

# WIPO



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WORLD INTELLECTUAL PROPERTY ORGANIZATION  
UNITED INTERNATIONAL BUREAUX FOR THE PROTECTION OF INTELLECTUAL PROPERTY

GENEVA

# BIRPI

**ADMINISTRATIVE BODIES  
OF WIPO AND OF THE UNIONS ADMINISTERED BY WIPO AND BIRPI**

**First Series of Meetings  
Geneva, September 21 to 29, 1970**

ADDENDUM TO DOCUMENT AB/I/7

presented by the Director of BIRPI

Summary

In this document the Director of BIRPI proposes three additions to the draft program of work contained in paragraph 21 of document AB/I/7:  
"Cooperation with United Nations bodies."

### Introduction

1. After the distribution in March, 1970, of document AB/I/7, containing the draft program and budget, certain decisions taken by the Economic and Social Council of the United Nations and by the Diplomatic Conference on the Patent Cooperation Treaty have led the Director of BIRPI to propose three additions to the program of work contained in the said document. Of these additions, one only (referred to in paragraphs 2 and 3 of this document) has budgetary implications: these, however, are so small that they can be absorbed in the expenses foreseen in document AB/I/7.

### Computer Software

2. In connection with paragraph 21 of document AB/I/7, "Cooperation with UN Bodies", it is proposed that certain additional tasks be undertaken in 1971, with possible follow-up action in 1972 and 1973. This proposal arises from a decision of the Economic and Social Council of the United Nations, during its 49th Session held at Geneva in July 1970, upon the report of the Secretary-General on the application of computer technology to development (UN document E/4800, referred to in paragraph 13 of document AB/I/3 and in paragraph 3 of document AB/I/26). The Economic and Social Council, while deciding to defer examination in detail of this report until its 50th Session to be held in Spring 1971, asked the organizations concerned to continue to assist the Secretary-General in the study, and particularly in the formulation of any suggestions he may wish to make when his report is discussed. It will be recalled that the report includes the recommendation that BIRPI and WIPO, with the assistance of governmental experts, should be requested to study questions of the most appropriate form of legal protection for computer software. In order to comply with the request made by ECOSOC, at least the first stages of work on the recommended study will be begun without delay; for a limited part of the work, such as assistance in the collection of background material, the assistance of outside consultants may be necessary. A small Advisory Group of governmental experts, possibly with the assistance of experts from the private circles concerned, will meet in 1971. Further work on the study will be undertaken in accordance with the decisions of the Economic and Social Council and the General Assembly of the United Nations.

3. The expenses foreseeable under the headings "Consultants," "Conferences" and "Third Party Travel" amount to 10,000 Swiss francs. They could be covered by the item "Unforeseen" shown on page 55 of document AB/I/7.

#### Relations with the United Nations

4. Also in connection with paragraph 21 of document AB/I/7, it will be recalled that Article 3(i) of the WIPO Convention provides that its objective of promoting the protection of intellectual property throughout the world shall, where appropriate, be pursued "in collaboration with any other international organization." Article 6(3)(f) provides that the approval of an agreement with the United Nations under Articles 57 and 63 of the Charter of the United Nations shall require a majority of nine-tenths of the votes cast in the General Assembly of WIPO.

5. The two Articles of the Charter of the United Nations mentioned are those which refer to the specialized agencies of the United Nations system, such as the ILO, Unesco, FAO and WHO, whose sectors of responsibility are very wide, and the International Telecommunication Union, the Universal Postal Union and the World Meteorological Organization, whose specialized responsibilities and operational size are comparable with those of WIPO. Article 63 of the Charter provides for coordination of the activities of the specialized agencies by the Economic and Social Council of the United Nations. Such coordination machinery includes an intergovernmental Committee for Programme and Coordination and an Administrative Committee on Coordination, composed of the executive heads of the agencies, with the Secretary-General of the United Nations as Chairman.

6. In the past, BIRPI has achieved a modest measure of coordination of its activities with some of the organizations of the United Nations system. Working agreements have been concluded with a few of those organizations, including the United Nations itself. Good relations have been cultivated at the Secretariat level. At meetings of several UN organizations, delegations from countries which are members of the Unions administered by WIPO (BIRPI) have done their best to ensure that no unnecessary duplication of work is authorized. However, BIRPI's efforts have had to be made on an ad hoc basis, for BIRPI, or WIPO, has no official standing in the coordination machinery of the United Nations family. It is clearly desirable that cooperation and coordination be generalized and institutionalized.

7. It seems therefore necessary to examine now the question whether the situation of BIRPI should continue to be that of WIPO or whether, on the other hand, WIPO should seek closer ties with the United Nations system or even become a specialized agency of the United Nations.

