

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

Genève, 22 mars - 2 avril 1965

TEXTS APPROVED BY THE COMMITTEE

(1) This is a provisional edition of the texts adopted by the Committee of Experts on March 31, and April 1, 1965, namely:

- A. DRAFT PROTOCOL
- B. DRAFT IPO CONVENTION
- C. DRAFT RESOLUTION
- D. NOTE ON CERTAIN CHANGES IN THE EXISTING CONVENTIONS AND AGREEMENTS

(2) It is to be noted that a separate Protocol, along the lines of the Draft Protocol referred to under A above, will be drawn up for the Paris Union, the Berne Union, the Lisbon Union, the Madrid Union, and the Hague Union.

(3) As to the reservations made by certain Delegations, see the Report.

(4) Another text will follow after the April 2, 1965, meeting of the Committee.

A. DRAFT PROTOCOL

Contents

- A. Definitions
- B. Assembly
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PROTOCOLPROTOCOLARTICLE A: DEFINITIONS

For the purposes of the present Protocol:

(a) "Union" shall mean the International Union established by the Paris Berne Madrid The Hague Nice Convention signed on date;

(b) "Organization" shall mean the Intellectual Property Organization (I.P.O.);

(c) "General Assembly" and "Coordination Committee" shall mean the General Assembly and the Coordination Committee referred to in the Convention of Stockholm of date establishing the Organization.

ARTICLE B: ASSEMBLY

(1)(a) The Union shall have an Assembly consisting of the States Members of the Union.

(b) The Government of each Member State shall be represented by one or more delegates who may be assisted by alternate delegates and by advisors.

(2) The Assembly shall:

(i) deal with all matters concerning the maintenance and development of the Union and the implementation of its Convention or Agreement;

(ii) determine the program and adopt the triennial budget of the Union, and approve its final accounts;

(iii) elect the members of the Executive Committee of the Union; *

* Only the Protocol to the Paris Convention and the Protocol to the Berne Convention must provide for an Executive Committee; the Protocol to the Madrid Agreement, the Protocol to the Hague Agreement, and the Protocol to the Nice Agreement may provide for Executive Committees.

If Madrid, Hague and Nice do not have Executive Committees, their Protocols will have to provide that certain functions which--in the Berne and Paris Unions--belong to the Executive Committee will belong to the Assembly itself (e.g., the Assembly shall establish not only the triennial budget but also the specific yearly budget) or to the Director-General (e.g., preparation of the draft agenda, draft program and draft budget).

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(Article B, contd.)

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- (iv) review and approve reports and activities of its Executive Committee,* and give instructions to such Committee;
- (v) review and approve reports and activities of the Director-General concerning the Union and give instructions to him in such matters;
- (vi) establish such committees as may be considered necessary for the work of the Union;
- (vii) determine which States not Members of the Union and which international organizations shall be admitted to its meetings as observers;
- (viii) take any other appropriate action designed to further the objectives of the Union;
- (ix) exercise such other functions as are allocated to it.

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

(b) Subject to the provisions of the following subparagraph and Article F on Amending the Protocol, the Assembly shall make its decisions by a simple majority of the votes cast.

(c) The adoption of the budget to the extent that it increases the financial obligations of the Member States shall require at least two thirds of the votes cast.

(d) In counting the votes, abstentions shall not be counted as votes.

(e) Each State shall be allowed to cast only its own vote.

(4) The Assembly of the Union shall meet in ordinary session upon convocation by the Director-General during the same period and at the same place as the General Assembly. The Assembly of the Union shall meet in extraordinary session, upon convocation of the Director-General, at the request of its Executive Committee, or at the request of one fourth of the Member States of the Union.

(5) The Assembly of the Union shall adopt its own rules of procedure.

* See footnote preceding page.

ARTICLE C: EXECUTIVE COMMITTEE

(1) The Union shall have an Executive Committee.

(2)(a) The Executive Committee shall consist of Members of the Union elected by the Assembly from among the States Members of the Union. Furthermore, the Member State on whose territory the Organization has its headquarters shall, subject to the provisions of Article E(7), have an ex officio seat.

(b) The Government of each State Member of the Executive Committee shall be represented by one delegate who may be assisted by alternate delegates and by advisors.

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

(4) In electing the Members of the Executive Committee, the Assembly shall have regard to a balanced geographical distribution.

(5) Each Member of the Executive Committee shall serve from the close of the session of the Assembly which elected it to the close of the next ordinary session of the Assembly. However, Members may be re-elected, but not more than two thirds of them. At each election, and until the limit of two thirds may have been attained, the names of the States Members of the Executive Committee shall be called in alphabetical order and the 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.

(6) The Executive Committee shall:

- (i) prepare the draft agenda of the Assembly;
- (ii) submit proposals to the Assembly respecting the draft program and triennial budget of the Union prepared by the Director-General;

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(Article C, contd.)

