

# Industrial Property

Published monthly  
Annual subscription:  
Sw.fr. 125.-  
Each monthly issue:  
Sw.fr. 12.-

21st Year - No. 9  
September 1982

Monthly Review of the  
World Intellectual Property Organization (WIPO)

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ISSN 0019-8625

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# World Intellectual Property Organization

## Development Cooperation: Brazil

### Introduction

In 1973, the Government of Brazil requested the assistance of WIPO in carrying out a project for the modernization of the Brazilian patent system, with external financing by the United Nations Development Programme (UNDP).

The Project was completed at the end of 1981. The UNDP contributed about US\$5,300,000, spent mainly on expert services and equipment.

The Brazilian Project was the first large-scale activity of development cooperation by WIPO "in the field." In addition to its contribution to Brazil's national development plan, it has played, and will enable Brazil to continue to play, an important role in the WIPO development cooperation program. Already, members of the newly qualified staff of the Brazilian Patent Office have shared their knowledge and experience with officials of other developing countries in training courses and seminars in Brazil and abroad; such technical cooperation among developing countries will undoubtedly increase.

The experience gained in the Project by the foreign experts who worked in it, and by the WIPO staff who, with the Brazilian authorities, planned, administered and supervised it, has been and will be of great value to other developing countries requesting cooperation from WIPO.

### The Project for the Modernization of the Brazilian Patent System

Under this title, a large-scale technical assistance project was carried out by WIPO with the objective of creating at the National Institute of Industrial Property (INPI), Brazil's Patent Office, a bank of technical information consisting of patent and non-patent literature, and of introducing modern patent searching and examining techniques, and of creating systems for the effective dissemination of technological information to industry, in terms of materially improving the capability of the staff needed (including training thereof).

This project was started in October 1973 and was scheduled to last five years. It was extended until the end of 1981, due in particular to the need for additional training of patent examiners.

The original objectives of the Project were reached at the end of 1981, since:

- besides having a technical staff of over 140 professionals capable of classifying, searching and examining patent applications according to standards of modern patent examining offices, INPI has also developed the capability for self-sustained training for its own staff; it has demonstrated this capability by delivering successfully 50% of the full training input of the 15 months' basic patent training which started in 1980 and finished early in 1981; thus INPI can now, on its own, carry out at any time further training courses for the additional staff it needs to cope with the increased number of requests for patent examination, which has tripled since the start of project implementation;
- INPI has a patent bank that includes over 14 million patent documents, of which over 4 million are in microform and over 4.4 million in paper classified according to the International Patent Classification, allowing for effective patent search; the patent bank is continually being built up with approximately 28,000 new patent documents per month, received on an international exchange basis; furthermore, INPI's documentation center includes a technical library containing some 700 technical journals; there is also a collection of technical books of which some 200 basic reference manuals and similar works were provided through the Project; INPI has established a regular service of information to industry, and the patent bank facilities are regularly used by circles outside INPI;
- in the organizational field, the Project assisted INPI in setting up a streamlined office procedure, assisted by electronic word-processing equipment, introducing modern patent support procedures; it is foreseen to introduce in the near future modern electronic data processing equipment to further improve the patent support activities.

In providing this assistance to INPI, WIPO recruited patent examination, documentation and organization specialists from the following countries: Australia, Austria, Belgium, Denmark, France, Germany (Federal Republic of), Israel, Japan, Netherlands, Norway, Sweden, Switzerland, United Kingdom, United States of America. All in all, there were more than 64 international experts who provided 700 work months of assistance.

In addition to training, the Project was instrumental in the acquisition of in-house printing equipment (INPI prints itself all 18-month publications of patent applications filed, as well as all patents after grant), word-processing equipment, microfilm collections of patent documents, sorting equipment for 8-up aperture cards, air dehumidification and air condition recording equipment for the correct storage of microfilm collections, office reproduction equipment, technical and legal books, and data supplied on magnetic tape by the International Patent Documentation Center (INPADOC) in Vienna under the CAPRI Project for the reclassification, according to the International Patent Classification (IPC), of patent documents published earlier than 1973. Patent document collections and technical periodicals were obtained by availing of offers of documentation received in the framework of the program of the Patent Cooperation Treaty (PCT) Committee for Technical Assistance, followed by agreements for the international exchange of patent documents between INPI and various other patent offices.

INPI has actively cooperated from the inception of the Project, and has kept steadfastly to the original objectives. Of particular relevance were the successful efforts gradually to enlarge and modernize the available premises, which culminated in the present integrated facilities at Praça Mauá 7, Rio de Janeiro, where the patent examination operations and the patent bank and related technological information operations occupy eight adjoining floors, covering an area of 6,400 m<sup>2</sup>.

Two seminars were held with Project assistance during the Project implementation period. The first, in early 1979, took place for two days in Rio de Janeiro and was broadly consecrated to the experience with and the advantages of the patent system as seen from national and international perspectives. Prominent foreign

speakers were the President of the German Patent Office and the Commissioner of Patents and Trademarks of the United States Patent and Trademark Office. The second seminar, at the end of 1981, was held in São Paulo and focused during three days on the setting up of patent departments in industrial enterprises. The Project secured the participation as lecturers of prominent executives having extensive patent experience from international industries in Europe, Japan and the United States of America, and of leading patent professionals. INPI did the same on the national level, and the result was a seminar of a very high professional standard, with national and foreign speakers alternating. Ultimately, the seminar revealed an identity of views in the sense that the patent system was an effective tool in the protection and fair exploitation of industrially applicable inventive technological solutions.

