

# Industrial Property

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## Notifications Concerning Treaties Administered by WIPO in the Field of Industrial Property

### WIPO Convention

#### Accession

#### ARMENIA

The Government of Armenia deposited, on January 22, 1993, its instrument of accession to the Convention Establishing the World Intellectual Property Organization, signed at Stockholm on July 14, 1967.

Armenia will belong to Class C for the purpose of establishing its contribution towards the budget of the WIPO Conference.

The said Convention will enter into force, with respect to Armenia, on April 22, 1993.

*WIPO Notification No. 162, of January 22, 1993.*

### Budapest Treaty

#### I. Change in Fees under Rule 12.2 of the Regulations under the Budapest Treaty

NATIONAL COLLECTION OF AGRICULTURAL AND INDUSTRIAL MICROORGANISMS (NCAIM)

(Hungary)

The Director General of WIPO was informed by a notification received on January 22, 1993, dated January 21, 1993, from the Government of Hungary of the following new schedule of fees charged by the National Collection of Agricultural and Industrial Microorganisms (NCAIM), University of Horticulture and Food Industry, as an international depositary authority under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure:

#### *Schedule of Fees*

For each microorganism strain deposited with the National Collection of Agricultural and Industrial Microorganisms (NCAIM), University of Horticulture and Food Industry, the following fees shall be charged:

(a) for storage	HUF 24,000
(b) for the issuance of a receipt in attestation of the deposit (except for the receipt issued free of charge in the case of original or new deposits) if information is requested	1,000
(c) for a viability test and for the issuance of a viability statement	3,000
(d) for the furnishing of samples on request made after publication of the patent application	4,000

[End of the text of the notification of the Government of Hungary]

The new schedule of fees set forth in the said notification of the Government of Hungary will apply as from the thirtieth day following the date (February 28, 1993) of the publication of the said schedule of fees in the present issue of *Industrial Property*, that is, as from March 30, 1993 (see Rule 12.2(c) of the Regulations under the Budapest Treaty), and will replace the schedule of fees published in the May 1986 issue of *Industrial Property*.

*Budapest Notification No. 81 (this notification is the subject of Budapest Notification No. 112, of February 10, 1993).*

#### II. Corrigendum

NATIONAL INSTITUTE OF BIOSCIENCE  
AND HUMAN-TECHNOLOGY

(Japan)

The acronym for the above-mentioned international depositary authority is NIBH and not as shown on pages 17 and 37 of the January issue of *Industrial Property*.

## Activities of WIPO

### The World Intellectual Property Organization in 1992— An Overview of Activities and Developments

#### Introduction

Nineteen ninety-two was the 25th year after the establishment of the WIPO Convention in 1967. To mark the occasion, a special publication, entitled *The First Twenty Five Years of the World Intellectual Property Organization*, was issued. It contains an essay by the Director General which gives an exhaustive survey of the developments and accomplishments of the Organization in the past 25 years. Also to commemorate the event, a statue of two leaping dolphins was commissioned and placed in a specially constructed fountain in the park of the WIPO headquarters.

At their meetings in September 1992 (the first year of the biennium 1992-93), the Governing Bodies of WIPO reviewed the work of the International Bureau of WIPO and expressed their appreciation for the range of activities that had been carried out, the depth of the treatment received and the efficiency with which they were accomplished. In the view of the delegations of the Member States of WIPO at those meetings, the objectives of the activities were attained and demonstrated the capacity of the International Bureau to adapt to new circumstances and demands with imagination and verve.

Development cooperation activities for the benefit of developing countries were highlighted in the review. Delegations of recipient developing countries underlined the importance of assistance to developing countries, given the enhanced role of intellectual property rights in international trade and technology transfer. The wish was expressed that WIPO's development cooperation program be strengthened so that developing countries could develop intellectual property systems commensurate with their development status yet compatible with world trends. Those development cooperation activities which were regarded as most useful were those dealing with training (both general and specialized), assistance in the preparation of legislative texts, streamlining of administration, including computerization, patent information services to the public with extended use of CD-ROM technology, and the teaching of intellectual property subjects at institutions of higher education. Considerable concern was

expressed about the decline in resources traditionally available from the United Nations Development Programme (UNDP) in WIPO's development cooperation activities, and the International Bureau was asked to explore new sources of funding, including allocation of more money from its regular budget.

Many delegations underlined the importance that they attached to WIPO's work in norm-setting and international registrations. Encouragement was given for continuing work on the proposed Patent Law Treaty, the preparations of a possible Protocol to the Berne Convention for the Protection of Literary and Artistic Works, a proposed treaty for the settlement of intellectual property disputes between States, a proposed treaty on the simplification of trademark procedures and a proposed model law on the protection of performing artists and producers of sound recordings. In respect of international registrations, special mention was made of the continuing increase in the number of Contracting States and the high rate of growth in the use of the Patent Cooperation Treaty (PCT).

#### Development Cooperation

For WIPO, the year 1992 was marked by a consistent level of demand for assistance from the developing countries. Although the decline in extra-budgetary funds from UNDP continued, WIPO was able to respond satisfactorily to the training demands of developing countries during that year. WIPO's training activities are meant to provide or enhance professional skills and competence for the effective administration and use of the intellectual property system. During the year, training was given to government officials and personnel from the technical, legal, industrial and commercial sectors in the form of courses, study visits, workshops, seminars, training attachments abroad and on-the-job training by international experts.

Most of the courses, workshops and seminars were organized by WIPO in developing countries. In 1992, a total of about 95 such events were organized at national, subregional, regional and global levels. They provided basic knowledge of industrial prop-

erty or copyright, or specialized information in areas such as computerization of industrial property office administration, the use of computerized patent information data bases (including the use of CD-ROM technology), legal and economic aspects of industrial property, the administration of the collection and distribution of copyright royalties and the promotion of technological inventiveness. Besides WIPO officials, 131 outside experts were invited by WIPO as speakers, about 25% of whom were nationals of developing countries. In addition, 37 study visits were organized, to both industrialized and developing countries, for officials of developing countries. In all, 33 developing countries, 19 industrialized countries and nine intergovernmental organizations hosted such meetings and visits or organized them jointly with WIPO. Over 5,000 men and women from both the government and private sectors of some 100 developing countries and from six intergovernmental organizations of developing countries attended these events as participants, of whom some 730 had their travel or living expenses, or both, borne by WIPO; the rest of the participants were local residents. Further, WIPO also bore the travel and living expenses of 34 government officials of developing countries who participated in other WIPO meetings not dealing specifically with development cooperation matters but nonetheless of interest to developing countries, such as meetings of subsidiary bodies of the Permanent Committee on Industrial Property Information and of certain Committees of Experts.

A condition for ensuring optimum benefits from a country's use of the intellectual property system is the existence of appropriate national legislation. WIPO continued in 1992 to lay emphasis on the advice and assistance that it gives to developing countries in the improvement of their legislation. WIPO prepared draft laws and regulations which, depending on the country concerned, dealt with one or more aspects of intellectual property, or WIPO commented on drafts prepared by the governments of the countries themselves. During the period under review, some 85 countries benefited from such advice and assistance.

In seeking to help developing countries encourage domestic technological inventiveness, WIPO offered advice on the drafting of legislative provisions for the establishment of suitable institutional arrangements in favor of inventors, authors and other creators, and organized seminars to discuss policy measures designed to support their endeavors. WIPO also continued its Gold Medal Award scheme, mainly in the context of special exhibitions, for exceptional work done by inventors and creators.

Ninety missions comprising WIPO officials and 88 outside consultants employed by WIPO were undertaken to some 40 developing countries. Those missions afforded advice, *inter alia*, to government

authorities on the upgrading of administrative procedures, computerization, the provision of patent information services and the setting up of organizations for the collective administration of rights under copyright law. In planning and implementing each mission, WIPO engaged in close consultations with the government concerned in order to identify the country's needs and priorities.

With regard to promotion of the use of the vast resources of technological information contained in patent documents, there was continuing demand for WIPO's state-of-the-art search service for developing countries. Approximately 460 search reports and copies of 2,100 patent documents were supplied to 28 requesting governments and institutions in developing countries during 1992.

Among the meetings organized for developing countries on a wide range of subjects during the year, the following two deserve special mention. In March, WIPO organized jointly with the Government of Senegal the Conference of Ministers in Charge of Copyright in West Africa on the Eradication of the Piracy of Musical, Literary and Artistic Works. Fourteen States were represented. The Conference adopted by acclamation the "Dakar Appeal" which called on States to combat piracy through national measures, international cooperation and accession to international treaties dealing with copyright and neighboring rights. In September, a ministerial meeting of Central American countries was convened in San Salvador with the assistance of WIPO. Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama participated. The meeting adopted unanimously a joint declaration regarding the intention of the Central American countries to accede to the Paris Convention.

### Setting of Norms and Standards

The objective of the work in this area is to make the protection and enforcement of intellectual property rights more effective throughout the world with due regard to the social, cultural and economic goals of countries. Significant work was carried out in several fields of intellectual property in 1992.

In February, the second session of the Committee of Experts on a Possible Protocol to the Berne Convention examined the memorandum prepared by the International Bureau entitled "Questions Concerning a Possible Protocol to the Berne Convention." Discussions dealt with, *inter alia*, general questions, the right of reproduction: storage of works in computer systems, reprographic reproduction by libraries, archives and educational establishments, private reproduction for personal use by devices, possible exclusion of the application of non-voluntary licenses for sound recording; the right of

public display; right of rental and public lending right; right of importation; right of broadcasting: direct broadcasting by satellite, possible exclusion or restriction of the applications of non-voluntary broadcasting licenses; definition of the notion of "public" in respect of certain qualified acts and term of protection.

In June, the first session of the Committee of Experts on a WIPO Model Law on the Protection of Producers of Sound Recordings considered a draft Model Law prepared by the International Bureau. The participants stressed the importance of reinforcing the rights of producers of sound recordings in the fight against piracy. They examined the draft Model Law which deals with, *inter alia*, the list of definitions covering such terms as "broadcasting," "communications to the public," "fixation," "performers," "public lending," "public performance," "sound recording," "producer of a sound recording," "rental," "reproduction"; the rights protected, limitations on rights and duration of protection; the transmission of ownership of rights and licenses, collective administration of rights, enforcement and final provisions. The Committee recommended that the Model Law also cover the rights of performers; that recommendation was approved in September by the Assembly of the Berne Union.

In September, the Assembly of the Berne Union decided on the continuation of the Committee of the Experts on a Possible Protocol to the Berne Convention and on the creation of another Committee of Experts on a Possible Instrument on the Protection of the Rights of Performers and Producers of Phonograms. It was decided, *inter alia*, that each of the two Committees of Experts would meet once in 1993. The former Committee would discuss computer programs, data bases, rental right, non-voluntary licenses for the sound recording of musical works and for primary broadcasting and satellite communication, distribution right, including importation right, duration of the protection of photographic works, communication to the public by satellite broadcasting, enforcement of rights, national treatment; the latter Committee would discuss questions relating to the effective international protection of the rights of performers and producers of phonograms.

The Committee of Experts on the Settlement of Intellectual Property Disputes Between States held its fourth session in July. Discussions were based on the draft of a treaty prepared by the International Bureau. The Committee of Experts examined the draft articles concerning the establishment of a Union, abbreviated expressions, sphere of application, consultations, good offices, conciliation and mediation, panel procedure, reporting on the compliance with the recommendation of the panel and arbitration. Notwithstanding the progress achieved during

the fourth session, the Committee considered that a fifth session was necessary.

The Committee of Experts on the Harmonization of Laws for the Protection of Marks held its third and fourth sessions in June and November, respectively. It considered the draft of a treaty provisionally entitled, "Treaty on the Simplification of Administrative Procedures Concerning Marks," which had been prepared by the International Bureau. The draft included in particular provisions specifying the maximum conditions that Contracting Parties can require that an application for registration fulfill, the obligation of Contracting Parties to allow applications to refer to goods and/or services in several classes, the exclusion of the possibility of Contracting States requiring that signatures and other means of self-identification be legalized or authenticated, guaranteeing to applicants the possibility of asking in one and the same request for the recording of changes in names, addresses, ownership, representation, or correction of mistakes concerning several registrations.

In response to the increasing resort to extra-judicial procedures, such as arbitration and mediation, for the settlement of intellectual property disputes between private parties, the International Bureau continued to study the possibility of providing services with respect to such procedures. Two meetings of a Working Group of non-governmental organizations were held, one in May, the other in November. The meetings considered the desirability of the provision of such services by WIPO, as well as the types of services that could be provided. Amongst the types of services that were discussed were the establishment of mediation and arbitration procedures to be conducted under rules to be drafted by the International Bureau, the provision of administrative services, such as the appointment of mediators and arbitrators, at various stages in the conduct of those procedures, and the provision of model contract clauses that could be utilized by private parties wishing to make use of any of the procedures administered by WIPO.

In November, the Preparatory Working Group of the Committee of Experts of the Nice Union held its twelfth session and approved a number of changes in the International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Classification) which will be forwarded to the Committee of Experts of the Nice Union for adoption, and considered a proposal to restructure certain classes of the Nice Classification.

#### International Registration Activities

The number of international applications or registrations under the Patent Cooperation Treaty (PCT),

the Madrid Agreement Concerning the International Registration of Marks and the Hague Agreement Concerning the International Deposit of Industrial Designs continued to increase, although to a different extent in each of the three registration systems. Growth in 1992, compared with 1991, was 16.5% in the PCT system, 1.7% in the Madrid system and 10% in the Hague system.

### *Patent Cooperation Treaty*

In 1992, the number of record copies of international applications received by the International Bureau amounted to 25,917, 16.5% more than in 1991. The average number of PCT Contracting States designated per international application was 25.5. The international applications thus replaced some 661,000 national applications. The increase can be partly explained by the intensive efforts made by the International Bureau to promote the use of the PCT.

The amendments to the PCT Regulations adopted by the PCT Assembly in July 1991, with the aim of further simplifying the use of the PCT system, entered into force on July 1, 1992.

In the course of the year, the International Bureau continued to offer to the national offices of PCT member States, and also to the International Searching and International Preliminary Examining Authorities, the supply, free of charge, of CD-ROMs in lieu of paper or microfilm copies of published PCT international applications, on the understanding that those offices that accepted the offer would receive, free of charge, a workstation consisting of the equipment needed for reading and printing the PCT pamphlets contained in the CD-ROMs. Twenty-eight offices or Authorities have accepted the offer during the year 1992.

A new, improved, computer system enabling the International Bureau, among other things, to record and process the data contained in the international applications, international search reports and demands for international preliminary examination received by it, as well as to generate magnetic tapes for the photocomposition of the pages of the *PCT Gazette* and of the front pages of PCT pamphlets, has been developed and installed. This system, called the "Computer-Assisted System for the Processing of International Applications" (CASPIA), became operational in July 1992.

The International Bureau continued its development of an additional computer system, called the "Document Imaging and Computer-Assisted Publication System" (DICAPS), designed to satisfy the following general requirements: storage, consultation and retrieval of application files (paper files will gradually be replaced by optical discs); automatic

page setting, with drawings, of pamphlet front pages and of *PCT Gazette* entries; automatic printing of pamphlets on laser printers; distribution and mailing of pamphlets on optical media, especially CD-ROMs. The development of the system is taking place in two successive phases. The first phase was completed in 1991. The second phase, consisting in the implementation of the system in successive stages, started in March 1992 and is scheduled to be completed by early 1994. The first stage (automatic page setting, with drawings, of pamphlet front pages and of *PCT Gazette* pages) is scheduled to be completed by April 1993.

The International Bureau started cooperating with the European Patent Office and the United States Patent and Trademark Office in the development of a system enabling applicants to prepare international applications on personal computers and to file such applications in machine-readable form. This system, called the "Electronic Application SYstem" (EASY), will allow applicants to input the various data to be indicated in the request and to enjoy the benefit of automatic validity checks of such data, and to prepare the remainder of the international application (description, claims and abstract) by using a word processor, and the drawings as facsimile images.

In March, a meeting of the International Searching and International Preliminary Examining Authorities under the PCT took place. Modifications to the PCT Search Guidelines and the PCT Preliminary Examination Guidelines were adopted. Also in March, an informal meeting was held of representatives of the private sector of several PCT Contracting States. They considered the possibility of adding new features to the PCT system to make the international search and the international preliminary examination reports so reliable that supplemental search and examination during the national phase of the PCT procedure would not be necessary for most applications.

In September, in anticipation of China's forthcoming accession to the PCT, the Assembly of the PCT Union adopted a number of amendments to the PCT Regulations, with effect on the date on which China would become bound by the PCT (expected to be on January 1, 1994), appointed the Chinese Patent Office as an International Searching and International Preliminary Examining Authority with effect on the same date and approved the text of the Agreement between the Chinese Patent Office and WIPO to that effect. The Assembly also adopted amendments to the PCT Regulations with respect to the international searching and international preliminary examination of international applications in Spanish, which entered into force on January 1, 1993. Furthermore, the Assembly adopted a new PCT Rule concerning the extension of the effects of international applications to certain successor States, for example, Ukraine.

### Madrid Agreement

In 1992, the combined total of international trademark registrations and renewals received by the International Bureau was 21,143, representing an increase of 1.7% in relation to the corresponding 1991 figure. The international registrations totalled 15,702, that is, 1.61% less than in 1991. As the average number of countries covered by each international registration was 9.11, the international registrations in 1992 had the equivalent effect of some 143,000 national registrations. As for renewals, there were 5,441 in 1992, representing an increase of 21.39% compared with 1991.

In September, the Assembly of the Madrid Union adopted a new Rule which deals with the continuation of the effects of international registrations in successor States. By January 1, 1993, the Rule became applicable to the Czech Republic, Croatia, the Slovak Republic, Slovenia and Ukraine.

