to the country in which any priority application was filed. It was agreed that the International Bureau should analyze, in a document to be prepared for one of the future sessions of the Group of Experts, the possibilities of such improved methods of information for the benefit of the competent authorities of developing countries.

*Compulsory Licenses; Licenses of Right* (see paragraphs 47 to 58 and 94 to 98 of the Director General's study, reprinted below). After a thorough discussion, it was agreed that the International Bureau should prepare, for the next session of the Group of Experts, a working paper covering the following points:

(i) the possibilities of a general simplification and clarification of the language of Article 5 A of the Paris Convention;

(ii) an analysis of the meaning of Article 5 A (1) explaining, *inter alia*, that neither that provision nor any other provision of the Paris Convention obliges the member States to grant to the patentee a right of importation or a right to prevent importation;

(iii) a summary and analysis of the existing national legislations on various kinds of licenses of right and a further explanation of the conditions under which such licenses are compatible with the Paris Convention;

(iv) an examination of the desirability of removing from the text of Article 5A any words which could lend themselves to the (erroneous) interpretation that non-working of an invention is necessarily an abuse of the patent rights;

(v) an examination of the desirable length and starting points of the time limits, provided for in Article 5A, before the expiration of which patents may not be subjected, for reasons of non-working, to compulsory licensing or to a revocation procedure. Such examination should also take into account the effect of the so-called "deferred examination" of patent applications instituted by some of the national legislations;

(vi) examination of the question of what kind of reasons should justify the prolongation, in respect of any given patent, of the time limits which Article 5A provides for or will provide for;

(vii) examination of the desirability of including a provision in the Paris Convention or in a statement to be adopted by the Diplomatic Conference for the revision of the Paris Convention on the inapplicability of the time limits provided for in Article 5A to compulsory licenses granted for reasons of public health, security and other similar public interest reasons;

(viii) examination of the question whether the possible amendments to Article 5A should be applicable to all member States of the Paris Union or whether some — and, if so, which — of the possible amendments to Article 5A should be applicable only to those States members of the Paris Union which are developing countries.

*National Treatment* (see paragraphs 59 to 93 of the Director General's study, reprinted below). As regards the question whether an exception from the national treatment principle should be allowed with

respect to the *duration* of patents, the Group of Experts did not suggest any such exceptions. As regards the question of possible exceptions from the national treatment principle with respect to *working* of patents, reference was made to the discussion of the questions relating to compulsory licenses, licenses of right and duration referred to in the preceding paragraph and in the preceding sentence. As to further procedure, it was agreed that the International Bureau should, in respect of *fees*, analyze and suggest possible solutions which, without affecting the national treatment principle, could be beneficial to local inventors or inventions worked locally. As far as any possible exceptions to the national treatment principle in the field of *duration* and *working* were concerned, the International Bureau should study them to the extent that the possible solutions to be worked out in connection with working, compulsory licenses, and licenses of right would not be sufficient.

*Preferential Treatment Without Reciprocity* (see paragraphs 99 to 109 of the Director General's study, reprinted below). Opinions differed on the question whether the revised Paris Convention should contain provisions obliging developed countries to give, on certain points, preferential treatment (without reciprocity) to nationals of developing countries. In view of this divergence of opinions, the Group of Experts expressed the wish that the study of this question should continue.

*Process Patents* (see paragraphs 110 to 115 of the Director General's study, reprinted below). The issue here is whether Article 5<sup>quater</sup> of the Paris Convention should be maintained or — at least for the purposes of developing countries — be made more flexible or optional. In concluding the discussion on this point, the Chairman of the session stated that the question of treatment of process patents under the Paris Convention required further study. It would have to be examined whether Article 5<sup>quater</sup> could be maintained in its present form. In particular, the impact of that provision on national laws should be clarified; the International Bureau should prepare a study which should enumerate all the possibilities existing in national legislation with respect to process patents as regards the definition of the exclusive right, compulsory licenses, licenses of right and other measures in case of non-working and for the purpose of public interest.

*Inventors' Certificates* (see paragraphs 116 to 128 of the Director General's study, reprinted below). The representatives of the Soviet Union proposed that inventors' certificates should be mentioned in the Paris Convention on an equal footing with patents. They submitted written proposals for the amendment of the Paris Convention in

consequence. The main proposals are the following: (i) in Article 1(2), "patents" should be replaced by "inventions"; (ii) Article 1 should be completed by the addition of a new paragraph (5) reading as follows: "For the purposes of this Convention, and unless expressly stated otherwise, references to patents shall be construed as references also to inventors' certificates;" (iii) Article 4 I should be deleted; (iv) Articles 4<sup>bis</sup>(2) and (3), 5A(2), (3) and (4) and 5<sup>bis</sup> should be declared inapplicable to inventors' certificates "unless provided otherwise in the national law [of the country concerned]."

During the discussion, a number of questions were raised and several delegations insisted on the need to provide in the Paris Convention that any applicant must be free to choose, in any country in which the institution of inventors' certificates is known, between patents of the traditional kind and inventors' certificates, and that such possibility of choice must exist in respect of all technical fields in which inventors' certificates were available.

In conclusion, it was agreed, *inter alia*, that the International Bureau should prepare a document for the next session of the Group of Experts and that that document should contain an analysis of the existing legislations which include provisions on inventors' certificates, should attempt to give a definition of inventors' certificates, and should analyze in detail the question of free choice by the applicant between patents and inventors' certificates, the questions raised by the unlimited duration of the rights under inventors' certificates in certain legislations, including the relevance of such duration as far as the exclusive right of exploitation of the State is concerned in States having such legislation, and the questions raised by the apparent inapplicability to inventors' certificates of those provisions of the Paris Convention which concern compulsory licenses in the case of inventions protected by patents.

*Technical Assistance* (see paragraphs 193 to 198 of the Director General's study, reprinted below). After a thorough discussion, the Chairman concluded that the Group of Experts had reaffirmed WIPO's vocation for technical assistance to developing countries in the field of industrial property. The possibility of inserting provisions on such assistance in the Paris Convention should be examined, on the basis of a text to be prepared by the International Bureau. The various objectives and means of the assistance should be specified. Questions of coordination with existing programs could be settled by the WIPO Coordination Committee.

Discussions on some of the above and other questions concerning the revision of the Paris Convention are expected to continue in the next (third) session of the Group of Experts, scheduled for June 1976.

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## The Fourteen Questions of the First Session of the Ad Hoc Group of Governmental Experts

*Analysis and Suggestions Prepared  
by the Director General*

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## PART I

### Background

#### *Recommendation of the Group of Experts*

(1) The Ad Hoc Group of Governmental Experts on the Revision of the Paris Convention (hereinafter referred to as "the Group of Experts"), convened

by the Director General of WIPO in accordance with the decisions taken in the September 1974 sessions of the Coordination Committee of WIPO and the Executive Committee of the Paris Union, and meeting in its first session, at Geneva, from February 11 to 17, 1975, recommended, *inter alia*, that "the Director General, taking into account the need to respect the basic principles of the Paris Convention and to take into consideration the concerns of the developing countries, prepare a study containing an analysis of the issues and outlining possible alternative solutions in respect of the said points [the 14 points listed in the recommendation] and any connected questions" (see the Report of the Group of Experts — hereinafter referred to as "the Report" — contained in document PR/GE/I/10, paragraph 83).

(2) In the same session of the Group of Experts, "it was generally agreed that the documentation submitted to the second session of the Group of Experts would include the study" (Report, paragraph 84) mentioned in the recommendation referred to above.

#### *The Present Document*

(3) The results so far obtained from the study in question are reflected in the present document. It was agreed by the Group of Experts "that the said study would be limited to the 14 listed points and to the connected questions which might arise during the elaboration of the study, but that it was possible that further questions would later be raised" and that the order in which the points were listed in the Report "should not be taken as reflecting any judgment on their priority and relative importance or as indicating the order in which they should be dealt with in the study" (Report, paragraph 61). The present study does, indeed, group the questions differently and in a different order from that in which they were listed in the Report. It does so for purely practical reasons, mainly in order to make the discussions easier, by grouping questions which logically seem to be connected with one another and by dealing with them in such an order that any question which has a bearing on other questions is treated first so as to give the background information necessary for the consideration of those other questions. However, as agreed by the Group of Experts, the order in which the various questions are dealt with should not be taken as reflecting any judgment on their priority and relative importance.

(4) Each of the 14 questions is dealt with in this document. The Group of Experts made statements explaining and elaborating on each of those questions. The statements are contained in paragraphs 62 to 75 of the Report and they are quoted in full — together with the titles given to each of the 14

questions by the Group of Experts — in this document.

(5) This document consists of three Parts, respectively entitled "Background" (the present Part), "Some Basic Notions" (giving brief information on the meaning of some of the technical terms used in this document) and "Questions Concerning the Revision of the Paris Convention."

(6) The last Part is subdivided into three Chapters, respectively entitled "Questions of Substantive Law," "Technical Assistance" and "Other Questions." The 14 questions are treated in those Chapters. The subdivision of the Chapters can be seen from the Table of Contents appearing on page 50, above.

## PART II

### Some Basic Notions

#### *Scope of This Part*

(7) The purpose of this Part is to recall some of the basic notions of the Paris Convention. Its aim is to define or explain, in the light of the Paris Convention, some of the expressions that will be used in the rest of this document and to recall some of the obligations that exist (or do not exist) under the Paris Convention and are relevant for the detailed study of the 14 points referred to by the Group of Experts in its February 1975 session. More details are given, where necessary, in connection with the discussion of those points.

(8) All references in this document to "the Paris Convention" or to "the Convention" are references to the 1967 (Stockholm) Act of the Paris Convention, and all references to any "Article" are references to Articles of the Convention.

#### *Subjects of Industrial Property*

(9) The Paris Convention deals with the protection of "industrial property," whose subjects, according to Article 1(2), are "patents, utility models, industrial designs, trademarks, service marks, trade names, indications of source or appellations of origin, and the repression of unfair competition." With the exception of the last, none of these notions is defined in the Paris Convention.

(10) There seem to be at least two reasons for this lack of definitions. One is that, whereas, in essence, all these notions have the same meanings for all the countries party to the Convention, there are many variations in details which would make agreement on definitions rather difficult in practice. The other, more important, reason is that because of the general understanding of the meanings of these notions it did not seem necessary to define them.

#### *Definition of Some of These Subjects*

(11) An attempt is made below to indicate the main characteristics of each of the said notions. It is not

proposed that any definitions be written into the Paris Convention. Neither is it claimed that the following indications correspond to any of the definitions existing in any of the national laws or that they correspond to the understanding of the meaning of these notions existing in all the countries party to the Paris Convention. The only reason for which the following indications are given is that they should make the present document easier to understand for those less familiar with the notions in question.

(i) *Patents*. A patent is a document, issued, upon application, by a government office (or a regional office acting for several countries), which describes an invention and creates a legal situation in which the patented invention can normally only be exploited (manufactured, used, sold, imported) with the authorization of the owner of the patent. The protection conferred by the patent is limited in time (generally 15 to 20 years). "Invention" means a solution to a specific problem in the field of technology. An invention may relate to a product or a process. An invention is "patentable" if it is new, involves an inventive step (i.e., it is not obvious) and is industrially applicable.

(ii) *Utility Models*. In a few countries (not more than a dozen in the whole world), inventions are protectable, upon application, also through the registration, by a government office, of the description, drawing or other picture and/or filing of a model, under the name of "utility model." The requirements are somewhat less strict than for "patentable" inventions, the fees are lower than for patents, and the duration of protection is shorter than in the case of patents, but otherwise the rights under the utility model are similar to those under a patent.

(iii) *Industrial Designs*. Generally speaking, an industrial design — in the field of industrial property — is the ornamental aspect of a useful article. To be protectable, the industrial design must be original or novel (there is no uniformity on this important question: some laws require novelty ("does not exist so far"), others originality ("was not copied from an existing design")) and must, upon application, be registered in a government office (or a regional office acting for several countries). A protected design may not be copied or imitated without the registered owner's authorization, and copies or imitations made without such authorization may neither be sold nor imported. Protection is afforded for a limited period of time (generally 5 to 15 years).

(iv) *Trademarks and Service Marks*. A trademark is a sign which serves to distinguish the goods — as does the service mark with regard to the services — of an industrial or commercial enterprise. (It thereby indicates their origin and carries with it the guarantee of a certain permanent quality.) The sign may consist of one or more distinctive words, letters, numbers,

drawings, pictures, etc. Although, in some countries and in some situations, marks are protected without registration, it is generally necessary for effective protection that the mark be registered in a government office (or in a regional office acting for several countries, or with the International Bureau of WIPO as far as countries members of the Madrid Union are concerned). Actual use of the mark, or a declared intention of actual use of the mark, is a condition of registration in the laws of some countries; and, in most countries, actual use of the mark is required for the maintenance of the registration or at least as a condition for defending the mark. If a mark is protected, no person or enterprise other than its owner may use it — or any mark so similar to it that its use would lead to confusion in the mind of the public — at least not on or in connection with goods or services regarding which such confusion may arise. The protection of a mark is not limited in time but is usually subject to the periodical renewal (generally, every 5 or 10 years) of the registration and, in many countries, to the continued actual use of the mark.

(v) *Trade Names*. A trade name is the name or designation identifying the enterprise of a natural person or legal entity. Trade names are usually registrable in a government office but in order to be protected they do not require to be registered. Protection generally means that the trade name of one enterprise may not be used by another enterprise either as a trade name or as a mark and that a designation similar to the trade name, if likely to mislead the public, may not be used by another enterprise.

(vi) *Indications of Source and Appellations of Origin*. An indication of source is any expression or sign used to indicate that a product or service originates in a country, a region or a specific place. An appellation of origin means the geographical name of a country, a region or a specific place which serves to designate a product originating therein the characteristic qualities of which are due exclusively or essentially to the geographical environment, including natural factors, human factors or both natural and human factors. Protection of the former consists in prohibiting their use if they do not correspond to the truth or, even if they do, in prohibiting their use in a way which is likely to mislead the public, whereas protection of the latter consists in allowing their use only by a certain circle of persons for specific products.

#### *Definition of Repression of Unfair Competition*

(12) As already stated, "unfair competition" is defined in the Paris Convention. Article 10<sup>bis</sup>(2) states that "any act of competition contrary to honest practices in industrial or commercial matters constitutes an act of unfair competition." Article 10<sup>bis</sup>(3) gives typical examples. What the protection

must consist of is not indicated in the Paris Convention beyond the fact that it must be "effective." In most national laws, protection consists in prohibiting the continuation of such acts and providing for damages to be paid to the injured party and, in some cases, penal sanctions.

#### *Subjects That Must Be Protected Under the Paris Convention*

(13) Whereas the obligation of each country party to the Paris Convention to protect inventions through the grant of patents, to protect industrial designs, trademarks, service marks, trade names, indications of source or appellations of origin, and to repress acts of unfair competition is either expressly stated in each case or implied in the provisions of the Paris Convention, no obligation to protect inventions by means of utility models is explicitly or implicitly stated in the Convention and it is an accepted view that the institution of utility models is voluntary for each country. Furthermore, although the Paris Convention expressly states that "patents shall include the various kinds of industrial patents recognized by the laws of the countries of the Union, such as patents of importation, patents of improvement, patents and certificates of addition, etc." (Article 1(4)), the institution of such special kinds of patents is voluntary for each country and it is generally admitted that — contrary to what seems to be meant by Article 1(4) — some of the provisions of the Paris Convention are not necessarily required to be applied to such special kinds of patents; for example, patents of introduction generally presuppose the existence of a corresponding patent in a foreign country, and such a condition has never been considered contrary to the "independence of patents" principle laid down in Article 4<sup>bis</sup> and discussed below (see paragraphs 20 and 35 to 46).

#### *National Treatment*

(14) Article 2(1) provides that "nationals of any country of the Union shall, as regards the protection of industrial property [that is, all the subjects of industrial property], enjoy in all the other countries of the Union the advantages that their respective laws now grant, or may hereafter grant, to nationals..." The rest of this Article and Article 3 contain further rules on this principle, generally referred to as the principle or rule of "national treatment" or "assimilation [of foreigners] to nationals." The full texts of Articles 2 and 3 are quoted in the footnote <sup>1</sup>.

<sup>1</sup>

#### **Article 2**

[National Treatment for Nationals of Countries of the Union]

(1) Nationals of any country of the Union shall, as regards the protection of industrial property, enjoy in all the other countries of the Union the advantages that their respective laws now grant, or may hereafter grant, to nationals; all without prejudice to the rights specially provided for by this Convention. Consequently, they shall have the same protec-

#### *Right of Priority*

(15) The Paris Convention assumes that in each of the member countries of the Paris Union any person desiring to obtain the grant of a patent or an inventor's certificate (see paragraphs 116 to 128), or the registration of a utility model, industrial design or mark, has to file an application with a government authority — referred to hereinafter as "the industrial property office" (although the name of the said government authority differs from country to country). Any person ("the applicant") wishing to obtain protection in several countries in respect of the same invention, utility model, industrial design or mark must file a separate application in each of such countries, except where regional conventions or the Madrid Agreement Concerning the International Registration of Marks ("Madrid Agreement") or the Hague Agreement Concerning the International Deposit of Industrial Designs ("Hague Agreement") apply, or the Patent Cooperation Treaty ("PCT") or the Trademark Registration Treaty ("TRT") will apply. Where several such applications exist, the one which was filed first in time is usually referred to as "the first application" or "the earliest application," whereas the others are referred to as "subsequent" or "later" applications.

(16) Stated in simple terms, the "right of priority" consists of a legal fiction to the effect that later applications — if filed within the "priority period" (explained in the next paragraph) — are deemed to have been filed on the same day as that on which the first application was filed. In other words, these later applications have priority (hence the expression "right of priority") over applications which may have been filed during the priority period by other persons in respect of the same invention, utility model, industrial design or mark.

(17) The priority period is 12 months in the case of patents, inventors' certificates and utility models; it is 6 months in the case of industrial designs and marks.

tion as the latter, and the same legal remedy against any infringement of their rights, provided that the conditions and formalities imposed upon nationals are complied with.

(2) However, no requirement as to domicile or establishment in the country where protection is claimed may be imposed upon nationals of countries of the Union for the enjoyment of any industrial property rights.