Internationally, INPI has become a most active developing country office, participating currently in work carried out in many fields related to industrial property, particularly those related to the IPC, patent information, and above all the Patent Cooperation Treaty (PCT), where INPI aims at becoming the first International Searching Authority in Latin America under the PCT. In the international context, INPI is gradually increasing its offer of assistance to other developing countries, in the framework of WIPO's Permanent Program for Development Cooperation Related to Industrial Property.

Overall, it can be said that the Project has successfully attained its original objectives, and that this was only possible due to the unfailing support of INPI and higher level government authorities, as well as of UNDP, and the excellent cooperation between the three partners—Government, UNDP and WIPO—all along the way.

## International Unions

### Budapest Treaty (Microorganisms)

#### Acquisition of the Status of International Depository Authority

##### CULTURE CENTRE OF ALGAE AND PROTOZOA

The following written communication addressed to the Director General of WIPO by the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations Office and other International Organizations at Geneva under Article 7 of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure was received on July 26, 1982, and is published by the International Bureau of WIPO pursuant to Article 7(2)(a) of the said Treaty:

"I have the honour to refer to the Budapest Treaty

on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, opened for signature at Budapest from the 28th of April to the 31st of December 1977. In accordance with the provisions of Article 7 of the said Treaty, the Government of the United Kingdom of Great Britain and Northern Ireland nominate the Culture Centre of Algae and Protozoa as an International Depository Authority. The Government of the United Kingdom furnish their assurances that the Culture Centre of Algae and Protozoa complies and will continue to comply with the requirements specified in Article 6(2) of the Treaty for an International Depository Authority. The requisite information concerning this nominated Depository Institution is set out below.

"Accordingly, I have the further honour to request that you carry out the procedures established by the

Treaty and Regulations annexed to it, in connection with the acquisition of the status of International Depository Authority by the Institution nominated herein.

"The Culture Centre of Algae and Protozoa is located in the United Kingdom at 36 Storey's Way, Cambridge, CB3 0DT, England.

"The Centre is a part of the Institute of Terrestrial Ecology, whose legal and parent body is the Natural Environment Research Council, a body established in the United Kingdom by Royal Charter.

"The Centre has been in continuous existence since 1970 as a constituent body of the Natural Environment Research Council; before that, it formed a part of the University of Cambridge School of Botany and in 1975 it was incorporated in the Institute of Terrestrial Ecology. The Centre has a staff of about 20, of whom approximately half hold relevant university degrees. This staff is fully competent and adequate to perform the scientific and administrative tasks required under the Budapest Treaty. The Centre is affiliated to the World Federation for Culture Collections and has an undisputed reputation for work concerned with the preservation, testing, authentication and distribution of non-pathogenic algae (other than large seaweeds), free living protozoa, and certain parasitic protozoa. At present the collection contains over 2,000 strains of such microorganisms and approximately 100 new strains are added each year. The Centre performs its work in an impartial and objective way, and will be available for the purposes of deposit under the Treaty to any depositor under the same conditions.

"The facilities of the Centre include temperature controlled culture rooms, light and electron microscopy, liquid nitrogen storage and full provision for the aseptic handling of cultures. Standby electrical generating equipment is provided to maintain temperature and illumination of the culture rooms in case of failure of the public supply. There is adequate provision for pressurised steam and dry heat sterilisation of media and equipment. The highest scientific and administrative standards are applied to the cultures deposited in the collection, and full safety measures are in operation to minimise the risk of loss of any deposited cultures. Records of all deposited material will be kept on standard forms and also as computer processed data. Duplicate computer records will be deposited at the Headquarters of the Institute of Terrestrial Ecology to minimise the risk of accidental loss or destruction. Cultures which can be cryopreserved are so stored in at least duplicate lots, with periodic viability checks when deemed necessary. No culture is stored in this way until it is known that it can be viably retrieved. Material deposited under the Budapest Treaty, which cannot be successfully cryopreserved, will be maintained by serial passage as at least duplicate cultures in appropriate media, and would

be subject to all the Centre's usual care to avoid contamination or loss. Such cultures would be distinctively labelled so that, in any emergency, priority could be given to their preservation. A resident caretaker is responsible for the general security of the premises.

"The Centre is equipped and run in full accordance with the United Kingdom Health and Safety at Work Act, 1974. Particular care is taken with any cultures which are facultatively pathogenic, although I stress that nearly all the cultures maintained at the centre are non-pathogenic to man, and non-toxic, and only such cultures will be accepted for deposit under the Treaty.

"The Centre intends to accept for deposit under the Budapest Treaty, only certain types of microorganisms, namely:

- a. algae, other than large seaweeds;
- b. free living protozoa; and
- c. parasitic protozoa not pathogenic to man or domestic animals, which can be maintained by *in vitro* culture.

"In accordance with the regulations for implementing the Budapest Treaty, the Centre will:

- a. examine the viability of such kinds of organisms, and store them;
- b. issue receipt and viability statements as prescribed;
- c. comply with the prescribed secrecy requirements; and
- d. furnish samples under the conditions and in conformity with the prescribed procedures.

