

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

TEXTS SUBMITTED BY THE FRENCH DELEGATION

Provisional Text

INTERUNION ADMINISTRATIVE PROTOCOL

The signatory States,

Moved by the desire, on the one hand, to modernize and render more efficient the administration of the intellectual property Unions by the establishment of administrative organs which, albeit common in part, fully respect the autonomy and equality of each of the various Unions, and, on the other hand, by their concern to promote administrative cooperation between the Unions throughout the world,

Considering the provisions of the Administrative Protocols adopted for the various Unions,

Have agreed as follows:

Article I

A General Assembly and a Coordination Committee are hereby established.

Article 2: General Assembly

(1) The General Assembly shall consist of the States Members of any of the Unions, party to this Protocol.

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

(3) The General Assembly shall:

(a) study all the administrative and financial matters of common interest to two or more Unions and, in particular the common expenses to be included in the budgets of the various Unions;

(b) make provision for the funds intended to cover the proper expenses of the General Assembly and the common expenses of BIRPI, as well as the sharing of these expenses among the various Unions in proportion to the interest which each Union has in such expenses;

(c) review and approve the reports and activities of the Coordination Committee and the Director of BIRPI on these questions and give them the necessary directives;

(d) appoint the Director and the Deputy Directors of the United International Bureaux for the Protection of Intellectual Property (BIRPI);

(e) pronounce upon the arrangements proposed by the Director of BIRPI concerning the administration of the conventions, agreements and treaties in the field of intellectual property, at the request of the competent organs established by these conventions, agreements and treaties and in agreement with them;

(f) determine the working languages of BIRPI;

(g) determine which States not Members of any of the Unions and which international organizations shall be admitted to its meetings as observers;

(h) determine, where appropriate, the amendments to be made to this Protocol on the proposal of the Director or the Assembly of one of the Unions, and upon the advice of the Coordination Committee.

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

(b)(i) Subject to the provisions of the following subparagraphs and Article 5 (Amendments), the General Assembly shall make its decisions by a simple majority of the votes of the members present and voting.

(ii) The required majority must be attained not only among the States represented in the General Assembly but also among the States Members of each Union having seats in that Assembly.

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

(i) decisions concerning the possible transfer of the Headquarters of the Unions (BIRPI);

(ii) decisions concerning the appointment of the Director and Deputy Directors of BIRPI;

(iii) invitations addressed to States not Members and to international organizations to attend meetings as observers;

(iv) confirmation of arrangements concerning the administration of conventions, agreements and treaties referred to in Article 3(e) above.

(d) For the possible transfer of the Headquarters of the Unions (BIRPI) and the appointment of the Director and Deputy Directors of BIRPI, the required majority must be attained not only in the General Assembly but also in the Assembly of each Union.

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

(5) The General Assembly shall meet normally once in every third calendar year in ordinary session upon convocation by the Director, unless otherwise decided by the majority of the States Members of any of the Unions, on the proposal of the Coordination Committee or at the request of one-fourth of the States constituting the General Assembly.

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

Article III: Coordination Committee

(1) (a) The Coordination Committee shall consist of the States, party to this Protocol, which are Members of the Executive Committee of the Paris Union, or of the Executive Committee of the Berne Union.

(b) The Government of each State Member of the Coordination Committee shall be represented by a delegate who may be assisted by advisors and experts.

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

(3) The Coordination Committee shall:

(a) give advise to the organs of the various Unions and to the General Assembly on all administrative and financial matters of common interest to two or more Unions, and in particular on the common expenses to be included in the budgets of the various Unions;

(b) prepare the draft agenda of the General Assembly;

(c) when the term of office of the Director and of the Deputy Directors of BIRPI is about to expire, or when there is a vacancy in the post of the Director or of the Deputy Directors, nominate a candidate for appointment to such position by the General Assembly;

(d) if the post of the Director or of the Deputy Directors becomes vacant between two sessions of the General Assembly, appoint a successor ad interim, whose term of office shall last until the next session of the General Assembly;

(e) perform such other functions as are allocated to it in this Protocol and the Administrative Protocols of the various Unions, as well as those entrusted to it by the General Assembly.

