

COMITÉ DE COORDINATION INTERUNIONS, CINQUIÈME SESSION
INTERUNION COORDINATION COMMITTEE, FIFTH SESSION

(Genève, 18-21 décembre 1967)
(Geneva, December 18 to 21, 1967)

REPORT
ON
THE RELATIONS OF BIRPI AND UNCITRAL

1. This document deals with the question of the relations of BIRPI with the United Nations Commission on International Trade Law (UNCITRAL). It is suggested that the question be discussed under item 5 of the draft agenda, entitled "Report on the Activities of BIRPI since the Last Ordinary Session (September 1966) of the Interunion Coordination Committee" (see document CCIU/V/3).

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2. A reference to this question is already contained in paragraph 55 of document CCIU/V/3. It is stated there that UNCITRAL's function is to promote "the progressive harmonization and unification of the law of international trade" (UN General Assembly Resolution 2205 (XXI) of December 17, 1966. The full text of this resolution appears in Annex I to the present document.)

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3. "Industrial property and Copyright" have been indicated by the United Nations as one of the seven topics falling within the scope of international trade (see the UN Legal Counsel's letter of March 13, 1967, to the Director of BIRPI, attached as Annex II to the present document).

4. Thus it appears that UNCITRAL will concern itself with industrial property and copyright. It is evident that the nature and degree of UNCITRAL's concern with these matters are of primary interest to BIRPI. Adequate coordination between the two agencies

is a matter of great importance. The activities of the two intergovernmental agencies should complement each other and should not result in duplication.

5. The United Nations Secretariat notified the Director of BIRPI of the creation of UNCITRAL and invited him to make comments and suggestions which may be helpful to UNCITRAL in carrying out its mandate (see Annex II).

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- 6. The Director replied by a letter dated April 27, 1967 (Annex III). This reply was acknowledged by the United Nations Secretariat through a letter dated June 13, 1967 (Annex IV). The Director of BIRPI supplemented his comments of April 27, 1967, in a letter dated September 29, 1967 (Annex V).
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7. As can be seen from this correspondence, UNCITRAL raises jurisdictional and other questions important for BIRPI. It is for this reason that the Director of BIRPI wishes to inform in full detail, through the present report, the members of the Paris and Berne Unions, and hereby invites comments from them and from the Interunion Coordination Committee.

8. The Interunion Coordination Committee is, in particular, invited to comment on the policy outlined in Annex III.



UNITED NATIONS
GENERAL
ASSEMBLY



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A/RES/2205 (XXI)*
4 January 1967

Twenty-first session
Agenda item 88

RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

[on the report of the Sixth Committee (A/6594 and Corr.1)]
2205 (XXI). Establishment of the United Nations Commission
on International Trade Law

The General Assembly,

Recalling its resolution 2102 (XX) of 20 December 1965, by which it requested the Secretary-General to submit to the General Assembly at its twenty-first session a comprehensive report on the progressive development of the law of international trade,

Having considered with appreciation the report of the Secretary-General on that subject,^{1/}

Considering that international trade co-operation among States is an important factor in promoting friendly relations and, consequently, in the maintenance of peace and security,

Recalling its belief that the interests of all peoples, and particularly those of developing countries, demand the betterment of conditions favouring the extensive development of international trade,

Reaffirming its conviction that divergencies arising from the laws of different States in matters relating to international trade constitute one of the obstacles to the development of world trade,

Having noted with appreciation the efforts made by intergovernmental and non-governmental organizations towards the progressive harmonization and

* Re-issued in English only for technical reasons.

