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BUREAUX FOR THE PROTECTION
OF INTELLECTUAL PROPERTY
GENEVA, SWITZERLAND

SECOND COMMITTEE OF GOVERNMENTAL EXPERTS ON ADMINISTRATION AND STRUCTURE

DEUXIEME COMITE D'EXPERTS GOUVERNEMENTAUX CONCERNANT DES QUESTIONS D'ORDRE STRUCTUREL ET ADMINISTRATIF

Geneva, May 16 to 27, 1966 — Genève, 16 - 27 mai 1966

PROPOSAL OF THE SWISS DELEGATION CONCERNING ARTICLE 11 OF THE DRAFT IPO CONVENTION (DOC. AA/III/5)

The Swiss Delegation proposes that the following text should be substituted for the text of the draft:

Article 11: Legal Status, Privileges and Immunities

Paragraph (1): The Organization shall enjoy on the territory of each Member State, in conformity with the laws of that State, such legal capacity as may be necessary for the fulfilment of the Organization's purposes and for the exercise of its functions.

Paragraph (2): The Organization shall conclude a Headquarters Agreement with the Swiss Confederation and, where appropriate, with any other State in which the Headquarters may subsequently be located.

Paragraph (3): The Organization 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 exercise of its functions.

Paragraph (4): The Director General shall be authorized to negotiate and conclude, with the approval of the Coordination Committee, the agreements referred to in the preceding paragraphs.

Reasons:

(a) Paragraph (3) of the Draft invalidates paragraph (1). It is therefore advisable to substitute for these two texts the paragraph (1) reproduced above, which provides that each Member State shall be obliged to recognize the legal status of IPO in accordance with the provisions of its domestic law.

(b) Paragraph (2) of the draft deals with three different subjects: the Headquarters Agreement to be concluded with Switzerland, privileges and immunities, and the powers to be given to the Director General to negotiate such agreements.

It seems preferable to have a separate provision for each of these three points (paragraphs (2) to (4)).

PROPOSAL OF THE SWISS DELEGATION CONCERNING
ARTICLE 14 OF THE DRAFT IPO CONVENTION (DOC. AA/III/5)

The Swiss Delegation proposes that Article 14 should be worded as follows:

Article 14: Signature, Ratification, Accession

Paragraph (1): Subject to the provisions of paragraph (3) of this Article, the States referred to in Article 4 of this Convention may become party to this Convention by:

- (a) signature without reservation as to ratification, or
- (b) signature subject to ratification followed by the deposit of an instrument of ratification, or
- (c) deposit of an instrument of accession.

Paragraph (2): States may also become party to this Convention in accordance with Article 14bis, by ratifying, or acceding in the same conditions to, the Stockholm Act of the Paris Convention in its entirety or with only the limitation set forth in Article 16(2)(i) thereof (see Article 16quater of that Act), or by ratifying, or acceding in the same conditions to, the Stockholm Act of the Berne Convention in its entirety or with only the limitation set forth in Article 25(2)(i) thereof (see Article 25quater of that Act).

Paragraph (3): A State party to the Paris Convention, the Berne Convention, or both Conventions, may not become a party to this Convention until it ratifies or accedes to either (i) the Stockholm Act of the Paris Convention in its entirety or with only the limitation set forth in Article 16(2)(i) thereof, or (ii) the Stockholm Act of the Berne Convention in its entirety or with only the limitation set forth in Article 25(2)(i) thereof.

Paragraph (4): Instruments of ratification or accession shall be deposited with the Director General.

Article 14bis: Entry into Force

Paragraph (1)(a) = Text of the draft, Article 14, paragraph (2)(a).

Paragraph (1)(b): Any other State shall be bound by this Convention one month after the date on which it takes action as provided in paragraphs (1) or (2) of Article 14, or on the date of the entry into force of this Convention pursuant to subparagraph (a) of this paragraph, whichever date is the later.

Reasons:

(a) As to paragraph (1) of the draft:

It seems preferable to put subparagraph (b) first, as it deals with the normal procedure for becoming a party to the Convention (signature or accession). Subparagraphs (a) and (c) would then follow.

As regards subparagraph (b), the text proposed is slightly modified to ensure coordination with Article 4 of the Convention and to avoid confusion between the conditions for becoming a member and the means by which a State may accede to the Convention. In view of the reference to Article 4, the first seven words of subparagraph (c) become unnecessary.

(b) As to paragraphs (2) and (3) of the draft:

It is suggested that there should be a separate Article for the provisions concerning entry into force (Article 14bis).