

BUREAUX INTERNATIONAUX
RÉUNIS POUR LA PROTECTION
DE LA PROPRIÉTÉ INTELLECTUELLE
GENÈVE, SUISSE

BIRPI

UNITED INTERNATIONAL
BUREAUX FOR THE PROTECTION
OF INTELLECTUAL PROPERTY
GENEVA, SWITZERLAND

**COMMITTEE OF EXPERTS ON THE ADMINISTRATIVE STRUCTURE
OF INTERNATIONAL COOPERATION
IN THE FIELD OF INTELLECTUAL PROPERTY**

**COMITÉ D'EXPERTS CONCERNANT LA STRUCTURE ADMINISTRATIVE
DE LA COOPÉRATION INTERNATIONALE DANS LE DOMAINE DE LA
PROPRIÉTÉ INTELLECTUELLE**

Geneva, March 22 - April 2, 1965

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DECLARATION OF THE HEAD
OF THE DELEGATION OF THE FEDERAL
REPUBLIC OF GERMANY

Mr. Chairman,

The French and the Italian Delegations by their declarations of principle place this Conference before a serious problem. They expressed considerable doubts from several points of view as to whether or not we should be able to proceed with our work on the basis of proposals made so far. The background of these declarations is the view that a consideration on this basis would include a risk which could not be taken in view of the eighty years' tradition of the Paris and Berne Unions; finally, the French and the Italian Delegations are of the opinion that an attempt to modernize and adapt the BIRPI organization to present conditions and those to be expected in future would have to be made in another way. The dominant principle in the opinion of the Delegations concerned should be to safeguard both the existence and the importance of the Unions as they have existed so far, and to avoid any dangers which may result from too large a participation of young States that do not belong to the Unions up to now.

The German Delegation is convinced that the statement made by both Delegations was motivated by a real concern for the duration and future development of the two old meritorious Unions. This concern should be taken very seriously by this Conference. Neither would the German Delegation wish to conceal that it shares the French and the Italian Delegations' concern in many respects.

It is in consideration of the impressive statement made by the said Delegations that the German Delegation wishes to express its firm belief that it is the more necessary for the member States to get together here and in a common effort to consider in which way the existing organization of the Paris and Berne Unions may be modernized and by what means these Unions can be given the organizational structure they will need for their future development.

For that reason, the German Delegation is, first, of the opinion that despite any differences of opinion in principle, which might possibly exist, this Conference should start its work. By consequence, the Conference should not resign in view of such differences of opinion. If all the Delegations make it their common aim, by the activities of this Conference exclusively to serve the welfare of the Paris and Berne Unions, even those Delegations which consider the proposals made so far as having failed or as being inappropriate should be able to make an active contribution to the work of this Conference.

My Delegation has no doubt that it will be possible to reach results acceptable to all the Delegations, in the spirit of close and friendly cooperation which is in harmony with the tradition of the Paris and Berne Unions.

The French and the Italian Delegations' statements, if I understood them correctly, are characterized in the first place by the concern that the Draft as it has been submitted so far would increase rather than diminish the dangers threatening the Paris and Berne Unions in view of present developments. As I pointed out already, the German Delegation is fully aware that the creation of such a new organization, as the Draft now available provides, is connected with a rather considerable risk. In this regard - may I repeat it once again - my Delegation fully appreciates the French and Italian statements and the motives upon which they are based as far as I understood them. It is, however, the decisive question if the risk involved would not be even greater, if the member States of both Unions were not disposed to find a form of organization for the Paris and Berne Unions which would be in conformity with modern international development and for which other international organizations might serve already as a model.

I would only like to point to the example of the Universal Postal Union which has existed since 1878, and the example of the ITU which is mentioned too in the Introductory Report proposed by BIRPI.