^{1/} A/6396 and Corr.1 and 2 and Add.1 and 2.

unification of the law of international trade by promoting the adoption of international conventions, uniform laws, standard contract provisions, general conditions of sale, standard trade terms and other measures,

Noting at the same time that progress in this area has not been commensurate with the importance and urgency of the problem, owing to a number of factors, in particular insufficient co-ordination and co-operation between the organizations concerned, their limited membership or authority and the small degree of participation in this field on the part of many developing countries,

Considering it desirable that the process of harmonization and unification of the law of international trade should be substantially co-ordinated, systematized and accelerated and that a broader participation should be secured in furthering progress in this area,

Convinced that it would therefore be desirable for the United Nations to play a more active role towards reducing or removing legal obstacles to the flow of international trade,

Noting that such action would be properly within the scope and competence of the Organization under the terms of Article 1, paragraph 3, and Article 13, and of Chapters IX and X of the Charter of the United Nations,

Having in mind the responsibilities of the United Nations Conference on Trade and Development in the field of international trade,

Recalling that the Conference, in accordance with its General Principle Six,^{2/} has a particular interest in promoting the establishment of rules furthering international trade as one of the most important factors in economic development,

Recognizing that there is no existing United Nations organ which is both familiar with this technical legal subject and able to devote sufficient time to work in this field,

I

Decides to establish a United Nations Commission on International Trade Law (hereinafter referred to as the Commission), which shall have for its object the

2/ See Proceedings of the United Nations Conference on Trade and Development, vol. I, Final Act and Report (United Nations publication, Sales No.: 64.II.B.11), annex, A.I.1, p. 18.

promotion of the progressive harmonization and unification of the law of international trade, in accordance with the provisions set forth in section II below,

II

ORGANIZATION AND FUNCTIONS OF THE UNITED NATIONS
COMMISSION ON INTERNATIONAL TRADE LAW

1. The Commission shall consist of twenty-nine States, elected by the General Assembly for a term of six years, except as provided in paragraph 2 of the present resolution. In electing the members of the Commission, the Assembly shall observe the following distribution of seats:

- (a) Seven from African States;
- (b) Five from Asian States;
- (c) Four from Eastern European States;
- (d) Five from Latin American States;
- (e) Eight from Western European and other States.

The General Assembly shall also have due regard to the adequate representation of the principal economic and legal systems of the world, and of developed and developing countries.

2. Of the members elected at the first election, to be held at the twenty-second session of the General Assembly, the terms of fourteen members shall expire at the end of three years. The President of the General Assembly shall select these members within each of the five groups of States referred to in paragraph 1 above, by drawing lots.

3. The members elected at the first election shall take office on 1 January 1968. Subsequently, the members shall take office on 1 January of the year following each election.

4. The representatives of members on the Commission shall be appointed by Member States in so far as possible from among persons of eminence in the field of the law of international trade.

5. Retiring members shall be eligible for re-election.

6. The Commission shall normally hold one regular session a year. It shall, if there are no technical difficulties, meet alternately at United Nations Headquarters and the United Nations Office at Geneva.

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Annex I, page 4

7. The Secretary-General shall make available to the Commission the appropriate staff and facilities required by the Commission to fulfil its task.

8. The Commission shall further the progressive harmonization and unification of the law of international trade by:

(a) Co-ordinating the work of organizations active in this field and encouraging co-operation among them;

(b) Promoting wider participation in existing international conventions and wider acceptance of existing model and uniform laws;

(c) Preparing or promoting the adoption of new international conventions, model laws and uniform laws and promoting the codification and wider acceptance of international trade terms, provisions, customs and practices, in collaboration, where appropriate, with the organizations operating in this field;

(d) Promoting ways and means of ensuring a uniform interpretation and application of international conventions and uniform laws in the field of the law of international trade;

(e) Collecting and disseminating information on national legislation and modern legal developments, including case law, in the field of the law of international trade;

(f) Establishing and maintaining a close collaboration with the United Nations Conference on Trade and Development;

(g) Maintaining liaison with other United Nations organs and specialized agencies concerned with international trade;

(h) Taking any other action it may deem useful to fulfil its functions.

9. The Commission shall bear in mind the interests of all peoples, and particularly those of developing countries, in the extensive development of international trade.

10. The Commission shall submit an annual report, including its recommendations, to the General Assembly, and the report shall be submitted simultaneously to the United Nations Conference on Trade and Development for comments. Any such comments or recommendations which the Conference or the Trade and Development Board may wish to make, including suggestions on topics for inclusion in the work of the Commission, shall be transmitted to the General Assembly in accordance with the relevant provisions of Assembly resolution 1995 (XIX) of 30 December 1964. Any other

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recommendations relevant to the work of the Commission which the Conference or the Board may wish to make shall be similarly transmitted to the General Assembly.