(3) The provisions of the laws of each of the countries of the Union relating to judicial and administrative procedure and to jurisdiction, and to the designation of an address for service or the appointment of an agent, which may be required by the laws on industrial property are expressly reserved.

#### **Article 3**

[Same Treatment for Certain Categories of Persons as for Nationals of Countries of the Union]

Nationals of countries outside the Union who are domiciled or who have real and effective industrial or commercial establishments in the territory of one of the countries of the Union shall be treated in the same manner as nationals of the countries of the Union.

The period starts to run on the day of filing the first application.

(18) The fiction in question has — to use the words of the Paris Convention itself — the consequence that “any subsequent filing . . . shall not be invalidated by reason of any acts accomplished in the interval, in particular, another filing, the publication or exploitation of the invention, the putting on sale of copies of the [industrial] design, or the use of the mark . . .” (Article 4B).

(19) The main advantages of the provisions on the right of priority are that, from the day on which at least one application has been filed by the applicant, he may, during the priority period, publish or publicly use his invention without the risk of compromising its novelty and that he has at his disposal the priority period in which to decide whether and, if so, in which countries he wishes to file applications and to organize with due care the steps he must take to prepare such applications.

#### *Independence of Patents*

(20) The Paris Convention expressly states the principle of the “independence” of patents in one country from patents in another country. Such independence means, in particular, that country A cannot *refuse to grant* a patent merely on the ground that, for the same invention, the applicant has not obtained a patent in country B, or that, although he has obtained a patent in country B, it is no longer in effect in country B; it also means that country A cannot *invalidate* a patent granted by it merely on the ground that the patent which the patentee has obtained in country B for the same invention is no longer in effect in country B.

#### *Fees*

(21) In most countries, applications for the grant of titles of protection and the registration of industrial property rights are subject to the payment of a fee to the industrial property office effecting the grant or the registration. Furthermore, in most countries and for some forms of industrial property, continuation of protection, once acquired, is subject to the payment of fees: for example, in the case of patents, the payment of a fee each year (called “annual fee,” “annuity” or “maintenance fee”) or, in the case of marks, the payment of a fee every 5, 7 or 10 years (called “renewal fee”); the Paris Convention calls those fees “fees prescribed for the maintenance of industrial property rights” (Article 5<sup>bis</sup> (1)).

(22) There are exceptions: for example, the granting of inventors’ certificates is exempt from any fee in the Soviet Union; there are no maintenance fees for patents for inventions and for design patents in the United States of America.

(23) The Paris Convention deals, *expressis verbis*, with the payment of fees only in Article 5<sup>bis</sup>(1). That provision obliges each Contracting State to allow the owner of the industrial property right, without adverse consequences on his rights, to pay any maintenance fee up to 6 months later than it should have been paid.

#### *Duration of Protection*

(24) As far as patents are concerned, the typical normal term of protection in countries members of the Paris Union is 15 to 20 years from the filing of the application or 15 to 20 years from the grant of the patent. In Japan, the term is 15 years from the publication of the application but it cannot exceed 20 years from the filing of the application. In Mexico, the term is 15 years from the filing of the application; however, if the patented invention is not worked, the term is reduced to 12 years from the filing of the application.

(25) The term of protection of utility models varies, according to the country, between 5 and 20 years.

(26) Industrial designs are generally protected for a period of between 5 and 15 years from the date of their registration or of the application for registration.

(27) Marks are protected without any limitation in time, provided that in most countries protection requires registration and its renewal and effective use of the mark.

#### *Working of the Patented Invention*

(28) The Paris Convention allows “failure to work” to be considered a possible abuse of the exclusive rights conferred by the patent (see Article 5A(2)), and it mentions “failure to work” and “insufficient working” (see Article 5A(4)) as possible reasons for granting compulsory licenses (see paragraphs 30 to 32).

(29) The Paris Convention does not define the meaning of the terms “to work” or “working.” It is generally admitted that, in the case of an invention relating to a product, “working” means the making, on an industrial scale (“industrially”), or, in other words, the “manufacturing” of the product, and, in the case of an invention relating to a process, “working” means the use in industry (“industrial” use) of the process. The importation, offering for sale, selling and using of the product is generally not considered working of the patented product (or use of the patented process), although these acts, like the making of the product, are acts of exploitation of the patented invention.

#### *Compulsory Licenses for Patents*

(30) Patent laws characteristically provide that the owner of the patent has the right to preclude any per-

son from exploiting the patented invention. The corollary of this right is that persons other than the owner of the patent may exploit the patented invention only with the authorization — “license” — of the said owner.

(31) However, many patent laws provide that, under specific circumstances, the license to exploit may be granted by a government authority or court instead of the owner of the patent and even against the will of that owner. Such a license is called a “compulsory” license; the beneficiary of it is obliged to pay a remuneration for the license to the owner of the patent and the amount of such remuneration, if not agreed between the owner of the patent and the “compulsory licensee,” is fixed by the government authority or court, and there is usually the possibility of recourse to a (higher) court if either party is dissatisfied with the amount of the remuneration.

(32) The Paris Convention speaks about the granting of compulsory licenses only in respect of patents and utility models (see Article 5A).

#### *Licenses of Right for Patents*

(33) Several laws provide that the owner of the patent may ask the industrial property office which granted the patent to enter the mention “licenses of right” in the patent register in respect of the said patent. Such an entry has usually two legal effects: one is that any person may exploit the patented invention, without having to obtain a license but subject to the payment of a remuneration to the owner of the patent, and the amount of such remuneration is fixed, in the absence of agreement between the owner and the “licensee of right,” by the courts; the other is that the maintenance fees payable by the owner of the patent are lower than for patents not marked with the mention “licenses of right.” Hereinafter, this kind of license of right will be called “voluntary.”

(34) Sometimes the expression “license of right” is used to designate a rather different institution: the mention “licenses of right” is entered in the patent register on the request of a government authority or court rather than of the owner of the patent (and even against his will), and such an entry has the effect that any person may exploit the patented invention, without having to obtain a license either from the owner of the patent or from a government authority or court. Such a person will have to pay a remuneration to the owner of the patent, and the amount of such remuneration is fixed, in the absence of agreement between the owner and the “licensee of right,” by the courts. Hereinafter, this kind of license of right will be called “compulsory.”

## PART III

### Questions Concerning the Revision of the Paris Convention

#### A. Questions of Substantive Law

##### PATENTS

##### *Independence of Patents*

(35) *Assignment Given by the Group of Experts.* The Group of Experts made the following statement in connection with the question entitled “Independence of Patents”:

“The question here is whether the principle of full independence embodied in Article 4<sup>bis</sup> of the Paris Convention should be maintained, or whether exceptions to it should be allowed, particularly where the foreign applicant in the developing country claims priority of an earlier foreign application on which no patent was issued because of lack of patentability or where the patent so granted was later invalidated for that reason. Furthermore, the question should be studied how decisions taken in respect of an invention in any foreign country could be made available to the national office of any developing country in which an application for that invention had been filed.” (Report, paragraph 65)

(36) *The Issues.* This paragraph of the Report raises one main issue — whether the principle of independence should be maintained or whether it should be allowed to suffer exceptions (and the most obvious possible exception is outlined in the paragraph itself) — and one possible consequential question which arises if the exception outlined in the paragraph is accepted. This consequential question is contained in the second (i.e., last) sentence of the quoted paragraph.

(37) *Arguments For and Against the Principle of Full Independence.* The main arguments for and against the maintenance of the principle of full independence seem to be the following.

(38) The decision to grant, refuse or invalidate patents is and should remain a matter within the competence of each country since the effect of such a decision extends — and is limited — to the territory of that country; consequently, it is only logical that what another country decides in respect of the same invention should have no legal consequences in the former country, particularly where the patent law of that other country is different from the patent law of the former country. Reliance on foreign laws and foreign decisions would mean that the country would, in fact, have a different patent law for inventions for which protection is sought only in that country from that which it would have for inventions for which protection is sought both in that country

and abroad. Such multiplicity of applicable laws seems to be illogical since the will of the country as to the conditions for granting a patent should be decided exclusively on the basis of what that country regards as the best criteria and what it has consequently laid down in its own law. These arguments would justify the maintenance of the principle of full independence.

(39) On the other hand, it may be argued that relying on the law of a foreign country is far from being an unknown legal principle in international private law and that reliance on foreign laws and foreign decisions in the field of patents would simply be another instance of such reliance, admittedly new in the field of patents but otherwise unobjectionable. In particular, a developing country may argue that it seems to be unjustified that a foreign applicant should be able to obtain a patent in that country (a country which is frequently less well-equipped to judge the merits of a patent application) when the same applicant is unable to obtain a patent in his home country for the same invention. If the inability to obtain a patent is caused by the fact that the criteria are stricter in the foreign (developed) country, why should the foreigner be in a better position abroad (in the developing country)?

(40) One further and in some respects more fundamental (because it is economic rather than merely legal) consideration should also be weighed. Once a patent is granted in a country, those exploiting it will, at least to a considerable extent, presume and rely on its validity. They will manufacture the patented product and they will use the patented process. They will make investments to be able to do so. These investments are not necessarily made by foreigners. They are frequently made by the local licensee of the (foreign) patent owner, that is, a licensee who is a national of the country, whether he be a natural person or a company owned by nationals — or even the government — of the country. In such cases, it would be the investment of the local licensee which would be lost or impaired if the patent in that country were to become invalid because its parallel patent in a foreign country had become invalid. Besides, requiring that the local licensee should be able to assess the validity of a foreign patent may be too much of a burden upon him.

(41) *One Possible Solution: Maintenance of the Principle.* Should the Group of Experts opt for the maintenance of the principle of full independence, the Paris Convention would require no revision as far as Article 4<sup>bis</sup> is concerned.

(42) *Another Possible Solution: Exception to the Principle.* Should, however, the Group of Experts opt for introducing exceptions, it will probably wish to examine the one indicated in paragraph 65 of the Re-

port. The exception, it is recalled, is outlined in the said paragraph as follows: “where the foreign applicant in the developing country claims priority of an earlier foreign application on which no patent was issued because of lack of patentability or where the patent so granted was later invalidated for that reason.”

(43) Should the outlined solution be found generally acceptable, the following points would seem to require further clarification:

(i) Is it really necessary that the applicant be a foreigner? It is sometimes quite difficult to define what a foreigner is, particularly when the applicant has two nationalities (that of the country in which he applies and that of a foreign country) or where the applicant is a company registered in the country (and thus “domestic”) but wholly or partially owned by foreigners or by a foreign company (and thus “foreign”). It may suffice that the applicant should rely on a foreign application by invoking its priority. Since most applicants file the first application in their own country, most applications invoking the priority of a foreign application *are* therefore, in fact, the applications of “foreigners.”

(ii) The question of “multiple priorities” would have to be resolved. Any application may contain different elements in respect of one or more of which the priority of different first applications, filed in the same foreign country or in different foreign countries, may be involved. This is what is called a multiple priority claim. The solution would seem to be that the domestic patent would be refused or invalidated *in toto* only if all the foreign applications invoked are refused, or if all the foreign patents granted on foreign applications invoked are invalidated, for lack of patentability. If only some of them are refused or invalidated, the domestic application would be refused, or the domestic patent would be invalidated, *only in part*, namely, to the extent that the domestic application relied on the refused foreign application or the invalidated foreign patent or to the extent that it relied on those parts of the foreign application which were refused or those parts of the foreign patent which were invalidated, as the case may be.

(iii) “Patentability” would require definition, presumably as the aggregate of novelty, inventive step (or non-obviousness) and industrial applicability. If it was the lack of any of these three criteria that caused the refusal of the foreign application or the invalidation of the (incorrectly granted) foreign patent, then — but only then — the domestic industrial property office could refuse the domestic application or the domestic court could invalidate the granted domestic patent. The domestic application could not be refused and the domestic patent could not be invalidated if the foreign application was

refused or the foreign patent was invalidated for any other reason, such as the fact that the applicant had no right to file, had not paid the filing fee or had withdrawn the application, or that the patentee had allowed his patent to lapse through lack of payment of annuities or had surrendered his patent, or — and this is particularly important — that the subject matter of the invention had been found to be non-patentable *per se* (for example, because it was contrary to public order or because it was a pharmaceutical product and the foreign law did not allow the patenting of pharmaceutical products, etc.).

(iv) It would seem that, if the exception under consideration is admitted, the Paris Convention should also provide that the applicant or patentee be given an opportunity to present his arguments, if any, in evidence of the fact that the reason for refusal or invalidation abroad was *not* lack of patentability, as defined in (iii) above.

(v) It may be worth while examining whether the lack of patentability found to exist in the foreign country should have the contemplated domestic effect in any case or only where the lack of patentability exists also under the domestic law. If the latter solution is adopted, the applicant or patentee should be allowed to prove that the lack of patentability in the foreign country is based on a ground which is unknown in the domestic law. For example, if the domestic law is less stringent in respect of the requirement of novelty (that is, it requires local novelty and not worldwide novelty, or it considers that oral disclosure does not destroy novelty, etc.), or in respect of the requirement of inventive step (that is, it requires inventive step or non-obviousness to a lesser degree than the foreign law), or in respect of the requirement of industrial applicability (that is, it defines industry more broadly than the foreign law), and the applicant or patentee is able to prove that the foreign application was refused or the foreign patent was invalidated *because* of the more stringent rules of the foreign law, the contemplated consequence on the domestic level would not apply.

(vi) A further question which it may be worth while examining is whether the domestic applicant or patentee should be allowed to prove that the foreign industrial property office or the foreign court erred in applying its own (the foreign) law when it found that the invention lacked patentability under that law. A positive answer to this question may be particularly important where the available remedies in the foreign country were not exhausted.

(44) A more basic question which should be examined in connection with the possible exception to the principle of the independence of patents under discussion is whether such an exception, if adopted, should be available only for developing countries or

for any country of the Paris Union, whether developing or not. The difficulties of defining “developing country” are obvious. The exception would complicate protection on the international level, and limiting it to developing countries would reduce the number of cases in which such complications would occur. Furthermore, generally speaking, the industrial property offices and the courts of developed countries are usually better equipped to judge patentability than the offices and courts of developing countries and this circumstance, too, would justify limiting the availability of the exception to developing countries. On the other hand, the fact that some of the developed countries are not well equipped to judge patentability would be an argument against making any distinction between developed and developing countries.

(45) In any case, if, and to the extent that, the availability of the contemplated exception to the principle of the independence of patents should be incorporated in the Paris Convention, it would seem to be advisable that the Convention expressly stipulate that it is the national law which may provide for it since it is important for the applicant or patentee to know in which countries and exactly under what conditions the exception would apply.

(46) Finally, if the exception is admitted by the Paris Convention, the decisions of foreign industrial property offices and courts will be needed by the domestic industrial property office and courts of the country which has adopted the exception in its national law. This is presumably the reason for which the Report asks that “the question should be studied how decisions taken in respect of an invention in any foreign country could be made available to the national office of any developing country in which an application for that invention had been filed” (paragraph 65). There seem to be two possibilities for obtaining such decisions. One is to oblige the applicant or patentee to procure them and hand them over to the domestic office or court. The other would be to oblige the industrial property office of the foreign country to communicate — as a treaty obligation under the Paris Convention — the relevant decisions, on the request of the domestic industrial property office, to that office. Should the latter solution be adopted, the question that arises — and it would require an answer in the Paris Convention — is who should bear the cost of such communication: the foreign industrial property office, the domestic office, or the applicant or patentee?

*Compulsory Licenses (Time Limits in Article 5A; Importation)*

(47) *Assignment Given by the Group of Experts.* The Group of Experts made the following statement in connection with the questions entitled “Non-

Working and Delays in Working of the Patented Invention; Compulsory Licenses; Licenses of Right”:

“ The questions here are whether

“ [(i)] any developing country should not be permitted to impose requirements for working the patented invention which are more stringent for foreigners than nationals,

“ [(ii)] whether the time limits in Article 5A of the Paris Convention should not be shortened,

“ [(iii)] whether licenses of right — whose concept still required precise definition — should not be allowed by the Paris Convention, and

“ [(iv)] whether it should not be specified that importation did not satisfy the requirement of working in the country.” (Report, paragraph 66)

(48) Question (i), if answered in the affirmative, would entail a derogation from the principle of national treatment. For this reason, it is treated in the part of this document dealing with possible derogations from the national treatment principle. Another reason for dealing with the said question there is that the Report itself, under the title “ National treatment ” (paragraphs 62 to 64), calls for the study of “ the requirements of working the patented invention on the territory of the developing country ” (paragraph 63) as a matter which might justify derogation from the national treatment principle.

(49) Questions (ii) and (iv) are treated below in this Chapter (paragraphs 51 to 58).

(50) Question (iii), being a question not closely linked to the others, is treated in a Chapter of its own (paragraphs 94 to 98).

(51) *Should the Time Limits in Article 5A of the Paris Convention Be Shortened?* The provisions containing time limits in Article 5A are the following: “ A compulsory license may not be applied for on the ground of failure to work or insufficient working before the expiration of a period of *four years from the date of filing of the patent application or three years from the date of the grant of the patent*, whichever period expires last . . . ” (Article 5A(4), emphasis added) “ . . . No proceedings for the forfeiture or revocation of a patent may be instituted before the expiration of *two years from the grant of the first compulsory license*.” (Article 5A(3), emphasis added)

(52) It is important to note that the Paris Convention disallows the granting of compulsory licenses before the expiration of the stated (four or three years) time limit *only* when the ground on which the request for the grant of a compulsory license is based on “ failure to work ” or “ insufficient working.” In other cases of abuse (for example, sale of the patented product — manufactured in the country — at an abusively high price) or where a ground of public interest justifies such grants (for example, public

health, defense, development of the national economy), *compulsory licenses may be granted without any time limit*, that is, from the day the patent is granted.

(53) It follows from the foregoing that the time limits contained in Article 5A concern only a specific situation and they impose a limitation on national laws only in that situation, that is, when the patented invention is not worked or is insufficiently worked *and* there are no other reasons (other cases of abuse, cases of public interest in the absence of abuse, etc.) for granting a compulsory license. In particular, whenever public interest requires the granting of compulsory licenses, any country member of the Paris Union has the right to disregard the time limit in question, whether or not the patented invention is worked and, if it is worked, whether or not the working is sufficient to cover adequately the needs of the country.

