

BUREAUX INTERNATIONAUX
RÉUNIS POUR LA PROTECTION
DE LA PROPRIÉTÉ INTELLECTUELLE
GENÈVE, SUISSE

BIRPI

CCIU/VII/16
ORIGINAL: English
DATE: September 26,
1969
UNITED INTERNATIONAL
BUREAUX FOR THE PROTECTION
OF INTELLECTUAL PROPERTY
GENEVA, SWITZERLAND

COMITÉ DE COORDINATION INTERUNIONS, SEPTIÈME SESSION INTERUNION COORDINATION COMMITTEE, SEVENTH SESSION

(Genève, 22-26 septembre 1969)
(Geneva, September 22 to 26, 1969)

REPORT

Composition and Opening of the Session

1. The Seventh Ordinary Session of the Interunion Coordination Committee (hereinafter referred to as "the Committee") was held at Geneva from September 22 to 25, 1969.
2. The 27 members of the Committee were represented: Argentina, Australia, Austria, Belgium, Brazil, Cameroon, Denmark, France, Germany (Federal Republic), Hungary, India, Iran, Italy, Japan, Kenya, Mexico, Morocco, Netherlands, Poland, Portugal, Rumania, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America.
3. The following 10 States were represented by observers: Algeria, Canada, Cuba, Czechoslovakia, Finland, Holy See, Ireland, Israel, Norway, Yugoslavia.
4. The list of participants is attached to the present report.
5. The session was opened by the Chairman of the last session, Mr. G.-L. de San (Belgium).

Adoption of the Agenda

6. The Committee unanimously adopted the agenda of the session as contained in document CCIU/VII/1.

Election of the New Officers

7. The following officers were unanimously elected: Mr. A.F. Mazarambroz (Spain), as Chairman; Mr. T. Jarno (Poland) and Mr. M. Couto (Brazil), as Vice-Chairmen.

8. Dr. Arpad Bogsch, First Deputy Director, BIRPI, acted as Secretary of the Committee.

BIRPI Activities Since the Last Ordinary Session (September 1968) of the Committee

9. The Committee had before it documents CCIU/VII/3 and CCIU/VII/12.

10. As far as the Paris Union is concerned, the Director of BIRPI referred to the observations already made in the Executive Committee of that Union. As to the Berne Union, the Director of BIRPI said that the last year had made it manifest that the world copyright situation was both difficult and delicate. The Stockholm Protocol Regarding Developing Countries had not obtained the expected ratifications. Revision of the Universal Copyright Convention was under active consideration. The Permanent Committee of the Berne Union had met twice in extraordinary session.

11. Other important activities in the field of copyright had been a Symposium on Practical Aspects of Copyright and an African Committee of Experts to Draft Model Statutes for Societies of Authors. Legal technical assistance was asked for by Thailand to revise its copyright legislation. All these, together with the study of the general situation of international copyright relations, were activities which interested primarily developing countries.

12. The Convention Establishing the World Intellectual Property Organization had been ratified by several countries and it was likely that it would go into effect early next year.

13. The Delegate of the United States said that his Administration had submitted the WIPO Convention and the Stockholm Act (all provisions thereof) of the Paris Convention to the Senate for ratification. The State and Commerce Departments had also recommended ratification of the Nice Agreement. It was to be hoped that the United States would be in a position in the near future to deposit its instrument of ratification of these three treaties.

14. The Delegate of Austria said that his country had ratified the Paris (Lisbon Act) Convention, as well as the Madrid (Nice Act) and Nice Agreements. Service marks would be registrable in Austria from the beginning of October 1969. Ratification of the WIPO and Paris (Stockholm Act) Conventions and the Stockholm Acts of the Agreements to which it was a party were under active consideration.

15. The Delegate of Morocco said that ratification of the WIPO Convention had been decided by his Government and was now awaiting Royal consent.

16. The Delegate of Spain said that his country had recently ratified the Additional Act of Monaco to the Hague Agreement.

17. The Committee noted with approval the reports referred to above.

BIRPI Financial Report for 1968

18. The Committee had before it the Management Report for 1968 and document CCIU/VII/4.

19. The Committee noted with approval these reports.

BIRPI's Relations with the International Union for the Protection of New Varieties of Plants

20. The Committee had before it document CCIU/VII/5.

21. The Director introduced the report, saying that he was satisfied that the draft arrêté of the Swiss Federal Council, annexed to document CCIU/VII/5, was in general conformity with the so-called "Plan A" solution, already adopted by the Committee. He hoped that within a few months the Bureau of the Union for the Protection of New Varieties of Plants (UPOV) would become operational.