11. The Commission may consult with or request the services of any international or national organization, scientific institution and individual expert, on any subject entrusted to it, if it considers that such consultation or services might assist it in the performance of its functions.

12. The Commission may establish appropriate working relationships with intergovernmental organizations and international non-governmental organizations concerned with the progressive harmonization and unification of the law of international trade.

III

1. Requests the Secretary-General, pending the election of the Commission, to carry out the preparatory work necessary for the organization of the work of the Commission and, in particular:

(a) To invite Member States to submit in writing before 1 July 1967, taking into account in particular the report of the Secretary-General,^{3/} comments on a programme of work to be undertaken by the Commission in discharging its functions under paragraph 8 of section II above;

(b) To request similar comments from the organs and organizations referred to in sub-paragraphs 8 (f) and (g) and in paragraph 12 of section II above;

2. Decides to include an item entitled "Election of the members of the United Nations Commission on International Trade Law" in the provisional agenda of its twenty-second session.

1497th plenary meeting,
17 December 1966.

3/ A/6396 and Corr.1 and 2 and Add.1 and 2.

Annex II
to Document CCIU/V/9

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REFERENCE

LE 130 (11-1)

March 1967

Dear Sir,

On 17 December 1966 the General Assembly adopted unanimously
..... resolution 2205 (XXI), a copy of which is enclosed for convenience,
establishing a United Nations Commission on International Trade
Law (UNCITRAL) for the purpose of promoting the progressive
harmonization and unification of the law of international trade.
The Commission will consist of twenty-nine States, and its
members will be elected by the General Assembly at its twenty-
second session.

Pending the election of the members of the Commission, the
General Assembly, in paragraph 1 of section III of the resolution,
requested the Secretary-General to carry out the preparatory
work necessary for the organization of the work of the Commission.
In particular, the Secretary-General was requested to invite
Member States and the organs and organizations concerned to submit
..... in writing before 1 July 1967, taking into account the enclosed
report of the Secretary-General (A/6396 and Corr.1 and 2 and
Add.1 and 2), comments on a programme of work to be undertaken
by the Commission in discharging its functions under paragraph 8
of section II of the resolution.

As regards the scope of the future activities of the
Commission, it may be recalled that in paragraph 10 of the

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Secretary-General's report the expression "law of international trade" was defined as the body of rules governing commercial relationships of a private law nature involving different countries. It was also indicated that the following are examples of topics falling within the scope of the law of international trade:

- (a) International sale of goods:
 - (i) Formation of contracts;
 - (ii) Agency arrangements;
 - (iii) Exclusive sale arrangements.
- (b) Negotiable instruments and banker's commercial credits.
- (c) Laws relating to conduct of business activities pertaining to international trade.
- (d) Insurance.
- (e) Transportation:
 - (i) Carriage of goods by sea;
 - (ii) Carriage of goods by air;
 - (iii) Carriage of goods by road and rail;
 - (iv) Carriage of goods by inland waterways.
- (f) Industrial property and copyright.
- (g) Commercial arbitration.

I would welcome any comments and suggestions which may be helpful to the Commission in carrying out its mandate. One aspect, concerning which I am confident that comments and suggestions would be of particular value to the Commission in considering the organization of its work, is the question of topics and priorities. The Commission may be expected to devote its attention at an early stage to the selection of topics for harmonization and unification and to the order of priority in the work programme of the Commission. In paragraph 223 of the Secretary-General's report (A/6396), it was stated that there

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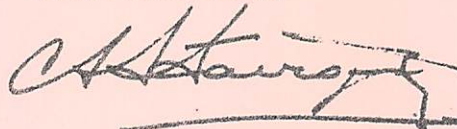
is no merit in formulating a convention or uniform law on a subject which would not appreciably benefit international trade.

The report went on to say

"Accordingly, it is most important that any attempt at unification and harmonization should be preceded by a thorough search for the right and ripe topics. It is essential that the selection of the topics should be done in close collaboration between legal experts and trade experts familiar with the requirements of international trade and its priorities, and aware of what results can be realistically achieved."