"The following fees, plus value added tax where applicable, will be payable to the Centre:

For storage of each microorganism in accordance with the Treaty	£275
For issue of a Viability Statement in those cases in which, in accordance with Rule 10.2, a fee may be charged.	£50
For furnishing of a sample in accordance with Rule 11.2 or 11.3	£10 plus the actual cost of carriage
For delivering an attestation in accordance with Rule 8.2	£10

"The Centre will conduct business in English as regards deposits and all associated matters under the Treaty."

[End of text of Communication]

Pursuant to Article 7(2)(b) of the Budapest Treaty, the Culture Centre of Algae and Protozoa acquires the status of international depository authority as from September 30, 1982 (date of the present publication).

Budapest Communication No. 12 (this Communication is the subject of Budapest Notification No. 28, of August 11, 1982).

## Nairobi Treaty (Olympic Symbol)

### I. Accession

#### EQUATORIAL GUINEA

The Government of Equatorial Guinea deposited, on August 25, 1982, its instrument of accession to the Nairobi Treaty on the Protection of the Olympic Symbol, adopted at Nairobi on September 26, 1981.

The date of entry into force of the said Nairobi Treaty is the subject of a separate notification (Nairobi Notification No. 6, below).

Nairobi Notification No. 5, of August 30, 1982.

### II. Entry into Force

The Nairobi Treaty on the Protection of the Olympic Symbol, adopted at Nairobi on September 26, 1981, will enter into force on

**September 25, 1982,**

that is, one month after the day on which the third instrument of ratification, acceptance, approval or accession has been deposited.

In this connection, it is recalled that an instrument of ratification of the Nairobi Treaty was deposited:

— on November 18, 1981, by Kenya,

and that instruments of accession to the said Treaty were deposited:

— on February 17, 1982, by Socialist Ethiopia,

— on August 25, 1982, by Equatorial Guinea.

Consequently, in accordance with the provisions of Article 6(1) of the Nairobi Treaty, the said Treaty will enter into force on September 25, 1982, with respect to the three States referred to above.

Nairobi Notification No. 6, of August 30, 1982.

## Plant Varieties

### International Convention for the Protection of New Varieties of Plants

#### Acceptance

#### JAPAN

The Government of Japan deposited, on August 3, 1982, its instrument of acceptance of the International Convention for the Protection of New Varieties of Plants of December 2, 1961 (UPOV), as revised at Geneva on November 10, 1972, and on October 23, 1978.

At the time of depositing its instrument of acceptance, the Government of Japan notified its intention to exercise its rights under Article 3(3) of the International Convention.

The number of contribution units applicable to Japan for the purpose of determining its share in the total amount of contributions to the budget of UPOV is five (5).

The said International Convention will enter into force, with respect to Japan, on September 3, 1982.

UPOV Notification No. 25, of August 3, 1982.

## WIPO Meetings

### Nice Union

#### Committee of Experts for the International Classification of Goods and Services for the Purposes of the Registration of Marks

Fourteenth Session  
(Geneva, May 24 to 28, 1982)

#### NOTE\*

The Committee of Experts set up under Article 3 of the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks met in Geneva from May 24 to 28, 1982.<sup>1</sup>

The following countries members of the Nice Union were represented: Belgium, Denmark, Finland, France, Germany (Federal Republic of), Italy, Netherlands, Norway, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America (14). Brazil, Egypt, Ghana, Greece, Jordan, the Republic of Korea and Zimbabwe were represented by observers (7). The list of participants follows this Note.

The history of this session goes back to the early 1970s, when several States, including Algeria, Finland, Hungary, Israel, Switzerland and the United States of America, all members of the Nice Union, expressed the opinion that the Nice Classification should undergo a revision as to substance in order to adapt it to current economic, technical and commercial developments, and that the provisions of the Agreement relating to the adoption of such changes should be revised, in order that the Committee of Experts might more easily adopt proposals for such changes.

Those proposals for the revision of the Agreement and of the Classification were carried out in the following manner.

The recommendations took the form of a series of documents submitted to the member States of the Nice Union for discussion and eventual adoption by the Committee of Experts, which was convened from May 24 to 28, 1982, thus respecting the recommenda-

tion adopted by the Diplomatic Conference in 1977 concerning a five-year moratorium on the frequency of its meetings.

At its fourteenth session, the Committee of Experts adopted, unanimously as far as amendments and additions were concerned, the great majority of the proposals and recommendations submitted to it in the working documents.

Since not all the countries members of the Nice Union have yet ratified or acceded to the Geneva Act of the Nice Agreement, it is necessary that none of them vote (by mail) against the changes decided. There are no indications that any of the countries would intend to vote against the said changes which, then, will enter into force on June 1, 1983. A new fourth edition of the Classification will thereafter be promptly published.

Thus the fourteenth session of the Committee of Experts, together with its thirteenth session in 1981—when the results of a revision as to formal aspects were adopted—proved to be of great importance to the existence of the Nice Classification; it completed a major operation, namely, its general revision as to substance.