(54) In considering whether the time limit of four or three years stipulated in Article 5A(4) is too long or too short, one should take into account the time required by the patentee to organize the working of his invention in the country. There are over 80 countries members of the Paris Union and each will have to be considered separately by the patentee. “ Organizing ” the working of his invention includes procuring the financial means necessary for working (if the patentee wants to work the invention himself rather than through a local licensee), finding and agreeing with a licensee (if the working is to be done through a local licensee), establishing or retooling the factory or other place where the manufacture or use of the patented invention will take place. It is believed that, in some instances, for some inventions, in some countries, all these acts may be accomplished in a shorter period than the time limit in question; in others, the said time limit may be too short (hence the saving clause according to which the compulsory license “ shall be refused if the patentee justifies his inaction by legitimate reasons ” (Article 5A(4)); it all depends on the circumstances of each individual case. The Conference which, in 1934, adopted the time limit presumably based its decision on the appreciation of the requirements of an average case. Admittedly, since that date communications have become much more rapid. On the other hand, the number of countries has increased considerably and the increasing sophistication of many inventions as well as the more stringent governmental conditions for having a product admitted for marketing require a longer preparation before the inventions can be manufactured or used. It is not possible to prove, scientifically, whether the combined effect of these and other factors justifies a reduction of the time limit now prescribed in the Convention; this is a

practical question which should be decided with the advice of experts having experience in the field.

(55) Similar considerations apply to the two-year time limit provided for in Article 5A(3).

(56) *Should it Not Be Specified that Importation Does Not Satisfy the Requirement of Working in the Country?* There seems to be no doubt in anybody's mind that importation does not constitute working. The International Bureau has found no law, court decision or expression of opinion which would indicate the contrary.

(57) As an example, the definition of working contained in the draft of the New Model Law prepared by the International Bureau of WIPO may be quoted. It reads as follows: " 'Working' of a patented invention shall be defined as 'the *making* of a patented product, the *use* of a patented process, or the *use in manufacture* of a patented machine, by an effective and serious establishment and on a scale which is adequate and reasonable in the circumstances' " (see document WG/ML/INV/II/1 of February 24, 1975, page 10). Furthermore, the said draft expressly states that "importation shall not constitute a legitimate reason" (cited document, page 11) to prevent the grant of a compulsory license for non-working or insufficient working in the country.

(58) Consequently, there can be no objection to specifying in the Paris Convention that importation into the country does not constitute working in the country, except, perhaps, that the matter is so obvious that it need not be expressly stated. Should the latter view prevail, it might be sufficient if the report or minutes of the next Diplomatic Conference of the Paris Union recorded an understanding to that effect.

#### *National Treatment*

(59) *Assignment Given by the Group of Experts.* The Group of Experts made the following statement in connection with the question entitled "National Treatment":

"It was generally understood that the principle of national treatment should remain unaffected in the relations between developed countries, this term covering both market economy and Socialist countries which are not developing countries. The question here is rather whether, in relations of developing countries to developed countries, national treatment should not, on certain points — yet to be identified — suffer exceptions totally or within certain limits also to be defined. The total exception to national treatment on certain points may require the definition of minimum standards of protection to be respected in any case. Whether such derogations from national treatment would apply also in the relations be-

tween developing countries would also have to be considered. "The examples of possible cases where certain derogations from the national treatment principle were mentioned concerned smaller fees for nationals than foreigners, the requirements of working the patented invention on the territory of the developing country and the duration of the patent.

"Moreover, the question should be examined whether, in a case where an invention was made by a resident of the country or where an invention was worked in the country, national treatment should not apply unconditionally, irrespective of the nationality of the patentee or other person working the invention." (Report, paragraphs 62 to 64)

(60) *The Issues.* The present Chapter deals, in turn, with each of the three possible cases of derogation from national treatment indicated in the Report: possible derogations in respect of (i) fees, (ii) duration of the patent, and (iii) working of the patented invention. The two secondary issues referred to in the last sentence of paragraph 62 of the Report (whether the derogations should apply also in relations between developing countries) and in paragraph 64 of the Report (whether residence in the developing country by the applicant or patentee, or working of the patented invention in the developing country, should not make national treatment fully applicable) will be examined in connection with each of the three possible derogations from the principle of national treatment.

#### **Fees**

(61) One of the three possible derogations from the national treatment principle is "smaller fees for nationals than foreigners." (Report, paragraph 63)

(62) *Does the Paris Convention Allow Discrimination Against Foreigners?* A preliminary question to be decided is whether the principle of national treatment extends at all to the matter of fees or, on the contrary, whether it does not because of Article 2 (3), which provides that "the provisions of the laws of each of the countries of the Union relating to judicial and administrative procedure and to jurisdiction, and to the designation of an address for service or the appointment of an agent, which may be required by the laws on industrial property are expressly reserved."

(63) It is believed that the quoted provision does not relate to fees (primarily filing fees and maintenance fees) since, although fees are part of administrative procedure, the provision, taken as a whole, is intended to deal with situations in which foreigners are characteristically subject to special rules because they are foreigners (they should be capable of being sued elsewhere than at the (foreign)

place of residence: hence the reference to jurisdiction; they should be capable of having notices served on them elsewhere than at the (foreign) place of residence: hence the reference to the address for service and the appointment of a (local) agent). Fees are not a matter where a distinction between nationals and foreigners characteristically exists. When the provision was introduced into the Paris Convention, no national law provided for different fees for nationals and foreigners and, therefore, the least one can say is that it was not intended to cover such (non-existent) discrimination.

(64) It is true that a few countries (Austria and the Federal Republic of Germany are known cases) have legislation which allows the reduction of certain fees in the case of "poor inventors," that is, applicants and patentees who cannot afford to pay the full amount of fees, and that such reduction applies only where the "poor inventor" is a national of that country (or of another country granting reciprocity in this respect). Whereas systems are widespread which enable domestic inventors to receive assistance by way of a subsidy, including assistance towards the payment of fees, it is debatable whether a distinction in the amount of the fees themselves, based on the nationality of the applicant, is formally in conformity with the Paris Convention.

(65) It will be assumed hereinafter that the view according to which the Paris Convention, as it stands today, allows no discrimination as to fees will be shared by the Group of Experts, the more so as, otherwise, it would not have mentioned fees among the questions possibly requiring a departure from the national treatment principle.

(66) *Higher Fees for Foreigners.* One of the possible solutions is to stipulate in the Paris Convention that the principle of national treatment need not be applied by a developing country as far as fees are concerned; in such a case, however, it would seem to be indispensable to indicate also the limits of the difference between fees payable by foreigners and those payable by nationals; otherwise, the fees payable by foreigners could be fixed at such a high level that, in fact, foreigners could no longer apply for or maintain patents in the developing country.

(67) The limits in question could be expressed as a ratio between the fees payable by foreigners and those payable by nationals: for example, one could provide that the fees payable by foreigners could not be more than twice (or three times) the amount of those payable by nationals, or, conversely, that nationals may discharge their obligation to pay fees if they pay half (or one-third) of the fees generally prescribed.

(68) Furthermore, it would seem to be advisable to provide, as a further limitation on the freedom to

discriminate, that — subject to the possible alternative dealt with in the following paragraph — fees for foreigners must be the same, irrespective of the foreign country of which they are nationals; otherwise, it is not only the principle of national treatment that would be affected, but also one of its important corollaries, the equality of foreigners.

(69) *Should the Lower Fees Apply Not Only to Nationals But Also to Foreigners who are Nationals of Other Developing Countries?* This question follows from the last sentence of paragraph 62 of the Report. An answer in the affirmative would be an expression of solidarity among developing countries. On the other hand, it would have the disadvantage referred to in the preceding paragraph, namely, that it would differentiate between foreigners.

(70) *Should the Lower Fees Apply Not Only to Nationals But Also to Foreigners who are Residents of the Country?* This question follows from paragraph 64 of the Report. As developing countries wish to promote local inventiveness, and residents of the country are "local" people, it may be argued that it is a matter of indifference whether the local inventor is a national of the country or a foreigner. Thus, there may be a justification for assimilating resident foreigners to nationals. On the other hand, deciding, in practice, who is a resident may be quite difficult.

(71) *A Possible Alternative: Higher Fees for Inventions Not Worked.* This possible alternative solution is indicated in paragraph 64 of the Report.

(72) The alternative solution would consist in charging higher fees for patents not worked in the country (and for as long as they are not worked) than for patents that are worked in the country. Such a system would encourage working in the country and discourage (if not "punish" outright) non-working. Admittedly, it would be difficult to apply such a system to filing fees because, at the time of filing, an invention to be patented is usually not yet worked and can hardly be expected to be worked. However, the solution could be applied even to filing fees, by requiring, for example, a second payment if, within a certain number of years, working in the country had not yet started. In any case, the solution could be easily applied to annual fees.

(73) A further refinement of the alternative solution would be to assimilate patents not actually worked but which are under a license of right or a compulsory license to patents that are worked.

(74) Such a solution would not constitute a departure from the national treatment principle because it would apply both to nationals and foreigners. Hence, it would require no change in the Paris Convention. Nevertheless, it would, in fact, be more favorable to nationals than to foreigners be-

cause it may be assumed that the percentage of inventions worked in the country where the inventor is a national of that country is higher than it is when he is a foreigner. The solution would also primarily favor developing countries if it is assumed that the percentage of inventions not worked in those countries is higher than in the more industrialized (developed) countries.

(75) Finally, the alternative solution would also have a technical advantage: the difficult task of defining which countries are "developing" and which applicants and patentees are "foreign" would be avoided in this case since those concepts would not even appear in the national laws adopting this solution.

#### Duration

(76) Another of the three possible derogations from the national treatment principle concerns "the duration of the patent." (Report, paragraph 63)

(77) *Shorter Duration of Patents Owned by Foreigners.* There is no doubt that the introduction in the national law of any country party to the Paris Convention of provisions which would lead to different durations for patents owned by nationals of that country and for patents owned by foreigners would constitute a derogation from the national treatment principle of the Paris Convention, and that such provisions would require a corresponding amendment of the Paris Convention. It is assumed that the difference would consist of a longer duration for patents owned by nationals than for those owned by foreigners, and the following considerations are based on this assumption.

(78) The Paris Convention does not contain, at present, any provision on duration, and any country party to it is free to fix the length of the duration. This lack of regulation can be explained by the fact that, so far, it has not been considered necessary to have any provisions on duration, since, in fact, all countries members of the Paris Union have fixed, in their national laws, durations of comparable and, in any case, reasonable length. Furthermore, as long as the principle of national treatment applies to duration, the interests of foreigners are taken care of automatically: they enjoy (or suffer) the same duration as nationals do.

(79) Should, however, the Paris Convention be amended to admit a longer duration for nationals than for foreigners, "the definition of minimum standards of protection to be respected in any case" (Report, paragraph 62), that is, also in the case of foreigners, would seem to become necessary.

(80) What could such a minimum duration be? The draft of the New Model Law suggested that the duration (both for nationals and foreigners) should be

ten years, extendable for twice five years, provided that (roughly stated) in the tenth (and, where applicable, in the 15th) year the patented invention is worked in the country (or that there are legitimate reasons for not working it in the country) (see document WG/ML/INV/II/1, page 10). It should be noted that what is dealt with here is the duration of the patent and that, even in the course of that duration, and subject to the conditions discussed elsewhere in this document (paragraphs 47 to 58), the rights of the (foreign) owner may suffer limitations through compulsory licenses.

(81) Making duration dependent in this way on working is a novel idea which was suggested in the draft of the New Model Law because such a link between duration and working seemed to be a particularly efficient way of encouraging the working of the invention locally and of "punishing" non-working.

(82) It could, of course, be asked whether, if the national law of a country adopts provisions on duration as suggested in the draft of the New Model Law, such a country still needs to differentiate between foreigners and nationals. If the answer to this question is in the negative, the Paris Convention needs no revision; if it is in the affirmative, it does.

(83) Should the Paris Convention, as revised, allow a shorter duration for foreigners than for nationals, it would seem to be advisable to provide, in addition to any minimum applicable to patents in general or to patents owned by foreigners, that — subject to the possible alternative dealt with in the following paragraph — the duration granted to patents owned by foreigners must be the same, irrespective of the foreign country of which they are nationals; otherwise, it is not only the principle of national treatment that would be affected, but also one of its important corollaries, the equality of foreigners.

(84) *Should the Longer Duration Apply Not Only to Nationals But Also to Foreigners who are Nationals of Other Developing Countries?* This question follows from the last sentence of paragraph 62 of the Report. An answer in the affirmative would be an expression of solidarity among developing countries. On the other hand, it would have the disadvantage referred to in the preceding paragraph, namely, that it would differentiate between foreigners.

(85) *Should the Longer Duration Apply Not Only to Nationals But Also to Foreigners who are Residents of the Country?* This question follows from paragraph 64 of the Report. Presumably, a developing country adopting a longer duration for nationals would do so in order to favor local inventiveness. As residents of the country are "local" people, it may be argued that it is a matter of indifference whether the local inventor is a na-

tional of the country or a foreigner. Thus, there may be a justification for assimilating resident foreigners to nationals. On the other hand, deciding, in practice, who is a resident may be quite difficult.

#### Working

(86) The Report refers twice to the question of the working of patented inventions: first, in paragraph 63, as one of the three possible derogations from the national treatment principle, when it calls for the study of "the requirements of working the patented invention on the territory of the developing country"; second, in paragraph 66, when it asks "whether any developing country should not be permitted to impose requirements for working the patented invention which are more stringent for foreigners than nationals."

(87) *Less Stringent Requirements in the Case of Patents Owned by Nationals.* The Paris Convention does not prohibit the provision by national laws for the obligation to work the patented invention. The only instance in which it deals with the question of working is in connection with compulsory licenses, where it provides, in essence, that no compulsory license may be granted before the expiration of a certain time limit if the ground for the compulsory license is non-working or insufficient working (amounting to abuse). The matter is dealt with in detail in another part of this document (paragraphs 47 to 58), where the question of shortening the said time limit is also discussed.

(88) The question here is whether it may be desirable for a developing country to have in its national law one time limit (a longer time limit) for patents owned by its own nationals and another time limit (a shorter time limit) for patents owned by foreigners, and whether there are any other requirements as to working which, in the national law, should be less stringent in the case of patents owned by nationals and more stringent in the case of patents owned by foreigners. It is difficult to visualize what requirements other than the time limit could be examined since working has a rather generally accepted meaning: it must take place in the country, it means — roughly speaking — manufacture and use in manufacture, it does *not* mean importation, and it has to be on a scale which is adequate and reasonable under the circumstances. It is difficult to imagine that any of these requirements could be waived or reduced in the case of a patent owned by a national without affecting the essence of the requirement of working.

(89) This leaves the question of the permitted duration of non-working. The requirement of working is included in the patent law in the public interest of

the country: the invention should be worked to render its industry more efficient and more competitive, to create new jobs, to reduce importations, to increase exportations. These considerations seem to apply equally to patents owned by nationals and to those owned by foreigners.

(90) The only reason for which it might be desirable that in a developing country a national should have a longer time for starting to work the patented invention is that he is frequently in an economically weaker situation than many foreigners, and thus it would be equitable to grant him a longer time to prepare for the working of his patent since such preparations are economically burdensome.

(91) Should it therefore be considered desirable to include in the Paris Convention a provision permitting a developing country to depart, as far as the time limit prescribed for the commencement of working is concerned, from the principle of national treatment, it would seem to be necessary to provide, at the same time, a time limit in the Convention below which no national law can go in respect of the requirement of working patents owned by foreigners. Otherwise, a national law could provide for the obligation to work from the date of the application, or even from an earlier date; in practice, such a requirement could hardly be fulfilled because of the time needed to prepare the working of the patented invention in the country.

(92) *Should Any Shorter Time Limit Apply Not Only to Nationals But Also to Foreigners who are Nationals of a Developing Country?* This question follows from the last sentence of paragraph 62 of the Report. The considerations outlined in paragraph 69 of this document would seem to apply here too.

(93) *Should Any Shorter Time Limit Apply Not Only to Nationals But Also to Foreigners who are Residents of the Country?* This question follows from paragraph 64 of the Report. The considerations outlined in paragraph 70 of this document would seem to apply here too.

#### Licenses of Right

(94) *Assignment Given by the Group of Experts.* In connection with the question entitled "Licenses of Right," it is recalled (see paragraph 47) that the Group of Experts stated that the question here was:

"... whether licenses of right — whose concept still required precise definition — should not be allowed by the Paris Convention..." (Report, paragraph 66)

(95) *Should the Paris Convention Deal with Licenses of Right?* The Paris Convention, in its present form, is silent on licenses of right. Several countries

members of the Paris Union have "licenses of right" in their national laws, and none has been accused, so far, of violating the Paris Convention.

(96) Naturally, everything depends on what "licenses of right" means. If it means a "voluntary" license of right, as defined in paragraph 33, there can be no violation of the Paris Convention because of the principle of "*volenti non fit injuria*" and because, as already stated, the Paris Convention does not prohibit, or set limits to, that kind of license of right.

(97) On the other hand, where the license of right is "compulsory," as defined in paragraph 34, a distinction has to be made between two kinds of compulsory licenses of right, depending on the grounds on which they are based. If the compulsory license of right is based on reasons of public interest or abuse — other than non-working or insufficient working — of the exclusive rights conferred by the patent, then, as in the case of compulsory licenses granted for such reasons, it is not prohibited by the Paris Convention and may be provided for in any national law without any time limit. But, if the compulsory license of right is based on reasons of non-working or insufficient working, then "license of right" seems to be merely another name for the ordinary compulsory license covered by Article 5A and, in that case, the limitations on the national law provided for in that Article should, logically, also apply to *this* kind of license of right.

(98) The question whether Article 5A should be modified has been examined elsewhere in this document (see paragraphs 47 to 58) and the remarks made there apply also to the kind of license of right mentioned here.

