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GRUPE DE TRAVAIL: ARRANGEMENT ADMINISTRATIF (Genève, 20-26 mai 1964)
WORKING PARTY ON AN ADMINISTRATIVE AGREEMENT (Geneva, May 20 to 26, 1964)

REVISED DRAFT OF AN ADMINISTRATIVE AGREEMENT

(FIRST PART)

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ARTICLE 1

DEFINITIONS

For the purposes of this Agreement:

"Paris Convention" means the Convention on the protection of industrial property signed on March 20, 1883, and any of its past or future revisions;

"Berne Convention" means the Convention on the protection of literary and artistic works signed on September 9, 1886, and any of its past or future revisions;

"Madrid Agreement" means the Agreement on the International Registration of Trademarks signed on April 4, 1891, and any of its past or future revisions;

"Paris Union" means the International Union established by the Paris Convention;

"Berne Union" means the International Union established by the Berne Convention;

"Madrid Union" means the International Union established by the Madrid Agreement;

"Unions" means the Paris Union, the International Unions established in connection with the Paris Union, the Berne Union, and any other Union established by any convention, agreement or treaty whose administration is assumed by the Organization according to Article 2(2)(iii).

ARTICLE 2ESTABLISHMENT, OBJECTIVE AND FUNCTIONS(Former Article 1)

(1) The International Organization for Intellectual Property (hereinafter called the Organization) is hereby established with the objective of promoting international cooperation in the field of protection for:

- (i) authors of literary and artistic works,
- (ii) inventors, particularly in the field of science, industry and agriculture,
- (iii) performing artists,
- (iv) industries and services which utilize or disseminate literary and artistic works, inventions, designs, trademarks and other commercial designations,

and thus to enhance the dissemination of intellectual creations among the various Nations without discrimination as to their economic or social structures and the degree of their industrialization and to foster the production and distribution of goods throughout the world.

(2) To this end, the Organization:

- (i) shall, in the field of intellectual property, encourage the maintenance, implementation and development of the existing international conventions, agreements and treaties, and the conclusion of new conventions, agreements or treaties where appropriate, and perform such duties as may be assigned thereby to the Organization and are consistent with its objective;

- (ii) is entrusted with the administrative tasks of the Paris Union, the special agreements established in relation with that Union, and the Berne Union;
- (iii) may assume the administration of other intellectual property conventions, agreements and treaties, in agreement with the States members thereof;
- (iv) shall assemble information, promote and carry out studies, concerning intellectual property, and shall disseminate the information thus assembled and the results of such studies;
- (v) maintain services facilitating the international protection of intellectual property, and, where desirable, the publicity and registration in the field of intellectual property;
- (vi) promote the adoption of measures calculated to simplify the protection of intellectual property throughout the world and to harmonize national legislations;
- (vii) advise the countries requesting technical assistance in the field of intellectual property;
- (viii) generally, take all necessary action to attain the objective of the Organization.

ARTICLE 3

MEMBERSHIP

Membership in the Organization shall be open to any State which is:

- (i) a party to the Paris Convention or the Berne Convention, or
- (ii) a party to any other convention, agreement or treaty the administration of which is entrusted to the Organization, or
- (iii) a member of the United Nations or any of its Specialized Agencies, or
- (iv) a State invited by the General Conference to become a member of the Organization.

ARTICLE
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ARTICLE 4

HEADQUARTERS

The headquarters of the Organization shall be at Geneva. It may be transferred to another location pursuant to a decision of the General Conference.

ARTICLE 5

ORGANS OF THE ORGANIZATION

The organs of the Organization are the General Conference, the Executive Board, and the Secretariat headed by the Director General.

ARTICLE 6

GENERAL CONFERENCE

(1) The General Conference shall consist of the States Members of the Organization. The Government of each Member State shall be represented by one delegate who may be assisted by alternate delegates and by advisors.