I would be grateful if, as provided in General Assembly resolution 2205 (XXI), you would forward not later than 1 July 1967 any written comments you may wish to make on this matter.

Yours sincerely,



C. A. Stavropoulos
Under-Secretary
Legal Counsel

ANNEX III
to Document CCTU/V/9

B.I.R.P.I.

Geneva, April 27, 1967

Dear Mr. Under-Secretary,

1. On March 13, 1967, you wrote me (LE 130 (11-1)) asking for comments on a program of work to be undertaken by the recently established United Nations Commission on International Trade Law (UNCITRAL). You wrote that comments should take into account Report No. A/6396 of your Secretary-General and should particularly deal with the question of topics and priorities.

2. I wish to thank you for your invitation to make comments on the possible program of activities of UNCITRAL. I am going to inform the competent assemblies and committees of our Member States about your invitation and the present reply when they convene later this year. But since their meetings will take place after the deadline of July 1, 1967, fixed in your letter, I am going to make some comments in the present letter and may supplement them after the said meetings.

3. First of all, I wish very sincerely to welcome the establishment of UNCITRAL. It has an important and interesting task before it. Speaking, as it will, in the name of the United Nations, its voice will doubtless be heard in all the capitals of the world and its authority will soon be generally recognized.

4. I also wish to offer BIRPI's full cooperation in the tasks which lie ahead of UNCITRAL. We shall do our best, in the fields which are ours since the eighties of the last century, that is, the fields of industrial property and copyright, to contribute to the effective realization of UNCITRAL objectives.

Mr. Constantin A. Stavropoulos
Under-Secretary
Legal Counsel,
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5. Planning for such contribution will require personal contacts between the Secretariat of UNCITRAL and our Secretariat. May I therefore cordially invite the Head and any member of the UNCITRAL Secretariat to visit us in Geneva in order to discuss questions of common interest. The sooner such contacts are initiated the better. We will ourselves try to visit the UNCITRAL Secretariat in New York as soon as an appropriate occasion arises and we hear from you that this would be timely also in your opinion.

6. Relations between UNCITRAL and BIRPI should, in my view, be formalized. UNCITRAL will probably establish a policy for relations with intergovernmental organizations and it might be necessary to leave this question until such policy has been fixed. I would appreciate it if you could let me know, or UNCITRAL's Secretariat could let me know, when the possibilities for concluding a formal agreement of cooperation will, as far as UNCITRAL is concerned, exist. We are ready to enter into negotiations at any time.

7. I shall now deal with Chapters III and IV of your Report (document A/6396).

8. Normative Regulations (paragraph 191). Among the most successful normative regulations by multilateral treaties are the Paris Convention for the Protection of Industrial Property (hereinafter referred to as "the Paris Convention") and the Berne Convention for the Protection of Literary and Artistic Works (hereinafter referred to as "the Berne Convention"). They can be called successful because they regulate much of the industrial property and copyright law, because they have 77 and 55 Member States, respectively, and because they have constantly modernized--through periodic revisions--during the 84 and 81 years, respectively, of their existence.

9. Model Laws (paragraphe 192). The final text of BIRPI's Model Law for Developing Countries on Inventions is, I think, already in your possession. The final text of BIRPI's Model Law for Developing Countries on Trademarks, Trade Names, and Unfair Competition, is in the hands of our printer and will be available within a few weeks. The draft of BIRPI's Model Law for Developing Countries on Industrial Designs will probably be published early next year. Finally, it is planned

to revise and make an improved version of the African Model Law on Copyright established several years ago and, more generally, to transform it into a model law for developing countries on copyright.

10. Formulation of Commercial Customs and Practices (paragraph 193). BIRPI has been and is in contact with the United Nations Economic Commission for Europe in relation to the work of formulating points to be covered in contracts transferring or licensing patented and non-patented technological know-how.