The archival sub-system of the MINOS (*Marks INformation Optically Stored*) system became fully operational in 1992. Work started not only on the scanning and storage on optical discs of new international trademark registrations and renewals of existing international trademark registrations, but also on the scanning and storage on optical discs of existing paper files of international trademark registrations. Work continued on the ROMARIN (*Read-Only Memory of Madrid Actualized Registry INformation*) system with the monthly production of CD-ROM discs containing all the data from the International Trademark Register. Scanning of the figurative elements of all international trademark registrations started and the production of the second, image, CD-ROM disc will start in mid-1993.

Work started on the MAPS (*Madrid And Protocol System*) computer project to cater for the requirements under the Protocol of 1989 Relating to the Madrid Agreement Concerning the International Registration of Marks when it will come into force. The MAPS system will replace the existing computer system (SEMIRA) used to assist in the international registration of marks under the Madrid Agreement.

### Hague Agreement

In 1992, the number of industrial design deposits, renewals and prolongations received by the International Bureau was 4,798, representing an increase of 10% in relation to the 1991 figure.

In April, the Committee of Experts on the Development of the Hague Agreement Concerning the International Deposit of Industrial Designs held its second session. Discussions were based on a draft Treaty on the International Registration of Industrial Designs prepared by the International Bureau, which

aimed at improving the current international registration system and at encouraging new States to accede to the Agreement.

### New Accessions to Treaties

In the course of 1992, the number of member States party to the treaties administered by WIPO increased with the adherences or declarations of continued application of the following countries to the following treaties: (i) Albania, Croatia, Czech Republic, Latvia, Lithuania, Slovak Republic and Slovenia to the WIPO Convention, bringing the total number of Member States of WIPO to 133; (ii) Croatia, Czech Republic, Slovak Republic, Slovenia and Ukraine to the Paris Convention, bringing the number of member States of the Paris Union to 107; (iii) China, Croatia, Czech Republic, the Gambia, Slovak Republic and Slovenia to the Berne Convention, bringing the number of member States of the Berne Union to 95; (iv) Czech Republic and Slovak Republic to the Madrid (Indications of Source) Agreement, bringing the total number of States party to that Agreement to 31; (v) Croatia, Czech Republic, Slovak Republic, Slovenia and Ukraine to the Madrid (Registration of Marks) Agreement, bringing the total number of the member States of the Madrid Union to 33; (vi) the Democratic People's Republic of Korea and Romania to the Hague Agreement, bringing the number of member States of the Hague Union to 21; (vii) Croatia, Czech Republic, Slovak Republic and Slovenia to the Nice Agreement, bringing the number of member States of the Nice Union to 36; (viii) Czech Republic and Slovak Republic to the Lisbon Agreement, bringing the total number of States members of the Lisbon Union to 17; (ix) Croatia, Czech Republic, Slovak Republic and Slovenia to the Locarno Agreement, bringing the number of member States of the Locarno Union to 19; (x) Czech Republic, Ireland, New Zealand, Niger, Portugal, Slovak Republic, Ukraine and Viet Nam to the PCT, bringing the number of member States of the PCT Union to 56; (xi) Czech Republic and Slovak Republic to the Strasbourg Agreement, bringing the total number of States members of the IPC Union to 27; (xii) Czech Republic and Slovak Republic to the Budapest Treaty, bringing the total number of member States of the Budapest Union to 24; (xiii) Argentina, Australia and Greece to the Rome Convention, bringing the number of States party to that Convention to 38; (xiv) Slovenia to the Brussels (Satellites) Convention, bringing the number of States party to the Convention to 15; (xv) Argentina, Czech Republic and Slovak Republic to the Film Register Treaty, bringing the number of States members of the FRT to 7.

## Countries in Transition to Market Economy

Since the establishment of a special unit, in October 1991, in the International Bureau, WIPO has given particular attention to the needs of this group of countries. The International Bureau offered its cooperation to the following countries: Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Estonia, Georgia, Hungary, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Poland, Republic of Moldova, Romania, Russian Federation, Slovak Republic, Slovenia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan. Offi-

cials of those countries in charge of intellectual property matters were invited for discussions at WIPO's headquarters in Geneva, and study visits by them to various countries were organized by WIPO. The International Bureau assisted them, on request, in the preparation of laws dealing with one or more aspects of intellectual property. Advice was also given on the establishment of administrative structures to implement those laws, while assistance and training were extended in relation to accession to WIPO-administered treaties. Staff members of the International Bureau lectured in special seminars and meetings to promote the awareness of the importance of intellectual property in those countries.

## Normative Activities of WIPO in the Field of Industrial Property

### Paris Union

#### Committee of Experts on the Harmonization of Laws for the Protection of Marks

Fourth Session  
(Geneva, November 16 to 20, 1992)

#### Introduction

The Committee of Experts on the Harmonization of Laws for the Protection of Marks (hereinafter referred to as "the Committee of Experts") held its fourth session in Geneva from November 16 to 20, 1992.<sup>1</sup> The following States members of the Paris Union were represented at the session: Australia, Austria, Bangladesh, Belgium, Brazil, Bulgaria, Canada, Chile, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Denmark, Dominican Republic, Egypt, Finland, France, Germany, Greece,

Hungary, Indonesia, Ireland, Italy, Japan, Kenya, Malta, Mexico, Morocco, Netherlands, New Zealand, Norway, Portugal, Republic of Korea, Romania, Russian Federation, Slovenia, Spain, Swaziland, Sweden, Switzerland, Ukraine, United Kingdom, United States of America (42). In addition, the European Communities (EC) were represented.

The following States members of WIPO were represented by observers: Angola, Colombia, Guatemala, Honduras, India, Lithuania, Namibia, Peru, Thailand (9).

Representatives of three intergovernmental organizations and 14 non-governmental organizations participated in the session in an observer capacity. The list of participants follows this note.

<sup>1</sup> For notes on the first, second and third sessions, see *Industrial Property*, 1990, pp. 101 and 375, and 1992, p. 244.

Discussions were based on the following document prepared by the International Bureau of WIPO: "Draft Treaty on the Simplification of Administrative Procedures Concerning Marks" (document HM/CE/IV/2). In this note, references to "the draft Treaty," as well as to any given "draft Article," "paragraph" or "note" are references to the draft Treaty, to the given draft Article or paragraph or to the given note as contained in document HM/CE/IV/2.

### General Declarations<sup>2</sup>

The following general declarations were made in the Committee of Experts:

"The Delegation of Japan stated, as it had already done so during the third session of the Committee of Experts in June 1992, that, according to the basic position of its country, harmonization and simplification of the trademark systems should be pursued actively. It added that, since June 1992, its country had started making efforts to amend some of the legislative provisions and practices relating to trademarks, taking into account the discussions during the last session of the Committee of Experts. For example, it referred to ongoing discussions in respect of the abolishment of some requirements contained in the Japanese trademark law, such as the obligation for the applicant to state in his application what kind of commercial activity he carries on or, in the case of transfer of ownership in a trademark, the obligation for the transferor to announce the transfer in a daily newspaper before applying for the recordal of the transfer. The Delegation further stated that its country would examine the possibility of introducing a system enabling a single application to cover goods or services belonging to several classes, although it considered that the introduction of a multiple class application system would require the resolution of administrative problems and would entail considerable cost. It therefore considered that, as was the case in Japan, other countries should take positive steps towards harmonization even before the convocation of the Diplomatic Conference on the harmonization of laws in respect of marks. Secondly, the Delegation of Japan considered that, since in its country the procedures for applications and registrations of marks were in complete conformity with those relating to other titles of industrial property such as patents, utility models and industrial designs, this balance in industrial property procedures as a whole could

be lost if the procedures relating to trademarks became so unique that they would be inapplicable to other fields of industrial property. It stated that, if the Treaty contained too detailed provisions, countries would be unable to implement them, and this would constitute an obstacle to harmonization and simplification. It therefore emphasized that some flexibility should be allowed in the provisions of the Treaty. Thirdly, the Delegation of Japan explained that, under Japanese law, trademark rights were treated in a way which was similar to other property rights, particularly real estate. As regards the transfer of rights, since there was no "delivery" in a physical sense, the notion of "registration" played an important role, and the procedures required to transfer trademark rights were modeled on the provisions of other laws such as the Civil Procedure Act and the Real Estate Registration Act. It added that, consequently, evidence (such as certificates) proving the veracity of statements made on an application form were always required to ensure certainty and protect third parties from false registrations. The Delegation noted that the draft Treaty prohibited—for the sake of simplification—the possibility of requiring from applicants the filing of evidence, which would not necessarily benefit users. Finally, the Delegation of Japan indicated that, since in its country over 200,000 trademark applications were filed each year (including service marks), it was necessary, in order to enable a precise and rapid treatment of those applications, to refuse any documents pertaining to several applications. The provision of the draft Treaty according to which a Contracting Party must accept a document relating to two or more applications would require the setting-up of a computer system or the changing of the existing computer system (both hardware and software) which would require time and expense and which would finally have to be financed by users of the system.

The Delegation of Germany considered that the administrative or procedural questions in respect of the protection of marks were as important as the questions relating to substance. It further declared that, although its country had not abandoned the prospect of harmonizing substantive provisions, the aim was to focus presently on administrative procedures in order to facilitate the work of both Offices and trademark owners or their representatives. The Delegation also declared that the future Treaty could, as was the case for the Patent Cooperation Treaty (PCT), contain several chapters, which could be negotiated at different times and which Contracting Parties could ratify separately. As regards the envisaged Treaty, it was important that it be ratifiable by as many countries as possible, although the said

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<sup>2</sup> Extracts.

Treaty should not attempt to be in line with the procedures and practices of each individual country. The Delegation further considered that the procedures relating to the application and registration of marks should be looked at on their own merits without considering at the same time analogous procedures in patent matters. It added that this idea was taken into account in the course of the ongoing revision of the trademark law of Germany which originated as far back as 1874.

The Delegation of the United States of America noted with satisfaction that the possibility for the draft Treaty of including a provision on requirements to be fulfilled for obtaining a filing date was now envisaged (in paragraph 2.27 of the notes to the draft Treaty). This provision would be most important to users who would know exactly what to provide to an Office for obtaining a filing date.

The Delegation of Hungary declared that, although its present trademark law was in conformity with international norms and market economies, it would be revised so that the provisions of this Treaty and the Madrid Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks be taken into account. It further declared that it generally supported the draft Treaty, although it had doubts as to whether all the provisions were strictly limited to administrative procedures. It finally stated that it would not favor the conclusion of two Treaties, on procedural and substantive questions, respectively.

The Delegation of Romania considered that the draft Treaty was an excellent basis for discussion. It did however wonder whether the draft might not also cover substantive questions, such as the substantive grounds for refusal of an application for registration, in view of the fact that the simplification concept had to apply to all essential questions associated with the trademark registration procedure. Indeed it wondered whether the draft should not rather be considered in the context of an overall harmonization of all industrial property rights.

The Delegation of Indonesia declared that it appreciated the work of the International Bureau and that it would fully cooperate in this exercise. It added that its country attached great importance to trademarks, this being attested by the fact that a new trademark law had been enacted in its country on August 28, 1992, and would enter into force on April 1, 1993. The main provisions of this law dealt with the protection of marks for goods and services and collective marks, the right of priority, licensing and the protection of well-known marks. It further stated that the intention of its country was to strengthen and build up an industrial property system and, in that respect, it

looked forward to the successful achievement of the present exercise.

The Delegation of the European Communities declared that, although it would have preferred a more ambitious approach, it supported the draft Treaty under consideration and, in particular, the fact that the work would be, for the time being, limited to administrative procedures. As regards the contents of the draft Treaty, particularly of draft Article 2, it wondered whether the provision should be interpreted positively (if the applicant fulfilled certain requirements, he was entitled to obtain something) or negatively (if some requirements were not fulfilled, there were specific consequences). Finally, the Delegation welcomed the note relating to the filing date requirements and considered that a provision on the filing date should be included in the draft Treaty.

The Delegation of Switzerland said that it supported the objectives set by the draft Treaty, and mentioned that some of the provisions of the draft were reflected in the draft Implementing Ordinance of the new Swiss Trademark Law, which should enter into force on April 1, 1993. It was, however, of the opinion that the draft Treaty should not go any further with the conditions that would be imposed on the various countries.

The Delegation of the Russian Federation declared that the new legislative acts on the protection of industrial property had been enacted in October 1992 in its country. Among these acts is the Trademarks, Service Marks and Appellations of Origin Law, which entered into force on October 17, 1992. This Law contains provisions which are compatible with the provisions of the draft Treaty.

The Delegation of Portugal expressed regret that the draft Treaty was not more ambitious and did not, for instance, contain a definition of the mark. It nevertheless declared that it approved of the draft Treaty in principle, and that it subscribed to the remarks made by the Delegation of the European Communities.

The Delegation of the United Kingdom was of the opinion that the International Bureau could have taken a more ambitious approach, since it felt that agreement could be reached on a number of substantive issues. It considered the idea put forward by the Delegation of Germany on a draft Treaty containing various chapters which could be negotiated and ratified at different stages interesting. Nonetheless, it recognized that harmonization of procedures was regarded by interested circles as very important.

The Delegation of Italy said that the Italian administration was at present revising the country's trademark legislation, and that the provisions of the new law were essentially consistent with the provisions of the draft Treaty.

The Delegation of Sweden stated that it reiterated its support to this exercise and that, in the course of the revision of the trademark law of its country, the importance of the simplification of procedures for users of the trademark system had been emphasized. It concluded by indicating that the draft Treaty was broadly acceptable but that it would have observations on some details.

The Delegation of Chile declared that the area of trademarks was of great importance to Chile, since the number of applications filed was growing rapidly since the entry into force of the new Industrial Property Law, as a result of the market economy system prevailing in that country. It noted that some differences existed between the laws of Chile and the provisions of the draft Treaty that related to the legal system of which trademarks formed part. In the Delegation's opinion, many of the proposed provisions for the simplification of procedures would affect the legal security that had to prevail in that field in all countries.

The Delegation of India declared that its country was observing with great interest the present exercise since it was in the process of revising its trademark law. It stated that a certain flexibility was needed, particularly in areas touching on substantive issues.

The Delegation of the Republic of Korea declared that it fully supported the present exercise of WIPO. It further stated that its country was engaged in preparatory work which would lead to the adoption of the International Classification of Goods and Services and to accession to the Madrid Protocol.

The Delegation of Mexico declared that it welcomed the document prepared by the International Bureau and that some provisions of the draft Treaty would be considered at the national level.

The Representative of AIPPI, AIM, UNICE and ICC declared that, while at this time users were primarily interested in obtaining a Treaty on the simplification of administrative procedures in the field of marks, they would certainly be interested in the extension of the harmonization exercise in respect of substantive questions, for example, in the form of further chapters of the Treaty. It considered, however, that it was important that countries ratify the Treaty, or the part of the Treaty relating to administrative procedures, including a provision on the requirements for obtaining a filing date as long as those requirements were limited to the ones contained in the notes to the draft Treaty. Finally, as regards forms, it considered that standard forms were needed in respect of applications, powers of attorney, assignments and changes and, while agreeing to leave the forms to the Regulations

under the Treaty, that the latter should at least take care of the content of the forms since discussions on such contents could lead to possible changes of the wording of some provisions of the Treaty.

The Representative of USTA declared that USTA strongly supported the present process, as an important step in trademark harmonization. The Representative also encouraged the preparation of standard forms to further facilitate the harmonization process.

The Representative of CNIPA declared that his organization was highly satisfied, with the exception of some minor points, with this new draft Treaty which constituted a good compromise.

The Representative of the Hungarian Trademark Association said that his organization supported the present exercise, all the more so since the formalities questions were those that caused users the most problems. Among other things he welcomed the harmonization in the classification of goods and services and in the correction of errors.

The Representative of FICPI said that any harmonization of administrative procedures was welcome. He did point out that his organization would have preferred more ambitious harmonization, notably with respect to certain substantive questions, but that it was aware at the same time that this would have delayed the conclusion of the draft Treaty. He concluded by saying that the present draft was on the whole a good compromise between the desirable and the feasible."

## Examination of the Provisions of the Draft Treaty

### *Draft Article 1: Abbreviated Expressions*

Article 1 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

*"For the purposes of this Treaty, unless expressly stated otherwise:*

*(i) 'mark' means a mark, whether a two-dimensional, a three-dimensional or a hologram mark, relating to goods (trademark), to services (service mark) or to both goods and services, but does not include a collective mark, a certification mark or a guarantee mark;*

*(ii) 'Office' means the agency entrusted by a Contracting Party with the registration of marks;*

*(iii) 'registration' means the registration of a mark by an Office;*

*(iv) 'application' means an application for registration;*

(v) references to a 'person' shall be construed as references to both a natural person and a legal entity;

(vi) 'applicant' means the person in whose name the application is filed and shall be construed as including the successor in title of that person in respect of the application;

(vii) 'holder' means the person in whose name the registration is recorded in the register of marks;

(viii) 'register of marks' means the collection of data maintained by an Office, which includes the contents of all registrations and all data recorded in respect of all registrations, as well as the contents of all pending applications, irrespective of the medium in which such data are stored;

(ix) 'Paris Convention' means the Paris Convention for the Protection of Industrial Property, signed at Paris on March 20, 1883, as revised and amended;

(x) 'Nice Classification' means the classification established by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, signed at Nice on June 15, 1957, as revised and amended;

(xi) 'Assembly' means the Assembly of the Contracting Parties referred to in Article ...\*"

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\* The administrative provisions of the Treaty will contain an Article establishing an Assembly of the Contracting Parties to this Treaty.

The portion of the report of the Committee of Experts concerning the discussion of draft Article 1 reads as follows:

"Item (i). Several delegations were of the opinion that this item should be redrafted in order to make it clear to what types of marks the Treaty applied or did not apply.