22. The Delegate of the United States said that his Government was agreeable to the solution outlined in the draft arrêté. He wanted, however, to call the attention of the Committee to the fact that there were serious doubts as to whether the UPOV Convention was in conformity with the national treatment principle of the Paris Convention. He cautioned the Committee that it should watch future developments, particularly in connection with other Conventions,

since the national treatment principle of the Paris Convention should under no circumstances be allowed to suffer erosion.

23. The Delegate of the United Kingdom said he was satisfied with the solution incorporated in the draft arrêté although he still considered the arrangement most unusual and its viability would have to be tested through experience.

24. The Director of BIRPI replied that denunciation of the cooperation with UPOV was subject only to short notice so that, should the arrangement not work out in practice, BIRPI could free itself from any cooperation with UPOV.

BIRPI Headquarters Building

25. The Committee had before it documents CCIU/VII/6 and 13.

26. The Delegate of Argentina favored the constitution of a special Subcommittee as suggested in document CCIU/VII/6. That Subcommittee should take into account the experience of other intergovernmental organizations having their headquarters at Geneva.

27. The Delegate of Germany (Federal Republic) said that the Ministry of Finance of his country could not envisage participation in the building project until, in the light of fuller information, it was convinced that the need for a new building existed and that it existed to the extent outlined in the said documents.

28. The Delegate of the United States favored in principle the construction of a new building and supported the constitution of a special Subcommittee. His Government needed more information before it could formulate a final opinion.

29. An extensive discussion ensued in which the Delegates of Austria, Italy, the Soviet Union, the United Kingdom, Canada and Mexico expressed their opinions. The Delegate of Mexico expressly reserved the position of his Government until it was more fully informed. The Director of BIRPI emphasized that BIRPI was seriously under-staffed and consequently its staff would have to be increased considerably, even if new tasks were not added, and that decisions on the building were of the utmost urgency. The Committee then

unanimously decided to establish a Subcommittee ("Headquarters Building Subcommittee") to advise the Director of BIRPI on evaluating the needs of BIRPI and WIPO for the next ten to fifteen years as far as office, conference and related premises and facilities were concerned, on the best methods of meeting those needs by construction on the so-called "Horngacher" lot, and on the financing of such construction.

30. The Subcommittee would remain in function until its mandate was terminated by the Interunion Coordination Committee.

31. It would be convened, as required, by the Director of BIRPI or the Chairman of the Interunion Coordination Committee.

32. The Committee then designated the following States to serve on the Subcommittee: Argentina, Cameroon, France, Germany (Federal Republic), Italy, Japan, Netherlands, Switzerland, Soviet Union, United States of America (10).

Staff Matters

33. The Committee had before it documents CCIU/VII/7, 8, and 10.

34. Geographical Distribution of Staff (see document CCIU/VII/7, paragraphs 1 to 3, and document CCIU/VII/10, paragraph 1). This question was discussed both in connection with staff matters and the draft program and budget.

35. The Delegates of Argentina, Brazil, India, Kenya and the Soviet Union said that there were not enough staff members nationals of developing countries. Furthermore, the Delegate of the Soviet Union expressed the view that there were not enough staff members nationals of socialist countries. The Director of BIRPI replied that substantial progress had been made in the last year in this respect and that he was going to continue to recruit nationals of developing countries but that there were no candidates from most of such countries.

36. The Delegate of Argentina urged more use of the Spanish language by the Secretariat. The Director of BIRPI replied

that both a legal and a financial question were involved: in most instances, only English and French were provided for as working languages, and there were no funds to put Spanish or Russian on an equal footing with English and French. Still, BIRPI was using Spanish more and more often, and Russian, German and Arabic occasionally.

37. Swedish Decorations (see document CCIU/VII/7, paragraphs 4 and 5).

38. Most Delegates spoke on the subject, extolling the high merits of the Director of BIRPI and thanking the Swedish Government for recognizing these merits by conferring upon him the insignia of Grand Officer of the Royal Order of the Polar Star.

39. The Committee unanimously decided to suggest to the Supervisory Authority that it authorize the Director of BIRPI, Professor Bodenhausen, to accept the decoration in question.

40. The Delegate of Sweden informed the Committee, and the Committee noted with satisfaction, that the First Deputy Director of BIRPI, Dr. Bogsch, and Senior Counsellor Masouyé had also been decorated by the Swedish Government with the Commander grade of the same Order and that the Director of BIRPI had authorized them to accept these decorations.

41. Amendments to the Staff Regulations and Rules. The Committee noted with approval the amendments reported on in document CCIU/VII/7, paragraphs 6 to 17, and document CCIU/VII/10, paragraphs 2 to 4.

42. Pensions. The Committee noted with approval paragraph 18 of document CCIU/VII/7 reporting on the cost-of-living increases granted by BIRPI to retired staff.