- (iii) establish, within the limits of the program and the triennial budget, the specific yearly budgets and programs prepared by the Director-General;
 - (iv) submit, with appropriate comments, to the Assembly the periodical reports of the Director-General and the yearly audit reports on the accounts;
 - (v) in accordance with the decisions of the Assembly and having regard to circumstances arising between two ordinary sessions of that Assembly, take all necessary measures to ensure the execution of the program of the Union by the Director-General;
 - (vi) perform such other functions as are allocated to it.
- (7) The Executive Committee shall meet at least once every year upon convocation by the Director-General.
- (8) Each State 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 shall constitute a simple majority. Abstentions shall not be considered as votes. Each State shall be allowed to cast only its own vote.
- (9) The Executive Committee shall establish its own rules of procedure.

ARTICLE D: SECRETARIAT

The administrative tasks shall be carried out by the Secretariat of the Organization.

[/Insert here specific tasks now referred to in the Paris and Berne Conventions: see the Note on Certain Changes in the Existing Conventions and Agreements, at the end of the present document.]

ARTICLE E: FINANCES

(1)(a) There shall be a budget of the Union.

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

(2) The budget of the Union shall be established with due regard to the requirements of coordination among the various Unions.

(3) The budget of the Union shall be financed from the following sources:

- (i) contributions of the Member States;*
- (ii) 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 contributions towards the budgets referred to in the preceding paragraph, each Member State shall belong to a class, and shall pay its annual contributions 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
Class VII	1

* To be omitted in the case of the Madrid and Hague Unions.

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(Article E, contd.)

(b) Unless it has done so already, each State shall indicate, concurrently with taking action as provided in Article . . . , paragraph . . . , the class to which it wishes to belong. * Any State may change class. If the change is to a lower class, the State must announce it to an ordinary session of the Assembly. Any such change shall take effect at the beginning of the calendar year following the session.

(c) The contribution of each State shall be an amount which bears that proportion to the total sum to be contributed to that budget by all Member States which the number of units according to which it is assessed bears to the total of the units of all contributing States.

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

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

(5)(a) The amount of the fees charged for international registration shall be proposed by the Director-General and shall be fixed by the Assembly of the Union. The fees shall be fixed at a level so that the revenues of the Union from fees and other sources be at least sufficient to cover the expenses of the Secretariat caused by the maintenance of such service. **

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

(6) The Union shall have a working capital fund as provided in the Financial Regulations established by the Coordination Committee on the basis of proposals made by the Director-General.

* The Article on entry into force will indicate that adhesions take effect only if a class is indicated.

** To be written only into the Protocols of the Madrid and the Hague Unions.

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(Article E, contd.)

(7)(a) If the working capital fund is insufficient, the Member State on the territory of which the Organization has its Headquarters shall grant advances. The amount of these advances and the conditions in which they are granted shall be the subject of agreement, in each case, between the Member State in question and the Organization. As long as it remains under the obligation to grant advances, this Member State shall have an ex-officio seat on the Executive Committee of the Union.

(b) The Member State in question and the Organization shall have the possibility of denouncing the obligation to grant advances, by means of a notification in writing. This denunciation shall take effect three years after the end of the year in which it was notified.

(8) The auditing of the accounts shall be effected by one or more Member States or by external auditors (accountant firms) as provided in the Financial Regulations. They shall be designated, with their agreement, by the Assembly.

ARTICLE F: AMENDMENTS TO THE PROTOCOL *)

(1) Proposals for the amendment of this Protocol shall be communicated by the Director-General to the Member States of the Union at least six months in advance of their consideration by the Assembly of the Union.

(2)(a) Amendments to this Protocol shall be adopted by the Assembly of the Union. Adoption shall require three fourths of the votes cast, provided, however, that any amendment of Article B shall require the unanimity of the votes cast.

(b) In counting the votes, abstentions shall not be counted as votes.

(c) Each State shall be allowed to cast only its own vote.

(3) Amendments to this Protocol shall enter into force when accepted [i.e., ratified, acceded to] by three fourths of the Member States of the Union. Amendments to the Protocol thus accepted shall bind all the Member States of the Union, except that any amendment increasing the financial obligations of Member States shall bind a State only upon acceptance by it.

(4) Acceptance shall be communicated in writing to the Director-General and shall become effective on the day the Director-General receives it.

* Note that this Article deals with the amendments of the Administrative Protocol and not with the amendments of the Convention which contains the clauses of substantive law.

PROTOCOLPROTOCOLARTICLE G: ENTRY INTO FORCE AND DURATION

(1)(a) States may become party to this Protocol in accordance with paragraph (2), below, by:

- (i) signature without reservation as to ratification, or
- (ii) signature subject to ratification followed by the deposit of an instrument of ratification;
- (iii) deposit of an instrument of accession.

(abis) States Members of the Union may accomplish these acts in respect to this Protocol without the need of accomplishing them also in respect to the Stockholm revision of the Convention Agreement of the Union.

(b) Instruments of ratification or accession shall be deposited with the Director-General.

(2)(a) This Protocol shall enter into force one month after the date on which ten States Members of the Union have taken action as provided in paragraph (1) above.

(b) It shall enter into force with respect to a State which takes action subsequently, one month after the date on which it takes such action.