One delegation expressed the view that the Treaty should give a definition of what constituted a mark, while the majority of the delegations which spoke were of the opinion that no definition should be given, since no substantive harmonization should be envisaged at the present stage. It was pointed out that, in any case, the purpose of draft Article 1 was to give the meaning of certain abbreviated expressions, but not to provide definitions.

After a thorough discussion during which several delegations made suggestions as to the types of marks to which the Treaty should or should not apply, it was agreed that the next draft should contain a provision which would be separate from draft Article 1 and would state that the Treaty applied to marks relating to goods (trademarks), to services (service marks) or to both

goods and services. The said provision would also indicate that the Treaty did not apply to collective marks, certification marks and guarantee marks, nor to non-visible marks such as sound marks and olfactory marks. The notes would state that, as a consequence of that provision, there would be an obligation to register service marks and countries could accede to the Treaty only if they did so. The Treaty would also provide that Contracting Parties whose law permitted the registration of three-dimensional marks and hologram marks were obliged to apply the Treaty to those marks. Finally, item (i) of draft Article 1 would be deleted and references to sound marks and olfactory marks would be deleted from draft Article 2(1)(a)(viii).

The representative of an observer organization was of the opinion that the exclusion of certain types of marks would prevent the Treaty from keeping pace with the evolution of the concept of a mark.

Items (ii) to (iv). No comments were made on these items.

Item (v). It was agreed that the question of what constituted a legal entity was left to the national law of the country where protection was sought and that neither the Treaty nor the Regulations under the Treaty should contain a definition of 'legal entity.'

Items (vi) and (vii). The representative of several observer organizations suggested that items (vi) and (vii) should be drafted so as to make it clear that there could be several applicants for the same application and several holders for the same registration. Some delegations pointed out that the problem of plurality would occur in different contexts and that changing the drafting of items (vi) and (vii) and other relevant provisions would cause difficulties and did not respond to a real need. However, in view of the fact that it was generally accepted that an application could be filed by several applicants, and a registration recorded in the name of several holders, it was agreed that a note should specify that, in respect of Contracting Parties where several persons may jointly be applicants or holders, the words 'applicant' and 'holder' should be construed as including 'applicants' and 'holders.'

One delegation wondered why the successor in title was mentioned in item (vi) and not in item (vii) and expressed the opinion that the successor in title should be omitted from item (vi). Other delegations expressed the same opinion. One delegation suggested deleting items (vi) and (vii), which were unnecessary in its opinion in view of the text of draft Article 7.

It was finally agreed that item (vi) should take into account possible changes in the person of the

applicant so that it could read, for example, 'applicant' means the person in whose name the application stands, and that item (vii) as well as the references to the holder in draft Article 7 should be reviewed for the sake of consistency. It was suggested, for example, that a distinction be made between 'the owner of the mark' and 'the holder of the registration.'

*Item (viii).* In reply to a question raised by a delegation, the Secretariat stated that Offices were not obliged to maintain a single register covering both registered marks and pending applications. The same delegation wondered whether, therefore, the use of the term 'register' should not be restricted to the collection of data concerning registered marks, while another term would be used for the collection of data concerning pending applications. The same concern was expressed by some other delegations, and it was agreed that the question should be reexamined by the International Bureau.

*Items (ix) to (xi).* No comments were made on these items.

In reply to a question raised by a delegation, the Secretariat indicated that the conditions to be fulfilled for becoming a Contracting Party would be dealt with in the final clauses."

#### Draft Article 2: Application

Article 2 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

"(1) [Indications or Elements Contained in an Application; Fee] (a) Any Contracting Party may require that an application contain some or all of the following indications or elements:

(i) a request for registration;

(ii) the name and address of the applicant;

(iii) the name of the State of which the applicant is a national, the name of the State in which the applicant has his domicile and the name of the State in which the applicant has a real and effective industrial or commercial establishment;

(iv) where the address of the applicant is outside the territory of the Contracting Party, an address for service in that territory, unless a representative with an address in the said territory is appointed in the application itself or in a document filed at the same time as the application;

(v) where the applicant wishes to take advantage of the priority of an earlier filing, a declaration claiming the priority of that earlier filing, together with an indication of the name of the Office where such filing was made and the date and, where available, the number of that filing;

(vi) where no color is claimed as a distinctive feature of the mark, a reproduction of the mark in black and white;

(vii) where color is claimed as a distinctive feature of the mark, a statement to that effect, together with the name or names of the color or colors claimed and, in respect of each color, an indication of the principal parts of the mark which are in that color, as well as a reproduction of the mark in black and white and a reproduction of the mark in color;

(viii) where the mark is three-dimensional, or is a hologram mark, a sound mark or an olfactory mark, a statement to that effect;

(ix) the names of the goods and/or services for which the registration is sought, grouped according to the classes of the Nice Classification and using, wherever possible, terms of the Alphabetical List of Goods and Services established in respect of the said Classification, together with the number of the class of the said Classification to which each group of goods or services belongs;

(x) a signature by or other self-identification of the person specified in paragraph (4) and in the form specified in Article 4;

(xi) unless item (xii) applies, a declaration of intention to use the mark, as required by the law of the Contracting Party;

(xii) where the applicant alleges actual use of the mark, a declaration and evidence to that effect, as required by the law of the Contracting Party.

(b) Any Contracting Party may require that, in respect of the application, a fee be paid to the Office.

(2) [Form; Manner of Presentation] Where the application is filed on paper or by telecopier, each Contracting Party shall accept it if it is presented on a form prescribed by the Regulations. Where the application is communicated by electronic means, each Contracting Party shall accept it if it is presented in a manner prescribed by the Regulations.

(3) [Language] Any Contracting Party may require that the application be in the official language, or in one of the official languages, of its Office.

(4) [Signature] (a) The application shall be signed either by the applicant or by his representative.

(b) Even where the appointment of the representative of the applicant is not made in the application itself or in a document filed at the same time as the application, the application may be signed by the representative of the applicant, provided that a document appointing the repre-

*sentative, signed by the applicant himself, is filed within a time limit fixed by the law of the Contracting Party; such time limit shall not be less than one month from the date of receipt of the application by the Office of the Contracting Party.*

(c) *Notwithstanding subparagraphs (a) and (b), any Contracting Party may require that the declarations referred to in paragraph (1)(a)(xi) and (xii) be signed by the applicant himself even if he has a representative.*

(5) [Single Application for Goods and/or Services in Several Classes] *One and the same application may relate to several goods and/or services, irrespective of whether they belong to one class or to several classes of the Nice Classification.\**

(6) [Prohibition of Other Requirements] *No Contracting Party may demand that requirements other than those referred to in paragraph (1) be complied with in respect of the application. In particular, the following may not be required for the said purposes:*

(i) *the furnishing of any certificate of, or extract from, a register of commerce;*

(ii) *an indication of the applicant's carrying on of an industrial or commercial activity, as well as the furnishing of evidence to that effect;*

(iii) *an indication of the applicant's carrying on of an activity corresponding to the goods and/or services listed in the application, as well as the furnishing of evidence to that effect;*

(iv) *the furnishing of evidence to the effect that the mark has been registered in another country, except where the applicant claims the application of Article 6quinquies of the Paris Convention.*

(7) [Actual Use] *Notwithstanding paragraph (6), any Contracting Party may require that, where a declaration of intention to use has been filed under paragraph (1)(a)(xi), the applicant furnish to its Office, within a time limit fixed in its law, evidence of the actual use of the mark, as required by the said law, except where the mark has been registered in the country of origin in accordance with Article 6quinquies of the Paris Convention.*

(8) [Evidence] *Notwithstanding paragraph (6), any Contracting Party may require that evidence be furnished to its Office in the course of the examination of the application where there may be a doubt regarding the veracity of any indication contained in the application."*

\* The final clauses of the Treaty will contain a provision allowing Contracting Parties to implement this paragraph after a transitory period whose duration will be fixed between three and five years after the date on which the Contracting Party concerned becomes bound by the Treaty.

The portion of the report of the Committee of Experts concerning the discussion of draft Article 2 reads as follows:

"Paragraph (1)(a). No comments were made on the introductory phrase of this paragraph.

Item (i). It was indicated by the Secretariat that, in the French text, the words 'demande d'enregistrement' should be replaced by 'requête en enregistrement.'

Item (ii). One delegation said that, where the applicant was a legal entity, the Office should have the right to require an indication of the name of the authorized or empowered officer signing the application in the name of that legal entity. It was agreed that the problem raised did not relate to this item, but rather to the requirements relating to the signature appearing in item (x) and in draft paragraph (4). It was also specified that the question as to whether a person was lawfully authorized or empowered to sign on behalf of a legal entity should be determined in accordance with the national law applicable to that entity.

Item (iii). In reply to a suggestion by the representative of an observer organization that account should be taken of the different genders (masculine and feminine) in the drafting of that paragraph and other relevant provisions, it was agreed that this was a matter of drafting which should be examined at a later stage.

Item (iv). After a thorough discussion during which several delegations explained the legal situation in their respective countries concerning the requirement of appointing a representative for foreign applicants, it was agreed that the International Bureau would redraft this item so that, where the applicant had neither a domicile nor an establishment on the territory of a Contracting Party, that Contracting Party would be allowed to require either the appointment of a local representative or the indication of an address for service on the territory of the Contracting Party. It was also agreed that any Contracting Party could require that, where there was a representative, the application contain the name and address of the representative.

Item (v). It was agreed that this item would be redrafted so that any Contracting Party could require the indication of the name of the country (rather than of the country's Office) where the priority application was a national application and the name of the regional trademark office where the priority application was a regional application.

It was agreed that the next draft would contain an item relating to the claiming of a temporary protection in respect of goods exhibited at official or officially recognized international exhibitions, as provided in Article 11 of the Paris Convention.

Several delegations suggested that the said item could be drafted along the following lines: 'where the applicant wishes to take advantage of the temporary protection provided in Article 11 of the Paris Convention, a declaration claiming that protection, together with a statement to the effect that the goods were exhibited at an international exhibition in accordance with Article 11 of the Paris Convention' and that a note could specify that this item did not affect the possibility of requiring, under Article 11(3) of the Paris Convention, documentary evidence as proof of identity of the article exhibited and of the date of its introduction in the exhibition.

One delegation was of the opinion that this new provision should be broadened so that it would not be limited to international exhibitions within the meaning of Article 11 of the Paris Convention.

*Items (vi) and (vii).* One delegation was of the opinion that these items should be merged: the merged item should first state that a reproduction must be furnished, then it should state what kind of reproduction should be furnished depending on whether color was or was not claimed.

The representative of an observer organization considered that the indication of the names of the colors could be insufficient where the applicant wished to define a color more precisely. One delegation and the representative of another observer organization noted in that respect that the law of some countries accepted the claiming of shades of colors.

The Secretariat pointed out that nothing in item (vii) prevented the applicant from indicating by words the shades of the color or colors claimed, but that the Contracting Parties would not be allowed to require the applicant to indicate, by using the codes of a color chart, colors or shades.

Several delegations considered that the possibility of requiring only one reproduction in black and white, under item (vi), or only one reproduction in black and white and one reproduction in color, under item (vii), was too limited, and that it should be provided that a Contracting Party may require several copies of the reproduction. One delegation stated that, in its opinion, there was no need to provide for a harmonization with respect to the number of reproductions to be furnished by the applicant.

It was agreed that the next draft would provide that only one reproduction in black and white could be required and that, in respect of the reproduction in color, a maximum of four copies could be required (the number 'four' being put in square brackets).

*Item (viii).* The representative of an observer organization was of the opinion that an indication

of the type of mark for which protection was sought (for example, 'word mark,' 'device mark,' etc.) should be given by the applicant.

Since it had been agreed that the Treaty would not be applicable to sound marks and olfactory marks (see the discussion on draft Article 1(i), above), it was agreed that, in the new draft, item (viii) would only mention three-dimensional marks and hologram marks.

*Item (ix).* It was agreed that, in the next draft, the terms 'using, wherever possible, terms of the Alphabetical List....' should be replaced by 'and preferably using the terms of the Alphabetical List....' One delegation also asked whether the use of the terms 'and/or' could be avoided in this item as well as in all other provisions of the draft Treaty. As regards the Spanish text, it was agreed that the words 'que se pretende registrar' should be replaced by 'para los que se solicita el registro....'

*Item (x).* No comments were made on this item.

*Items (xi) and (xii).* It was agreed that an applicant could not be required to furnish both a declaration of intention to use and a declaration of actual use, but that the applicant, if he so desired, could furnish both declarations.

In reply to a delegation having suggested that a Contracting Party should be allowed to require in the application proof of the legality of the use of the mark (for example, where the sign which constituted the mark was protected under Article 6ter of the Paris Convention), the Secretariat explained that, where necessary, such proof would be required during the procedure of substantive examination but should not be required in the application.

One delegation stated that, under the law of its country, the applicant had to indicate in the application the date on which such application was filed as well as its fiscal identification number, the latter indication having only to be given by applicants established in its country.

*Paragraph (1)(b).* No comments were made on this paragraph.

*Paragraph (2).* It was agreed that the words 'where the application is filed on paper or by telecopier' should be preceded by the words 'Where a Contracting Party allows the filing of the application on paper or by telecopier and,' along the lines of draft Article 4(2).

*Paragraph (3).* In reply to a question raised by the representative of an observer organization, the Secretariat confirmed that this provision did not allow a Contracting Party to refuse bilingual forms where one of the languages used on the form was an official language; however, in such a situation, the applicant could not rely on the

language which was not the official language of the Contracting Party.

*Paragraph (4)(a).* It was understood that, where the applicant was a legal entity, the application would be signed on behalf of, rather than by, it.

In reply to a question of a delegation, the Secretariat said that an Office could require neither the indication of the name of the person signing on behalf of a legal entity nor (except where paragraph (8) applied) a document evidencing that the said person was a duly authorized officer of the legal entity.

*Paragraph (4)(b).* One delegation declared that an Office should not be obliged to accept an application signed by a person who was not the applicant, where the signature was not accompanied by an indication according to which the person having signed was the representative of the applicant.

Two delegations stated that in their opinion the draft Treaty should refer to the national law as regards the appointment of a representative.

The representative of an observer organization declared that the submission of a power of attorney was not obligatory in all countries and that the proviso of draft Article 2(4)(b) should only apply where a Contracting Party required a power of attorney. The Secretariat confirmed that it was not intended to oblige Contracting Parties to require a power of attorney and that the wording of that provision would be modified accordingly.

The minimum time limit (one month) within which a document appointing the representative must be filed was also discussed. While some delegations considered that it was not advisable to extend that minimum time limit, other delegations were of the opinion that it should be extended to two months, at least where the applicant was residing abroad.

*Paragraph (4)(c).* No comments were made on this paragraph.

*Paragraph (5).* One delegation stated, both in respect of this provision and in respect of draft Article 3, that the industrial property Office of its country had limited human and financial resources and that it could not necessarily be expected that priority be given to investments in computerization in order to enable the setting up of a multiple class application and registration system. Furthermore, while one delegation was of the opinion that this provision should be optional, other delegations felt that the obligation to provide for multiple class applications should remain mandatory since, otherwise, one of the main advantages of the Treaty would disappear. One of the delegations which spoke in favor of

paragraph (5) added that the transitory provision contemplated in the footnote should be provided for only if necessary.

*Paragraph (6).* The Secretariat said that, in the introductory phrase of this paragraph, the words 'complied with *in respect* of the application' meant that the prohibitions applied not only at the moment of the filing of the application but throughout the application stage ending with the registration, always subject, naturally, to the possibility of requiring under paragraph (8) the furnishing of evidence in case of doubt.

*Item (i).* No comments were made on this item.

*Items (ii) and (iii).* While one delegation was of the opinion that those provisions should be deleted from paragraph (6) and placed in paragraph (1)(a), several other delegations considered that they should remain in paragraph (6). The representative of several observer organizations emphasized that only a few countries still provided for such requirements in their laws, and that several of those countries would probably abandon them when revising their laws on marks.

*Item (iv).* One delegation explained that a requirement to furnish evidence to the effect that a mark was registered in another country should remain possible when the said country was not party to the Paris Convention. The Secretariat said that one ought to clarify that 'country' meant a Contracting Party.

*Paragraph (7).* Several delegations considered that a minimum time limit, which should not be shorter than three years, should be given to the applicant to furnish to the Office of a Contracting Party evidence of actual use of a mark applied for in that Contracting Party.

It was agreed that, in the next version of the draft Treaty, the words 'within a time limit fixed in its law' would be deleted and it would be provided that no Office of a Contracting Party may refuse an application for registration of a mark solely on the ground that such mark had not been actually used, as required by the law of that Contracting Party, before the expiration of three years counted from the date of the allowance of the application by that Office.

It was further agreed that the International Bureau would examine whether the reference to Article 6*quinquies* should not be omitted.

*Paragraph (8).* One delegation stated that, where the applicant was a legal entity, it should always—that is, even in the absence of doubt—be possible to require evidence that the officer signing the application on behalf of the legal entity was duly authorized to do so. The Secre-

tariat said that allowing such practice would be excessive.

Several delegations and representatives of observer organizations were of the opinion that the expression ‘where there may be a doubt’ was not sufficiently restrictive and that it should be made clear that evidence could be required only where there was actual doubt and could not be required as a routine or at a whim.

In conclusion, it was agreed that the said expression should read ‘where there is a reasonable doubt’.”

#### *Draft Article 3: Single Registration for Goods and/or Services in Several Classes*

Article 3 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

*“Where goods and/or services belonging to several classes of the Nice Classification have been included in one and the same application, such an application shall result in one and the same registration.”*

The portion of the report of the Committee of Experts concerning the discussion of draft Article 3 reads as follows:

“One delegation was of the opinion that this provision should be optional for Contracting Parties. Another delegation considered that a mandatory system of multiple class registration could result in delaying the registration of an application covering several classes of goods or services where the Office had notified a refusal of the application (on absolute or relative grounds or following opposition) only in respect of one class. Among the delegations and representatives of observer organizations which recognized the possibility of delay, one delegation explained that, in its country, the trademark law provided for the possibility of dividing an application so that registration could be promptly granted in respect of the goods or services which were not objected to. Another delegation declared that its country would, when revising its trademark law, provide for such a possibility, for the convenience of trademark applicants and owners.