#### *Preferential Treatment Without Reciprocity*

(99) *Assignment Given by the Group of Experts.* The Group of Experts made the following statement in connection with the question entitled "Preferential Treatment Without Reciprocity"

"The question here is whether in certain respects nationals of developing countries should not receive more favorable treatment in developed countries than nationals of the developed countries. One example was mentioned, that is, the fees to be paid: whether the amount of the fees charged for the application for, and maintenance of, a patent in a developed country should not be less than the fees to be paid by the nationals of countries which are not developing countries." (Report, paragraph 67)

(100) In the question entitled "Right of Priority," the Group of Experts mentioned another question which implies preferential treatment for nationals of

developing countries and which, although silent on the question whether such preferential treatment should be without reciprocity, may, and for the purpose of this document will, be assumed as implying no reciprocity. That other question is:

"whether the duration of the right of priority should not be longer for applicants who are nationals of developing countries when they apply for patents in developed countries." (Report, paragraph 74)

(101) The question of the priority period is not only a question of preferential treatment but also one which would require, if the suggested possibility is followed, a change in Article 4, which deals with the right of priority and fixes its period.

#### **Fees**

(102) *Smaller Fees, in Developed Countries, for Patent Applicants and Patent Owners who are Nationals of Developing Countries.* It would seem that, if the Paris Convention is to provide that developed countries have to charge the nationals of developing countries smaller fees than their own nationals, the measure of the mandatory reduction ought to be specified in the Paris Convention since otherwise the obligation could be fulfilled by a merely symbolic reduction. Therefore, it would seem to be necessary that the Paris Convention specify a minimum measure of reduction. In other words, if the principle according to which developed countries have to charge nationals of developing countries smaller fees than their own nationals is accepted, it might be desirable that the Paris Convention, in addition to stating this principle, also indicate the minimum rate of the compulsory reduction. Perhaps a reduction of one-half could be a basis for further discussion.

#### **Priority Period**

(103) *Longer Priority Period, in Developed Countries, for Applications of Nationals of Developing Countries.* The main argument for a longer priority period for applicants coming from developing countries seems to be that since, generally speaking, they have less technical and legal advice at their disposal, or at least have less money to spend on such advice, they should be given more time to experiment with their inventions (to discover their real commercial value) and to consider whether, in any concrete case, they should also file abroad and, if so, in which foreign countries, this additional time allowing them to avoid costly steps, that is, steps they could have been spared if they had had the time to decide in which countries to seek protection.

(104) On the other hand, granting a longer priority period to one group of applicants than to another would have several drawbacks.

(105) First, it would slow down the granting procedure in all countries in which the industrial property office is legally bound to refuse any application where other applications, claiming earlier priority dates than the filing date or priority date of the said application, concern the same invention as is claimed in that application. Today, the maximum period within which such other conflicting applications may reach the industrial property office is one year because the priority period is one year; consequently, the "waiting period" needed before a decision on any application may be safely taken is also one year. Should the priority period be prolonged for any group of applicants, this waiting period would become that much longer, patents (or refusals of patents) would issue that much later, and all this would mean a corresponding prolongation of the uncertainty of the applicant (as to whether he has a patent) and of the public, particularly potential competitors (as to whether a patent will emerge which they will have to respect).

(106) Second, granting a longer priority period for one group of applicants would make it impossible, unless the prolongation were to be of only a few months' duration, for those — numerous — countries whose laws provide for the publication of all applications 18 months after their priority date to respect the 18 months deadline for all applications filed after the expiration of approximately 15 months from the priority date. (Preparations for publication generally require approximately three months.) Such publication is of great practical value to the public, particularly potential competitors, researchers and other users of the technical information contained in applications, because the published applications give them a warning of those inventions likely to become patented by others. If the priority period is prolonged by more than a few months, the publication would have to be delayed accordingly, and the said warning would come later: about three months later than the expiration of the prolonged priority period.

(107) Third, granting a longer priority period for one group of applicants would make it impossible to apply some of the important time limits prescribed by the Patent Cooperation Treaty (PCT) concerning international search, the international publication of the international application, and international preliminary examination.

(108) If, notwithstanding these disadvantages, it were decided to prolong, in the developed countries, the priority period for applicants who are nationals of developing countries, it should be borne in mind that the disadvantages would be proportionate to the length of the prolongation: a prolongation by a few months — for example, three months — would have relatively minor disadvantages; any prolongation

beyond six months would very seriously affect the general reliability of the present system.

(109) Finally, it should be noted that the PCT gives the applicant just the sort of advantages which those favoring the prolongation of the priority period seem to be seeking. Under the PCT, the applicant has to pay the national filing fees in the countries in which he wishes to obtain protection and has to prepare translations of his application only after having obtained the international search report and only 20 months after the priority date. In other words, before having to spend anything on translations and national filing fees, that is, before having to make up his mind definitely whether to prosecute his application in any given country, the applicant will not only have a solid technical basis on which to base his decision, thanks to the international search report, but he will have 20 months (instead of one year) to make such a decision. Consequently — unless a prolongation in excess of 8 months is sought — the PCT secures all and even more of the advantages that a prolongation of the priority period from the present 12 months to 20 months would provide. But, of course, before those advantages become available, the PCT has to enter into force and any developing country wishing to secure its advantages for its nationals has to accede to it.

#### *Process Patents*

(110) *Assignment Given by the Group of Experts.* The Group of Experts made the following statement in connection with the question entitled "Scope of Protection of Process Patents":

"The question here is whether developing countries would not be exempted from the rule embodied in Article 5<sup>quater</sup> of the Paris Convention according to which the patentee has, with regard to imported products, all the rights which the process patent grants to him with respect to products manufactured in the country." (Report, paragraph 73)

(111) *Should Article 5<sup>quater</sup> Not Apply in Developing Countries?* Article 5<sup>quater</sup> provides that, "when a product is imported into a country of the Union where there exists a patent protecting a process of manufacture of the said product, the patentee shall have all the rights, with regard to the imported product, that are accorded to him by the legislation of the country of importation, on the basis of the process patent, with respect to products manufactured in that country."

(112) It should be noted, first of all, that neither Article 5<sup>quater</sup> nor any other provision of the Paris Convention obliges any country member of the Paris Union to grant process patents in general, or patents

in respect of certain processes (for example, processes used in the pharmaceutical industry) in particular.

(113) Thus, the issue is whether a developing country which does grant process patents (with an extension of the protection to the products manufactured by the protected process), and to the extent that it does so, should regard the sale, etc., — without the authorization of the owner of the process patent — of the product manufactured by such process as illegal only when the product is manufactured in that country or also when it has been manufactured abroad and subsequently imported.

(114) It would seem that the answer depends mainly on whether it is assumed that the product will be manufactured (also) in the developing country or only abroad, or, in other words, whether the process patent will be worked in the developing country or not. If it is assumed that the process patent will be worked (also) in the developing country and thus the products will be manufactured in that country, it would seem that it is in the interest of the local manufacturer, and of local (as opposed to foreign) industry, that it should be possible to prevent the importation of the product manufactured abroad, thereby avoiding foreign competition. On the other hand, if it is assumed that the process patent will *not* be worked in the developing country, then it is not important, or is less important, to prevent importation.

(115) Thus, the problem seems to be less concerned with Article 5<sup>quater</sup> than with the general question how the patent laws of the developing countries can encourage local working and sanction its absence. On this question, the present document as well as the draft of the New Model Law suggest several solutions, solutions which would sanction non-working not only by compulsory licenses but also by making the duration of patents dependent on their being worked.

#### INVENTORS' CERTIFICATES

(116) *Assignment Given by the Group of Experts.* In connection with the question entitled "Types of Protection Other than Patents (Inventors' Certificates, etc.)," the Group of Experts made the following statement in respect of inventors' certificates:

"[(i)] The most important question here is whether inventors' certificates should not, as far as their legal nature so permits, be treated in the Paris Convention on an equal footing with patents and, consequently, expressly referred to in Article 1 and all other relevant provisions of that Convention. It was mentioned in this connection that the free choice, for foreigners on the same terms as for nationals, between pat-

ents and inventors' certificates would have to be consequently generalized.

"[(ii)] A further question here is whether inventors' certificates granted for industrial designs rather than technical inventions should also be expressly mentioned." (Report, paragraph 69)

(117) In paragraphs 118 to 124, the words "inventors' certificates" are used with reference to inventions (rather than industrial designs).

(118) *Legal Nature of Inventors' Certificates.* The Group of Experts asked for the possibility to be studied of treating inventors' certificates on an equal footing with patents "as far as their [the inventors' certificates'] legal nature so permits." Consequently, it may be useful to recall briefly the main differences of a legal nature between inventors' certificates and patents. This will be done on the basis of the Law of the Soviet Union on Discoveries, Inventions and Rationalization Proposals which entered into force in 1974 (hereinafter referred to as "the Soviet Law") since that Law regulates both patents and inventors' certificates and the former in a way which is generally in line with the traditional, generally accepted concept of ordinary patents. The Soviet Law is also taken as a basis because there are only three or four countries in the Paris Union having legislation which regulates inventors' certificates and among them that of the Soviet Union is the most modern.

(119) Under the Soviet Law, rights in inventions may be certified either by a patent or by an inventor's certificate. The description of the invention, including the claims, is the same for the purposes of both. The person having made the invention, whether a citizen of the Soviet Union or a foreigner, is free to decide whether he wants a patent or an inventor's certificate. For certain categories of inventions, however, only inventors' certificates are available, the most important among these being the following: substances obtained through chemical processes; inventions in the field of nuclear fission and energy; strains of microorganisms; pharmaceutical products; food and flavoring substances; cosmetic products; methods of prophylaxis, diagnosis or treatment of human or animal diseases; new plant varieties; new animal varieties.

(120) An inventor's certificate gives the inventor the right to an adequate remuneration and vests in the Soviet State an exclusive right of exploitation. A patent vests an exclusive right of exploitation in the patentee; however, "where an invention is of special importance to the [Soviet] State and no agreement is reached with the patentee as to the licensing or assignment of the patent rights, the USSR Council of Ministers may order the compulsory purchase of the patent by the State or may authorize an

appropriate organization to utilize the invention, and fix the amount of remuneration for the patentee." (Soviet Law, Section 35)

(121) No fees are charged in connection with inventors' certificates; fees, including annual maintenance fees, are charged in connection with patents.

(122) Inventors' certificates are of "permanent duration;" patents are granted for a term of 15 years computed from the date of the filing of the patent application with the Soviet Office.

(123) *Reference to Inventors' Certificates in the Text of the Paris Convention.* In the present text (Stockholm Act of 1967) of the Paris Convention, inventors' certificates are mentioned only in one provision: Article 4 I, dealing with the right of priority. That provision speaks about countries "in which applicants have the right to apply at their own option either for a patent or for an inventor's certificate." The Report of the Group of Experts states that "the free choice, for foreigners on the same terms as for nationals, between patents and inventors' certificates would have to be consequently generalized" (paragraph 69). Indeed, it would seem that a provision whereby the free choice between a patent and an inventor's certificate was generalized (i.e., not limited only to the provision on the right of priority, as it is today), in order to guarantee it to the applicant, was necessary to avoid any possible misunderstanding about the fact that the "equal" treatment of patents and inventors' certificates in the Paris Convention would not mean that a country having no patents, but only inventors' certificates — that is, a form of protection which vests all the customary exclusive rights of exploitation not in the applicant but in the State — would be fulfilling its obligations under the Paris Convention. A related question which should be examined is whether a national law which, for certain categories of inventions, did not secure such a choice, but only offered inventors' certificates, would be compatible with the principle of free option as outlined above. Because, even if the free choice is the same for foreigners as for nationals, where it is limited to certain categories of inventions only, such limitation could, in fact, considerably reduce the scope of the free choice. It is, of course, recognized that some of the categories of inventions which, in the Soviet Law, are excluded from the free choice — that is, are not patentable — are categories for which no patents can be obtained in any other country or most other countries either. On the other hand, there are, among those categories, some which are patentable in some or many countries members of the Paris Union and patents for them are available to all foreigners who may invoke the Paris Convention. Even if it is admitted that some categories of inventions are eligible only for

inventors' certificates, the need for definite limits to such exceptions ought to be examined.

(124) Assuming that a satisfactory solution can be found to the question raised in the preceding paragraph, the following are the provisions in the Paris Convention which refer to patents and in which an express mention of inventors' certificates seems, on account of the legal nature of such certificates, appropriate ("yes") or not appropriate ("no"):

(i) Article 1(2): Yes, since inventors' certificates should be regarded as forming part of the object of the protection of industrial property.

(ii) Article 1(4) should perhaps contain a provision to the effect that inventors' certificates include also inventors' certificates of addition.

(iii) Article 4A(1): yes.

(iv) Article 4C(1): yes, in the same category (12 months) as patents.

(v) Article 4E(2): yes.

(vi) Article 4F: yes.

(vii) Article 4G(1) and (2): yes.

(viii) Article 4 I(1) and (2) should be deleted if, as assumed, a satisfactory solution is found, for the purposes of the entire text of the Paris Convention, to the question of free choice referred to in the preceding paragraph and if the amendments suggested in respect of Articles 4A, 4C, 4E, 4F and 4G are accepted.

(ix) Article 4<sup>bis</sup>(1): yes.

(x) Article 4<sup>bis</sup>(2): yes, except that the words concerning duration would have to be limited to patents since inventors' certificates have a permanent duration.

(xi) Article 4<sup>bis</sup>(3) and (4): yes.

(xii) Article 4<sup>bis</sup>(5): no, since inventors' certificates have a permanent duration.

(xiii) Article 4<sup>ter</sup>: yes, although it may be considered that it goes without saying that the rule laid down in this Article will apply in the case of inventors' certificates.

(xiv) Article 4<sup>quater</sup>: yes.

(xv) Article 5A(1): yes.

(xvi) Article 5A(2): no, since the exclusive rights conferred by the inventor's certificate belong to the State and it is difficult to imagine the grant of a license against the will of the State.

(xvii) Article 5A(3) and (4): no, see the remarks under Article 5A(2).

(xviii) Article 5D: yes.

(xix) Article 5<sup>bis</sup>(2): no, since inventors' certificates are not subject to any fee.

(xx) Article 5<sup>ter</sup>: yes.

(xxi) Article 5<sup>quater</sup>: uncertain; should the State, as the owner of the exclusive rights of exploitation in the case of an inventor's certificate, be mentioned in the same position as the patentee in the present text?

- (xxii) Article 11(1): yes.  
 (xxiii) Article 12(1): yes.  
 (xxiv) Article 12(2): yes.

(125) *Inventors' Certificates Granted for Industrial Designs.* In at least one country (the German Democratic Republic), industrial designs may be protected through the grant of an inventor's certificate (*Urheberschein*, which, more accurately, could be translated as "author's certificate") or a patent (*Patent*). It is probably with this fact in mind that the Group of Experts stated: "A further question here is whether inventors' certificates granted for industrial designs rather than technical inventions should also be expressly mentioned." (Report, paragraph 69)

(126) It would seem that it is not necessary to mention, in the Paris Convention, the name of the document or documents issued by the industrial property offices of the various member countries of the Paris Union in respect of industrial designs. These documents have various names in the various countries which, in the English original, or in English translation, are or may be rendered as: certificate of deposit, certificate of registration, patent, inventor's certificate, etc. The Paris Convention uses none of these expressions, but merely speaks of "industrial designs" (Articles 1(2), 4C(1), 4E(1), 5B, 5<sup>quinqies</sup> and 11), "registration" of an industrial design (Article 4A(1)) and "deposit" of an industrial design (Article 5D).

(127) It is true, of course, that the legal nature of the protection of an industrial design by an inventor's certificate differs from the legal nature of the protection of an industrial design by the traditional forms of protection, the main difference being that the inventor's certificate for an industrial design does not give an exclusive right of exploitation of the design to its "author." However, the Paris Convention contains no provision referring to such exclusive right in the case of industrial designs.

(128) Nevertheless, it may be necessary to study further the question whether a clause on the free choice by the applicant, similar to that discussed in paragraph 123, should be included in the Paris Convention. Such a clause would apply to all countries of the Paris Union where industrial designs are protectable not only through a form of protection which gives an exclusive right of exploitation to the author of the design but also through a form of protection which gives no such right (but only a claim to remuneration).

#### SPECIAL TYPES OF PATENTS

(129) *Assignment Given by the Group of Experts.* In connection with the question entitled "Types of Protection Other than Patents..." (see paragraph

116), the Group of Experts made the following statement in respect of special types of patents:

"... the question of the inclusion in the text of the Paris Convention of references to special types of patents should be examined." (Report, paragraph 69, *in fine*)

(130) *Should the Paris Convention Refer to Special Types of Patents?* Article 1(4), in its present form, provides that "patents [for the purposes of the Paris Convention] shall include the various kinds of industrial patents recognized by the laws of the countries of the Union, such as patents of importation, patents of improvement, patents and certificates of addition, etc."

(131) The word "etc." would seem to indicate that, even without any express reference to them, special types of patents not named in the Paris Convention are covered by it. Examples of such patents today are patents of introduction, patents of confirmation and patents of revalidation. The same may be true if, in the future, one or both of the special types of patents suggested in the draft of the New Model Law — that is, transfer of technology patents and industrial development patents — are adopted by the legislation of one or more countries members of the Paris Union.

(132) However, one may wonder whether, even under the present text of the Paris Convention, Article 1(4) is quite correct since some of the provisions of the Paris Convention are clearly inapplicable to some of the characteristic features of some of the special types of patents. For example, a patent of importation is granted characteristically on the basis of a foreign patent which must be in force when the patent of importation is granted; this is a feature which is obviously at variance with the principle of independence of patents provided for in Article 4<sup>bis</sup>. Some of the features of the special types of patents suggested in the draft of the New Model Law are also in conflict with certain provisions of the Paris Convention. In proposing those features, the International Bureau assumed that, notwithstanding Article 1(4), a country member of the Paris Union is free to provide, in its national law, for special types of patents even when, in some respects, they are in conflict with the Paris Convention, *as long as* that country's law also provides for the traditional, common type of patent which conforms in every respect to the requirements of the Paris Convention.

(133) There is, and will continue to be, a wide variety of special kinds of patents. If it were intended to proceed with all the legal accuracy required when drafting a treaty, account would have to be taken of all the features — both present and envisaged for the future — of these patents, and provision would have to be made in the Paris Convention for exceptions

whenever such features were in conflict with the existing text and provided such exceptions were generally admitted.