(3) States which are Members of the Union without having become party to this Protocol shall, for five years from the date of entry into force of this Protocol, have the same rights as if they had become party to this Protocol. Upon expiration of this five-year period, States still not having become party to this Protocol shall have no right to vote in the Assembly or be elected as members of the Executive Committee. Upon becoming party to this Protocol, such States shall regain their votes in the Assembly and may be elected as members of the Executive Committee.

(4) A State party to this Protocol shall remain a party thereto as long as it remains a party to the Convention to which this Protocol relates.

(5) States which, on the day when this Protocol enters into force according to paragraph (2), sub-paragraph (a) above, are not party to any of the conventions, agreements or treaties the administrative tasks or the administration of which is entrusted to the Organization shall be required to become party to the IPO Convention concurrently with becoming party to any of the said conventions, agreements or treaties.

PROTOCOLPROTOCOLARTICLE H: NOTIFICATIONS

The Director-General shall notify to the Governments of all States which sign or accede to this Protocol:

- (i) the date the Protocol enters into force,
- (ii) each signature and deposit of instrument of ratification or accession, and the date thereof,
- (iii) each acceptance of an amendment to this Protocol, the date of the receipt of any document signifying acceptance, and the date upon which the amendment enters into force.

ARTICLE I: FINAL PROVISION

(1) This Protocol, of which the English and French and Russian* texts are equally authentic, shall be deposited with the Director-General.

(2) Official translations of the present Protocol shall be established in the German, Italian, Russian* and Spanish languages.

(3) The Director-General shall transmit two duly certified copies of this Protocol and of each amendment adopted by the Assembly to the Governments of the signatory States, of the States acceding to this Protocol, of all Member States of the Union, and, on request, of any other State.

(4) The Director-General shall register the present Protocol with the Secretary-General of the United Nations as soon as possible.

ARTICLE J: TRANSITIONAL PROVISION

Until the first Director-General assumes office, references to the Director-General shall be deemed to be references to the Director of the United International Bureaux for the Protection of Industrial, Literary and Artistic Property (BIRPI).

* The question of whether the word "Russian" should be inserted in paragraph (1) or paragraph (2) has not been decided.

B. DRAFT I.P.O. CONVENTION

Contents

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IPOIPOPREAMBLE

The Contracting Parties,

Desiring to modernize and render more efficient the administration of the Intellectual Property Unions through the establishment of administrative organs which, although in part common, fully respect the autonomy of each of the several Unions, and to promote the protection of intellectual property throughout the world, in particular through the creation of a Conference and the offer of legal-technical assistance to developing countries,

Have agreed as follows:

ARTICLE 1

The Intellectual Property Organization is hereby established. It comprises a General Assembly of the States Members of the various Unions, a Coordination Committee, a Conference, and a Secretariat.

ARTICLE 1BIS: DEFINITIONS

For the purposes of this Convention:

(a) "Organization" shall mean the Intellectual Property Organization (I.P.O.);

(b) "Paris Convention" shall mean the Convention on the Protection of Industrial Property signed on March 20, 1883, and any of its past or future revisions;

(c) "Berne Convention" shall mean the Convention on the Protection of Literary and Artistic Works signed on September 9, 1886, and any of its past or future revisions;

(d) "Paris Union" shall mean the International Union established by the Paris Convention;

(e) "Berne Union" shall mean the International Union established by the Berne Convention;

(f) "Unions" shall mean the Paris Union, the Special Agreements established in relation with that Union, the Berne Union and any other convention, agreement or treaty whose administration is assumed by the Organization according to Article 2(2)(ii) or (iii).

ARTICLE 2: OBJECTIVE AND FUNCTIONS

(1) The objective of the Organization is to promote cooperation among States in the field of protection for

- (i) authors or scientific, literary and artistic works,
- (ii) inventors and creators in the field of industry, agriculture and applied arts,
- (iii) performing artists, producers of phonograms and broadcasting organizations,
- (iv) owners of designs, trademarks, service marks, and other commercial designations,
- (v) enterprises against unfair competition,

through administrative cooperation among the various Intellectual Property Unions and through other appropriate means set out in the present Convention.

(2) To this end, the Organization, through its appropriate Organs and subject to the competence of each of the various Unions:

- (i) is entrusted with the administrative tasks of the Paris Union, the Special Agreements established in relation with that Union, and the Berne Union;
- (ii) shall encourage the conclusion of new conventions, agreements or treaties where appropriate in the field of intellectual property and may assume their administration;
- (iii) may assume or participate in the administration of other intellectual property conventions, agreements and treaties, on the request of and in agreement with the competent organs of such conventions, agreements or treaties;
- (iv) shall assemble information concerning the protection of intellectual property, promote and carry out studies in this field, and disseminate the information assembled and the results of the studies;

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(Article 2, contd.)

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- (v) shall maintain services facilitating the international protection of intellectual property and, where appropriate, provide for registration in the field of intellectual property and the publication of the data concerning the registrations;
- (vi) shall promote the adoption of measures calculated to facilitate the efficient protection of intellectual property throughout the world and to harmonize national legislations;
- (vii) shall advise countries requesting technical-legal assistance in the field of intellectual property;
- (viii) generally, shall take all necessary action to attain the objective of the Organization.