(2) Subject to the powers reserved to the General Assemblies and Executive Committees of the various Unions, the General Conference shall:

- (i) determine the triennial program of the Organization as such;
- (ii) adopt the triennial budget of the Organization;
- (iii) approve the final accounts;
- (iv) review and approve reports and activities of the Executive Board and the Director General and instruct them in regard to matters which action, study, investigation or report may be considered desirable;
- (v) elect the members of the Executive Board;
- (vi) appoint the Director General;
- (vii) establish such committees as may be considered necessary for the work of the Organization;
- (viii) determine the working languages of the various organs of the Organization;
- (ix) confirm the arrangements made by the Director General for the administration of the conventions, agreements and treaties referred to in Article 2(2)(iii).

- (x) exercise such other functions as provided in this Agreement;
- (xi) take any other appropriate action designed to further the objectives of the Organization.

(3) Each Member State shall have one vote in the General Conference.

(4) Upon convocation by the Director General, the General Conference shall meet once in every third calendar year in ordinary session. It shall meet in extraordinary session upon convocation of the Director General at the request of the Executive Board or of one-fourth of the Member States. Meetings shall be held at the headquarters of the Organization.

(5) The General Conference shall adopt its rules of procedure.

(6) The General Conference shall, at each ordinary session, elect a chairman and other officers. It shall, at each session, appoint the necessary working committees.

(7) The General Conference may admit representatives of international organizations as observers to such of its meetings or meetings of its working committees as it sees fit.

ARTICLE 7GENERAL ASSEMBLIES OF THE UNIONS(former Article 6 bis)

(1) Each Union shall have a General Assembly consisting of the States Members of the Union. The Government of each Member State shall be represented by one delegate who may be assisted by alternate delegates and by advisors.

(2) The General Assembly of each Union shall have the following powers so far as its Union is concerned:

- (i) it shall determine the triennial program and budget of the Union in all matters exclusively concerning the operations and the administration of the Union;
- (ii) it shall review and approve reports and activities of its Executive Committee and shall give instructions to such Committee;
- (iii) it shall review and approve reports and activities of the Director General concerning the Union and shall give instructions to him in such matters;
- (iv) it shall elect the members of the Executive Committee of the Union where the Union has such a Committee;
- (v) it shall establish such commissions as may be considered necessary for the work of the Union;
- (vi) it shall take any other appropriate action designed to further the objectives of the Union.

(3) Each Member State of the Union shall have one vote in the General Assembly of the Union.

(4) Upon convocation by the Director General, the General Assemblies of the Unions shall meet in ordinary session during the same period and at the same place as the General

Conference of the Organization. The General Assembly of each Union shall meet in extraordinary session upon convocation of the Director General, at the request of its Executive Committee, or of one fourth of the Member States of the Union.

(5) Each General Assembly shall adopt its rules of procedure.

(6) Each General Assembly shall at each ordinary session, elect such officers as provided in its rules of procedure. It shall, at each session, appoint the necessary working groups.

(7) Each General Assembly may admit representatives of international organizations as observers to such of its meetings or meetings of its working groups as it sees fit.

ARTICLE 8

EXECUTIVE BOARD

(1) The Executive Board shall consist of members elected by the General Conference from among the Member States.

(2) (a) In order to secure participation by all the different categories of States Members of the Organization, members of the Executive Board shall be elected from rosters.

(b) Before each election, a separate roster shall be established for each of the following categories of States:

(i) States parties to the Paris Convention, the Berne Convention, and the Madrid Agreement,

(ii) States parties to the Paris Convention and the Berne Convention,

(iii) States parties to the Paris Convention,

(iv) States parties to the Berne Convention,

(c) Furthermore, a new separate roster shall be established for each convention, agreement or treaty whose administration is entrusted to the Organization and adherence to which is not limited to States Members of the Paris Union or of the Berne Union.

(d) Finally, there will be a roster for States not parties to any of the conventions, agreements or treaties referred to in subparagraphs (b) and (c) above.

(e) Each State shall be inscribed in the roster for which it qualifies first in the rosters as listed above. For the purposes of determining the number of seats available for each roster, no State shall be inscribed in more than one roster.