At its eleventh (ordinary) session, held in Geneva in June 1974, the Committee of Experts decided to establish, on a permanent basis, a special working group, called the "Preparatory Working Group," in order to prepare the Committee's decisions concerning proposals for amendments and additions within the meaning of the Nice Agreement, as well as new headings for certain classes affected by proposals for amendments, and to elaborate the proposals for a new wording of the Explanatory Notes which accompany the List of Classes.

In September 1975, the Assembly of the Nice Union met in Geneva, in an extraordinary session, to discuss proposals for a revision of the Nice Agreement, especially of those provisions that contained the rules for the adoption of proposals for amendments and additions.

The Assembly authorized the Director General of WIPO to convene, after the necessary preparations, a revision conference.

The revision conference was held in Geneva in May 1977. It adopted, on May 12, 1977, a new text of the Nice Agreement, the so-called "Geneva Act." The most important change, as far as the adoption of amendments in and additions to the Classification is concerned, was the change in Article 3, which now, under the Geneva Act, provides that "decisions concerning the adoption of amendments to the Classification shall require a majority of four-fifths of the countries of the Special

\* Prepared by the International Bureau.

<sup>1</sup> For a Note on the thirteenth session, see *Industrial Property*, 1981, p. 66.

Union represented and voting," instead of the old unanimity rule, and also the provision for pre or post-conference voting by mail. When adopting Articles 3(7)(c) and 9(4)(a), and with reference to the periods referred to in Article 3(7)(c), the Diplomatic Conference understood that the first such period would not end earlier than five years from the date on which the Geneva Act was opened for signature (May 13, 1977).

In the meantime, the Preparatory Working Group started its work and met in June 1977, October 1978, June 1979, March 1980 and October 1981.

In accordance with its mandate, and on the basis of proposals drawn up by the International Bureau, it made recommendations for amendments and additions to the List of Goods and Services, for improvements in the wording of the List of Classes and for a new text of the Explanatory Notes.

## LIST OF PARTICIPANTS\*

### I. Member States

**Belgium:** C. Tas. **Denmark:** I. Sander; J.E. Carstad. **Finland:** K.-E. Jungfelt. **France:** R. Leblanc; C. Bartoli. **Germany (Federal Republic of):** G. Jehle. **Italy:** S. Samperi. **Netherlands:** S. de Hoop. **Norway:** A. Kaarhus; A. Guldhav. **Soviet Union:** S. Gorlenko; E. Rezounenko. **Spain:** J. Alvarez Martinez de Larrad; M.J. Sedano Alvarez. **Sweden:** G. Deijenberg; I. Hoff. **Switzerland:** J. Weber. **United Kingdom:** D.G.A. Myall. **United States of America:** R.G. Bowie.

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

## II. Intergovernmental Organizations

**Benelx Trademark Office:** S. de Hoop.

## III. Observer States

**Brazil:** H. Arita. **Congo:** S. Bayalama. **Egypt:** M. Daghash. **Gabon:** P.M. Dong. **Ghana:** A.J. McCarthy. **Greece:** P. Geroulakos. **Jordan:** K. Abdulrahim. **Republic of Korea:** S.-H. Kim. **Zimbabwe:** R.P. Moul.

## IV. Observer Organizations

**Council of European Industrial Federations (CEIF):** G. Peters. **International Association for the Protection of Industrial Property (IAPIP):** G.E. Kirker. **International Chamber of Commerce (ICC):** J.M.W. Buraas. **International Federation of Industrial Property Attorneys (FICPI):** Y.J.-J. Plasseraud. **Union of Industries of the European Community (UNICE):** W. Mak.

## V. Officers

**Chairman:** R. Leblanc (France). **Acting Chairman:** D.G.A. Myall (United Kingdom). **Vice-Chairmen:** C. Tas (Belgium); J. Weber (Switzerland). **Secretary:** C. Werkman (WIPO).

## VI. International Bureau of WIPO

L.E. Kostikov (*Deputy Director General*); P. Claus (*Director, Classifications and Patent Information Division*); C. Werkman (*Head, Trademark and Industrial Designs Classifications Section, Classifications and Patent Information Division*); C. Leder (*Classification Officer, Trademark and Industrial Designs Classifications Section*); M. Kaufmann (*Principal Examiner, Trademark and Appellations of Origin Registration Section, Trademark and Industrial Designs Registration Division*).

## General Studies

### **Basic Innovations in the Yugoslav Law on the Protection of Inventions, Technical Improvements and Distinctive Signs**

D. BOŠKOVIĆ\*













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**The Recent Development of Yugoslav  
Legislation on Distinctive Signs**

V. BESAROVIĆ\*















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**The Nairobi Treaty on the Protection of  
the Olympic Symbol**

G. STRASCHNOV \*













## News from Industrial Property Offices

### EUROPEAN PATENT OFFICE (EPO)

#### Annual Report (1981)\*

##### Introduction

By the end of 1981 the European Patent Office had been in existence for four years. It was a period of rapid growth, with more and more European applications being filed and staff recruited. While further growth can be expected, the Office is clearly approaching the end of its build-up stage and entering the steady state.

As well as implementing the European grant procedure, the Office has been heavily engaged from the start in searching national applications on behalf of certain Contracting States—a task which it took over from the former International Patent Institute (IIB) following the latter's integration into the Office. These searches continued in 1981 and in fact, although many search examiners were recruited, the accumulating backlog of national applications was causing concern towards the end of the year.