43. Salary of the First Deputy Director. After having heard the interventions of a great number of Delegations concerning the merits of Dr. Bogsch, First Deputy Director, the Committee unanimously approved the proposal of the Director of BIRPI to adjust the salary and related payments of the First Deputy Director as proposed in paragraphs 21 to 25 of document CCIU/VII/7.

44. Promotion of the Head of the Industrial Property Division. On a proposal made by the Delegate of the United States of America, and after having heard interventions by numerous Delegations commending Mr. Pfanner for his work, the Committee unanimously decided to advise favorably on the Director's intention to promote him to the grade of D.1 (see document CCIU/VII/7, paragraphs 26 to 30).

Post of the Director

45. The Committee had before it document CCIU/VII/8.

46. It was introduced by the Chairman of the Committee.

47. The Delegate of the United States, supported by the Delegate of Germany (Federal Republic), after having outlined the very distinguished career of the Director, Professor Bodenhausen, commended him for his inspired leadership, exceptionally rich professional experience and outstanding diplomatic skill. He said that in the informal discussions his Government had had with Professor Bodenhausen the latter had indicated that he would be ready to accept an extension of between one and a half and two and a half years. Consequently, it was his Government's great pleasure to propose that the Committee recommend to the Supervisory Authority that it waive the age limit under the Staff Regulations and retain Professor Bodenhausen in active service until the end of 1972. Since the World Intellectual Property Organization would elect its first Director General in the meantime and since the six-year term of office provided for in the Convention establishing that Organization was too long, that provision would have to be waived too in order to provide for a shorter term than six years, should Professor Bodenhausen be elected Director General, as is expected.

48. The following Delegations then took the floor (indicated in the order in which they did so): Argentina, Belgium, France, Soviet Union, Brazil, Ireland, Iran, Hungary, Switzerland, Austria, Poland, Spain, United Kingdom, OAMPI, Cameroon, Sweden, Morocco, Australia, Denmark, Mexico, Netherlands. All of them extolled the Director's personality and accomplishments. All of them expressed the wish that he stay beyond the statutory age limit. Most of them expressly supported the proposal of the United States. Others said that the proposed two and a half years should not be regarded as an absolute limit but should be subject to reexamination later.

49. The Committee unanimously decided to recommend to the Supervisory Authority that it retain Director Bodenhausen in active service until December 31, 1972, it being understood that this recommendation implied no opinion on what should be done beyond that date.

BIRPI Program and Budget for 1970

50. The Committee had before it documents CCIU/VII/9 and 11.

51. Paris Union. The Committee had no comments to add to those made on the part of the draft program and budget dealing with the Paris Union by the Executive Committee of that Union.

52. Berne Union. The Director of BIRPI introduced the draft program and budget of the Berne Union. He emphasized that funds for a diplomatic conference had been proposed because, although it was not yet sure whether a diplomatic conference would take place in 1970, if such a conference did become necessary or useful, there should be no financial obstacle to its convocation.

53. The Delegate of Germany (Federal Republic) said that his Government considered the Stockholm Protocol a good solution for the needs of developing countries and continued its efforts with a view to its ratification. The apparent lack of willingness on the part of some important countries to ratify it created a new situation and alternative solutions must also be looked for as his Government was most anxious to help developing countries. Only such proposals should be considered as would satisfy the developing countries, and would be unanimously accepted in a diplomatic conference and ratified both by the developing and the developed countries. He was ready to support the Italian and US proposals made recently in the Subcommittee of the Intergovernmental Copyright Committee if all Berne Union countries favored them. While he was not opposed to the proposal contained in document BIRPI/SGC-I/7, he seriously doubted whether it would be realized within the next one or two years. Nevertheless, he could accept it as a basis for discussion if other States, including the developing countries, accepted it as such a basis. In any case, his Government would not support a revision of the "safeguard clause" in the Universal Copyright Convention without simultaneously establishing new links between the

two Conventions (so-called "naked revision"). A more limited transitional solution might have to precede the more general solution envisaged in the said BIRPI document. In any case, provision in the budget for a possible diplomatic conference revising both the Berne and Universal Copyright Conventions was indispensable.

54. The Delegate of Argentina congratulated BIRPI on its efforts to find solutions to the existing problems of international copyright. He favored the proposals made by BIRPI to that effect.

55. The Delegate of France said that his country might very well not favor a joint revision of the two Conventions. In his view, it was very unlikely that there would be a revision of the Berne Convention in 1970 since a long study would have to precede such a revision, which is intended to go into fundamental points. Even if separation of the Stockholm Protocol from the Stockholm Act were the only aim of the revision of the Berne Convention, a revision conference could not be prepared in time for 1970, in view of the differences of opinion existing between States and the fact that France might raise serious objections to some of the proposals contained in document BIRPI/SGC-I/7.