#### MARKS

(134) *Assignment Given by the Group of Experts.* In connection with the question entitled "Marks; Industrial Designs; Appellations of Origin," the Group of Experts stated, either exclusively or partly in respect of marks, that the questions to be considered here were:

"[(i)] whether a more precise definition of the time limit mentioned in Article 5C(1) of the Paris Convention was not required in order to ensure early enforcement of any use requirements;

"[(ii)] whether the prohibition of the use of geographical designations as trademarks should not be established or, to the extent that it existed, reinforced;

"[(iii)] whether . . . , in cases of conflict between an appellation of origin and a trademark, the former should not prevail . . . ;

"[(iv)] whether the obligation to protect any well-known mark (*marque notoirement connue*) was always compatible with the interests of developing countries in which similar national marks were registered before the registration of the well-known mark;

"[(v)] whether the possibility of providing for compulsory licenses for trademarks . . . , in certain well-defined cases, should not be provided for;

"[(vi)] whether Article 6 of the Paris Convention concerning the independence of trademarks need not be revised . . ."

(Report, paragraph 70)

(135) Each of these six questions is examined separately in the present Chapter.

#### *Time Limit in Article 5C(1)*

(136) Article 5C(1) reads as follows: "If, in any country, use of the registered mark is compulsory, the registration may be cancelled only after a *reasonable period*, and then only if the person concerned does not justify his inaction." (Emphasis added)

(137) The question asked here by the Group of Experts is "whether a more precise definition of the time limit mentioned in Article 5C(1) of the Paris Convention was not required in order to ensure early enforcement of any use requirement." (Report, paragraph 70)

(138) The present tendency in national laws is to allow or prescribe the cancellation of the registration of a mark which has not been actually used for a period of five years. The Trademark Registration

Treaty (TRT) signed in 1973 provides, roughly stated, that the initial registration of a mark cannot be refused or cancelled for non-use lasting less than three or, in some cases, five years from the date of the international registration.

(139) However, the Paris Convention itself *does not oblige* any country to cancel the registration of a mark for non-use. The only obligation, today, under the Paris Convention is — once again roughly stated — that, *if* a country's law provides for the cancellation of the registration of a mark on the ground that the mark is not used, such a law must allow a reasonable period for non-use (and must accept the justification of non-use as an excuse for the said non-use).

(140) At the Lisbon Conference for the Revision of the Paris Convention, held in 1958, a proposal to provide for a five-year time limit in Article 5C(1) was defeated by a single vote (that of Japan). It may be that, if such a proposal is put forward again at the next revision conference, it will be accepted.

(141) The purpose of Article 5C(1) is, of course, to ensure that the time limit within which the mark has to be used should not be *too short* from the viewpoint of the owner of the registration. The purpose of the question posed here by the Group of Experts is just the contrary: it asks for the study of the possibility of a more precise time limit "in order to ensure early enforcement of any use requirements." Such a purpose could be achieved only if the Paris Convention provided that no country may keep on its register marks which are not used for a certain number of years — say, five. It would seem that there are still too many countries whose national laws do not provide for the obligation to use the mark to make it likely that such a provision would be adopted. However, the inclusion of a precise time limit in Article 5C(1) — otherwise unchanged — would be a strong incentive for national laws which have not yet adopted use requirements, or sufficiently strict use requirements, to adopt such a time limit. Such an amendment of Article 5C(1) would reinforce the above-mentioned tendency and the example given by the Trademark Registration Treaty.

(142) In any case, and even without the revision of the Paris Convention, developing countries are free to achieve the purpose of the question posed by the Group of Experts by adopting in their legislation a reasonable — for example, five-year — time limit for the actual use of marks.

#### *Geographical Designations Used as Trademarks*

(143) The question asked here by the Group of Experts is "whether the prohibition of the use of geographical designations as trademarks should not be established or, to the extent that it existed, reinforced." (Report, paragraph 70)

(144) The Paris Convention contains no provisions prohibiting *expressis verbis* the use of geographical designations as trademarks. The provisions of Article 10 on false indications of the source of goods and Article 10<sup>bis</sup> on the repression of unfair competition have some bearing on the matter.

(145) It is unlikely that the Paris Convention could ever “prohibit” — without any qualification, as stated in the question posed by the Group of Experts — the use of geographical designations as trademarks. Most, if not all, national trademark laws contain no such unqualified prohibition. Thousands of trademarks registered and protected all over the world consist of geographical designations.

(146) What seems to be in the interest of the people who live in or near places whose geographical designations are used as trademarks, and in the interest of the public (particularly, the consumers), is that geographical designations should not be used in a misleading way, which means, roughly stated, that a trademark used on goods should not convey the impression that the goods come from a country, region, town or other geographical entity when, in fact, they do not. For example, no cigars made in Europe from tobacco grown in Europe should be allowed to be sold under the trademark “Cuba” or “Havana.”

(147) A detailed regulation of the prohibition of false indications of source, particularly geographical designations, is one of the constant preoccupations of the Paris Union. The first treaty on the matter was a special agreement under the Paris Convention concluded in 1891 and last revised in 1967 under the title “Agreement for the Repression of False or Deceptive Indications of Source on Goods.” A second treaty, which is also a special agreement under the Paris Convention, was concluded in 1958 under the title “Agreement for the Protection of Appellations of Origin and their International Registration” and revised in 1967. But since neither of them gives complete satisfaction, WIPO is currently sponsoring an effort to revise one, or perhaps both, of these Agreements or to conclude a new treaty.

(148) But the belief that a detailed regulation of the matter requires a separate treaty does not mean that the Paris Convention itself should not contain a provision to the effect that the false or misleading use of geographical designations as trademarks must be prevented by all member countries of the Paris Union. Such a provision could be either an entirely separate and new provision or could consist of an addition to one of the existing Articles, for example Article 10<sup>bis</sup> on the repression of unfair competition.

#### *Conflict Between an Appellation of Origin and a Trademark*

(149) The question asked by the Group of Experts is “whether . . ., in cases of conflict between an appellation of origin and a trademark, the former should not prevail.” (Report, paragraph 70)

(150) It is assumed that what the Group of Experts meant by “conflict” is the situation that arises when the registration of a trademark consisting of a geographical name (or of a word confusingly similar to a geographical name) is sought by one person, or when some goods are sold under such a (registered) trademark owned by one person, and the same geographical name is used by other persons as an appellation of origin.

(151) Whereas, in general, it is probably right to reserve any appellation of origin for the use of *all* those connected with the geographical name which constitutes the appellation, it may be that, in fact, *one* person or firm among all those that otherwise could claim connection with the geographical entity has already used the name of that entity as his or its trademark. In such a case — where, it should be noted, there is no deception — it would seem to be difficult to declare in the Paris Convention, in the name of the “prevalence” of the appellation of origin, that the owner must discontinue the use of the trademark or that all the others connected with the geographical entity may use the same words, albeit not as a trademark but as an appellation of origin.

(152) Otherwise, the principle is a sound one: the registration as trademarks of geographical names which are, or are capable of becoming (but who can predict?), appellations of origin should not be allowed. The question to what extent geographical names should be allowed as trademarks is an extremely complex one. Many trademark laws try to establish rules and many court decisions have dealt with the matter. It is probably a matter too complex to be regulated in the Paris Convention. But special agreements dealing with the details of the international protection of appellations of origin (see paragraph 147) are certainly appropriate for attempting to resolve, at least in part, the problem raised in the question posed by the Group of Experts.

#### *Well-Known Marks*

(153) The question asked here by the Group of Experts is “whether the obligation to protect any well-known mark (*marque notoirement connue*) was always compatible with the interests of developing countries in which similar national marks were registered before the registration of the well-known mark.” (Report, paragraph 70)

(154) The obligation referred to in the above question is contained in Article 6<sup>bis</sup>, the relevant passage of which reads as follows: "The countries of the Union undertake . . . to refuse or to cancel the registration, and to prohibit the use, of a trademark which constitutes a reproduction, an imitation, or a translation, liable to create confusion, of a mark considered by the competent authority of the country of registration or use to be well known in that country as being already the mark of a person entitled to the benefits of this Convention and used for identical or similar goods . . ." (paragraph (1))

(155) It is to be noted that the conditions under which the well-known mark prevails over what is called "national" marks in the question posed by the Group of Experts are rather stringent: the national mark must be a *reproduction*, an *imitation* or a *translation* of the well-known mark; furthermore, it must be *liable to create confusion*; finally, it must be used for *identical or similar goods*. It is also to be noted that the appreciation of whether a mark alleged to be well known really qualifies as such is left to the competent authority of the country *in which the national mark* alleged to infringe the well-known mark is registered and/or used. It is finally to be noted that such appreciation is not made on the basis of the question whether the mark seeking protection against the national mark is well known in its (foreign) country of origin or in the world generally but on the basis of the question whether it is well known *in the country of the authority making such appreciation*, that is, the country in which the national mark is registered or used.

(156) It is not really apparent why these guarantees for the purpose of protecting the interests of the owner of the national mark would — as the question posed by the Group of Experts seems to imply — be less compatible with the interests of developing countries than with those of developed countries, since the protection of well-known marks, like the protection of any mark — of marks in general — is motivated by a desire not only to preserve the interests of the owner of the mark but also, and equally important, to protect the consumer public from being confused as to the origin of goods bearing trademarks. Even if it were admitted that many (but not all) well-known marks used in developing countries are of foreign origin and that therefore the developing countries are less concerned about their (foreign) owners enjoying protection, developing countries are certainly interested in protecting their consumer public against confusion.

#### *Compulsory Licenses*

(157) The question asked here by the Group of Experts is "whether the possibility of providing for compulsory licenses for trademarks . . ., in certain

well-defined cases, should not be provided for." (Report, paragraph 70)

(158) It is somewhat difficult to analyze this question without any indication of what "certain well-defined cases" the Group of Experts had in mind when formulating it. The difficulty is increased by the fact that compulsory licenses in the case of marks are unknown in national laws, so that precedents are lacking.

(159) In patent law, compulsory licenses are known mainly in cases of failure on the part of the patent owner to work the patented invention. An attempt will be made below to establish, in the field of trademarks, an analogy with this institution, as one of the cases the Group of Experts might have had in mind.

(160) The analogy would arise where the person or the firm having registered a trademark in the country (the owner of the trademark) does not offer for sale, in that country, goods bearing the trademark. Failure to offer the goods for sale amounts to failure to use the trademark. The traditional remedy consists in cancelling the registration, or not allowing the renewal of the registration, of the unused trademark. Such a trademark can then be adopted by another person or firm.

(161) Or is such a remedy insufficient? Does the public interest require that another person — other than the trademark owner — should be entitled, by virtue of a compulsory license, to sell goods *under the trademarks*? (Under another trademark or without a trademark, goods of the same nature can be manufactured and offered for sale by anyone and thus the public's need for the goods will be satisfied.) Of course, any such other person — if granted a compulsory license to use the trademark — might sell his goods more easily and for a higher price under that trademark, particularly if it is a well-known trademark. But is it in the public interest that the purchaser should buy for a higher price or that he should buy under a false assumption as to the origin of the goods, namely, that the goods were manufactured by the owner of the trademark, when, in fact, they were manufactured by the compulsory licensee?

(162) But it may be that the "well-defined cases" mentioned in the question posed by the Group of Experts do not include the one analyzed above. Once these cases are known, they may lead to other considerations.

#### *Independence of Trademarks*

(163) Article 6 of the Paris Convention states first, in paragraph (1), that "the conditions for the filing and registration of trademarks shall be determined in each country of the Union by its domestic legisla-

tion;" it then restricts this apparent freedom allowed to the national law by not allowing the fate of the same trademark in other countries to be taken into consideration. This principle, known as the independence of trademarks, is expressed in paragraphs (2) and (3) of Article 6, which read as follows: "(2) However, an application for the registration of a mark filed by a national of a country of the Union in any country of the Union may not be refused, nor may a registration be invalidated, on the ground that filing, registration, or renewal, has not been effected in the country of origin." "(3) A mark duly registered in a country of the Union shall be regarded as independent of marks registered in the other countries of the Union, including the country of origin."

(164) The question asked here by the Group of Experts is "whether Article 6 of the Paris Convention concerning the independence of trademarks need not be revised." (Report, paragraph 70)

(165) The question does not indicate for what purpose or in what sense the Article might need revision.

(166) For the purposes of this document, it will be assumed that what the Group of Experts had in mind was whether an exception analogous to that considered in connection with the rule concerning the independence of *patents* (see paragraphs 42 to 46) could or should not be considered also in the case of the rule concerning the independence of *trademarks*.

(167) The issue, then, would be whether a developing country should have the right to (i) refuse an application for registration of a trademark which invoked the priority of an earlier application for registration in another country of the Paris Union (hereinafter referred to as "the country of origin" of the mark) when, in the country of origin, the application had been refused or, if granted, had later been cancelled, and, (ii) cancel the registration or disallow the renewal of the registration if, in the country of origin, the registration has been cancelled.

(168) The reasons for refusing the application, or for cancelling the registration, in the country of origin may, characteristically and putting aside all formal grounds (such as lack of payment of fees), be that the trademark is similar to another mark already registered, that it lacks distinctiveness (is generic), that it is contrary to public order or morality, or that it is capable of deceiving the public. It may be that the similar mark previously registered in the country of origin is not registered in the developing country. Or it may be that the views of the two countries on what is generic, contrary to public order or morality, or deceptive — or on what factors must be taken into

account in evaluating these criteria — differ from each other. In all these cases, there would seem to be no reason for the developing country to follow the decision of the authorities of the country of origin of the mark and, consequently, to refuse the application for registration, to cancel the registration or to disallow the renewal of the registration only because, in the country of origin, the mark was in conflict with another mark registered there or because the authorities of the country of origin found the mark to be generic or contrary to that country's public order or its views on morality or deceptiveness.

(169) The situation in the field of patents is quite different. If the laws of both the developing country and the country of origin require that an invention, to be patentable, must be new on a worldwide basis, then the conclusions of the two countries in respect of the novelty of the invention should be the same since they are applied to the same collection of existing data ("prior art"). This is not the case with trademarks since the collection of existing data (the marks so far registered in the country) is not the same in the two countries. Furthermore, judgment on non-obviousness and industrial applicability in the patent field is much less likely to be subjective than judgment on what is generic or deceptive in the trademark field.

(170) Once again, however, it may be that the possibilities for the revision of Article 6 which the Group of Experts had in mind do not include the one analyzed above. Once these possibilities are known, they may lead to other considerations.

#### FALSE INDICATIONS OF SOURCE AND UNFAIR COMPETITION

(171) *Assignment Given by the Group of Experts.* In connection with the question entitled "Marks; Industrial Designs; Appellations of Origin," the Group of Experts stated, in respect of false indications of source and unfair competition, that the question to be considered here was:

"whether the protection against false indications of source and unfair competition in general should not be strengthened to allow for swifter action against abuses." (Report, paragraph 70)

(172) *Swifter Action Against Abuses.* The Paris Convention deals with false indications of source and unfair competition in Articles 10, 10<sup>bis</sup> and 10<sup>ter</sup>. Article 10 incorporates, by reference, the provisions of Article 9.

(173) By virtue of the above provisions, the countries members of the Paris Union undertake, in particular, to assure "effective protection" against acts of unfair competition (Article 10<sup>bis</sup>) and to "assure . . . appropriate legal remedies effectively to repress all

the acts” of unfair competition or the use of false indications of source (Article 10<sup>ter</sup>).

(174) The Paris Convention, as it stands today, contains no provisions which would impede swift action against abuses. Any country may act as swiftly as it pleases and is able to do.

(175) The existing provisions could be reinforced by emphasizing that “effective” protection and remedies “effectively” to repress involve, in particular, the need for the government authorities, whether administrative or judicial, to proceed with the greatest diligence and speed against violators. The inclusion in the Paris Convention of more precise provisions, in particular the obligation for such authorities to proceed within certain time limits fixed in the Convention, may encounter some opposition but could be attempted in the next Diplomatic Conference of the Paris Union. Even if such time limits were written into the Convention, it is difficult to imagine what international sanctions could be provided for in the event that they were not respected. However, whatever provisions strengthening the present obligations of the member countries might be included in the Convention, they could serve as a basis for diplomatic representations by a country whose government or nationals were the victims of acts of unfair competition or false indications of source perpetrated or used in another country if the authorities of that country did not proceed against the authors of such acts and users of such indications with the required rigor and swiftness.

(176) In any case, the special agreements referred to in paragraph 147 provide for a more detailed regulation of the repression of false indications of source.

#### INDUSTRIAL DESIGNS

(177) *Assignment Given by the Group of Experts.* In connection with the question entitled “Marks; Industrial Designs; Appellations of Origin,” the Group of Experts stated, in respect of industrial designs, that the questions to be considered here were:

“(i) whether the possibility of providing for compulsory licenses for . . . industrial designs, in certain well-defined cases, should not be provided for;

“(ii) whether the possibility of pronouncing the lapse of industrial designs, in certain well-defined cases, should not be provided for.”

(Report, paragraph 70)

#### *Compulsory Licenses*

(178) In the case of industrial designs, as opposed to that of patents, the Paris Convention is silent on the question of compulsory licenses. There may be several reasons for its silence. One of them may be

that the laws of only very few countries provide for compulsory licenses in the case of industrial designs; they do not seem to disturb the international community and therefore no provisions limiting the freedom of national laws in respect of compulsory licenses were inserted in the Paris Convention. Another reason may be that what is involved is the protection of the (pleasing, attractive) appearance of an article and there seems to be no urgent public interest in bringing onto the market, against the will of the owner of the industrial design, an article with given aesthetic features if there exists — as there almost invariably does in practice — another article accomplishing the same utilitarian function, albeit with different or no aesthetic features. A third reason may be that, in the great majority of countries, the term of protection is short, so that in most cases a compulsory license granted for reasons of non-working by the owner of the industrial design would come — after the necessary period of permissible non-working — when the protection has already expired or is near to expiration.

(179) The question asked here by the Group of Experts is “whether the possibility of providing [in the national laws] for compulsory licenses for . . . industrial designs, in certain well-defined cases, should not be provided for [in the Paris Convention].” (Report, paragraph 70)

(180) The answer is that the Paris Convention, as it stands today, does not prevent any national law from providing for compulsory licenses in the case of industrial designs. At present, this freedom is not limited to certain well-defined cases but is unrestricted.

(181) If the intent of the question posed by the Group of Experts is to limit this freedom — that is, to allow compulsory licenses in well-defined cases only — the existing provisions on compulsory licenses in the case of patents could serve as a basis for further discussion.