It was agreed that the next version of the draft Treaty would leave this draft Article unchanged, and that an additional draft Article would be included which would give an applicant the right to divide his application in the sense that some of the goods or services in the original application would be transferred into a new application.”

#### *Draft Article 4: Signature and Other Means of Self-Identification*

Article 4 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

*(1) [Communication on Paper] Where a communication is on paper and a signature is required, any Contracting Party*

*(i) shall, subject to item (iii), accept a handwritten signature,*

*(ii) shall be free to allow the use of other forms of signature, such as a printed or stamped signature, or the use of a seal, instead of a handwritten signature,*

*(iii) may, where the applicant, holder or representative is its national and has his address in its territory, require that a seal be used instead of a handwritten signature.*

*(2) [Communication by Telecopier] Where a Contracting Party allows the sending of communications to its Office by telecopier, it shall consider the communication as signed if, on the printout produced by the telecopier, the reproduction of the signature or seal appears [, provided that such a Contracting Party may require that the paper whose reproduction was transmitted by telecopier be filed with its Office within a period fixed by its law; such period shall be at least 14 days from the date of the transmittal by telecopier].*

*(3) [Communication by Electronic Means] Where a Contracting Party allows or requires communication by electronic means rather than on paper or by telecopier, it shall consider the communication signed if it identifies the applicant by electronic means as prescribed by it.*

*(4) [Prohibition of Requirement of Certification] No Contracting Party may require the authentication, legalization or other certification of any signature or other means of self-identification referred to in the preceding paragraphs[, except, if the law of the Contracting Party so provides, where the signature appears on a document filed on paper or by telecopier transferring the ownership of an application or registration or surrendering a registration].”*

The portion of the report of the Committee of Experts concerning the discussion of draft Article 4 reads as follows:

*“Paragraph (1). No comments were made on this paragraph.*

*Paragraph (2). It was agreed that, in the next version of the draft Treaty, the second part of the provision would be maintained without the square*

brackets. It was further agreed to replace the words 'at least 14 days' by 'at least one month,' the words 'one month' being placed between square brackets. It was finally noted that, in the Spanish text of this provision, the word 'solicitar' should be replaced by 'exigir.'

One delegation was of the opinion that the draft Treaty should not only deal with the question of communications by telecopier or by electronic means in connection with signatures but should contain a general provision dealing with the question of communications between the Office and the applicant.

*Paragraph (3).* The Secretariat indicated that the reference to the applicant was to be replaced by a reference to the author of the communication.

*Paragraph (4).* It was agreed that, in the next version of the draft Treaty, the second part of the provision would be maintained without the square brackets. It was also indicated that, in the French text, the final words 'ou un enregistrement abandonné' should be corrected to read 'ou en vertu duquel un enregistrement fait l'objet d'une renonciation.' The representative of an observer organization suggested that, in the second line, the words 'attestation' and 'notarization' be added."

#### Draft Article 5: Classification of Goods and/or Services

Article 5 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

*"Each registration and each publication effected by an Office which concerns an application or registration and which indicates goods and/or services shall indicate those goods and/or services by their names, grouped according to the classes of the Nice Classification, together with the number of the class of the said Classification to which each group of goods or services belongs."*

The portion of the report of the Committee of Experts concerning the discussion of draft Article 5 reads as follows:

"After a discussion as to whether that provision should be amended so that the indication of the goods and services could be made by a mere reference to one or several classes of the Nice Classification, it was agreed that draft Article 5 would remain unchanged.

It was suggested that the notes clearly indicate that the Nice Classification had no substantive effect and only served administrative purposes."

#### Draft Article 6: Changes in Names or Addresses

Article 6 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

*"(1) [Changes in the Name or Address of the Holder] (a) Where there is no change in the person of the holder but there is a change in his name or address, each Contracting Party shall accept that the request for the recordal of the change by the Office in its register of marks be made in a simple letter, or by another means of communication referred to in Article 4(2) and (3), signed by the holder or his representative and indicating the serial number of the registration and the change to be recorded.*

*(b) Where the request is filed on paper or by telecopier, each Contracting Party shall accept it if it is presented on a form prescribed by the Regulations. Where the request is communicated by electronic means, each Contracting Party shall accept it if it is presented in a manner prescribed by the Regulations.*

*(c) Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.*

*(d) A single request shall be sufficient even where the change relates to more than one registration, provided that the serial numbers of all registrations concerned are indicated in the request.*

*(2) [Change in the Name or Address of the Applicant] Paragraph (1) shall apply, mutatis mutandis, where the change concerns an application or applications or both an application or applications and a registration or registrations, provided that, where the serial number of an application is not yet known, the request otherwise identifies that application.*

*(3) [Change in the Name or Address of the Representative] Paragraph (1) shall apply, mutatis mutandis, to any change in the name or address of a representative.*

*(4) [Prohibition of Other Requirements] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) to (3) be complied with in respect of the request referred to in those paragraphs. In particular, the furnishing of any certificate concerning the change may not be required.*

*(5) [Evidence] Notwithstanding paragraph (4), any Contracting Party may require that evidence be furnished to its Office where there may be a doubt regarding the veracity of any indication contained in the request."*

The portion of the report of the Committee of Experts concerning the discussion of draft Article 6 reads as follows:

*Paragraph (1)(a) and (b).* One delegation was of the opinion that a contradiction seemed to exist between subparagraphs (a) and (b), since subparagraph (b) referred to a prescribed form or a prescribed manner of presentation, while subparagraph (a) provided that a Contracting Party should accept a request made in a simple letter or by another means of communication without a prescribed form or a prescribed manner of presentation being used. This view was supported by several delegations and the representative of an observer organization. The Secretariat explained that the use of a prescribed form was not mandatory, but that, where the request was presented on the prescribed form, each Contracting Party had to accept the request. It was agreed that those provisions needed clarification and that the International Bureau would reconsider their drafting for the next session.

One delegation said that the means of communication referred to in draft Article 4(2) and (3) could only be used where permitted by the law of the Contracting Party concerned. It was agreed that this would be made clear in the next draft.

The representative of an observer organization suggested that, in subparagraph (b), the words 'on a form prescribed by the Regulations' be replaced by the words 'in a format substantially similar to the form prescribed by the Regulations.'

Several delegations considered that the term 'simple letter' was too vague and should be replaced by a more precise expression. It was agreed that words such as 'in writing on paper' would be used in the next draft.

One delegation pointed out that, while the term 'serial number' could be used in respect of an application, this term was not appropriate in respect of a registration and should be replaced by 'registration number.' It was agreed that this observation would be taken into account in the next draft with respect to all the provisions where the term 'serial number' appeared.

*Subparagraph (c).* In reply to a question raised by a delegation, the Secretariat confirmed that, as indicated in the note relating to that provision, the amount of the fee could differ depending on whether the request related to one registration or to several registrations.

*Subparagraph (d).* No comments were made on this subparagraph.

*Paragraph (2).* One delegation suggested that the words 'or both an application or applications and a registration or registrations' should be deleted because the Office of its country treated in a different manner, from the computerization

viewpoint and also as regards fees, changes concerning applications and changes concerning registrations and that, therefore, a single request for changes relating to both applications and registrations could not be accepted.

It was stated that the problem could be solved by the Office making a photocopy of the request and separating the fees paid for the applications from the fees paid for the registrations.

The representative of several observer organizations declared that users were in favor of the possibility of presenting a single request for changes relating to both applications and registrations and that, in any case, it would be difficult to make a distinction between applications and registrations since, between the time of the preparation of the request and its receipt by the Office, applications may have resulted in registrations.

In conclusion, it was agreed that this provision would remain unchanged in the next draft.

*Paragraph (3).* No comments were made on this paragraph.

*Paragraphs (4) and (5).* A number of delegations declared that, although the laws of their respective countries obliged any person requesting the recordal of changes in names, and sometimes also of changes in addresses, to fulfill certain conditions such as the furnishing of evidence relating to such changes, they were ready, for the sake of harmonization, to accept those provisions and amend their law accordingly.

A few other delegations declared that they could not accept paragraph (4), even though this provision was tempered by paragraph (5).

It was finally agreed that paragraphs (4) and (5) would remain unchanged in the next draft, subject to the replacement of the words 'may be' by the word 'is' in paragraph (5), and to the insertion of the word 'reasonable' before the word 'doubt' in the same paragraph."

#### *Draft Article 7: Change in Ownership*

Article 7 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

*"(1) [Change in the Ownership of the Registration] (a) Where there is a change in the person of the holder, each Contracting Party shall accept that the request for the recordal of the change by the Office in its register of marks be made in a simple letter, or by another means of communication referred to in Article 4(2) and (3), signed by the holder (the 'previous holder') or his representative or by the person who acquired the ownership (the 'new holder') or his representative and indicating the change to be recorded.*

(b) Where the request is filed on paper or by telecopier, each Contracting Party shall accept it if it is presented on a form prescribed by the Regulations. Where the request is communicated by electronic means, each Contracting Party shall accept it if it is presented in a manner prescribed by the Regulations.

(c) Where the change in ownership results from a contract and

(i) the request is made by the new holder, the request shall be accompanied by a copy of the contract or the relevant parts thereof,

(ii) the request is made by the previous holder, each Contracting Party shall be free to require that the request be accompanied by a copy of the contract or the relevant parts thereof.

(d) Where the change of ownership results from operation of law rather than from a contract and

(i) the request is made by the new holder, the request shall be accompanied by documents evidencing the change,

(ii) the request is made by the previous holder, each Contracting Party shall be free to require that the request be accompanied by documents evidencing the change.

(e) Any Contracting Party may require that the request contain some or all of the following indications or elements:

(i) the serial number of the registration;

(ii) the name and address of the new holder;

(iii) the name of the State of which the new holder is a national, the name of the State in which the new holder has his domicile and the name of a State in which the new holder has a real and effective industrial or commercial establishment;

(iv) where the address of the new holder is outside the territory of the Contracting Party, an address for service in that territory, unless a representative with an address in the said territory is appointed in the request or in a document filed at the same time as the request.

(f) Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.

(g) A single request shall be sufficient even where the change relates to more than one registration, provided that the previous holder and the new holder are the same for each registration and that the serial numbers of all registrations concerned are indicated in the request.

(2) [Change in the Ownership of the Application] Paragraph (1) shall apply, mutatis mutandis, where the change concerns an application or applications or both an application or applications and a registration or registrations, provided that, where the serial number of an application is

not yet known, the request otherwise identifies that application.

(3) [Prohibition of Other Requirements] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (2) be complied with in respect of the request referred to in those paragraphs. In particular, the following may not be required:

(i) the furnishing of any certificate of, or extract from, a register of commerce;

(ii) an indication of the new holder's carrying on of an industrial or commercial activity, as well as the furnishing of evidence to that effect;

(iii) an indication of the new holder's carrying on of an activity corresponding to the goods and/or services listed in the registration or, where the change concerns only part of the goods and/or services listed in the previous owner's registration, in the new holder's part of the registration, as well as the furnishing of evidence to either effect;

(iv) an indication that the previous holder transferred, entirely or in part, his business or the relevant goodwill to the new holder, as well as the furnishing of evidence to either effect."

The portion of the report of the Committee of Experts concerning the discussion of draft Article 7 reads as follows:

"It was agreed that the next draft would take into account the discussion relating to the word 'holder' which took place in connection with draft Article 1(vii) (see the discussion concerning draft Article 1(vi) and (vii), last paragraph, above).

*Paragraphs 1(a) and (b).* One delegation declared that, under its national law, the request for change in ownership should be presented and signed by both the previous holder and the new holder and that such requirement should be allowed under paragraph (1).

It was decided that those subparagraphs would be redrafted taking into account, where applicable, the changes suggested in connection with draft Article 6(1)(a) and (b) (see the discussion concerning draft Article 6(1)(a) and (b), above).

*Subparagraph (c).* Several delegations emphasized that, in their country, the transfer of industrial property rights, such as marks, was subject to the same strict conditions as those which applied to the transfer of property such as real estate, both in the interest of owners and third parties and for the sake of legal security. In particular, the submitting of evidence (such as a deed of assignment or other similar documents) was required for the purpose of the recordal of the transfer.

Other delegations and the representatives of several observer organizations stated that more flexibility should be accepted as regards the transfer of marks. In particular, it was considered that, where the recordal of a change in ownership was approved by the previous holder, the Office of a Contracting Party should not require any underlying contract.

In conclusion, it was agreed that the next draft would provide for the possibility for an Office to require a 'transfer document.' Such document would be in a standard form prescribed by the Regulations, and both parties (the transferor and transferee) would have to sign it. The document would not contain any indication concerning the amount of the transaction or whatever taxes might have been paid in connection with the transaction. Any Office which had reasonable doubts could ask for further proof.

*Subparagraph (d).* One delegation was of the opinion that the term 'operation of law' did not cover all the possible cases of transfers other than by contract, in particular transfers resulting from wills or judicial decisions. It was agreed that, in the next draft, the introductory phrase would be redrafted along the following lines: 'Where the change of ownership does not result from a contract, but from another ground, for example, from operation of law or a court decision....'

Following a suggestion made by a delegation, it was agreed to merge items (i) and (ii) into a single provision which would provide that, where the request was made either by the previous holder or by the new holder, each Contracting Party would be free to require that the request be accompanied by documents evidencing the change.

*Subparagraph (e).* The Secretariat indicated that, in view of the introduction in subparagraph (c) of the transfer document, subparagraph (e) would have to be redrafted since some of the indications or elements referred to therein might be included in that transfer document.

One delegation considered that the question of co-ownership in a mark should be dealt with in this provision, since, under its national law, the Office required the furnishing of documents proving the agreement of all co-owners in case of transfer of the mark.

The Secretariat said that the Regulations would make it clear that, in case of co-ownership of a mark, all co-owners should sign the transfer document, even where only the share of one of the co-owners was transferred.

*Subparagraph (f).* No comments were made on this subparagraph.

Several delegations and representatives of observer organizations were of the opinion that the next draft should deal with the question of

partial transfer, namely, of a transfer in respect of some only of the goods and services covered by the registration.

It was agreed that the International Bureau would consider the matter when preparing the next draft.

*Paragraph (2).* The Secretariat indicated that, when preparing the next draft, the changes which would be made to draft Article 6(2) would be taken into account.

*Paragraph (3).* A few delegations stated that some of the prohibitions should not be provided for in the Treaty. Others supported those prohibitions as proposed.

Several participants suggested that the form of the transfer document should contain an item in which the transfer of the business or goodwill could be alleged (without the need for furnishing evidence)."

#### *Draft Article 8: Representation*

Article 8 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

*(1) [Appointment for One Application or Registration]* (a) *Where a representative is appointed in respect of a certain application, the appointment shall be made in the application itself, or in a separate document signed by the applicant and indicating the serial number of the application or, where the serial number is not yet known, otherwise identifying that application.*

*(b) Where a representative is appointed in respect of a certain registration, the appointment shall be made in a document signed by the holder and indicating the serial number of the registration.*

*(2) [Appointment for Several Applications and/or Registrations]* (a) *Where a representative is appointed in respect of more than one application, and/or in respect of more than one registration, of the same person, the appointment may be made in a single document signed by that person, provided that, subject to subparagraph (b), the said document indicates the serial numbers of all applications and/or registrations concerned or, to the extent that the serial number of an application is not yet known, otherwise identifies that application.*

*(b) Where a representative is appointed in respect of any existing and all future applications and/or registrations of the same person, the document in which the appointment is made ('general power of attorney') need not identify any application and/or registration.*

(3) [Termination of Appointment by Appointing a New Representative] *Upon receipt by the Office of a document appointing a representative, the appointment of any previous representative is considered as terminated.*

(4) [Termination of Appointment by the Representative] *Where the Office receives a document, signed by the representative, terminating his own appointment, it shall inform the applicant or the holder concerned accordingly. Any Contracting Party may subject the validity of such a termination to certain conditions.*

(5) [Termination of Appointment for Several Applications and/or Registrations] *Where, in respect of several applications and/or registrations of the same person, the representative is the same, the appointment of that representative may be terminated in one and the same document, signed by that person or by the representative, provided that, except in the case of a general power of attorney, the said document indicates the serial numbers of the applications and/or registrations concerned or, to the extent that the serial number of an application is not yet known, otherwise identifies that application. Paragraphs (3) and (4) shall apply mutatis mutandis.*

(6) [Limitation of Appointment] (a) *The applicant or the holder may limit the powers of a representative to certain acts.*

(b) *Where a limitation is made subsequently to the appointment, it shall be made in a document signed by the applicant or the holder; it shall have effect upon receipt by the Office of that document.*

(c) *Paragraph (5) shall apply mutatis mutandis.*

(7) [Use of Electronic Means] *Where any document referred to in this Article is communicated by electronic means, signature shall be replaced by electronic identification as provided for in Article 4(3)."*

The portion of the report of the Committee of Experts concerning the discussion of draft Article 8 reads as follows:

"Paragraphs (1) and (2). One delegation indicated that, under its national law, a general power of attorney was not allowed, and that an individual power of attorney was always restricted to specific actions. In particular, an *ad hoc* representative had to be appointed in respect of a request for recordal of a change in ownership.

One delegation pointed out that draft Article 8 did not take into account the case of the 'mandataires agréés' which, as regards procedures before some Offices, were exempted from certain formalities such as a formal appointment in the

application or in a separate document. Thus, the signature of the application by such a 'mandataire agréé' was sufficient.