ARTICLE 3: MEMBERSHIPALTERNATIVE A

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 Assembly to become a Member of the Organization.

ALTERNATIVE B

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

- (i) a Member of the United Nations or any of its Specialized Agencies, or
- (ii) a State invited by the General Assembly to become a Member of the Organization.

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(Article 3, Contd.)

ALTERNATIVE C

Any State accepting the provisions of this Convention may, on its request, become a Member of the Organization. *

ARTICLE 4: HEADQUARTERS

The Headquarters of the Organization shall be at Geneva. It may be transferred to another place pursuant to a decision of the General Assembly.

ARTICLE 5: GENERAL ASSEMBLY

(1)(a) The General Assembly shall consist of the States Members of any of the Unions.

(b) The Government of each State shall be represented by one or more delegates who may be assisted by alternate delegates and by advisors.

(2) The General Assembly shall:

- (i) review and approve the reports and activities of the Coordination Committee;
- (ii) appoint the Director-General after having heard the advice of the Conference;
- (iii) pronounce upon the arrangements proposed by the Director-General concerning the administration of the conventions, agreements and treaties referred to in Articles 2(2)(ii) and (iii);
- (iv) determine the languages which, in addition to English and French, shall be the working languages of the Secretariat;
- (v) determine which States not Members of the Organization and which international organizations shall be admitted to its meetings as observers;
- (vi) exercise such other functions as are allocated to it in this Convention.

* The Italian Delegation had proposed to delete this Article and to provide in Article 6 (Conference): "Any State may become party of the Conference if it is also a member of the United Nations or any of its Specialized Agencies."

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(Article 5, Contd.)

(3)(a) Each State, whether Member of one or more Unions, shall have one vote in the General Assembly.

(b) Subject to the provisions of the following subparagraphs and Article 13 [on amending the IPO Convention], the General Assembly shall make their decisions by a simple majority of the votes cast.

(c) The following shall require at least two-thirds of the votes cast:

- (i) invitations addressed to a State to become a Member of the Organization (see Alternatives A and B of Article 3);
- (ii) decisions concerning the transfer of the headquarters of the Organization (Article 4);
- (iii) invitations addressed to States not members of the Organization and to international organizations to attend meetings as observers (para. (2)(v)).

(d) The confirmation of arrangements concerning the administration of conventions, agreements and treaties referred to in Article 2(2)(ii) and (iii) shall require at least three-fourths of the votes cast.

(e) The approval of an agreement with the United Nations under Articles 57 and 63 of the Charter of the United Nations shall require the unanimous decision of the General Assembly.

(f) For the possible transfer of headquarters (Article 4) and the appointment of the Director-General (paragraph (2)(ii)) the required majority must be attained not only in the General Assembly but also in the Assembly of the Paris Union and the Assembly of the Berne Union.

(g) In counting the votes, abstentions shall not be considered as votes.

(h) Each State shall be allowed to cast only its own vote.

(4) The General Assembly shall meet once in every third calendar year in ordinary session upon convocation by the Director-General. It shall meet in extraordinary session, upon convocation of the Director-General, at the request of the Coordination Committee, or at the request of one-fourth of the States constituting the General Assembly. Meetings shall be held at the headquarters of the Organization.

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(Article 5, Contd.)

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

(6) States Members of the Organization but not Members of any of the Unions shall be invited to the General Assembly as observers.

ARTICLE 6: CONFERENCE

(1)(a) The Conference shall consist of the States Members of the Organization.

(b) The Government of each Member State shall be represented by one or more delegates who may be assisted by alternate delegates and advisors.

(2) The Conference shall:

- (i) discuss matters of general interest in the field of intellectual property and may adopt resolutions and recommendations relating to such matters;
- (ii) adopt a triennial budget, consisting of contributions which the various Unions have agreed to make and the contributions of States Members of the Organization without being Members of any of the Unions, providing for funds to cover the expenses of the Conference and the program of technical-legal assistance (hereinafter referred to as "Conference budget");
- (iii) within the limits of the Conference budget, establish the triennial program of legal-technical assistance;
- (iv) give advice to the General Assembly as to the question of who should be elected Director-General. The General Assembly is not bound to follow this advice.

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

(b) Subject to the provisions of the following subparagraphs and Article 13 on amending the IPO Convention, the Conference shall make its decisions by a simple majority of the votes cast.

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(Article 6, Contd.)

(c) Adoption of that part of the Conference budget which is financed from contributions of States Members of the Organization without being members of any of the Unions shall require at least two-thirds of the votes cast by such States to the extent that the Conference budget would increase their financial obligations.

(cbis) Invitations addressed to States not Members of the Organization and to international organizations to attend meetings as observers (para. 6) shall require at least two-thirds of the votes cast in the Conference.

(d) In counting the votes, abstentions shall not be considered as votes.

(e) Each State shall be allowed to cast only its own vote.