In the opinion of the German Delegation it would be unrealistic if the member States of the Paris and Berne Unions attempted to withdraw from the clearly recognizable trend of present international developments of international organizations. The discussions held in the General Assembly of the United Nations and at the United Nations Trade and Development Conference of last year concerning the transfer of technology to developing countries and the importance of patents for technical assistance, in these discussions the opinion of the German Delegation showed clearly that new forms of international cooperation must be sought also in the field of intellectual property. May I recall to your attention that on the occasion of the discussions before the United Nations only a very small majority succeeded in including BIRPI in the preliminary work for the United Nations Trade and Development Conference. These and other similar experiences should be regarded in my opinion as an alarming sign. In particular the industrial States having been among the promoters of the Paris and Berne Unions should realize that they will not be able to keep the high standard of protection of intellectual property unless they are willing, in the further development of what has been achieved so far also to have regard to the new conditions. If the member States of the Paris and Berne Unions should limit themselves to preserve what has been achieved so far, the result could be that other powers might determine the further course the protection of intellectual property will take. That is the risk which, in the opinion of the German Delegation, is the basis for all the considerations to be made with regard to the creation of a new organization for the protection of intellectual property. To avoid that risk, and this is what we have to do in the present situation, the Paris and Berne Unions limit themselves to giving BIRPI an internal new organization, the further development might take place outside and apart from these two Unions. But if the Paris and Berne Unions themselves take this new development into their hands, they will be in the position to secure for themselves the influence to which they are entitled and to give the new organization such a form as is adequate to these old venerable Unions.

Perhaps it will be possible very shortly to summarize the decisive question:

Shall we attempt to achieve a worldwide organization, thereby running the risk that the inclusion of new States will give rise to tendencies aiming at a change of the traditional nature of the Unions as they have existed so far?

Or, on the other hand, shall we limit ourselves to a reorganization merely of the interior structure of the organizations as they have existed up to now, thereby running the risk that the future development, outside the Paris and Berne Unions, will be determined by powers upon which the member States of both Unions will have no, or only very little, influence? These are the possibilities I foresee.

Both ways involve a certain risk. In the opinion of the German Delegation, the aim towards a worldwide organization seems to involve a smaller risk for the reason alone that the future way may then be determined, to a decisive extent, also by the member States of the Paris and Berne Unions.

Obviously through the same considerations the Swedish experts, together with BIRPI, prepared with great care and admirable energy a Draft Convention for a new World Organization for the Protection of Intellectual Property. This Draft was then revised, in May last year, by a working group composed of representatives of ten member States. The result of this work might still be considered, in many respects, as imperfect or perhaps as inappropriate from a basic point of view. Some might also be of the opinion that wider guarantees should still be included in the Draft in order to prevent undesirable developments. For instance, the French Delegation pointed out that the French Government is against any transformation of the new organization into a Specialized Agency of the United Nations. On this point, the German Delegation to a large extent agrees with the French Delegation. My Delegation is, however, of the opinion that the Draft prepared in a common effort by the Swedish experts and BIRPI and revised by the working group would constitute at least a very suitable basis for the continuation of the works of this Conference as well as for further studies. It may be that a new Draft, the submission of which was reserved by the French Delegation, will still open new ways. But as long as no such new Draft has been submitted the Draft now available constitutes, in the opinion of the German Delegation, a very appropriate basis for our work. We are convinced that the objections and requests of the French and the Italian Delegations will be taken into due consideration in each individual case during the discussions on the Draft article by article.

In the German Delegation's view the decisive question is whether or not it should be open to the Paris and Berne Unions to become a new, modern, worldwide organization, open to new States, or rather limit themselves to a reorganization of their interior structure. This Conference would be to be congratulated if it succeeded in finding a form capable of satisfying the requirements for the protection of intellectual property in a modern world

for the next eighty years. We all realised the admirable activity of BIRPI during recent years. But we must also realise that this activity probably by far exceeds the ideas the promoters of the Paris and Berne Unions had of the former "Bureaux". This activity has achieved considerable results already in the past, and in this connection I may be permitted to recall the satisfactory and encouraging fact that only last week the Soviet Union's accession to the Paris Union took place. If the Unions are to increase the number of their members in future and include not only seventy, but perhaps a hundred or more member States, this activity must not be diminished in the years to come. This indispensable activity can, however, be deployed only if the organizational conditions are created therefor. This is apparently also the aim pursued by the Draft prepared by the Swedish experts and BIRPI. For this reason, the German Delegation would consider it appropriate that this Draft should be used at least as the basis of our further work.

Thank you, Mr. Chairman.