(4) The Coordination Committee shall meet normally once every year upon convocation by the Director, unless otherwise decided by the majority of the States Members of the Committee.

(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. It shall be allowed to cast only its own vote.

(6) (a) The Coordination Committee shall express its opinions and make its decisions by a simple majority of the Members present and voting.

(b) Even if a simple majority is obtained, the proposal on which the vote has been taken shall not be considered as adopted unless it has attained a simple majority among the States Members of the Executive Committee of the Paris Union, among the States Members of the Executive Committee of the Berne Union and, in the event provided for under paragraph (2) above, among the representatives of the other Unions administered by BIRPI.

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

(8) Any State Member of any of the Unions, 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 IV: Secretariat

(1) The United International Bureaux for the Protection of Intellectual Property (BIRPI) shall be maintained in their present form, subject to the provisions of this Protocol.

(2) They shall consist of a Director, two or more Deputy Directors, and staff members as required.

(3) The Director and the Deputy Directors shall be appointed by the General Assembly for a fixed term. They shall be eligible for reappointment for fixed terms. The periods of the initial appointment and subsequent appointments, as well as all other conditions of the appointment, shall be fixed by the General Assembly.

(4) The Director shall prepare the draft programs and budgets and periodical reports on activities. He shall transmit them to the Governments of the States Members and to the competent organs of the various Unions.

(5) The Director, or one of the Deputy Directors designated by him, shall normally participate, without the right to vote, in all meetings of the General Assembly, the Coordination Committee, and any other committee or working group which may be set up. He, or one of the Deputy Directors, or a staff member designated by him, shall be ex officio Secretary of these organs.

(6) The Director shall appoint the staff necessary for the efficient performance of the tasks of the International Bureaux. The conditions of employment shall be fixed by the Staff Regulations to be approved by the Coordination Committee on the proposal of the Director. 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.

The nature of the responsibilities of the Director, the Deputy Directors, and the other staff members, 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 BIRPI. They shall refrain from any action which might prejudice their position as international officials.

Each Member State shall undertake to respect the exclusively international character of the responsibilities of the Director, the Deputy Directors, and the other staff members, and not to seek to influence them in the discharge of their duties.

Article V: Amendments

(1) Proposals for the amendment of this Protocol shall be communicated to the Member States of the Unions at least six months before their submission to the General Assembly.

(2) Proposals for amendment shall be examined by the General Assembly upon the advice of the Coordination Committee. Their adoption shall require a simple majority of the votes of the members present and voting, provided that they shall not be considered as adopted unless they have also been adopted by the various Unions in accordance with the rules applicable in each of them in respect of the voting of amendments of their respective Administrative Protocols.

(3) Amendments shall enter into force when written notifications of acceptance have been received by the Swiss Government from three-fourths of the Member States. Amendments thus accepted shall bind all the Member States.

Article VI: Entry into Force

(1) This Protocol shall enter into force in respect of each of the signatory States on the date on which the Administrative Protocols of the Unions or restricted Unions of which it is a Member come into force with respect to such State.

(2) States which have not become party to this Protocol shall, for five years from the date of entry into force of the Protocol, have the same rights as if they had become party to it. Upon expiration of this five-year period, such States shall have no right to vote in the General Assembly and in the Coordination Committee. Upon becoming party to this Protocol, such States shall regain such right to vote.

Article VII: Denunciation

This Protocol may not be denounced by States which are party to it unless such States denounce simultaneously the conventions and agreements to which they are party, and the secretariat of which is entrusted to the International Bureaux.

Article VIII: Reservations

No reservations to this Interunion Administrative Protocol are permitted.