(4) The Conference shall meet in ordinary session upon the convocation by the Director-General during the same period and at the same place as the General Assembly. The Conference shall meet in extraordinary session upon convocation by the Director-General at the request of the majority of the States Members of the Organization.

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

(6) The Conference may admit, as observers, representatives of States not Members of the Organization, and representatives of international organizations, to such of its meetings or its working committees as it sees fit.

ARTICLE 7: COORDINATION COMMITTEE

(1)(a) There shall be a Coordination Committee comprising the States Members of the Executive Committee of the Paris Union, and of the Executive Committee of the Berne Union, each of these Committees being composed of one fourth of the Members of the Unions.

(b) The Government of each State Member of the Coordination Committee shall be represented by one or two delegates who may be assisted by alternate delegates and by advisors.

(c) Whenever the Coordination Committee considers the Conference budget, one fourth of the States which are Members of the Organization without being Members of any of the Unions shall participate in the Coordination Committee with the same rights as Members of that Committee. This one fourth shall be elected by and at each ordinary session of the Conference.

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(Article 7, Contd.)

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

(3) The Coordination Committee shall:

- (i) give advice to the organs of the various Unions, the General Assembly, and the Conference, on all administrative, financial and other matters of common interest to two or more of the Unions; and in particular on the common expenses to be inscribed in the budgets of the various Unions and the Conference budget;
- (ii) prepare the draft agenda of the General Assembly;
- (iii) prepare the draft agenda and the draft program and budget of the Conference;
- (iiibis) on the basis of the triennial Conference budget and program, establish the annual Conference budgets and programs;
- (iv) when the term of office of the Director-General is about to expire, or, when there is a vacancy in the post of the Director-General, nominate a candidate for appointment to such position by the General Assembly;
- (v) if the post of the Director-General becomes vacant between two sessions of the General Assembly, appoint an Acting Director-General whose term of office shall last until the new Director-General assumes office;
- (vi) perform such other functions as are allocated to it in this Convention.

(4) The Coordination Committee shall meet at least once every year upon convocation by the Director-General. It shall normally meet at the headquarters of the Organization.

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(Article 7, Contd.)

(5) Each State whether a Member of one or both of the Executive Committees referred to in paragraph (1)(a) shall have one vote in the Coordination Committee. Each State shall be allowed to cast only its own vote.

(6)(a) The Coordination Committee shall express its opinions and make its decisions by simple majority. More than half of the votes cast by the Members present shall constitute a simple majority. Abstentions shall not be considered as votes.

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

- two separate lists shall be drawn up indicating, respectively, the names of the States Members of the Executive Committee of the Paris Union and of 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 a simple majority has not been obtained in each of those lists, the proposal shall not be considered as carried.

(7) Subject to the provisions of this Convention, the Coordination Committee shall establish its own rules of procedure.

(8) 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.

ARTICLE 8: SECRETARIAT

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

(2) The Director-General shall be appointed for a fixed term which shall be not less than six years. He shall be eligible for reappointment for fixed terms. The periods of the initial appointment and possible subsequent appointments as well as all other conditions of the appointment shall be fixed by the General Assembly.

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(Article 8, Contd.)

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

(4) The Director-General shall prepare the draft programs and budgets and shall establish periodical reports on activities. He shall communicate them to the Governments of the interested States and to the competent organs of the various Unions and the Organization.

(5) The Director-General, or a staff member designated by him, shall normally participate, without the right to vote, in all meetings of the Assemblies, the General Assembly, the Conference, 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 tasks of the Secretariat. He shall appoint the Deputy Directors-General with the approval of the Coordination Committee. The conditions of employment shall be fixed by the staff regulations to be approved by the Coordination Committee 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.

IPOIPOARTICLE 9: FINANCES

(1)(a) The Conference shall have a budget.

(b) In the Conference budget there shall appear the proper expenses of the Conference and of the legal-technical assistance program and their share in the common expenses.

(c) Expenses not attributable exclusively to the budget of any given Union, or, exclusively to the Conference budget, shall be assessed among the budgets of the various Unions and the Conference budget in proportion to the interest each of them has in such expenses.

(2) The Conference budget shall be established with due regard to the requirements of coordination and the contributions of the various Unions.

(3) The Conference budgets shall be financed from the following sources:

- (i) sums allocated to the Conference budget in the budgets of the Paris, Berne and possibly other interested Unions, and from contributions of States Members of the Organization without being Members of any of the Unions;
- (ii) 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 contributions towards the budgets referred to in the preceding paragraph, each Member State of the Organization which is not a Member of any Union shall belong to a class, and shall pay its annual contributions on the basis of a fixed number of units as follows:

Class A	10
Class B	3
Class C	1

(Article 9, contd.)

(b) Each State Member of the Organization which is not a Member of any of the Unions shall, concurrently with taking action as provided in Article . . . , paragraph . . . , indicate the class to which it wishes to belong.* Any State may change class. If the change is to a lower class, the State must announce it to an ordinary session of the Conference. Any such change shall take effect at the beginning of the calendar year following the session.