8. This question has many aspects and its examination may require the assistance of persons with long experience of the United Nations system at both the Secretariat and the governmental level. The main advantages to be hoped for would be increased efficiency in the coordination of work, particularly in relation to the technical assistance program for the benefit of developing countries, and the possible extension of the membership of WIPO and the Unions since membership in the United Nations almost automatically entails joining all the specialized agencies. There seem to be few, if any, disadvantages. In particular, specialized agency status would entail no increase in the expenses of WIPO or of the Unions. On the contrary, technical assistance programs, now financed from the contributions of member States, could probably be extended and financed from other sources such as the UN Development Program.

9. The proposed inquiry is urgently required. If the possibility were envisaged of seeking specialized agency status, negotiations with the United Nations should start as soon as possible. That status is available only to organizations whose constitutional competence in the economic and social fields is recognized by the United Nations with an implied degree of exclusivity, for the system should not contain more than one organization entrusted with the same responsibilities. In recent years, the United Nations system has come to appreciate the importance of national and international systems for the protection of intellectual property in encouraging economic and social development, and particularly in relation to the transfer of technology to developing countries. If the United Nations system finds it necessary to undertake substantive work in this field, the possibility of the recognition of WIPO's exclusive competence must become progressively more limited. In this connection, attention is drawn to paragraph 5 of document AB/I/26, relating to a decision of the Economic and Social Council on the need to establish new intergovernmental machinery in the field of the application of science and technology to development.

10. A final decision on this matter should, of course, be reserved to future meetings, in view, inter alia, of Article 6(3)(f) of the WIPO Convention.

11. The proposed inquiry has no budgetary implications. It will be conducted in the course of the missions already foreseen in paragraph 21 of document AB/I/7 for the purposes of cooperation with United Nations bodies.

12. In these circumstances, the General Assembly and the Conference of WIPO may wish to:

(i) note that the objectives of WIPO include responsibility for an important sector of international cooperation in the economic and cultural fields, with particular reference to the needs of developing countries,

(ii) note that the effective fulfillment of that responsibility, particularly in respect of developing countries, requires appropriate cooperation and coordination between WIPO on the one hand and the United Nations and the organizations of the United Nations system on the other hand,

(iii) note that such cooperation and coordination would assist developing countries in the planning and formulation of technical assistance projects under the WIPO legal-technical assistance program or in the context of Chapter IV of the Patent Cooperation Treaty, and in ensuring that such projects are financed and executed, and

(iv) invite the Director General to examine, with the possible assistance of consultants, working groups of experts or such other advice as he may deem desirable, the means of securing the most appropriate cooperation and coordination between WIPO on the one hand and the United Nations and the organizations of the United Nations system on the other hand, including the possibility and desirability of entering into an agreement under Articles 57 and 63 of the Charter of the United Nations, and to report to the next ordinary sessions of the General Assembly and the Conference.

United Nations Development Program (UNDP)

13. Document WO/CC/I/4, "General agreements with intergovernmental organizations," contains, in paragraph 5, a brief description of the UNDP and of the new duties to be placed upon WIPO by the Patent Cooperation Treaty. Negotiations with the UNDP for the fulfillment of these new duties will be undertaken.

14. To provide a clear basis for such negotiations, it would be desirable that the General Assembly and the Conference of WIPO record its decision in a formal manner. A possible resolution to this effect is therefore submitted for their consideration, as follows:

"The Assembly and the Conference of the World Intellectual Property Organization (WIPO),

Noting that the Assembly and the Executive Committee of the International (Paris) Union for the Protection of Industrial Property have established an Interim Committee for Technical Assistance in accordance with the recommendation of the Washington Diplomatic Conference on the Patent Cooperation Treaty, 1970,

Emphasizing the need to continue and strengthen the work undertaken by BIRPI under its Technical Assistance Program,

(1) Instructs the Director General to inform the Administrator of the United Nations Development Program of the willingness of WIPO to act as an executing agency or as a subcontractor in technical assistance projects within the field of the promotion of the protection of intellectual property, with particular reference to facilitating the transfer of technology to developing countries;

(2) Authorizes the Director General, with the advice of the Interim Committee for Technical Assistance, to negotiate with the Administrator of the United Nations Development Program and with other appropriate intergovernmental organizations such general agreements as may be desirable to facilitate the financing and execution of technical assistance projects requested by Governments within the context of the Patent Cooperation Treaty and of the Convention establishing WIPO;

(3) Recommends that the Interim Committee for Technical Assistance give early consideration to pilot technical assistance projects requested by individual Governments or by groups of Governments within the context of the Patent Cooperation Treaty with a view to their commencement before the formal entry into force of the Treaty.

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