However, as the number of European applications increased, the European grant procedure soon came to replace searches of national applications as the Office's main activity. The substantive examination of European applications, like the search, is now well established, and applicants and professional representatives

seem on the whole well satisfied with the quality and standard. In 1981 the opposition stage came into operation: the percentage of European patents opposed was surprisingly lower than expected. The number of appeals, both legal and technical, also remained fairly low.

#### I. European Patent Grant Procedure

##### *Filing of European Applications and Euro-PCT Applications*

During the course of 1981 the trend in the number of European applications filed per month was again upward. Unlike 1980, however, there were marked monthly fluctuations in 1981, the most extreme being the peak of nearly 3,000 applications filed in October, just before the increase in the official fees of the Office on November 1.

The total number of European applications filed in 1981 was 22,428, a 28% increase over the preceding year; together with Euro-PCT applications, the grand total was over 25,000.

The majority of European applications originated from Contracting States, although the proportion (62%) decreased again slightly. However, the number of European applications from Contracting States is approaching its steady state figure, while that from non-Contracting States is still growing, notably from Japan and the USA. Of the Contracting States, the Federal Republic of Germany remained the major contributor (28%).

\* Excerpted from the report issued under the same title.

Applicants once again made full use of the possibility of filing European applications with the national industrial property offices of the Contracting States for transmission to the European Patent Office. The proportion (45%) is almost the same as last year. As regards the languages in which European applications were filed, English (51%) showed a slight increase over the preceding year, and German (35%) and French (12%) corresponding decreases. Both these developments can be attributed to the increasing number of applications from the USA and Japan.

The frequency with which Contracting States were designated in a European application at filing, i.e., in the Request for Grant form, has remained fairly constant since 1979. In 1981 designation fees were paid in respect of, on average, 6.3 of the 10 possible designations per application, taking into account the fact that Switzerland and Liechtenstein may only be designated jointly. In the course of the grant procedure, however, a number of designations lapse due to non-payment of the designation fee or are withdrawn by the applicant, with the result that the average number of designations at grant, for 1981, was 6.1.

As regards the technical fields in which European applications were filed, the three main technical fields of Chemistry/Metallurgy, Mechanics and Electricity/Physics are now more evenly balanced than they were at the beginning. As regards technical trends in inventions covered by European applications, energy production has been a source of considerable activity, especially in connection with nuclear reactors, nuclear power plants and nuclear components. Numerous applications relating to the conversion of solid fuels to liquid or gaseous hydrocarbons have been filed. In voltaic solar energy conversion, there have been noteworthy inventions designed to reduce the cost of these solar-energy systems. In chemistry, there have been steady developments in techniques involving microorganisms or enzymes, e.g., genetic engineering, and in their preparation for medical purposes and agriculture. Activity remains high in technologies concerned with pollution problems, such as the purification of waste gases and liquids in separation processes employing semi-permeable membranes. In electronics, research continues on the scaling down of memory and logic circuits used in a variety of areas as diverse as printing, electronic watches, domestic sewing machines and motor vehicles.

#### *Examination on Filing and Formalities Examination*

European applications, whether filed with the European Patent Office (Munich or The Hague) or with national Offices of Contracting States, are all forwarded to the Receiving Section at The Hague for the examination on filing and formalities examination.

In carrying out these examinations, the Receiving Section, as in previous years, has assisted applicants as far as possible to meet the requirements of the Convention. A small number of applications had, nevertheless, to be rejected. Difficulties which had previously arisen regarding the filing of the request for examination—applicants having misunderstood the double requirement of filing a written request as well as paying the examination fee—were overcome by the middle of the year when the Administrative Council adopted the new Rule 85b EPC, providing a period of grace for filing the request. Further frequently occurring deficiencies in applications were an incorrect presentation of the documents making up the application, particularly those to be subsequently printed and published, questions relating to professional representation, and unclear or imprecise titles of applications. To assist applicants in avoiding these and other formal deficiencies, a revised version of the Request for Grant form was introduced in 1981.

Regarding the formal examination of Euro-PCT applications as they enter the European procedure, the initial difficulties experienced by applicants have now been largely overcome. Problems still occasionally occur, however, in connection with obligatory professional representation and the filing of translations of the Euro-PCT application in an official language of the Office. A special form was issued enumerating the necessary actions to be taken or documents to be filed in order to comply with the European procedure.

#### *Search*

During 1981 a total of 19,865 European applications were searched (a rise of 33% over the preceding year). The vast majority of searches were performed in the branch at The Hague and, of the remainder, 3,566 were performed at the Berlin sub-office and 2,122 by the Austrian Office under an Agreement on the application of Section 1V(2) of the Protocol on Centralisation. The total included 787 Euro-PCT applications on which a supplementary European search report was drawn up (Article 157(2) EPC) prior to substantive examination.

Because of the continuing increase in the stock of applications awaiting search, fewer European search reports were available in time for publication with the European application. In fact, 25% of European search reports had to be published separately after publication of the application, compared with only 11% in 1980. This stock has resulted from what is apparently a temporary cumulation of European and national applications. While examining every means of reducing the backlog to reasonable proportions as early as possible, the Office was wary of the obvious solution of massive recruitment with its possible adverse future consequences. Nevertheless, 62 new search examiners were

recruited in 1981, which, allowing for 17 search examiners transferred to substantive examination in Directorate-General 2, Munich, brought the total number of search examiner staff in The Hague and Berlin to 533.