One delegation pointed out that it should be made clear, at least in the notes, that draft Article 8 only concerned representation by an outside agent, and not the case of a legal entity being represented by one of its officers. This delegation further suggested that standard forms of individual powers of attorney and of general powers of attorney be prepared by the International Bureau.

Two delegations were of the opinion that, as it was provided in draft Article 2(4)(b), a Contracting Party should not be obliged to require the furnishing of a power of attorney.

The Secretariat confirmed that draft Article 8 obliged Contracting Parties to accept general powers of attorneys, and considered that individual powers of attorney limited to specific actions did not seem to be excluded under the present wording of that draft Article. The Secretariat also indicated that the next draft would take into account the case of the 'mandataire agréé' and would make it clear that no Contracting Party would be obliged to require the furnishing of powers of attorney. As regards the question of representation of a legal entity by one of its officers, it would be made clear that draft Article 8 did not cover that kind of representation. Finally, it was agreed that the International Bureau would prepare standard forms for the appointment of a representative.

In reply to a question raised by one delegation, the Secretariat indicated that, even though no provision in draft Article 8 expressly prohibited Contracting Parties from demanding requirements other than those referred to in paragraphs (1) and (2), such prohibition was implicit. In any case, authentication or legalization of the signature in a power of attorney was prohibited by draft Article 4(4).

*Paragraph (3).* In reply to questions raised by several delegations and representatives of observer organizations, the Secretariat stated that an applicant or a holder should have the possibility of indicating, in the case of a plurality of appointments, whether all or only some of those appointments were terminated. In that respect, it was agreed to add the words 'unless otherwise indicated' at the end of this provision.

One delegation did not support the principle of automatic termination of an appointment by the mere appointment of a new representative.

*Paragraph (4).* The majority of the delegations which spoke considered that this provision should be deleted because it could cause administrative and legal difficulties.

Some delegations and representatives of observer organizations supported this provision, which could possibly be amended, for example, by introducing a time limit within which the Office should inform the applicant or the holder of the termination of appointment of his representative, or a time limit at the expiration of which the Office should inform the applicant or holder that he had no longer a representative.

In conclusion, and taking into account the fact that this paragraph addressed very rare cases, and that such cases had so far been solved at the national level, it was agreed that the next draft would not contain this paragraph, it being understood that any delegation could make a new proposal in that respect.

*Paragraphs (5) to (7).* No comments were made on these paragraphs."

#### *Draft Article 9: Correction of Same Mistake in Several Applications and/or Registrations*

Article 9 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

*"(1) [Conditions for Correction] A single request for the correction of a mistake shall be sufficient even where the correction of that mistake is requested in respect of more than one application, and/or in respect of more than one registration of the same person, provided that the mistake and the requested correction are the same for each of them and that the request indicates the serial numbers of all applications and/or registrations concerned or, where the serial number of an application is not yet known, otherwise identifies that application. The request shall be made in a simple letter, or by another means of communication referred to in Article 4(2) and (3), signed by the applicant or the holder, or by his representative.*

*(2) [Kind of Mistake] Any Contracting Party shall be free to exclude in its law certain kinds of mistakes from the application of paragraph (1)."*

The portion of the report of the Committee of Experts concerning the discussion of draft Article 9 reads as follows:

"This draft Article was approved.

In reply to a question raised by one delegation, the Secretariat confirmed that an Office could require the payment of a fee in respect of the correction of a mistake.

In reply to another question raised by a delegation, the Secretariat indicated that there was no need to define what kinds of mistakes could be

corrected, since all mistakes not specifically excluded by a Contracting Party under paragraph (2) could be corrected."

#### *Draft Article 10: Observations in Case of Intended Refusal*

Article 10 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

*"An application, or a request under Articles 6 or 7, may not be refused totally or in part by an Office without giving the applicant or the requesting party, as the case may be, an opportunity to make observations on the intended refusal within a reasonable time limit."*

The portion of the report of the Committee of Experts concerning the discussion of draft Article 10 reads as follows:

"In view of the diverse opinions expressed in respect of that provision, it was agreed that it should be redrafted so that the scope of its application would be restricted. For example, it could be envisaged that the right to make observations would exist only in respect of decisions involving the exercise of discretion by the Office. Thus, the opportunity to be heard could be excluded where, for example, the applicant or holder did not pay the required fees in due time and the Office considered the application or the request to be abandoned."

#### *Draft Article 11: Modification of Articles 1 to 10*

Article 11 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

*"Articles 1 to 10 may be modified by a decision of the Assembly, provided that no Contracting Party votes against the modification."*

The portion of the report of the Committee of Experts concerning the discussion of draft Article 11 reads as follows:

"This draft Article was approved, subject to the addition of draft Article 13 in the list of articles that may be modified by a decision of the Assembly. One delegation reserved its position on this draft Article until the final contents of the provisions which could be modified by the Assembly were known.

It was noted that the modalities for amendment of the Regulations would be dealt with in the

administrative provisions of the draft Treaty and that there would probably be some provisions of the Regulations whose amendment by the Assembly would require a highly qualified majority."

#### *Draft Article 12: Service Marks*

Article 12 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

*"The provisions of the Paris Convention which relate to trademarks and which are relevant to this Treaty shall apply to service marks."*

The portion of the report of the Committee of Experts concerning the discussion of draft Article 12 reads as follows:

"This draft Article was approved, subject to the replacement of the words 'relate to' by the word 'concern' and the deletion of the words 'and which are relevant to this Treaty.'

It was agreed that the next version of the draft Treaty would be accompanied by a note containing a complete list of the articles of the Paris Convention covered by draft Article 12 and that the said list would, in particular, include Articles 2 and 3 of the Paris Convention."

#### *Draft Article 13: Associated Marks and Defensive Marks*

Article 13 of the draft Treaty as submitted by the International Bureau to the Committee of Experts read as follows:

*"Any Contracting Party may declare in its instrument of ratification of or accession to this Treaty that the provisions of Articles 1 to 10 do not apply to associated marks and/or to defensive marks."*

The portion of the report of the Committee of Experts concerning the discussion of draft Article 13 reads as follows:

"Although two delegations expressed doubts, it was agreed that this draft Article should be maintained in the draft Treaty and that the notes should contain more extensive explanations concerning the need for draft Article 13."

#### *Possible Provision on Filing Date*

The portion of the report of the Committee of Experts concerning a possible provision on the filing date reads as follows:

"Discussions were based on the draft text contained in Note 2.27.

There was general support for the inclusion of a provision in the draft Treaty which would establish a standard as regards the requirements for according a filing date, and it was agreed that the next version of the draft Treaty would contain such a provision.

Paragraph (a) of the draft text contained in Note 2.27 was approved, subject to the following amendments or observations.

It was suggested that the inclusion of the words 'at least' should be reconsidered. Those words were intended to cover the situation where an applicant on the filing date not only complied with the filing date requirements, but also with other formal requirements permitted under draft Article 2. It was agreed that the inclusion of a separate sentence to that effect, which would replace the said words, would be considered by the International Bureau. It should, however, be made clear that no Contracting Party was allowed to establish additional requirements for according a filing date, subject to the exception concerning the filing fee referred to below.

As regards (ii), it was agreed that the provision should be redrafted to read, for example, 'the name of the applicant and indications sufficient to contact him or, where he has a representative, his representative by mail.'

Some delegations indicated that, under the laws of their countries, payment of a fee was not a condition for according a filing date, whereas other delegations referred to the fact that, under the laws of their countries, payment of either the full fee or at least part of the fee (for example, a fee covering at least one class of the applicable classification) was a requirement for the filing date. One delegation declared that, whereas payment of the fee currently was a requirement for according a filing date in its country, the abolition of that condition was under consideration. It was also indicated that two possible consequences should be considered with respect to the subsequent payment of the fee (or balance of the fee where the initial payment was insufficient), namely, to treat such payment with retroactive effect as of the filing date—possibly under the condition that it be made within a certain time limit—or to accord as the filing date the date of payment of the fee (or the required balance of the not fully paid fee).

In conclusion, it was agreed that Contracting Parties should have an option to maintain any existing provisions concerning the total or partial payment of a fee as a condition for according a filing date."

## Future work

The portion of the report of the Committee of Experts concerning future work reads as follows:

"The Secretariat indicated that the next session of the Committee of Experts would be convened for June 7 to 18, 1993. For that session, a new text of the draft Treaty with administrative and final provisions (including provisions concerning the question of whether, and under what conditions, intergovernmental organizations could become party to the Treaty) would be prepared, as well as draft Regulations and draft forms under the Regulations."

## LIST OF PARTICIPANTS\*

### I. Members

**Australia:** S. Farquhar. **Austria:** H. Preglau. **Bangladesh:** S. Jamaluddin. **Belgium:** W. Peeters. **Brazil:** R. Saint-Clair Pimentel; L.M.P.V. Abdala. **Bulgaria:** C. Valtchanova. **Canada:** C.K. McDermott; G. Bisson. **Chile:** P. Romero. **Côte d'Ivoire:** N.A. N'Takpé. **Cuba:** J. Lago Silva. **Democratic People's Republic of Korea:** Chang Rim Pak. **Denmark:** K. Wallberg. **Dominican Republic:** A. Bonetti Herrera. **Egypt:** H. Shuaer. **Finland:** S.-L. Lahtinen. **France:** G. Borges; B. Vidaud-Rousseau. **Germany:** A. von Mühlendahl; E.-G. Miehle. **Greece:** P. Geroulakos. **Hungary:** G. Vékás; M. Sümeghy; M. Németh. **Indonesia:** K.P. Handriyo; L. Dos Reis. **Ireland:** T. Lonergan. **Italy:** P. Iannantuono; V. Ragonesi. **Japan:** T. Kobayashi; R. Ohashi; Y. Funaya; Y. Takagi. **Kenya:** J.W. Wanyaga. **Malta:** L.C. Coppini. **Mexico:** A. González Rossi. **Morocco:** F. Baroudi. **Netherlands:** H.R. Furstner; D. Verschure. **New Zealand:** N.M. McCardle. **Norway:** P.V. Bergheim. **Portugal:** J. Mota Maia; R. Moraes Serrão; A. Queirós Ferreira. **Republic of Korea:** J.K. Kim. **Romania:** C. Moraru; D. Pitu; V. Marin. **Russian Federation:** A. Grigoriev; V. Chekletov; S. Gorlenko. **Slovenia:** B. Pretnar. **Spain:** B. Cerro Prada; F. Martínez Tejedor. **Swaziland:** S.H. Zwane; A.M. Mathabela; S. Magagula. **Sweden:** H. Olsson. **Switzerland:** D. Pedinelli. **Ukraine:** V. Petrov. **United Kingdom:** M. Todd; E. Scarff; A.C. Waters; H.M. Pickering. **United States of America:** J. Samuels; L. Beresford; J. Long. **European Communities (EC):** E. Nooteboom; L.M.C.F. Ferrão.

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

## II. Observers

**Angola:** A.M. Pederneira Pereira; A.D.C. Simões Da Silva Bandeira. **Colombia:** J.C. Espinosa. **Guatemala:** F. Urruela Prado; S. Femández Gordillo de Medina. **Honduras:** A.F. Morales Molina. **India:** K.C. Kailasam. **Lithuania:** R. Naujokas; N. Prielaida. **Namibia:** E.T. Kamboua; M. Pogisho. **Peru:** J. Prado. **Thailand:** P. Sekasiddhi; W. Ruamrux; P. Laismit.

## III. Intergovernmental Organizations

**General Agreement on Tariffs and Trade (GATT):** M.C. Geuze. **Benelux Trademark Office (BBM):** E.L. Simon. **Organization of African Unity (OAU):** V. Wega-Nzomwita.

## IV. Non-Governmental Organizations

**Asian Patent Attorneys Association (APAA):** K.J. McInnes; K. Kato. **Committee of National Institutes of Patent Agents (CNIPA):** H.-J. Lippert. **European Association of Industries of Branded Products (AIM):** G.F. Kunze. **European Communities Trade Mark Association (ECTA):** C. Sautory. **Hungarian Trademark Association (HTA):** G. Puszta. **International Association for the Protection of Industrial Property (AIPPI):** G.F. Kunze. **International Chamber of Commerce (ICC):** G.F. Kunze. **International Federation of Industrial Property Attorneys (FICPI):** Y. Plasseraud. **Japan Patent Association (JPA):** Y. Noda. **Japan Trademark Association (JTA):** S. Takeuchi. **Japanese Patent Attorneys Association (JPAA):** K. Kato. **Union of Industrial and Employers' Confederations of Europe (UNICE):** G.F. Kunze. **Union of Manufacturers for the International Protection of Industrial and Artistic Property (UNIFAB):** S. Bodet. **U.S. Trademark Association (USTA):** Y.M. Chicoine; R.J. Taylor.

## V. Officers

**Chairman:** H. Olsson (Sweden). **Vice-Chairmen:** T. Kobayashi (Japan); F. Baroudi (Morocco). **Secretary:** P. Maugué (WIPO).

## VI. International Bureau of WIPO

A. Bogsch (*Director General*); F. Curchod (*Deputy Director General*); L. Baeumer (*Director, Industrial Property Division*); P. Maugué (*Head, Trademark and Industrial Design Law Section, Industrial Property Division*); B. Ibos (*Senior Legal Officer, Trademark and Industrial Design Law Section*).

## Permanent Committee on Industrial Property Information (PCIPI)

### PCIPI Working Group on Search Information (PCIPI/SI)

Tenth Session  
(Geneva, November 16 to 27, 1992)

The PCIPI Working Group on Search Information (PCIPI/SI) held its tenth session from November 16 to 27, 1992, in Geneva. Fifteen members of the Working Group were represented at the session: Belgium, Denmark, Finland, France, Germany, Japan, Portugal, Romania, Russian Federation, Spain, Sweden, Switzerland, United Kingdom, United States of America, European Patent Office (EPO).

The Working Group dealt with 99 International Patent Classification (IPC) revision projects on the program for the 1992-93 biennium, of which 33 belonged to the mechanical field, 26 to the chemical field and 40 to the electrical field. The revision projects relating to subclasses A 01 N, A 23 L, B 22 F, B 29 K, B 65 D, C 07 D, E 01 F, F 16 D, F 25 D, G 06 F, G 06 T, H 04 L and H 04 N were completed.

The Working Group decided, on the basis of a report by the International Bureau relating to the possibility of improving the existing official English and French Catchword Indexes, to explore in detail the use of the IPC:CLASS CD-ROM for that purpose.

### PCIPI ad hoc Working Group on Long-Term IPC Revision Policy (PCIPI/IPC)

First Session  
(Geneva, November 30 to December 4, 1992)

The PCIPI ad hoc Working Group on Long-Term IPC Revision Policy (PCIPI/IPC) held its first session from November 30 to December 4, 1992, in

Geneva. Sixteen members of the Working Group were represented at the session: Australia, Brazil, Denmark, Finland, France, Germany, Japan, Netherlands, Norway, Romania, Spain, Sweden, Switzerland, United Kingdom, United States of America, European Patent Office (EPO). The Patent Documentation Group (PDG) and the publishers of the journal *World Patent Information* were represented by observers.

The Working Group discussed the possibility of improving the existing revision procedure in order to make the IPC better serve its primary purpose, namely, to be an effective search tool for the retrieval of patent documents, and noted several suggestions in that respect.

The Working Group considered a proposal by the International Bureau for a compromise solution that would reduce the cost of the revision work, improve the IPC as a search tool and make the IPC more dynamic. The Working Group agreed that in order to implement the proposal many problems of a logistic and practical nature would have to be solved and that the impact of the proposal would depend on the solutions found. The Working Group proceeded with a detailed discussion of the proposal with a view to identifying the various problem areas.

The Working Group invited its members to carefully consider and comment on the feasibility of implementing the International Bureau's proposal, in particular the problems, difficulties and questions raised in connection therewith.

The Working Group noted that the majority of its members present were in favor of maintaining the current five-year revision periods.

The Working Group recommended to the PCIPI Executive Coordination Committee that the task "Consider representation of IPC indexing codes in a way distinguishing them more clearly from the IPC classification symbols" be introduced in the PCIPI working program and be dealt with urgently, in order to make it possible to introduce any changes relating to the presentation of the indexing codes in the sixth edition of the IPC.

## Registration Systems Administered by WIPO

### Patent Cooperation Treaty (PCT)

#### Seminars

In November 1992, two WIPO officials spoke on the PCT at a PCT seminar organized in Milan (Italy) by the Association of Patent Counsels for Industry and the Order of Patent Attorneys for some 120 Italian patent attorneys.

Also in November 1992, a WIPO official spoke on the latest developments in the PCT and strategies in using the PCT at a meeting organized in Düsseldorf (Germany) by the Association of Patent Engineers (VPP) in cooperation with the Industrial Property Group of the Federation of German Industry (BDI). The meeting was attended by over 40 patent attorneys. Following the meeting, the WIPO official had discussions with members of the Patent Department of Bayer AG, an enterprise in Germany, on various aspects of patent procedure under the PCT.

Also in November 1992, a WIPO official spoke on the PCT at a seminar organized by the Portuguese Group of the International Chamber of Commerce (ICC) in Lisbon.

Also in November 1992, two WIPO officials spoke on the PCT at a PCT seminar organized in Roswell (Georgia, United States of America) by Kimberly-Clark, an enterprise in the United States of America, for some 30 attorneys and patent administrators from industry in the United States of America.

Also in November 1992, two WIPO officials spoke on the PCT at a PCT seminar organized in New York by Pennie & Edwards, a law firm in New York specialized in intellectual property, for some 30 of their members and clients, mainly patent attorneys and representatives from the pharmaceutical industry.

Also in November 1992, three WIPO officials spoke on the PCT at a round table organized in New

York by Pfizer, Inc., an enterprise in the United States of America, for patent administrators from the major PCT users of the East Coast and North East of the United States of America. The round table was attended by some 30 participants from industry and law firms.