(c) The contribution of each State shall be an amount which bears that proportion to the total sum to be contributed to that budget by all Member States which the number of units according to which it is assessed bears to the total of the units of all contributing States.

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

(e) A Member State of the Organization which is not a member of any of the Unions and which is in arrears in the payment of its financial contributions under the present Article, and any State which is a member of a Union and which is in arrears in the payment of its contributions to any of the Unions, shall have no vote in the General Assembly, the Coordination Committee, and the Conference, if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years.

(5) The amount of the fees charged for services rendered by the Secretariat in the field of technical-legal assistance shall be established by the Director-General who shall report on them to the Coordination Committee.

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

(7) The Organization shall have a working capital fund as provided in the financial regulations established by the Coordination Committee on the basis of proposals made by the Director-General.

(8)(a) If the working capital fund is insufficient, the Member State on the territory of which the Organisation has its Headquarters shall grant advances. The amount of these advances and the conditions in which they are granted shall be the subject of agreement, in each case, between the Member State in question and the Organizations. As long as it remains under the obligation to grant advances, this Member State shall have an ex-officio seat on the General Assembly, Coordination Committee, and the Conference.

*) The Article on entry into force will indicate that adhesions take effect only if a class is indicated.

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(Article 9, contd.)

(b) The Member State in question and the Organization shall have the possibility of denouncing the obligation to grant advances, by means of a notification in writing. This denunciation shall take effect three years after the end of the year in which it was notified.

(9) The auditing of the accounts shall be effected by one or more Member States or by external auditors (accountant firms) as provided in the Financial Regulations. They shall be designated, with their agreement, by the General Assembly.

ARTICLE 10: LEGAL STATUS, PRIVILEGES AND IMMUNITIES

(1) Member States shall take the necessary measures to ensure that the Organization shall enjoy in its territory such legal capacity as may be necessary for the fulfilment of the Organization's purposes and for the exercise of its functions.

(2) The Director General shall, in the name of the Organization and with the approval of the Coordination Committee, conclude a Headquarters Agreement with the Swiss Confederation, and may conclude, as necessary, bilateral or multilateral agreements with the other Member States with a view to the enjoyment by the Organization, its officials, and representatives of Member States, of such privileges and immunities as may be necessary for the fulfilment of its purposes and for the execution of its functions.

(3) Such measures and agreements shall be taken and concluded in conformity with the Constitutions and national laws of the Member States concerned.

ARTICLE 11: RELATIONS WITH OTHER ORGANIZATIONS

(1) The Organization shall, where appropriate, establish effective working relations and cooperate closely with other intergovernmental organizations. Any general agreement to such effect, entered into with such organizations, shall be made with the approval of the Coordination Committee.

(2) The Organization may on matters within its competence make suitable arrangements for consultation and cooperation with non-governmental international organizations and, with the consent of the governments concerned, with national organizations, governmental or non-governmental. Such arrangements shall be subject to approval by the Coordination Committee.

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ARTICLE 12: SETTLEMENT OF DISPUTES

ALTERNATIVE A

Any dispute between two or more Member States concerning the interpretation or application of this Convention which is not settled by negotiation or by the General Assembly 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.

ALTERNATIVE B

[Same provision as above, but inserted in a Protocol, the acceptance of which is left to the discretion of each Member State.]

ALTERNATIVE C

(1) Any dispute between two or more Member States of this Convention concerning the interpretation or application of the present Convention which is not settled by negotiation shall be submitted, at the request of one of the States concerned, to the Coordination Committee which shall endeavour to bring about agreement between the Member States concerned.

(2) If such agreement is not reached within six months from the date when the Coordination Committee was seized of the dispute, the dispute shall be submitted to an arbitral tribunal at the request of one of the parties concerned.

(3) The tribunal shall consist of three arbitrators.

When two Member States are parties to a dispute, each State shall appoint an arbitrator.

Where more than two Member States are parties to a dispute, two of the arbitrators shall be appointed by agreement among the States concerned. If the States concerned have not appointed the arbitrator within a period of two months from the date on which the request for convening the tribunal was notified to them by the Secretariat, any of the Member States concerned may ask the President of the International Court of Justice to make the necessary appointments.

In all cases, the third arbitrator shall be appointed by the President of the International Court of Justice.

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(Article 12, Alternative C, contd.)

If the President is a national of one of the Member States parties to the dispute, the Vice-President shall make the appointments referred to above, unless he is himself also a national of one of the Member States parties to the disputes. In this last case, the appointments shall be made by the member of the Court who is not a national of one of the Member States parties to the dispute and who is selected by the President to make the necessary appointments.

(4) The arbitral decision shall be final and binding on the Member States concerned.

(5) The tribunal shall determine its own procedure, unless the Member States concerned agree otherwise.

ALTERNATIVE D

Any dispute between two or more Member States concerning the interpretation or application of this Convention which is not settled by negotiation or by the General Assembly, shall be referred to the International Court of Justice for adjudication, upon the request of all the parties to the dispute, unless the parties concerned have agreed on another mode of settlement.