The documentation collection required to perform the European and other search work comprised 16,500,000 patent documents and extracts from non-patent literature, which are classified according to the Office's internal classification system. This system of classification contains 78,200 sub-divisions, of which 74,300 correspond to the groups of the International Patent Classification with some finer internal sub-divisions. During the course of 1981, 685,000 documents were added to the collection, of which 622,200 were patent documents. To maintain the documentation, 631,200 documents were reclassified. In addition 955,000 abstracts, in English, of Japanese and Russian patent documents are available to the search examiners.

The Office's computer at The Hague provided examiners with family, classification and other information (383,800 consultations) and conducted mechanized searches for about 1,100 applications. These mechanical search systems are currently being converted for interactive searching. The first system, "Laminated products," became operational at the end of 1981. Use was also made of external data banks, with a total of 4,750 consultations by examiners in respect of 3,250 applications.

### *Substantive Examination*

A further 49 substantive examiners were recruited to Directorate-General 2, Munich, in a single batch in April 1981, bringing the total number of examiners to 204. They were organized into 15 Directorates—six chemical, four electrical/physics and five mechanical. As in preceding years, the new recruits were mainly experienced examiners from the national Offices of Contracting States.

The number of applications for which examination was requested continued to rise significantly. Roughly 85% of all European applications currently proceed to examination; in the case of Euro-PCT applications entering the European procedure, examination is nearly always requested because of the coincidence of time limits under the EPC and PCT, although a few applications are subsequently withdrawn by the applicant in the light of the supplementary European search report.

As a result of the rise in the number of requests for examination there has been an increase in the backlog of applications awaiting examination. At the end of the year the interval between the request for examination and the issue of the first communication from the substantive examiner was about nine months on average.

Certain changes in examination practice were made in the course of the year, partly as a result of discussions with interested circles. One important change was that the Office decided in principle to allow patent protection for microorganisms per se. The detailed practice in this field is still under study and further guidance on the Office's position will be published in due course.

Of the applications for which examination was requested, a patent has been granted in about 80% of cases: 20% of the applications were either withdrawn during the course of examination or were rejected by the Examining Division for lack of patentability. Overall therefore, roughly two-thirds of all European applications filed (i.e., excluding Euro-PCT applications) result in the grant of a European patent. This success rate is somewhat higher than in most national proceedings, but is not surprising in view of the fact that 95% of European applications claim priority from an earlier national application.

### *Opposition Proceedings*

1981 saw the start of the European opposition procedure. In the course of the year, 128 oppositions were filed against 110 European patents, that is to say an average of 1.16 oppositions per opposed patent. At the end of 1981, there was a total of 977 granted European patents for which the 9-month time limit for filing an opposition under Article 99 EPC had expired; of these patents, 97 were opposed, representing an opposition rate of about 10%.

This percentage is considerably lower than was expected. It appears that competitors are filing oppositions to European patents only where they believe they have a strong case; in other words, there is no evidence of trivial or vexatious attacks on European patents. At the same time, because of the quality of the European search, it is only in a minority of cases that competitors seem to be able to find further important prior art to form an effective basis for an opposition.

One interesting fact regarding the oppositions filed so far is that they have been mainly in the fields of chemistry and mechanics, with very few occurring in the fields of electricity and physics. However, it is far too early to draw any definite conclusions on the pattern of oppositions.

### *Appeals*

The number of appeals received in 1981 was again lower than expected, although showing a net increase over the preceding year. The assumption that decisions of the Examining Divisions rejecting an application would be appealed in almost all cases during the build-up period turned out to be false; in fact the proportion was only 50%.

One of the legal members of the Boards of Appeal continued in 1981 to act as Chairman of the Internal Appeals Committee of the Office, which hears appeals against decisions of the President of the Office under the Service Regulations for Permanent Employees.

Although the number of appeals was low, the Council decided that the need may arise in the near future to refer important points of law to the Enlarged Board of Appeal. It accordingly set up the Enlarged Board of Appeal as from January 1, 1982, and appointed as permanent members all the present permanent members of the Boards of Appeal, both legal and technical, and as non-permanent members (under Article 169(2) EPC) the present three non-permanent members of the Legal Board of Appeal.

## II. Searching of National Applications on Behalf of Contracting States

During 1981 Directorate-General 1 carried out 27,474 searches in respect of national applications of former Member States of the International Patent Institute (IIB), namely, France, the Netherlands, Switzerland and Turkey. In spite of the increasing number of European applications to be searched, this national search work still represented nearly 55% of the Office's overall search activity.

Although the number of national applications sent for search again decreased slightly compared with the preceding year, the cumulative effect of these and European applications resulted, as already mentioned, in a growing backlog of applications awaiting search. The action of allowing a greater proportion of European search reports to be published after the European application did produce some improvement in the processing time for national applications, but by the end of the year this was once again causing concern and alternative means of reducing the stock were being examined.

The sub-office in Berlin cleared the backlog of German national applications remaining to be searched since the decision in 1980 not to send any further such applications.