Also in November 1992, two WIPO officials spoke on the PCT at a seminar for patent administrators and legal assistants organized in Chicago (Illinois, United States of America) by Ladas & Parry, a law firm in Chicago. The Seminar was attended by some 35 representatives from major PCT-user corporations of industry and law firms from the Mid-West area of the United States of America.

Also in November 1992, two WIPO officials spoke on the PCT at a seminar on the PCT organized in San Francisco (California, United States of America) by the San Francisco Patent and Trademark Law Association (SFPTLA) for patent administrators and legal assistants from various corporations and law firms from the San Francisco area. Thirty-two participants attended the seminar.

Also in November 1992, two WIPO officials spoke on the PCT at a seminar on the PCT organized in Munich by Forum Institut für Management, a private company in Germany, for some 30 patent administrators from industry and law firms and for legal assistants.

Also in November 1992, two WIPO officials participated in a seminar on the PCT organized in Stuttgart (Germany) by the Southwest District Group of the German Association for Industrial Property and Copyright (DVGR). The seminar was attended by 35 patent attorneys, mainly from private practice, and was followed by a course given by one of the two WIPO officials to 35 patent administrators.

## Nice Union

### Preparatory Working Group of the Committee of Experts

Twelfth Session  
(Geneva, November 2 to 6, 1992)

The Preparatory Working Group of the Committee of Experts of the Nice Union held its twelfth session in Geneva from November 2 to 6, 1992. Twelve members of the Working Group were represented at the session: Austria, Denmark, France, Germany, Japan, Netherlands, Norway, Portugal, Spain, Sweden, United Kingdom, United States of America. The Benelux Trademark Office (BBM) was also represented. Argentina and Romania were represented by observers.

The Preparatory Working Group approved a number of changes in the International Classification

of Goods and Services for the Purposes of the Registration of Marks (Nice Classification), to be forwarded to the Committee of Experts of the Nice Union for adoption, and considered a proposal to create new classes or subdivisions within existing classes in the Nice Classification, in order to accommodate developments and changes in the commercial world. This proposal will be discussed in detail at the next session of the Working Group, following a survey by the International Bureau amongst the members of the Nice Union and other interested offices regarding possible legal, administrative or financial consequences of such restructuring of the Nice Classification.

The Preparatory Working Group noted that the "Cross-Reference Table" was expected to be published in mid-1993.

## Activities of WIPO in the Field of Industrial Property Specially Designed for Developing Countries

### Africa

#### Training Courses, Seminars and Meetings

*African Regional Industrial Property Organization (ARIPO).* In November 1992, three WIPO officials attended the 16th session of the Administrative Council of ARIPO in Mombasa (Kenya). The following ARIPO member States were represented: Botswana, Gambia, Ghana, Kenya, Lesotho, Malawi, Sierra Leone, Sudan, Swaziland, Uganda, United Republic of Tanzania, Zambia, Zimbabwe, as well as, in an observer capacity: Ethiopia, Liberia, Mauritius, Namibia, Nigeria. Of particular interest for WIPO were the discussions of the Council on the advantages for ARIPO member States of adhering to the Patent Cooperation Treaty (PCT). The Council decided that, at its 17th session in 1993, it would

have on its agenda an item on the amendments to the implementing regulations under the Harare Protocol, in connection with the possible accession of ARIPO member States to the PCT.

*WIPO Regional Seminar on Industrial Property Licensing (Kenya).* From November 23 to 27, 1992, concurrently with the ARIPO Council Session, WIPO organized, with the financial assistance of the Government of Sweden, in Mombasa a Regional Seminar on Industrial Property Licensing. The Seminar was attended by 19 participants at the ARIPO Council session, from the following countries: Botswana, Ethiopia, Gambia, Ghana, Kenya, Lesotho, Liberia, Malawi, Mauritius, Namibia, Nigeria, Sierra Leone, Sudan, Swaziland, Uganda,

United Republic of Tanzania, Zambia, Zimbabwe. Presentations were made by two WIPO consultants from Sweden.

### Assistance With Training, Legislation and Modernization of Administration

*Angola.* In November 1992, two government officials had discussions with WIPO officials in Geneva on the new industrial property law applicable in the country.

*Benin.* In November 1992, Mrs. Lola Juliette D. Ayité, Director, National Industrial Property Center (CENAPI), had discussions with WIPO officials in Geneva on matters of mutual cooperation.

*Botswana.* In November 1992, a WIPO official undertook a mission to Gaborone for discussions with government officials on the modernization of the industrial property legislation in the country.

*Burkina Faso.* In November 1992, a government official had discussions with WIPO officials in Geneva on the preparation of the WIPO National Seminar on Licensing to be held in Ouagadougou in February 1993.

*Burundi.* In November 1992, a government official had discussions with WIPO officials in Geneva on matters of cooperation in the field of copyright and industrial property.

*Central African Republic.* In November 1992, a government official had discussions with WIPO officials in Geneva on the modernization of the industrial property administration in the country.

*Chad.* In November 1992, a government official had discussions with WIPO officials in Geneva on training in the field of licensing contracts and information on trade names.

*Ghana.* In November 1992, a WIPO consultant from the German Patent Office undertook a mission to Accra to provide on-the-job training to the staff of the Industrial Research Institute in the use of CD-ROM equipment and provision of patent information services to users.

*Guinea.* In November 1992, Mr. Faouly Bangoura, Head, Industrial Property Service, had discussions with WIPO officials in Geneva on a proposed United Nations Development Programme (UNDP)-financed country project to modernize the industrial property administration in the country.

*Guinea-Bissau.* In November 1992, Mr. José Antonio Nosoliniy, Director, Industrial Property and Technical Information Services, had discussions with WIPO officials in Geneva on legislative and administrative issues in the field of industrial property in the country.

*Malawi.* In November 1992, a WIPO consultant from the German Patent Office undertook a mission to Blantyre to provide the staff of the Department of the Registrar General with on-the-job training in the use of CD-ROM equipment and provision of patent information services to end users.

*Mali.* In November 1992, a government official had discussions with WIPO officials in Geneva on matters of mutual interest.

*Niger.* In November 1992, a government official had discussions with WIPO officials in Geneva on the planned accession of Niger to the PCT.

*Nigeria.* In November 1992, two government officials undertook a study visit to London to attend an international conference on "Nigeria's Foreign Investment Laws and Intellectual Property Rights," organized by the Common Law Institute of Intellectual Property and the University of London. This activity was undertaken under the UNDP-financed country project.

Also in November 1992, a government official undertook a study visit to the Austrian Patent Office in Vienna and the United Kingdom Patent Office in London to examine the functioning of their patent information and documentation services with a view to strengthening similar services in Nigeria by the use of CD-ROM technology. This activity was undertaken under the UNDP-financed country project.

*Rwanda.* In November 1992, a government official had discussions with WIPO officials in Geneva on industrial property training issues.

*Sao Tomé and Principe.* In November 1992, at the request of the government authorities, the International Bureau prepared and sent comments, in Portuguese, on the draft industrial property law.

*Senegal.* In November 1992, Mr. Amadou Moctar Dieng, Head, Industrial Property and Technology Service, had discussions in Geneva with WIPO officials on matters of common interest.

*Togo.* In November 1992, a government official had discussions with WIPO officials in Geneva on industrial property administration in the country.

*United Republic of Tanzania.* In November 1992, Mr. Richard Benjamin Mngulwi, Registrar of Patents, visited WIPO and discussed with WIPO officials future cooperation activities in the field of copyright, and recent legal developments in the United Republic of Tanzania in the fields of patent and trademark regulations.

Also in November 1992, a government official from Zanzibar had discussions with WIPO officials in Geneva on the industrial property system and infrastructure of Zanzibar.

*Zambia.* In November 1992, a government official had discussions with WIPO officials in Geneva on matters of mutual interest.

*Zimbabwe.* In November 1992, Mr. Nabol Mvere, Controller of Patents, Trade Marks and

Industrial Designs, had discussions with WIPO officials in Geneva on the possible accession of Zimbabwe to the PCT and on links between patent procedures under the Harare Protocol of ARIPO and the PCT.

Also in November 1992, a WIPO consultant from the German Patent Office undertook a mission to Harare to provide the staff of the Office of the Comptroller of Patents with on-the-job training in the use of CD-ROM equipment and provision of patent information services to end users.

*African Regional Industrial Property Organization (ARIPO).* In November 1992, a WIPO consultant from the German Patent Office visited ARIPO headquarters in Harare to give training to the staff of ARIPO in the use of CD-ROM equipment and provision of patent information services to end users.

## Arab Countries

### Training Courses, Seminars and Meetings

*Syria.* In November 1992, a WIPO official made a presentation at the first National Seminar on the Protection of Industrial Property organized by the Syrian National Committee of the International Chamber of Commerce (SNCICC) in Damascus. The Seminar was attended by some 100 participants, from interested government circles, the legal profession and the business community. The objective of the Seminar was to create awareness, mainly within the private sector, of the impact of recent industrial property developments at the international level on the Syrian economy.

### Assistance With Training, Legislation and Modernization of Administration

*Algeria.* In November 1992, Mr. Dine Hadj Sadok, Director General of the Algerian Institute for Standardization and Industrial Property (INAPI), held discussions with WIPO officials in Geneva on Algeria's possible accession to the PCT as well as the enactment of a new industrial property law in that country.

*Jordan.* In November 1992, Mr. Mohammad Khreisat, Director General, Section for the Protection of Industrial and Commercial Property, held discussions with WIPO officials in Geneva on cooperation between Jordan and WIPO, with regard in particular to training and expert missions and a proposed UNDP-financed country project.

*Libya.* In November 1992, Mr. A.A. Ganoun, Director, Industrial Property Department, Industrial Research Center, Tripoli, visited WIPO and discussed with WIPO officials cooperation between Libya and WIPO, in particular with regard to training and expert missions.

*Morocco.* In November 1992, a government official undertook a study visit, organized by WIPO, to the National Institute of Industrial Property (INPI) of Brazil in Rio de Janeiro, to study INPI's patent and trademark operations and services to the public, as well as the on-going automatization of INPI's activities. This mission was organized under the UNDP-financed country project for Morocco.

*Sudan.* In November 1992, the Commercial Registrar General visited WIPO in Geneva and discussed with WIPO officials cooperation between Sudan and WIPO, in particular with regard to the modernization of the industrial property operations in that country.

*Syria.* In November 1992, a WIPO official visited the industrial property office in Damascus and had discussions with government officials, among other matters, on the possible revision of the present Syrian industrial property law to take account of recent technological developments.

*United Arab Emirates.* In November 1992, Mr. A.J. Al Gaizi, Acting Director, Intellectual Property Office, accompanied by two government officials, held discussions with WIPO officials in

Geneva on the new industrial property legislation in that country, as well as the establishment of the administrative infrastructure for the Patent Office.

*Yemen.* In November 1992, Mr. Ali Al Ashbahi Ali Abdo Saeed, Director of Industrial Registration, had discussions with WIPO officials in Geneva on the strengthening of the industrial property system in that country.

## General

*United Nations Development Programme (UNDP).* In November 1992, a WIPO official held discussions in New York with UNDP officials on the strengthening of cooperation between UNDP and WIPO in favor of the Arab countries and in particular on UNDP funding for several WIPO activities in those countries.

## Asia and the Pacific

### Training Courses, Seminars and Meetings

*WIPO Asian Subregional Seminar on Industrial Property Licensing and Technology Transfer Arrangements (Bangladesh).* From November 2 to 4, 1992, WIPO organized, in cooperation with the Ministry of Industries of Bangladesh, an Asian Subregional Seminar on Industrial Property Licensing and Technology Transfer Arrangements, in Dhaka. The Seminar was attended by 37 participants from Bangladesh and seven foreign participants from Bhutan, India, Nepal and Sri Lanka. The participants came from interested government circles, university and research centers, the legal profession, as well as the private sector. Four WIPO consultants from Bangladesh, India, the United Kingdom and the United States of America and two WIPO officials delivered papers.

*WIPO National Roving Seminar on the Patent System and Use of Patent Information for Technological Development (India).* In November 1992, WIPO organized, in cooperation with the Government of India and the Confederation of Indian Industry, and with the assistance of UNDP, a Roving Seminar on the Patent System and Use of Patent Information for Technological Development in the cities of New Delhi, Bombay, Bangalore and Calcutta. In total, about 200 participants from industry, the legal profession and interested government circles attended the Seminar. A WIPO consultant from Canada and a WIPO official spoke at the Seminar, which was organized under the UNDP-financed country project.

*Republic of Korea/Economic and Social Commission for Asia and the Pacific (ESCAP).* In November 1992, a WIPO official participated in and delivered lectures at an Expert Group Meeting on Patent Law, Regulations and Organizational Structure in the Asian and Pacific Countries held at Taejon (Republic of Korea) under the auspices of ESCAP and the

Government of the Republic of Korea. The following countries were represented at the Meeting by government officials: China, India, Indonesia, Malaysia, Philippines, Republic of Korea, Thailand, Viet Nam.

*Thailand.* In November 1992, a WIPO official and a WIPO consultant from Japan undertook a mission to Bangkok to conduct a two-week on-the-job training course on trademark matters organized at the Department of Intellectual Property with the financial assistance of the Government of Japan. Thirty-seven officials of the Department attended the training course, 23 of whom were trademark examiners.

### Assistance With Training, Legislation and Modernization of Administration

*Bangladesh.* In November 1992, a WIPO official held discussions in Dhaka with government and UNDP officials regarding progress in the implementation of activities under the UNDP-financed country project aimed at modernizing and strengthening the industrial property system of Bangladesh. He also reviewed general matters relating to cooperation between Bangladesh and WIPO in the field of industrial property.

Also in November 1992, Dr. Ekram Hossain, Secretary, Ministry of Industries, Government of Bangladesh, had discussions at WIPO in Geneva with the Director General and other WIPO officials on matters of cooperation between Bangladesh and WIPO in the field of intellectual property, and in particular the modernization of the country's intellectual property administration.

*India.* In November 1992, at the special invitation of the University of Delhi, the Director General visited New Delhi, accompanied by another WIPO official. He held talks with Dr. Shanker Dayal Sharma, President of the Republic of India, and

members of the Government of India. During his visit, the Director General received from Mr. K.R. Narayanan, Chancellor of the University of Delhi and Vice-President of the Republic of India, the Degree of Doctor of Laws (LL.D) *honoris causa* of Delhi University.

Also in November 1992, the Director General and another WIPO official held discussions in Bombay with government officials on the progress of the UNDP-financed country project entitled "Modernization of the Patent Information System (PIS), Nagpur," and the future use of the latest machines and data bases at the Nagpur Centre, as well as on the proposed project for the computerization of the Trade Mark Registry.

Also in November 1992, a WIPO official participated in the first WIPO/UNDP/Government of India tripartite review meeting for the country project entitled "Modernization of the Patent Information System (PIS), Nagpur," which took place in New Delhi.

Also in November 1992, Mr. Rajendra Anandrao Acharya, Controller-General of Patents, Designs and Trade Marks, held discussions with WIPO officials in Geneva on the selection of local contractors under the above-mentioned country project.

*Malaysia.* In November 1992, Mr. Dato Shaharuddin Hj. Haron had discussions at WIPO with the Director General and other WIPO officials on matters of mutual interest regarding cooperation between Malaysia and WIPO in the field of intellectual property and, in particular, on strengthening awareness of intellectual property in that country.

*Pakistan.* In November 1992, the Dean of the Faculty of Law and Principal of the University Law College, Punjab University, Lahore, had discussions with the Director General and other WIPO officials in Geneva on matters of mutual interest.

*Sri Lanka.* In November 1992, a government official held discussions with the Director General and other WIPO officials in Geneva on the strengthening of the country's industrial property administration.

*Thailand.* In November 1992, a WIPO official had discussions with officials of the Department of Intellectual Property in Bangkok on the situation concerning that newly established Department, and with officials of the Department and the UNDP office on matters regarding cooperation in the field of intellectual property between Thailand and WIPO.

## Latin America and the Caribbean

### Training Courses, Seminars and Meetings

*Honduras.* In November 1992, a WIPO official spoke at the National Seminar on Enterprise Development and the Protection of Intellectual Property organized by the Ministry of Economy and Commerce and the National Council of Private Enterprises in Tegucigalpa. The Seminar was attended by around 130 participants from interested circles, including patent and trademark attorneys, lawyers and representatives of industrial and commercial enterprises.

*Nicaragua.* In November 1992, a WIPO official spoke at the National Seminar on the Paris Convention for the Protection of Industrial Property organized by the Ministry of Economy and Development and the Ministry of Foreign Affairs in Managua. The Seminar was attended by around 70 participants from interested circles, including patent and trademark attorneys, lawyers and representatives of industrial and commercial enterprises.

### Assistance With Training, Legislation and Modernization of Administration

*Argentina.* In November 1992, Mrs. Norma Félix de Sturla, Director of Technology, Quality and Industrial Property, and another government official, had discussions with WIPO officials in Geneva on procedures for Argentina's accession to the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks as well as on training requirements of the staff of the industrial property office in various fields in 1993.

*Barbados.* In November 1992, a WIPO official visited Bridgetown in order to advise the Corporate Affairs and Intellectual Property Office on the processing of PCT applications and assess its needs for assistance, as well as to hold an information session on the PCT with major patent agents in Barbados.

*Brazil.* In November 1992, a government official visited WIPO in Geneva and had discussions with a WIPO official on the trademark registration activities of INPI.

*Chile.* In November 1992, Mr. Jaime Palma Oyedo, Head, Industrial Property Department, had discussions with WIPO officials in Geneva on WIPO's cooperation program with that country, in particular, expert missions and seminars on trademarks to be organized in 1993.