ARTICLE 13: AMENDMENTS

TO THE TEXT OF THE IPO CONVENTION

(1) Proposals for the amendment of this IPO Convention shall be communicated by the Director-General to the Member States of the Organization at least six months in advance of their consideration by the Conference.

(2)(a) Amendments shall be adopted by the Conference. Adoption shall require the simple majority of the votes cast, provided that the Conference shall vote only on such proposals for amendments which have previously been adopted by the Assembly of the Paris Union and the Assembly of the Berne Union according to the rules applicable in each of them in respect to the voting of amendments of their respective Administrative Protocols.

(b) In counting the votes, abstentions shall not be counted as votes.

(c) Each State shall be allowed to cast only its own vote.

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(Article 13, contd.)

(3) Amendments shall enter into force one year after having been accepted by three-fourths of the Member States. Amendments thus accepted shall bind all the Member States, except that any amendment increasing the financial obligations of Member States shall bind a State only upon acceptance by it.

(4) Acceptance shall be communicated in writing to the Director-General and shall become effective on the day the Director-General receives it.

ARTICLE 14: ENTRY INTO FORCE

(1)(a) States may become party in accordance with paragraph (2), below, to this Convention by:

- (i) signature without reservation as to ratification, or
- (ii) signature subject to ratification followed by the deposit of an instrument of ratification;
- (iii) deposit of an instrument of accession.

(b) Instrument of ratification or accession shall be deposited with the Director-General.

(2)(a) This Convention shall enter into force one month after the date on which twenty States, Members of the Paris Union and twenty States, Members of the Berne Union, have taken action as provided in paragraph (1) above, it being understood that a State Member of both Unions will be included in each of these groups for purposes of this provision.

(b) It shall enter into force with respect to a State which takes action subsequently, one month after the date on which it takes such action.

(c) As regards a State which is not a Member of either the Paris Union or the Berne Union and which takes action as provided in paragraph (1) above before the date referred to in subparagraph (a) of the present paragraph, this Convention shall enter into force on the date referred to in subparagraph (a) of the present paragraph.

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(Article 14, contd.)

(3) States which are party to any of the conventions, agreements or treaties the administrative tasks or the administration of which is entrusted to the Organization but which have not become party to this Convention shall, for five years from the date of entry into force of this Convention, have the same rights as if they had become party to this Convention. Upon expiration of this five-year period, such States shall have no right to vote in the General Assembly, the Coordination Committee and the Conference. Upon becoming party to this Convention, such States shall regain their votes in the General Assembly, the Coordination Committee and the Conference.

ARTICLE 15: DENUNCIATION

(1) Any State party to the present Convention may denounce it.

(2) Denunciation shall be effected by notification addressed to the Director-General and shall take effect one year after receipt by him of the notification.

ARTICLE 16: NOTIFICATIONS

The Director-General shall notify to the Governments of all States which sign or accede to this Convention:

- (i) the date the Convention enters into force,
- (ii) each signature and deposit of instrument of ratification or accession, and the date thereof,
- (iii) each acceptance of an amendment to this Convention, the date of the receipt of any document signifying acceptance, and the date upon which the amendment enters into force,
- (iv) any denunciation of this Convention and the date of the receipt thereof.

ARTICLE 17: RESERVATIONS

No reservations to this Convention are permitted.

Note: Should the Convention permit reservation on any provision, this Article shall refer specifically to such provision.

ARTICLE 18: FINAL PROVISION

(1) The present Convention, of which the English and French and Russian* texts are equally authentic, shall be deposited with the Director-General.

(2) Official translations of the present Convention shall be established in the German, Italian, Russian* and Spanish languages.

(3) The Director-General shall transmit two duly certified copies of this Convention and of each amendment adopted by the General Assembly to the Governments of the signatory States of the Paris and Berne Unions, and, on request, of any other State.

(4) The Director-General shall register the present Convention with the Secretary-General of the United Nations as soon as possible.

ARTICLE 19: TRANSITIONAL PROVISION

Until the first Director-General assumes office, references to the Director-General shall be deemed to be references to the Director of the United International Bureaux for the Protection of Industrial, Literary and Artistic Property (BIRPI).

* The question of whether the word "Russian" should be inserted in paragraph (1) or paragraph (2) has not been decided.

C. DRAFT RESOLUTION

The Diplomatic Conference of Stockholm resolves:

(1)(a) Subject to subparagraph (c) concerning the financial obligations of Member States, the provisions of the Convention of the Intellectual Property Organization (I.P.O.) signed today shall be applied on an interim basis as of January 1st of next year and until the Convention enters into force as provided in Article 14 (2)(a) of the Convention, unless, prior to such entry into force, the present Resolution is rescinded or amended by not less than nine-tenths of the States signatories of the Convention. Such interim application shall give rise to obligations on any Member State only to the extent compatible with its Constitution and laws.