## III. European Patent Office as an International Authority under the Patent Cooperation Treaty

In 1981 the European Patent Office was specified as International Searching Authority by the Industrial and Commercial Property Office of Belgium. It also agreed to act as alternative International Searching Authority in respect of international applications filed with the United States Patent and Trademark Office; the specification will take effect in October 1982. The number of international searches carried out in 1981 remained modest, namely 1,067, but showed a slight increase over the preceding year. The Office also drew up 974 inter-

national-type search reports in respect of national applications of the Netherlands and Switzerland.

The Office was also specified in 1981 as International Preliminary Examining Authority by the central industrial property offices of Belgium and Luxembourg. Thirty-two international preliminary examination reports were drawn up during the course of the year.

## IV. Public Information Services

Information about European applications and patents is obtainable from the Information Department in Munich. In 1981 it dealt with several hundred enquiries per month, concerning, for example, information brochures, file inspection and information from the Register of European Patents. The Register may also be accessed by the public direct, either by telephone or via the EURONET data-telecommunications network; in 1981 there were about 100 external subscribers, who altogether consulted the Register 100 times per month on average.

New editions of the "Guide for Applicants" and the European Patent Convention were issued in 1981. In addition, after a great deal of preparatory work in cooperation with the national Offices of Contracting States, a new brochure, entitled "National Law relating to the EPC," was finalized; it contains a synopsis of the regulations and requirements in the Contracting States concerning European patent applications and patents.

## V. Legal Service

### *Professional Representatives*

The transitional period referred to in Article 163(1) EPC came to an end on October 7, 1981. During that period, a person qualified for entry on the list of professional representatives, and thus became entitled to act in patent matters before the European Patent Office, if he satisfied certain requirements, principally that he should be entitled to act in patent matters before the central industrial property office of the Contracting State in which he had his place of business or employment. Altogether, around 4,750 representatives were entered in this way. However, it was also possible, during the transitional period, for exemptions from some applicable requirements to be granted by the President of the Office under certain conditions (Article 163(4)(5) EPC); a total of 104 requests for exemption were received, of which 86 were granted.

Now that the transitional period has ended, the only means whereby nationals of Contracting States can be entered on the list of professional representatives is if they have passed the European Qualifying Examination (Article 134(2)(3) EPC). Special arrangements will apply in respect of signatory States which subsequently accede to the Convention (Article 163(6) EPC).

All those entered on the list of professional representatives are automatically members of the Institute of Professional Representatives. Cooperation between the Office and the Institute continued to be both friendly and fruitful. There are several bodies in which members of the Office and the Institute jointly participate, namely the Examination Board for the European Qualifying Examination with its three examination committees and disciplinary bodies for professional representatives. In May 1981, the Examination Board organized the second European Qualifying Examination; 12 of the 18 candidates were successful.

#### *Legal Service for the Patent Grant Procedure*

In 1981 the Legal Service replied to numerous written and oral enquiries from outside the Office. These enquiries showed there to be an undiminished interest in having any ambiguities in European patent law resolved. However, the practice of publishing legal advice in the Official Journal continued to provide a valuable commentary on principles of general importance and a guide to interpreting the Convention.

While a major feature of the Legal Service's work since the Office started has been to examine points of law in connection with the Receiving Section and formalities examination, it was increasingly consulted, during the year under review, on matters of substantive examination. Its opinion was frequently requested on procedural matters and fundamental points of substantive patent law, for example in interpreting what is meant by "invention" (Article 52(2) EPC) and "priority."

#### **VI. External Relations**

##### *Standing Advisory Committee before the European Patent Office*

Regular contacts with representatives of the patent profession and industry in Europe take place in the Standing Advisory Committee before the European Patent Office (SACEPO). Two SACEPO meetings were held in 1981 at which a variety of practical questions were discussed, including improvements to arrangements for deposit accounts, level of inventive step required by the EPO, problems regarding the formulation of claims in European patent applications and publication of the European search report.

##### *International Treaties and Agreements*

As well as carrying out its aforementioned activities under the Patent Cooperation Treaty (PCT), the Office sent representatives to all meetings of the PCT bodies. There were also continuing direct contacts on PCT matters with the International Bureau of WIPO.

As regards protection for microbiological inventions,

two important microorganism depositary institutions in the Contracting States, namely, the "Centraalbureau voor Schimmelcultures" in the Netherlands and the "Deutsche Sammlung von Mikroorganismen" in the Federal Republic of Germany, acquired through the European Patent Organisation the status of international depositary authorities under the Budapest Treaty. Furthermore, the President of the Office recognized, in accordance with Rule 28(5)(b) EPC, a first batch of experts in the field of microbiology to whom samples of a deposited culture may be issued after the publication of the related European patent application (Rule 28 EPC). So far, however, this so-called "expert solution" has been used only to a very limited extent.

#### *Technical Cooperation*

In the field of technical cooperation the Office collaborates to a great extent with WIPO.

In 1981, the Office contributed a further 18 sub-classes (comprising 608,900 reclassified documents) to the CAPRI System (Computerized Administration of Patent Documents Reclassified According to the International Patent Classification), thus bringing the Office's total contribution to 98 sub-classes, comprising about 1,660,000 patent documents.