Article IX: Final Provisions

(a) This Protocol is drawn up in French. An equivalent text is drafted in English. In case of dispute as to the interpretation to be given to the Protocol, the French text shall always prevail. Any State or group of States signatories hereto shall be entitled to have established by BIRPI, in agreement with the latter, an authoritative text of the said Protocol in the language of its choice. These texts shall be published as an annex to the French and English texts.

(b) This Protocol shall be deposited with the Swiss Government which shall notify the Member States of the Unions and the Director of BIRPI of the deposit of instruments of ratification and accession in respect of this Protocol, its entry into force, and any amendments which may be made to it together with the date of their entry into force.

Article X: Transitional Provisions

Until the first Director of BIRPI appointed by the General Assembly assumes office, references to the Director in this Protocol shall be deemed to be references to the present Director of BIRPI.

Provisional Text

ADDITIONAL PROTOCOL TO
THE ADMINISTRATIVE PROTOCOL CONCERNING THE
BERNE UNION [THE PARIS UNION]

The signatory States,

Moved by the desire to promote the protection of intellectual property throughout the world and to encourage cooperation to that end between the Member States of the intellectual property Unions and all other States, with a view to the mutual understanding of the aims pursued by the Unions, on the one hand, and the cultural (or industrial) needs of the developing countries, on the other hand,

Have agreed as follows:

Article 1

A Conference is hereby established within the framework of the Union.

Article 2

The Conference shall consist of the States Members of the Union and States outside the Union which are Members of the United Nations or of one of the Specialized Agencies of the United Nations, or which are invited by the Assembly of the Union making its decisions by a two-thirds majority of the votes cast.

Article 3

The Conference shall:

- (a) discuss matters concerning the protection of literary and artistic property--in the case of the Berne Convention--the protection of industrial property--in the case of the Paris Convention; it may adopt resolutions on these matters.
- (b) make proposals to the Assembly concerning the program of technical-legal assistance and its implementation;
- (c) decide on the distribution of the means adopted by the Assembly of the Union for the purpose of such assistance.

Article 4

- (a) Each State having a seat in the Conference shall have one vote.
- (b) Subject to the provisions of paragraph (8), the Conference shall make its decisions by a simple majority of the votes cast.
- (c) Abstentions shall not be considered as votes.
- (d) Each State shall be allowed to cast only its own votes.

Article 5

The Conference shall meet in ordinary session upon convocation by the Director during the same period and at the same place as the Assembly of the Union. The Conference shall meet in extraordinary session upon convocation by the Director at the request of the majority of the Members of the Assembly.

Article 6

The Conference shall adopt its own rules of procedure.

Article 7

The Conference may invite, as observers, representatives of States not Members of the Union, and representatives of international organizations, to such of its meetings or its working committees as it sees fit.

Article 8

The Conference shall make its decisions by a two-thirds majority of the votes cast in the case of invitations referred to in Article 7.

Article 9

This Protocol shall be open to signature by States Members of the Union and States Members of the United Nations or of one of the Specialized Agencies of the United Nations.

Article 10

- (a) This Protocol is drawn up in French and deposited with the Government of the Swiss Confederation.
- (b) Official translations shall be established by the Director of the International Bureau, at the request of inter-

ested Governments and in consultation with them, in the
..... languages.

(c) In the event of dispute, the French text shall always prevail.

(d) The Government of the Swiss Confederation shall transmit two duly certified copies of the text of this Protocol to the Governments of all the countries of the Union which it administers and, on request, to the Government of any other country.

(e) The Government of the Swiss Confederation shall register this Protocol with the Secretary-General of the United Nations as soon as possible.

(f) The Government of the Swiss Government shall notify the Governments of all countries of the Union and the Director of the International Bureau of the deposit of instruments of ratification and accession in respect of this Protocol, its entry into force, and any amendments which may be made to it, together with the date of entry into force.