#### *Lapse*

(182) The question asked here by the Group of Experts is “whether the possibility [for national laws] of pronouncing the lapse of industrial designs, in certain well-defined cases, should not be provided for [in the Paris Convention].” (Report, paragraph 70)

(183) It is assumed that what the question means, in fact, is whether Article 5B should not be revised. That provision reads as follows: “The protection of industrial designs shall not, under any circumstance, be subject to any forfeiture, either by reason of failure to work or by reason of the importation of articles corresponding to those which are protected.”

(184) It is to be noted that Article 5B does not limit the freedom of any country to provide for *other* reasons leading to the lapse of protection.

(185) The probable reason for which the Paris Convention does not allow the taking away (lapse, forfeiture, annulment, cancellation) of the protection of a design is that there seems to be no — or no very strong — public interest in providing the domestic market with articles having certain aesthetic features.

(186) However, the validity of this reason may be questioned, particularly by a developing country whose desire is that articles incorporating the design be manufactured in that country.

(187) In this case, various possibilities are available. One is to amend Article 5B, another is to include in the law of the developing country provision for the granting of compulsory licenses. The latter possibility, as stated above (paragraph 180), is available to any country without the need for revising the Paris Convention.

#### RIGHT OF PRIORITY

(188) *Assignment Given by the Group of Experts.* The Group of Experts made the following statement in connection with the question entitled "Right of Priority":

"All aspects of Article 4 of the Paris Convention should be examined, including the question whether the duration of the right of priority should not be longer for applicants who are nationals of developing countries when they apply for patents in developed countries." (Report, paragraph 74)

(189) *The Priority Period.* The second part of this question, that is, the length of the priority period in the case of patents, has been examined elsewhere in this document, as one possible instance of preferential treatment, without reciprocity, for developing countries (see paragraph 100).

(190) *Other Aspects of Article 4.* Article 4 deals with the right of priority in connection not only with patents but also with inventors' certificates, utility models, industrial designs and marks. It specifies the formalities that have to be complied with in connection with any priority claim. It fixes the priority periods and the method of computing them. It specifies the kinds of applications on which priority claims may be based, and defines the legal effects of such claims. It also regulates some other details.

(191) As already indicated, the length of the priority period in the case of patents is dealt with in another Chapter of this document. As to the other aspects of Article 4, the Group of Experts did not indicate any specific possible change that should be studied; nor did any emerge from the study which has resulted in this document, or at least none of special interest to developing countries.

(192) Admittedly, the order in which the various matters regulated in Article 4 are dealt with in that

Article is not always logical. The whole Article could be redrafted, not to make it clearer — it is quite clear as to its meaning — but rather to make it easier to read. However, the International Bureau will wait for precise instructions before undertaking such a task.

## B. Technical Assistance

### TECHNICAL ASSISTANCE TO DEVELOPING COUNTRIES

(193) *Assignment Given by the Group of Experts.* The Group of Experts made the following statement in connection with the question entitled "Technical Assistance":

"The question here is whether the Paris Convention should not contain provisions — similar, for example, to those contained in the Patent Cooperation Treaty<sup>2</sup> — concerning technical assistance to developing countries. It was noted that under Article 7 of the Conven-

<sup>2</sup> The text of Chapter IV reads as follows:

#### "TECHNICAL SERVICES

##### "Article 50

##### *Patent Information Services*

(1) The International Bureau may furnish services by providing technical and any other pertinent information available to it on the basis of published documents, primarily patents and published applications (referred to in this Article as "the information services").

(2) The International Bureau may provide these information services either directly or through one or more International Searching Authorities or other national or international specialized institutions, with which the International Bureau may reach agreement.

(3) The information services shall be operated in a way particularly facilitating the acquisition by Contracting States which are developing countries of technical knowledge and technology, including available published know-how.

(4) The information services shall be available to Governments of Contracting States and their nationals and residents. The Assembly may decide to make these services available also to others.

(5) (a) Any service to Governments of Contracting States shall be furnished at cost, provided that, when the Government is that of a Contracting State which is a developing country, the service shall be furnished below cost if the difference can be covered from profit made on services furnished to others than Governments of Contracting States or from the sources referred to in Article 51(4).

(b) The cost referred to in subparagraph (a) is to be understood as cost over and above costs normally incident to the performance of the services of a national Office or the obligations of an International Searching Authority.

(6) The details concerning the implementation of the provisions of this Article shall be governed by decisions of the Assembly and, within the limits to be fixed by the Assembly, such working groups as the Assembly may set up for that purpose.

(7) The Assembly shall, when it considers it necessary, recommend methods of providing financing supplementary to those referred to in paragraph (5).

##### "Article 51

##### *Technical Assistance*

(1) The Assembly shall establish a Committee for Technical Assistance (referred to in this Article as "the Committee").

tion Establishing the World Intellectual Property Organization<sup>3</sup> the institutional framework for such technical assistance existed but that budgetary considerations might militate in favor of including provisions on technical assistance also in the Paris Convention. It was suggested that Article 19<sup>4</sup> could be made use of in order

(2) (a) The members of the Committee shall be elected among the Contracting States, with due regard to the representation of developing countries.

(b) The Director General shall, on his own initiative or at the request of the Committee, invite representatives of intergovernmental organizations concerned with technical assistance to developing countries to participate in the work of the Committee.

(3) (a) The task of the Committee shall be to organize and supervise technical assistance for Contracting States which are developing countries in developing their patent systems individually or on a regional basis.

(b) The technical assistance shall comprise, among other things, the training of specialists, the loaning of experts, and the supply of equipment both for demonstration and for operational purposes.

(4) The International Bureau shall seek to enter into agreements, on the one hand, with international financing organizations and intergovernmental organizations, particularly the United Nations, the agencies of the United Nations, and the Specialized Agencies connected with the United Nations concerned with technical assistance, and, on the other hand, with the Governments of the States receiving the technical assistance, for the financing of projects pursuant to this Article.

(5) The details concerning the implementation of the provisions of this Article shall be governed by decisions of the Assembly and, within the limits to be fixed by the Assembly, such working groups as the Assembly may set up for that purpose.

#### “ Article 52

##### *Relations with Other Provisions of the Treaty*

Nothing in this Chapter shall affect the financial provisions contained in any other Chapter of this Treaty. Such provisions are not applicable to the present Chapter or to its implementation.”

<sup>3</sup> The texts of Article 4(v) and 7(2)(iii) read as follows:

#### “ Article 4

##### *Functions*

In order to attain the objectives described in Article 3, the Organization, through its appropriate organs, and subject to the competence of each of the Unions:

.....

(v) shall offer its cooperation to States requesting legal-technical assistance in the field of intellectual property.

#### “ Article 7

##### *Conference*

.....

(2) The Conference shall:

.....

(iii) within the limits of the budget of the Conference, establish the triennial program of legal-technical assistance.”

<sup>4</sup> The text of Article 19 reads as follows:

#### “ Article 19

##### *[Special Agreements]*

It is understood that the countries of the Union reserve the right to make separately between themselves special agreements for the protection of industrial property, in so far as these agreements do not contravene the provisions of this Convention.”

to establish special unions devoted to technical assistance.”

(Report, paragraph 68)

(194) *Assistance by the International Bureau.* There are several fields connected with the protection of industrial property — the subject matter of the Paris Convention — in which the International Bureau could, given the required financial means and in cases where any developing country so desires, give assistance to that country. Here are some of those fields:

(i) assistance in a national program designed to make workers employed in all branches of technical activities in the country aware of the importance, to the economy of their country and to themselves, of seeking to make inventions, technical innovations and rationalization proposals,

(ii) assistance in a national program designed to make such workers aware of the importance, to the economy of their country and to themselves, of seeking legal recognition and protection for their inventions, technical innovations and rationalization proposals, by applying for patents, inventors' certificates or whatever other forms of legal recognition or protection are available in the country,

(iii) assistance in a national program designed to encourage enterprises, and other employers of potential inventors and potential proponents of technical innovations and rationalization measures, to assist their workers in describing their inventions, etc., and in applying for the appropriate form of legal recognition or protection provided for in the laws of the country,

(iv) assistance in a national program designed to encourage inventors, etc., of the country to apply also in foreign countries for the legal recognition and protection of their inventions, etc.,

(v) assistance in efforts to modernize the country's industrial property legislation,

(vi) advice on the possibilities of deriving the maximum benefit for the country from the advantages offered to its government, to its inventors and to its industry through the use of international treaties in the field of industrial property,

(vii) assistance in efforts to render more efficient the administration of the industrial property laws of the country,

(viii) assistance in acquiring more knowledge about the most advantageous methods of purchasing, outright or in the form of licenses, foreign technology protected by industrial property,

(ix) assistance in establishing government machinery to screen contracts proposed to be concluded between enterprises in the country and those furnishing foreign technology related to industrial property so that the maximum benefit be derived from such contracts for the country and its enter-

prises located in it on the most favorable terms for them,

(x) assistance in acquiring more knowledge about the most advantageous methods of selling abroad, outright or in the form of licenses, inventions and other technology protected by industrial property and made or developed by local inventors and enterprises.

(195) *Direct Assistance by Member Countries.* Assistance of the kind described in the previous paragraph could be given also in the form of bilateral aid offered to a developing country by a developed or another developing country. The role of the International Bureau in this case could consist in bringing the two countries together and advising them.

(196) *Provisions in the Paris Convention.* The statement by the Group of Experts quoted above (paragraph 193) indicates that opinions have not yet crystallized as to the question whether improved technical assistance to developing countries should be provided for in the framework of the Paris Union, or of WIPO, or of a new, special agreement.

(197) It would seem that *major* technical assistance projects could not be financed from the regular budget either of the Paris Union or of WIPO. For such major projects financing must come from other sources, particularly the United Nations Development Programme (UNDP). The same situation prevails in the other specialized agencies of the United Nations system of organizations. On the other hand, the cost of planning technical assistance activities in general and of some *minor* technical assistance projects should be financed from the regular budget of the Paris Union because it is neither practical nor economical to set into motion the heavy and slow machinery of outside financing for such purposes.

(198) It is believed that the most practical solution would be a special chapter on technical assistance to be inserted in the Paris Convention with a clear understanding of what would be expected to be financed from the budget of the Paris Union. However, it is recognized that further consideration of this question requires a preliminary position to be taken by the Group of Experts on the contemplated form and fields of the technical assistance in question.

### C. Other Questions

#### TERRITORIAL CLAUSE

(199) *Assignment Given by the Group of Experts.* The Group of Experts made the following statement in connection with the question entitled "Deletion of Article 24":

"The question here is whether Article 24 of the Paris Convention has not become anachronistic and should not be deleted."

(Report, paragraph 72)

(200) *Should Article 24 Be Deleted?* Article 24 provides, in essence, that any country member of the Paris Union which is "responsible for the external relations" of a "territory" may extend the application of the Paris Convention to such territory.

(201) The countries wishing to maintain provisions of this kind in international treaties on industrial property or copyright usually argue that as long as it is a fact that certain countries conduct the external relations of certain territories — as, for example, the United Kingdom does with respect to Hong Kong — it is in the interest of both the peoples of such territories and all the members of the Paris and Berne Unions that the extension of the Paris and Berne Conventions be permitted because, otherwise, the inventions, trademarks, copyright, etc., of those peoples would be left without protection in the member countries of the Paris and Berne Unions, and the inventions, trademarks, copyright, etc., of the nationals of the member countries of the Paris and Berne Unions would be left without protection in such territories. They normally add that, before taking any decision on the question of extension to any territory, they consult the competent representative bodies of the people of such territory, and proceed according to the wish of such bodies. Finally, they usually add that they are ready to accept a provision, already included in some of the more recent treaties, according to which the territorial clause "shall in no way be understood as implying the recognition or tacit acceptance" by a member country "of the factual situation concerning a territory" to which the treaty is declared to be applicable by another member country by virtue of the said clause.

(202) The countries wishing to delete Article 24 argue that colonialism has been solemnly and repeatedly condemned by international public opinion and several resolutions of the United Nations; that, consequently, any mention of "territories" in a treaty would imply the acceptance of the idea that colonialism may continue instead of being immediately and totally abolished; that, in other words, Article 24 is an inadmissible anachronism and should be stricken from the Paris Convention as soon as possible, that is, at the next Diplomatic Conference.

(203) As can be seen, the issue transcends industrial property and is a question of the greatest political significance.

#### RESERVATIONS

(204) *Assignment Given by the Group of Experts.* The Group of Experts made the following statement

in connection with the question entitled "Reservations":

"The question here is whether any exception from the obligations of the Paris Convention allowed for developing countries should not be exercisable by way of a reservation to the relevant provision of that Convention. This could allow of a more flexible system, tailor-made for the needs of the country making reservations." (Report, paragraph 71)

(205) *Should the Paris Convention Provide for the Possibility of Reservations in Respect of Certain Provisions?* It is believed that, before it is possible to examine this question in a practical way, it is advisable to see more clearly which of the provisions of the Paris Convention will be the subject of exceptions and, in respect of each exception, whether it will be available to any country party to the Paris Convention or only to developing countries.

(206) It is therefore suggested that this question be examined on the basis of the results of the meeting of the Group of Experts, either in the course of that meeting or after it.

#### UNANIMITY OR MAJORITY

(207) *Assignment Given by the Group of Experts.* The Group of Experts made the following statement in connection with the question entitled "Question of Procedure: Unanimity Rule":

"The question here is to weigh the relative advantages and disadvantages of amending the Paris Convention by unanimity or a qualified majority." (Report, paragraph 75)

(208) *What Vote Should Be Required for Adopting Changes?* The Paris Convention differentiates between "revision" and "amendment." Revision is the method of changing all the provisions of the Paris Convention, including all those concerning substantive law, except Articles 13 to 17, which deal with some administrative matters. The latter Articles can be changed by "amendment," that is, in the Assembly of the Paris Union. The majorities required for amendments are fixed in Article 17.

(209) As to changes by revision, Article 18 of the Paris Convention provides that "this Convention shall be submitted to revision with a view to the introduction of amendments designed to improve the system of the Union" (paragraph (1)) and that "for that purpose, conferences shall be held successively in one of the countries of the Union among the delegates of the said countries" (paragraph (2)). As to the preparation of any revision conference, the Paris Convention provides that "the Assembly [of the Paris Union] shall . . . give directions concerning the preparation for conferences of revision to the International Bureau . . . due

account being taken of any comments made by those countries of the Union which are not bound by Articles 13 to 17 [that is, by those countries members of the Paris Union which are not members of the Assembly of the Paris Union]" (Article 13(2)(a)(ii)). As to the role of the International Bureau and of international organizations other than WIPO, Article 15(7) provides as follows: "(a) The International Bureau shall, in accordance with the directions of the Assembly and in cooperation with the Executive Committee, make the preparations for the conferences of revision . . . (b) The International Bureau may consult with intergovernmental and international non-governmental organizations concerning preparations for conferences of revision. (c) The Director General [of WIPO] and persons designated by him shall take part, without the right to vote, in the discussions at these conferences."

(210) It is to be noted that the Paris Convention contains *no* provision on the question whether the decisions on the changes in the text of the Convention proposed in a revision conference require unanimity or a majority, and, if the latter, what majority. All revision conferences held so far (there have been nine: in 1890, 1891, 1897, 1900, 1911, 1925, 1934, 1958 and 1967, respectively) followed the rule of unanimity in the sense that no change was considered adopted if one or more member countries voted against the proposal. Abstentions were not counted as negative votes. Neither did the absence of any member country play any role.

(211) A qualified majority has the advantage that one single country or a very few countries cannot prevent the carrying out of the will of the majority.

(212) A qualified majority has the disadvantage that countries objecting (but not fundamentally) to a proposed change may feel less bound by the spirit of international cooperation to abstain (rather than to vote against), and those voting against the change may feel themselves morally less bound to ratify or accede to the revised new text.

(213) Unanimity has the advantage that all member countries should feel morally bound to ratify or accede to the revised text, but it has the disadvantage that a very few member countries or even one member country may prevent the adoption of a change desired by the majority of the member countries.

(214) On the whole, the Director General believes that a qualified majority — for example three-fourths or four-fifths — is to be preferred, in order to allow the adoption of reforms desired by such majority. It is always to be hoped that any country having voted against a decision would, as a result of further reflection after the revision conference, and in a spirit of international cooperation, feel able to accept the views of the majority and ratify or accede to the revised new text of the Paris Convention.

## II

## Committee of Experts on the International Protection of Appellations of Origin and Other Indications of Source

### Second Session

(Geneva, December 1 to 5, 1975)

#### Note \*

Pursuant to a decision of the Executive Committee of the Paris Union, the Committee of Experts on the International Protection of Appellations of Origin and Other Indications of Source held its second session<sup>1</sup> in Geneva from December 1 to 5, 1975.

Twenty-one States members of the Paris Union were represented on the Committee of Experts; two intergovernmental organizations and three international non-governmental organizations were represented by observers. The list of participants follows this Note.

The discussions of the Committee of Experts were based on two documents prepared by the International Bureau, namely, a Draft Treaty on the Protection of Geographical Indications (which latter term covers both appellations of origin and indications of source) and a report on the question whether the new international instrument should take the form of an Act revising the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration or that of a new treaty.

A special feature of the proposed Draft Treaty is that it provides for two kinds of protection. The first, which is dealt with in Chapter I (as supplemented by the common provisions in Chapter III), is similar to the system under the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, which it simplifies and brings up to date. The second kind of protection, which is dealt with in Chapter II (also as supplemented by the above-mentioned common provisions), introduces a system of registration which is similar to, but considerably improves upon, the Lisbon Agreement.

Following a detailed consideration of the Draft Treaty, the Committee of Experts expressed the opinion that it should be possible for a Contracting State to make a reservation concerning Chapter II. This would have the effect of creating two groups of Contracting States. The first would consist of those States which, having made the reservation,

would not be bound by Chapter II and, so far as the substantive provisions are concerned, would only apply Chapters I and III in their relations with other Contracting States. The second group would consist of those States which do not make such a reservation and which would therefore have to apply all the substantive provisions of the Treaty in their relations with each other, although they would only be required to apply Chapters I and III in their relations with States in the first group.

During the general discussion, a number of delegations had an opportunity of expressing their opinion on the nature of the future international instrument. Some delegations considered that a new treaty should be drawn up while others were in favor of a revision of the Lisbon Agreement; yet other delegations wondered whether a revision of the Madrid Agreement as such should not also be considered.