#### **VII. Administrative Council**

In 1981 the number of Contracting States remained at eleven.

The Council held two meetings in 1981, the first under the chairmanship of Mr. G. Vianès (France), whose term of office as chairman expired in October, and the second under his successor, Mr. I.J.G. Davis (United Kingdom). A variety of topics were dealt with during the year, including, apart from those already mentioned, a long-term financial plan, the decentralization of the European Qualifying Examination, amendments to the Service Regulations for Permanent Employees and various problems arising from Auditors' Reports.

The Council also considered the possibilities of using the Office's systematic documentation as a means of providing technical information. It decided to set up a Working Party to look into all aspects of the matter, in particular the manner in which such information could be made available to the public.

In the light of comments made by users of the European system, the Council considered certain problems caused by differences between the various Contracting States' laws or administrative procedures, regarding in particular the transition from the European to the national phase. While being aware that it was not competent to solve these problems, the Council felt that by examining them it might nevertheless contribute to their gradual solution, and therefore agreed to set up a Working Party to study them.

## News Items

### CHINA

*Director General of the Patent Office*

We have been informed that Mr. Huang Kunyi has been appointed Director General of the Patent Office of the People's Republic of China.

### ROMANIA

*Director of the State Office for  
Inventions and Trademarks*

We have been informed that Mr. Ion Marinescu has been appointed Director of the State Office for Inventions and Trademarks.

### UNITED KINGDOM

*Controller of Plant Variety Rights and  
Head of the Seeds Division, Ministry of  
Agriculture, Fisheries and Food*

We have been informed that Mr. F. H. Goodwin has been appointed Controller of Plant Variety Rights and Head of the Seeds Division, Ministry of Agriculture, Fisheries and Food.

## Calendar

### WIPO Meetings

(Not all WIPO meetings are listed. Dates are subject to possible change.)

1982

- September 23 to October 1 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Planning
- September 23 to October 1 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Special Questions
- September 27 to 30 (Geneva) — Permanent Committee for Development Cooperation Related to Industrial Property
- October 4 to 8 (Geneva) — Permanent Committee on Patent Information (PCPI) — Ad hoc Working Group on the Revision of the Guide to the IPC
- October 4 to 30 (Geneva) — Revision of the Paris Convention — Diplomatic Conference
- October 25 to 27 (Paris) — Berne Union — Working Group on Copyright Questions Connected with the Use of Works by Persons with Defective Hearing or Sight (convened jointly with Unesco)
- November 8 to 12 (Geneva) — Working Group on Model Contracts for Licensing or Transferring Copyrights (convened jointly with Unesco)
- November 15 to 19 (Berne) — Permanent Committee on Patent Information (PCPI) — Working Group on Search Information — Subgroup on IPC Classes F 01, F 02, H 01, H 03, H 04
- November 22 to 26 (Geneva) — Governing Bodies (WIPO Coordination Committee; Executive Committees of the Paris and Berne Unions)
- November 29 to December 3 (Geneva) — Permanent Committee on Patent Information (PCPI) and PCT Committee for Technical Cooperation (PCT/CTC)
- December 6 to 10 (Geneva) — International Patent Classification (IPC) — Committee of Experts

December 6 to 10 (Paris) — Berne Union and Universal Copyright Convention — Working Group on the Formulation of Guiding Principles Covering the Problems Posed by the Practical Implementation of the Licensing Procedures for Translation and Reproduction under the Copyright Conventions (convened jointly with Unesco)

December 13 to 17 (Paris) — Berne Union, Universal Convention and Rome Convention — Subcommittees of the Executive Committee of the Berne Union, of the Intergovernmental Copyright Committee and of the Intergovernmental Committee of the Rome Convention, respectively, on Copyright and Neighboring Rights Problems in the Field of Cable Television (convened jointly with ILO and Unesco)

### 1983

January 25 to 29 (New Delhi) — Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights

January 31 to February 2 (New Delhi) — Regional Committee of Experts on the modalities of implementation in Asia of the model provisions for national laws on intellectual property aspects of the protection of expressions of folklore (convened jointly with Unesco)

## UPOV Meetings

### 1982

October 5 to 7 (Cambridge) — Technical Working Party for Ornamental Plants and Forest Trees

October 12 (Geneva) — Consultative Committee

October 13 (Geneva) — Symposium (Genetic Engineering)

October 13 to 15 (Geneva) — Council

November 15 (Geneva) — Information Meeting with International Non-Governmental Organizations

November 16 and 17 (Geneva) — Administrative and Legal Committee

November 18 and 19 (Geneva) — Technical Committee

## Meetings of Other International Organizations Concerned with Industrial Property

### 1982

European Patent Organisation: November 29 to December 3 (Munich) — Administrative Council

Pacific Industrial Property Association: November 3 to 5 (Kobe) — 13th International Congress

Pharmaceutical Trade Marks Group: October 7 and 8 (Osaka) — 25th Group Conference

Union of European Practitioners in Industrial Property: December 3 (Paris) — Fifth Round Table on Industrial Designs

### 1983

Benescience Foundation: April 27 to 29 (Munich) — Conference on Patent Claim Drafting and Interpretation

International Association for the Protection of Industrial Property: May 23 to 27 (Paris) — XXXII Congress