56. The Delegate of the United States said that, although his country was not a member of the Berne Union, it strongly supported a joint revision of the two Conventions since the problems were so closely interrelated that one Convention could hardly be revised without at the same time revising the other. He thought that such a joint revision could very well take place--and should take place--as early as 1970. A "naked revision" would not solve the problems of the developing countries and was undesirable. The proposals contained in document BIRPI/SGC-I/7 might very well satisfy the needs of developing countries.

57. The Delegate of the United Kingdom agreed with the Delegate of the United States as to the need for a reconciliation of the two Conventions. Satisfying the needs of the developing countries was both highly desirable and urgent. The only practical way to do so appeared to be a simultaneous joint revision of the two Conventions. He supported the budget proposals concerning the Berne Union.

58. The Delegate of Morocco expressed the view that a joint revision of the two Conventions would only complicate matters. It could hardly be accomplished in 1970.

59. The Director of BIRPI, replying to the preceding speakers, said that finding a solution for the highly unsatisfactory international copyright situation in general, and for the needs of the developing countries in particular, was so important and urgent that BIRPI would give it the highest priority. If the countries so desired, BIRPI would be ready for a revision conference in September 1970.

60. Turning to other matters in the field of copyright, the Director called the attention of the Committee to the program concerning artificial telecommunication satellites and computers. On a question from the Delegate of Germany (Federal Republic), he said that on the first matter BIRPI planned to act jointly or in consultation with not only UNESCO but also the International Telecommunication Union and the International Labour Organisation. Also on a question from the same Delegate, he said that in the field of computers all that was intended in 1970 was a preliminary study, and not proposals for creating or modifying international law. The whole project might have to be postponed for lack of time.

61. Special Unions. The Second Deputy Director presented the draft program and budget of the Special Unions. He said that it was planned to raise the subscription fee of Les Marques internationales from 80 to 120 Swiss francs per year.

62. Ground Rent. In connection with budget item CE.18, the Secretariat said that it was established before the intention of the Geneva authorities to increase the ground rent tenfold was known. A ground rent on the Horngacher lot might have to be added too. The total could be in the neighborhood of \$20,000. If that amount could not be absorbed by economies or by the item "Unforeseen," the difference would have to be covered from the reserve funds with the authorization of the Supervisory Authority. It was hoped, however, that with the comprehension of the Geneva authorities the amount would be considerably less.

63. Number of Staff. The Director of BIRPI said that the establishment of 18 new posts was essential and indispensable merely to cope with the present workload under which an abnormally high amount of overtime and excessive effort were required from many members of the staff. A considerable number of additional posts would be suggested for 1971 as well; the only reason for not doing so now was the limitation placed on the budget by the ceiling system, a

system which was expected to disappear by 1971 through the entry into force of the Stockholm texts.

64. General Declarations. The Delegate of Argentina, speaking also in the name of the Delegate of Brazil, said that he was ready to approve the general budget for the year 1970 but only because his Delegation wished to conform to the will of the majority as expressed in the Executive Committee of the Paris Union. His Delegation, however, saw with alarm and could not approve a mechanism by which the expenses concerning work which was of interest to a limited number of countries, mainly industrialized countries, were included in the general budget and, consequently, borne by all member States, including developing countries which, in view of their low or medium degree of industrialization, could not profit now, and not even in the more or less distant future, from such work in the system of industrial property protection.

65. The Delegate of Mexico associated himself with the declaration of the Delegate of Argentina and added that his country rejected the PCT plan.

66. Technical Assistance. The Delegate of Brazil, while commending the technical assistance given to developing countries, expressed the view that it was still insufficient and asked what the plans were for beyond 1970.

67. The Delegate of the Soviet Union said that the traineeships program should be stepped up. His country was willing to accept more trainees.

68. The Delegate of India urged more assistance for developing countries.

69. The Delegate of Kenya agreed with the declaration of the Delegate of India and asked for an expansion of the training program.

70. The Director of BIRPI said that in his view BIRPI did quite well in the field of assistance to developing countries, particularly if deeds, rather than mere words, were counted. Assistance to developing countries was one of BIRPI's constant preoccupations, to which it devoted its best efforts. These efforts would be deployed, in the nearest future, particularly in Latin America, where a great task of information and assistance awaited BIRPI.

The program for 1971 and beyond would depend on the decisions on the program and budget in the 1970 administrative meetings which were scheduled to take place in Geneva from September 21 to 25, 1970.

71. Conclusion. The Committee expressed a favorable opinion on the draft program and budget for 1970 as presented to it.

Closing of the Session

72. The Delegate of Argentina, speaking in the name of all the Delegations, expressed the thanks of the Committee to the Chairman for the efficient and courteous way in which he had conducted the debates.

73. The Chairman, after recapitulating the most important decisions made, declared the session closed.

74. The Committee unanimously adopted the present report in its meeting of September 25, 1969.

∟Follows Annex∟

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