11. Approaches (paragraphs 196 to 198). Generally, BIRPI's approach is world-wide. The Paris and Berne Conventions are open to any country in the world. Some of the Special Agreements existing under the Paris Convention are mainly used by certain countries but this has historical reasons; they are open to accession by any country party to the Paris Convention. However, some of the formulating work of BIRPI is expressly designed for developing countries. BIRPI's Model Laws fall into this category. They were drawn up with the advice of, and for use by, developing countries. A Protocol dealing with copyright law, submitted for adoption by the Diplomatic Conference of Stockholm next summer, would be open to developing countries only.

12. Suitable Topics (paragraphs 203 to 207). There are several topics which BIRPI considers suitable for international regulation in the field of industrial property and copyright. Many of them could be normally dealt with in the course of the periodical revisions of the Paris and Berne Conventions and Special Agreements, mentioned above. Preparatory work on two other topics is well under way. One is the plan for concluding a multilateral agreement for facilitating the filing of applications for patents for the same invention in several countries and for facilitating the examination of such applications. The plan, commonly referred to as a plan for a Patent Cooperation Treaty ("PCT"), is described in our document PCT/INF/1 of which I enclose a copy in the present letter. It would bring about harmonization of concepts in the patent field on several important points.

13. The other is the plan for concluding a multilateral treaty on the international classification of goods for the purposes of registering industrial designs.

14. Both treaties are expected to be established by diplomatic conferences within the next two years. It should be noted that both topics correspond to the two criteria described in paragraphs 203 and 204 of your Report: (i) they are in a technical branch of the law and of world-wide interest; (ii) there is an economic need--for the "PCT," a most urgent need--for them, and the unifying measures would have a beneficial effect on the development of international trade, since they would make protection of patents and industrial designs cheaper, quicker, and simpler, both for their owners and for the Government authorities which deal with the administration of industrial property laws.

15. It might be of interest to note that some of BIRPI's treaties had also the "radiation effect" described in paragraph 205 of your Report. For example, in the registration of trademarks, several countries follow the international classification of goods and services established for the purposes of such registration by an Agreement concluded in 1957 without being party to that Agreement.

16. Progress and Shortcomings of Present Work (paragraphs 208 to 210). It might be useful to note that BIRPI's efforts do not suffer, or suffer only to a very small extent, from the shortcomings enumerated in paragraphs 208 to 210 of your Report. In the whole history of BIRPI, there is only one draft treaty which has not yet culminated in an international conference (see paragraph 210(a)). Developing countries of recent independence (paragraph 210(b)) have been most active in BIRPI's activities; in the formulation of model laws, they participated without the participation of any developed countries. While it is true that BIRPI does not command "world-wide acceptance" (paragraph 210(c))--and in this, it does not differ from any other Organization, including the United Nations--, it does have 82 Member States, which, as formulating agencies go, means that BIRPI's membership is larger than that of most other such agencies. (The number does not include territories, like the number quoted for the International Chamber of Commerce, but only sovereign States.) The statement that "none [of the formulating agencies] has a balanced representation of countries of free enterprise economics, countries of centrally planned economies, developed and developing countries" (paragraph 210(c)), certainly does not apply to BIRPI since Bulgaria, Cuba, Czechoslovakia, Hungary, Poland, Rumania, the Soviet Union, and Yugoslavia, are among its members, and since more than half of its members are "developing" countries according to UN criteria.

17. As far as coordination and cooperation among formulating agencies is concerned (paragraph 210(d)), BIRPI can see occasion for useful action by UNCITRAL. It is hoped that UNCITRAL will recognize BIRPI's general jurisdiction in its field, at least when activities are world-wide in their scope, and will assist it in its efforts to eliminate or prevent duplication by other agencies.

Role of the United Nations (UNCITRAL)

18. I believe that surveying by UNCITRAL of the field of the various international activities would be most useful (paragraph 215). BIRPI is ready to contribute within its competence to the accomplishment of such a task.

19. I believe also that UNCITRAL could perform a useful service in coordinating the work of organizations active in the trade law field and encouraging cooperation among them (paragraph 227(a)).