(b) During the interim period, all States party to any convention, agreement or treaty the administrative tasks or the administration of which is now entrusted to the United International Bureaux for the Protection of Industrial, Literary and Artistic Property (BIRPI), or will be entrusted to the interim Organization, and all States which, without being party to such conventions, agreements or treaties, sign the Convention without reservation as to ratification, or ratify or accede to it, shall have the same rights as if the Convention were in force and they were parties thereto.

(c) All States are invited to contribute on the basis of the budgets to be established by the Assemblies and the Conference functioning on an interim basis and according to the system provided for in the Protocols relating to the Conventions and Agreements of the various Unions.

(2) Subject to the applicable provisions of the Convention, references in the conventions, agreements or treaties the administrative tasks or the administration of which have been entrusted to the United International Bureaux for the Protection of Industrial, Literary and Artistic Property (BIRPI) shall be considered:

- (i) as references to the Assemblies or the General Assembly whenever the reference is to assemblies of Member States other than revision conferences,
- (ii) as references to the Director General whenever the reference is to the Director of the United International Bureaux for the Protection of Industrial, Literary and Artistic Property (BIRPI).

(Draft Resolution contd.)

(3) The Government of Switzerland, the Interunion Coordination Committee, and the Director of the United International Bureaux for the Protection of Industrial, Literary and Artistic Property (BIRPI) are invited to take the necessary measures for the implementation of the present Resolution.

D. NOTE ON CERTAIN CHANGESIN THE EXISTING CONVENTIONS AND AGREEMENTSA. Paris (Lisbon) Convention

- Article 13(1) dealing with Swiss supervision would be omitted since the Assembly (Protocol, Article B) deals with supervision.
- Article 13(2)(a) dealing with the languages of the Secretariat would be omitted since IPO Convention, Article 5(2)(iv) deals with it.
- Article 13(2)(b) dealing with the languages of revision conferences would be maintained: the addition of Russian would be considered by the Stockholm Conference.
- Article 13(3) dealing with the tasks of the Secretariat would be transferred into Article D of the Protocol.
- Article 13(4) dealing with the monthly periodical to be published by the Secretariat would be transferred into Article D of the Protocol.
- Article 13(5) first sentence, dealing with information, would be transferred into Article D of the Protocol.
- Article 13(5) second sentence, dealing with reports, would be omitted as it is dealt with in Protocol, Articles B(1)(2)(v) and C(6)(iv).
- Article 13(6) to (11) dealing with finances would be omitted since they are dealt with in Protocol, Article E.
- Article 14(1) and (7) dealing with revisions to be maintained.
- Article 14(3) to be changed: the preparatory work should be in the hands of the Assembly and the Secretariat rather than in the hands of the Host Country and the Secretariat.
- Article 14(4) to be maintained.
- Article 14(5) to be omitted since the Assembly (Protocol, Article B) fulfils these functions.

B. Berne (Brussels) Convention

- Article 21(1) dealing with the Bureau to be omitted as the Secretariat takes its place.
- Article 21(2) dealing with Swiss supervision to be omitted since the Assembly deals with supervision.
- Article 21(3) dealing with language of the Bureau to be omitted since IPO Convention Article 5(2)(iv) deals with this question.
- Article 22(1) dealing with information and with the tasks of the Secretariat could be transferred into the Protocol, Article D.
- Article 22(2) dealing with information would be transferred into Article D of the Protocol.
- Article 22(3) dealing with reports would be omitted as it is dealt with in Protocol, Articles B(1)(2)(v) and C(6)(iv).
- Article 23 dealing with finances would be omitted as they are dealt with in Protocol, Article E.
- Article 24 would be maintained except that one would provide that the preparatory work for revision is in the hands of the Assembly and the Secretariat rather than in the hands of the Host Country and the Secretariat.

C. Madrid (Nice) Agreement

(1) The provisions on the amount of the fees (Article 8(2) to (9)) would be omitted since the Protocol deals with the question (see Articles E(5)). The principles of the fee system would remain.

(2) Art. 10(2) to (4) dealing with the Committee of (Madrid) Directors would be omitted since the Assembly of the Madrid Union would take its place.

D. Hague (London) Agreement

(1) The provisions on the amount of the fees (London, Article 15; Additional Act of Monaco, Articles 1 and 2) would be omitted since the Protocol deals with the question (see Article E(5)). The principles of the fee system would remain.

(2) Article 20 on Regulations would be modified so as to express the idea that the power of making Regulations shall vest in the Assembly of the Hague Union.

E. Nice Union

(1) Article 5 dealing with finances would be replaced by Article E of the Protocol dealing with the same question.

(2) Article 8(3) would provide that the Secretariat and the Assembly of the Nice Union rather than the Secretariat and the Host Country would prepare revision conferences.

F. Lisbon Agreement (not yet in force)

Similar principles as referred to above would apply in connection with Articles 7(2) and 9.

NB: When "transfer" of a provision into the Protocol is indicated, what is meant is the transfer of the essence of the provision. The wording might be changed. The name of the "Bureau" would have to be changed in all provisions where it appears. The Regulations would have to be brought into harmony with the modified Agreements. Earlier texts (London, Rome, etc.) would have to be amended accordingly. The same applies to the 1961 text of the Hague Agreement.