*Colombia.* In November 1992, Mr. José Orlando Montealegre Escobar, Director General of Industry and Commerce, had discussions with the Director General and other WIPO officials in Geneva on the envisaged accession of Colombia to the Paris Convention for the Protection of Industrial Property, as well as on current and planned activities under the UNDP-financed country project for the modernization of the industrial property system and connected services.

*Costa Rica.* In November 1992, WIPO submitted a report on the modernization of the intellectual property system of Costa Rica to the Government. That report is based on preliminary studies made by WIPO and was prepared, at the request of the Government, under an agreement between WIPO and the Inter-American Development Bank (IDB) of October 13, 1992. The report contained WIPO's recommendations for the modernization of the patent, trademark and copyright systems in Costa Rica as well as information on the advantages of Costa Rica's possible accession to certain WIPO-administered treaties.

Also in November 1992, a WIPO consultant from Germany undertook a mission to San José to assist

the Intellectual Property Registry in the modernization of its patent services. The mission was funded by the UNDP-financed country project.

*Cuba.* In November 1992, a government official had discussions with WIPO officials in Geneva on the strengthening of the patent information services of the National Office of Inventions, Technical Information and Marks (ONIITEM).

*Honduras.* In November 1992, a WIPO official had discussions in Tegucigalpa with government and UNDP officials on legislative issues in the field of copyright and, in view of the envisaged accession of Honduras to the Paris Convention, in the field of industrial property.

*Nicaragua.* In November 1992, a WIPO official was received in Managua by government officials responsible for industrial property to discuss matters of common interest, such as the envisaged accession of Nicaragua to the Paris Convention and future cooperation between WIPO and the Government of Nicaragua for the modernization of the industrial property system in the country.

*Paraguay.* In November 1992, Mr. Oscar Jesús Cabello Sarubbi, Vice-Minister for Foreign Affairs, visited WIPO in Geneva and had discussions with WIPO officials on the Paris Convention.

Also in November 1992, Mr. Víctor Abente Brun, Director, Directorate of Industrial Property, had discussions with WIPO officials in Geneva on possible ways of strengthening cooperation between Paraguay and WIPO in the field of industrial property.

## Development Cooperation (in General)

### Training Courses, Seminars and Meetings

*WIPO Permanent Committee for Development Cooperation Related to Industrial Property (15th Session, Geneva, November 9 to 13, 1992).* The WIPO Permanent Committee for Development Cooperation Related to Industrial Property held its 15th session in Geneva from November 9 to 13, 1992. Seventy-three member States of the Permanent Committee were represented at the session: Algeria, Argentina, Austria, Bangladesh, Benin, Brazil, Bulgaria, Burkina Faso, Burundi, Canada, Central African Republic, Chad, Chile, China, Colombia, Congo, Côte d'Ivoire, Cuba, Democratic People's

Republic of Korea, Egypt, El Salvador, France, Gambia, Germany, Ghana, Guinea, Guinea Bissau, Honduras, Hungary, India, Indonesia, Italy, Japan, Jordan, Lesotho, Liberia, Libya, Malawi, Malaysia, Mali, Mauritania, Mexico, Morocco, Netherlands, Niger, Pakistan, Paraguay, Peru, Philippines, Portugal, Republic of Korea, Romania, Rwanda, Senegal, Sierra Leone, Spain, Sri Lanka, Sudan, Swaziland, Sweden, Switzerland, Togo, Uganda, United Arab Emirates, United Kingdom, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zambia, Zimbabwe. Four non-member States were represented by observers: Belgium, Namibia, Syria, Thailand. The following

six intergovernmental and seven international and national non-governmental organizations were also represented by observers: Benelux Trademark Office (BBM), Brazilian Association of Industrial Property (ABPI), Centre for the International Study of Industrial Property (CEIPI), Commission of the European Communities (CEC), European Communities Trade Mark Association (ECTA), European Patent Organisation (EPO), General Agreement on Tariffs and Trade (GATT), International Advertising Association (IAA), International Association for the Protection of Industrial Property (AIPPI), International Chamber of Commerce (ICC), International Federation of Inventors' Associations (IFIA), Organization of African Unity (OAU), United Nations Conference on Trade and Development (UNCTAD).

The Permanent Committee reviewed the development cooperation activities undertaken since its last session in July 1991.

A positive consensus materialized among delegations on the scope, substance and orientation of the WIPO development cooperation program during the period under review. WIPO's activities were variously judged to have been responsive to the needs of developing countries, practical, well managed and dynamic. Delegations commended the main fields of endeavor supported by the International Bureau, namely: human resources development; strengthening of legal and administrative machinery; the promotion of invention and innovation in developing countries; patent information and documentation, including technological information services; technical cooperation among developing countries; and cooperation with the least developed countries (LDCs).

Numerous delegations stressed the importance they attached to UNDP-financed projects executed by WIPO in the field of industrial property and urged that such technical cooperation should continue and grow. The four regional projects on industrial property in Africa, the Arab countries, Asia and the Pacific, Latin America and the Caribbean were considered especially useful as means of reinforcing efforts at the national level. Many speakers also expressed great concern over the sharp reduction in financial support from UNDP for technical cooperation in the Fifth UNDP Programming Cycle.

Member States also noted that, for the period 1992-93, WIPO had increased contributions from its own resources by nearly 30 percent to offset the shortfall in extra-budgetary funds from UNDP, and expressed their appreciation for this measure. Some delegations, while agreeing that UNDP funding was very important, felt that WIPO should not rely entirely on UNDP to maintain an acceptable level of development cooperation activities. WIPO should continue to prospect for alternative sources of funding, including regional financial institutions as well as other donors and organizations, and should

consider making available more resources for the Permanent Program from its own sources of revenue.

In the course of the meeting, delegations made a number of specific proposals building on the innovative features of the Permanent Program. These proposals related to training in licensing, assistance to enterprises in accessing patent information, training for a broader base of national officials, automated patent systems and special studies. Several delegations proposed that specialized training in industrial property should be organized for longer periods and suggested further the preparation of special studies on topics of interest to developing countries such as figurative elements of marks, well-known marks, the protection of genetic processes by patents, comparative legislative studies and technological profiles based on patent information. Some delegations also advocated the publication of special studies aimed at explaining linkages between industrial property and economic development that would help to bring the industrial property system closer to users.

In accordance with the decision taken at the 30th session of the Coordination Committee in September 1992, the Permanent Committee unanimously designated the 15 member countries of its Working Group: Algeria, Austria, Brazil, Canada, Chile, China, France, Hungary, Indonesia, Japan, Philippines, Romania, Spain, Switzerland, Zimbabwe.

The Permanent Committee devoted part of its session to a Symposium on the Teaching of Industrial Property and the Training of Trainers. The presentations were made by three WIPO consultants, from France, Pakistan and Sweden, and a WIPO official.

The Permanent Committee decided that the Symposium to be held in conjunction with its next session would deal with the use of trademarks and appellations of origin in the promotion of exports from developing countries. Furthermore, the International Bureau was invited to organize a demonstration of the latest developments in the use of modern technologies for the dissemination and use of industrial property information and documentation.

In conclusion, the Permanent Committee endorsed WIPO's development cooperation activities in the field of industrial property and approved the main orientations for the Permanent Program.

### General

*Organization of the Islamic Conference (OIC).* In November 1992, a WIPO official was received by the Secretary General of OIC at its headquarters in Jeddah (Saudi Arabia). He transmitted to the Secretary General a cooperation agreement between the two Organizations that, after its signature by the Director General and the Secretary General of OIC, entered into force on November 3, 1992.

During his stay in Jeddah, the WIPO official held discussions with the representatives of two specialized agencies of OIC whose headquarters are also in that city, namely, the Islamic Development Bank (IDB) and the Islamic Foundation for Science, Technology and Development (IFSTAD), with a view to exploring future paths of cooperation with them.

**WIPO Medals.** In November 1992, two WIPO medals were awarded, for an invention most appro-

priate to the conditions of developing countries for the needs of their development, and to an outstanding woman inventor, during the International Exhibition "Brussels Eureka 1992," held in Brussels.

Also in November 1992, a WIPO medal was awarded to an inventor during the National Excellent Invention Exhibition, held in Seoul.

Also in November 1992, a WIPO medal was awarded, in Warsaw, to an inventor from Poland, on the recommendation of the Polish Union of Associations of Inventors and Rationalizers.

## Activities of WIPO in the Field of Industrial Property Specially Designed for European Countries in Transition to Market Economy

### Regional Activities

*Symposium on Industrial Property Legislation and Practice in Estonia, Latvia and Lithuania (Helsinki).* In November 1992, a WIPO official attended and delivered a paper at the Symposium organized by the Finnish Group of the International Association for the Protection of Industrial Property (AIPPI) in Helsinki. The Symposium was attended by some 150 participants.

### National Activities

*Belarus.* In November 1992, Mr. Valery Kudashov, Head of the State Patent Office, accompanied by another official of that Office, visited WIPO to discuss questions relating to the preparation of industrial property legislation in Belarus, the continued application to Belarus of certain WIPO-administered treaties, future cooperation under the Patent Cooperation Treaty (PCT) and the training of officials of the State Patent Office.

*Georgia.* In November 1992, Mr. David Gabunia, Deputy Minister for Science and Technology and Chairman of the Patent Office, accompanied by another official of that Office, visited WIPO to

discuss with the Director General and other WIPO officials the draft industrial property legislation of Georgia, the continued application to Georgia of certain WIPO-administered treaties and the country's possible accession to the PCT. On that occasion, WIPO officials gave assistance and advice on the drafting of an announcement on the industrial property situation in Georgia and comments on the patent, trademark and industrial design legislation of Georgia.

*Kazakhstan.* In November 1992, Mr. Tolesh Kaudyrov, Chairman of the National Patent Office, accompanied by another official of that Office, visited WIPO to discuss with the Director General and other WIPO officials the current situation in respect of industrial property protection and future plans, the possibilities of cooperation between WIPO and Kazakhstan in the form of assistance in the drafting of legislation and of training national officials in the registration systems under the PCT and the Madrid Agreement Concerning the International Registration of Marks, and also the procedure for extension of PCT applications to "successor States." On that occasion, WIPO officials gave advice and assistance in the drafting of an announcement on the industrial property situation in Kazakhstan and of

legislation for the protection of trademarks and appellations of origin.

*Romania.* In November 1992, an official of the State Office for Inventions and Marks was given a presentation in Geneva of WIPO's ROMARIN (*Read-Only-Memory of Madrid Actualized Registry INformation*) CD-ROM product by a WIPO official.

*Slovenia.* In November 1992, Mr. Bojan Pretnar, Director of the Industrial Property Protection Office, visited WIPO and discussed with WIPO officials questions relating to patent procedures and Slovenia's possible accession to the PCT.

*Tajikistan.* In November and December 1992, Mr. Talbak Nazarov, Vice-President of the Academy of Sciences, visited WIPO to discuss the industrial property legislation of Tajikistan and the country's possible accession to WIPO-administered treaties.

*Ukraine.* In November 1992, two officials from the State Patent Office visited WIPO on a one-week visit to study administrative procedures under the PCT and the Madrid Agreement.

Also in November 1992, Mr. Valery L. Petrov, Chairman of the State Patent Office, discussed with WIPO officials in Geneva questions relating mainly to the industrial property legislation of Ukraine.

## Contacts of the International Bureau of WIPO with Governments and International Organizations in the Field of Industrial Property

### United Nations

*United Nations.* In November 1992, a WIPO official attended in Geneva the International Day of Solidarity with the Palestinian People.

*United Nations Inter-Agency Task Force (UNI-ATF).* In November 1992, a WIPO official attended the special meeting of the United Nations Inter-Agency Task Force on Africa's Critical Economic Situation, Recovery and Development, which took place at the headquarters of the Economic Commission for Africa (ECA) in Addis Ababa.

*Interagency Meeting on "Enhancing the Role of the Private Sector in Development."* In November 1992, a WIPO official participated in an Interagency Meeting on "Enhancing the Role of the Private Sector in Development" organized by the United Nations Development Programme (UNDP) in New York. The meeting was attended by representatives of 10 specialized agencies of the United Nations system and the UN Department of Economic and Social Development. The WIPO official present emphasized WIPO's active role in this respect.

*United Nations Conference on Trade and Development (UNCTAD).* In November 1992, a WIPO official attended in Geneva the 11th session of the Intergovernmental Group of Experts on Restrictive Business Practices (RBPs) organized by the UNCTAD Trade and Development Board.

### Intergovernmental Organizations

*European Communities (EC).* In November 1992, an official of the Commission of the European Communities (CEC) visited WIPO to discuss with WIPO officials various Community cooperation projects of interest to WIPO, in particular in Central and Eastern Europe.

*European Patent Organisation/Office (EPO).* In November 1992, a WIPO official attended in Munich the Symposium on "Genetic Engineering—The New Challenge" (EPOSIUM) organized by the EPO, the EC and the Government of Germany, and attended by some 350 participants.

Also in November 1992, a WIPO official attended in Munich the 27th meeting of the Working Party on

Statistics of the EPO. The WIPO official also discussed with a number of EPO officials matters of cooperation in the field of data bases and exchange of statistical data between WIPO and the EPO.

Also in November 1992, a WIPO official attended in The Hague an informal meeting organized by the EPO for the purpose of informing the national offices of the EPO Member States of its project for a large-scale optical disc system for the processing of European patent applications called EASY (Electronic Application SYstem), of which WIPO had become a full party in its capacity as Patent Cooperation Treaty (PCT) Authority. The WIPO official discussed with the EASY team and other EPO officials the progress made with respect to the inclusion of the "later publication" of the PCT pamphlets in the EPO/WIPO ESPACE-WORLD CD-ROM containing bibliographic data and the complete facsimile images of the PCT applications published by WIPO.

Also in November 1992, a WIPO official visited the EPO in The Hague in order to study problems experienced by the EPO in using the International Patent Classification (IPC) as a search tool when carrying out searches with the help of automated means and to discuss questions relating to the future of the IPC.

### Non-Governmental Organizations

On November 27, 1992, WIPO held an informal meeting at its headquarters with representatives from international non-governmental organizations interested in matters of industrial property and/or copyright in order to exchange views on the activities and programs of WIPO. The following non-governmental organizations were represented: Association for the International Collective Management of Audiovisual Works (AGICOA), Committee of National Institutes of Patent Agents (CNIPA), Coordination of European Independent Producers (CEPI), European Association of Industries of Branded Products (AIM), European Broadcasting Union (EBU), European Tape Industry Council (ETIC), Federal Chamber of Patent Agents (Germany) (FCPA), Inter-American Copyright Institute (IIDA), International Association for the Protection of Industrial Property (AIPPI), International Association of Conference Interpreters (AIIC), International Chamber of Commerce (ICC), International Confederation of Societies of Authors and Composers (CISAC), International Council of Societies of Industrial Design (ICSID), International Federation of Actors (FIA), International Federation of Associations of Film Distributors (FIAD), International Federation of Computer Law Associations (IFCLA), International Federation of Film Producers Associations (FIAPF), International Federation of Industrial Property Attorneys (FICPI), International Federation of Inventors' Associations (IFI), Inter-

national Federation of Musicians (FIM), International Federation of the Phonographic Industry (IFPI), International Group of Scientific, Technical and Medical Publishers (STM), International Literary and Artistic Association (ALAI), International Publishers Association (IPA), International Secretariat for Arts, Mass Media and Entertainment Trade Unions (ISETU), International Video Federation (IVF), Japan Patent Association (JPA), Latin American Institute for Advanced Technology, Computer Science and Law (ILATID), Licensing Executives Society International (LESI), Max Planck Institute for Foreign and International Patent, Copyright and Competition Law (MPI), Union of Industrial and Employers' Confederations of Europe (UNICE).

### Other Organizations

*American Arbitration Association (AAA).* In November 1992, the President and the General Counsel of that Association visited WIPO for discussions with the Director General and other WIPO officials on possible cooperation between WIPO and the AAA.

*Association of International Libraries (AIL).* In November 1992, a WIPO official participated in a Management Training Seminar organized by AIL in Geneva.

*European Foundation for Library Cooperation (EFLC)/Working Group of European Librarians and Publishers.* In November 1992, a WIPO official participated, in Brussels, in a Conference entitled "Knowledge for Europe—Librarians and Publishers Working Together" organized by EFLC.

*Franklin Pierce Law Center.* In November 1992, a professor from that Center met with the Director General and other WIPO officials in Geneva to discuss matters of common interest.

### National Contacts

*Canada.* In November 1992, three officials of the Canadian Patent Office discussed with WIPO officials in Geneva questions relating to the PCT and the Madrid Agreement Concerning the International Registration of Marks.

*France.* In November 1992, an official of the French National Institute of Industrial Property (INPI) had discussions with WIPO officials in Geneva on WIPO's ROMARIN (Read-Only-Memory of Madrid Actualized Registry INformation) CD-ROM product.

*Japan.* In November 1992, a study group of 12 managers and researchers from the legal and patent departments of major Japanese corporations visited WIPO and was given presentations by WIPO officials on the activities of WIPO in the field of industrial property in general.

Also in November 1992, a trademark examiner from the Japanese Patent Office discussed with WIPO officials in Geneva matters concerning the Protocol Relating to the Madrid Agreement.

*United Kingdom.* In November 1992, a WIPO official participated in a Conference on the Protection and Exploitation of Intellectual Property in Russia and the former Soviet Union organized in

London by Interforum Services Ltd., a private institution in the United Kingdom, in cooperation with the United Kingdom Patent Office. Some 45 participants attended the Conference, mostly patent attorneys and legal advisers from firms interested or involved in cooperation with the States or the territory of the former Soviet Union.

*United States of America.* In November 1992, two officials of the United States Patent and Trademark Office (USPTO), had discussions in Geneva with a number of WIPO officials on the Protocol Relating to the Madrid Agreement.

Also in November 1992, a WIPO official visited the USPTO to discuss operations under the PCT.