The Committee of Experts suggested, in conclusion, that its next session should be postponed until 1977 in view of the priority to be given to the work in progress on the revision of the Paris Convention and of the resulting workload for delegations. At the same time, it stressed the great importance of improving and broadening the scope of application of the international protection of geographical indications as well as the desirability of the rapid achievement of those objectives.

For its next session, the Committee recommended that the International Bureau prepare a new Draft Treaty and Draft Regulations.

### List of Participants \*

#### I. Member States

**Algeria:** F. Bouzid. **Argentina:** C. A. Passalacqua. **Australia:** L. J. Curtis. **Austria:** T. Lorenz. **Cuba:** J. M. Rodríguez Padilla; J. R. Gonzalez Agarrucho. **Czechoslovakia:** J. Prošek. **Denmark:** R. Carlsen; I. Sander. **France:** L. Nicodème; S. Balous; R. Tinlot; Y. Mettetal; M. Bierry; A. Devlétian. **German Democratic Republic:** S. Schröter. **Germany (Federal Republic of):** E. Steup; H. F. Graeve; W. Tilmann; M. Aúz Castro. **Hungary:** M. Bognár. **Italy:** M. Tomajuoli. **Mexico:** E. Sanchez Rodríguez; Q. R. G. de Sanche. **Netherlands:** J. P. Pluim Mentz. **Nigeria:** A. G. Adoh. **Poland:** T. Opalski. **Portugal:** R. Serrão. **Soviet Union:** I. Vedernikova; S. Gorlenko. **Spain:** J. Delicado Montero-Ríos; G. Yravedra. **Switzerland:** P. Braendli; F. Balleys; P. J. Pointet. **United Kingdom:** K. R. Haines.

#### II. Intergovernmental Organizations

**Commission of the European Communities (CEC):** H. Schmitt von Sydow; G. Castille; B. McDonald. **International Vine and Wine Office (IWO):** P. Mauron.

#### III. International Non-Governmental Organizations

**International Association for the Protection of Industrial Property (IAPIP):** Y. R. Harle; F.-K. Beier. **International**

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

<sup>1</sup> A Note on the first session of the Committee of Experts was published in *Industrial Property*, 1974, p. 469.

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

**Federation of Patent Agents (FICPI):** Y. R. Harle; L. Holmqvist. **International League Against Unfair Competition (LICCD):** J. Guyet.

#### IV. Officers

*Chairman:* M. W. Tilmann (Germany, Federal Republic of); *Vice-Chairmen:* M. Bognár (Hungary), A. G. Adoh (Nigeria); *Secretary:* F. Curchod (WIPO).

#### V. WIPO

A. Bogsch (*Director General*); L. Baeumer (*Counsellor, Head, Legislation and Regional Agreements Section, Industrial Property Division*); L. Egger (*Counsellor, Head, International Registrations Division*); F. Curchod (*Legal Officer, Industrial Property Division*); D. Devlin (*Legal Officer, Industrial Property Division*); P. Mangué (*Legal Officer, International Registrations Division*).

### INTERNATIONAL PATENT CLASSIFICATION

#### Joint ad hoc Committee

##### Tenth Session

(Geneva, October 6, 1975)

#### Note\*

The tenth and last session<sup>1</sup> of the Joint ad hoc Committee of the Council of Europe and the World Intellectual Property Organization on the International Patent Classification (IPC) was presided over by Mrs. O. Kavyrchine (France), Second Vice-Chairman of the Committee. Representatives of France, Germany (Federal Republic of), Japan, the Netherlands, the Soviet Union, Spain, Sweden, Switzerland, the United Kingdom, the United States of America and the International Patent Institute (IIB) participated in this session. A list of participants follows this Note.

**Consideration of the Report of the Rapporteur General.** The Committee took note of the report of the Rapporteur General, Mr. A. Vandecasteele (IIB), on the activities from January 1974 until October 6, 1975, endorsed the conclusions set out in the report and agreed to bring them to the attention of the Committee of Experts of the Special Union created by the Strasbourg (IPC) Agreement.

**Use of the IPC.** The Committee noted the results of a survey which had been undertaken by the International Bureau on the use of the IPC and the application of its symbols.

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

<sup>1</sup> A Note on the ninth session of the Joint ad hoc Committee was published in *Industrial Property*, 1974, p. 138.

**Recommendations Formulated by the Bureau.** The Committee took note of the report on the twelfth and last session of the Bureau, endorsed the conclusions and recommendations set out in the report, and expressed its wish that the Committee of Experts would thoroughly consider these conclusions and recommendations when establishing and instructing the new bodies to be entrusted with the revision and further development of the IPC.

### List of Participants\*

#### I. Member States

**France:** O. Kavyrchine; **G. Benent.** **Germany (Federal Republic of):** A. Wittmann; K. Sölla. **Japan:** T. Takeda. **Netherlands:** G. J. Koelewijn. **Soviet Union:** V. Roslov. **Spain:** A. Vega del Barco; J. Ibañez. **Sweden:** S. Lewin; J. von Döbeln. **Switzerland:** E. Caussignac. **United Kingdom:** D. G. Gay. **United States of America:** T. F. Lomont.

#### II. Intergovernmental Organization

**International Patent Institute (IIB):** A. Vandecasteele; F. C. R. de Laet.

#### III. Secretariat

**Council of Europe (CE):** R. Müller (*Deputy Director of Legal Affairs*); W. L. J. Ennerst (*Consultant Expert, Directorate of Legal Affairs*).

#### WIPO

K. Pfanner (*Deputy Director General*); P. Claus (*Technical Counsellor, Industrial Property Division*); B. Hansson (*Head, IPC Section, Industrial Property Division*); A. Sagarminaga (*Technical Officer, IPC Section*); R. Andary (*Technical Officer, IPC Section*); T. Ogiue (*Consultant*); Y. Plotnikov (*Consultant*); J. Sheehan (*Consultant*).

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

### IPC UNION

#### I

#### Assembly

##### First Session (1<sup>st</sup> extraordinary)

(Geneva, October 7 to 9, 1975)

#### Note\*

Following the entry into force of the Strasbourg (IPC) Agreement Concerning the International Patent Classification of 1971, on October 7, 1975, and

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

a Preparatory Meeting for the entry into force of the IPC Agreement, held during the session of the Administrative Bodies of WIPO in September 1975 and consisting of the representatives of States bound by that Agreement or expected to pay special contributions, the Assembly of the IPC Union held its first (extraordinary) session in Geneva from October 7 to 9, 1975, upon convocation by the Director General of WIPO. The following eleven out of fourteen States, members of the Assembly of the IPC Union at the time of the opening of the session, were represented: Austria, Brazil, Denmark, France, Germany (Federal Republic of), Netherlands, Norway, Sweden, Switzerland, United Kingdom, United States of America. The Soviet Union, which, by virtue of its notification referred to below, became a member during the session, also participated. Seven States and two international organizations were represented by observers. A list of participants follows this Note.

**Rights and obligations of States.** With respect to rights and obligations of States between deposit of their instrument of ratification or accession and entry into force of the IPC Agreement for them, the Assembly adopted the following resolution: "Any State which has deposited its instrument of ratification or accession to the Strasbourg (IPC) Agreement of 1971 may notify the Director General of WIPO that it will fulfill its obligations under the said Agreement before the entry into force thereof with respect to that State; such a State shall be treated as if the said Agreement had already entered into force with respect to that State."

The Delegation of the Soviet Union notified the Director General during the session that it would, with immediate effect, fulfill the obligations prescribed in the IPC Agreement.

**Rules of Procedure.** The Assembly adopted its Rules of Procedure which, *inter alia*, provide that any State member of the Paris Union which is not a member of the IPC Union but which has pledged special contributions to defray the expenses of the IPC Union in a given year shall, during that year, have the status of special observer in all sessions of the Assembly and of any committee or working group established by the Assembly, and shall have the right to make proposals in any of the said sessions.

Subject to what has been said on special observers, the Assembly decided that States not members of the IPC Union which are members of the World Intellectual Property Organization or of the Paris Union shall be admitted as observers to the sessions of the Assembly, and that the United Nations and certain specified intergovernmental organizations shall be invited to all the sessions of the Assembly and of such committees or working groups as may be established by the Assembly,

whereas certain other intergovernmental organizations shall be invited by the Director General only for the discussion of specific items on the agenda.

**Official texts of the IPC Agreement and Classification.** The Assembly decided, in conformity with Articles 16(2) and 3(2) of the IPC Agreement, to designate Arabic and Italian as languages in which the Director General should establish official texts of the said Agreement, and to designate Czech as a language in which an official text of the second edition of the IPC should be established.

The Assembly noted that, at present, translations of the IPC Agreement exist in German, Italian, Japanese, Portuguese, Russian and Spanish, and that, after consultations with the interested Governments, the Director General would regard these existing translations as well as the translation into Arabic, when completed by the Egyptian Patent Office, as the official texts in the said languages for the purposes of Article 16(2) of the Agreement.

The Assembly also noted that, at present, translations of the complete second edition of the IPC (down to subgroup level) exist in German, Japanese and Russian, and that by the end of 1975 translations of the said edition of the IPC down to subgroup level are expected to be available in Czech, Portuguese and Spanish. After consultation with the interested Governments, the International Bureau would regard the existing translations of the second edition of the IPC, which have already been published and submitted to WIPO, as well as the translations under preparation, once they have been completed, published and submitted to WIPO, as the official texts in the said languages for the purpose of Article 3(2) of the IPC Agreement.

**Program and budget for 1976.** The Assembly adopted the IPC program; it provides for the continuation of the work on the improvement of the IPC, including a study of the possibilities of printing the third edition of the IPC by photocomposing techniques from a machine readable data base, and on ensuring uniform application of the IPC. The work is to be carried out by the Committee of Experts of the IPC Union and by the Steering Committee and the five Working Groups set up by the Committee of Experts<sup>1</sup>. The Assembly furthermore adopted a decision and recommendation on the contributions for 1976.

**Next Session.** The Assembly decided that its second session (1st ordinary) should take place in Geneva during the same period as the next General Assembly of WIPO (September 27 to October 5, 1976).

<sup>1</sup> See the Note on the first session of the IPC Committee of Experts on p. 80 of this issue of *Industrial Property*.

## List of Participants \*

### I. Member States

**Austria:** J. Fichte. **Brazil:** A. G. de Alencar. **Denmark:** K. Skjødt; D. Simonsen; G. Kortsen. **France:** O. Kavyrchine; G. Beneut. **Germany (Federal Republic of):** K. Haertel; A. Wittmann; K. Sölla. **Netherlands:** J. B. van Benthem; G. J. Koelewijn. **Norway:** A. Gerhardsen. **Soviet Union:** I. Nayashkov; V. Zubarev; V. Roslov. **Sweden:** S. Lewin; J. von Döbeln. **Switzerland:** W. Stamm; E. Caussignac. **United Kingdom:** E. Armitage; D. G. Gay. **United States of America:** L. F. Parker; H. D. Hoinkes; T. F. Lomont.

### II. Observer States

**Australia:** K. B. Petersson. **Congo:** R. Mathey. **Finland:** P. Salmi. **German Democratic Republic:** C. Micheel. **Japan:** T. Takeda. **Portugal:** J. van-Zeller Garin; J. Mota Maia. **Spain:** A. Vega del Barco; J. Ibañez. **Zaire:** L. Elebe.

### III. International Organizations

**Council of Europe (CE):** R. Müller. **International Patent Institute (IIB):** A. Vandecasteele; F. C. R. de Laet.

### IV. Officers

**Chairman:** E. Armitage (United Kingdom); **Vice-Chairmen:** I. Nayashkov (Soviet Union), L. F. Parker (United States of America); **Secretary:** P. Claus (WIPO).

### V. WIPO

A. Bogsch (*Director General*); K. Pfanner (*Deputy Director General*); P. Claus (*Technical Counsellor, Industrial Property Division*); G. Ledakis (*Legal Counsel, Office of the Director General*); B. Hansson (*Counsellor, Head, IPC Section, Industrial Property Division*); A. Sagarminaga (*Technical Officer, IPC Section*); R. Andary (*Technical Officer, IPC Section*); T. Ogiue (*Consultant*); Y. Plotnikov (*Consultant*); J. Sheehan (*Consultant*).

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

## II

### Committee of Experts

#### First Session

(Geneva, October 8 and 9, 1975)

#### Note \*

Following the entry into force of the Strasbourg (IPC) Agreement of 1971, on October 7, 1975, the Committee of Experts of the IPC Union held its first

session in Geneva on October 8 and 9, 1975. The following twelve out of fourteen States, members of the Committee of Experts, were represented: Austria, Brazil, Denmark, France, Germany (Federal Republic of), Netherlands, Norway, Soviet Union, Sweden, Switzerland, United Kingdom, United States of America. Seven States and three international organizations were represented by observers. A list of participants follows this Note.

**Rules of Procedure.** The Committee adopted its Rules of Procedure which, *inter alia*, provide that any State member of the Paris Union which is not a member of the IPC Union but which has pledged special contributions to defray the expenses of the IPC Union in a given year shall, during that year, have the status of special observer in all sessions of the Committee and of any subcommittee, except the Steering Committee (see below), as well as of any working group established by the Committee and shall have the right to make proposals in any of the said sessions.

**Organization of the work of the Committee.** The Committee decided to set up a Steering Committee and five Working Groups. The Steering Committee consists of the States whose nationals are Chairmen of the five Working Groups (France, Germany (Federal Republic of), Sweden, United Kingdom, United States of America), and of seven other States (Australia, Austria, Brazil, Denmark, Soviet Union, Spain and Japan) as associate members of the Steering Committee. The Steering Committee was given the mandate to supervise and coordinate the tasks of the five Working Groups.

**Terms of reference of the Working Groups.** The Committee decided that Working Groups I to IV, dealing with the revision of the Classification, shall prepare any revision of the English and French texts of the IPC and of the English and French Glossaries in their respective technical fields: Working Group I in Chemistry (sections C and D of the IPC), Working Group II in Physics and Electricity (Sections G and H of the IPC), Working Group III in Mechanics (Section B of the IPC), Working Group IV in other technologies (Sections A, E and F of the IPC).

Working Group V shall ensure the uniform application of the IPC, in particular by endeavoring, on the one hand, to obtain information on the degree of uniformity in application of the IPC and, on the other hand, to determine the reasons for inconsistent application, suggest procedures for the examination of reasons for inconsistent application, and promote the training of classifiers in Offices.

Each of the five Working Groups shall be composed of States members of the IPC Union which

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

declare that they wish to participate in the work of the respective Working Group.

**Calendar.** The Committee adopted a calendar for the sessions of the Working Groups, the Steering Committee and itself in 1976. It decided that the proposals for the procedure and the instructions for revision of the IPC should be examined by the Steering Committee at its first session. In the meantime, the procedure and the instructions approved by the former Joint ad hoc Committee would temporarily continue to apply, *mutatis mutandis*. The Committee referred to the Steering Committee, for further study, all recommendations formulated by the former Bureau and endorsed by the former Joint ad hoc Committee at its last session.

## List of Participants \*

### I. Member States

**Austria:** J. Fichte. **Brazil:** A. G. de Alencar. **Denmark:** K. Skjødt; D. Simonsen; S. Kortsen. **France:** O. Kavyrchine; G. Beut. **Germany (Federal Republic of):** K. Haertel; A. Wittmann; K. Sölla. **Netherlands:** G. J. Koelewijn. **Norway:** A. Gerhardsen. **Soviet Union:** I. Nayashkov; V. Zubarev; V. Roslov. **Sweden:** S. Lewin; J. von Döbeln. **Switzerland:** E. Caussignac; J. Borloz. **United Kingdom:** D. G. Gay. **United States of America:** L. F. Parker; H. D. Hoinkes; T. F. Lomont.

### II. Observer States

**Australia:** K. B. Petersson. **Congo:** R. Mathey. **Finland:** P. Salmi. **German Democratic Republic:** C. Micheel. **Japan:** T. Takeda. **Spain:** A. Vega del Barco; J. Ibañez. **Zaire:** L. Elebe.

### III. International Organizations

**Council of Europe (CE):** R. Müller. **International Patent Institute (IIB):** A. Vandecasteele; F. C. R. de Laet. **United Nations (UN):** G. Biryukov.

### IV. Officers

**Chairman:** A. G. de Alencar (Brazil); **Vice-Chairmen:** K. Haertel (Federal Republic of Germany), G. J. Koelewijn (Netherlands); **Secretary:** B. Hansson (WIPO).

### V. WIPO

A. Bogsch (*Director General*); K. Pfanner (*Deputy Director General*); P. Claus (*Technical Counsellor, Industrial Property Division*); G. Ledakis (*Legal Counsel, Office of the Director General*); B. Hansson (*Counsellor, Head, IPC Section, Industrial Property Division*); A. Sagarminaga (*Technical Officer, IPC Section*); R. Andary (*Technical Officer, IPC Section*); T. Ogiue (*Consultant*); Y. Plotnikov (*Consultant*); J. Sheehan (*Consultant*).

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

## TRADEMARK REGISTRATION TREATY (TRT)

### Interim Advisory Committee

#### First Session

(Geneva, September 22 and 23, 1975)

#### Note \*

In accordance with a decision taken by the WIPO Coordination Committee, the Interim Advisory Committee for the preparation of the entry into force of the Trademark Registration Treaty (TRT) (hereinafter "the Committee") held its first session in Geneva on September 22 and 23, 1975.

Sixteen States, members of the Paris Union, participated as members of the Committee; one other Member State, the United Nations and thirteen international non-governmental organizations were represented by observers. A list of participants follows this Note.

Subject to confirmation by the Executive Committee of the Paris Union<sup>1</sup>, the Committee adopted as its Rules of Procedure the General Rules of Procedure of WIPO.

The Committee noted that, at the time of its session, it was composed of 21 States: 14 States which had signed the TRT<sup>2</sup>, three States which had acceded to the TRT<sup>3</sup> and four States members of the Paris Union which had expressed the wish to be members of the Committee<sup>4</sup>.