20. I believe that BIRPI's Member States, the overwhelming majority of which are Members also of the United Nations, would welcome and appreciate it if the United Nations would recommend the adoption of the treaties administered by BIRPI by countries not yet parties to them and the adoption of legislation by developing countries on the basis of BIRPI's model laws (paragraph 227(b)). I believe that, in view of the great moral authority the United Nations has, such recommendations would be among the most useful contributions UNCITRAL could make to the promotion of the development of the law of international trade in the fields of industrial property and copyright.

21. While we would also welcome the promotion by the United Nations of the adoption of new treaties in our field (paragraph 227(c)), I do not see the usefulness of the United Nations itself taking over the role of "formulating agency" in the field of industrial property and copyright (paragraph 227(c)) or convening itself international conferences for the adoption of conventions in this field (paragraph 217). The present membership, and the composition of the membership, of BIRPI is sufficiently world-wide and representative of all tendencies to have a balanced view of existing needs; moreover BIRPI has already a very great experience in the field of its specialization.

22. As to paragraph 218, it should be noted that there is no draft instrument prepared by BIRPI in the past which could be revised and submitted for action by the United Nations. I can, of course, see cases where, in other fields, the United Nations could usefully perform such activities and itself become a formulating agency, but, since these would not concern industrial property and copyright, I shall refrain from specifying them.

23. As to collecting and disseminating information on national legislation and modern legal developments (paragraph 227(e)), it should be noted that, as far as the law of industrial property and copyright is concerned, BIRPI has a reasonably complete collection of all national laws and regulations promulgated in the last one hundred years or more, that its monthly reviews--appearing without interruption since the foundation of the Paris and Berne Unions--contain much of this legislation in French and English, that the same reviews contain articles reflecting the views of courts, professors, lawyers, and other specialists, and that they also contain accounts on such modern legal developments as pending bills and international proposals. We shall be glad to furnish to the Secretariat of UNCITRAL any information which it may wish to have and which we either have at our disposal or can reasonably procure, in order to assist it in its tasks described in paragraph 234. As soon as it is agreeable to the Secretariat of UNCITRAL to receive publications and documents, we shall be glad to discuss with them their needs and will do our best to satisfy them.

24. In conclusion, I wish to call your attention to two forthcoming meetings, namely the Diplomatic Conference of Stockholm (see document S/INF/1, copy enclosed) and a committee of experts on the Patent Cooperation Treaty ("PCT") to be held in Geneva. The first will take place from June 12 to July 14, the second from October 2 to 10. If the Secretariat of UNCITRAL could, and would wish to, participate in either, please let me know. I shall then ask the Government of Sweden, host of the Stockholm Conference, to issue an invitation to that Conference, and, as far as the "PCT" meeting is concerned, I shall send an invitation myself.

Sincerely yours,

G.H.C. Bodenhausen
Director

Annex IV
to Document CCIU/V/9

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REFERENCE: IE 130 (11-1-1)

13 June 1967

Dear Mr. Bodenhausen,

Thank you very much for your letter of 27 April 1967 and for your offer of co-operation with UNCITRAL which, I am sure, will contribute to the realization of the Commission's objectives.

I share your view that in order to bring about an effective co-operation it would be desirable to establish personal contacts at the Secretariat level. I am glad that Mr. R. Woodley has already met with Mr. Sloan, Director of the General Legal Division, and Mr. Contini, Chief of the International Trade Law Branch, and we are looking forward to more contacts in the future.

Concerning the relationship between UNCITRAL and BIRPI, it is provided in paragraph 12 of General Assembly resolution 2205 (XXI) that the Commission may establish appropriate working relationships with inter-governmental organizations concerned with the progressive harmonization and unification of the law of international trade. It is expected that this matter will be considered by the Commission at its first session in 1968. Until then it would not therefore seem necessary to enter into negotiations for the establishment of formal relationships.

I have read with interest the description of the projects in which BIRPI is actively engaged at this time. In order to assist UNCITRAL in carrying out its function of co-ordination, we intend to submit to it a short report bringing up to date the information contained in the Secretary-General's report (A/6396) concerning the work of organizations active in this field. Any further information that you might wish to forward for inclusion in that report would therefore be welcome.