## Miscellaneous News

### The Blue Tower of WIPO on the Place des Nations in Geneva (Built Between 1974 and 1978)

by its architect  
**Pierre Braillard, Geneva**

This is undoubtedly the work into which I have put the most of myself, which I have experienced with the greatest intensity and in which I have best been able to express myself.

It is also the work that has given me the most satisfaction.

For me, volume is the supreme expression of art, and also the most difficult since all three dimensions have to be mastered. Color is an accessory which merely lends emphasis to the various aspects of volume.

A straight line, by itself, has no spirit. It has no content, no variant; several straight lines are required to express a shape. Forever the same, it leaves little room for imagination: if it stops, we know how it would have continued.

A curve, on the other hand, always contains a message. It can range from extremes of gentleness to

extremes of brutality; it is a source of great sentimental and intellectual wealth, it suggests, it creates, it lives. If it stops, we do not know how it would have continued; it holds a mystery, and man, ever desirous of knowledge and understanding, is disturbed by this mystery.

My prime concern when creating the House of WIPO was to avoid the ponderous bulk of a static tower, planted heavily, aggressively in the ground.

I was looking for a light, lively design that would change with the changes in light quality from morning to evening or from day to day; one that would change also according to the movements of the viewer who, as his viewpoint changed, would be presented with new perspectives. A design that shared in the life of the sky and clouds, and played with them.

That is how I came to imagine this façade of

glass in the shape of a concave arc on which the daylight plays with infinite variety.

The large conference hall was moved outside the main building on account of its considerable volume. As the heart of WIPO, it now nestles symbolically within the protecting curve of the tall façade. In this way it fits neatly into the overall design.

By contrast, and in order to emphasize the lightness of the glazed façades, two large windowless panels clad in red granite occupy half of each side wall from top to bottom.

Resting as they are on sandstone, they have an obvious structural role in bracing the tower, and are supplemented in this by the central core of the building, which comprises four elevator shafts in pairs flanked by two emergency staircases, all in reinforced concrete.

However, this lightness of architectural design had also to be matched by the color, the structure and the nature of the materials used.

"Absorbent" glazing, consisting of two sheets of glass separated by a dry vacuum, was making a timid appearance on the market. The sapphire-blue color, obtained by means of a fine dusting of silver-oxide powder on the inner surface of one of the two panes, which are hermetically sealed with a special putty, particularly suited my plans.

What I was looking for was one-piece glazed panels to the full height of each floor, which would avoid the need for intermediate frames. The dimensions involved were at the limit of manufacturing capabilities.

It was most important to me to achieve a color that was the same, seen from the outside, for the transparent glazing of the offices and for the translucent parts between floors that were to camouflage the concrete slabs and the technical installations for the air-conditioning, heating, electricity, telephone and communications.

I undertook numerous tests on a full-scale model until I achieved a perfect result.

The load-bearing structure of the building had to be so designed as to be invisible from the outside; the curve of glass should simply outline the volume, with no divisions, either vertical or horizontal.

This was achieved by increasing the number of uprights, which were located every 1.2 meters, alongside each glazing module. They are small, solid-steel pillars 10 x 10 cm in section, which bear the solid reinforced-concrete floor slabs. Such an arrangement considerably lessens the expansion and "creep" of the slabs, a phenomenon that otherwise tends to affect large spans. This increase in number of bearing points results in better load distribution, and prevents distortions which the façade could not accommodate without a certain amount of broken glass.

From the inside, these slender pillars are hardly visible, and in no way restrict either the use of the

premises or the glazed surfaces. They make it possible to secure partitions to the façade every 1.2 meters.

The fragile nature of the large glass façade panels called for a metal bearing structure, but one in which every element had to be individually designed to preserve its freedom of movement.

In spite of the 600 kg that each window unit weighed, I wanted the load-bearing structure to be as discreet as possible, with only a fine latticework of aluminum visible.

Apart from that, the glass had to be fitted to the metal in a manner that was flexible enough to allow for the expansion and contraction of the two materials, exposed as they were to the wind and to considerable temperature variations, and yet ensured a perfect seal.

This was achieved by the use of a strip of artificial foam rubber, tailor-made to fit all round the window frame without a join. It is black and invisible. All that is seen is a thin strip of profiled aluminum screwed to the load-bearing structure which holds two adjacent window units in place at the same time. This forms the silver-colored lattice-work that shows up on the façade.

The joints between the window panels allow each panel to be set at different angles, so that these myriad facets combine and merge to highlight the smooth arc of the façade.

Because the window units are sealed, the outer surfaces are cleaned and maintained from a cradle suspended from a trolley that moves on rails fitted in the roof.

Access to the lobby from outside is afforded by a porch of slender columns made of solid stainless steel and twin entrances, each with double automatic doors.

The lobby occupies a very large area, and the ceiling height of the ground floor was insufficient to lend a building of this importance the prestige that it deserved.

I therefore opened up a large area of the first floor in order to give the lobby a ceiling height corresponding to two floors. A cupola inset with gilded mosaic made in the workshops of the Vatican serves to lighten the ceiling and further increase its height.

The dominant feature of the lobby is the wall fountain, which takes up the full height of a wall six meters high by eleven wide, and is executed in small squares of various types of marble and contrasting grey rock.

The fountain has a symbolic theme in keeping with this temple of world intellectual property protection.

It represents the emergence of the world from the mists, represented by white marble, beneath which water, the source of all life, appears as from a spring and trickles down the wall.

Then comes the Earth itself represented by the grey rock.

The water gives birth to plant life, which we see as marble that is first pale green and gradually darkens as that life becomes more dense.

At the foot of the wall the water, representing human thought, collects in a marble basin from which five multicolored ribbons spring forth, representing thought in the five continents. These ribbons, with their ever-changing colors, spread through the entire lobby. They wind in and out at the whim of mankind, broadening as they pass through centuries of enlightenment and narrowing during periods of intellectual austerity.

This cycle, extending from the birth of the world to the present day, culminates in the apotheosis of a sunburst, representing the discovery of nuclear energy.

Immediately above, the gilded cupola, as well as increasing the height of the lobby, gives it volume and life at this focal point.

All the marble for this unique floor and that of the wall fountain were chosen piece by piece and put together in the course of exciting work sessions in which the Director General of WIPO, Dr. A. Bogsch, myself and senior representatives of the Roman marble industry were all absorbed.

The opening up of the first floor to increase the height of the lobby made it necessary to surround the remaining part with a safety railing.

I wanted at all costs to avoid the creation of a wall-like barrier.

Some form of barrier was essential for practical reasons, of course, but I wanted it to be invisible, diaphanous, seemingly nonexistent. I spent a great deal of time looking for such an ethereal design, a search which eventually earned the ironworker Walo Grandjean the task of forging more than 900 meters of wide, flat strips of iron. I should like to pay tribute here to the work of this modest and self-effacing craftsman.

Two conference rooms were created, leading off the main hall which affords access to them.

The largest is oval in shape, without any central pillar. One of the long sides is entirely glazed from floor to ceiling, with electrically-operated outside blinds and inside curtains. The other side is trimmed with exotic dark wood from the Orient and accommodates the four simultaneous interpretation booths as well as the two entrance doors.

The two shorter sides are straight and trimmed with heavy colored drapes which conceal the air-conditioning installation.

The ceiling, which is also slightly curved, is fully lit across its entire area. It consists of innumerable champagne-colored translucent glass tiles from Murano, with an irregular raised pattern on their surface. The mountings of the tiles are invisible, and the spaces between are left open to allow air to pass

through to the air-conditioning system. In this way the rising stale air and smoke are ducted away, together with the heat generated by the lamps set into the false ceiling.

The floor is carpeted in apple-green moquette with a multicolored pattern.

This hall has a seating capacity of 250; each seat is equipped with a desk wired to the sound system, so that speakers may take the floor without leaving their places, and also so that their interventions may be instantly translated into three other languages.

The desk for the chairmen and officers of meetings is on a raised platform.

The acoustics and air-conditioning in this hall are particularly effective. This is due both to the shape of the hall and to the materials used in it.

Outside, beneath the glazed part of the hall, there is a long trough from which water tumbles two meters in a 65-meter wide cascade. This curtain of water forms an animated base for the hall, and the sound of rushing water dampens the noise of nearby traffic. The water collects in a large basin graced by two statues by Giambologna, the 16th-century Florentine sculptor. They are castings taken from the original water nymphs in Neptune's fountain on the Piazza Signoria, in front of the Palazzo Vecchio in Florence.

The smaller room is rectangular. One of its longer sides is glazed, the other trimmed with wood, with the glass fronts of the simultaneous interpretation booths and the entrance door let into it. The ceiling is fully lit from side to side, and the floor carpeted. The room is furnished with desks equipped for sound.

The remainder of the lobby, the walls of which are either extensively glazed or trimmed with wood, includes washrooms, cloakrooms and the doors of the four paired elevators.

The upper floors are all occupied by offices, the dimensions of which may be altered by means of removable metal dividing walls. These walls are insulated against sound and sprayed with a light-colored acrylic paint. The landings are decorated with a different kind of marble to give individuality to each floor.

The building is entirely air-conditioned, as the windows are sealed. The fresh-air inlets are at the foot of the windows, at ground level. The stale air is removed through holes in the metal ceilings in which the artificial lighting is also incorporated. All the floors are carpeted.

The top floor is a cafeteria for staff and the general public. This floor is entirely glazed and affords a sensational panoramic view of the lake and its banks as far as Lausanne, towards the hills of the Voiron, the Alps with the Mont Blanc, the Salève and the Jura mountains.

The foot of the tower, consisting of the ground and first floors, has slightly more floor space than

the tower itself. In addition to the lobby and the small conference room, it accommodates a number of first-floor offices. In the first basement there are the storage areas for the archives and documents, the workshops of the technical staff, the vast heating

installation and the air-conditioning plant. Underneath that there are four more basements which have been made into a covered car park with ramp access.

The land around the building has been made into an ornamental park.

## National News

**Russian Federation.** The new Patent Law of September 21, 1992, entered into force on the date of its publication, that is, on October 14, 1992.

The new Law on Trademarks, Service Marks and Appellations of Origin of Goods of September 21, 1992, also entered into force on the date of its publication, that is, on October 14, 1992.

**Thailand.** The Patents Act B.E. 2522 (1979), as amended by the Patents Act (No. 2) B.E. 2535 (1992), (consolidated version) entered into force on September 30, 1992.

## Calendar of Meetings

### WIPO Meetings

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

#### 1993

**March 31 to April 2  
(Harvard University,  
Cambridge, Massachusetts)**

**WIPO Worldwide Symposium on the Impact of Digital Technology on Copyright and Neighboring Rights**

The Symposium will discuss the impact of digital technology on the creation, dissemination and protection of literary and artistic works, performances and sound recordings.

*Invitations:* Governments, selected non-governmental organizations and any member of the public (registration fee US\$150).

**April 26 to 30 (Geneva)**

**Committee of Experts on the Development of the Hague Agreement (Third Session)**

The Committee will continue to consider possibilities for revising the Hague Agreement Concerning the International Deposit of Industrial Designs, or adding to it a protocol, in order to introduce in the Hague system provisions intended to encourage States to adhere to the system and to facilitate the use of the system by applicants.

*Invitations:* States members of the Hague Union and, as observers, States members of the Paris Union not members of the Hague Union and certain organizations.

**May 10 to 21 (Geneva)**

**Committee of Experts on the Settlement of Intellectual Property Disputes Between States (Fifth Session) and Preparatory Meeting for the Diplomatic Conference for the Conclusion of a Treaty on the Settlement of Intellectual Property Disputes Between States**

The Committee of Experts will continue the preparations for a possible multilateral treaty on the settlement of intellectual property disputes between States. The Preparatory Meeting will decide what substantive documents should be submitted to the Diplomatic Conference and which States and organizations should be invited to the Diplomatic Conference. The Preparatory Meeting will also establish the draft Rules of Procedure of the Diplomatic Conference.

*Invitations:* States members of the Paris Union, the Berne Union or WIPO or party to the Nairobi Treaty and, as observers, certain organizations.

**June 2 to 4 (Geneva)**

**Working Group of Non-Governmental Organizations on Arbitration and Other Extra-Judicial Mechanisms for the Resolution of Intellectual Property Disputes Between Private Parties (Third Session)**

The Working Group will examine draft WIPO arbitration and mediation rules, in view of the proposed establishment, within WIPO, of services for the resolution of disputes between private parties concerning intellectual property rights.

*Invitations:* Selected non-governmental organizations.

**June 7 to 18 (Geneva)**

**Committee of Experts on the Harmonization of Laws for the Protection of Marks (Fifth Session)**

The Committee will continue to examine a draft trademark law treaty, with particular emphasis on the harmonization of formalities with respect to trademark registration procedures.

*Invitations:* States members of the Paris Union, the European Communities and, as observers, States members of WIPO not members of the Paris Union and certain organizations.

**June 21 to 25 (Geneva)**

**Committee of Experts on a Possible Protocol to the Berne Convention (Third Session)**

The Committee will continue to examine the question of the preparation of a possible protocol to the Berne Convention for the Protection of Literary and Artistic Works.

*Invitations:* States members of the Berne Union, the Commission of the European Communities and, as observers, States members of WIPO not members of the Berne Union and certain organizations.

**June 28 to July 2 (Geneva)**

**Committee of Experts on a Possible Instrument on the Protection of the Rights of Performers and Producers of Phonograms (First Session)**

The Committee will examine the question of the preparation of a possible new instrument (treaty) on the protection of the rights of performers and producers of phonograms.

*Invitations:* States members of WIPO, the Commission of the European Communities and, as observers, certain organizations.

**July 12 to 30 (Geneva)**

**Diplomatic Conference for the Conclusion of a Treaty Supplementing the Paris Convention as far as Patents are Concerned (Second Part)**

The Diplomatic Conference should adopt the Treaty Supplementing the Paris Convention as far as Patents are Concerned. It is the second part of the Diplomatic Conference whose first part took place at The Hague in 1991.

*Invitations:* States members of the Paris Union, the European Patent Organisation (EPO) and the African Intellectual Property Organization (OAPI) and, as observers, States members of WIPO not members of the Paris Union and certain organizations.

**September 20 to 29 (Geneva)**

**Governing Bodies of WIPO and the Unions Administered by WIPO (Twenty-Fourth Series of Meetings)**

All the Governing Bodies of WIPO and the Unions administered by WIPO meet in ordinary sessions every two years in odd-numbered years.

In the sessions in 1993, the Governing Bodies will, *inter alia*, review and evaluate WIPO's activities undertaken since July 1991, and adopt the program and budget of the International Bureau for the 1994-95 biennium.

*Invitations:* States members of WIPO or the Unions and, as observers, other States members of the United Nations and certain organizations.

**October 13 and 14 (Funchal, Madeira)**

**Symposium on the International Protection of Geographical Indications (organized by WIPO in cooperation with the Government of Portugal)**

The Symposium will deal with the protection of geographical indications (appellations of origin and other geographical indications) both on the national and multilateral level.

*Invitations:* Governments, selected non-governmental organizations and any member of the public (against payment of a registration fee).

**November 8 to 12 (Geneva)****Committee of Experts on a Model Law on the Rights of Performers and Producers of Phonograms (Second Session)**

The Committee of Experts will continue to consider a draft Model Law dealing with the protection of the rights of producers of phonograms, and it will consider (for the first time) provisions for the Model Law dealing with the rights of performing artists.

*Invitations:* States members of the Berne Union or WIPO, or party to the Rome Convention or the Phonograms Convention and, as observers, certain organizations.

## **UPOV Meetings**

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

### **1993**

**April 21 and 22 (Geneva)****Administrative and Legal Committee**

*Invitations:* Member States of UPOV and, as observers, certain non-member States and inter-governmental organizations.

**April 23 (Geneva)****Consultative Committee (Forty-Sixth Session)**

*Invitations:* Member States of UPOV.

**October 27 (Geneva)****Administrative and Legal Committee**

*Invitations:* Member States of UPOV and, as observers, certain non-member States and inter-governmental organizations.

**October 28 (Geneva)****Consultative Committee (Forty-Seventh Session)**

*Invitations:* Member States of UPOV.

**October 29 (Geneva)****Council (Twenty-Seventh Ordinary Session)**

*Invitations:* Member States of UPOV and, as observers, certain non-member States and inter-governmental and non-governmental organizations.

## **Other Meetings**

### **1993**

**May 8 to 12 (New Orleans)**

United States Trademark Association (USTA): 115th Annual Meeting

**May 23 to 26 (Bournemouth)**

Union of European Practitioners in Industrial Property (UEPIP): Congress

**June 2 to 5 (Madrid)**

European Communities Trade Mark Association (ECTA): Annual General Meeting and Conference

**June 7 to 11 (Vejde)**

International Federation of Industrial Property Attorneys (FICPI): Executive Committee

**June 12 to 16 (Lisbon)**

International Association for the Protection of Industrial Property (AIPPI): Council of Presidents

**June 26 to July 1 (Berlin)**

Licensing Executives Society International (LESI): Annual Meeting

**September 12 to 16 (Colombo)**

Law Association for Asia and the Pacific (LAWASIA): 13th LAWASIA Conference

**September 20 to 24 (Antwerp)**

International Literary and Artistic Association (ALAI): Congress

**October 6 to 8 (Cincinnati)**

Pacific Industrial Property Association (PIPA): International Congress

**1994**

- February 2 to 8 (Queenstown) International Federation of Industrial Property Attorneys (FICPI): Executive Committee
- May 8 to 11 (Seattle) United States Trademark Association (USTA): 116th Annual Meeting
- May 25 to 28 (Luxembourg) European Communities Trade Mark Association (ECTA): Annual General Meeting and Conference
- June 12 to 18 (Copenhagen) International Association for the Protection of Industrial Property (AIPPI): Executive Committee
- June 20 to 24 (Vienna) International Federation of Industrial Property Attorneys (FICPI): Congress