(f) For each roster, there shall be a number of seats corresponding to one fourth of the number of States inscribed in such rosters. Remainders after division by four shall be disregarded; however, if the total number of States

inscribed in a roster is less than four, there shall be one seat available for such roster. In filling the seats allotted to each roster, any State inscribed in that roster or any preceding roster (provided that such State is a party to at least one of the Conventions referred to in the roster under consideration) may be elected. No State may fill more than one seat.

(g) In electing the members of the Executive Board, the General Conference shall have regard to a balanced geographical distribution.

(h) Each member of the Executive Board shall serve from the close of the session of the General Conference which elected it to the close of the next ordinary session. However, members may be re-elected, except that on any new election to the seats available for a given roster not more than two thirds of the States filling those seats shall be re-elected. At each election for seats allotted to rosters, and until the limit of two thirds is attained, the names of the States whose membership is about to expire shall be called in alphabetical order and the General Conference shall vote on each separately whether to re-elect it or not. It shall be decided by lot drawn before ~~each~~ election whether the names of the States shall be called on the basis of the English or the French alphabetical list of their names; furthermore, the letter of the alphabet with which the calling for possible re-election will start shall be drawn by lot.

(3) The Executive Board shall:

- (i) prepare the agenda of the General Conference;
- (ii) submit proposals to the General Conference in respect to the draft of the triennial program and budget referred to in Article 6 prepared by the Director General, and approve, within the limits of the triennial program and budget,

- the specific yearly budgets and programs prepared by the Director General;
- (iii) submit, with appropriate comments, to the General Conference the periodical reports of the Director General and the yearly audit reports on the accounts;
 - (iv) when the term of office of the Director General is about to expire, nominate either him for reappointment, or a candidate for appointment, by the General Conference as Director General, or, when there is a vacancy in the post of the Director General, nominate a candidate for such appointment;
 - (v) appoints an Acting Director General if the post of the Director General becomes vacant between two sessions of the General Conference; the term of office of the former shall last until the next session of the General Conference;
 - (vi) in accordance with the decisions of the General Conference and having regard to circumstances arising between two ordinary sessions of that Conference, it shall take all necessary measures to ensure the effective and rational execution of the program by the Director General;
 - (vii) exercise such other functions which other provisions of this Agreement refer to it.

(4) Upon convocation by the Director General, the Executive Board shall meet at least once every year.

(5) Each member of the Executive Board shall have one vote. Decisions shall be made by simple majority. More than half of the votes cast by the members present and not abstaining shall constitute a simple majority.

(6) The Executive Board shall establish its own rules of procedure subject to the provisions of this Agreement and the decisions of the General Conference.

(7) The Executive Board shall elect a chairman and other officers, and appoint the necessary working committees, as provided in its rules of procedure.

ARTICLE 9

EXECUTIVE COMMITTEES OF THE PARIS UNION AND THE
BERNE UNION

(Former Article 7 bis)

(1) (a) The General Assembly of the Paris Union shall elect, from among the Member States of that Union, an Executive Committee.

(b) The General Assembly of the Berne Union shall elect, from among the Member States of that Union, an Executive Committee.

(c) The provisions of paragraphs (2) to (9) are applicable to each of these two Executive Committees.

(2) The number of the States Members of the Executive Committee shall correspond to one-fourth of the States Members of the Union. In establishing the number of seats to be filled, remainders after division by four shall be disregarded.

(3) In electing the members of the Executive Committee, the General Assembly shall have regard to a balanced geographical distribution.

(4) Each member of the Executive Committee shall serve from the close of the session of the General Assembly which elected it to the close of the next ordinary session. Not more than two thirds of them may be re-elected. At each election, and until the limit of two thirds is attained, the names of the States whose membership is about to expire shall be called in alphabetical order and the General Assembly shall vote on each separately whether to re-elect it or not. It shall be decided by lot drawn before each election whether the names of the States shall be called on the

basis of the English or the French alphabetical list of their names; furthermore, the letter of the alphabet with which the calling for possible re-election will start shall be drawn by lot.