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Mr. G. H. C. Bodenhausen
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The comments and suggestions contained in your letter regarding the future work programme of UNCITRAL and, if possible, any other observations received from you after the meeting of the governmental organs of BIRPI, will be made available to the Commission.

Regarding your kind offer to furnish this Office with information on national legislation and modern legal developments in the field of industrial property and copyright, I expect that UNCITRAL, at its first session, will discuss ways and means of implementing the function of collecting and disseminating information in the field of international trade law, as provided in paragraph 8 (e) of the General Assembly resolution. I will inform the Commission of your offer of assistance and will advise you of any decision that the Commission may reach in this matter.

I should like to thank you for your suggestion about the possible participation of the UNCITRAL Secretariat in the Stockholm Intellectual Property Conference beginning on 12 June and in the meeting of a Committee of Experts on the Patent Co-operation Treaty ("PCT") to be held in Geneva in October of this year. Since Mr. Mayer Gabay of the Department of Economic and Social Affairs is attending the Stockholm Conference as United Nations Observer, it is not necessary for this Office to participate. It also does not seem likely at this time that I will be able to send a member of this Office to Geneva for the PCT meeting. However, in view of our interest in the harmonization of the law relating to intellectual property, I would be grateful if you would send us the documentation and other relevant information concerning the meeting.

Yours sincerely,



C. A. Stavropoulos
Under-Secretary
Legal Counsel

ANNEX V
to Document CCIU/V/9

B.I.R.P.I.

Geneva, September 29, 1967

Dear Mr. Under-Secretary,

I am writing you in further reply to your letter of June 13, 1967 (receipt of which was acknowledged by us on June 27, 1967), concerning the bringing up to date of the survey contained in your document A/6396 re. UNCITRAL (your reference LE.130 (11-1-1)).

Since you have already kindly indicated that you will make available to UNCITRAL the comments and suggestions contained in my letter to you of April 27, 1967, I shall here merely bring up to date the information contained in that letter. For your convenience, I enclose a copy of that letter, and shall refer below to the numbered paragraphs thereof.

Ad par. 2: The competent bodies of our Member States are convened for December 18 to 21, 1967, at Geneva. The United Nations has been invited to be represented by observers.

Ad par. 8: The membership of the Paris Union has risen from 77 to 79, and that of the Berne Union, from 55 to 58.

Ad par. 9: The Model Law for Developing Countries on Trademarks, Trade Names, and Unfair Competition has been published in printed form in the meantime. I send you herewith a copy of this publication. Pages 9 and 10 contain a summary of the history of how this Model Law was drafted. It might be of particular interest to UNCITRAL since it illustrates our modus procedendi.

Mr. Constantin A. Stavropoulos
Under-Secretary
Legal Counsel,
United Nations
New York, N.Y.
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Ad par. 10: We continued, during the last months, to advise the United Nations Economic Commission for Europe in connection with its work re transfer of patented and non-patented technological know-how. The ECE, as you know, is working on a formulation of commercial customs and practices in this field.

Ad par. 11: As to the Model Law mentioned in this paragraph, see paragraph 9, above. The Protocol referred to in the same paragraph was adopted last July by the Diplomatic Conference of Stockholm. The text of the Protocol as incorporated in the Stockholm Act of the Berne Convention is attached to this letter.

Ad par. 12: The "PCT Plan" will be discussed here next month by a committee of experts, to which we have invited the United Nations to send observers.

Ad pars 13 and 14: The Diplomatic Conference on an international classification for industrial designs is scheduled to take place in Locarno, Switzerland, from October 2 to 8, 1968. The United Nations will in due course be invited to be represented by observers.

Ad par. 16: BIRPI now has 84 Member States.

Ad par. 24: The Diplomatic Conference of Stockholm took place, as scheduled, from June 12 to July 14, 1967. It adopted a Convention establishing the World Intellectual Property Organization, which, once the Convention comes into effect will replace BIRPI. I am sending herewith a copy of that Convention. The Stockholm Conference also revised the Paris Convention, the Berne Convention, and all the Special Agreements concluded under the Paris Convention. The texts as revised are at your disposal but it should be noted that they have not yet entered into force.

Sincerely yours,

G.H.C. Bodenhausen
Director