On the basis of proposals presented by the International Bureau, the Committee approved the following work program: the Committee would hold a second session in 1976 which, on the basis of a document prepared by the International Bureau, would make an inventory of all matters to be regulated by the Administrative Instructions according to Rule 46(1)(a) of the Regulations under the TRT; for the third session of the Committee, which will probably take place in 1977, the International Bureau will prepare a first draft of the Administrative Instructions; at a later date, the Committee would have to examine draft forms prepared by the International Bureau. Should the date of entry into force of the TRT become certain before the envisaged completion date for this work program, the International

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

<sup>1</sup> This Confirmation was given by the Executive Committee of the Paris Union; see *Industrial Property*, 1975, p. 331.

<sup>2</sup> Austria, Denmark, Finland, Germany (Fed. Rep. of), Hungary, Italy, Monaco, Norway, Portugal, Romania, San Marino, Sweden, United Kingdom, United States of America.

<sup>3</sup> Gabon, Togo, Upper Volta.

<sup>4</sup> Japan, Soviet Union, Spain, Zaire.

Bureau should take all the necessary measures to have the work finished before the date of entry into force of the TRT. The Committee would not, however, deal with the question of options available to national legislations under the TRT; it was nevertheless agreed that the International Bureau should offer individual advice to those States wishing to consult it on this point.

The Committee agreed that legal-technical assistance to developing countries was of great importance and that such assistance should be given under its guidance and consist mainly in the following measures: assistance in the elaboration or adaptation of national legislation and assistance in the organization or modernization of national trademark offices, particularly with respect to adoption of the International Classification of Goods and Services established under the Nice Agreement.

### List of Participants \*

#### I. Member States

**Austria:** T. Lorenz. **Denmark:** K. Skjødt; R. Carlsen. **Finland:** A. Siponen. **Germany (Federal Republic of):** E. Steup; R. von Schleussner. **Hungary:** E. Tasnádi; M. Bognár. **Italy:** S. Samperi. **Japan:** N. Okamura; Y. Hashimoto. **Norway:** M. Aarbakke; A. Kaarhus; J. Albrektsen. **Portugal:** R. Serrão. **Romania:** V. Tudor. **Soviet Union:** V. Zubarev; F. Sviridov; V. Roslov. **Spain:** F. Gil Serantes; S. Jessel Picoury. **Sweden:** C. Ugglä; B. Lundberg; A. H. Olsson. **Togo:** A. Wilson. **United Kingdom:** I. J. G. Davis; V. Tarnofsky. **United States of America:** B. Meany; H. Winter; D. Allen; M. Kirk.

#### II. Observer State

**Bulgaria:** N. Datzkov; T. Sourgov.

#### III. United Nations (UN)

P. O'Brien

#### IV. Non-Governmental Organizations

**Bundesverband der Deutschen Industrie (BDI):** W. Bökel. **Council of European Industrial Federations (CEIF):** W. Mak. **Deutsche Vereinigung für Gewerblichen Rechtsschutz und Urheberrecht (DVGR):** H. Droste. **European Federation of Agents of Industrial Property (FEMIP):** J. de Clerck. **Institute of Trade Mark Agents (ITMA):** J. L. D. Oakley; E. R. Wenman. **International Chamber of Commerce (ICC):** D. E. Parker; Y. Saint-Gal. **International Federation of Patent Agents (FICPI):** L. Holmqvist; A. Kolster. **International League Against Unfair Competition (LICCD):** Y. Saint-Gal; J. Guyet. **The Chartered Institute of Patent Agents (CIPA):** J. S. Bushell. **Trade Marks, Patents and Designs Federation (TMPDF):** J. N. Mason. **Union des fabricants (UNIFAB):** Y. Saint-Gal. **Union of European Professional Patent Representatives (UNION):** K. B. Halvorsen. **Union of Industries of the European Community (UNICE):** W. Mak.

#### V. Officers

**Chairman:** E. Steup (Germany, (Federal Republic of)); **Vice-Chairmen:** V. Zubarev (Soviet Union), A. Wilson (Togo). **Secretary:** L. Baeumer (WIPO).

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

## VI. WIPO

A. Bogsch (*Director General*); K. Pfanner (*Deputy Director General*); L. Baeumer (*Counsellor, Head, Legislation and Regional Agreements Section, Industrial Property Division*); L. Egger (*Counsellor, Head, International Registrations Division*); F. Curchod (*Legal Officer, Industrial Property Division*).

### WIPO PERMANENT LEGAL-TECHNICAL PROGRAM

#### Working Group on the Model Law for Developing Countries on Inventions and Know-How

##### Third Session

(Geneva, November 10 to 13, 1975)

#### Note \*

As a part of the WIPO Permanent Legal-Technical Program for the Acquisition by Developing Countries of Technology Related to Industrial Property, the Working Group on the Model Law for Developing Countries on Inventions and Know-How held its third session in Geneva from November 10 to 13, 1975.

At its two first sessions, held in November 1974<sup>1</sup> and in May 1975<sup>2</sup>, the Working Group had examined and discussed draft model provisions, which had been prepared by the International Bureau, on patentability, the right to the patent and the right of an inventor to be named as such, the rights under the patent, the duration of the patent and annual fees, contractual licenses, compulsory licenses, know-how, State control of license contracts, know-how contracts and contracts assigning patents or patent applications and the transfer of technology patent. These provisions are designed to replace or supplement those of the model law for developing countries on inventions, published by BIRPI in 1965.

The third session of the Working Group was chaired by Mr. K. Gueblaoui (Tunisia). The list of participants follows this Note.

The Working Group examined and discussed in detail draft model provisions, which had been prepared by the International Bureau, on the patent grant procedure, joint ownership, and change in the ownership, of patent applications and patents, surrender and invalidation, infringement, inventors' certificates, the information services of the patent office,

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

<sup>1</sup> See *Industrial Property*, 1975, p. 49.

<sup>2</sup> See *Industrial Property*, 1975, p. 230.

common provisions and innovations. The model provisions on the information services and on innovations were not included in the BIRPI model law.

The Working Group has thus concluded the first stage of its work. For the second stage, the International Bureau will submit to the Working Group new draft model provisions prepared on the basis of the discussions held at the first three sessions.

## List of Participants \*

### I. Experts

J. Alvarez Soberanis (Mexico); A. R. B. Amerasinghe (Sri Lanka); H. Bouhalila (Algeria); G. R. Clark (United States of America); J. Delicado Montero-Ríos (Spain); D. Ebongue Sone (Cameroon); E. Fischer (Federal Republic of Germany); M. Gabay (Israel); K. Gueblaoui (Tunisia); D. Januszkiewicz (Poland); J. N. King'Arui (Kenya); L. Lebedeva (Soviet Union); D. O. Lewis (United Kingdom); A. A. Omar (Egypt); C. A. Passalacqua (Argentina); Y. Plasseraud (France); J. M. Rodríguez Padilla (Cuba); S. Sumodiredjo (Indonesia); Z. Szilvássy (Hungary); Tshinkela M. N. (Zaire).

### II. Persons accompanying the experts

V. Iliyn (Soviet Union); G. Pusztai (Hungary); A. Zaitsev (Soviet Union); L. Zebdji (Algeria).

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

### III. Observers

#### *United Nations Organizations*

United Nations (UN); H. Einhaus. United Nations Conference on Trade and Development (UNCTAD); P. O'Brien; G.-V. Koch.

#### *International Non-Governmental Organizations*

Council of European Industrial Federations (CEIF); G. Gannser. European Federation of Agents of Industrial Property (FEMIP); J.-M. Dopchie. Inter-American Association of Industrial Property (ASIPI); E. Aracama Zorraquín. Inter-American Bar Association (IABA); A. Ladrón de Guevara. International Association for the Protection of Industrial Property (IAPIP); H. Wichmann. International Chamber of Commerce (ICC); B. de Passemar. International Federation of Inventors Associations (IFIA); H. Romanus. Licensing Executives Society (LES); F. Gevers. Union of Industries of the European Community (UNICE); J.-M. Dopchie.

### IV. Chairman

K. Gueblaoui (Tunisia).

### V. WIPO

A. Bogsch (*Director General*); K. Pfanner (*Deputy Director General*); L. Baeumer (*Counsellor, Head, Legislation and Regional Agreements Section, Industrial Property Division*); M. Porzio (*Counsellor, External Relations Division*); I. Thiam (*Counsellor, Head, Technical Assistance Section, External Relations Division*); F. Curchod (*Legal Officer, General and Periodicals Section, Industrial Property Division*); A.-B. Kecherid (*Legal Officer, Legislation and Regional Agreements Section*).

## Obituary

### Guillaume Finniss

(1909-1976)

Guillaume Finniss died on January 19, 1976, in Paris. He was born on October 4, 1909, in Lille.

At the time of his death, he was Director-General of the International Patent Institute, a post which he had held since 1965. From 1950 to 1965, he was Director of the *Institut National de la Propriété Industrielle* of France. In other words, he spent 25 years in the service of institutions in the field of industrial property.

Guillaume Finniss was a man of exceptional intelligence, energy and political sense. He was also a man of great personal charm. He was much devoted to his family — his mother, his wife, his daughter — for whom his disappearance is a most tragic loss. He was a loyal and attentive friend, and the writer of these lines — who was privileged to be one of his friends — is much grieved by his demise.

During the 25 years of his career in the field of industrial property, he worked most efficiently on the modernization of its institutions. On the national level — that is to say, in France — he was one of the promoters of the new French legislation on patents. On the international level, his influence was particularly strong in the years that preceded and followed the Revision Conference of the Paris Union, held at Lisbon in 1958: the fact that the Paris Union established an intergovernmental organ was largely to his credit; it meant the beginning of a new era in the life of what, at that time, was still known as BIRPI (*Bureaux internationaux réunis pour la protection de la propriété intellectuelle*), the era in which the member States took an active and continuous interest

in BIRPI (later WIPO) and used it for the promotion of the cause of intellectual property. Guillaume Finniss was a *de facto* perpetual president of that intergovernmental organ in those years, and its decisions and working methods all bear witness to his imagination, his sense of the feasible and his foresight.

His influence was equally strong, or even stronger, in the European field. He played an eminent role in the creation of the International Patent Institute in The Hague, and was President of that Institute's Administrative Council from 1956 to 1965. He became the Institute's chief executive when, in 1965, he was elected Director General. For his past merits, he was also awarded the title of Honorary President of the Administrative Council.

During all those years, Guillaume Finniss also played a very active part in the creation of the two European Patent Conventions — one signed in Munich in 1973, the other in Luxembourg in 1975 — first as the chief delegate of France and later as the representative of the International Patent Institute now destined to become part of the future European Patent Office.

Guillaume Finniss was an accomplished diplomat. Fluent in English and German, always attentive to the concerns of the countries and the persons he negotiated with, patient but incisive, an excellent *raconteur*, sensitive to all the values of life, well versed in history and art and having a good sense of humor, he chose the career which fitted perfectly his gifts, background and inclinations. Throughout his career, he was appreciated and liked by most people he came into contact with. His disappearance leaves a great void for all those who had the good fortune to know him well.

A. B.

## News Items

### NEW ZEALAND

#### *Commissioner of Patents, Trade Marks and Designs*

We have been informed that Mr. Kenneth Sidney Dalefield has been appointed Commissioner of Patents, Trade Marks and Designs. He succeeds Mr. C. W. Wadham.

We take this opportunity of congratulating Mr. Dalefield on his appointment.

### SWITZERLAND

#### *Director, Federal Bureau for Intellectual Property*

We have been informed that Mr. Paul Braendli has been appointed Director of the Federal Bureau for Intellectual Property. He succeeds Mr. Walter Stamm.

We take this opportunity of congratulating Mr. Braendli on his appointment.

## Calendar

### WIPO Meetings

1976

- February 2 to 4 (Geneva) — ICIREPAT — Plenary Committee (PLC)
- February 2 to 10 (Geneva) — Nice Union — Temporary Working Group
- February 16 to 20 (Geneva) — Hague Union — Regulations — Working Group
- February 16 to 27 (London) — International Patent Classification (IPC) — Working Group IV
- February 23 to March 2 (Tunis) — Permanent Legal-Technical Program — Committee of Governmental Experts for the Preparation of a Model Law on Copyright for Developing Countries  
(Meeting convened by the Government of Tunisia in cooperation with WIPO and Unesco)
- March 1 to 5 (Geneva) — Nice Union — Committee of Experts for the Revision of the Nice Agreement
- March 9 to 12 (Geneva) — Permanent Legal-Technical Program — Working Group on the Use of the International Patent Classification
- March 15 to 19 (Geneva) — Permanent Legal-Technical Program — Permanent Committee (3<sup>rd</sup> session)
- March 22 to April 2 (Munich) — International Patent Classification (IPC) — Working Group I
- March 29 to 31 (Geneva) — Paris Union — Ad hoc Coordinating Committee for Technical Activities
- April 26 to 30 (Geneva) — ICIREPAT — Technical Committee for Search Systems (TCSS)
- April 26 to 30 (Geneva) — Paris Union — Committee of Experts on the Deposit of Microorganisms for the Purposes of Patent Procedure
- May 3 to 7 (Geneva) — ICIREPAT — Technical Committee for Standardization (TCST)
- May 3 to 7 (Geneva) — Paris and Madrid Unions — Working Group on the Use of Computers in Trademarks Operations
- May 10 to 15 (Geneva) — Paris and Berne Unions — Committee of Experts on Scientific Discoveries
- May 17 to 21 (Geneva) — International Patent Classification (IPC) — Working Group V
- May 17 to 21 (Geneva) — Paris Union — Computer Programs — Committee of Experts
- May 24 to 31 (Geneva) — Nice Union — Temporary Working Group
- June 8 to 15 (Geneva) — Paris Union — Group of Governmental Experts for the Revision of the Paris Convention
- June 14 to 18 (Geneva) — Permanent Legal-Technical Program — Working Group on the Model Law for Developing Countries on Inventions and Know-How
- June 21 to 25 (Geneva) — Permanent Legal-Technical Program — Working Group on Licensing Guidelines
- July 5 to 9 (Geneva) — International Classification of the Figurative Elements of Marks — Committee of Experts
- September 6 to 17 (Washington) — International Patent Classification (IPC) — Working Group III
- September 21 to 24 (Geneva) — ICIREPAT — Plenary Committee (PLC)
- September 27 to October 5 (Geneva) — WIPO General Assembly, Conference and Coordination Committee; Assemblies of the Paris, Madrid, Hague, Nice, Lisbon, Locarno, IPC and Berne Unions; Conferences of Representatives of the Paris, Hague, Nice and Berne Unions; Executive Committees of the Paris and Berne Unions; Committee of Directors of the Madrid Union; Council of the Lisbon Union — Ordinary Sessions
- September 27 to October 8 (Rijswijk) — International Patent Classification (IPC) — Working Group II
- October 6 to 8 (Geneva) — Trademark Registration Treaty (TRT) — Interim Advisory Committee
- October 11 to 15 (Geneva) — Paris and Madrid Unions — Working Group on the Use of Computers in Trademarks Operations
- October 11 to 15 (Geneva) — International Patent Classification (IPC) — Steering Committee
- October 13 to 21 (Geneva) — Nice Union — Temporary Working Group
- October 18 to 22 (Geneva) — ICIREPAT — Technical Committee for Standardization (TCST)
- October 18 to 22 (Geneva) — International Patent Classification (IPC) — Committee of Experts
- October 25 to 29 (Geneva) — ICIREPAT — Technical Committee for Search Systems (TCSS)

**November 1 to 6 (Geneva) — Patent Cooperation Treaty (PCT) — Interim Committees**

**November 8 to 19 (Stockholm) — International Patent Classification (IPC) — Working Group IV**

**November 22 to 26 [or 30] (Geneva) — Paris Union — Group of Governmental Experts for the Revision of the Paris Convention**

**November 29 to December 3 (Geneva) — Permanent Legal-Technical Program — Working Group on the Model Law for Developing Countries on Inventions and Know-How**

**November 29 to December 10 (Rijswijk) — International Patent Classification (IPC) — Working Group I**

**December 13 to 17 (Geneva) — Nice Union — Committee of Experts**

## 1977

**March 14 to 18 (Geneva) — Permanent Legal-Technical Program — Permanent Committee (4<sup>th</sup> session)**

**September 26 to October 4 (Geneva) — WIPO Coordination Committee and Executive Committees of the Paris and Berne Unions**

## UPOV Meetings in 1976

**Council:** October 13 to 15

**Consultative Committee:** March 10 and 11; October 12 and 15

**Technical Steering Committee:** May 6 and 7; November 18 and 19

**Working Group on Variety Denominations:** in the course of the week from September 14 to 17

**Committee of Experts on International Cooperation in Examination:** May 5; November 15 to 17

**Committee of Experts on the Interpretation and Revision of the Convention:** February 17 to 20; September 14 to 17

*Note:* All these meetings will take place in Geneva at the headquarters of UPOV

**Technical Working Party for Vegetables:** March 23 to 25 (Wageningen - Netherlands)

**Technical Working Party for Ornamental Plants:** May 12 to 14 (Melle - Belgium)

**Technical Working Party for Agricultural Crops:** May 24 to 26 (Tystofte - Denmark)

**Technical Working Party for Fruit Crops:** June 16 to 18 (Hanover - Federal Republic of Germany)

**Technical Working Party for Forest Trees:** August 17 to 19 (Humblebak - Denmark)

## Meetings of Other International Organizations concerned with Intellectual Property

### 1976

**February 2 to 6 (Strasbourg) — Council of Europe — Legal Committee on Broadcasting and Television**

**April 6 to 8 (Rijswijk) — International Patent Institute — Administrative Board**

**May 9 to 13 (Munich) — International League Against Unfair Competition — Congress**

**May 11 and 12 (Jerusalem) — International Confederation of Societies of Authors and Composers — Legal and Legislative Commission**

**May 24 to 29 (Athens) — International Literary and Artistic Association — Congress**

**May 25 to June 1 (Tokyo) — International Publishers Association — Congress**

**June 22 to 24 (Rijswijk) — International Patent Institute — Administrative Board**

**August 30 to September 3 (Stockholm) — International Federation of Musicians — Congress**

**September 6 to 10 (Budapest) — Hungarian Group of AIPPI and Hungarian Association for the Protection of Industrial Property — Conference on the Significance of Protection of Industrial Property in International Industrial Cooperation**

**September 26 to October 2 (Montreux) — International Association for the Protection of Industrial Property — Executive Committee**

**September 27 to October 1 (Paris) — International Confederation of Societies of Authors and Composers — Congress**

**October 11 to 16 (Varna) — International Writers Guild — Congress**