(5) The Executive Committee shall:

- (i) prepare the agenda of the General Assembly;
- (ii) submit proposals to the General Assembly in respect to the draft of the triennial program and budget of the Union prepared by the Director General, and approve, within the limits of this program and budget, the specific yearly budgets and programs prepared by the Director General;
- (iii) submit, with appropriate comments, to the General Assembly the periodical reports of the Director General and the yearly audit reports on the accounts;
- (iv) in accordance with the decisions of the General Assembly and having regard to circumstances arising between two ordinary sessions of that Assembly, it shall take all necessary measures to ensure the effective and rational execution of the program of the Union by the Director General;
- (v) exercise such other functions as provided in this Agreement refer to it.

(6) Upon convocation by the Director General, the Executive Committee shall meet at least once every year.

(7) Each member of the Executive Committee shall have one vote. Decisions shall be made by simple majority. More than half of the votes cast by the members present and not abstaining shall constitute a simple majority.

(8) The Executive Committee shall establish its own rules of procedure subject to the provisions of this Agreement and the decisions of the General Assembly.

(9) The Executive Committee shall elect a chairman and other officers, and appoint the necessary working committees, as provided in its rules of procedure.

ARTICLE 10COORDINATION COMMITTEE(Former Article 7 ter)

(1) The Coordination Committee shall comprise the States Members of the Executive Board of the Organization, the Executive Committee of the Paris Union, and the Executive Committee of the Berne Union.

(2) If the other Unions administered by the Organization wish to be represented as such in the Coordination Committee, their representatives must be appointed from amongst the representatives of States Members of the Coordination Committee.

(3) Each State Member of the Coordination Committee shall have one vote. It may be represented by one or two Delegates, who may be accompanied at sessions of the Coordination Committee by advisers.

(4) Any State Member of the Organization, which is not a Member of the Coordination Committee, may be represented at the meetings of the Committee by observers, having the right to take part in the debates but without the right to vote.

(5) The nature of the functions of the Coordination Committee is purely consultative. In particular, it shall give advice to the other organs of the Organization and the Unions on administrative, financial and other matters of common interest to the Organization and the Unions or certain of them.

(6) Upon invitation by the Director General, the Coordination Committee shall meet at least once every year.

(7) (a) The Coordination Committee shall make its decisions of an internal nature, and express its opinions, by a simple majority vote. Abstentions shall not be considered as votes.

(b) Even if the simple majority is obtained, the representative of any State member of the Coordination Committee may request that the votes already expressed be the object of a special recount in the following manner:

- three separate lists shall be drawn up indicating, respectively, the names of the States members of the Executive Board, the Executive Committee of the Paris Union, and the Executive Committee of the Berne Union,
- the vote of each State shall be inscribed opposite its name in each list in which it appears.

Should this special recount indicate that simple majority has not been obtained in each of these lists, the decision of an internal nature, or the expression of opinion, shall not be considered as carried.

(8) Subject to the provisions of this Agreement, the Coordination Committee shall establish its rules of procedure.

ARTICLE 11

SECRETARIAT

(Former Article 8)

(1) The Secretariat shall comprise a Director General, two or more Deputy Directors General, and the other staff members.

(3) The Director General shall be appointed under such conditions as the General Conference may approve and shall be eligible for reappointment.

(3) The Director General shall be the chief administrative officer of the Organization and shall represent the Organization.

(4) The Director General shall prepare and communicate to Member States, the Executive Board, the Executive Committees, and the Coordination Committee, the draft budgets and programs which concern them, and periodical reports on the activities and finances of the Organization and the various Unions.

(5) The Director General, or his representative designated by him, shall participate, without the right to vote, in all meetings of the General Conference, the Executive Board, the Executive Committees, the Coordination Committee and any other committee or working group. He, or a staff member designated by him, shall be ex officio Secretary of all these bodies.

(6) The Director General shall appoint the staff necessary for the efficient performance of the objectives of the Organization. He shall appoint the Deputy Directors General with the approval of the Executive Board. The conditions of employment shall be fixed by the staff regulations to be approved by the Executive Board on the proposal of the Director General.

The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

(7) The nature of the responsibilities of the Director General and of the staff shall be exclusively international. In the discharge of their duties they shall not seek or receive instructions from any government or from any authority external to the Organization. They shall refrain from any action which might prejudice their position as international officials. Each Member State undertakes to respect the exclusively international character of the responsibilities of the Director General and the staff, and not to seek to influence them in the discharge of their duties.

ARTICLE 12

FINANCES

(Former Article 9)

(1) (a) The administration is based on the budget of the Organization and the separate budgets of the Unions.

(b) In the budget of the Organization, there shall appear the proper expenses of the Organization itself and its share in the common expenses.

(c) In the budget of each Union there shall appear the proper expenses of the Union itself and its share in the common expenses.

(d) Expenses not caused exclusively by the Organization or by one only of the Unions shall be considered as common expenses. Common expenses shall be assessed among the Organization and the various Unions in proportion to the interest each of them has in such expenses.

(2) The budget of the Organization and the budgets of the Unions shall be established with due regard to the necessities of coordination.

(3) The budget of the Organization and the budgets of the Unions shall be financed from the following sources:

- (i) the contributions of the Member States towards the budgets of the Organization, the Paris Union, the Berne Union, and such other Unions which know the system of financing by contributions;
- (ii) the fees charged for services performed by the Secretariat;
- (iii) sale of or royalties on the publications of the Secretariat;
- (iv) gifts, bequests and subventions;

(v) rents, interests, and other similar miscellaneous income.

(4) (a) For the purpose of establishing its contribution towards the budgets referred to in paragraph (3)(i), each Member State shall belong to a class, and shall pay its annual contribution on the basis of a fixed number of units as follows:

Class I	25
Class II	20
Class III	15
Class IV	10
Class V	5
Class VI	3

(b) Each State is free to indicate the class in which it wishes to belong taking into account the size of its national economy. If a State fails to make a selection, the Executive Board will assign it a class. Any State may change class but, if the change is one to a lower class, the State must announce it to an ordinary session of the General Conference, such change to take effect at the beginning of the calendar year following the session.

(c) The amount of the yearly contribution of any given State shall be calculated separately for each budget referred to in paragraph (3)(i) and in the following manner: the units applicable to each State according to the class to which it belongs shall be added together; the amount of the total yearly contributions inscribed in the budget shall be divided by the sum resulting from the said addition; the quotient of this division shall be multiplied, for the given State.

(d) The contribution of the Member States shall be due on the first of January of each year.

(f) A Member State which is in arrears in the payment of its financial contributions to the Organization shall have no vote in any organs of which it is a member if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years.

The General Conference may, nevertheless, permit such a State to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the said State.

(5) (a) The amount of the fees charged for international registration shall be fixed by the Director General with the consent of the majority of the States party to the convention, agreement or treaty establishing the registration service. The fees of each registration service shall be fixed at a level at least sufficient to cover the expenses of the Secretariat caused by the maintenance of such service.

(b) The amount of other fees charged for services shall be established by the Director General who shall report on them to the competent organs.

(6) The Organization, with the approval of the Executive Board, may receive gifts, bequests and subventions, directly from governments, public or private institutions, associations or private persons.

(7) (a) The Organization shall have a working capital fund constituted by payments made by each Member State and of each international registration service administered by the Organization.

(b) The payment that each Member State shall make towards the working capital fund shall be the equivalent of its yearly contributions (alternative text: X percent of its yearly contributions) which is assessed according to par. (4) for the first year following the year in which it becomes party to this Agreement. This payment is due by the end of the year following the year in question.

(c) The payment to be made by the Trademark Registration Service shall be Swiss francs, and that to be made by the Design Registration Service shall be Swiss francs. These amounts shall be transferred from the reserve funds of these Services. The amount of the payment to be made

by any future Service administered by the Organization shall be fixed by the General Conference,

(d) The General Conference may decide to increase or decrease the working capital fund. If the working capital fund is diminished, each Member State and Registration Service shall be credited in the same proportion as its payments into the working capital fund stand to the total amount of the fund at the time the decrease is effected. If the working capital fund is increased, the payment to be effected shall be determined in the same manner for each Member State and each Registration Service.

(8) (Paragraph reserved for provisions establishing a system of auditing the accounts by the Government of the Swiss Confederation until the second ordinary session of the General Conference and, thereafter, by the various Member States, one after the other, or by external auditors designated with the approval of the Executive Board.)

(9) (Paragraph reserved for provisions to the effect that (i) the Government of the Swiss Confederation shall continue to grant the necessary advances if the working capital fund is insufficient, (ii) the details shall be regulated in the Headquarters Agreement, and (iii) in order to be able to know the financial situation of the Organization in all its details, Switzerland shall be ex officio member of the Executive Board, the Executive Committees and the Coordination Committee.)

ARTICLE 13

LEGAL STATUS, PRIVILEGES AND IMMUNITIES

(Former Article 10)

(1) The Organization shall enjoy in the territory of each Member State such legal capacity as may be necessary for the fulfilment of its purposes and for the exercise of its functions.

(2) (a) The Organization shall enjoy in the territory of each Member State such privileges and immunities as may be necessary for the fulfilment of its purposes and for the exercise of its functions.

(b) Representatives of Member States and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

(3) The Director General shall conclude, with the approval of the Executive Board, a Headquarters Agreement with the Government of the Swiss Confederation and bilateral or multilateral agreements with the other Member States concerning the application of the provisions of the foregoing paragraphs, in conformity with international custom and the constitutions of the interested States.

ARTICLE 14

INDEPENDENCE OF THE INTELLECTUAL PROPERTY CONVENTIONS,
AGREEMENTS AND TREATIES

(Former Article 11)

Subject to Article*, the provisions of the Paris Convention, the separate agreements concluded in connection with that Convention, the Berne Convention, and any other convention, agreement or treaty the administration of which is entrusted to the Organization, are not affected by the provisions of this Agreement.

* Article 15 in document AA/I/3

ARTICLE 15

REVISION OF THE INTELLECTUAL PROPERTY CONVENTIONS
AGREEMENTS AND TREATIES

(1) Revision, not inconsistent with the provisions of the present Agreement, of any of the conventions or agreements referred to in Article 14, or of any other convention, agreement, or treaty whose administration is also entrusted to the Organization, shall be a matter within the sole jurisdiction of the States parties to the convention, agreement or treaty to be revised, and shall be effected as provided in those instruments.

(2) States parties to any of these conventions, agreements or treaties shall establish committees for the preparation -- where appropriate in cooperation with the Government of the country in which the revision conference is scheduled to take place -- of revision conferences. The secretariat of the revision conferences as well as of the said committees shall be provided by the Secretariat of the Organization.

ARTICLE 16

RELATIONS WITH OTHER INTERNATIONAL ORGANIZATIONS

(Former Article 13)

(1) The Organization shall, to the extent considered as desirable, establish effective relations and cooperate closely with other intergovernmental organizations. Any general agreement entered into with such organizations shall be made with the approval of the Executive Board.

(2) The Organization may on matters within its competence make suitable arrangements for consultation and cooperation with nongovernmental international organizations and, with the consent of the governments concerned, with national organizations, governmental or nongovernmental.

(3) The Organization may take over from any other international organization or agency such functions, resources and obligations as may be transferred to the Organization by international agreement or by arrangements entered into between the competent authorities of the respective organizations.

ARTICLE 17

SETTLEMENT OF DISPUTES

(Former Article 14)

Any question or dispute concerning the interpretation or application of the present Agreement which is not promptly settled by negotiation or by the General Conference shall, upon the request of one or more of the interested Member States, be referred to the International Court of Justice for adjudication, unless the parties concerned agree on another mode of settlement.*

* Some of the Experts declared that their Governments had objections in principle with respect to the compulsory jurisdiction of the International Court of Justice and have proposed that a Protocol to this Convention be formulated containing the substance of this Article and that the acceptance of this Protocol be left to the discretion of each Member State.